MONMOUTH COUNTY

UNIFORM POLICY

Use of Informants

REVISED APRIL 2020

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APPENDICES*

*With the exception of Appendix G, the above-listed forms can be found on the MCPO Law Enforcement Extranet Page, under the Forms Tab – Uniform Forms (English).

I. Purpose

The obtaining of information from persons who wish their identities to remain confidential or from persons who are seeking special consideration during prosecution is lawful and is often an effective and essential tool for law enforcement agencies. However, unless this kind of activity is adequately controlled, gathering information in this manner can result in serious problems and may jeopardize legitimate investigations and prosecutions.

Persons who aid law enforcement in the capacity of an informant whether or not they are paid, are not employees of law enforcement agencies. Nevertheless, they have a unique relationship to the agency for which they supply information. In situations where law enforcement encourages or directs the activities of that person, a special responsibility exists with that agency to utilize that relationship within a legally acceptable framework.

It is, therefore, necessary to formulate guidelines to establish uniform standards for informants and law enforcement personnel when an informant relationship exists. These guidelines, hereinafter set forth, are intended to establish a minimum standard of conduct for all law enforcement personnel. Nothing herein shall be deemed to preclude a law enforcement agency from adopting supplemental and more detailed procedures as may be necessary to control the use of informants within that agency. In fact, the establishment of detailed procedures to carry out the responsibilities of this policy statement is strongly recommended.

II. Definition of Informants

For the purpose of this order and the uniform guidelines, an informant is defined as: Any person who may receive payment or consideration against pending criminal charges in exchange for information or active participation in an investigation. This includes any person who acts under the direction and control of law enforcement in furtherance of an investigation, whether or not that person is seeking payment or consideration. This does not include a cooperating co-defendant who enters a guilty plea and agrees to testify at trial.

III. Classification of Informants

The following is a classification system, which may be utilized for assessing informant status and a definitional means to establish a track record and history on persons being used as informants.

- **Class I Informant**: Is a person whose identity is to remain confidential, who provides information or services to a law enforcement agency regarding criminal activity. In addition to perpetual anonymity, a Class I informant is a person who may have a criminal history and/or is seeking prosecutorial consideration or monetary remuneration in return for their cooperation.

- **Class II Informant**: Is a person who provides information or services to a law enforcement agency regarding criminal activity, who will ultimately be a witness or potential witness in a criminal prosecution in return for prosecutorial consideration. Monetary compensation (other than certain performance expenses) will not be a factor. This does not include a cooperating co-defendant who enters a guilty plea and agrees to testify at trial.

- **Class III Informant**: Is a person (generally a concerned citizen) who provides information or services to a law enforcement agency on a criminal investigation who is not part of the criminal milieu of the investigation, has no pending criminal charges nor substantial criminal history and prefers to remain anonymous.

IV. <u>The Use of Adult Informants</u>

Law enforcement personnel are encouraged to establish relationships with informants for the purpose of furthering the law enforcement mission with which the law enforcement agency is charged. In order that the special relationship be maintained, confidentiality is often essential. Frequently the contact between the informant and law enforcement is through an individual officer with whom the informant has confidence and has established a special trust. While this personal rapport is desirable, law enforcement personnel must understand that the responsibility for the control and the use of the informant is an agency function and not a personal function of the officer. Therefore, for the purposes of security, continuity of relationship and the maintenance of agency integrity, the identity of all informants used by an agency shall be made known to an appropriate supervising officer of that agency designated for that purpose, and the relationship shall be documented in the agency's confidential records established for that purpose.

Regarding all Class I and Class II confidential informants, the below information must be provided to the Monmouth County Prosecutor or his/her designee for approval prior to use of that confidential informant by law enforcement. No such confidential informant may be used by law enforcement prior to approval by the Monmouth County Prosecutor or his/her designee. In exigent circumstances, law enforcement may seek verbal approval of the Monmouth County Prosecutor or his/her designee and provide copies of the written documentation as soon as possible thereafter (*See **Appendix G** – Confidential Informant Procedures*.)

A. <u>Confidential Informant Personal History Data Form</u>

Documenting the biographical information of confidential informants should be standardized on a prescribed form. *(A sample of a Confidential Informant Personal History Data Form is attached as **Appendix A**.)* This documentation shall include at a minimum the following information:

1. <u>Identifiers:</u> full names and current addresses; phone numbers; social security numbers; date of birth; place of birth; physical description; aliases or nicknames; street names; unique scars, marks or tattoos.

2. <u>Education and Background</u>: names and addresses of school(s) attended and other educational background.

3. <u>Family Relationships</u>: names of parents and spouses; number of children and relevant phone numbers.

4. <u>Vehicle Information</u>: If applicable, make, model, year, description and registration number of the vehicle or vehicles utilized by the informant; driver’s license information and other operator licensing information (i.e. boats, heavy equipment, etc.).

5. Driver History: If applicable, a complete driver history, noting whether the person has a valid driver's license.

6. Employer and/or Employment History: If applicable, a name and address of current employer or the previous employer if the person is currently unemployed.

7. All Pending Criminal Charges: If applicable, nature of any current charges; the status of current charges (i.e. pending grand jury, pending trial, pending sentence), outstanding warrants and/or pending court appearances should be noted. To ensure that all charges are included, a criminal history must be obtained. It should be noted that a person cannot receive charge consideration where the person is charged with DWI, Domestic Violence, violations of Parole or Community Supervision for Life, or if they have an outstanding child support warrant.

8. Parole/Probation Information: the fact that the person is or is not on parole or probation is an important status to note. (Certain restrictions automatically come to the forefront when a person is subject to parole or probation, which is addressed later in this guideline.) The name and phone number of the parole or probation officer shall also be noted.

9. Informant History: If applicable, the fact that the person has previously, or is currently being used as an informant by another agency. The name and phone number of the law enforcement officer who utilized the person shall also be noted.

