

# ***COVER SHEET***

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## **EXPLANATION FOR THE CREATION OF THE UNDERCOVER POLICY**

For the purpose of officer safety, liability and organizational continuity the Chief has directed the department to create and implement a complete and thorough UNDERCOVER POLICY. Undercover work is a “high risk” job that needs as much direction as possible. There are undercover operations being done in several different bureaus and there is no consistency. The goal of the policy is to have everyone working on the same page in the safest manner possible.

Very few departments across the country have a thorough written undercover policy or an undercover school. This policy was put together by us to serve as a guide for you to create your own undercover policy. You are welcome to take it in its entirety or use parts of it that would apply to your agency. However you use it, if and when you have created your policy can you please send a copy to Charlie Fuller, Gayland Hammick and David Redemann. This will always be a work in progress and something you add may benefit another agency down the road. Good luck, if you take on the tasks and you need assistance you can contact Charlie, Gayland or Dave.

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# *Undercover Operations Policy*

## **I. INTRODUCTION:**

(**Your Agency**) investigations authorized by the chain of command may require the use of sensitive methods and strategies and sometimes involve sensitive targets. These investigations are to be fully planned and supported (staffed), properly authorized prior to implementation. These activities or operations may involve the use of deception by law enforcement officials as well as cooperating individuals whose motivation is questionable. For these reasons it is necessary to insure that these operations and activities are properly authorized and monitored at all times.

For the purposes of this policy, “Undercover Operations” are those operations that are performed in which the true identity of a police officer is concealed from third parties during the course of an investigation through the use of a cover or alias identity.

The following guidelines set forth the criteria, review and approval process for an undercover investigation.

## **II. REQUIREMENTS TO USE UNDERCOVER OPERATIONS:**

- A. There is reason to believe that the undercover operation will result in the development of evidence and/or prosecution of individuals committing significant violations of laws, which are enforced by (**Your Agency**).
- B. The evidence being sought could not be obtained as effectively or as readily by other investigative techniques.
- C. The officers participating in the undercover operation have met the minimum criteria as set forth in this policy.

## **III. DEFINITIONS:**

- A. Undercover **ACTIVITY**: any investigative activity involving the use of an assumed name or non-police identity by a sworn officer of (**Your Agency**) or Federal, State or Local law enforcement organization working with (**Your Agency**), regardless of the length of time. The employee’s connection to the department is **concealed from third**

**parties** during the course of an investigation through the use of a “cover” or “alias identity”. For the most part, undercover activities are short in duration.

- B. Undercover “**AGENT**”: means any employee from (**Your Agency**) or of a Federal, State, or local law enforcement organization working under the direction and control of (Your Agency) in a particular undercover investigation.
- C. “**UNDERCOVER OPERATION**”: any investigation involving undercover activities by an employee or confidential informant (CI). An undercover operation may involve a significant expenditure of funding, manpower and resources. An undercover operation may involve the issuance and use of “false identification”, and “roles”, which may continue for an extended period of time. Undercover Operations include, **but are not limited to**: Prostitution, Escort, Gambling, Narcotics Violations, Stolen Property, Murder for Hire, Cold Homicide Cases, and “Stings” or “Scam” Operations. **Note**: a person who is strictly on surveillance and stays on surveillance during the entire operation is not classified as an “Undercover Agent” (i.e. trailer on a buy/bust operation; if they have money to purchase narcotics, they are an “undercover agent”. All undercover operations must be approved by a Lieutenant or above.
- D. “**PROPRIETARY**” means a sole proprietorship, partnership, corporation, or other business entity operated on a commercial basis: it is owned, controlled, or operated wholly or in part on behalf of (Your Agency), and its connection to (Your Agency) and is concealed from third parties.
- E. “**STOREFRONT**” or “**STING**” operations are undercover operations that serve to attract criminals who are predisposed to violate Federal, State, or local laws (i.e.: (**Your Agency**) undercover store buying stolen property).
- F. “**ENTRAPMENT**” occurs when a Government entity originates the idea of a crime and then induces another person to engage in conduct constituting such a crime when the person is not pre-disposed to that act.
- G. “**JOINT UNDERCOVER OPERATION**” means an undercover operation conducted jointly by (**Your Agency**) and another law enforcement agency. If (**Your Agency**)’s participation is restricted to limited financial contribution or equipment resources or technical advice, those situations would not constitute as a joint undercover operation.
- H. “**RISK MANAGER**” of undercover operations, means an experienced person who is unbiased and not involved in the undercover operation that can objectively look at the operation and evaluate the “Risk” to the undercover officer and the liability to the (**Your Agency**).
- I. “**OPERATIONS ORDER**”, is the formal written plan of the operation. The order will include but not be limited to: Mission, Location, Assignments of Personnel, Suspects, Vehicles, Hazards, Contingency Plans, etc)

