

CHAPTER 5
INVESTIGATIVE PROCEDURES

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CHAPTER 5

INVESTIGATIVE PROCEDURES

1. INTRODUCTION. The principal goal of all internal investigations is to objectively identify the facts regarding allegations of misconduct or substandard performance. For each allegation, the investigator must examine:

- a. If the alleged act(s) or omissions occurred and what evidence can be obtained.
- b. What policy, rule, procedure, etc. the employee specifically violated.
- c. What prior knowledge, training/experience, and prior progressive discipline did the employee have that such conduct was not acceptable.

2. OVERVIEW. Each investigation is unique and is directed by the allegations, facts, and evidence. This material must be systematically gathered, verified, and documented. To assist the investigator, a preliminary meeting shall be held with the commander to outline the proposed scope of the investigation and formulate an investigative plan. As the investigation progresses, the commander and investigator shall conduct subsequent discussions to reevaluate and possibly modify the original plan.

3. INITIAL STEPS. The first actions of the investigator can have a profound effect on the outcome and quality of the investigation. Careful planning and case management are essential to any successful investigation and will allow the commander to track the status of the case. The CHP 7F, Investigative Plan, and the Investigative Plan Guideline should be used for this purpose. The Investigative Plan Guideline can be located on the Office of Internal Affairs (OIA) intranet reference page. Refer to Annex A for a sample of the CHP 7F and the Investigative Plan Guideline. Once a plan has been agreed upon, the primary investigator should ensure the following steps are taken:

- a. Initiate a Chronological Summary. This is a detailed accounting of all investigative steps taken and evidence obtained from the time Area became aware of the misconduct until the investigation was completed. A comprehensive chronological summary will document case progress and can prove invaluable for other investigators who may be assigned to the investigation.

(1) Entries made on the chronological summary should be concise but understandable to personnel who will review the investigation. Chronological summary entries are to be written in the third person and shall, at a minimum, include the following:

(a) The date, source, and circumstances under which the area became aware of the alleged misconduct, and a brief description of said misconduct.

(b) The date notification was made to the appropriate Division Chief, initiating the internal investigation. This "Division Aware Date" will initiate the one (1) year timeframe pursuant to Government Code (GC) Section 3304.

(c) The date and assignment of the primary, and if necessary, secondary investigator.

(d) The date and approximate time investigative steps were taken, and evidence obtained.

(e) Contacts and attempted contacts with witnesses or other parties, whether successful or not, either in person, telephonically, or via e-mail.

1 The first time a departmental employee is named in the investigation, identify the employee by rank, classification, or title, first and last name, ID number, and assigned command. Subsequent name references may be made by rank/classification or title and last name of the employee (unless a first initial is needed for those with the same last name).

2 For individuals who are not departmental employees, the first reference to the individual will be with their title and full name. Subsequent references will be with their title and last name only.

(f) Interviews and Interrogations shall be documented in the chronological summary. The chronological summary entry shall identify each person present, provide a description of the location of the interview/interrogation, state whether the interview/interrogation was transcribed or summarized, identify the corresponding exhibit number, and specify where the digital copy of the interview/interrogation was stored as evidence.

(g) A brief description of all exhibits (i.e., transcriptions, memoranda, arrest reports, and copies of policies and procedures) which were collected, the relevance, and the location retained as evidence will be documented. All exhibits in the investigation shall be accounted for in the chronological summary.

(h) If the administrative investigation is tolled for any one of the enumerated exceptions identified in GC Section 3304(d), the circumstances justifying the tolling shall be documented in the

chronological summary. However, 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 expeditiously. When sufficient evidence exists to prove by a preponderance the misconduct occurred, the investigation should be completed and submitted for review. Approval from the Office of the Commissioner shall be sought prior to tolling an administrative investigation. Refer to Chapter 4, Pre-Investigative Considerations, of this manual for additional information on tolling.

1 If the administrative investigation is tolled due to a criminal investigation by an allied agency, the Department, or while being reviewed by the District Attorney's (DA) Office for possible prosecution, the date the criminal investigation was initiated, the agency investigating, and the criminal charges being investigated are required in the chronological summary.

