

CHAPTER 4
PRE-INVESTIGATIVE CONSIDERATIONS

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CHAPTER 4

PRE-INVESTIGATIVE CONSIDERATIONS

1. OVERVIEW. An internal investigation may be initiated as the result of a complaint (including anonymous), departmental knowledge, or any other source of information. This chapter is intended to familiarize departmental managers and supervisors with a variety of issues and concerns which may need to be addressed or considered, prior to or during, an internal investigation.

2. DIVISION RESPONSIBILITIES.

a. Divisions shall ensure subordinate commands are in compliance with the requirements of this manual, the Public Safety Officers Procedural Bill of Rights (POBR) Act, and state law.

b. Notification. When presented with information of alleged employee misconduct, the Division Chief shall determine if an internal investigation is appropriate. If an internal investigation is initiated, an investigation control number shall be assigned. The "Division Aware Date" will initiate the one-year time frame pursuant to Government Code (GC) Section 3304.

(1) Divisions shall be responsible to provide notification within three (3) business days of the initiation of an internal investigation, to the appropriate Assistant Commissioner and to the Internal Affairs Section (IAS).

(2) Notification shall be made utilizing the CHP 7G, Notice of Internal Investigation, via e-mail, to the appropriate Assistant Commissioner, and to the IAS, at IAS_Notification@chp.ca.gov. Refer to Chapter 1, Introduction and Notifications, of this manual, for an example and description of the CHP 7G.

(3) In accordance with Senate Bill (SB) 2, Penal Code (PC) Section 13510.8, *Revocation or Suspension of Certification*, notification to the IAS shall be made within three (3) calendar days of the Department becoming aware of any allegation of serious misconduct, as defined in the statute. The IAS, in consultation with the Office of the Commissioner, will determine if notification needs to be made to the Commission on Peace Officer Standards and Training within the statutorily required ten (10) calendar day period.

c. CHP 7E, Internal Investigation Control Log. The CHP 7E is a management tool used at the Division level to track internal investigations, and to update the appropriate Assistant Commissioner and the IAS on case status. It is used for those actions which generate a CHP 7, Internal Investigation; adverse action;

rejection during probation; nonpunitive termination; and other miscellaneous investigations. Refer to Annex A for a sample CHP 7E.

(1) Retention. The CHP 7E shall be maintained in a confidential location at the Division for a period of five (5) years from the end of the calendar year.

(2) Weekly Updates. Divisions shall provide a copy of an updated CHP 7E, via e-mail to the appropriate Assistant Commissioner, with a copy to the IAS, no later than the close of business every Thursday (excluding holidays).

3. COMMANDER RESPONSIBILITIES.

a. Primary Responsibility. Commanders have the primary responsibility for the internal investigation process at the command and Division level. These responsibilities include ensuring all internal investigations are conducted in a thorough and unbiased manner, and all departmental guidelines and policies are followed. When appropriate, commanders, with Division concurrence, shall initiate requests for adverse action, rejection during probation, or nonpunitive termination, and shall be personally and actively involved in all aspects of the investigation. Prior to initiating an internal investigation, commanders should require all involved supervisors and managers review Chapter 11, Public Safety Officers Procedural Bill of Rights Act, of this manual.

b. Assigning an Investigator. The commander, or their designee, shall assign a primary investigator in a timely manner. Additional investigators may also be assigned as needs and resources dictate. The assigned primary investigator shall be at least one rank higher than the highest-ranking involved employee, unless otherwise approved by the Division commander or appropriate Assistant Commissioner. When assigning investigators, commanders should take into consideration the following factors:

(1) Skill Level of the Investigator. When the primary investigator has minimal experience with internal investigations, it is strongly recommended a secondary investigator with more experience be assigned as a mentor.

(2) To ensure impartiality, the assigned investigator(s) should not be a party or witness to the incident(s) in question. However, for the following internal investigations, neither the primary, nor secondary, investigator shall be a party or witness to the incident:

(a) An investigation involving the discharge of a firearm at a person by a peace officer.

(b) An investigation involving the use of force of a peace officer against a person which resulted in death or great bodily injury.

(c) An investigation involving excessive force by a peace officer, or when a peace officer fails to intervene against another peace officer, when excessive force is used.

(d) An investigation involving sexual misconduct by a peace officer.

(e) An investigation involving dishonesty by a peace officer.

(f) An investigation involving discrimination by a peace officer.

(g) An investigation involving an unlawful arrest or unlawful search by a peace officer.

(3) Any relationship (positive or negative, personal or professional) between the investigator(s) and the subject employee(s) which may inject a bias.

(4) The type of allegation(s) against the employee which may require investigators with specialized skills or training.

(5) The availability of investigators due to planned absences or other assignments.

(6) In cases where the involved employee is a nonuniformed member of the Department and the primary investigator is a uniformed member, the commander should contact the Personnel and Training Division, Selection Standards and Examinations Section (SSES). The SSES will assist in the appropriate selection of the rank of the investigator to conform with policy requirements.

(7) Should the commander believe it necessary to utilize other departmental personnel, including lower ranking personnel with specific qualifications (e.g., drug recognition evaluators, physical methods of arrest instructors, emergency medical technicians, multidisciplinary accident investigation team members) to provide expert opinion or analysis, approval from the Office of the Commissioner shall first be obtained. The scope of involvement for such personnel must be limited to their particular area of expertise.

c. Investigative Resources. Commanders shall ensure the investigation is afforded sufficient personnel and resources. Division commanders may assign additional personnel, within their respective Division, to assist with an investigation and may also request resources from the appropriate Assistant Commissioner. Refer to paragraph 13. of this chapter for a complete list of investigative resources.

d. Case Management. The commander is responsible for the tracking, quality, and timeliness of the internal investigation. Accordingly, commanders shall be familiar with the investigative plan process (refer to Chapter 5, Investigative Procedures, of this manual) and should be prepared to discuss the investigative plan topics with the investigator(s). An ongoing dialogue should be maintained with the investigator(s) to ensure the investigation remains within the established scope, and the case is progressing toward completion.

e. Employee Welfare. Commanders should be cognizant of the stress an internal investigation places on the involved employee, other employees within the command, and the assigned investigators. While allegations of misconduct must be fully and properly investigated, commanders can often alleviate concerns by keeping employees as informed as possible. Such communication may be conducted through the employee's representative but shall never compromise the investigation process. Employees shall be informed of the availability of resources, such as the Employee Assistance Program and the Employee Health and Wellness Section, at appropriate times during the investigation.

4. CRIMINAL OFFENSES.

a. Overview. Alleged criminal misconduct by an employee presents several complicating factors of which commanders and investigators must be cognizant. Such factors include differences between uniformed versus nonuniformed employees, jurisdictional concerns, time frame issues, and limitations on how investigations are conducted to preclude the inappropriate sharing of information.

b. Commander Notification. If a commander is informed of, or discovers, an employee has been arrested or is under investigation for potential criminal misconduct, the commander shall immediately notify their Division commander, the Office of the Commissioner, and the IAS. After notification is made, commanders shall not contact any prosecuting authority regarding the potential criminal misconduct prior to receiving approval from the appropriate Assistant Commissioner through their chain of command. This would include a commander making an informal or hypothetical inquiry that does not disclose the employee's name or alleged offenses to a prosecuting authority.

c. Employee Notification.

(1) When an employee of this Department discovers a law enforcement agency is conducting an investigation into allegations of criminal misconduct, either personally or concerning another departmental employee, the discovering employee shall immediately notify a supervisor or manager. This directive does not require a member of this Department to make notification for acts that would be classified as infractions, with the following exceptions:

(a) Enforcement action taken against uniformed personnel pertinent to any statute related to cannabis as defined in Health and Safety Code Section 11018.

(b) A violation of PC Section 25140, Criminal Storage of a Firearm.

(2) When an employee fails to meet the minimum requirements for their job classification (e.g., driver license suspension, felony conviction), the employee shall immediately notify their commander. After notification, the commander shall notify the IAS through proper channels.

d. Nonuniformed Criminal Misconduct. Allegations of potential criminal misconduct by a nonuniformed employee shall be administratively investigated only under the following circumstances:

(1) Any criminal misconduct which resulted in a conviction, or may lead to a conviction, for a felony or a crime of moral turpitude.