- J. **“20/20 RULE”**, means that an undercover agent will not be within 20 seconds or 20 feet of an arrest or takedown. This is an officer safety issue.
- K. **“IN FIELD”**, means out on the physical location of the operation.
- L. **“TRIPPING”**, means to leave a designated location either on foot or by vehicle with a target/suspect.
- M. **“COVER TEAM”**, the group of individual’s that **primary** responsibilities are the **protection and safety** of an “undercover agent” while he is “in the field”.
- N. **“SURVEILLANCE TEAM”**, the group of individual’s that **primary** responsibilities are to **observe**, document and follow the target/suspect and/or undercover agent.
- O. **“CONTINGENCY PLAN”**, a predetermined and practiced plan to various situations that may arise “in the field” and which deviate from the original plan (i.e., undercover agent shot or injured, hostage situation, suspect firing at officers etc.)
- P. **“OPERATION BRIEFING”**, the verbal and possibly visual representation of an operations order.
- Q. **“OPERATION DEBRIEFING”**, the **post** verbal and sometimes written evaluation of the operation which should be done within 24 hours after completion of the operation.
- R. **“CASE MANAGER”**, the person designated to organize, document and direct an undercover operation.
- S. **“OPERATION SUPERVISOR”**, the person designated to be in charge of the operation. The rank should be a Sergeant or above or their designee.
- T. **“FLASH ROLL OR MONEY”**, the money used to show the target/suspect that the undercover agent is bonafide in making the purchase.
- U. **“U/C”**, means undercover agent.
- V. **“DANGER ZONE”**, the area in an operation that is not observable by the cover or surveillance teams. The undercover agent is explicitly instructed to stay out of this area for officer safety reasons.
- W. **“DURMAPLUS”**, is the foam type lotion that is put on the hands of the undercover to protect them from absorbing any type of narcotics through their hands during their buy.
- X. **“HELP SIGNAL”**, the “verbal” and “visual” signal displayed by the undercover agent when he/she feels that they are in **trouble** and they need the arrest or cover teams to come in immediately.

- Y. **“GOOD BUY SIGNAL”**, the “verbal” and “visual” signal displayed by the undercover agent when he/she has successfully purchased the narcotics or in a vice decoy he/she has the “offer and agree”.
- Z. **“OFFER AND AGREE”**, in a vice decoy case it is the offer by the suspect to the undercover agent, to engage in a sex act for a fee.
- AA. **“PROPS”**, are items used to disguise the undercover agent from looking like a police officer (i.e., false teeth, contacts, special clothing, casts, animals, imitation bruises, needle marks, or food or drink in restaurants or bars etc).
- BB. **“BUNKED”**, means when the undercover agent is attempting to purchase real narcotics and instead is sold some form of imitation narcotics.
- CC. **“UNDERCOVER UNITS”**, any unit whose primary or additional responsibility is to perform undercover operations. For the purpose of this policy Vice, Narcotics, Intelligence, ACT units, and Gangs are undercover units.
- DD. **“ALIAS OR FALSE IDENTIFICATON”**, drivers licenses or other forms of identification that are created to be used by an undercover agent to conceal their true identity from targets/suspects. All identification must be approved and recorded by the Assistant Chief of the Investigations Bureau. All records of alias names will be maintained by the Captain of the Vice/Narcotics unit and the Assistant Chief of the investigations Bureau. Only one driver’s license will be issued to an undercover agent at a time. Unused or expired driver’s licenses will be turned into the Assistant Chief of the investigations bureau and destroyed.
- EE. **“COLD PLATING”**, is the taking of unused or recovered license plates that are not registered to the vehicle that they are being place on. This can be beneficial if the operation needs a vehicle from out of state.

#### ***IV. ADVANTAGES OF UNDERCOVER OPERATIONS:***

- A. To identify and apprehend criminals and their associates who may be involved in a conspiratorial relationship in violations of Local, State, and Federal laws.
- B. To obtain direct or indirect evidence of a crime.
- C. To determine the scope and magnitude of a criminal organization and to identify participants.
- D. To locate and identify places, vehicles, equipment, used in the commission of the criminal violation.
- E. To identify and seize illegal assets or proceeds from illegal activity.

- F. To develop intelligence and informants.
- G. Determine best time for arrest and raids on criminals and criminal organizations.

## **V. LIABILITIES OF UNDERCOVER OPERATIONS:**

- A. Physical risk to the Undercover Agent: (Always remember that the undercover is a potential “hostage” or “victim”)
- B. Psychological risk to Undercover Agent (i.e.: agent “Role” confusion, Family or Personal problems):
- C. Over reliance of the Undercover Technique: (i.e.: a different type of investigation may be safer).
- D. Publics misunderstanding of the technique:
- E. Longer term cases can be financially challenging and labor intensive.

## **VI. ALTERNATIVES TO UNDERCOVER OPERATIONS:**

- A. Anonymous tips: (i.e.: citizen complaints).
- B. Informants: (i.e.: concerned citizen, paid, or unpaid).
- C. Surveillance: (i.e.: surveillance of targets, video-pole cameras or drop car).
- D. Analysis or reports: (i.e.: telephone records, past police reports or intelligence).
- E. Aggressive investigation:

## **VII. TYPES OF UNDERCOVER OPERATIONS:**

- A. **Conventional:** Surveillance, intelligence gathering, purchasing of drugs, and directing of informants.
- B. **Unconventional:** Reverse stings (i.e.: selling of drugs, prostitution decoys etc), proprietary (i.e.: store fronts), illicit services (i.e.: escort reverses).

## **VIII. STAGES OF UNDERCOVER OPERATIONS:**

- A. **Set-up phase:** Background work on the target(s), locations, and associates. Creation of undercover role, background and overall plan. And the selection of the undercover agent.
- B. **Covert phase:** Actual undercover operation.
- C. **Arrest, Seizure, and Prosecution phase:**
- D. **De-briefing phase:** (discussed in detail further in policy)

## **IX. DURATION OF UNDERCOVER ASSIGNMENTS:**

- A. **Shallow:** Cover story, very simple (i.e.: surveillance).
- B. **Short Term:** Narcotics buy/busts, Vice prostitution stings, Liquor Stings, or stings done by various plainclothes units (i.e.: few minutes in duration and minimum background is needed)
- C. **Mid-Term:** Narcotics/Vice/Intelligence activities longer than one day but shorter than 3 months.
- D. **Multiple Short Term:** Multiple Vice/Narcotics/Intelligence short-term operations done over a long period of time.
- E. **Long Term:** “Deep” undercover operation longer than 3-6 months, usually involves detailed false identity, additional resources and collaboration from Federal , State or other Local agencies.