(i) Once the prosecution phase is over (either through notification from the DA or the case is adjudicated) an additional chronological entry shall be made. The entry would include the date the criminal case was declined or adjudicated.

(j) Any lengthy investigation delays which would include investigator absences, unavailability of a key witness, etc. shall be entered into the chronological summary.

(k) The date of case management meetings used to discuss the status of the investigation with the investigator's chain of command should be included as a chronological entry.

(2) Sample chronological summary language is located on the OIA intranet reference page and in Annex B of this chapter.

b. Conduct Public Safety Officers Procedural Bill of Rights Act Policy Review. To ensure an investigation is conducted in accordance with policy and law, investigators should review the Public Safety Officers Procedural Bill of Rights (POBR) Act, GC Section 19572, the OIA intranet website, and the contents of this manual prior to beginning an investigation. If questions cannot be resolved at the command level, the appropriate Division or OIA personnel are available for guidance.

c. Outside Resources. The Area commander should determine the need for assistance, which may include resources from specialized units, such as OIA, Office of Equal Employment Opportunity (OEEO), Worker's Compensation Fraud Investigations Unit, Computer Crimes Investigation Unit (CCIU), Office of Legal

Affairs (OLA), or the Division cadre, if available. Requests for outside resources shall be approved through the Area commander's chain of command.

d. Miscellaneous Investigations. An internal investigation shall be converted to a miscellaneous investigation under the following circumstances:

(1) If, during an administrative investigation, it is discovered the actions of the employee do not merit adverse action or rejection during probation, or, if the employee separates from the Department prior to being served with a Notice, the internal investigation shall be converted to a miscellaneous investigation.

(2) However, an employee's separation from the Department prior to the completion of the internal investigation shall not impact the thoroughness of the investigation, other than the possible absence of an administrative interrogation of the involved employee. A finding for each allegation is still required to be determined if the case involves a uniformed employee and an allegation of serious misconduct.

4. INVESTIGATIVE PLAN.

a. Overview. A clear understanding of the investigative parameters will provide a framework that will ensure all investigative aspects are identified and addressed. An investigative plan will improve efficiency and facilitate proper management of the investigation.

b. Formulation of an Investigative Plan. After the initial meeting between the Area commander and the assigned investigator(s), an investigative plan should be formulated. At the discretion of the commander, the investigator(s) should use the CHP 7F and Investigative Plan Guideline. Items to consider when planning an investigation should include:

(1) Allegations/Scope.

(a) Whether the alleged misconduct is administrative, an alleged violation of departmental policy, criminal and an alleged violation of law, or both administrative and criminal.

(b) The source of the allegation(s), which would include who reported the misconduct, how it was reported, and the reliability of the source.

(c) In concurrence with the commander, the investigator must determine and list identifiable allegations with their corresponding violations of policy or law.

1 Identification and review of relevant statutes, policies, regulations, and directives will help determine needed investigative steps. These statutes, policies, regulations, and directives will ultimately be included in the investigative file.

(d) A brief synopsis of the incident(s), misconduct, or substandard performance should be identified and documented.

(2) Background.

(a) Documentation of the employee's prior progressive discipline.

(b) List any mitigating factors, or extenuating circumstances discovered, which may provide additional clarity for the reason of the alleged misconduct.

(3) Resources. Consideration of additional resources is dependent on the size and scope of the investigation, the allegations being investigated, and if specialized evidence collection or analysis (i.e., digital evidence, crime scene processing) is needed.

(a) Investigators are strongly encouraged to seek the assistance of the OIA's advisory program. The OIA advisors are available to answer questions regarding any part of the investigative process, including policy, administrative interrogation, documentation, etc.

(b) In the event additional, specialized, or mentor investigator(s) are needed, commander approval shall be obtained with concurrence of the chain of command. New investigators should be paired with a mentor investigator.

(4) Evidence. Identification of potential, relevant evidence needed or already obtained that will support or refute the allegation(s).

(5) Interviews/Interrogations.

(a) Establish a list of potential employees or witnesses to be interviewed.

(b) Establish a list of potential employees to be interrogated.

(c) Check the shift hours, days off, and vacation of involved employees and investigators.