(a) Crimes of moral turpitude include, but are not limited to, dishonesty, fraud, deceit, larceny, misrepresentation, deliberate intent to harm, or those that reflect adversely on a person's honesty or trustworthiness.

(b) Off-duty conduct which may lead to a conviction of a felony or crime of moral turpitude shall be administratively investigated. At the conclusion of the investigation, the IAS, with concurrence of the Office of Legal Affairs (OLA), will determine if the conduct established a nexus to the Department as a basis for disciplinary or corrective action.

(2) Any criminal misconduct where the nonuniformed employee has established a nexus to the Department.

e. Investigative Methods. There are two accepted methods for conducting an administrative investigation without negatively influencing the corresponding criminal investigation: "concurrent" and "consecutive." When selecting a course of action, commanders should consider the relative merits of each method, and evaluate the priorities of the current case (e.g., the need for a faster resolution, when there is a lack of resources). Although the criminal investigation generally takes precedence, the completion of the administrative investigation is also important.

(1) Concurrent Investigation. In this method, the administrative investigation is conducted while the criminal investigation is being completed, and/or is pending prosecution. If both investigations are conducted by the Department, they shall be done by separate investigators.

(a) It is imperative the investigators observe the employee's rights so neither investigation is tainted. This also applies if the criminal investigation is being conducted by an allied agency.

(b) Generally, the Department recommends conducting the administrative investigation concurrently with the criminal investigation. The primary advantage of this method is the administrative investigation can be completed in an expeditious manner.

(2) Consecutive Investigation. In this method, the criminal investigation is completed and submitted to the prosecuting authority prior to initiating the administrative investigation. This applies whether the criminal investigation is being conducted by an allied agency or the Department.

(a) The primary disadvantage of this method is the challenge of completing the administrative investigation within the required time frame (refer to paragraph 8. of this chapter for further information). Further, the period of time an employee is on Administrative Time Off (ATO) pending the completion of a criminal investigation, may be unnecessarily extended or disapproved by the California Department of Human Resources (CalHR). As such, consecutive investigations shall not be conducted without the prior approval of the Office of the Commissioner.

(b) The benefit of this method is it precludes the improper sharing of information, since the criminal investigation is closed prior to any information being gathered as part of the administrative investigation. This method may also be used when the alleged criminal acts are minor in nature and can be investigated expeditiously.

NOTE: For both investigative methods, coordination with criminal investigators and/or the prosecuting authority shall be sought by the administrative investigators, with the concurrence of the commander. This will ensure any evidence gathered for the administrative investigation will not obstruct or undermine the criminal investigation or potential criminal prosecution.

f. Jurisdiction. In general, the agency with primary investigative authority for the specified crime and/or location, will conduct the criminal investigation. If an allied agency is conducting the investigation, commanders shall ensure that agency is contacted to develop an appropriate course of action and to ensure proper coordination between the allied agency, any prosecuting authority, and the Department.

(1) If an allied agency with primary investigative authority relinquishes or declines to conduct the investigation, the involved employee's commander,

with the approval of the Division Chief, shall initiate the criminal investigation. This would be in addition to an administrative investigation.

g. Sharing Information. While criminal and administrative investigations of the same act(s) will largely draw from the same evidentiary and witness resources, there can be significant differences in the focus of each investigation. In addition, there are important limitations regarding what information can be shared between the investigations, and if the employee subject to the investigation is a uniformed or nonuniformed employee.

(1) Witness Interviews. It is acceptable, and in many cases beneficial, for the criminal and administrative investigators to either share witness statements (via summary memorandum or interview recording) or conduct joint interviews of witnesses. This will prevent inconsistent statements from a witness interviewed at different times, by separate investigators. However, not all witness interviews conducted by administrative investigators (which discuss confidential departmental policies, tactics, training, or progressive discipline) may be suitable for dissemination outside of the Department.

(2) Criminal Interrogations. If performed, criminal interrogations shall be in compliance with policy, as specified in Chapter 6, Interview and Interrogation, of this manual. Additionally, it is highly recommended a criminal interrogation be conducted prior to an administrative interrogation if involving the same employee and the same act(s).

(a) An administrative investigator shall not participate in a criminal interrogation of an employee.

(b) For uniformed employees, a criminal interrogation of the employee may be shared (via transcription or audio recording) with the administrative investigator(s).

(c) For nonuniformed employees, Labor Code (LC) Section 432.7 prohibits the use of certain information from a criminal investigation unless the criminal investigation has resulted in a conviction. The administrative investigator(s) may, however, interview the criminal investigator about the criminal interrogation.

(3) Administrative Interrogations. If the prosecuting authority is seeking criminal prosecution, an administrative interrogation is not required unless additional information is needed to reach a reasonable conclusion in the administrative investigation. If an administrative interrogation is deemed necessary, coordination with the prosecuting authority shall be sought by the administrative investigator(s) with the concurrence of the commander. This will ensure the criminal investigation and prosecution will not be compromised. If,

after consultation, the prosecuting authority requests an administrative interrogation be delayed, or not conducted, the IAS shall be consulted for guidance.

(a) Compelled statements made by a departmental employee during an administrative interrogation shall not be shared with criminal investigators or included in a criminal investigation. As such, criminal investigators shall not participate in administrative interrogations. It may be permissible for the criminal investigator(s) to assist in the formulation of the administrative interrogation questions; however, the IAS should be consulted before doing so.

(b) Once the administrative interrogation has been conducted, the administrative investigators shall not share any information or statements obtained from the administrative interrogation, with the criminal investigators.

(4) Evidence. In general, evidence gathered during either a criminal or administrative investigation may be shared as long as the evidence was gathered from a source both the administrative and criminal investigators would have had legal access to collect. This will often allow the administrative investigator(s) to have access to all the evidence gathered in the criminal investigation but can preclude the criminal investigator(s) from having access to evidence from the administrative investigation. The following examples are not all inclusive.

(a) Breath test results or toxicology evidence stemming from a uniformed employee's arrest may be shared from the criminal investigation to administrative investigator(s).

(b) Breath test results or toxicology evidence stemming from a nonuniformed employee's arrest may not be shared from the criminal investigation to administrative investigator(s) per LC Section 432.7, unless the criminal investigation has resulted in a conviction. Contact OLA for additional guidance.

(c) Department of Motor Vehicles licensing or registration information, or an employee's criminal history information, may be shared from the criminal investigation to the administrative investigator(s).

(d) Information gathered from an employee's personnel file for an administrative investigation may not be shared with the criminal investigator(s) without following the proper legal process as required by PC Section 832.7. Contact OLA for additional guidance.

(5) Criminal Reports of Uniformed Employees. Criminal investigation reports, including arrest reports of uniformed employees, shall be requested and included as an exhibit in the administrative investigation, if released by the investigating agency.

(6) Criminal Reports of Nonuniformed Employees. For nonuniformed employees, a copy of a criminal investigation report, including an arrest report, shall NOT be included in the administrative investigation unless the criminal investigation has resulted in a conviction, per LC Section 432.7.

(a) Allied agency personnel or uniformed departmental employees involved in the arrest or criminal investigation of a nonuniformed employee, may be interviewed by administrative investigators prior to the adjudication of the criminal complaint. The testimonial evidence pertaining to the facts associated with the criminal investigation, including breath test or toxicology evidence, can be obtained by the administrative investigator(s).

h. Documentation. The decision whether criminal charges are filed or rejected by the prosecuting authority shall be documented in the chronological summary of the administrative investigation file, listing the name of the person authorizing or rejecting criminal prosecution, as well as the date the case was referred to the prosecuting authority.

