

Informants

501.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

501.2 APPLICABILITY

This policy applies to sworn personnel.

501.2.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with peace officers for law enforcement purposes. This also includes a person agreeing to supply information to peace officers for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

Official Information - Information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

501.3 POLICY

The San Diego County Probation Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process.

501.4 USE OF INFORMANTS BY PROBATION OFFICERS

501.4.1 WORKING WITH INFORMANTS

Only Probation Officers assigned to task forces will recruit confidential informants. The task force probation officers will be permitted to work with confidential informants under the following conditions:

- (a) The specific Task Force where the officer is assigned has a written policy regarding the handling of confidential informants and the probation officer adheres to that policy;
- (b) The task force officer has received specific training on the handling of confidential informants;
- (c) Anytime a task force determines that a confidential informant is actively supervised by the San Diego County Probation Department, they must notify the supervisor overseeing confidential informant authorization letters within 24 hours; and,
- (d) The task force probation officers will not intervene on behalf of a confidential informant who faces re-arrest and/or revocation proceedings as determined by the informant's case work Probation Officer or other probation officer.
- (e) Case work probation officers will handle a confidential informant as they would any other probationer, and in most instances should be unaware of the confidential informant status.

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- (f) The gathering of information and questioning of persons encountered as part of an officer's routine duties does not constitute "recruiting or soliciting a Confidential Informant" as no promises, advantage, natural goods, money or favor will be exchanged for freely solicited information.
- (g) Except where noted above, probation officers will not recruit, solicit, or conduct criminal investigations with confidential informants.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.
- (i) Criminal activity by informants shall not be condoned.
- (j) Identities of informants acting in a confidential capacity shall be kept confidential.
- (k) The relationship between department officers and informants shall always be ethical and professional.

501.5 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited. A juvenile 13 or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief Probation Officer or the authorized designee

501.6 OFFICIAL INFORMATION

Information regarding confidential informants is considered official information under Evidence Code 1040. A probation officer has a privilege to refuse to disclose official information regarding confidential informants, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so and if disclosure is forbidden by an act of Congress of the United States or a statute of this state; or disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.

Disclosure of a confidential informant's status may result in serious harm or death to the informant. If a probation officer is questioned in court regarding their knowledge of informant activities, they shall not disclose the informant's status, and claim Evidence Code 1040. A chambers conference may be held in private at which time the judge may review the facts of the case and the necessity for not disclosing official information. No privilege may be claimed under Evidence Code 1040 if any person authorized to do so has consented that the information be disclosed in the proceeding.

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501.7 INFORMANT LETTERS

Law enforcement officers regularly utilize confidential informants who are actively supervised by probation officers. If required by their respective agencies, a letter of acknowledgement of their intent to use the offender can be provided. The Probation Department supervisor overseeing the Narcotics Task Force probation officer is the departmental representative and will provide such a letter upon request by the law enforcement agency.

- (a) Any request for such letters received by a probation officer should be referred to the Supervising Probation Officer supervising the narcotics task force probation officer.
- (b) At no time, shall a Probation Officer or Probation Department employee disclose any information regarding an offender working as a confidential informant, including documenting an informant's status in a Department data system. The inclusion of this information into a Department data system could put the offender at risk of harm or death.
- (c) The acknowledgement letter will be retained, on file, in a locked cabinet in the office of the supervisor overseeing the Narcotics Task Force probation officer until the offender severs their relationship with the requesting agency or Probation is terminated/expired/closed; whichever comes first.
- (d) Each acknowledgement letter will be reviewed annually and the requesting agency contacted as necessary by the Supervisor overseeing the Narcotics Task Force probation officer, or their designee.
- (e) The Supervisor overseeing the Narcotics Task Force probation officer should audit all informant letters on an annual or more frequent basis. When the Supervisor overseeing the Narcotic Task Force probation officer is replaced, the files will be audited when the new supervisor takes over management of the files. The purpose of the audit is to ensure an accurate list of active informants is maintained, that their information is being kept confidential, and to alert either the law enforcement handler or the Department to topics of concern, including but not limited to, drug use by the informant and active violation warrants issued on the informant.