(d) Sequence interviews/interrogations from the least involved person to the most involved in order to obtain comprehensive information for the

investigation before the interview/interrogation of the involved employee. The investigator should schedule adequate time to review all evidence, including testimonial evidence, prior to interviewing/interrogating the involved employee.

(6) Administrative Matters.

(a) Establish a list of all potential notifications that may be necessary.

(b) Prepare a list of milestones for the investigation in order to ensure it is completed in a timely manner.

(c) Identify the expected completion date for better planning and prioritization of the investigation.

NOTE: Upon service of the Notice of Adverse Action, or other closing documentation, the case management forms, including the CHP 7F, are no longer needed and shall be destroyed by the investigating command.

5. SCENE EXAMINATION.

a. Introduction. If applicable, the investigator should visit the scene of the incident at the same or approximate time of day of the occurrence. Visiting the scene enables an investigator to recognize key points and inconsistencies during interviews that otherwise might go unnoticed. It also provides an opportunity to canvas the area for identifying credible witnesses.

b. Considerations for Viewing the Scene.

(1) Observe the topographical layout, paying special attention to the vantage point of the involved employees and/or witnesses.

(2) If known, pinpoint specific locations of witnesses, victims, and/or employees.

(3) Determine lighting, weather, noise levels, traffic patterns, and the general description of the area (i.e., residential, business, industrial, or open).

(4) Take digital images, video footage, and/or prepare a diagram if it appears beneficial.

(5) Gather any physical evidence that may be present.

(6) Consider a reenactment of the alleged act to gain additional insight.

6. FACTS AND EVIDENCE COLLECTION.

a. Introduction. The investigator is responsible for reviewing all available documents, records, and other information material to the investigation. This includes any information that may reasonably lead to the discovery or development of material evidence. This also includes mitigating and aggravating evidence and evidence from other available investigations.

b. Evidence. Evidence, defined as any testimony, document (digital or otherwise), or physical evidence which tends to prove or disprove an alleged fact, shall be evaluated, collected, preserved, and entered into evidence in accordance with Highway Patrol Manual (HPM) 70.1, Evidence Manual. Items retained in the command's evidence storage facility shall be noted as an exhibit in the investigative file, along with a copy of the CHP 36, Evidence/Property Receipt/Report. The date evidence is collected, and a brief description of the evidence, shall be recorded in the Chronological Summary.

c. Exhibits. Relevant information gathered during the investigation shall be included in the investigative file as an exhibit. Exhibits include, but are not limited to, audio and video recordings, digital images, documents such as transcriptions, memoranda, copies of criminal reports (refer to paragraph 6.p. of this chapter), copies of policies and procedures, etc. Exhibits shall be physically numbered or tabbed. Tabbed exhibits shall be arranged in the order the investigator specified in the "List of Exhibits." Exhibits do not need to be presented in numerical sequence in the Chronological Summary.

(1) A CHP 268, Risk Management Potential Civil Litigation Report, shall not be included in the investigative file or as an exhibit, due to attorney-client privilege.

d. Employee History. Review the employee's personnel file for evidence of prior corrective actions. Additionally, items which are positive and may be mitigating in nature should be reviewed and may be included in the investigative file. This review will also assist with the preparation of the CHP 7B, Employee Profile, form when documenting the investigation. The date the investigator conducts an employee history review shall be recorded in the Chronological Summary. Items to be reviewed shall include:

(1) Prior Adverse Actions. All prior adverse actions which resulted in an employee receiving a salary reduction, suspension, involuntary transfer, or demotion. If the adverse action was served within the past five (5) years, only the Notice of Adverse Action shall be included in the investigative file as an exhibit.

(a) All prior adverse actions which resulted in a formal written reprimand. If the formal written reprimand was served within the past three (3) years,

only the formal written reprimand memorandum shall be included in the investigative file as an exhibit.

(b) All prior adverse actions that were converted to a miscellaneous investigation, which resulted in corrective documentation. If the corrective documentation was served within the past three (3) years, only the corrective documentation memorandum shall be included in the investigative file as an exhibit.

1 A summary of the adverse action will be noted on the CHP 7B.

(2) Prior Civilians' Complaints. All prior civilians' complaints which resulted in an adverse action (see paragraph 6.d.(1) above).