(1) Correspondence from the prosecuting authority (e.g., e-mail, letter) shall be included in the administrative investigative file as an exhibit.

i. Civil Rights Investigations. Civil rights violations are identified in statute and are criminal in nature. Investigations are normally conducted by the Federal Bureau of Investigation, U.S. Department of Justice, or State Department of Justice. If an employee of this Department is requested to be interviewed by investigators pursuant to a civil rights investigation, the following guidelines shall apply:

(1) The decision to consent to an interview with an outside investigator regarding a civil rights investigation shall be at the sole discretion of the departmental employee (either as a witness to, or the subject of, the investigation). If an officer is a witness in an investigation which involves potential police misconduct, the officer is required to cooperate with the investigating agency in compliance with Senate Bill (SB) 2, PC Section 13510.8, *Revocation or Suspension of Certification*. The lawful exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.

(2) If such an interview is conducted on state time, a departmental supervisor shall be present if permitted by the investigating agency.

(3) To preserve the accuracy of the statements, interviews conducted on state time shall be audio recorded by a supervisor if permitted by the investigating agency.

5. ANONYMOUS COMPLAINTS. The Department is required to investigate all allegations of misconduct filed against its employees. If the source of the allegation is from outside of the Department, the complaint shall be investigated according to the procedures found in Highway Patrol Manual (HPM) 10.4, Civilians' Complaint Investigations. If the source of the allegation is from another departmental employee, the procedures outlined in paragraph 6. of this chapter shall be followed.

6. COMPLAINTS FROM DEPARTMENTAL PERSONNEL.

a. Policy. If allegations of employee misconduct are submitted anonymously, but evidence exists to suggest it was sent by a departmental employee, a formal investigation shall not be undertaken without having established some merit to the allegation(s). An inquiry to verify the validity of the allegation(s) may be necessary to provide investigative direction. Unless the complaint involves a violation of law (e.g., threat, retaliation, other evidence of criminal misconduct), departmental resources should not be expended to determine the source of the complaint.

b. Procedure. Allegations of employee misconduct shall be brought to the attention of the employee's supervisor and/or manager. The involved employee's commander shall ensure an inquiry is made into the allegation(s). The inquiry shall attempt to determine the merits of the allegation(s) by considering the following:

(1) If evidence to corroborate the allegation(s), such as documents, witnesses, or other relevant evidence is discovered.

(2) The egregiousness of the alleged misconduct.

(3) If the employee has a documented pattern of misconduct consistent with the new allegation(s).

(4) The contributory factors which may have generated the complaint.

(5) The statute of limitations as it pertains to administrative and criminal investigations.

(6) Whether the allegation(s) has already been investigated.

c. Employee Protections. During the initial inquiry to determine the merits of the allegation(s), supervisors and managers shall ensure the protections provided under POBR are afforded to the employee as applicable.

d. Unfounded Anonymous Complaints. Once an initial inquiry is completed, if no corroborating evidence exists and the allegations are determined to be unfounded, the command shall complete a CHP 51WP, Confidential Memorandum, with a subject heading "*Anonymous Inquiry Notification*." If the complaint involves allegations of serious misconduct as defined in SB 2, PC Section 13510.8, *Revocation or Suspension of Certification*, the complaint shall be investigated to completion according to the procedures found in HPM 10.4 to include a finding.

(1) The memorandum will notify the employee of the complaint, and specifically any "*adverse comments*" as described in GC Section 3305, which was made against the employee within the complaint. The employee shall be given an opportunity to review and sign the memorandum and submit a response in accordance with GC Section 3306 as described in Chapter 7, Investigation Documentation, of this manual. Refer to Annex B for a sample Anonymous Inquiry Notification memorandum.

(2) Once the memorandum is completed, approved, and signed by the employee, the signed memorandum and accompanying documentation (e.g., complaint letter, 3306 response) shall be forwarded to the IAS. The documents will then be scanned and stored electronically to be retained for five (5) years from the date of the anonymous complaint.

7. INVESTIGATIVE RESPONSIBILITY SPECIAL CASES. In general, the responsibility to conduct an internal investigation, rests with the commander of the Area to which the involved employee was assigned at the time of the alleged misconduct. However, circumstances may exist when a different commander may be responsible for conducting the investigation.

a. Transferred Employee. If the employee under investigation transfers while an internal investigation is underway, the commander of the Area where the misconduct occurred will remain responsible for the investigation. However, the responsible commander should coordinate directly with the employee's new commander to obtain any required information and coordinate any required actions. The responsible command shall retain the copies of the investigation until it is approved by the Office of the Commissioner.

b. Cadet Training. All internal investigations which involve a cadet as the subject, regardless of a temporary assignment, will be the responsibility of the Academy commander.

c. Special Assignments. Employees assigned to special programs that remove them from direct departmental supervision (e.g., drug/vehicle theft task forces) remain the responsibility of the employee's departmental commander. However, it may prove more practical to coordinate the investigation and documentation of any investigations with the employee's special assignment departmental supervisor/manager. If a departmental supervisor/manager does not exist in the special program or task force, the employee's departmental commander will remain responsible for the internal investigation.

d. Temporary Assignments. Internal investigations which originate while an employee is working a temporary assignment within the Department, such as a protective services detail, motor carrier inspection program, watch officer, etc., remain the responsibility of the employee's permanent commander; however, Division commanders may direct such investigations be conducted by the temporary assignment commander or supervisor.

e. Multi-Command Investigations. When an investigation involves multiple employees assigned to different commands, a single Division, Area, section, or unit shall be appointed as the primary investigative command. In most instances, this will be the command with the employee associated with the most severe allegations or the command with the greatest number of employees involved. The designation of the primary investigative command shall be coordinated with the Division commander or appropriate Assistant Commissioner, as necessary. As with all multiple-employee investigations, each employee shall have a separate internal investigation file prepared with its own investigation control number. If it appears an employee not assigned to the primary investigative command will receive corrective employee not assigned to the primary investigative command will receive corrective action, the employee's commander shall be consulted (and must also approve) before a penalty is recommended or included in the investigative case file.

8. TIME FRAMES AND TOLLING.

a. Adverse Action One-Year Time Frame. Pursuant to GC Section 3304, the Department has one (1) year from the discovery of any act, omission, or other allegation of employee misconduct, to conduct an adverse action investigation and serve the employee with a proposed penalty for the misconduct. The one-year limitation period begins (Division Aware Date) when a person authorized to initiate an adverse action (a Division Chief) discovers, or through the use of reasonable diligence should have discovered, the alleged misconduct. The one-year time frame may be tolled for any of the following circumstances:

- (1) The employee misconduct is being criminally investigated by an allied agency, by the Department, or while being reviewed/prosecuted by the District

Attorney's Office. However, tolling due to a criminal investigation is not automatic. Tolling does not suspend, halt, or require the administrative investigation be consecutive to the criminal investigation. For questions or assistance regarding tolling, contact the IAS.

(a) Tolling of the one-year time frame is documented as having begun with a chronological log entry in the administrative investigation.

(b) Tolling of the one-year time frame ends when notification is received from the investigating agency of the termination of the criminal investigation, notification is received from the prosecuting authority of a decision not to prosecute, or the criminal case has been adjudicated by the court. See Chapter 5, of this manual, for examples of chronological log entries including those related to tolling.

(2) The employee under investigation waives the one-year time period in writing. Time shall be tolled for the time specified in the written waiver.

(3) A reasonable extension is necessary to coordinate a multi-jurisdictional investigation.

(4) The investigation involves more than one employee and requires a reasonable extension.

(5) The investigation involves an employee who is incapacitated or otherwise unavailable (e.g., military leave, extended vacation). This includes medical "stay away" orders from treating physicians or psychologists. Contact the IAS for guidance on the requirements to abide by such orders.

(6) The investigation involves a matter of civil litigation, and the employee is a defendant. The one-year time period is tolled while the civil litigation is pending. Investigators should contact OLA with any questions regarding a tolled investigation involving civil litigation.

(7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period may be tolled while the defendant's criminal case is resolved. Investigators should contact the District Attorney's Office where the criminal case is being litigated, and/or the IAS to obtain further assistance.

(8) The investigation involves an allegation of workers' compensation fraud by the employee.