10. Notation Identifying the Detective who Conducted the Informant Interview.

B. Evaluation of Informants

No person shall be utilized as an informant unless the agency believes that such a person is able to furnish reliable enforcement information or other lawful services to a law enforcement agency. In considering whether to use an informant, the following factors should be weighed (*A sample of a Confidential Informant Risk Assessment Form is attached as **Appendix B***.):

1. The risk that use of an informant in a particular investigation or the conduct of a particular informant may, contrary to instruction, violate individual rights, intrude upon privileged communications, unlawfully inhibit the free association of individuals or the expression of ideas, or compromise in any way the investigation or subsequent prosecution.

2. The nature and seriousness of the matter under investigation, and the likelihood that information, which an informant could provide, is not readily available through other sources or by more direct means.

3. The ability of the agency to control the informant's activities while he/she is acting on behalf of the agency and to ensure that his/her conduct will be consistent with applicable law and instructions.

4. The motivation of the informant.

5. The potential value of the information an informant may be able to furnish in return for the concession the government must make for his/her cooperation. All agencies, including municipal police departments, are not to make any promises, express or implied with regard to prosecutorial consideration without first obtaining the expressed approval of the Monmouth County Prosecutor or his/her designee.

6. If the proposed informant is under 18 years of age, the risk and propriety of using an underage informant must be heavily weighed against the seriousness of the matter under investigation. In such a circumstance, the expressed written consent of the parent or legal guardian must be obtained (See Section V of this directive for specifics.)

7. The informant's state or federal parole or probation status. Permission from parole and probation officer's must may be considered. In this area there are two situations that require special attention. The first situation deals with an informant who has been arrested but has not been sentenced. The second situation is where the individual has been sentenced and is on probation. In the first situation, the information that the individual is cooperating with law enforcement should be given to the Probation Department. The fact of his/her cooperation should come directly from the Monmouth County Prosecutor's Office to the judge assigned for sentencing after receiving approval from defense counsel. Consequently, an informant should be instructed that he/she should disclose his/her cooperation to any probation officer prior to sentencing. In the second situation where an individual has been sentenced and is on probation and then seeks to be an informant for law enforcement, permission from the judge who imposed probation must be obtained. This permission should be obtained in the following manner:

   a. When considering the use of a confidential informant who is currently on probation or parole, the detectives shall obtain approval from the Monmouth County Prosecutor or his/her designee **before** using, instructing, encouraging, or authorizing a probationer to proactively support a law enforcement investigation. The Monmouth County Prosecutor or his/her designee will present the request to the Assignment Judge or other appropriate judicial authority designated by the Assignment Judge.

8. Whether an informant is currently under indictment and, if so, the nature and gravity of the offense.

9. Whether the informant has been released on bail. If so, the nature and gravity of criminal arrests and convictions should be carefully considered.

10. Whether an informant is a fugitive from or an absent material witness to any criminal prosecution. Fugitives should not be used as informants.

11. Whether the informant is currently, or has in the past, assisted another agency; the reliability of the information; and the degree of cooperation he/she extended. The other agency should be contacted to ensure that no duplication of effort occurs and to inquire into the informant's past reliability and truthfulness, unless same will

jeopardize an investigation. Agencies should be prepared to present a bona fide reason for not contacting the other agency.

12. As a general rule, law enforcement should seek information leading to the arrest and prosecution of individuals at a higher level in the criminal hierarchy than the informant. To be clear, law enforcement should work up the criminal organization, not down unless doing so will further other significant investigative needs.

C. Deconfliction

1. Definition of Terms

   a. Deconfliction - The process or system used to determine whether multiple law enforcement agencies are investigating the same person or crime. This also involves notification to each agency involved of the shared interest in the case, as well as providing contact information. This is an information and intelligence sharing process that seeks to minimize conflicts between agencies and maximize the effectiveness of an investigation.

   b. DICE (Deconfliction Internet Connectivity Endeavor, formerly Drug Enforcement Administration (DEA) Internet Connectivity Endeavor) - A database managed by the DEA that supports queries on phone numbers, email addresses, vehicle identification numbers, license plate numbers, and other types of data and information.

   c. Event Deconfliction - The process of determining when law enforcement personnel are conducting an event in close proximity to one another at the same time. Such events include planned law enforcement actions such as raids, arrests, undercover operations, surveillance, or executing search warrants.

   d. HIDTA (The High Intensity Drug Trafficking Areas) - This program, which was created by Congress with the Anti-Drug Abuse Act of 1988, provides assistance to federal, state, local, and tribal law enforcement agencies operating in areas determined to be critical drug-trafficking regions of the United States.

   e. INFOSHARE - An integrated CAD, case management, document management, and records management system utilized by various other agencies.

   f. NJDEx (New Jersey Data Exchange) – This is an automated system to query information from multiple participating law enforcement records management systems.

   g. Target Deconfliction - The process of identifying other law enforcement agencies that may have expended resources investigating the same (subject) target and that may continue to have an interest in that target.

2. Requirements

   a. Law enforcement personnel shall conduct deconfliction of all planned law enforcement events, including names of targets, addresses involved, telephone numbers and media contact information used by targets, and investigative targets utilizing the procedures delineated herein. Law enforcement personnel are also encouraged to utilize all available databases and systems, such as DICE, NJDEx and InfoShare, to identify agencies that may be able to share information, which will enhance the investigation.

b. It is recognized that some investigative activity is initiated immediately upon some triggering event, such as a patrol arrest, and that immediate police action must take place. In this situation, deconfliction may not be practical. This exemption should never be used to circumvent the deconfliction requirement, as officer safety may be at stake.

c. Certain hypersensitive investigations may also be exempt from deconfliction. These include national security and public/police corruption investigations. As with emergent police action, agencies should be prepared to present a bona fide reason for claiming the exemption. Law enforcement seeking to utilize an exemption from deconfliction must receive prior approval from the Monmouth County Prosecutor or his/her designee.

