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|  | CLAY COUNTY SHERIFF'S OFFICE | | Policy 604 |
| | SUBJECT: INFORMANTS | Approved by: Sheriff Will Akin 05/25/2022 | |
| | ISSUED: 09/29/2016 | REVISED: 05/25/2022 | CANCELS: |
| | CALEA References: 42.2.6a-h | | |

604.1 PURPOSE AND SCOPE

- (a) The purpose of this policy is to provide guidelines for the use of informants.

604.1.1 DEFINITIONS

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

604.2 POLICY

- (a) The Clay County Sheriff's Office recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this office that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

604.3 USE OF INFORMANTS

- (a) C.I. information may become the basis for a variety of legal and police related processes. (42.2.6f)
1. Investigators/deputies should consider the possibility of being required to identify a C.I. in the courtroom, thereby placing them in jeopardy.
 2. The C.I. should be made aware of the potential of testifying in court.
- (b) An investigator/deputy, when practical, should be accompanied by another investigator/deputy when meeting with a C.I. (42.2.6g)
1. Care should be given when working with a C.I. of the opposite gender due to accusations that could be made alleging improper conduct/actions by the investigator/deputy.
- (c) C.I.s have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon. (42.2.6g)
1. Investigators/deputies will monitor actions of the C.I. at all times during agency directed activities. (42.2.6f)
 2. A C.I. will be arrested if found engaging in any illegal activity. They will receive no special legal considerations.

- (d) Personnel will not knowingly maintain a social relationship with a C.I. or otherwise become personally involved. In addition, they will not solicit, accept gratuities, or engage in any private business transaction with a C.I. (42.2.6g)

604.3.1 INITIAL APPROVAL

- (a) Before using an individual as an informant, a deputy must receive approval from their supervisor. The deputy shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity, and risk of physical harm, as well as any indicators of their reliability and credibility.
- (b) Members of this office should not guarantee absolute safety or confidentiality to an informant.

604.3.2 JUVENILE INFORMANTS (42.2.6h)

- (a) The use of informants under the age of 13 is prohibited.
- (b) In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:
 - 1. The juvenile's parents or legal guardians
 - 2. The juvenile's attorney, if any
 - 3. The court in which the juvenile's case is being handled, if applicable
 - 4. The Sheriff or the authorized designee

604.3.3 INFORMANT AGREEMENTS

- (a) All informants are required to sign and abide by the provisions of the designated office informant agreement. The deputy using the informant shall discuss each of the provisions of the agreement with the informant.
- (b) Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.
 - 1. Informants will not receive a copy of the agreement.

604.3.4 USE OF A MINOR TO PURCHASE TOBACCO OR LIQUOR

- (a) Guidelines established by the Missouri Division of Alcohol and Tobacco Control and statutory mandates shall be followed if a minor is used in an undercover capacity to purchase tobacco or liquor products (§ 407.934, RSMo).

604.4 INFORMANT INTEGRITY

- (a) To maintain the integrity of the informant process, the following must be adhered to:
 - 1. The identity of an informant acting in a confidential capacity shall be kept confidential from all Department members.

2. Informants are assigned an identification number that they will be referred to as when discussed by department personnel.
 - i. Informants acting in a confidential capacity shall only be identified if ordered by a Court Judge during the adjudication of a case.
3. Criminal activity by informants shall not be condoned.
4. Informants shall be told they are not acting as sheriff's deputies, employees, or agents of the Clay County Sheriff's Office, and that they shall not represent themselves as such.
5. The relationship between office members and informants shall always be ethical and professional.
 - i. Members shall not become intimately involved with an informant.
 - ii. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Clay County Investigative Squad (CCIS) supervisor.
 - iii. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
6. Deputies shall not meet with informants in a private place unless accompanied by at least one additional deputy or with prior approval of the Clay County Investigative Squad (CCIS) supervisor.
 - i. Deputies may meet informants alone in an occupied public place, such as a restaurant.
7. When contacting informants for the purpose of making payments, deputies shall arrange for the presence of another deputy.
8. In all instances when office funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
9. Since the decision rests with the appropriate prosecutor, deputies shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