NOTE: These exceptions do not toll the three-year time frame specified in GC Section 19635 (see paragraph 8.c.).

b. Tolling Versus Halting/Stopping. Tolling an administrative investigation is not synonymous with halting/stopping an administrative investigation. It is the intention of the Department to complete all administrative investigations as expeditiously as possible. Tolling is merely a legal exception to the one-year time frame as identified in GC Section 3304 and should be documented in the investigative file in the chronological summary. Nevertheless, when sufficient evidence exists to prove by a preponderance the misconduct occurred, the investigation should be completed and submitted for review in accordance with the time frames outlined in this chapter.

(1) If the Division commander believes it is necessary to halt/stop an administrative investigation, approval from the Office of the Commissioner through appropriate channels is required.

c. Reopening an Internal Investigation Beyond One Year. An internal investigation may be reopened beyond the one-year time frame if the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the original investigation, and:

(a) The evidence could not have reasonably been discovered without resorting to extraordinary measures by the Department, or the evidence came from the employee's pre-disciplinary hearing response or procedure.

d. Adverse Action Three-Year Time Frame. As previously noted, GC Section 3304 requires the Department to complete the administrative investigation one (1) year from the Division Aware Date of an employee's alleged misconduct to the date the employee is served with an appropriate notice (e.g., Notice of Adverse Action, Rejection During Probation, Nonpunitive Termination) or closing documentation (e.g., Memorandum of Finding) without tolling. However, GC Section 19635 prohibits the Department from taking action against an employee if/when the misconduct occurred more than three (3) years prior. The three-year adverse action time frame cannot be tolled.

(1) For example, the Department could initiate an adverse action on an employee if the discovery of the misconduct was today, but the misconduct occurred two (2) years prior. The Department would still have one (1) year to investigate and serve the employee an appropriate notice or closing documentation for the alleged misconduct.

(2) Government Code Section 19635 enumerates only three (3) exceptions to this rule: misconduct which involves fraud, embezzlement, or falsification of records. For any of the three (3) exceptions, the alleged misconduct could have occurred beyond three (3) years. However, upon discovery, the

Department would be required to serve the employee with the appropriate notice or closing documentation within the one-year time frame as specified in GC Section 3304.

e. Rejection During Probation. It is incumbent upon managers and investigators to know the various probationary periods of employees in their commands. In accordance with GC Section 19173, a probationary employee must be served with a notice of Rejection During Probation 10 to 15 days prior to the last day of their probationary period. This is to allow time for the employee's pre-disciplinary hearing, which must take place prior to the last day of the employee's probationary period.

f. Adverse Action Extension. Area and Division commanders should ensure the investigation is forwarded to the IAS within 60 calendar days from the date the

investigation was initiated. However, the desire for timeliness should not outweigh the necessity of a thorough and unbiased investigation. In complex cases where the investigation will exceed 60 days, the Division commander shall contact the appropriate Assistant Commissioner to request an extension.

9. INVESTIGATIVE CONFIDENTIALITY.

a. Importance. Managers, supervisors, investigators, and all others with information pertaining to an investigation, have a legal and ethical obligation to maintain the confidentiality of an internal investigation. Investigators shall only discuss aspects of the investigation with a person(s) who has an official right and need to know. An unnecessary release of confidential information can lead to an employee's personnel matter(s) being released to fellow employees and potentially to the public. In addition to a confidentiality breach creating distrust in the workplace, it can also lead to a compromised investigation. Managers, supervisors, and investigators should also be aware a violation of employee confidentiality could result in adverse action against them. Furthermore, per PC Section 135.5, any person who knowingly alters, tampers with, conceals, or destroys relevant evidence in any disciplinary proceeding against a public safety officer for the purposes of harming that public safety officer, is guilty of a misdemeanor.

b. Information Security. The following shall be adhered to in order to maintain strict confidentiality of the investigation:

(1) Ensure all discussions, interviews, and interrogations regarding the investigation are conducted in a private location (e.g., not in hallways, locker rooms, break rooms).

(2) Limit the amount of information which is divulged to witnesses to only those facts which are pertinent to their testimony.

(3) Advise all witnesses and subjects of internal investigations that the investigation is a confidential personnel matter. Upon receiving notification of, and at the conclusion of, each interview/interrogation, departmental employees shall be given a direct order not to discuss the investigation, or their interview/interrogation, with anyone other than their chosen representative or an uninvolved supervisor/manager within their chain of command.

(4) When unattended, ensure all investigative notes, items of evidence, and any and all other written documentation which pertains to the investigation, are always secured, preferably in a locked drawer or file cabinet. Ensure all physical evidence is properly labeled as "Confidential," and chain of custody is maintained.

c. Media Coverage. The employee under investigation shall not be subjected to visits by the press or news media without the employee's express consent, nor shall the employee's home address or photograph be given to the press or news media without the employee's consent. Accordingly, the Department shall not release residence information or photographs to the media, even if the employee is criminally prosecuted. Commands shall coordinate with the Community Outreach, and Marketing Section, for any media inquiries regarding an employee under investigation.

10. EMPLOYEE WORK STATUS.

d. Administrative Time Off. Administrative Time Off is a managerial tool in which the employee is ordered to stay away from the work location, and typically assigned to remain at the employee's residence. Generally, ATO is paid but can be unpaid for 15 calendar days pursuant to GC Section 19574.5 and GC Section 19592.2.

(1) Approval of Administrative Time Off. Approval through channels from the appropriate Assistant Commissioner shall be obtained before a commander may place an employee on ATO. Examples of situations in which ATO would be appropriate are:

(a) The employee is under investigation for a serious offense (criminal or administrative) and dismissal, rejection during probation, or nonpunitive termination, is probable.

(b) Upon the Commissioner's approval and signature of a Notice of Adverse Action (NOAA) for dismissal, rejection during probation, or

nonpunitive termination. The ATO will be in place until the effective penalty date listed on the NOAA.

(c) The employee is a highly disruptive influence in the workplace or may interfere with the investigation. A temporary transfer to another command may be considered as an alternative. Consult, through the chain of command, the appropriate Commissioner and the Office of Employee Relations, for guidance regarding temporary transfers.

(2) When an employee is placed on ATO, the employee's schedule shall immediately revert to an eight-hour schedule for the period the employee is on ATO. The employee may return to their normal schedule at the beginning of the next pay period following the release from ATO.

(3) Division Responsibilities for Administrative Time Off. If an employee's ATO extends beyond 30 calendar days, CalHR approval is required. Approval will generally be given in 30 calendar-day increments, and each extension must be approved by CalHR prior to the expiration of the 30 days. The IAS will obtain that approval. As such, Divisions shall provide a brief description, via e-mail to the IAS, of the status on an investigation involving an employee on ATO, prior to the ATO expiration.

(a) Divisions shall also provide immediate notification, via e-mail to the IAS, should an employee be removed from ATO.

(4) Commander Responsibilities for Administrative Time Off. The employee's commander shall notify the IAS and the Human Resources Section (HRS), via e-mail, if during the employee's ATO, the employee takes prescheduled vacation or personal sick leave. This will ensure the employee's vacation time or sick leave bank is reduced appropriately.

(a) The commander shall ensure the investigation of an employee on ATO is given the highest priority and completed as expeditiously as possible.

e. Removal of Peace Officer Powers. Removal of Peace Officer Powers (RPOP) is typically used in conjunction with placing an employee on ATO. However, RPOP may be necessary when ATO has not been requested but circumstances warrant temporary removal of a uniformed employee's peace officer powers. Approval through channels from the appropriate Assistant Commissioner, with concurrence from the Deputy Commissioner, shall be obtained before a commander may remove an employee's peace officer powers.

(1) Examples where a uniformed employee's peace officer powers might be removed without being placed on ATO are:

- (a) An officer has been placed on medical leave for stress or other psychological impairment.
- (b) An officer is placed on modified duty pending the outcome of an internal investigation.