3. Deconfliction System

a. HIDTA deconfliction was originally designed to track and manage narcotics cases, groups (such as gangs) and events (such as buy/bust operations). The program has been expanded to include an all crimes approach in order to enhance officer safety and communication and cooperation between agencies during such operations.

b. CaseExplorer.net is the system to be utilized to conduct event and target deconfliction. CaseExplore.net is a web-based case management, criminal intelligence and deconfliction system developed and supported by the Washington/Baltimore HIDTA. Case Explorer interfaces with the other two nationally recognized event deconfliction systems, RISSafe and SAFETNet, conducting queries simultaneously through those systems. It provides basic case management features with functionality focused towards information sharing. Case data is deconflicted as it is entered into the system. Notifications are sent for case matches. Cases are entered into the system with relevant people, addresses, numbers, and other supporting information.

1) The system does not allow participants (or staff) to "browse" the entries. You must make a query to obtain a conflict hit or negative result. Conflict "hits" result in automatic notification to all parties to the conflict.

2) Law enforcement personnel shall conduct queries through the NY/NJ HIDTA Intelligence Center, the Regional Operations Intelligence Center (ROIC), the Monmouth County Prosecutor’s Office Intelligence Unit, or remotely via online access.

a) The New York/New Jersey HIDTA Intelligence Center operates between the hours of 6:00 a.m. and 6:00 p.m. The contact information is printed on the HIDTA New York/New Jersey Task Force Deconfliction Data Entry Form. (*A sample HIDTA Deconfliction Entry Form is attached* *hereto as **Appendix C**.)*

b) For emergency deconfliction requests between the hours of 6:00 p.m. and 6:00 a.m., weekends and holidays, law enforcement shall complete the HIDTA New Jersey Task Force Deconfliction Data Entry Form and forward it to the New Jersey Regional Intelligence Center (ROIC).

i. Main number 609-963-6900 or fax 609-530-3650; or

ii. Email the completed form to ROIC@gw.njsp.org

3) Conflict Confirmation/Matches

a) Conflict confirmation, matches, or system "hits" occur when an event location, target, or other data have been previously entered by another agency having an interest in that location or target. Both entering parties are notified automatically via email by Case Explorer**. Each entry is assigned a Case Explorer tracking number (CE#), which is located on the top left of the deconfliction form. This number coincides with the entry made based on the information contained on the deconfliction entry.** This number is proof that you conducted the required deconfliction, and will be requested by an assistant prosecutor before a warrant is issued.

b) It is imperative for the querying party to communicate with the conflicting agency. In the event that contact is not made between the submitting individuals, next-line supervisory communication is required.

c) The party that submits the event location or target first does not automatically have primary "rights" to that location or target. Disputes should be resolved amicably by management of the conflicting agencies, recognizing the agencies' equity and resources expended in their investigations and the potential for more significant charges and/or greater public safety impact. The Prosecutor will make the final decision in any dispute that is not resolved at the agency management level.

D. Background Check on Informants and Verification of Personal History Data Form

1. In all cases involving informants who are to receive monetary or other valuable compensation, or who are to receive some form of prosecutorial consideration, and in all cases involving persons with criminal records, it shall be the responsibility of the law enforcement agency to assure that an appropriate background investigation of the informant is conducted in order to determine whether that agency will use or continue to use the informant. This includes obtaining a complete criminal history.

2. Documentation and Corroboration of Information Received from Informants Information received from informants should be documented on approved forms prescribed by the law enforcement agency, and records of such information received shall be maintained in the manner determined by that agency. It is absolutely essential that any law enforcement agency, which utilizes informants, make every

reasonable effort to corroborate information received from those sources. This corroboration may be obtained directly (through interviews, eyewitness information, private citizen sources, etc.); or indirectly via related surveillance activities, prior investigations, street talk, etc.)

3. All corroboration to informant information should be strictly documented as part of the investigation or case file. This is a particular necessity when basing search warrant applications or arrest warrants in part on informant information.

4. The need for corroboration and independent verification is greatest when utilizing an informant for the first time; however, despite even a proven track record of accurate information and reliable performance, all informant information must be scrutinized on every case, and corroboration is critical. Informants who do not prove to be accurate, truthful and reliable should not be utilized.

5. Every law enforcement agency should be prepared to provide an accurate and documented track record on any informant whom another agency may inquire about and wish to utilize.

E. Documentation of Contacts with Informants

In cases involving informants who are receiving monetary or other valuable compensation, or receiving prosecutorial consideration, and involving persons with criminal records or reputations for involvement or association with persons with criminal records, law enforcement personnel shall document in writing all contact with the informant, whether or not the contact results in the receipt of information. The documentation shall be on forms prescribed by the law enforcement agency and filed with that agency in accordance with the established procedures of that agency. (*A sample of a Confidential Informant Contact Sheet is attached hereto as **Appendix D***).

F. Payment to Informants

All payment of monies to informants shall be documented in accordance with the procedures established by that agency for that purpose. Records of payment of monies shall be maintained so that it conforms to generally accepted accounting procedures which will allow for appropriate audit of expenditures while at the same time protecting the confidentiality of the informant. Under no circumstances should a confidential informant be presented a payment document that does not have the payment amount typed or printed before the document is actually signed by the confidential informant. In addition, this document will also be signed in the presence of the confidential informant by the handling officer and a second witnessing officer.

G. Promises of Consideration

No law enforcement agency or law enforcement personnel shall make any promise, express or implied of any prosecutorial consideration to an informant without the expressed approval of the Monmouth County Prosecutor or his/her designee.

