



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
DEPARTMENT WIDE

REVISION DATE
7/22/22

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NUMBER
DOC 470.150

POLICY

TITLE
CONFIDENTIAL INFORMATION

REVIEW/REVISION HISTORY:

Effective: 10/4/01 DOC 460.150
Revised: 3/22/10
Revised: 1/8/16 DOC 470.150
Revised: 7/22/22

SUMMARY OF REVISION/REVIEW:

Major changes to include updated applicability and terminology throughout. Read carefully!

APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

6/28/22
Date Signed

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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [RCW 10.97](#); [RCW 42.56.240](#); [WAC 137-08](#); [WAC 137-28](#); [Records Retention Schedule](#)

POLICY:

- I. The Department has established guidelines for the use of confidential information obtained through a protected source or provided voluntarily. This includes, but is not limited to, information pertaining to known or planned criminal activities or violations of facility rules, and safety and security concerns within facilities and/or in the community.

DIRECTIVE:

- I. Responsibilities
 - A. The Chief of Investigative Operations will be responsible for the confidential information process.
 - B. The Chief Investigator/designee in major facilities, or designated employee in stand-alone Level 2 facilities and Reentry Centers, will:
 1. Review and evaluate DOC 05-392 Confidential Information Report,
 2. Determine the need for investigation,
 3. Establish safety considerations that would preclude disclosing the informant's identity, and
 4. Maintain completed original Confidential Information Reports per the Department Records Retention Schedule.
 - C. All employees/contract staff will ensure the identity of confidential sources is protected per RCW 42.56.240.
 - D. Only the following will be authorized to develop confidential sources/informants:
 1. Intelligence and Investigations Unit (IIU) at Level 3 and higher facilities,
 2. Employees designated by the Superintendent at stand-alone Level 2 facilities, and
 3. Employees designated by the Reentry Center Community Corrections Supervisor (CCS).
- II. Reporting and Investigating Confidential Information
 - A. Employees/contract staff who receive confidential information from a human source will complete DOC 05-392 Confidential Information Report and place it in the designated lockbox or deliver it to the IIU/designee only.

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1. Employees will deliver the report to the Special Investigative Services Unit/IIU or nearest designated employee if the facility does not have an IIU.
2. Confidential Information Reports will not be submitted electronically.
3. In extreme circumstances, when the reporting employee/contract staff believes that revealing the informant's name will jeopardize the informant's safety or security, the employee/contract staff will reveal the name to the Chief Investigator/designee, Superintendent, or Reentry Center Administrator.

B. If an investigation is warranted, the Chief Investigator/designee will assign an Investigator.

1. Confidential informant information will be maintained per the Records Retention Schedule in a central repository. Employees with the need for access to the repository will submit a request to the Chief of Investigative Operations.

III. Determining Reliability and Credibility

A. The Chief Investigator or designated employee will make a determination of reliability and credibility using Part II of DOC 05-392 Confidential Information Report.

1. Part II of the report will not be graded by the reporting employee/contract staff.

B. The following factors will be considered when determining the reliability and credibility of confidential information:

1. Evidence from employees/contract staff that the informant has previously provided reliable information that resulted in:
 - a. Recovery of contraband,
 - b. An arrest and/or a prosecution in the community, or
 - c. An infraction resulting in a guilty finding.
2. Evidence that:
 - a. The informant had no apparent motive to fabricate information,
 - b. The informant received no benefit from providing the information, or
 - c. Proves exculpatory for the accused or reveals inconsistencies in other evidence.

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3. Whether the information is internally consistent and is consistent with other known facts, which may include:
 - a. Pertinent information revealed by a search,
 - b. A positive canine alert supported by another type of search, and/or
 - c. Pertinent information revealed by a container, vehicle, electronic, or pat search of the individual's visitor(s).
4. The existence of corroborating evidence.
5. Whether the information was received from a confidential informant (i.e., human source who has provided information over a period of time), or confidential source (i.e., any other single source of information such as video/phone system).
6. Whether the informant/source is providing first-hand information.