11. EMPLOYEE NOTICES.

f. Notice to Employee of Internal Investigation. Commanders may, during the early stages of an administrative investigation, choose to notify an employee who is the subject of an administrative investigation. Although such notice is not required, it articulates to the employee the importance of confidentiality and the sensitivity of the investigation. The notice specifically advises the employee of the existence of the investigation, the basic nature of the allegations, and directs the employee not to discuss the investigation with any member of the Department other than a representative, and/or a supervisor or manager in the employee's direct chain of command. The notice may also include a Cease-and-Desist admonition as appropriate. Providing such notice may preclude inappropriate actions by the employee, as well as reduce potential disruptions to the command's operation. The notice is optional and should not be used in instances where, for investigatory reasons, it is not desirable to have the employee notified. A template of this notice can be found on the IAS Intranet site, under References. Refer to Annex C for a Notice of Internal Investigation memorandum.

g. Notice of Administrative Time Off With Pay. Once ATO has been approved by the Deputy Commissioner, the employee's commander or designee shall complete a CHP 51WP. The ATO notice shall provide the employee with a brief description of the administrative investigation and provide direction to the employee regarding the following: availability during business hours, an order not to access the California Law Enforcement Telecommunications System (CLETS) or utilize CLETS derived information, and direction the investigation shall remain confidential. An ATO with Pay template can be found on the IAS Intranet site, under References. Refer to Annex D for an ATO with Pay memorandum.

(1) If the employee is a uniformed member of the Department, the ATO notice will remove the employee's peace officer powers and will direct the employee to surrender state property (e.g., ID card, badge, weapon).

(2) At the Area commander's discretion, the ATO notice may prohibit the employee from entering or visiting any Department facility or advise the employee their departmentally issued storage spaces will be searched.

h. Notice of Administrative Time Off Without Pay. If an employee is placed on unpaid ATO as part of an internal investigation, the investigation must be

completed, and the employee served an NOAA, within 15 calendar days. The ATO Without Pay (on a CHP 51WP) is similar to the ATO With Pay (on a CHP 51) but shall specify the 15-day requirement. If the employee is not served a NOAA within 15 days, the ATO will revert to pay status. An ATO Without Pay template can be found on the IAS Intranet site, under References. Refer to Annex E for an ATO Without Pay memorandum example.

(1) Service of a Notice of Administrative Time Off With or Without Pay. The employee shall sign and date the ATO notice upon receipt and a supervisor or manager shall sign indicating completion of service. If the employee refuses to sign the ATO notice, the supervisor or manager shall note this in the employee's signature block on the form.

(a) The original, signed ATO notice will be retained by the employee.

(b) Copies of the signed ATO notice will be included in the administrative investigation and the employee's personnel file.

(c) If the employee is being served at a location where no photocopier is available, a second ATO notice shall be brought, and both copies shall be signed by the employee and the supervisor/manager serving the notice.

(2) Equipment. Employees placed on ATO shall surrender all Department-issued ID and state building access cards/keys to a supervisor or manager. Uniformed employees shall also surrender all Department-issued badges, firearms, and officer safety equipment (incidental items, such as rain gear, need not be surrendered).

(3) Distribution of a Notice of Administrative Time Off. Once served, the employee's commander shall immediately make notification, via e-mail, to the Office of Assistant Commissioner, Field or Staff; the appropriate Division; the IAS at IAS_Notification@CHP.ca.gov; and HRS at PTU@chp.ca.gov. Attached to the e-mail will be a copy of the signed and served notice of ATO.

i. Notice of Removal from Administrative Time Off. An employee's ATO may be removed, via CHP 51WP, which shall provide the employee with 48-hour notice for the removal of ATO pursuant to GC Section 19574.5. For uniformed employees, peace officer powers may be simultaneously restored with the ending of ATO. A Notice of Removal from ATO template can be found on the IAS Intranet site, under References. Refer to Annex F for a Notice of Removal from ATO memorandum.

(1) Service of a Notice of Removal from Administrative Time Off. The employee shall sign and date the Notice of Removal from ATO upon receipt and a supervisor or manager shall sign indicating completion of service. If the

employee refuses to sign the Notice of Removal from ATO, the supervisor or manager shall note this in the employee's signature block on the form.

(a) The original signed Notice of Removal from ATO will be retained by the employee.

(b) Copies of the signed Notice of Removal from ATO will be included in the administrative investigation and the employee's personnel file.

(2) If the employee is being served at a location where no photocopier is available, a second Notice of Removal from ATO shall be brought, and both copies shall be signed by the employee and the supervisor/manager serving the notice.

(3) Equipment. Upon removal from ATO, surrendered Department-issued identification and state building access cards/keys, badges, firearms, and officer safety equipment may be returned to the employee.

(4) Distribution of a Notice of Removal From Administrative Time Off. Once served, the employee's commander shall immediately make notification, via e-mail to the Office of Assistant Commissioner, Field or Staff; the appropriate Division; the IAS at IAS_Notification@CHP.ca.gov; and HRS at PTU@chp.ca.gov. Attached to the e-mail will be a copy of the signed and served Notice of Removal of ATO.

e. Notice of Removal of Peace Officer Powers. A uniformed employee's Peace Officer Powers may be removed via a CHP 51WP, which shall relieve the employee from all duties, powers, and rights authorized by PC Section 830.2, including carrying a concealed firearm. At the Area commander's discretion, the notice can also prohibit the employee from entering or visiting any Department facility or advise the employee their departmentally issued storage spaces will be searched. An RPOP template can be found on the IAS Intranet site, under References. Refer to Annex G for an RPOP memorandum.

(1) Service of a Notice Removal of Peace Officer Powers. The employee shall sign and date the RPOP notice upon receipt, and a supervisor or manager shall sign indicating completion of service. If the employee refuses to sign the RPOP notice, the supervisor or manager shall note this in the employee's signature block on the form.

(a) The original, signed RPOP notice will be retained by the employee.

(b) Copies of the signed RPOP notice will be included in the employee's personnel file and internal investigation if an investigation had been initiated.

(c) If the employee is being served at a location where no photocopier is available, a second RPOP notice shall be brought, and both copies shall be signed by the employee and the supervisor/manager serving the notice.

(2) Equipment. Employees served an RPOP notice shall surrender all Department-issued ID, badges, firearms, and officer safety equipment, to a supervisor or manager (incidental items, such as rain gear, need not be surrendered).

(3) Distribution of a Notice of Removal of Peace Officer Powers. Once served, the employee's commander shall immediately make notification, via e-mail to the Office of Assistant Commissioner, Field or Staff, and the appropriate Division. If the RPOP is associate with an internal investigation, the IAS shall be notified at IAS_Notification@CHP.ca.gov. Attached to the e-mail will be a copy of the signed and served notice of RPOP.

f. Notice to Reinstate Peace Officer Powers. To reinstate a uniformed employee's peace officer powers, approval, through channels to the Deputy Commissioner, shall be sought. If approved, the notice to reinstate the employee's peace officer powers shall be documented on a CHP 51WP. A Notice to Reinstate Peace Officer Powers template can be found on the IAS Intranet site, under References. Refer to Annex H for a Notice to Reinstate Peace Officer Powers memorandum.

(1) Service of Notice to Reinstate Peace Officer Powers. The employee shall sign and date the notice upon receipt and a supervisor or manager shall sign indicating completion of service. If the employee refuses to sign the notice, the supervisor or manager shall note this in the employee's signature block on the form.

(a) The original signed reinstatement notice will be retained by the employee.

(b) Copies of the signed reinstatement notice will be included in the employee's personnel file and internal investigation if an investigation had been initiated.

(c) If the employee is being served at a location where no photocopier is available, a second notice shall be brought, and both copies shall be signed by the employee and the supervisor/manager serving the notice.

(2) Equipment. Upon restoration of peace officer powers, all surrendered state equipment shall be returned to the employee.

(3) Distribution of Notice to Reinstate Peace Officer Powers. Once served, the employee's commander shall make notification, via e-mail to the Office of Assistant Commissioner, Field or Staff, and the appropriate Division. Attached

to the e-mail shall be a copy of the signed and served notice of Reinstatement of Peace Officer Powers.

(a) If the reinstatement of Peace Officer Powers is associated with an internal investigation, the IAS shall be notified, via e-mail, and the notice attached.