H. Financial Relationships with Informants

An informant shall be under a continuing obligation to fully disclose to the agency any financial relationship, which exists with any employee of that agency. Where an employee of an agency has a financial relationship with an informant and is aware of the use of that informant by that agency, said employee shall be under continuing obligation to fully disclose to the agency all details concerning the relationship. The agency shall consider the details of any such financial relationship existing between an informant and one of its employees in deciding whether to use or continue to use said informant, and in deciding which personnel of the agency shall be authorized to deal directly with the informant.

I. Instructions to Informants

Whenever the activities of an informant are to any extent under the direction or control of a law enforcement agency, the agency shall issue to the informant the following instructions:

1. The informant has no police powers, is not an employee of the agency, and has no authority to bind or commit the agency in any manner.

2. The informant is not authorized to initiate any action in the capacity of informant without the prior knowledge and approval of the agency.

3. The informant is not authorized to initiate any plan to commit criminal acts, implant in the mind of an otherwise innocent person the disposition to commit a criminal offense, or use any unlawful investigative techniques (e.g., breaking and entering, unlawful electronic surveillance, opening or otherwise tampering with mail).

4. The informant is never to participate in any acts of violence and is not authorized to participate in criminal activities of persons under investigation, except insofar as the agency determines that such participation is necessary and appropriate to obtain information needed for purposes of prosecution.

J. Informant Liability Waiver Form

Any law enforcement agency, which utilizes or plans to utilize informants, must implement informant liability waiver forms, which outline the legal and ethical obligations of the informant. This serves to document the instructions, which an informant is given, and to memorialize the mutual understanding. (*A sample Monmouth County Prosecutor's Office Informant Liability Waiver Form is included as **Appendix E** of this policy*).

K. Violations by Informants

1. Under no circumstance shall the agency take any action to conceal the commission of a crime by one of its informants.

2. Whenever the agency learns that an informant used in investigating criminal activity has violated the instructions set forth in Section IV-I & J in furtherance of this assignment, the program supervisor shall be notified and the continuation of the informant scrutinized.

3. Whenever the agency has reliable information of the commission of a crime by an informant, which is not connected to his/her assignment, the appropriate law enforcement authority shall be advised in order that enforcement action may be taken. In exceptional circumstances in which notification to the appropriate law enforcement authority for enforcement purposes would jeopardize an ongoing investigation or endanger the life of a law enforcement officer, the compelling need for immediate disclosure may cease to exist. In such cases, the Monmouth County Prosecutor or his/her designee shall be immediately advised and full disclosure to the appropriate law enforcement authority shall be made as soon as the need for the restriction on dissemination is no longer necessary. If full disclosure cannot immediately be made to the appropriate law enforcement agency, the agency shall preserve all evidence of the violation for possible future use by the appropriate prosecuting authority. Nothing herein shall prevent full and immediate disclosure to the appropriate law enforcement agency if, in the judgment of the Prosecutor or his/her designee, such action is necessary even though an investigation might thereby be jeopardized.

4. In determining the extent of disclosure to the appropriate law enforcement and prosecutorial authorities of criminal activity by an agency informant, the Prosecutor shall consider the following factors:

   a. The danger to any police agency;

   b. Whether the crime is completed, imminent or inchoate;

   c. Seriousness of the crime in terms of danger of life and property;

   d. Whether the crime is a violation of state or federal law, and the degree of the offense;

   e. The degree of certainty of the information regarding the criminal activity;

   f. Whether the appropriate authorities already know of the criminal activity and the informant's identity; and

   g. The significance of the information the informant is providing, or will provide, and the effect on the agency's investigative activity of notification to the other law enforcement agency.

5. If the investigating unit supervising the informant desires to continue making use of an informant or defendant-informant after it has reason to believe that he/she has committed a serious criminal offense, the agency shall consult the Monmouth County Prosecutor or his/her designee for a determination of whether continued use should be made of the individual by the agency.

6. Notwithstanding any provisions contained in this section, in the event an informant is found to be unreliable or dangerous such that his/her continued use would be detrimental, his/her utilization by the agency shall be terminated as soon as practicable with appropriate notification.

L. Termination of a Confidential Informant.

Every effort should be made to act on the information provided by the confidential informant and/or complete the utilization of the confidential informant's services in an expeditious manner. Upon termination of the use of a confidential informant, law enforcement must immediately inform the Monmouth County Prosecutor or his/her designee. A request for consideration against pending criminal charges by law enforcement must be submitted in writing to the Monmouth County Prosecutor or his/her designee. The request should explain the recommendation of law enforcement and the reasons therefor.

M. Management Review of Confidential Informant

The use of Confidential Informants as investigative tools in identifying, investigating, and apprehending criminals is both beneficial and perilous. Intensive managerial oversight is critically important to ensure proper utilization of Confidential Informants and to ensure adherence to all guidelines, policies, and procedures. Regular management reviews of Confidential Informant utilization are an integral part of the Confidential Informant reporting and management process. The first-line supervisor is responsible for ensuring that management of all Confidential Informants by controlling detectives is in compliance with this policy and any Attorney General Guidelines or Standard Operating Procedures promulgated by the Division of Criminal Justice. The review should be done at least once annually and noted within the Confidential Informant file.

N. Threats, Assaults or Retaliation Against Confidential Informants

Any threat, assault, or retaliation against Confidential Informants should be documented and reported immediately through the chain of command to the Chief of Detectives or his/her designee. The Confidential Informant will be advised of the nature of the threat if not already known to him/her. Some threats, assaults, and/or retaliation are the result of the Confidential Informant's failure to follow instructions regarding personal activities comingled with investigative activities. The failure to follow instructions, if known, should also be documented. Each agency should take reasonable actions to ensure the safety of each Confidential Informant and his/her family.

V. Law Enforcement Guidelines on the Use of Juvenile Informants

A. Introduction

The following guidelines were developed by the New Jersey Attorney General's Office in 1997 and are here formally incorporated into the Monmouth County Prosecutor's Office Policy on the use of informants.