## **X. AUTHORIZATION OF UNDERCOVER ACTIVITIES:**

- A. **General Standard:** Any supervisor considering approval or authorization of a proposed undercover operation shall weigh the risks and benefits of the operation, giving careful consideration to the following factors:
  - 1. The risk of personal injury to the undercover agent, property damage, financial loss to persons or businesses, damage to reputation, or harm to other persons;
  - 2. The risk of civil liability or other loss to the city;

3. The risk of invasion of privacy or interference with privileged or confidential relationships;
4. The risk that individuals engaged in undercover operations may become involved in illegal conduct
5. The suitability of city participation in the type of activity that is expected to occur during the operation.
6. The act(s) committed by the undercover are authorized by Department guidelines.
7. The act(s) committed by the undercover are approved by prosecutorial guidelines, when applicable.
8. The act(s) committed by the undercover are not so grievous that they overshadow the intent and scope of the operation.
9. The length of service, experience and training of the undercover agent.

## ***XI. GUIDELINES:***

- A. **(Your Agency)** agents must be familiar with judicial guidelines relating to entrapment and shall not entrap or otherwise impermissibly entice any person to commit a criminal act which he/she is not predisposed to.
- B. **(Your Agency)** agents shall not conduct or otherwise engage in any undercover operation that has not been properly authorized as provided in this policy.
- C. Undercover operations may be conducted only when facts or circumstances exist that reasonably indicate an offense has been committed or will be committed in violation of the statutes enforced by **(Your Agency)**.
- D. **(Your Agency)** agents and cooperating individuals working in undercover operations are bound by all laws, procedures and policies governing the conduct of **(Your Agency)** agents and shall not engage in any activity prohibited by Federal, State or local laws, herein referred to as illegal activity, **without the appropriate authorization**.
  1. Approval to engage in illegal activity will only be approved by the rank of Lieutenant and above and will not be given unless the participation is justified for the following reasons:
    - a. To obtain information or evidence necessary for the success of the investigation and not reasonably available without participation in the illegal activity.



- b. To establish and maintain credibility or cover with persons associated with the criminal activity under investigation.
    - c. To prevent or avoid the danger of death or serious bodily injury to the undercover agent or representative of **(Your Agency)**.
  2. Participation in any activity that is proscribed by Federal, State, or local laws as a felony or that is otherwise a serious crime (but not including the purchase of stolen property or contraband goods, or the making of false representations to third parties in concealment of the undercover identity) must be approved in advance by the appropriate **Supervisor** in the undercover's chain of command. It is recommended that prior approval of participation in such illegal activity include a review by the prosecutor's office or their representative, and the Risk Manager.
  3. Participation in a non-serious misdemeanor must be approved in advance by the undercover's appropriate **Supervisor**. These approvals will be documented and kept on file in the office of that Unit Commander. It is recommended but not required that the situation also be screened through a Prosecutor.
  4. **(Your Agency)** shall take reasonable steps to minimize the participation of an undercover agent or cooperating individual in any otherwise illegal activity.
  5. An undercover agent or cooperating individual may lawfully defend oneself but shall not initiate, instigate or participate in any acts of violence, unless there is a threat of serious bodily injury or death to the agent, representative of **(Your Agency)**, or citizen.
  6. An undercover agent or cooperating individual shall not initiate, instigate or participate in any plan to commit criminal acts of a serious nature, not to include misdemeanors, or use unlawful investigative technique to obtain information or evidence (i.e., illegal wiretapping, illegal access to mail, burglary, or trespassing amounting to an illegal search) without prior authorization.
  7. If it becomes necessary to participate in minimal illegal activity that was not foreseen or anticipated, an undercover agent shall notify his/her immediate supervisor as soon as circumstances permit. That supervisor will notify the Unit Lieutenant who in turn will notify the Unit Commander.
- E. Neither **(Your Agency)** agent nor any person acting on behalf of the **(Your Agency)** shall interfere in any way with the right of any individual to be represented by an attorney or with the attorney-client privilege. Accordingly, **(Your Agency)** or any persons acting on behalf of **(Your Agency)** who are serving in an undercover capacity:
  1. Should avoid being present during conversations between subjects and their

attorneys, unless they have reason to believe the attorney is participating in suspected criminal activity.

