



Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement

CONFIDENTIAL INFORMANTS, FILES AND FUNDS

GENERAL ORDER	EFFECTIVE DATE	RESCINDS/AMENDS	APPLICABILITY
40	June 09, 2020	December 5, 2014	All Members

References

119.021 and 914.28 F.S.; 69I-23.002(1), F.A.C.; CFA 5.05M, 15.03

1 POLICY

- A** It is the policy of the FWC Division of Law Enforcement to provide direction and ensure accountability for the use of confidential informants, files and funds.
- B** It is the policy of the FWC Division of Law Enforcement to maintain stringent control over evidence and information funds used by the Division and to ensure that the funds are used only for authorized purposes.
- C** It is the policy of the FWC Division of Law Enforcement that its Office of Policy and Planning shall perform an annual administrative review of the Division's actual confidential informant practices to ensure conformity with this General Order, other applicable policies and procedures, and Section 914.28 Florida Statutes.
- D** It is the policy of the FWC Division of Law Enforcement to conduct all confidential informant operations in accordance with Section 914.28 F.S. (Rachel's Law) and in accordance with best law enforcement practices.
- E** It is the policy of the FWC Division of Law Enforcement to assign the highest priority in operational decisions and actions to the preservation of the safety of confidential informants, law enforcement personnel, target offenders, and the public.
- F** It is also the policy of the FWC Division of Law Enforcement to take the necessary precautions by developing sound confidential informant control procedures and to provide the necessary informant training.
- G** It is the policy of the FWC Division of Law Enforcement to limit the ongoing use of juvenile informants as much as possible and to focus alternative investigative techniques to develop and validate any information that might have been provided by the juvenile.
- H Definitions**
 - (1) Confidential informant** – means a person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and:

- (a) Seeks to avoid arrest or prosecution for a crime, or mitigate punishment for a crime in which a sentence will be or has been imposed; and
 - (b) Is able, by reason of his or her familiarity or close association with suspected criminals, to:
 - 1. Make a controlled buy or controlled sale of contraband, controlled substances, or other items that are material to a criminal investigation;
 - 2. Supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
 - 3. Otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.
- (2) **Limited Use Informant** – a person that meets one of the following criteria:
 - (a) A person under the age of 18.
 - (b) A person on probation or parole.
 - (c) A person formerly dependent on drugs or currently participating in a drug treatment program.
 - (d) A person with two or more felony convictions.
 - (e) A person who has been convicted of a drug felony.
 - (f) A person who has been previously declared unreliable.
- (3) **Walk-In Informant** – until subsequent investigations or background checks justify a less stringent information classification.
- (4) **Citizen Informant** – an individual freely providing information regarding a criminal activity as a concerned citizen usually on a “one-time” basis, but may provide information on a regular or frequent basis.
- (5) **Investigative Source** – an individual providing information regarding criminal activity in response to questions during a field or custodial interview.
- (6) **Anonymous Source** – an unidentified individual providing information regarding criminal activity that may require significant corroboration to be reliable.
- (7) **Chief Investigator** – The Investigations Section Leader. The Chief Investigator may delegate responsibilities to captains, lieutenants or criminal analysts assigned to the Investigations Coordination Unit at GHQ as deemed appropriate.
- (8) **Confidential Informant File** – Individual records for each Confidential Informant that contain biographical/historical information, a criminal history record, summary of payments made to the informant, information received from the informant, informant’s involvement in operations, and an assigned code number. The file may include “Citizen Informant” information if documentation is necessary to establish the reliability of the “Citizen Informant.”
- (9) **Limited Use Informant File** – Records containing a minimum of the same information as the Confidential Informant File along with the following guidelines:
 - (a) If the Limited Use Informant is a juvenile, written consent of a parent or guardian must be included.
 - (b) If the Limited Use Informant is on parole, then the file must contain documentation to verify that the Regional Parole Commissioner is contacted at least 30 days prior to the proposed use of the person.
- (10) **Deactivated File** – A Confidential Informant File or a Limited Use Informant File that is not actively open.

- (11) **Evidence and Information Fund** – Funds appropriated by the State of Florida and maintained in a separate checking account, authorized by Chief Financial Officer of the State of Florida in accordance with Section 69I-23.002(1), Florida Administrative Code, for the purpose of obtaining information or evidence for investigations.
- (12) **Controlled buy** – means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- (13) **Controlled sale** – means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- (14) **Target offender** – means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.