B. Attorney General Guidelines

1. Purpose - These guidelines are intended to govern the use of juveniles[1] by a law enforcement agency to actively aid in the investigation of an offense. This may be

[1] N.J.S.A. 2A: 4A-22A.

necessary to protect juveniles in a community from the distribution of controlled dangerous substances, the sale of firearms, or gang activity. It may also be necessary to use juvenile informants where it is suspected that adults are directing juveniles to commit offenses such as theft or distribution of controlled dangerous substances, as part of a criminal conspiracy. Juvenile informants should be used only when there is no practicable alternative that will enable a law enforcement agency to end an illegal activity that is endangering the community.

2. Scope of Guidelines - These guidelines are not intended to limit the ability of law enforcement officers to question juveniles regarding offenses that they may have witnessed, or of which they have knowledge. These guidelines do not apply to the questioning of juveniles who are the target of an investigation. These guidelines do not apply to use of juveniles to attempt to purchase cigarettes from local retailers.

3. Requirements for Juvenile informants

    a. Age of Juvenile Informant - A juvenile is an individual under the age of 18 years. In most circumstances, juveniles under the age of 16 should not be used as informants. However, in some circumstances, the use of a younger juvenile may be necessary, such as where illegal activity is occurring regularly among a group of juveniles under the age of 16. Under no circumstances shall a juvenile under the age of 12 be used as a juvenile informant.

    b. Involvement in Treatment – Law enforcement officers shall not recruit juvenile informants who are participating in alcohol or substance abuse treatment or counseling programs at the time they are recruited.

    c. Mental Health – Law enforcement officers shall not use juveniles who have a history of treatment for mental illness or suicide attempts.

    d. Physical Health; Medication – Law enforcement officers shall not use juveniles who have medical conditions or who are taking medication that increases the danger to the juvenile of acting as an informant.

4. Background Check – Law enforcement officers shall conduct a thorough background check for each juvenile before using the juvenile as an informant. The background check shall include an interview with a parent or legal guardian and shall determine whether the juvenile meets the requirements set forth in Section 3, Requirements for Juvenile Informants.[2]

5. Consent Required – The written consent of both the juvenile and a parent or legal guardian must be obtained before using a juvenile informant. (*The model written agreement included in **Appendix F** of this manual should be used for this purpose*). The model agreement includes a juvenile informant agreement, a liability waiver form and a parent or guardian's consent.

    A parent or legal guardian must be afforded the opportunity to discuss the matter with a juvenile before seeking the juvenile's written consent. No law enforcement

[2] N.J.S.A. 2A: 4A-22A.

agency or law enforcement personnel shall make any promise or offer, regarding prosecutorial considerations for any offense with which a parent or guardian may be charged, to obtain a parent or guardian's consent to the use of the juvenile as an informant.

6. Written Authorization – Prior to using a juvenile informant to purchase a controlled dangerous substance, or otherwise actively aid in the investigation of an offense, a law enforcement officer shall obtain written authorization from the Monmouth County Prosecutor, the Attorney General, or their designees. No law enforcement agency shall make any promises, express or implied, with regard to prosecution without first obtaining the expressed approval of the Monmouth County Prosecutor or his/her designee.

7. Limitations on Use of Juvenile Informants

   a. Entrapment – Juvenile informants shall not encourage or counsel juveniles or adults to purchase or use alcoholic beverages or any controlled dangerous substance.

   b. Confidentiality of Treatment Records – Federal regulations and State policies concerning the confidentiality of treatment and substance abuse counseling program records and information will be respected. No law enforcement activity will be permitted in any way to interfere with, intrude upon or in any way compromise a trust relationship with any patient.

   c. Treatment – Juvenile informants shall not discourage others from seeking drug or alcohol abuse treatment or counseling, or from reporting his or her alcohol or substance abuse problem or dependency.

   d. Preservation of Teacher Trust Relationships – No juvenile informant will engage in any activity or conversation that would require any teacher or school official to violate or compromise a trust relationship with any student.

   e. Use and Distribution Prohibition – No juvenile informant will ingest or inhale (other than passive inhalation) any controlled dangerous substance, nor will any juvenile informant be permitted to distribute or dispense any controlled dangerous substance.

   f. Firearms – No law enforcement officer shall knowingly permit a juvenile informant to possess, purchase, sell or otherwise transfer a firearm.

   g. Potentially Violent Confrontations – It is understood that drug trafficking activities are inherently dangerous. However, no law enforcement officer shall use a juvenile informant to purchase a controlled dangerous substance in circumstances where it is known that the target of the investigation has a history of violence.

   h. Familiarizing Juvenile Informants with other Offenders – While the use of juvenile informants may be necessary in some circumstances, law enforcement officers should be mindful of the welfare of the juvenile informant. Law enforcement officers should avoid introducing the juvenile to offenders or conduct, which might immerse the juvenile more deeply in a criminal or delinquent culture.

8. Operations on School Property

a. If the juvenile informant is to be used to gather information, or purchase contraband, on school property, the school building principal and the local superintendent will be consulted unless there are compelling reasons not to consult with either of these officials. The law enforcement agency proposing the operation will advise the building principal and the local superintendent of the nature of the proposed operation and will, to the extent possible, explain the reasons why the operation is necessary and appropriate. This explanation should include a description of the suspected illegal activities occurring within the school environment, which justify the operation. This must be carefully evaluated by the Chief considering all the potential risks associated with same.

b. However, law enforcement officials will not disclose any information received in confidence, whether from an informant or otherwise, which would violate the law or court rules governing the disclosure of grand jury information or information derived from electronic surveillance.

c. All law enforcement operations taking place on school property shall also comply with the requirements of the State Model Agreement between Education and Law Enforcement Officials.