- F. Neither agents nor any person acting on behalf of **(Your Agency)** who are engaged in undercover operations shall commit any acts that could reasonably be perceived as immoral or unethical. Excessive drinking, participation in immoral acts (i.e., sex with targets or their associates) or other apparent misconduct that could jeopardize the undercover operation, shall not be permitted. Violation of this policy may subject the agent(s) to disciplinary action, as determined by the appropriate entity.
- G. If, at any time during the operation, the undercover agent is forced, under threat of immediate bodily injury or death to himself, or another agent, to consume any narcotic substance, they should report the situation immediately to his immediate supervisor and obtain immediate medical aid. **The undercover agent will not consume any narcotic substance merely to complete the drug transaction or further the investigation.** If this situation occurs the immediate supervisor will fill out the proper medical forms (appropriate L&I and supervisors investigation of industrial injury form), and notify the Bureau Commander immediately. The Bureau Chief will decide to continue or terminate the operation. The undercover agent will document the situation on a statement form as soon as possible.
- H. In all undercover operations, the agent should notify his immediate supervisor when he/she is exposed to a significant amount of smoke inhalation from the burning of narcotics by the suspect(s). This exposure should be documented on an appropriate L&I and supervisors investigation of industrial injury form and a memo by the immediate supervisor and sent via the chain of command to the Unit Commander. The undercover agent will document the situation on a statement.
- I. **(Your Agency)** shall take reasonable steps to minimize the participation of an undercover employee or cooperating private individual in any otherwise illegal activity.
- J. **If, at any time during the operation, the undercover agent requests that the operation be terminated, it shall be ended.**
- K. At no time will an undercover agent pose as a media representative unless it is approved by a Bureau Commander.
- L. Officers or agents engaged in undercover operations shall not release investigative information to any unauthorized person, organizations, or the news media without prior authorization.
- M. Officers or agents acting in an undercover capacity who become aware of credible information suggesting that the life of any person is in serious danger shall, where appears that an adequate opportunity exists for intervention by other bureaus or law enforcement agencies with appropriate jurisdiction, immediately communicate that information to that bureau or law enforcement agency. However, should the officer or agent reasonably conclude that danger is immediate and that there is not and adequate opportunity for intervention by outside authorities, the officer or agent shall take

whatever action he/she deems prudent and necessary to protect the person in danger (come out of role).

- N. Undercover contacts by officers, agents or informants, or other law enforcement personnel during an undercover investigation must be supported by electronic surveillance monitoring and/or recording because of safety concerns and for evidence collection purposes. The only exception is when the use of these devices may jeopardize and/or place the undercover officer, agent or informant in physical danger. Any variances regarding electronic surveillance monitoring during an undercover operation will be approved by the section Supervisor on a case by case basis.
- O. There will be no consumption of alcoholic beverages unless prior authorization from a supervisor. If approved for the operation the undercover agent or other members of the team can not drink to impairment. If the undercover or team member has consumed alcoholic beverages they will not drive any department or personal vehicles until the supervisor has determined that the person is no longer impaired.
- P. Prescription Drugs. All agency policy as to the use of prescription drugs apply to Undercover Work.
- Q. Officers or agents will be issued funds to cover expenses accrued in undercover activities. Officers or agents who are authorized to possess undercover checking accounts/credit cards are required to submit the monthly statements to their immediate supervisor. The supervisor will then ascertain that all transactions were required for the undercover operation. No personal purchases of goods and/or services will be made using these funds, accounts or credit cards, unless prior authorization from a supervisor. All expenditures will be documented on **(Your Agency)** expense form and retained by the section commander.
- R. Undercover officers/agents may carry an alternate duty firearm and will be subject to department policy on type of firearm and qualification of that selected firearm. Any alternate to the standard approved firearm will be approved by **(Your Department Head)**.
- S. Cellular phones and pagers are issued to serve as a communication resource, supplementing the capabilities of mobile and portable radios. Personal calls should not be made or received on Department cellular phones. Supervisors are required to monitor employee's use of department cellular phones. Employees will be required to reimburse the department for personal phone calls. Those found abusing the use of cellular phones are subject to disciplinary action.
- T. The use of undercover vehicles is restricted to regular duty assignments, to and from duty, and for the unscheduled performance of official duties. There will be no use of alcohol during the operation of a department vehicle. Passengers in department vehicles are restricted to department employees who are on official business and/or a spouse or child only when necessary. During the performance of regular duty assignment incidents may occur when suspects or informants are required to be

passengers in department vehicles. Variations will be authorized by a **(Supervisor)** on a case by case basis.

All employees assigned take home vehicles will ensure that the vehicles are properly maintained and mileage is consistent with designated responsibilities.

Undercover vehicles not possessing emergency equipment will not be authorized to make vehicle stops or be operated for other emergency use other than in conformance with existing traffic laws.

- U. There will be no “cold plating” of undercover vehicles, unless authorized by a supervisor, and only specific to the needs of the operation. The plate will be removed at the completion of the contact.
- V. The degree of the new officer or agents involvement in various phases of undercover operations will appropriately escalate from the role of an “observer” to one of an “active participant”. It will be incumbent upon the on-the-job-trainer and the immediate supervisor to ensure that the undercover assignments given to a new officer or agent are compatible with the developmental needs of the employee and are in the best interest of the department. Unless approved by the **Bureau Commander** a new officer or agent will not be assigned as an “undercover operative” before he/she has completed an undercover school.
- W. It is the policy of **(Your Agency)** to establish an eligibility list that will be active for one year from which all transfers into the undercover section will be made. Selection of members for transfer into the section may be made from the top three candidates of the established list.

## ***XII. STANDARD OPERATING PROCEDURES:***

- A. First and foremost, officers will keep in mind **OFFICER SAFETY**. Although undercover operations are inherently dangerous no undercover case is worth injury or death to any officer, due to unnecessary risks.
- B. The undercover agent or any participating individual no matter what their rank is, shall have the right and responsibility to terminate an operation if the operations order is being violated or an officer safety issue arises. If a supervisor overrides the termination, it is to be decided by the next level of the chain of command. This also applies to the briefings and operations orders as well.
- C. It is recommended that all officers working in an “**undercover**” capacity successfully complete an approved Undercover School before doing any undercover work.
- D. It is recommended that the **supervisor** of an undercover unit have successfully completed an approved Undercover School within 1 year of their assignment to the

unit.