IV. Processing Confidential Information for Disciplinary Hearings

- A. Documents pertaining to confidential information will be clearly stamped "confidential" and restricted to those with an official need to know.
- B. Confidential information may not be copied.
- C. A summary of the confidential information will be included in the infraction report, ensuring the accused individual receives sufficient information to respond to the charges and prepare for their defense without disclosing the identity of the confidential informant.
- D. Designated Investigators and employees acting as the Security Threat Group (STG) contact person will complete DOC 05-392 Confidential Information Report when entering confidential informants/sources into the STG database.
 1. The original report will be retained at the originating facility per the Records Retention Schedule. The documentation must include where the report is archived.
- E. When individuals are transferred prior to conducting a disciplinary hearing, the originating hearing office will send the Infraction/Hearing packet to the receiving facility Hearing Office and will include:
 1. Serious Infraction Report and supporting documents, and
 2. Evidence.

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- F. When individuals transfer pending disciplinary hearings involving confidential information, the Disciplinary Hearing Office and IIU will coordinate and facilitate notification of the receiving facility IIU/Hearing Office of pending hearings.
- V. Using Confidential Information in Disciplinary Hearings
- A. Hearing Officers must request access to review confidential information. Copies will not be made for this purpose. The review will be conducted where the original record is maintained:
1. In the facility IIU office at major facilities, or
 2. In the secure location for facilities that do not have an IIU.
- B. The Hearing Officer may receive evidence through written statements from the employee/contract staff to whom the information was provided. When the Hearing Officer requires additional information/clarification or direct testimony, the employee/contract staff may be contacted to provide the testimony in writing, by telephone, or in person.
- C. The Serious Infraction Report based on confidential information will be addressed during the hearing. The Hearing Officer will specify on the record:
1. The outcome of the Hearing Officer's independent determination of reliability and credibility,
 2. The need for confidentiality,
 3. Any safety concerns, and
 4. Whether the confidential information was relied upon when making a decision of guilt.
- D. The direct testimony of an informant should take place out of the presence of all other individuals and in an area that will maintain the informant's confidentiality.
1. The Hearing Officer should:
 - a. Inquire about the nature of the information,
 - b. Ask how the informant became aware of the information, and
 - c. Attempt to solicit any other facts that would prove or disprove reliability.
 2. If confidential testimony is recorded, the recording must be marked and identified as containing non-disclosable confidential testimony.
 3. The Hearing Officer will complete DOC 17-072 Disciplinary Hearing Review of Confidential Information Checklist.

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E. For community disciplinary hearings, confidential testimony may be provided by the informant either in person or in a signed written statement. A signed written statement is considered hearsay in a community custody hearing and without corroboration or substantiation may not be the sole basis of a guilty finding.

1. If the information is used as evidence in a community custody hearing, the case manager must be prepared to identify the informant, outside the presence of the individual, to the Hearing Officer, who must assess reliability.

VI. Confidential Information Dissemination to Law Enforcement Agencies

- A. Employees/contract staff will process, evaluate, and disseminate confidential information in a confidential manner. Failure to maintain confidentiality may result in corrective and/or disciplinary action.
- B. Confidential information related to criminal activity in the community will be forwarded to applicable law enforcement agencies by facility IIU Investigators, CCS, or employees designated to evaluate confidential information.

VII. Use of Informants by Law Enforcement Agencies

- A. Employees/contract staff will cooperate with federal, state, county, and local criminal justice agencies to communicate information provided by individuals relevant to criminal prosecution and community protection. This contact will be processed through the facility Intelligence and Investigations Officer, with the knowledge of the Superintendent, or through the CCS or Reentry Center Administrator.
- B. Appropriate measures must be taken to ensure the safety and confidentiality of the informant and, when applicable, to maintain security and orderly operation of the facility.
- C. The Department does not approve of individuals working for law enforcement as informants if it may require that the individuals:
 1. Be involved in the commission of crimes (e.g., drug use/sales, fencing operations),
 2. Violate WAC or Department policies, or
 3. Violate the conditions of their supervision.
- D. Individuals in a Reentry Center or on community supervision may only work as informants when authorized by the applicable Assistant Secretary when police provide evidence the individual is the only one capable of obtaining the information they seek.

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1. When approved, the case manager will advise the individual that acts as an informant are at the individual's own risk and that any violation of conditions of supervision will be reported to the Hearing Officer/court/Indeterminate Sentence Review Board.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORM:

DOC 05-392 Confidential Information Report

DOC 17-072 Disciplinary Hearing Review of Confidential Information Checklist