(a) All prior civilians' complaints which resulted in corrective documentation within the past three (3) years. Only the corrective documentation, i.e., Memorandum of Counselling; Censurable CHP 2, Incident Report; or Memorandum of Direction, shall be included in the investigative file as an exhibit.

1 A summary of the civilian complaint will be noted on the CHP 7B.

NOTE: The five or three-year timeframe is determined from the date the employee was served the corrective documentation or Notice of Adverse Action.

(3) Performance Appraisals. Only include the last three (3) years of an employee's annual evaluations.

(4) Training Records. Review and include any training an employee received relative to the alleged misconduct being investigated.

e. Civilians' Response Questionnaire. In cases where there is a large pool of potentially unidentified witnesses, the Civilians' Response Questionnaire (CRQ) should be utilized and sent to potentially affected individuals the involved employee contacted. Apart from the three exceptions enumerated in GC Section 19635, investigators should limit recipients of the CRQ to those civilians or witnesses contacted less than three years prior. If the CRQ is utilized, the list of recipients and all responses, including negative responses, shall be included in the investigative file. A sample CRQ and cover letter is located on the OIA intranet reference page and in Annex C of this chapter.

(1) A chronological summary entry shall be made for the use of the CRQ.

- f. Digital Images. Digital images, which include both still images and video, shall be copied onto a digital storage device and booked into evidence in accordance with policy contained in HPM 70.1 and General Orders (GO) 110.8, Processing and Storage of Digital Media. A copy of the digital images shall be an exhibit in the investigative file. The digital images can either be on a digital storage device (compact disc, thumb drive, etc.) or may be printed copies.
- g. Lineups. If a lineup is deemed necessary for the administrative investigation, refer to policy contained in GO 100.102, Lineup Procedures. Contact OIA for further guidance regarding lineup documentation in the investigative file.
- h. CHP Network and Telecommunications Access. Requests for copies of an employee's departmental E-mail, California Law Enforcement Telecommunications System (CLETS) access journal report, Mobile Digital Computer, state-owned cell phone records, or Internet usage should be made through appropriate channels to the Information Management Division. Refer to HPM 40.4, Information and Security Administration Manual, for use, misuse, and retention guidelines.
- i. Electronic Devices and Data. An investigator should be aware that any action taken with an electronic device/data might affect the integrity of the evidence contained within. Due to the volatility of digital evidence, only trained personnel should be utilized to retrieve such evidence. Through appropriate channels, contact CCIU or OIA for any questions.
- j. Alcohol and Drug Test Samples. In cases where alcohol or drug use is suspected, refer to HPM 9.2, Substance Testing Manual, and the appropriate collective bargaining agreement for collection and preservation requirements.
- k. Mobile Video/Audio Recording Systems. Mobile Video/Audio Recording Systems (MVARs) shall be reviewed by supervisors and managers when conducting an internal investigation involving allegations of employee misconduct, which may have been captured and recorded. Supervisors and managers reviewing MVARs video should remain focused on the incident in question and review only those recordings relevant to the matter under investigation. As covered in GO 100.61, Use of Mobile Video/Audio Recording Systems, in the course of an authorized MVARs video review, there is a possibility of discovering policy and/or criminal violations. It is the intent of the Department to address these violations appropriately and nothing in this policy prohibits addressing policy violations within the scope of review. If unrelated improper conduct is discovered during the review of MVARs video, the following shall apply:

- (1) Misconduct not rising to the level of adverse action should be referred to the Area commander in order to take appropriate training or disciplinary

measures. Upon Area commander approval, a manager or supervisor should discuss the incident with the employee (i.e., informal counseling).

(2) If the employee has engaged in previously discussed similar misconduct, and the misconduct does not warrant adverse action, with concurrence of the Area commander, a manager or supervisor should take one of the following actions:

(a) Discuss the incident with the employee (formal counseling) and document accordingly (CHP 100, Officer's Evaluation/Activity Summary; CHP 100PSD, Monthly Job Performance Summary; or Memorandum of Counseling).

(b) Issue corrective documentation (i.e., MOD or CHP 2).

