

APPENDIX 10

**Attorney General “Law Enforcement Guidelines
on the Use of Juveniles as Informants”
and Appended “Juvenile Informant Agreement,
Liability Waiver Form and Parent or Guardian’s Consent”
Excerpt from the
“New Jersey Law Enforcement Officers’ Reference Manual:
Handling Juvenile Offenders or Juveniles
Involved in a Family Crisis”
(1997)**

3. Law Enforcement Guidelines on the Use of Juveniles as Informants

3.1 Purpose

These guidelines are intended to govern the use of juveniles, by a law enforcement agency, to actively aid in the investigation of an offense.³⁴ This may be 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 the 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.

3.2 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 may 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 the use of juveniles to attempt to purchase cigarettes from local retailers.

The general "Policy on the Use of Informants" contained in the Prosecutor's Manual³⁵ shall also apply to juvenile informants. Law enforcement agencies are not precluded from adopting supplemental and more detailed procedures to control the use of juvenile informants by that agency.

3.3 Requirements for Juvenile Informants

3.3.1 Age of Juvenile Informant

A "juvenile" is an individual under the age of 18 years.³⁶ 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.

³⁴ Unlike other sections of this manual, the guidelines in this section are being issued here for the first time. See Executive Directive No. 1997 - issued by Attorney General Peter Verniero, 1997.

³⁵ Appendix G.

³⁶ N.J.S.A. 2A:4A-22a.

3.3.2 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.

3.3.3 Mental Health

Law enforcement officers shall not use juvenile informants who have a history of treatment for mental illness or suicide attempts.

3.3.4 Physical Health; Medication

Law enforcement officers shall not use juvenile informants who have a medical condition or who are taking medication that increases the danger to the juvenile of acting as an informant.

3.4 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 3.3, Requirements for Juvenile Informants.

3.5 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 H 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 the juvenile before seeking the juvenile's written consent. No law enforcement 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 a juvenile as an informant.

3.6 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 county prosecutor, the Attorney General, or their designee. No law enforcement agency shall make any promises, express or implied, with regard to prosecution without first obtaining the express approval of the Prosecutor or his designee.

3.7 Limitations on Use of Juvenile Informants

3.7.1 Entrapment

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

3.7.2 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 the integrity of any substance abuse counseling or treatment program.

3.7.3 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.

3.7.4 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.

3.7.5 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.

3.7.6 Firearms

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

3.7.7 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.

3.7.8 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.

3.8 Operations on School Property

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

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*.³⁷

³⁷ Appendix E.

Appendix H:

Juvenile Informant Agreement,

Liability Waiver Form

and Parent or Guardian's Consent

***Juvenile Informant Agreement, Liability Waiver Form
and Parent or 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" means 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 have never been treated for mental illness.
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 Consent

My name is _____ . I am _____ 's
(parent or guardian) (informant's name)

_____ . I consent to _____ acting as an
(relationship) (informant's name)

informant for this agency. I have discussed this with _____ . I have
(informant's name)
given my consent freely and voluntarily and without duress. No law enforcement agency or law enforcement officer has made any promise or offer, regarding prosecutorial considerations for any offense with which I may be charged, to obtain my consent.

Parent or
Guardian's signature: _____ Date: _____

Officer's signature: _____ Date: _____

Witnessing
Officer's signature: _____ Date: _____