2 RESPONSIBILITIES

A Regional Investigative Captains

- (1) Regional Investigative Captains are responsible for classifying those files that have had no activity for 90 days as a Deactivated File. Files/Records that are classified as “Unreliable” within the Deactivated File will give the details of such classification and will clearly be marked as “Unreliable”. Regional Investigative Captains will perform this classification during normal quarterly inspections.
- (2) Regional Investigative Captains are responsible for the review and oversight of the use of confidential informants in their region.

B Chief Investigator

- (1) Assigns the code numbers to Confidential Informants.
- (2) May authorize the expenditure of Evidence and Information Funds up to \$2,500 with approval of the appropriate Deputy Director.
- (3) Maintains the Evidence and Information Fund in accordance with all appropriate laws and procedures.
- (4) Makes proper disbursements and deposits.
- (5) Keeps accurate bookkeeping, accounting, and banking procedures.
- (6) Maintains a file containing copies of all relevant fund transaction documents which will be stored in a secured and restricted location. Access will be restricted in accordance with Section 119.021, Florida Statutes, and this General Order.
- (7) Purges Evidence and Information Fund records. Evidence and Information Fund records shall be maintained in accordance with state records and retention provisions as outlined in Section 119.021, Florida Statutes.
- (8) The Chief Investigator is responsible for approving the use of juveniles as limited use informants.
- (9) The Chief Investigator or designee is responsible for ensuring that all members involved in the use or recruitment of confidential informants receive training on this General Order and any other applicable policies and procedures. Documentation regarding this training shall document the date the member received training.

3 PROCEDURES

A Evidence and Information Fund

- (1) When a sworn member determines the need for Evidence and Information Funds, a Request for Evidence and Information Funds (FWC/DLE-075) form shall be completed. The form will explain in detail the need, purpose and intended use of the requested funds and will provide complete justification for the withdrawal request. The name of the Confidential Informant or the Limited Use Informant shall not be disclosed on the form.
- (2) The request will be reviewed and approved by the sworn member's supervisor, the Regional Investigative Captain, and the Regional Commander and then forwarded to the Chief Investigator at GHQ for approval.
- (3) The request will remain in a confidential file maintained by the Chief Investigator at GHQ. A complete detailed explanation of the use of funds must be provided, including the numerical identification, but not the name of any the Confidential Informant or the Limited Use Informant receiving Evidence or Information Funds.
- (4) Evidence and Information Funds may be used to reimburse an expense legitimately incurred by a Confidential Informant or Limited Use Informant while engaged in an investigative effort for the Division of Law Enforcement. It is the responsibility of the sworn member requesting funds to determine whether information or expense reimbursement would be paid to a Confidential Informant or Limited Use Informant. A request will be subject to approval by the sworn member's supervisor, the Regional Investigative Captain and the Regional Commander.
- (5) Evidence and Information Funds may also be used to reimburse a sworn member for an expense incurred while engaged in an investigative activity. However, no Evidence and Information Funds will be used for reimbursement of an expense covered by per diem.
- (6) Evidence and Information Funds should not be used when an item can be purchased with a purchase order, reimbursement voucher or a state credit card, assuming that such purchase will not jeopardize the investigation.
- (7) The Division Director or a Deputy Director must authorize the expenditure of more than \$2,500.
- (8) The Chief Investigator will fill in the shaded area of the request form showing the check number, date written and the amount. The check and a copy of the form will be returned to the requesting Investigative Captain via the appropriate Regional Commander.

B Use of Funds

- (1) Evidence and information funds are only to be disbursed to authorized personnel for the following reasons:
 - (a) Payment that is to be made to a confidential informant or a limited use informant.
 - (b) Purchase of evidence in connection with an investigation.
 - (c) Expenditure for an authorized investigative operation.
 - (d) Flash or front money.

