

## **CHAPTER 109-02-06 CONFIDENTIAL INFORMANTS**

### Section

109-02-06-01 Confidential Informants

#### **109-02-06-01. Confidential informants.**

1. A peace officer utilizing a confidential informant should take reasonable steps to ensure the safety of the confidential informant and shall document that relationship using a written informant agreement agreed to by the parties prior to any controlled buy, controlled sale, or in-person surreptitious recording taking place.
2. A peace officer shall review the confidential informant agreement with each confidential informant. Each informant agreement must be in writing on a form approved by the board and must be signed by the confidential informant and the controlling agent who must be a peace officer. The peace officer shall maintain and control access to the written informant agreement.
3. A peace officer shall keep all confidential informant records secret with access limited to persons with a need to know or subject to a court order for disclosure.
4. When a controlling agent gets removed from an investigation using a confidential informant, that peace officer shall document this information on the informant agreement and notify the confidential informant. If the investigation continues, the peace officer assuming control of the confidential informant shall enter a new informant agreement with the confidential informant.
5. A peace officer who is acting as the controlling agent for a confidential informant shall request a criminal history report on all known target offenders of the investigation and verbally report the propensity for crimes of violence for each target offender to the confidential informant.
6. The controlling agent shall provide an operational/safety plan for each controlled buy, controlled sale, or in-person surreptitious recording attempted by a confidential informant.
7. A peace officer shall inform a paid confidential informant in writing of the compensation amounts prior to any controlled buy, controlled sale, or in-person surreptitious recording taking place.
8. A peace officer may not have any sexual contact or sexual relationship with any confidential informant.
9. A peace officer shall communicate to the confidential informant, if possible, when the confidential informant is deactivated. A peace officer shall enter a dated, written notation on the informant agreement when the confidential informant is deactivated.
10. A peace officer may not violate North Dakota Century Code chapter 29-29.5.
11. A reserve peace officer shall not utilize confidential informants.

**History:** Effective July 1, 2018; amended effective April 1, 2022.

**General Authority:** NDCC 12-63-02.3(5), 12-63-04

**Law Implemented:** NDCC 12-63-02.3, 12-63-04