- E. All undercover operations will have a written “**operations order**” approved by a Lieutenant or above.
- F. Any “in field” or “post briefing” changes to the operation order will be approved by the “on site” supervisor, and only after serious consideration to the undercover’s and teams safety.
- G. Any deviation to this policy has to be approved by the Bureau Commander.
- H. Undercover units will keep current on department policies, rules, regulations, court rulings, and laws pertaining to undercover operations.
- I. Due to “**Officer Safety**”, at no time will the undercover of an operation take part in the arrest of the target/suspect (**20/20 rule**). An exception to this procedure would be an “emergency” situation in which the undercover agent is at a greater risk by not being in the middle of the arrest (i.e., target/suspect pulls a gun on undercover agent and the cover/arrest team comes in to rescue). Any other exceptions to this procedure will have to be in the written operations order and approved by the Unit Commander, prior to the operation.
- J. Due to “**Officer Safety**”, at no time will we perform an undercover operation in the targets/suspects personal living residence. An exception to this procedure will have to be in the written operations order and approved by the Unit Commander, prior to the operation. **All consideration has to be given to the safety of the undercover over the success of the operation.**
- K. It is **HIGHLY** recommended that undercover agents **do not** get into target/suspect vehicles, this will be approved on a case by case basis by the unit Lieutenant, but only prior to the operation and briefing. If it is not in the operational order, then it will not occur in the field. This is an “Officer Safety” issue if it occurs in the field, and wasn’t planned, then the operation should be shut down immediately.
- L. It is recommended that if an undercover transaction is to occur in a vehicle, it is done in the undercover’s vehicle. **At no time will the undercover agent allow targets/suspect to sit behind them in a vehicle.** If this does occur the operation should be shut down immediately.
- M. There will be no “**tripping**” with the target/suspect unless prior approval and covered in the operations order.
- N. Visual contact with the Undercover Officer(s) will be maintained at all times while operating “in the field”. The Undercover Officer(s) must be briefed and adhere to the areas of the operation which surveillance does not have coverage.
- O. **There will be No undercover vehicle pursuits.** When moving in

for the arrest, drive in a controlled manner for everyone's safety involved (UC, arrest teams, and the public). At any time, the UC or the observers can terminate a contact with a possible target/suspect.

- P. Any deviation from the SOP would be with the authorization of an Assistant Chief or above.
- Q. A "cover team" must be assigned whose **primary** responsibility is the safety of the undercover agent.
- R. An undercover debriefing will follow **all** undercover operations. The supervisor or his designee will meet with each member who participated in the operation in order to determine the member's actions and if that member will be required to submit a written report related to the investigation. This can be done in a group or individual format.
- S. If "**flash money**" is used; it is highly recommended that it is shown only once and then removed from the area. **It is imperative that the target knows that the money has been removed.** If at all possible the flash should be a surprise flash.
- T. If **possible** the undercover will wear a bulletproof vest.
- U. All personnel, including the supervisors **will wear** a bulletproof vest, department approved firearm, badge, police radio, cell phone and handcuffs. The exception to the rule applies to the undercover agent.
- V. All personnel, including the supervisors **will have with them** a police radio, cell phone, and raid jacket. The exception to the rule applies to the undercover agent.
- W. It is highly recommended that there be at least one ballistic shield per every two vehicles, in case of a down undercover agent or undercover agent hostage rescue.
- X. The undercover agent will carry an approved firearm and be currently qualified with the same. The undercover agent is authorized to carry a backup firearm as long as it is approved and they are currently qualified with it.
- Y. It is highly recommended that the undercover agent carry a badge somewhere on their person in case they need to come out of "role" and draw their firearm.
- Z. **At no time will the "undercover agent" be both the undercover agent and case manager.**
- AA. Supervisors will continually monitor undercover operations and operatives on a daily basis. Supervisors will be responsible for weighing the risks involved for the undercover officer or agent, provide backup security for the undercover operative and ensure that the undercover operative is properly equipped. Supervisors will conduct a weekly audit of current undercover operations and conduct a bi-monthly screening of undercover

personnel. The screening will consist of production of reports, expenditures, vehicles and equipment. Supervisors will monitor personnel and document incidents that may identify problem areas. *You may want to add a required yearly psychological review.*

### **XIII. REQUIRED TRAINING:**

- A. It is recommended that prior to working in **any** undercover capacity the undercover agent successfully complete an approved Undercover School.
- B. It is recommended that Sergeants supervising an undercover unit (Vice, Narcotics, Intelligence, ACT units, or Gangs), successfully complete an approved Undercover School, within 1 year of their assignment to the unit.
- C. In addition to the “Undercover School”, it is highly recommended that personnel assigned to undercover units, attend additional “hands on training”.

### **XIV. SELECTION PROCESS OF PERSONNEL PRIOR TO AN UNDERCOVER ASSIGNMENT:**

- A. Proper selection of officers or agents for an undercover assignment is of paramount importance to the success of the undercover operation. Consideration should be given to the officer or agent’s abilities and character in the context of the planned undercover operation and overall mission and the principles set forth herein, including integrity, desire, family situation, aptitude, maturity, self-control, experience, training, and the circumstances of the specific undercover operations.
- B. Additional factors that may be considered for the selection of undercover personnel are: must volunteer for the assignment, off probation, other personal life issues, availability of impromptu schedules, is the officer/agent known in the community, Law suits against the employee, and harmony with co-workers.
- C. Oral Interview by experienced panel to establish the eligibility list for supervisors and officers/agents. Candidates will be evaluated on knowledge of the fundamentals of criminal investigations, their goals, their purpose for wanting the assignment, etc.
- D. Role playing with an “interactive” video or scenarios that evaluate ethics and “thinking on their feet”.

