

Los Angeles County
District Attorney's Office

Legal Policies Manual

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CHAPTER 19

JAILHOUSE INFORMANTS

19.01 INTRODUCTION

There is a critical need for consistency in the handling of jailhouse informants; the integrity of this office and the integrity of our system of justice depends upon it.

It is the policy of this office to strictly control the use of jailhouse informants as witnesses. Before a jailhouse informant may be used as a witness, strong corroborative evidence is required. This corroborating evidence must consist of more than the fact that the informant appears to know details about the crime thought to be known only to law enforcement.

Commentary

It has been the longstanding practice of the deputies in this office to view skeptically and with caution the proposed testimony of any county jail prisoner. No deputy has ever supposed that such testimony springs from the prisoner's sense of good citizenship or moral duty. On the contrary, a deputy district attorney is by virtue of training and experience altogether conscious of the self-interest of the jailhouse informant and actively mindful of the source, his background and his character. Further, since we are unalterably committed to obtaining the truth and seeking justice, the informant's information is viewed through the prism of our ethical mandate.

19.02 OFFICE POLICY

A jailhouse informant is a person in custody who receives a communication from another person in custody about a crime committed by the latter and who chooses to convey this information to authorities.

No jailhouse informant shall be called to testify to a defendant's oral statement, admission or confession unless strong evidence exists which corroborates the truthfulness of the informant.

A deputy wishing to use a jailhouse informant as a prosecution witness must obtain the prior approval of the Jailhouse Informant Committee. The Committee is comprised of the Chief Deputy, the Assistant District Attorneys and Bureau Directors. All requests to use a jailhouse informant must be submitted, in writing, to the Chief Deputy through the chain of command.

A written request to use a jailhouse informant must include:

- A brief description of the crime and the name and criminal history of the informant;

- The evidence being offered by the informant;
- A description of the corroborating evidence;
- An analysis of the strengths and weaknesses of the case if the informant is not used; and
- Any benefit promised to the informant by any member of law enforcement or any employee of the District Attorney's Office for the information offered on the pending case.

The Habeas Corpus Litigation Team maintains a Central Index of jailhouse informants who have offered to be, or who have been used as witnesses. The trial deputy must contact the Deputy-in-Charge of the Habeas Corpus Litigation Team (HABLIT) and determine whether the informant has offered to be a witness in the past or has testified in any prior case. The information shall be included in the deputy's written memorandum.

The Head Deputy will forward the memorandum with his/her recommendation to the appropriate Bureau Director. If the Bureau Director agrees with a recommendation to use a jailhouse informant as a witness, the Bureau Director will forward the request to the Chief Deputy for consideration by the Jailhouse Informant Committee. The trial deputy may be asked to appear before the committee to explain his/her reasons why the request should be approved.

19.02.01 Trial Deputy Responsibilities if Approval is Granted

If the Committee approves the use of a jailhouse informant, the trial deputy must comply with the requirements of Penal Code §§ 1127a, 1191.25, and 4001.1.

If the informant testifies, the trial deputy must notify HABLIT.

Although Penal Code § 4001.1, if strictly applied, pertains only to "in custody informants" held within a "correctional institution," it is office policy that its provisions apply to any custodial setting (i.e., jail or prison).

19.02.02 Prohibition of Monetary Payments

Penal Code § 4001.1 prohibits law enforcement from making monetary payments to in custody informants in excess of \$50 in exchange for testimony. This limitation does not apply to funds expended for witness protection, relocation, or travel expenses.

19.03 FABRICATION OF EVIDENCE BY JAILHOUSE INFORMANTS

Should any deputy acquire any information that a jailhouse informant is attempting to fabricate or has fabricated evidence, the deputy shall immediately forward a memorandum setting forth all pertinent details to HABLIT. E-mail or fax transmission is acceptable. This information will be included in the Central Index maintained by HABLIT. It is a continuing responsibility of all deputy district attorneys to ensure that any attempt to falsify evidence is readily known to any of our deputies considering the

use of the jailhouse informant involved.

19.04 CRIMINAL CASE INFORMATION SECURITY

The flow of confidential information is critical to operating successfully day to day. Any policy on the disclosure of information must balance the need for security and the need for the efficient exchange of information among the people in this office, from this office to other law enforcement agencies, and to the members of the public. To that end, information on criminal cases being handled by this office shall be disclosed, over the telephone, only as follows:

- If the caller is a deputy district attorney, member of law enforcement, or probation officer personally known to the employee possessing the requested information, and the caller has a need to know the information, the information should be disclosed;
- If the caller is not personally known to the employee possessing the requested information, and claims to be a deputy district attorney, member of law enforcement, or probation officer, the employee possessing the information must request and receive a call-back verification number from the caller. If the number is verified, and there is a need to know the information, the information should be disclosed;
- If the caller is seeking information which is generally available to the public (e.g., time and location of a court appearance), that information should be given;
- Under no circumstances should the names, addresses or telephone numbers of witnesses be disclosed over the telephone; and
- Detailed information or prosecution strategy on a case should never be discussed over the telephone. Only the bare minimum facts, on a verified need-to-know basis, should be disclosed telephonically.

19.04.01 File Notations

Any employee who, in compliance with these guidelines, telephonically discloses information of a non-public nature must make a notation of what was disclosed and to whom it was disclosed. This notation should be placed in the case file or, if the file is not accessible, sent in written form to the deputy district attorney handling the case.

If an employee has any doubt about the identity of the caller, the validity of the call-back number, or whether the caller has a need to know, the employee should immediately contact the Assistant Chief of the Bureau of Investigation.

Commentary

It is essential that we prevent breaches of office security through the inadvertent disclosure of confidential information to persons not authorized to receive such information. Strict compliance with this policy should ensure that such breaches do not occur.

19.05 PRESERVATION OF JAILHOUSE INFORMANT RECORDS

The following Superior Court order, issued on December 16, 1988, remains in effect:

TO [THE] DISTRICT ATTORNEY OF LOS ANGELES COUNTY:

You are hereby ordered to preserve all records of jailhouse informants who have been used or consulted by you or your agents while incarcerated from November 1, 1978 to the present until the further order of this court. This order includes, but is not limited to, all notes, memoranda, computer printouts, or any records of promises made, payments made, or rewards given to each such jailhouse informant. The order shall further include all records of the last known location of said informants, all records relating to the cell assignments of such informants within the Los Angeles County jail system and all memoranda describing in whole or in part such informants.

Dated: 12/16/88

Signed:
Judge of the Superior Court