C Evidence and Information Funds Expenditure Reports

- (1) The Evidence and Information Fund Expense Justification Form (FWC/DLE-076) will be completed when the expenditure was Confidential Informant or Limited Use Informant related.
- (2) If a Confidential Informant or a Limited Use Informant was paid for information or performance, a signed receipt will be obtained from the informant. The Confidential Informant or Limited Use Informant may use an alias when furnishing or signing a receipt, providing the alias is documented in the appropriate informant's file. The receipt shall contain the following information:

- (a) The amount of the payment;
 - (b) The officer's name;
 - (c) The informant's name or identifier, if any;
 - (d) The information or material purchased;
 - (e) The purpose of the payment; and
 - (f) The date and case number.
- (3) A business receipt should be submitted by a Confidential Informant or Limited Use Informant if he/she is reimbursed for an expense incurred while working for the Division of Law Enforcement, i.e., hotel, food, etc.
- (a) If a business receipt is not available, the Confidential Informant or Limited Use Informant will submit a signed receipt.
 - (b) Each receipt will be filed in the appropriate file by the investigating sworn member or the Regional Investigative Captain.
- (4) The sworn member making the payment shall attest on the Evidence and Information Fund Expense Justification Form (FWC/DLE-076) to whom, how much, when, and where the funds were expended.
- (5) Expense Justification Form B (FWC/DLE-077) will be completed when the expenditure is for reimbursement of an expense incurred in an investigative activity for the Division.

D Return of Funds

- (1) Evidence and Information Funds that have been withdrawn and are unexpended must be returned to the Chief Investigator at GHQ along with a written explanation on why the funds were not used. The funds and explanation must be submitted within 30 days from the date of the withdrawal. One 15-day extension may be allowed if approved by the appropriate Regional Commander or Chief Investigator at GHQ. The reason for the 15-day extension must be in writing and submitted prior to approval.
- (2) A Return of Unused Evidence and Information Funds (FWC/DLE-078) will be completed by the member returning the funds.
- (3) The Chief Investigator at GHQ will fill in the shaded area of the form containing the date of deposit, amount of deposit, and deposit slip number. A copy will be returned to the requesting Regional Investigative Captain via the appropriate Regional Commander. The Regional Investigative Captain shall place the copy in the Confidential Informant's file.
- (4) The Chief Investigator at GHQ will deposit unused funds in the Evidence and Information Fund checking account immediately upon receipt of the funds.

E Records and Audits

- (1) A ledger will be maintained by the Chief Investigator at GHQ showing all transactions and a monthly reconciliation will be completed when the bank statement is received.
- (2) Every quarter, the Chief Investigator at GHQ shall submit the ledger and other associated records to the Division of Law Enforcement's Chief of Staff or designee for an internal audit of the Evidence and Information Fund.
- (3) The Chief of Staff or designee shall complete the internal audit of the Evidence and Information Fund within 90 days of receiving the fund records and submit a report of expenditures to the Division Director.

F Establishment of an Informant File System

- (1) A file will be maintained on each Confidential Informant and Limited Use Informant managed by the appropriate Regional Investigative Captain and will contain the following:

- (a) A completed Confidential Informant Agreement and Profile Sheet (FWC/DLE-087) with an assigned coded confidential informant control number.
 - (b) A current photograph of the Confidential Informant or Limited Use Informant.
 - (c) Inclusion of fingerprints of the Confidential Informant or Limited Use Informant along with information obtained from the Automated Fingerprint Identification System (AFIS) is optional, and such information shall only be included in the file if necessary based on the needs of a particular informant or investigation.
 - (d) An NCIC/FCIC criminal history check updated each month the confidential informant remains active under Division supervision.
 - 1. NCIC/FCIC criminal history must be removed from the file once the file has been deactivated, and any printouts of a criminal history must be destroyed in a manner that maintains the confidentiality and security of the information contained therein.
 - (e) A driver license status check and results.
 - (f) A list of payment amounts and dates.
 - (g) Information obtained from the informant.
 - (h) Informant's involvement in operations.
 - (i) Biographical/background information and any other information relative to the reliability of the informant including the use by any other agency.
 - (j) Documentation of informant's training.
 - (k) Documentation of informant's contacts.
- (2) Each Confidential Informant File or Limited Use Informant File shall be maintained in a locked cabinet in each field office where the Confidential Informant was developed. Access will be restricted to only the Regional Investigative Captain and the Regional Commander.
 - (3) Confidential Informants or Limited Use Informants will be documented in the appropriate case management system and will be secured as a hidden file.
 - (4) The Chief Investigator at GHQ is responsible for ensuring compliance with the appropriate sections of 26 U.S.C., and 19 U.S.C., section 1619.
 - (5) Each Confidential Informant File and Limited Use Informant File will be used to:
 - (a) Provide a source of background information about the informant, their use, and deployment.
 - (b) Provide a complete history of the information received from the informant to establish reliability.
 - (c) Enable review and evaluation by the appropriate supervisor of information given by the informant.
 - (d) Minimize incidents that could be used to question the integrity of a sworn member or the reliability of the informant.
 - (6) Only authorized personnel may review a Confidential Informant's File or a Limited Use Informant's File upon the approval of the appropriate Regional Commander or Chief Investigator at GHQ. The requestor must submit a written request explaining the need for the review. A copy of this request, with the requestor's name and the approval will be maintained in the informant's file.
 - (7) Any access to confidential informant files and records shall be documented using the Records Check-Out Log (FWC/DLE-560).