- E. Check with internal affairs to see if there are sustained complaints that would be of concern for an undercover assignment (i.e. integrity issues, insubordination, etc).
- F. Financial background, to make sure that the person is not in financial distress.
- G. Evaluation of Past Work performance (i.e. report writing, investigative skills, specialized skills, attendance etc).
- F. Psychological evaluation to make sure that the person is in the proper psychological state to work in an undercover assignment.
- H. Drug Testing will be an entrance requirement to all specialized units. Employees selected to these assignments will sign a “Drug Screen Waiver” for specialized assignments form, and undergo random drug testing one or more times a year as a condition of continued assignment in the unit.

## **XV. OPERATIONS ORDER:**

- A. All operation orders will be approved by a Lieutenant.
- B. The Operations Order will be thorough, complete and address officer safety contingency plans (i.e., down or injured officer, hostage situation etc).
- C. All operations orders will have a minimum of these items covered:
  - 1. Detailed Mission Statement.
  - 2. Location of operation.
  - 3. Date and Time of operation.
  - 4. Case Detective assigned.
  - 5. Briefing Detective if different than Case Detective.
  - 6. Supervisor of operation.
  - 7. Lieutenant approving operation.
  - 8. Radio Frequency.
  - 9. Notify Radio of Operation.
  - 10. Detail Suspect information if possible.



11. Suspect Vehicle information if possible.
  12. Search Warrant Check List (items needed on warrant).
  13. Hazards (i.e., locations and types of doors, barriers, fences, gates, vehicles, bushes, animals etc).
  14. Address verification and detective's name.
  15. Exterior Lighting.
  16. Children at residence.
  17. Staging Location.
  18. Vehicles to go to the scene.
  19. Parking Location.
  20. Misc. Notes.
  21. Briefing Notes.
  22. List of Detective/Officers assigned and contact numbers.
  23. De-Conflict operation with HIDTA, when applicable.
- D. If there is **any kind of disagreement** on the operations order briefing, especially in the area of officer safety, the Sgt will address it first, if the issue is still unresolved the Lieutenant will make the final decision.

## **XVI. BUY/BUST AND PROSTITUTION STING OPERATIONS:**

- A. Establish a date and location and clear with supervisor (section SGT).
- B. When possible and if it will not jeopardize the confidentiality of the operation, the precinct of occurrence should receive prior notice of the operation.
- C. Check for and get a commitment from available manpower (U/C buyers, patrol, other ACT teams, narcotics detectives, NET, K95/K915).
- D. Scout operation location, sketch it and plan the fixed observation points.
- E. Get any keys that are needed for access to secure lots or buildings to be used for observation points.
- F. Prepare an Operations Order that clearly illustrates all logistics:

1. Individual roles and responsibilities.
2. Vehicles to be used.
3. Time and location of operation.
4. Arrest Team responsibilities.
5. Observer responsibilities.
6. UC responsibilities.
7. Sketch of the area showing boundaries, fixed observation spots, blind spots, and prohibited areas for undercover agent.

\*\*\*Sample Operation Orders on file\*\*\*

G. Establish a briefing time and communicate it directly to all involved personnel.

H. Arrange for additional vehicles if needed.

I. On the day of the operation before the briefing:

1. Have Sgt review Operations Order and then make sufficient copies for all personnel involved.
2. Draw cash for buy money from Sgt.
3. Make one photocopy of UC's money.
4. Distribute the money to the U/C(s) and have her/him review and sign the photocopy of that money.
5. Make copies of the signed photocopies so that each arrest team officer and the operation supervisor can have a copy.
6. Place the original signed photocopy in a safe location (locked in desk).
7. Make sure that all vehicles are operational and that appropriate officers have the keys they need.
8. **Call HIDTA and de-conflict the operation.**
9. Case agent or Sgt. will lead the briefing following the approved operations order. Make sure everyone involved has the opportunity to see what rovers and U/C(s) look like and what their "good buy" and "help signals are. The field supervisor will obtain pager/cell numbers from the U/C(s) and keep a copy of the Operations order in the field for the on air roll call. Remind rovers that they must check their headsets and radios prior leaving the precinct.
10. Do not put the undercover's "good buy" signal in your statements, and don't disclose the "good buy" signal in court, unless directed by a judge. This is an officer safety issue.

11. During “Vice Decoys” the undercover will **NOT** get in the target/suspect vehicle. This is an officer safety issue.
12. Undercover Agents working Buy/Bust or Vice Decoy operations should wear an “alert/panic” transmitter device.
13. There will only be **ONE** operation occurring at the same time at the same location. Unless approved by a Unit Commander. This is an officer safety issue.
14. No other arrests or deviations from the operation will occur while an undercover is “**on site**”. Unless approved by the “on site” supervisor.
15. The operation supervisor will discuss entrapment.
16. The operation preparation is conducted the same as foot buy/busts. “Good buy” signals can be turning on lights or turn signals. **Note:** make sure that no suspects sit behind undercover agent, and try to fill back seat so there is no where for a suspect to sit. This is an officer safety issue.
17. There will be no “**tripping**” with vehicle buys. Unless prior approval by a Unit Commander.

**J. UNDERCOVER’S RESPONSIBILITIES DURING BUY/BUST OR VICE DECOY OPERATIONS:**

1. Develop and show an easy to understand and identify “**good buy**” and “**help**” signals.
2. The undercover agent will attend the entire briefing and display what they will be wearing.
3. The undercover agent will have constant contact with the operation supervisor either by phone or radio.
4. The undercover agent will stay within the boundaries assigned and out of the “**danger zones**” as described in the operation briefing.
5. The undercover agent will have a predetermined solution to being confronted as the police.
6. The undercover agent will “Dermaplus” (or similar type of protect ant) their hands prior to the undercover operation.
7. The undercover agent will verify the prerecorded buy money serial numbers.
8. The undercover will know where the stationary surveillance is located.