12. OTHER CONSIDERATIONS.

a. Adverse Actions Stemming from Civilians' Complaints. Civilian complaint investigations should normally be completed and approved as specified in HPM 10.4, before being used as the basis for an administrative investigation which results in an adverse action or rejection during probation. In all cases, the civilian complaint investigation shall be included as an exhibit in the administrative investigation file. Commanders and investigators should also consider the following:

(1) Administrative interrogation can be conducted as part of the civilian complaint investigation and are especially appropriate when adverse action or rejection during probation appear likely.

(2) The CHP 240G, Complaint Closing Action, should not be completed, nor should the complaint findings be discussed with the involved employee, except through the adverse action process prior to the service of the NOAA or closing documentation.

b. Equal Employment Opportunity Allegations. During the course of an investigation, allegations of discrimination, harassment, and/or racial profiling may be discovered. Such allegations, substantiated or otherwise, can represent significant civil liability to the Department.

Appropriate notifications shall be made to the command's Division and the Equal Opportunity and Access Section (EOAS). A separate equal employment opportunity investigation, conducted concurrently or consecutively with the administrative investigation, may be initiated in accordance with HPM 10.12, Equal Employment Opportunity Manual. Coordination with EOAS and OLA shall be sought regarding the sharing of investigative findings and appropriate documentation.

c. Lost or Damaged State Property. Should an employee, through neglect or misuse, damage or lose Department-issued state equipment, that employee's bargaining unit memorandum of understanding shall be reviewed prior to the issuance of corrective documentation or the initiation of an internal investigation.

(1) Certain collective bargaining agreements contain language which permits the employee the option to reimburse the Department for the current replacement or repair cost of the lost or damaged equipment. In some cases, the replacement or repair cost may be covered through the use of leave credits.

d. Nonpunitive Termination for Failure to Meet Minimum Qualifications.

(1) When a permanent or probationary employee fails to meet the conditions or requirements of their job classification, a nonpunitive termination may be considered. Examples of those requirements or qualifications include:

(a) A probationary Motor Carrier Specialist who fails the North American Standard, Level I, training course.

(b) An officer whose driver license is suspended or revoked.

(2) When an employee becomes aware of a restriction affecting their own job qualification, or another employee's failure to meet a job qualification, notification shall be made to the Area commander. The commander shall follow direction contained in HPM 10.3, Personnel Transactions Manual, Chapter 9, Separations.

e. Self-Initiated Rejection During Probation. In the event a probationary employee, of their own volition, expresses a desire to return to their previous state employment and the employee has not had a break in state service prior to their assignment with the Department, an expedited Rejection During Probation (RDP) process may be utilized. The Area, with Division concurrence, may complete a Self-initiated RDP as outlined in Chapter 7 of this manual under the following circumstances:

(1) All provisions of GC Section 19140.5 are met.

(2) The employee memorializes their request for the RDP in either a memorandum to the commander or an e-mail message to their chain of command.

(3) Command has not already initiated an administrative investigation into allegations of misconduct.

NOTE: Supervisors and managers shall be cognizant of conversations with employees which could be construed as encouragement or coercion to use the self-initiated RDP process.

13. RESOURCES.

a. The Internal Affairs Section. The IAS is a valuable resource for commanders and investigators undertaking a criminal or administrative investigation. The IAS is comprised of four (4) distinct units: Analysis, Investigations, Evidence, and Workers' Compensation Fraud Investigations. The References page, on the IAS Intranet site, has resources for internal investigations, POBR, substance testing, evidence, civilian complaints, injury and illness case management, employee notices, corrective documentation/investigation format, resignation, and pre-disciplinary hearing officer notices.

(1) Analysis Unit. The Analysis Unit reviews all internal investigations to ensure adverse action investigations are unbiased and the recommendations requested by command and/or Division are supported by the evidence presented. The Unit prepares the appropriate notice to be served to the employee. The Unit is a resource for a wide variety of information, including (but not limited to) civilians' complaints, appropriate command and/or Division recommendations and documentation for internal investigations, and other aspects of the investigative process.

(2) Investigations Unit. The Investigations Unit conducts administrative and criminal investigations both within and outside the Department. The Investigations Unit also assists commands and Divisions with complex investigations. The Investigations Unit is a resource for a wide variety of matters related to internal investigations including Notice of Administrative Interrogations, investigative scopes, and the formation of questions for administrative interrogations.

(3) Evidence Unit. The Evidence Unit establishes departmental policy associated with receiving, storing, and maintaining the integrity of evidence, found property, property held for safekeeping, and administrative evidence. The Evidence Unit functions as the departmental resource for commands on policy matters relating to the seizure, collection, packaging, storage, security, and disposition of evidence and property.

(4) Workers' Compensation Fraud Investigations Unit. The Workers' Compensation Fraud Investigations Unit conducts criminal investigations into potential workers' compensation fraud by employees of the Department.

b. Advisory Program. When the IAS receives notification of an administrative investigation, a member of the Investigations Unit and the Analysis Unit will be assigned as advisors to the command or Division investigators. The advisors are a resource to the investigators and will be available to answer questions regarding any part of the investigative process, including policy, administrative interrogation, documentation, etc.

c. Computer Crimes Investigation Unit. The Computer Crimes Investigation Unit (CCIU) is assigned to the Information Management Division. This specialized unit addresses computer-related crimes and threats against California's information technology (IT) infrastructure. The CCIU is responsible for investigating any computer crime or IT security incident involving any state-owned or state-leased computer. The CCIU may also be utilized for analysis of lawfully obtained personal electronic devices. Refer to HPM 40.4, Information Security and Administration Manual; Chapter 12, Computer Crimes Investigation Unit; for further information regarding the CCIU.

14. CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT. The California Electronic Communications Privacy Act (CalECPA) became effective January 1st, 2016. The CalECPA was designed to protect the privacy of the people of California and, with few exceptions, requires law enforcement agencies to obtain a search warrant based on probable cause prior to accessing electronic communications (e.g., text messages, emails, digital images, location) and other data located on electronic devices. Law enforcement agencies are required to provide notice to the owners of the electronic communications. Notice to the owners can be delayed in 90-day increments if the court finds that notifying the owners would have an adverse result. Law enforcement agencies are also required to seal off from further review information obtained which is unrelated to the objective of the warrant. Such information may be reviewed with an additional court order. In certain cases, PC Section 1546.1 may require that information obtained through the execution of a search warrant or order which is unrelated to the objective of the warrant be destroyed. The IAS and OLA shall be consulted prior to the administrative investigation team receiving any material obtained through a search warrant governed by CalECPA.

