

**“Confidential Information” issues have been raised recently in Hillsborough  
Criminal Courts**

1. Confidential Informant not disclosed, but video/ audio of transaction
    - a. Depicting C.I.’s face:
      - i. is disclosure of the unredacted video of C.I. required?
      - ii. can/should there be any restrictions upon the dissemination of the video ?
    - b. Containing C.I.’s voice, is disclosure required?
    - c. Some other reference to C.I. is made which reveals identity of C.I.?
- Fla. R. Crim. P. 3.220 (l)
2. State does not disclose C.I. and does not intend to use C.I. in hearing/trial. Defendant does not file Motion to Reveal C.I., but does file Motion to Compel requesting information about C.I.
    - a. paid C.I. or defendant in another case.
    - b. number of times C.I. used
    - c. total investigations involving C.I. / \$ paid
    - d. Defendant’s prior record.

Must State respond to request? Why or Why not?

Fla. R. Crim. P. 3.220 (g)(2)

3. Disclosure has been ordered of a C.I. who has worked as a C.I. in other investigations, past and pending where the C.I. has not been revealed. Defendant requests detailed information about all other investigations including police reports, case numbers and witnesses.

Must State respond to requests? Why or Why not?

4. Defendant provides confidential debriefing for law enforcement set up by prosecutor pursuant to Florida's substantial assistance statute. Defendant provides information relating to a pending case, but only with the agreement that the defendant will not be a witness. The information provided in the debriefing is not *Brady* or *Giglio* evidence.

Is Defendant a "Confidential Informant?" Why or why not?

Must State provide this confidential statement debriefing made by the defendant to law enforcement? Why or why not?

5. Video/audio taken of drug transaction. Video depicts undercover officer throughout the video.

- a. At deposition, officer is asked to disclose specific information relating to the audio/video equipment used, including the specific location of the equipment.

- c. At deposition, the officer is asked to disclose specific information about the C.I., similar to the information requested in Question 2.

Must officer answer the questions? Why or why not?

- b. A redacted audio/video is prepared, which blurs the image of the undercover officer. Defendant demands copy of the unredacted audio/video.

Must defendant be provided an unrestricted copy of the unredacted audio/video?

***Competing interests:***

- (1) Defendants' right to a fair trial
- (2) Law enforcement's right, to conduct criminal investigations and execute laws
- (3) The right/obligation of law-abiding citizens to report knowledge of criminal activity.

**Reasons for recent litigation: TECHNOLOGY**

- (1) Internet
- (2) smart phones
- (3) information immediately accessible to criminal defendants on the Hillsborough Clerk's website

**Process for Disclosure of Confidential Informants**

1. When disclosure required without further showing:
  - a. Essential witness, or
  - b. Signed affidavit as sole basis for search warrant, or
  - c. Necessary for defendant to cross-examine State's witnesses
2. When disclosure required upon showing by Defendant:
  - a. written and verified pleading or affidavit,
  - b. which identifies a constitutionally protected defense
  - c. which provides specific facts which is expected to be elicited as a result of the disclosure, which is relevant and favorable to the defendant regarding this specifically identified defense,
  - d. demonstrating why disclosure is necessary.