604.4.1 UNSUITABLE INFORMANTS

- (a) The suitability of any informant should be considered before engaging them in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Office and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate. When an informant is decided to be unsuitable, they will be deactivated from use.
- (b) Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:
 1. The informant has provided untruthful or unreliable information in the past.
 2. The informant behaves in a way that may endanger the safety of a deputy.
 3. The informant reveals to suspects the identity of a deputy or the existence of an investigation.

4. The informant appears to be using his/her affiliation with this office to further criminal objectives.
5. The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
6. The informant engages in any other behavior that could jeopardize the safety of deputies or the integrity of a criminal investigation.
7. The informant commits criminal acts subsequent to entering into an informant agreement.

604.5 INFORMANT FILES

- (a) Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of Office members or the reliability of the informant.
- (b) Informant files shall be maintained in a secure area within the Clay County Investigative Squad (CCIS). The Clay County Investigative Squad (CCIS) supervisor or the authorized designee shall be responsible for maintaining informant files, along with the creation and maintenance of a master file of all confidential informants. Access to the informant files shall be restricted to the Sheriff, Division Commander, Clay County Investigative Squad (CCIS) supervisor or their authorized designees. (42.2.6a, c)
- (c) The Clay County Investigative Squad (CCIS) is responsible for maintaining and updating informant files and information. If the Clay County Investigative Squad (CCIS) supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files. (42.2.6c)

604.5.1 FILE SYSTEM PROCEDURE

- (a) A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file: (42.2.6b)
 1. Name and aliases
 2. Date of birth
 3. Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
 4. Photograph
 5. Current home address and telephone numbers
 6. Current employers, positions, addresses and telephone numbers
 7. Vehicles owned and registration information
 8. Places frequented

9. Briefs of information provided by the informant and his/her subsequent reliability
 - i. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
10. Name of the deputy initiating use of the informant
11. Signed informant agreement
12. Update on active or inactive status of informant
13. Biographical and background information
14. Criminal history, if any
15. Code name or number

604.6 INFORMANT PAYMENTS

- (a) No informant will be told in advance or given an exact amount or percentage for his/ her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:
 1. The extent of the informant's personal involvement in the case
 2. The significance, value or effect on crime
 3. The value of assets seized
 4. The quantity of the drugs or other contraband seized
 5. The informant's previous criminal activity
 6. The level of risk taken by the informant
- (b) The Clay County Investigative Squad (CCIS) supervisor will discuss the above factors with the Investigations Division Commander and recommend the type and level of payment subject to approval by the Sheriff.

604.6.1 PAYMENT PROCESS (42.2.6e)

- (a) Approved payments to an informant should be in cash using the following process:
 1. Payments shall be paid in cash from a Clay County Investigative Squad (CCIS) buy/expense fund.
 - i. The Clay County Investigative Squad (CCIS) supervisor shall sign the voucher for cash payouts from the buy/expense fund.
 2. Cash payments should be limited to less than \$600 per informant in any reporting year. Payments in excess of \$600 per informant in any reporting period may be authorized by Investigations Division Commander.
 3. To complete the payment process for any amount, the deputy delivering the payment shall complete a cash transfer form.
 - i. The cash transfer form shall include the date, payment amount, Clay County Sheriff's Office case number, and a statement that the informant is receiving funds in payment for information voluntarily rendered.
 - ii. The cash transfer form shall be signed by the informant.
 - iii. The cash transfer form will be kept in the informant's file.

604.6.2 REPORTING OF PAYMENTS

- (a) Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of deputies or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued. (42.2.6d)
- (b) In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

604.6.3 AUDIT OF PAYMENTS

- (a) The Clay County Investigative Squad (CCIS) supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.
- (b) At least once every six months, the Sheriff or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.