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ANNEX A

SAMPLE CHP 7E, INTERNAL INVESTIGATION CONTROL LOG

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL								Print Button				
INTERNAL INVESTIGATION CONTROL LOG						DIVISION		REVISION DATE				
CHP 7E (Rev. 2-23) OPI 031						Northern - 101		11/18/2022				
Control Number <small>Division Code Year Seq. No.</small> I - 1 0 1 2 2 0 0 1			EMPLOYEE'S NAME (LAST, FIRST, MIDDLE INITIAL)		I.D. NUMBER	AREA	RANK	INCIDENT DATE(S)		DIV. AWARE DATE	OIA NOTIFIED DATE	
			Feller, Angel		57889	120	Officer	02/20/2022		02/20/2022	02/23/2022	
<input checked="" type="checkbox"/> Criminal <input type="checkbox"/> Non-criminal <input type="checkbox"/> CHP conducting. <input checked="" type="checkbox"/> ATO <input checked="" type="checkbox"/> Allied Agency conducting. Date: 02/20/2022 <input type="checkbox"/> Criminal pending. <input type="checkbox"/> Charges filed.			Division for Review: 04/07/2022 Area for corrections: 04/17/2022 Division for Review #2: 05/12/2022 Division approved: 05/14/2022 Routed to OIA: 05/14/2022 Employee served: 09/01/2022 PDH Response sent: 09/19/2022		SUMMARY OF MISCONDUCT				DUTY STATUS		NOTES	
					Off-Duty incident wherein the employee was arrested by the Rocky Ridge Police Department for 243(e)(1) PC - Misd. Assault and Battery.				ATO		Division Contact: Sgt. Rick Thomas 888-555-1212 Area Contact: Sgt. Lisa Trooper 888-555-4321	
					PRIMARY INVESTIGATOR	ASSISTANT CHIEF	PDH OFFICER					
					Sgt. Lisa Trooper	Angela Snyder						
Control Number <small>Division Code Year Seq. No.</small> I - 1 0 1 2 2 0 0 2			EMPLOYEE'S NAME (LAST, FIRST, MIDDLE INITIAL)		I.D. NUMBER	AREA	RANK	INCIDENT DATE(S)		DIV. AWARE DATE	OIA NOTIFIED DATE	
			Ranger, Mike		57888	130	Officer	01/02/2022		03/02/2022	03/05/2022	
<input type="checkbox"/> Criminal <input checked="" type="checkbox"/> Non-criminal <input type="checkbox"/> CHP conducting. <input type="checkbox"/> ATO <input type="checkbox"/> Allied Agency conducting. <input type="checkbox"/> Criminal pending. <input type="checkbox"/> Charges filed.			Division for Review: 04/05/2022 Area for corrections: 05/17/2022 Division for Review #2: 05/20/2022 Division approved: 05/21/2022 Routed to OIA: 05/30/2022 Employee served: 10/19/2022 PDH Response sent: 10/30/2022		SUMMARY OF MISCONDUCT				DUTY STATUS		NOTES	
					Officer Ranger was on a DUI enforcement stop. The subject was arrested, handcuffed, and placed in the patrol vehicle. While the officer was distracted, the subject escaped from the patrol vehicle and was unable to be located.				Full Duty		Division Contact: Sgt. Rick Thomas 888-555-1212 Area Contact: Sgt. Tim McNally 888-555-4321	
					PRIMARY INVESTIGATOR	ASSISTANT CHIEF	PDH OFFICER					
					Sgt. Tim McNally	Angela Snyder						
Control Number <small>Division Code Year Seq. No.</small> I - 1 0 1 2 2 0 0 3			EMPLOYEE'S NAME (LAST, FIRST, MIDDLE INITIAL)		I.D. NUMBER	AREA	RANK	INCIDENT DATE(S)		DIV. AWARE DATE	OIA NOTIFIED DATE	
			Little, Timothy		57887	140	Officer	05/20/2022		05/20/2022	05/23/2022	
<input type="checkbox"/> Criminal <input checked="" type="checkbox"/> Non-criminal <input type="checkbox"/> CHP conducting. <input type="checkbox"/> ATO <input type="checkbox"/> Allied Agency conducting. <input type="checkbox"/> Criminal pending. <input type="checkbox"/> Charges filed.			Division for Review: 06/18/2022 Area for corrections: 07/01/2022 Division for Review #2: 07/15/2022 Division approved: 07/16/2022 Routed to OIA: 07/18/2022 Employee served: 11/01/2022 PDH Response sent: 11/25/2022		SUMMARY OF MISCONDUCT				DUTY STATUS		NOTES	
					While preparing his patrol vehicle for shift, and inspecting the departmental shotgun, Officer Little caused an accidental discharge of the weapon. Officer Little reported the discharge to supervision immediately.				Full Duty		Division Contact: Sgt. Rick Thomas 888-555-1212 Area Contact: Sgt. Terry Crawford 888-555-1234	
					PRIMARY INVESTIGATOR	ASSISTANT CHIEF	PDH OFFICER					
					Sgt. Terry Crawford	Angela Snyder						

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ANNEX B

ANONYMOUS INQUIRY NOTIFICATION

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]
To: [Employee Name], ID [#####]
From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL [Area]
File No.: [###.#####.#####]
Subject: ANONYMOUS INQUIRY NOTIFICATION

On [Date], and anonymous complaint was received by the Department, which alleged misconduct on your behalf. The Department conducted an inquiry into the matter and discovered no corroborating evidence to substantiate the allegation. Therefore, the allegation has been determined to be unfounded and without merit. However, per California Penal Code Section 832.5(b), the Department shall maintain a record of the complaint for a period of five (5) years. While this complaint will not be maintained in your personnel file, the complaint contained the following "adverse comments" within the meaning of California Government Code (CGC) Section 3305:

- 1. "[Allegation. Example: Officer M. Jones used his position as a peace officer to obtain gratuities in the form of free movie tickets for himself and his family.]"

In accordance with your bargaining unit Memorandum of Understanding, you are hereby advised of your right to file a written response to the above-referenced matter as specified in your contract. Such written comments shall be attached to and accompany this document during its retention period.

[Commander Name], [Rank]
Commander

Employee Name

Signature

Date

Safety, Service, and Security



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CHP 51WP (Rev. 06/2013) OPI 076

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ANNEX C

NOTICE OF INTERNAL INVESTIGATION

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]

To: [Employee Name], ID [#####]

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
[Area]

File No.: [###.#####.#####]

Subject: NOTICE OF INTERNAL INVESTIGATION

The Department is presently conducting an internal investigation into allegations of misconduct involving you. The investigation involves, but is not necessarily limited to the following:

[Brief summary of the alleged misconduct]

Due to the sensitivity of this investigation, you are directed not to discuss its existence with any member of this Department, other than your chosen representative and/or supervisors and managers in your chain of command. Further, to ensure the integrity of the investigation, you are not to have any contact or communication regarding this investigation with any of the involved parties or witnesses. Once presented with this memorandum, your failure to adhere to the directions and/or prohibitions provided herein may result in additional charges/disciplinary action. Your assistance and cooperation in this matter is appreciated. Should you have any questions, please contact me, a member of the command's management, or an employee representative of your choice.

[Commander Name], [Rank]
Commander

Safety, Service, and Security

CHP 51WP (Rev. 06/2013) OPI 076



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ANNEX C

NOTICE OF INTERNAL INVESTIGATION (*continued*)

[*Employee Name, ID #*]
Page 2
[*Date*]

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID Date

Service information:

Supervisor's Signature ID Date

ANNEX D

NOTICE OF ADMINISTRATIVE TIME OFF WITH PAY

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]

To: [Employee Name], ID [#####]

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
[Area]

File No.: [###.#####.#####]

Subject: NOTICE OF ADMINISTRATIVE TIME OFF WITH PAY

Pursuant to applicable statutes, which include, but are not limited to, California Government Code sections 19574.5, 19592.2 and 19991.10, you are hereby placed on administrative time off with pay effective at _____ hours on _____. This action is taken pending investigation by the Department for allegations related to the following:

[Brief summary of the alleged misconduct]

During your administrative time off, you are relieved of all duties, rights and powers arising out of your employment [UNIFORMED EMPLOYEES ADD: "including your peace officer powers as authorized by California Penal Code § 830.2. You may no longer carry a concealed firearm under the authority of peace officer status as a member of this Department."]. However, you are still a member of this Department, and as such, you are directed to cooperate with the Department in the investigation of the above allegations. During regular business hours, hereby defined for the purposes of this notification as 0800-1700 hours, M-F and excluding holidays, you shall be available and shall provide prior notification to your supervisor whenever you will be at a location other than your residence.

If you have not already done so, you are directed to immediately surrender all state property to your supervisor. You are ordered not to access or utilize any CLETS derived information. [OPTIONAL: Unless otherwise directed, you are prohibited from entering or visiting any Department facility.] [OPTIONAL: On _____, at approximately _____ hours, any CHP storage space, including but not limited to departmentally assigned or owned locker(s), desk(s), and/or other storage space(s), will be searched. You are directed not to access such storage spaces prior to that search. Unless you are unavailable, you may be present for the search.]



