

## **THE CRIME STOPPERS PROMISE OF ANONYMITY: WHAT TIPSTERS NEED TO KNOW**

By providing information that Crime Stoppers will share with law enforcement agencies, you are providing an important and valuable public service. We understand that disclosure of your identity might put you at risk. We do everything we can to protect your anonymity. Help us to help you by reading and understanding the information below.

### **The Tipsters' "Bill of Rights"**

- **The identity of a tipster must never be disclosed without clear direction from a Court.**
  - Your protection from having any information revealed that could identify you is very nearly absolute. Read the "Questions and Answers" below to understand the rare sorts of circumstances where a court may direct, after proper inquiry, that some or all of the information you have provided may have to be revealed.
- **A tipster does not have to identify him/herself as such during an investigation.**
  - Police investigators are trained not to mention Crime Stoppers when interviewing witnesses (or even victims) in a criminal investigation. If an investigator disregards this rule and asks if you are an informant, you are not required to reply. Please advise the Crime Stoppers program that you have been dealing with if this question is ever asked.
- **A witness in a criminal trial may not be asked if he/she is a police informant.**
  - If this question comes up, for example during cross examination, it should be objected to, and need not be answered.
- **A Crime Stoppers tipster does not have to identify him/herself, even to the police.**
  - When giving information to Crime Stoppers, try to avoid details that would identify you to others. For example, never give your name. Avoid describing a suspect as "my cousin", "my neighbor", etc.
- **If a Crime Stoppers tipster does identify him/herself to investigators, he or she is no longer part of the Crime Stoppers program.**
  - Sometimes a tipster will elect to come forward and communicate directly with investigators. This can be very helpful, but it results in the identity of the tipster becoming known to law enforcement. In this case, the tipster will no longer be considered part of the Crime Stoppers program, and will not be eligible for a Crime Stoppers reward. Police agencies have their own programs for working with confidential informants, which may include payment of compensation and protecting their identity. Tipsters in this situation should confirm their expectations with investigators directly.

- **A Crime Stoppers tipster should not be drawn into active investigation.**
  - As a tipster, you are asked to provide information that you already have. The Crime Stoppers coordinator or call taker should not ask you to go looking for further information. If you become an active part of the investigation, your protection as an anonymous informant may be open to challenge.
- **A Crime Stoppers tipster does not have to testify to qualify for a reward: the reward is paid on arrest or charge, not on conviction.**
  - Your local Crime Stoppers program will have procedures in place to take your information, and then to follow up with you regarding any reward to which you may be entitled, in ways that will preserve your anonymity. If you have any doubts or concerns, discuss them with the Crime Stoppers coordinator with whom you are dealing.

### Questions and Answers on Anonymity

- **How does the justice system stand behind Crime Stoppers' promise of anonymity?**
  - The law provides that when a person provides information to the police in response to a guarantee of confidentiality, that person's identity is protected by the rule of informer privilege. The courts have held that this privilege extends to those providing information anonymously through Crime Stoppers<sup>1</sup>. When the privilege applies, it "acts as a complete bar on the disclosure of the informer's identity, and the police, the Crown and the courts are bound to uphold it."<sup>2</sup>
- **When will the informer privilege rule not apply?**
  - Informer privilege does not attach to a communication to Crime Stoppers made with the intention of "furthering criminal activity or interfering with the administration of justice"<sup>3</sup>.
  - Informer privilege may exist, but may be limited or set aside in whole or in part, where there is evidence that disclosure of some or all of a tip is necessary to establish someone's innocence<sup>4</sup>.
  - A tipster having received the benefit of full legal advice may, for his or her own reasons, elect to waive the privilege.
- **What is meant by "furthering criminal activity or interfering with the administration of justice"?**
  - The clearest example would be a caller who intentionally gives false information in order to direct police attention away from the subject of a criminal investigation or prosecution. The caller could be the suspect, or a close associate.

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<sup>1</sup> *R. v. Leipert*, [1997] 1 SCR 281

<sup>2</sup> *R. v. Durham Regional Crime Stoppers Inc.*, 2017 SCC 45, ¶1; *R. v. Barros*, 2011 SCC 51

<sup>3</sup> *Durham*, ¶16

<sup>4</sup> *Leipert*, ¶20 – 22

- Callers intentionally giving false information to try to get an innocent person into trouble would also face losing this protection.
  - A caller using the tip line to make threats, against persons or property, could also be denied the privilege.
- **If I give information that turns out to be incorrect, will I lose the protection of the privilege?**
    - Not if you have acted in good faith. Mistakes happen, and a tipster whose information turns out to be incorrect in one or more respects will still be protected if he or she acted with good intentions, believing at the time that the information would be useful in an investigation<sup>5</sup>.
  - **Who decides if I was acting in good faith?**
    - When a question arises about the proper application of the informer privilege rule, a private court hearing must take place, usually in the absence of the accused person, before a judge will rule on whether the protection of privilege remains<sup>6</sup>. The privilege is presumed to apply until the judge rules otherwise.
  - **When will “innocence at stake” affect the privilege?**
    - When there is a basis on the evidence to believe that information in a tip may help to show an accused person’s innocence, and if the same information is not available from any other source, a trial judge must follow a carefully prescribed line of inquiry. If the judge concludes that innocence is indeed at stake, the judge may direct that an edited version of the tip, containing only those portions needed to show innocence, be disclosed to the accused<sup>7</sup>.
  - **Will the tip always be disclosed when innocence has been shown to be at stake?**
    - No. Crown prosecutors are highly committed to protecting the anonymity of all informants, including Crime Stoppers tipsters. If a finding of innocence at stake is made, the Crown still has the option of directing a stay of the charge before disclosing. Since the finding strongly implies that there is going to be an acquittal in any event, the standard practice is to direct the stay without disclosing.
  - **What sorts of circumstances support innocence at stake?**
    - The tipster may be a material witness to the crime. An accused person has a right to face his or her accuser, so a material witness (someone who saw the crime committed, and would have important first-hand information to offer) must be identified. Material witnesses should properly be talking directly to the police, rather than to Crime

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<sup>5</sup> *Durham*, ¶28

<sup>6</sup> *Durham*, ¶35 – 39

<sup>7</sup> *Leipert*, ¶33

Stoppers. This includes victims of crimes, for obvious reasons. The victim cannot be anonymous to the accused (although this is different from a ban on publication of the name of the victim, which can be put in place in appropriate cases).

- The evidence might suggest that the accused person was lured by the tipster (in the role of “agent provocateur”) into committing a crime that he or she otherwise would not have committed, leading to issues of entrapment.
- There may be evidence to suggest that some physical evidence (possibly drugs, weapons, etc.) was planted to frame an otherwise innocent person.

**It is always Crime Stoppers’ primary goal to take whatever steps are necessary to protect the identities of our tipsters. If you have any doubts or questions about how we shield you, discuss those concerns with the Crime Stoppers call taker or program coordinator before you provide your information.**