(3) Nothing in this section prohibits an Area commander from requesting Division initiate an adverse action for those instances where the behavior or action becomes habitual after being addressed informally.

l. Body Worn Camera Recordings. Review of Body Worn Camera (BWC) video recordings by supervisors and managers mirrors MVARs policy as specified in paragraph 6.k. of this chapter. This includes a BWC issued by the Department or an employee's personally owned BWC that contains work product.

NOTE: For policy related to the viewing of MVARs video or BWC video by an employee who is the subject of an interview or interrogation, refer to Chapter 6, Interview and Interrogation, of this manual.

m. Medical Records. If the release of medical records should become necessary during the course of the investigation, consult with OLA. Only pertinent portions of any medical record should be included as an investigative exhibit. The investigation must comply with the requirements of the California Confidentiality of Medical Records Act.

NOTE: A medical release is not necessary for medical records contained within the employee's personnel file or as a part of a work-related injury/illness.

n. Financial Records. In accordance with GC Section 3308, employees shall not be required or requested for purposes of job assignment or other personnel action (e.g., adverse action) to disclose any item of personal property, income, assets, source of income, debts, or personal or domestic expenditures (including those of any member of an employee's family or household). In some instances, certain records may be necessary to complete an investigation. If a request is made for such records, contact OIA and/or OLA for guidance.

(1) The privilege does not apply to information obtained or required under state law or proper legal procedure.

(2) If the information tends to indicate a conflict of interest with respect to the performance of the employee's official duties, it does not fall under the privilege.

(3) If the information is necessary for the employing agency to ascertain the desirability of assigning the public safety officer to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

o. Law Enforcement Databases. When an administrative investigation requires the use of CLETS, or any other criminal database, such inquiries may be made with concurrence of the Area commander as part of the investigative plan.

p. Criminal Reports.

(1) Uniformed Employees. For uniformed employees, a copy of a criminal investigation report, including an arrest report, may be requested and used in the administrative investigation prior to adjudication.

(2) Non-Uniformed Employees. For non-uniformed employees, a copy of a criminal investigation report, including an arrest report, shall NOT be requested, or included in the administrative investigation unless the criminal investigation has been adjudicated and resulted in a conviction (Labor Code Section 432.7). This would include any record regarding a referral to, and participation in, any pretrial or post-trial diversion program.

q. Equal Employment Opportunity Investigations. Due to confidentiality and liability issues, prior to including any materials from an equal employment opportunity investigation, OEEEO, OIA, and OLA shall be consulted. Materials may include memoranda, transcripts, audio recordings, and/or CHP 612 series forms.

r. Private Records or Documents. It may be necessary to obtain documents from sources outside of the Department (i.e., private businesses, other public entities, etc.). For examples of private records and documents which may be useful, refer to HPM 70.1, Chapter 2, Introduction to Evidence. When attempting to obtain these documents, consider the following methods:

(1) Contact the custodian of records to attempt to obtain voluntary surrender of the document(s).

(2) When circumstances permit, seek cooperation from the involved employee to obtain a release for the desired document(s) from the custodian of records.

(3) After other efforts have been exhausted, an administrative subpoena may be sought to compel production of the desired documents. An administrative subpoena will require approval from the Office of the Commissioner. See Section 8 of this chapter for further information regarding administrative subpoenas.

s. Polygraph/Voice Stress Analysis. The Public Safety Officers Procedural Bill of Rights Act, specifically GC Section 3307, states no employee shall be compelled to submit to a polygraph/voice stress analysis against his or her will, and refusal to submit shall not be documented in the investigative report, nor can said refusal be brought forward at trial, or proceeding, judicial or administrative.

t. Policy, Legal Codes, and Collective Bargaining Agreements. In both criminal and administrative investigations, it is necessary, when substantiated, to define and include any applicable policies, laws, or directives violated. Accordingly, investigators shall review and obtain copies of those policies, laws, or written directives, including how they were communicated to the employee. Investigators should also contact the Office of Primary Interest to obtain and verify the version of policy in place at the time of the alleged misconduct. Collective bargaining agreements may also contain provisions which are pertinent to the investigation.