- (8) Records concerning a confidential informant shall be destroyed after the completion of the retention period for confidential informant files as defined in General Records Schedule GS2 for Law Enforcement, Correctional Facilities, and District Medical Examiners. Destruction of the files shall be conducted by the Regional Investigative Captain in a manner that maintains the confidentiality and security of the information contained therein.
- (9) The Division's Office of Policy and Planning or a member designated by the Division Director shall review the confidential informant file security procedures as part of its program policy oversight duties on an annual basis.

G Use of a Confidential or Limited Use Informant

- (1) A sworn member must receive prior approval from their supervisor and Investigative Captain before using an individual as a Confidential or Limited Use Informant. The sworn member must consider at least the following factors when assessing whether an individual is suitable to be used as a confidential or limited use informant:
 - (a) The person's age and maturity;
 - (b) The risk the person poses to adversely affect a present or potential investigation or prosecution;
 - (c) The effect upon agency efforts that the disclosure of the person's cooperation in the community may have;
 - (d) Whether the person is a substance abuser or has a history of substance abuse or is in a court-supervised drug treatment program;
 - (e) The risk of physical harm to the person, his or her immediate family, or close associates as a result of providing information or assistance, or upon the disclosure of the person's assistance to the community;
 - (f) Whether the person has shown any indication of emotional instability, unreliability, or of furnishing false information;
 - (g) The person's criminal history or prior criminal record; and
 - (h) Whether the use of the person is important to or vital to the success of an investigation.
- (2) The sworn member shall advise an individual who may become a confidential or limited use informant of the following and document the advisement on the Confidential Informant Agreement and Profile Sheet (FWC/DLE-087):
 - (a) The FWC Division of Law Enforcement cannot promise inducements such as a grant of immunity, dropped or reduced charges, or reduced sentences or placement on probation in exchange for serving as a confidential informant.
 - (b) The value of an individual's assistance as a confidential informant and any effect that assistance may have on pending criminal matters can be determined only by the appropriate legal authority.
 - (c) A person who is requested to serve as a confidential informant shall have an opportunity to consult with legal counsel upon request before the person agrees to perform any activities as a confidential informant. However, this does not create a right to legal counsel funded by the FWC Division of Law Enforcement, the Florida Fish and Wildlife Conservation Commission, the State of Florida or public entity.
- (3) After the sworn member receives approval to use an individual as a Confidential or Limited Use Informant, all required information shall be obtained and placed in the appropriate informant file by the Investigative Captain.

- (4) A person determined to be unsuitable for use as a Confidential or Limited Use Informant will be immediately deactivated. A report documenting the reasons for the unsuitability of the informant will be completed and included in the deactivated file. The Investigative Captain shall forward a copy of such documentation to the Chief Investigator at GHQ.
- (5) A sworn member requesting to use a Confidential or Limited Use Informant previously designated as deactivated must receive prior approval from the appropriate Investigative Captain, Regional Commander and Chief Investigator at GHQ.