Safety, Service, and Security

An Internationally Accredited Agency

CHP 51WP (Rev. 06/2013) OPI 076

ANNEX D

NOTICE OF ADMINISTRATIVE TIME OFF WITH PAY (*continued*)

[Employee Name, ID #]
Page 2
[Date]

Due to the sensitivity of this investigation, you are directed not to discuss its existence with any member of this Department, other than your chosen representative and/or supervisors and managers in your chain of command. Further, to ensure the integrity of the investigation, you are not to have any contact or communication regarding this investigation with any of the involved parties or witnesses. Once presented with this memorandum, your failure to adhere to the directions and/or prohibitions provided herein may result in additional charges/disciplinary action. Your assistance and cooperation in this matter is appreciated. Should you have any questions, please contact me, a member of the command's management, or an employee representative of your choice.

[Commander Name], [Rank]
Commander

cc: Assistant Commissioner, [Field/Staff]
Internal Affairs Section
[Division]
Human Resources Section, Personnel Transactions Unit

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID Date

Service information:

Supervisor's Signature ID Date

ANNEX E

NOTICE OF ADMINISTRATIVE TIME OFF WITHOUT PAY

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]

To: [Employee Name], ID [#####]

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
[Area]

File No.: [###.#####.#####]

Subject: NOTICE OF ADMINISTRATIVE TIME OFF WITHOUT PAY

Pursuant to applicable statutes, which include, but are not limited to, California Government Code sections 19574.5, and 19592.2, you are hereby placed on administrative time off without pay effective at _____ hours on _____. In the event you are not served with a Notice of Adverse Action within 15 calendar days, you will be paid for any work missed and be automatically placed on administrative time off with pay. In either event, the provisions of this memorandum will remain in effect. This action is taken pending investigation by the Department for allegations related to the following:

[Brief summary of the alleged misconduct]

During your administrative time off, you are relieved of all duties, rights and powers arising out of your employment **[UNIFORMED EMPLOYEES ADD: "including your peace officer powers as authorized by California Penal Code § 830.2. You may no longer carry a concealed firearm under the authority of peace officer status as a member of this Department."]**.

However, you are still a member of this Department, and as such, you are directed to cooperate with the Department in the investigation of the above allegations. During regular business hours, hereby defined for the purposes of this notification as 0800-1700 hours, M-F and excluding holidays, you shall be available and shall provide prior notification to your supervisor whenever you will be at a location other than your residence.

If you have not already done so, you are directed to immediately surrender all state property to your supervisor. You are ordered not to access or utilize any CLETS derived information.

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ANNEX E

NOTICE OF ADMINISTRATIVE TIME OFF WITHOUT PAY (continued)

[Employee Name, ID #]
Page 2
[Date]

[OPTIONAL: Unless otherwise directed, you are prohibited from entering or visiting any Department facility.] [OPTIONAL: On _____, at approximately _____ hours, any CHP storage space, including but not limited to departmentally assigned or owned locker(s), desk(s), and/or other storage space(s), will be searched. You are directed not to access such storage spaces prior to that search. Unless you are unavailable, you may be present for the search.]

Due to the sensitivity of this investigation, you are directed not to discuss its existence with any member of this Department, other than your chosen representative and/or supervisors and managers in your chain of command. Further, to ensure the integrity of the investigation, you are not to have any contact or communication regarding this investigation with any of the involved parties or witnesses. Once presented with this memorandum, your failure to adhere to the directions and/or prohibitions provided herein may result in additional charges/disciplinary action. Your assistance and cooperation in this matter is appreciated. Should you have any questions, please contact me, a member of the command's management, or an employee representative of your choice.

[Commander Name], [Rank]
Commander

cc: Assistant Commissioner, [Field/Staff]
Internal Affairs Section
[Division]
Human Resources Section, Personnel Transactions Unit

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID Date

Service information:

Supervisor's Signature ID Date

ANNEX F

NOTICE OF REMOVAL FROM ADMINISTRATIVE TIME OFF

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]

To: [Employee Name], ID [#####]

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
[Area]

File No.: [###.#####.#####]

Subject: NOTICE OF REMOVAL FROM ADMINISTRATIVE TIME OFF

Effective on _____, you are returned to full, active duty [*UNIFORMED EMPLOYEES* *ADD: "and your peace officer powers, as authorized by Penal Code § 830.2, are restored"*]. You are to report to the _____ [Area/Section/Unit] on _____, at _____ hours, and will report directly to the commander's office to retrieve your state-issued property. Should you have any questions regarding this matter, please contact either myself or _____ at (XXX) XXX-XXXX.

[Commander Name], [Rank]
Commander

cc: Assistant Commissioner, [Field/Staff]
Internal Affairs Section
[Division]
Human Resources Section, Personnel Transactions Unit

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ANNEX F

NOTICE OF REMOVAL FROM ADMINISTRATIVE TIME OFF (*continued*)

[Employee Name, ID #]
Page 2
[Date]

I hereby acknowledge receipt of this memorandum.

Employee's Signature

ID

Date

Service Information:

Employee's Signature

ID

Date

ANNEX G

NOTICE OF REMOVAL OF PEACE OFFICER POWERS

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]

To: [Employee Name], ID [#####]

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
[Area]

File No.: [##.#####.#####]

Subject: NOTICE OF REMOVAL OF PEACE OFFICER POWERS

Effective _____ at _____ hours, you are relieved of all duties, rights and powers arising out of your employment, including your peace officer powers as authorized by Penal Code § 830.2. This action is being taken as a result of an investigation being initiated by the Department in regards to the following allegations:

[Brief summary of the alleged misconduct]

Although you no longer hold peace officer status, you are still a member of this Department and as such, you are directed to cooperate with the Department. If you have not already done so, you are required to immediately surrender all officer safety equipment, badges, and ID cards to your supervisor. Additionally, you may no longer carry a concealed firearm under the authority of peace officer status as a member of this Department. You are ordered not to access or utilize any CLETS derived information. *[OPTIONAL: Unless otherwise directed, you are prohibited from entering or visiting any Department facility.] [OPTIONAL: On _____, at approximately _____ hours, any CHP storage space, including but not limited to departmentally assigned or owned locker(s), desk(s), and/or other storage space(s), will be searched. You are directed not to access such storage spaces prior to that search. Unless you are unavailable, you may be present for the search.]*

Due to the sensitivity of this investigation, you are directed not to discuss its existence with any member of this Department, other than your chosen representative and/or supervisors and managers in your chain of command. Further, to ensure the integrity of the investigation, you are not to have any contact or communication regarding this investigation with any of the involved parties or witnesses. Once presented with this memorandum, your failure to adhere to the directions and/or prohibitions provided herein may result in additional charges/disciplinary action. Your assistance and cooperation in this matter is appreciated.

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ANNEX G

NOTICE OF REMOVAL OF PEACE OFFICER POWERS (*continued*)

[*Employee Name, ID #*]
Page 2
[*Date*]

Should you have any questions, please contact me, a member of the command's management, or an employee representative of your choice.

[*Commander Name*], [*Rank*]
Commander

cc: Assistant Commissioner, [*Field/Staff*]
[*Internal Affairs Section (if associated with an internal investigation)*]
[*Division*]

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID Date

Service information:

Supervisor's Signature ID Date

ANNEX H

NOTICE TO REINSTATE PEACE OFFICER POWERS

State of California

Transportation Agency

Memorandum

C O N F I D E N T I A L

Date: [Date]

To: [Employee Name], ID [#####]

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
[Area]

File No.: [###.#####.#####]

Subject: NOTICE TO REINSTATE PEACE OFFICER POWERS

Effective immediately, your peace officer powers, as authorized by Penal Code § 830.2, are restored. You are to report to the [Command] on _____, at _____ hours and will report directly to the commander's office to retrieve your state-issued property. Should you have any questions regarding this matter, please contact me, a member of command's management, or an employee representative of your choice.

[Commander Name], [Rank]
Commander

cc: Assistant Commissioner, [Field/Staff]
[Internal Affairs Section (if associated with an internal investigation)]
[Division]

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CHP 51WP (Rev. 06/2013) OPI 075

ANNEX H

NOTICE TO REINSTATE PEACE OFFICER POWERS (*continued*)

[*Employee Name, ID #*]
Page 2
[*Date*]

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID _____ Date _____

Service information:

Supervisor's Signature ID _____ Date _____