(1) If, during an administrative or criminal interrogation, specific policy, law, or written directives are altered (i.e., highlighted, marked, initialed, etc.), the investigator shall ensure a second unaltered copy is obtained, and both copies placed as exhibits in the investigative file.

u. Evidence Preservation. The collection, evaluation, and preservation of evidence in an administrative investigation shall be in accordance with HPM 70.1.

(1) Destroying or Concealing Documentary Evidence. Penal Code Section 135 prohibits any person, knowing that any book, paper, record, instrument in writing, digital image, video recording, or other matter or thing, is about to be produced in evidence upon any trial, inquiry, or investigation authorized by law, from willfully destroying or concealing the same with the intent to prevent it or its content from being produced.

(2) Altering, Tampering, or Destroying Evidence. Penal Code Section 135.5 prohibits any person from knowingly altering, tampering with, concealing, or destroying relevant evidence in any disciplinary proceeding against a public safety officer for the purpose of harming the public safety officer.

(3) Notice of Intent to Destroy Administrative Evidence. When the collected evidence will not be retained in its original condition through case adjudication, the employee's commander shall ensure that proper notice of pending repair/destruction is provided to the subject employee and the employee's

designated representative by issuing a Notice of Intent to Destroy Administrative Evidence memorandum. The notification memorandum shall be provided to the employee within a reasonable time prior to the destruction or repair to provide the employee (and/or employee's representative) an opportunity to examine the evidence for exculpatory value. A copy of the memorandum shall be included in the internal investigation file as an exhibit. If the employee and/or the representative conduct an examination of the evidence, this fact shall be noted in the investigative file. A sample Notice of Intent to Destroy Administrative Evidence is located on the OIA intranet reference page and in Annex D of this chapter.

v. Retention of Evidence. Evidence pertaining to an administrative investigation shall be retained in accordance with policy outlined in HPM 70.1, Chapter 9, Disposal of Evidence and Property.

w. Employee Transfers. Evidence shall remain in the command which originally completed the investigation, regardless of any subsequent transfers of the involved employee(s). Should another command require access to the evidence, the request shall be made through channels.

7. SEARCHES. All searches and seizures conducted by the Department must be completed within the law, comply with POBR, and/or related case law.

a. Locker and Storage Place Searches. Per GC Section 3309, an employee shall not have an assigned locker, or other place for storage, which are owned or leased by the Department and searched, unless the search is conducted under any one of the following conditions:

(1) In the involved employee's presence.

(2) With the involved employee's consent.

(3) After a valid search warrant has been obtained. If requesting a search warrant, the appropriate prosecuting authority should be consulted after notifying the appropriate Assistant Commissioner.

(4) When the involved employee has been notified that a search will be conducted. The employee should be provided a reasonable opportunity to respond to the Department's search location and observe the search.

b. Office Desk and File Cabinet Searches. An employee's desk can normally be entered by a supervisor when looking for work product. However, when the command has allowed a reasonable expectation of privacy, such as issuance of a

key to the desk, the provisions of GC Section 3309 apply. Any questions related to searches may be referred to OIA.

c. Personal Property. Absent exigent circumstances, personal containers may not be searched without a warrant or employee consent. Legal authority shall determine when a search of personal property, such as briefcases, purses, etc., located in a locker or desk, where the employee has a reasonable expectation of privacy for that particular container, and/or the investigation does not involve work-related misconduct can be conducted.

d. Cellular Telephones and Personal Electronic Devices. For questions regarding the search of cellular telephones, or personal electronics devices, contact OIA.

8. ADMINISTRATIVE SUBPOENAS. An administrative subpoena is a legal document utilized by state departments to compel the production of papers, books, accounts, documents, any writing as defined by Evidence Code Section 250, tangible things, and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state. They are most commonly used for the production of telephone and Internet records. Commanders who are contemplating the use of an administrative subpoena shall contact OIA through channels for direction. Once an administrative subpoena is determined to be appropriate, OIA shall coordinate with the Office of the Commissioner for approval. It is highly recommended all other legal avenues to obtain the production of evidence be exhausted prior to requesting the use of an administrative subpoena.