H General Guidelines for Managing a Confidential Informant

- (1) Confidential and Limited Use Informants are required to sign and abide by the provisions of the Confidential Informant Agreement and Profile Sheet (FWC/DLE-087). The sworn member using the informant will discuss each of the provisions of the agreement with the informant, with particular emphasis on the following:
 - (a) A Confidential or Limited Use Informant is not a law enforcement officer. He/she has no arrest powers, is not permitted to conduct searches and seizures and may not carry a weapon.
 - (b) A Confidential or Limited Use Informant may be arrested and will not receive any special legal considerations from the Division if he/she is found engaged in any illegal activity.
 - (c) A Confidential or Limited Use Informant shall not take any action that may be considered entrapment. Entrapment occurs when the informant encourages, persuades or otherwise motivates a person to engage in criminal activity.

I Wildlife Alert Program

- (1) The Wildlife Alert Program is a reward system that provides monetary incentives for any person to immediately report fish, wildlife and boating offenses and provide sufficient detailed information for an arrest of the violators.
- (2) If the caller wants to remain anonymous, the Duty Officer shall provide the caller with a color and a number between 1 and 10. Callers should be instructed to keep the assigned color and number to verify they are the complainant. The assigned incident summary number may also be given to the caller. After ten days the caller may call in and request the status of their complaint. When they call in they will be asked to provide their assigned color and number.
- (3) When arrests are made, the complaint should be closed and given to the appropriate personnel for processing.
- (4) The Incident Summary Report (FWC/DLE-045) and arrest documents are to be reviewed by the Regional Commander or designee to determine the amount of the recommended reward. The Wildlife Alert Reward Fee Schedule shall be adhered to. Exceptions to this schedule shall be reviewed for approval by the Wildlife Alert Committee or their designee.
- (5) The Wildlife Alert Information Form (FWC/DLE-623) is completed and attached to copies of the Incident Summary Report and arrest documentation. The packet shall be forwarded to the Investigations Section at GHQ who shall forward it to the Wildlife Alert Committee or their designee for processing and payment.
- (6) A separate file shall be maintained for all Wildlife Alert cases.
- (7) All reward checks are to be mailed to the complainant unless the complainant's address is unknown, then the check shall be mailed directly to the appropriate Regional Commander or designee.
- (8) If the check is payable to the Regional Commander then it has to be cashed by the Commander.
 - (a) If there is no contact person, the check should not be cashed until the complainant has made contact with the office and arrangements made to deliver the cash.

If the arresting sworn member is the only contact, the cash should be given to them for delivery. The sworn member, accompanied by another sworn member to serve as a witness, and the complainant must sign a receipt. The complainant does not have to sign the receipt with their name. They can initial it or use their assigned color and number.

- (b) If the check has not been delivered after six months, it should be returned to the Investigations Section at GHQ with a memorandum of explanation.

J Regulations

- (1) No member of the Division shall maintain a social or business relationship with a known Confidential or Limited Use Informant.
- (2) Members of the Division shall not solicit, accept gratuities or engage in any private business transaction with a known Confidential or Limited Use Informant.
- (3) A sworn member should be accompanied by another law enforcement officer when meeting with a Confidential or Limited Use Informant.
- (4) Meetings with Confidential or Limited Use Informants will not take place in areas of covert operations or security sensitive areas of the office.
- (5) No sworn member will meet with a Confidential or Limited Use Informant of the opposite sex without being accompanied by another law enforcement officer.
- (6) A juvenile shall only be used as a Limited Use Informant with parental approval and in accordance with state laws.
- (7) Confidential or Limited Use Informants are not authorized to use Commission business cards or law enforcement insignia.
- (8) A member may be required to make restitution and be subject to disciplinary action and/or prosecution if evidence and information funds are improperly used.
- (9) Audits of the Evidence and Information Fund shall be performed in accordance with the requirements of the Chief Financial Officer and the Auditor General of the State of Florida.

4 FORMS

FORM NUMBER	FORM TITLE
FWC/DLE-045	Incident Summary Report
FWC/DLE-075	Request for Evidence and Information Funds
FWC/DLE-076	Evidence and Information Fund Expense Justification Form
FWC/DLE-077	Expense Justification Form B
FWC/DLE-078	Return of Unused Evidence and Information Funds
FWC/DLE-087	Confidential Informant Agreement and Profile Sheet
FWC/DLE-560	Records Check-Out Log
FWC/DLE-623	Wildlife Alert Information Form