APPENDIX A:

CONFIDENTIAL INFORMANT

PERSONAL HISTORY DATA FORM

MONMOUTH COUNTY UNIFORM CONFIDENTIAL
INFORMANT PERSONAL HISTORY DATA FORM

CI #:	OFFICER:	DATE:

LAST NAME:	MIDDLE:	FIRST NAME:	PHONE:

ADDRESS:	AKA:

SSN#	DOB:	POB:

RACE:	SEX:	HT:	WT:	HAIR:	EYES:

IDENTIFIERS (SCARS, MARKS, TATTOOS):

REPRESENTED BY ATTORNEY: YES 0 NO 0	IF YES, NAME OF ATTORNEY:

EDUCATION

HIGH SCHOOL ATTENDED:	GRADE COMPLETED:
COLLEGE ATTENDED:	CREDITS/DEGREE OBTAINED
TRADE/VOCATIONAL	AREA OF TRAINING

FAMILY HISTORY

SPOUSE:	ADDRESS:	CHILDREN:
PARENTS:	ADDRESS:	PHONE:
IN CASE OF EMERGENCY	ADDRESS:	PHONE:

VEHICLE

VEHICLE TYPE:	YR:	REG:	STATE:	DRIVER'S LICENSE:

REGISTERED NAME:	ADDRESS:

ADDITIONAL VEHICLES:

CURRENT EMPLOYER

EMPLOYER:	ADDRESS:	PHONE:

PREVIOUS EMPLOYER

EMPLOYER:	ADDRESS:	PHONE:

PENDING CRIMINAL CHARGES

1.	2.	3.
4.	5.	6.

JURISDICTION:

PROBATION/PAROLE…STATUS

PROBATION:	PROBATION OFFICER:
PAROLE:	PAROLE OFFICER:

INFORMANT HISTORY

HAS THIS PERSON PREVIOUSLY BEEN AN INFORMANT: YES ☐ NO ☐	AGENCIES

CRIMINAL HISTORY

YES ☐ NO ☐ (IF YES, COPY OF CRIMINAL HISTORY MUST BE ATTACHED.)

DRIVING RECORDS

DRIVING RECORD CHECKED: YES ☐ (COPY ATTACHED) NO ☐

CLASSIFICATION

THIS PERSON WILL BE CLASSIFIED AS: ☐ CLASS I INFORMANT ☐ CLASS II INFORMANT ☐ CLASS III INFORMANT (PURSUANT TO THE UNIFORM POLICY OF USE OF INFORMANTS)		
NOTATIONS /COMMENTS/RECOMMENDATIONS:		PHOTO:
INTERVIEWING OFFICER:	DATE" OF INTERVIEW:	
SIGNATURE:	DATE:	

SUPERVISORY REVIEW

SUPERVISORY INITIALS: SUPERVISORY INITIALS SUPERVISORY INITIALS	DATE: DATE: DATE:	APPROVED FOR USE ☐ DISAPPROVED ☐

APPENDIX B:

CONFIDENTIAL INFORMANT

RISK ASSESSMENT FORM

MONMOUTH COUNTY UNIFORM

CONFIDENTIAL INFORMANT RISK ASSESSMENT

1. Name of CI or Number:________________________________ Age of CI:_____

2. Does the CI have a criminal history? [ ] NO [ ] YES (See attached printout)

3. Is the CI involved as a defendant in a criminal prosecution or as a target in any pending criminal investigation?

   [ ] NO [ ] YES

If yes, answer the following:

a. The pending investigation is (**Select one**) [ ] Federal [ ] State/Local [ ] Foreign [ ] Co-Op

b. Summarize the nature of the pending investigation.

____

____

____

____

4. Is the CI a member or associate in a gang? [ ] NO [ ] YES

If yes, identify the Gang: ___________________________________

5. Does the CI have a history of being a danger to the public or a threat to engage in criminal behavior?

   [ ] NO [ ] YES

If yes, summarize the known potential danger or criminal threat; and what action will be taken to minimize the risk:

____

____

____

____

6. Does the CI have a record of being a flight risk? [ ] NO [ ] YES

If yes, summarize the identified risk; and what action will be taken to minimize the risk:

____

____

____

____

7. The CI's U.S. residency status is (**Select one**) [ ] U.S. citizen [ ] Permanent Resident [ ] Alien[ ] N/A If the CI is not a U.S. citizen, indicate under what authority the CI is legally present: (Select one)

[ ] B1/B2 Visa [ ] Deferred Action [ ] SBPB [ ] S Visa [ ] Other

If "Other", explain:____

____

____

____

8. Does the CI have a record of alcohol or substance abuse ? [ ] NO [ ] YES

If yes, summarize the nature of the abuse history, and what action will be taken to minimize the risk:

____

____

____

9. Has any information surfaced to indicate the CI has a relationship with an employee of any law enforcement agency? [ ] NO [ ] YES

If yes, explain:

10. Is the CI a: public official; law enforcement officer; member of the military; representative of the news media; union official; employee of a financial institution; employee of a school or party to privileged communications? [ ] NO [ ] YES

If the answer to any of the above is "Yes" explain the situation:

11. Has the CI's reliability, truthfulness and motivation to cooperate and his/her relationship to target(s) of investigation been considered? [ ] NO [ ] YES

12. Is the CI known to have any medical conditions/restrictions that my impact the utilization of the CI (e.g. heart condition, pregnancy, etc.)? [ ] NO [ ] YES

If yes, explain the condition/restriction and what action will be taken to minimize the risk:

13. Is the individual a past or present CI for the Monmouth County Prosecutor's Office or another federal, state or local agency? [ ] NO [ ] YES

If yes, identify other agencies:

Describe any negative past performance issues, e.g. lack of truthfulness, failure to follow direction, etc.; include any known instances in which the CI was found to have testified untruthfully and/or been deactivated for unsatisfactory conduct:

14. Can the CI's information be independently corroborated? [ ] NO [ ] YES

15. Is there a known, increased, risk of physical harm to CI or CI's family/close associates as a result of the information or cooperation provided to Monmouth County Prosecutor's Office or any other law enforcement agency? [ ] NO [ ] YES

