

AIR POLLUTION CONTROL DISTRICT
REGULATORY COMPLIANCE DIVISION

POLICIES AND PROCEDURES

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Topic: Confidential Informants

Distribution: All Policy Holders

The purpose of this policy and procedure document is to provide guidance to District staff regarding the parameters established by the Public Records Disclosure Act (Government Code Section 6254) as it relates to the confidentiality of informants and complainants. Confidential informants are exempt from the Public Records Act disclosure requirements. Confidential informants include:

1. Informants in investigations where the disclosure of informant identity would endanger the successful completion of the investigation:
 - a. The witness, complainant or informant will not provide information crucial to the successful completion of the investigation unless assured that their identity will not be disclosed because they fear that their job or economic well-being would be threatened by the disclosure
 - b. The witness, complainant or informant requests confidentiality because they feel that their safety would be threatened if their identity is disclosed
 - c. Witnesses, complainants or informants when, in the judgement of the Enforcement Supervisor, disclosure informant identity would endanger the successful completion of the investigation
2. Witnesses, complainants or informants who, in the judgement of the investigating inspector or Enforcement Supervisor, would be put in danger should their identity be disclosed

Confidentiality applies to the identity of witnesses, informants and complainants; statements made by such persons; information, data and evidence gathered during the investigation; and analysis and conclusions made by the investigating inspector. However, all air pollution emission data, including those emission data which constitute trade secrets, are public records and subject to the Public Records Act disclosure requirements.

POLICY:

If any witness to a violation, complainant or informant meets any of the above listed criteria, the District will keep their identity confidential.

PROCEDURE:

Upon receipt of a complaint or information regarding a potential violation of District Rules, the preference and justification for confidentiality will be indicated on the Complaint Investigation Report form or the Inspection Report form by the District staff person receiving the complaint or information.

The inspector will confirm and document the request for confidentiality during the investigation. If no preference for confidentiality has been expressed by the complainant or informant, District staff will maintain the confidentiality of the identity of the person until it can be determined if applicable confidentiality criteria apply. During the investigation the inspector will determine if failure to keep confidential the identity of the informant would endanger the successful completion of the investigation or put the informant in danger.

The inspector will document the determination of applicability for confidentiality in the inspection report. If unsure as to whether or not a complainant, witness or informant's identity should remain confidential, the inspector will consult with the Enforcement Supervisor.

Prior to being filed in public access files, all reports and records regarding a case in which there is a confidential complainant, witness or informant will be censored of any information which could identify the confidential person.

IMPORTANT: ONLY COMPLAINANTS, WITNESSES AND INFORMANTS WHICH MEET THE CRITERIA FOR CONFIDENTIALITY WILL HAVE REFERENCES TO THEIR IDENTITIES CENSORED FROM REPORTS TO BE FILED IN PUBLIC ACCESS FILES

Original uncensored investigation reports which contain the names of confidential complainants, witnesses and informants will be filed in the Complaint File maintained by the Regulatory Compliance Division Clerk Typist III. The Complaint File will remain locked except when opened to retrieve or file reports.

Requests for the names of confidential complainants, witnesses and informants will be referred to the District Counsel.