ANNEX A

CHP 7F, INVESTIGATIVE PLAN, AND INVESTIGATIVE PLAN GUIDELINE (continued)

INVESTIGATIVE PLAN GUIDELINE

1. ALLEGATIONS/SCOPE
 - a. Type of Investigation. Administrative, criminal, or both administrative and criminal.
 - b. Source of Allegations. Provide a brief description of how the Department/Area became aware of the alleged allegations. Sources may include an allied agency, civilian complaint, anonymous complaint, supervisor, or the employee in question.
 - c. Division Aware Date. Enter the date the commander made notification to their Division Chief of the alleged employee misconduct, which initiated the internal investigation. The "Division Aware Date" will initiate the one (1) year timeframe pursuant to Government Code Section 3304.
 - d. Due to Division. Enter the proposed date the completed investigation will be sent to Division for review and approval.
 - e. Due to OIA. Enter the proposed date the completed and Division approved investigation will be sent to OIA. Although the goal for Areas and Divisions is to forward the investigation to OIA with 60 days, the desire for timeliness should not outweigh the necessity of a thorough and unbiased investigation.
2. VIOLATIONS OF LAW/POLICY/SOP.
 - a. Alleged Misconduct. A brief description of the employee's alleged misconduct. Examples might include:
 - (1) Misuse of State Time.
 - (2) Preventable Patrol Vehicle Crash.
 - (3) Off-Duty DUI.
 - (4) Fail to Arrest DUI Suspect.
 - b. Law/Policy/SOP to be Reviewed. Related to the alleged misconduct noted, the corresponding law, policy, or the Area's Standard Operating Procedures (SOP) would be identified. From the examples of alleged misconduct above:
 - (1) HPM 40.71, *CHP 415 User's Manual*, Chapter 3, *Line Entries on Right Side of CHP 415*, and Management Memorandum (MM) 22-019.
 - (2) HPM 70.6, *Officer Safety Manual*, Chapter 5, *Pursuit Policy and Emergency Vehicle Operations*, and Vehicle Code violated for the primary collision factor (i.e., 22350 VC).

ANNEX A

CHP 7F, INVESTIGATIVE PLAN, AND INVESTIGATIVE PLAN GUIDELINE (continued)

(3) HPM 10.3, *Personnel Transaction Manual*, Chapter 14, *Inconsistent and Incompatible Activities*, and 23152a/b VC.

(4) HPM 70.4, *Driving Under the Influence Manual*, Chapter 4, *Driving Under the Influence Policy and Procedures*.

c. Brief Synopsis of Incident(s), Misconduct, or Substandard Performance.

Provide a brief summary of the incident that brought about the necessity for the administrative or criminal investigation.

4. BACKGROUND/EMPLOYEE HISTORY (PROGRESSIVE DISCIPLINE). Include prior five (5) years for adverse actions, and prior three (3) years for correctable documentation (i.e., MOD, MOC, and censurable CHP 2).

a. Type of Discipline. Drop -down list of various types of discipline, including Adverse Action, MOD, MOC, etc.

b. Penalty Type. The corresponding penalty for the type of discipline selected.

c. Date. Enter the date the employee was served with the suspension, MOD, or other corrective documentation.

d. Type of Misconduct. A brief description of the misconduct, which resulted in the discipline and associated penalty.

e. Mitigating Factors. Note any circumstances such as health concerns, family issues, or emotional problems that will not excuse the misconduct currently being investigated but might provide an explanation.

5. RESOURCES.

a. OIA Analyst and Investigator. Each administrative investigation is assigned a sergeant from OIA's Analysis Unit and a sergeant from the Investigation Unit to act as an advisor or answer questions if requested by the investigator(s).

b. Phone Number. Direct phone numbers for the OIA advisors.

c. Mentor Investigator. For complex investigations, Division or Area may assign a mentor that has completed a similar investigation.

d. OPI or Specialists. If expert opinion is sought or requested (Academy AOST Instructors, CCIU, MAIT associates, etc.), the name of the specialist or OPI can be listed.

e. Location/Time/Schedule Changes. If meetings are scheduled with the OPI or specialist, those meetings can be logged and tracked.