9. The undercover agent will meet and talk to the “trailer/rover” prior to being “on site” so they know what they look like.
10. The undercover agent will be familiar with entrapment case law.
11. The undercover agent needs to remove personal jewelry or expensive looking items to prevent a robbery.
12. Remove police related items except those needed for the operation.
13. The use of “props” is encouraged.
14. The undercover agent shall carry a small plastic bag to put purchased narcotics in after the buy.
15. The undercover should get a good look at the target/suspect so he/she can be positively identified.
16. Know the type of narcotics sold in the area and the price.
17. Undercover Agent **Don'ts**:
  - a. Don't run if confronted by the arrest team.
  - b. Don't confront the suspect if “bunked” (sold fake drugs).
  - c. Don't confront the suspect if “ripped off or robbed”, just give the good buy or help signal.
18. Evidence handling:
  - a. If the undercover agent makes a buy from more than one suspect, keep the narcotics separate.
  - b. Don't retain narcotics from one case when becoming involved in a second.
  - c. Don't overlook potential fingerprints on evidence.
19. It is imperative that the undercover agent complete a detailed statement, do to the fact that the case may not come to trial for 2 to 3 years.
20. At no time will the undercover agent be both the undercover agent and the case agent.

## **XVII. EQUIPMENT:**

- A. Undercover Ballistic vest (if applicable).
- B. Approved department firearm.
- C. Badge if all possible.
- D. Raid jacket (if applicable).
- E. Video or audio monitoring or recording equipment.
- F. Alert/Panic device.
- G. Cell phones and pagers.

### **XVIII. UNDERCOVER IDENTITY:**

- A. Undercover identities will only be used by department employees in the performance of their official duties. Any violation of this policy will result in disciplinary action. All identification must be approved and recorded by the Assistant Chief of the Investigations Bureau. All records of alias names will be maintained in a secure/confidential file by the Captain of the Vice/Narcotics unit and the Assistant Chief of the investigations Bureau. Only one driver's license will be issued to an undercover agent at a time. Upon completion of the specific investigation or undercover assignment the undercover alias identification will be turned into the Assistant Chief of the investigations bureau and destroyed.
- B. Drivers Licenses with prior authorization.
- C. Credit Cards with prior authorization.
- D. Bank Accounts with prior authorization.
- E. Social Security numbers with prior authorization (be aware that they are issued like you were just born, so have an excuse for that).
- F. Misc. Identification (i.e., video store cards, store cards etc).
- G. Undercover "Role". Stick to something that is close to what you know or how you grew up, this makes it difficult for the target/suspect to discover or expose you.

## **SUGGESTIONS ONLY:**

**TEMPORARY ASSIGNMENTS:** If possible the undercover section will also maintain three “temporary assignments” which are established and maintained at the direction of (**your department head**). The positions are to provide for specific needs and/or expedition of filling a particular opening when arising in the section. The duration of the employee’s status will be at the discretion of the Section Commander. There will be no established list for the positions as they are based on special needs of the section in furtherance of the unit’s mission(s).

## **ROTATION OF UNDERCOVER OFFICERS/AGENTS AND**

**SUPERVISORS:** Departments throughout the United States vary in this policy area. There are two different views of rotation of undercover officers or agents. First is not to have a rotation policy and maintain an experience base within your units, utilizing “**Temporary Assignments**” to rotate new personnel in and out of the unit and give others experience in undercover operations so that you build a pool of trained candidates for new openings.

It generally takes approximately one year for a new undercover operative to achieve a level of confidence and experience to perform an undercover role. A senior undercover operative also serves as a trainer for new personnel. If there is no rotation policy Supervisors must be cognitive of maintaining their undercover personnel. Units should be set-up to allow breaks for undercover operatives to still remain in the unit and perform a case investigative role, especially after long term or deep undercover operations have been completed.

Generally units that maintain experience personnel have a better performance record and incur less problems than those that have a rotation policy. When conducting undercover operations experience speaks for itself.

Many departments maintain a rotation policy for two major reasons. One is that the department is small in the number of employees it has and a rotation policy allows for as many supervisors and officers to gain the experience in specialized units. The second is to avoid integrity issues. Some command staff supervisors view specialized units as a breeding ground for corruption or burnout of their employees. If a department has policies and procedures in place they can avoid the above issue.

### **If you choose to do a rotation policy, here is a general example.**

It is the policy of this department that the assignment to specialized units will be maintained for a period of (specific time). Officers or Agents selected for a tour of duty within a specialized unit will remain in the assignment for a period of two years beginning at the time the employee completes his/her basic training. After completing the two years officers and/or agents will be reassigned to other sections or bureaus at the direction of **Your Department Head**. The length of time may be extended for Supervisors and Officers/Agents if circumstances demand that they remain in the unit to complete on-going investigations or until replacements are selected and trained. This will be done at the discretion of **Your Department Head**.

## **Undercover Props – Wizard Weed/Smoke**

If your department authorizes the use of props such as Wizard Weed/Smoke (Simulated Marijuana), then it should be controlled and its use documented. We suggest the Wizard Weed be kept at Sgt. Level. The Sergeant should have a sample of the Wizard Weed sent to the laboratory for a drug analysis which should be negative. This will be maintained for that particular amount of Wizard Weed from which the sample was taken.

If an undercover officer desires to use the prop, they should make a simple written request to the Sergeant. If the Wizard Weed is used around non-police officers, that use should be documented in writing and given to the Sergeant with any of the Wizard Weed that was not used by the undercover officer.