If yes, explain the nature of the risk:

16. Is it believed the CI will be required to make use of affiliations with legitimate organizations in order to provide information or assistance? [ ] NO [ ] YES

If yes, explain the situation, and what action will be taken to minimize the risk:

IF ADDITIONAL SPACE NEEDED, ATTACH A SEPARATE SHEET OF PAPER

APPENDIX C:

HIDTA DECONFLICTION

DATA ENTRY FORM

DATE/TIME STAMP

HIDTA NEW JERSEY TASK FORCE
DECONFLICTION DATA ENTRY FORM

(NJIC Use Only)

EVENT#	**CTRL#**
CE#	**CTRL#**
SAFETNet#	

MAIN: 973.776.7070 ~ FAX: 973.776.1322 ~ EMAIL: NJHIDTA@usdoj.gov

**** IF TEXT DOESN'T FIT, USE LOWER CASE ****

BOLD PRINT ARE SOFTWARE REQUIRED FIELDS - FAILURE WILL RESULT IN DELAY OR RETURN

REQUESTER INFORMATION

AGENCY/GRP: (Agency Name & Group/Office)	**CASE#:**
AGENT/DET: (Rank & full Name)	**SSN:** (NY SAFETNet Requirement (only))

OFFICE#: REQUIRED FIELD	**CELL#:** REQUIRED FIELD	**EMAIL:** REQUIRED FIELD FOR CONFIRMATION ~ LE ADDRESSES ONLY
OFFICE FAX: REQUIRED FIELD FOR CONFIRMATION	**DISPOSITION:** (Open, Close, Closed by Arrest)	**TYPE OF INVEST:** (Drugs / Guns / Etc.)

EVENT / STREET OPERATIONS ~ DECONFLICTION

START DATE: REQUIRED FIELD	**START TIME:** REQUIRED FIELD	**END DATE:** REQUIRED FIELD	**END TIME:** REQUIRED FIELD

ADDRESS: (Number, Street)	**APT:**	**CITY:**
STATE:	**ZIP:**	**EVENT:** (CI / UC Buy, Buy/Bust, Surveillance, Warrant, Etc)

SUBJECT / CASE INFORMATION ~ DECONFLICTION

NAME: (First, Middle, Last)

SEX:	Hair:	Eyes:	Height:	Weight:	Race: (Wh, Bk, Asian, Skin Color)

NATIONALITY: (Country of Birth)	**DOB:**	**SSN#**
FBI#:	State ID:	
ADDRESS: (Number, Street)	**APT:**	**CITY:**

STATE:	**ZIP:** (NY SAFETNet Requirement)	ALIAS:	DOB:	SSN#:

Group Name:	Phone#:	Cell ☐ Hardline ☐
Gang, Company or Organization Affiliation	Phone#:	Cell ☐ Hardline ☐ REQUIRED FIELD

VEHICLE

Year:	Make:	Mod:	Color:
Plate:	State:	Vin:	

COMMERCIAL VEHICLE

Year:	Make:	Mod:	Color:
Plate:	State:	DOT:	Vin:

(NJIC Use Only)

Analyst Name:	**Date Completed:**

Event Conflict: Yes ☐ No ☐	Subject Conflict: Yes ☐ No ☐	Event#:	CE#:
Conflict Det/Agent:	Dept/Agency:	Ph#:	
COMMENTS:			

80 MULBERRY STREET – NEWARK, NEW JERSEY 07102 ~ TELEPHONE 973-776-7070 ~ FAX 973-776-1322 ~ EMAIL NJHIDTA@usdoj.gov

01.21.2011

APPENDIX D:

CONFIDENTIAL INFORMANT

CONTACT SHEET

MONMOUTH COUNTY UNIFORM CONFIDENTIAL INFORMANT CONTACT SHEET

CONFIDENTIAL INFORMANT:____

DATE	TIME	CONTACTED	INFORMATION/REMARKS

Revised April 2020

APPENDIX E:

CONFIDENTIAL INFORMANT

LIABILITY WAIVER FORM

MONMOUTH COUNTY UNIFORM
INFORMANT LIABILITY WAIVER FORM

I______________________, hereby agree to assist the______________________________in the investigation of criminal violations. Additionally:

1.____ I hereby release and hold harmless the________________________________their officers, and employees from any injury or liability which I may suffer or sustain in the future as a result of these investigations.

2.____ I fully understand that I am not to participate in any investigations or criminal activities, unless the investigation is being directly supervised by an officer of the _____________________________________.

3.____ I agree to follow the instructions of the supervising officer while assisting in such investigations.

4.____ I agree not to break any laws or commit any crimes while working as a confidential informant.

5.____ I will not carry any weapon or firearms while working as a confidential informant.

6.____ I will not drive a motor vehicle without a valid driver's license while working as a confidential informant.

7.____ I will not handle any drugs unless specifically authorized to do so by a member the _________________________________.

8.____ I am not a police officer and will not represent myself as a police officer at any time.

9.____ I agree not to use my sex or sexual activity to induce or persuade any person to sell drugs or to commit any crime, while assisting the ____.

10.____ I agree not to engage in any activity that would persuade a person to commit a crime that they would not be ready, willing and able to commit on their own.

11.____ I understand that I will be subject to searches for contraband while working as a confidential informant.

12.____ I agree to keep in contact with my supervising officer and keep him/her apprised of my whereabouts, until the termination of my assistance in any investigation.

MONMOUTH COUNTY UNIFORM
INFORMANT LIABILITY WAIVER FORM

13.____ I understand that under normal circumstances my name will not be used in any investigation reports regarding my assistance to the____, nor will I be required to testify in Court by the__________.

14.____ I will notify my attorney concerning my actions as a confidential informant with the ______________________________.

15.____ I understand that my assistance to the____in criminal investigations is for consideration for my pending charges.

