

# Criminal Organizations

## 441.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Fontana Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

## 441.2 POLICY

The Fontana Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

## 441.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

### 441.3.1 REPORT TO THE CALIFORNIA DEPARTMENT OF JUSTICE

The Field Services Division Commander or the authorized designee shall ensure that the annual report of information submitted to a shared gang database as required by Penal Code § 186.34 is submitted to the California Department of Justice.

## 441.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

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### **441.4.1 FILE CONTENTS**

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the records or property units, but should be copies of, or references to, retained documents such as copies of reports, FI forms, dispatch center records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

### **441.4.2 FILE REVIEW AND PURGING**

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

### **441.5 INFORMATION RECOGNITION**

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Sergeant to train members to identify information that may be particularly relevant for inclusion.

### **441.6 RELEASE OF INFORMATION**

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

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Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

### **441.7 CRIMINAL STREET GANGS**

The department supervisor should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:
  - 1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
  - 2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
  - 3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).
- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

### **441.8 TRAINING**

The Training Sergeant should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.
- (b) Participation in a multiagency criminal intelligence system.
- (c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

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### **441.8.1 SHARED GANG DATABASE TRAINING**

The Training Sergeant should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required by the department (Penal Code § 186.36; 11 CCR 751.6).

### **441.9 GANG REGISTRATION**

Gang members, who are required to register with the Fontana Police Department as a condition of their parole/probation, shall be registered by a member of the Gang Unit. It is the Gang Unit's responsibility to follow current procedures for this registration process.

### **441.10 FORFEITURE OF INSTRUMENTALITIES USED BY STREET GANGS**

The Legislature, in enacting the Street Terrorism Enforcement and Prevention Act, found that an effective means of punishing and deterring the criminal activities of street gangs is through the forfeiture of instrumentalities used by street gangs. (California Penal Code Section 186.21)

It is the policy of the Fontana Police Department, in order to protect the citizens of the community and gang members from violence caused by street gangs, to seize instrumentalities used by street gangs members based on the following criteria:

- (a) Only officers, who are S.M.A.S.H. certified and currently assigned to the gang unit, may seize instrumentalities used by street gangs.
- (b) Instrumentalities used by street gangs may only be seized from known gang members. Known gang members are those individuals who have been identified as gang members under the criteria listed in this policy and entered in the CAL GANGS system.
- (c) Instrumentalities used by street gangs include but are not limited to; clothing, photographs, notebooks and other items commonly used by street gangs to show gang affiliation.
- (d) When seizing instrumentalities used by street gangs officers shall initiate a PC 186.21/186.22 (a) (b) report and complete Fontana Police Department Form # FPD 266 (New 5/97).
  - 1. The seizing officer shall read and supply a copy of the admonishment on the Fontana Police Department Form #FPD 266 (New 5-97) and #FPD 266A (New 6/97) to the individual from whom the property is being seized.
  - 2. Items seized shall be placed on a Fontana Police Department Property Control Report and placed into evidence for safekeeping. The person from whom the property is taken shall be given the yellow copy of the Property Control Report as a receipt.

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- (a) Property taken from juveniles may only be released to the parent or guardian of the juvenile from whom the property was taken in accordance with department policy for releasing property taken for safekeeping.
  - (b) Property taken from adults may only be released in accordance with department policy for releasing property taken for safekeeping.
  - (c) A reasonable notification attempt of the owner of the property taken for safekeeping must be made by officers when property taken for safekeeping is not owned by the person whom it was taken from.
- (e) A hearing will be conducted in the event a party from whom property was taken, or who claims to be the owner of the property, wishes to contest the seizure of the property. The hearing officer will be the Commander of the Investigations Unit.
  - (a) Individuals requesting a hearing shall do so within thirty-(30) days of the seizure. Failure to do so will result in the permanent seizure of the property and disposal of the property after one (1) year.