These written documents might become necessary in Court to substantiate that the simulated use of Marijuana is a legitimate undercover prop but is controlled to avoid any misuse. Also, the laboratory report might be useful in Court.

## **Ski Masks/Balaclava**

Units who utilize Balaclava to conceal the identity of undercover officers to the public should be very mindful of the risks associated with such use. More than one police officer in the United States has been killed or wounded by another officer because of the wearing of the Balaclava.

We **highly** recommend that written policy severely restrict the use of Balaclava. If they are to be used by officers, they should have “police” clearly marked on them in a bright yellow print or stitching. **All** officers within the department should be aware of the existence and policy of using Balaclava. When possible, all uniform officers operating in or near an area where the Balaclava will be used should be notified of their possible use.

## **Buy Busts**

**We suggest you have some policy as it relates to undercover buy/busts. Couple of things that are very important.**

**The undercover officer(s) should be prohibited from physically participating in an arrest, UNLESS, they need to protect themselves, the public or other officers.**

**The undercover officer(s) should be prohibited from chasing a suspect on foot. They remain at the undercover scene and maintain the crime scene.**

## **ALTERNATIVE WEAPONS POLICY**

### **THE UNDERCOVER OFFICER, the USE of FORCE and ALTERNATIVE WEAPONS**

**SITUATION:** The nature of covert operations dictates the undercover officer frequently works without most of the defensive arms inherent to standard police work. The undercover officer will probably not carry a standard service weapon; will not have chemical spray, an electronic control weapon or a baton. The officer will not normally wear a protective vest. However the undercover officer is faced with the same potential for assault as overt police officers as well as unique dangers inherent to the covert assignment. As a rule, the standard “Use of Force Continuum” available to uniform officers is generally unrealistic. The initial stages of the continuum such as a uniform presence, physical restraint, and less-lethal weapons are not options. An assailant will not know he is attacking a police officer. It may be necessary therefore to accelerate the continuum, even to deadly force.

As with any law enforcement assignment, the individual's state-of-mind is a key factor to his/her effectiveness. Charlie Fuller in his textbook, "The Art of Undercover, Techniques and Survival" refers to this factor as "mental comfort." He identifies mental comfort as "being mentally focused on the matters at hand, such as conducting an undercover contact, and not being distracted by things like administrative problems." The undercover knows he/she may at any time become involved in a potential use of force situation. Knowledge of his/her Department's stance on the use of unconventional weapons while working undercover will benefit the establishment of his/her degree of "mental comfort."

There is a significant difference between the way a uniform officer and an undercover officer deals with physical confrontations. When a violator attacks a uniform officer he does so knowing who he is attacking. He assailant's intent is usually to flee the officer and avoid arrest. When a violator attacks an undercover officer he usually does not know he is attacking a police officer. He's not trying to get away. He may be trying to rob or even kill the undercover, thinking he's protecting himself. The assault is usually sudden and violent. Fear of arrest is not a factor. The undercover must rely upon his/her fists, firearm or unconventional weapons available on the spot. Department recognition and authorization for the use of unconventional weapons is an important factor to the undercover officer's "mental comfort" and individual survivability.

Few agencies formally address an alternative weapons policy for undercover officers. We believe it is an issue that merits cognitive assessment and department recognition in the form of established policy.

**MISSION:** The goal of this document is the creation of an addendum to be added to agency policy on the use of force and authorized weapons. The addendum is addressed specifically to undercover operations. It is intended to assure departmental policy is adhered to while recognizing special circumstances inherent to undercover work.

**TACTICS:** The agency's use of force and weapons policy for undercover officers need not be complex or cumbersome. It is recommended to be in the form of a brief addendum to the agency's established policy and should not alter that policy. The addendum should be added at the end of the overall, standard use of force policy. An example follows:

*Use of Firearms and Force and the Undercover Officer: The ..... Department recognizes that undercover operations necessitate a unique response to incidents involving the use of force. While no policy can anticipate every potential circumstance, certain facts are inherent to the covert operative. Undercover officers are not readily identifiable as a police officer thus the assailant is not concerned with arrest and even if the undercover officers identifies themselves as a police officer the suspect will not believe them or unable to intelligently process the verbal identification. The undercover officer is not equipped with the same defensive weapons as his/her overt counterpart. Attacks upon an undercover officer may be sudden and very violent with no opportunity for the preliminary stages of the force continuum process.*

*All ..... Department covert officers are therefore authorized to use any force and utilize any reasonable alternative weapon(s) or means as justified by the immediate circumstances irrespective of whether such alternative force or alternative weapon has been specifically*



*approved for use by the Department. Nothing contained herein abdicates absolute adherence to established department policy in the justifiable use force. All incidents involving the use of force will be reviewed per established department policy.*

***Firearms and the Undercover Officer:*** *The ..... Department recognizes that the use of the department standard firearm may not be suitable for some undercover operations. The undercover officer is therefore authorized to carry an alternative firearm with the approval of his/her immediate supervisor. Said firearm must be authorized by departmental range staff. The undercover officer must possess current qualification with said firearm.*

*Note: See the ..... Department's policy on assignment and mandatory training of undercover officers.*

**ADMINISTRATION:** If your Department has a Force Continuum Policy, it should include a statement that the Use of Force Continuum will not apply to undercover officers. There is no way the typical Force Continuum Policy can apply to undercover officers. They have no presence, authority, etc. They are typically being assaulted by someone who has no idea they are law enforcement officers. All use of force incidents involving undercover officers shall be reviewed in the same fashion as use of force incidents involving overt personnel.