16.____ I understand that the determination of the degree of consideration I receive on my pending charges by the_______________________is based on the recommendation of the Officers of the___________________________and the Assistant Prosecutor who will be handling the case.

17.____ I have entered into this agreement freely and voluntarily and without duress.

INFORMANT'S SIGNATURE:________________________________DATE:_________________________

OFFICER'S SIGNATURE:___________________________________DATE:_________________________

WITNESSING OFFICER'S SIGNATURE:______________________DATE:________________________

APPENDIX F:

JUVENILE CONFIDENTIAL INFORMANT AGREEMENT /

LIABILITY WAIVER FORM /

PARENT OR GUARDIAN CONSENT FORM

JUVENILE INFORMANT AGREEMENT, LIABILITY WAIVER FORM AND PARENT/GUARDIAN'S CONSENT

I, ____, hereby agree to assist the______________________________________ in the investigation of criminal violations.

My birthdate is: ___________________

1. ___ I understand that, as used in this agreement, crimes mens any crimes or delinquent offenses.
2. ___ I understand that I am not allowed to investigate crimes on my own without supervision by an officer of this agency.
3. ___ I agree to do what my supervising officer tells me to do, while I am helping in an investigation.
4. ___ I agree not to break any laws or commit any crimes while working as an informant. I understand that if I commit new crimes while working as an informant, I can be arrested for those crimes. I will only be involved in criminal activity if an officer asks me to participate in the criminal or delinquent activities of persons under investigation.
5. ___ I will not carry or possess any weapon or firearm while working as an informant.
6. ___ I will not participate in any acts of violence while working as an informant.
7. ___ I will not drive a motor vehicle without a valid driver's license while working as an informant.
8. ___ I will not use or distribute any drugs while working as an informant.
9. ___ I will not handle any drugs unless specifically asked to do so by an officer.
10. ___ I will not try to talk other people out of seeking drug or alcohol abuse treatment or counseling. I will not try to keep anyone from reporting his or her alcohol or drug abuse problem.
11. ___ I will not try to trick any teacher or school official into telling me about another student's drug or alcohol problem.
12. ___ I am not participating in any alcohol or drug abuse treatment or counseling programs at this time.
13. ___ I am not participating in any alcohol or drug abuse treatment or counseling programs at this time.
14. ___ I have never tried to commit suicide.
15. ___ I understand that I am not a police officer. I agree that I will not claim to be a police officer at any time.

16. ___ I will not use my sex or sexual activity to get any person to commit any crime.

17. ___ I will not try to get a person to commit a crime that they would not be ready, willing and able to commit on their own.

18. ___ I will keep in contact with my supervising officer. I will tell him or her where I am and how I can be contacted, until I stop helping in the investigation.

19. ___ I understand that under normal circumstances my name will not be used in any investigation reports, and that I will not be required to testify in Court on this matter.

20. ___ I will tell my attorney that I am working as an informant with this agency.

21. ___ I understand that my assistance to the agency in criminal investigations is for consideration for my pending charges.

22. ___ I understand that any reduction in my pending charges by the ______________________ County Prosecutor's Office is based on the recommendation of my supervising officer and the Assistant Prosecutor who will be handling the case. If this agreement is part of a plea agreement, the plea agreement shall include a range of possible considerations I may receive on my pending charges, depending on the value of my cooperation.

23. ___ I hereby release and hold harmless the ___________________________________, their officers and employees from any liability arising from injury which I may suffer or sustain in the future as a result of these investigations. I understand that this means I will not be able to sue for damages in Court if I am injured as a result of these investigations.

24. ___ I have entered into this agreement freely and voluntarily and without duress. No one has forced me to sign this agreement.

25. ___ I have discussed this agreement with my parent or guardian.

Informant's Signature:____Date: ________________________

Officer's Signature: ____ Date: ________________________

Witnessing Officer's Signature: ________________________________ Date: ________________________

Parent or Guardian's Signature:_________________________________ Date: ________________________

Revised April 2020

APPENDIX G:

CONFIDENTIAL INFORMANT PROCEDURES

CONFIDENTIAL INFORMANT PROCEDURES

APPROVAL

Approval from the Prosecutor or his designee is required <u>prior</u> to the use of a confidential informant (CI). Provide copies of the CI Agreement, the CI Personal History Data Form, Criminal Histories of the CI and target(s), deconfliction forms, along with a memo/email explaining when/why the CI was interviewed (i.e. at time of arrest for offenses), who the targets are, what the CI can do, how the information from the CI was corroborated, and whether the CI is on probation or parole to:

AP Chris Matthews, [redacted]
AP Paul Alexander, [redacted]
AP Merlin Thomas, [redacted]

<u>No police officer may deal with a CI or potential CI who is represented by counsel without prior permission from that counsel</u>. All defendants have counsel within 24 hours if they were arrested on a warrant and as little as two weeks if arrested on a summons. Unless the CI interview is taking place at the time of arrest, contact one of the above Assistant Prosecutors to determine representation status. All communications with defense counsel will be handled by Assistant Prosecutors.

Note that no drug court participant, person under supervision as a sex offender, or fugitive may act as a CI. If approved, the CI must attend all scheduled court dates and report to Pretrial Services as ordered.

APPLICABILITY

All who are: 1) seeking credit against criminal charges; 2) receiving payment; or 3) acting under the direction of law enforcement.

DECONFLICTION

Deconfliction is mandatory and includes all targets and their addresses, phone numbers, and media contact information (Instagram, etc.). Deconfliction of the CI is recommended. If there is a hit, explain the situation in the memo/email.

CI CLOSURE

Every effort must be made to complete the cooperation of the CI as quickly as possible. This should be less than 60 days from approval for most CIs. Upon completion, send a memo/email that explains whether or not credit is sought and the grounds for giving credit or withholding credit to the Assistant Prosecutor who approved the CI.