ANNEX A

CHP 7F, INVESTIGATIVE PLAN, AND INVESTIGATIVE PLAN GUIDELINE (continued)

6. EVIDENCE. All evidence collected regarding the investigation (Documentary, Digital, and Physical) can be quickly listed and later referenced for the chronological log, investigative summary, or exhibit list.
7. INTERVIEWS/INTERROGATIONS. A list of potential employees or witnesses to be interviewed or interrogated. As the list is completed, the investigator will be able to better determine the sequence of interviews. The first interview being the person with least involvement, continuing from the periphery inward, conducting the subject interrogation last.
8. INVESTIGATORS NOTES. Self-explanatory.

ANNEX B

CHRONOLOGICAL SUMMARY LANGUAGE SAMPLE

CHRONOLOGICAL SUMMARY LANGUAGE

Chronological Summary Entry #1 – Area Aware of the Alleged Misconduct.

On June 26, 2022, the Pinehurst Police Department made notification via telephone to Pinehurst Area Captain L. Wilcox, ID 10845, that Officer Blake had been involved in a solo vehicle crash and was arrested for driving under the influence of alcohol.

On June 29, 2022, Pinehurst Communication Center (PCC) Public Safety Dispatch Supervisor (PSDS) II Linda Carter, ID A54321, evaluated the progress of PSD Lopez. The evaluation determined PSD Lopez did not meet performance expectations during her probationary period and would not be able to perform the duties required of a PSD. The evaluation was documented on a CHP 51, Memorandum, (**Exhibit 9**).

On September 7, 2022, at approximately 0900 hours, APA Feldman met with Staff Services Manager (SSM) I Josh Brolin, ID #A10023, and expressed his desire to return to his prior state service with the Department of Veteran Affairs.

On February 14, 2023, OPD Detective Hopkins made notification via telephone to Oceanside Area Captain Wilcox of the arrest of Officer Lime for violation of PC Section 273.5 (a) felony corporal injury to spouse, and subsequent issuance by the North County Superior Court of the EPO.

Chronological Summary Entry #2 – Division Notification of the Alleged Misconduct.

On June 26, 2022, Captain Wilcox made notification to Northern Division Chief S. Bonno, ID 10123, and an internal investigation was initiated.

On July 1, 2022, PCC Captain Larry Wilcox, ID 10845, made notification to Northern Division Chief S. Bonno, ID 10123. A decision was made to initiate a Rejection During Probation of PSD Lopez.

On September 7, 2022, SSM I Brolin made notification to PSD Chief Sonny Bonno, ID 10123, and APA Feldman's self-initiated RDP was approved to proceed.

On February 24, 2023, Captain Wilcox made notification to Border Chief S. Bonno and an internal investigation was initiated.

Chronological Summary Entry #3 – Assignment of Investigator(s).

On June 26, 2022, Captain Wilcox assigned Sergeant Thomas Cruz, ID 32852, as the primary investigator, and Sergeant Nicholas Nolte, ID 31511, as the secondary investigator.

ANNEX B

CHRONOLOGICAL SUMMARY LANGAUGE SAMPLE (*continued*)

Chronological Summary Entry – Investigative Steps and/or Obtained Evidence.

On June 14, 2022, at approximately 0830 hours, Sergeant Lane took 25 digital images of Patrol Vehicle #1265743 (**Exhibit 10**).

On June 2, 2022, Sergeant Naves, contacted Sergeant Dilbert Dove, ID 9457, assigned to the Computer Crimes Investigation Unit, and requested a copy of the data associated with the departmental email account for Officer Adams.

On June 8, 2022, Sergeant Dove delivered a thumb drive, labeled CCIU5954, with a copy of the unaltered data associated with the departmental email account for Officer Adams. Additionally, Sergeant Dove provided a data extraction report (**Exhibit 13**) and CHP 36, Property Receipt, for chain of custody purposes (**Exhibit 14**). A working copy of the contents of the thumb drive was used for further review and investigation. The original thumb drive, CCIU5954, was booked into OIA evidence by Sergeant Naves on this date (E20220056).

Chronological Summary Entry – Contacts and Attempted Contacts with Witnesses.

On December 5, 2022, at approximately 1650 hours, Sergeant Naves attempted to contact Ms. Smith via telephone without success. Sergeant Naves left a voice message, which included a call-back number, and requested Ms. Smith to contact him.

On July 1, 2022, Ms. Marla Maples was contacted via telephone and an interview scheduled for July 2, 2022.

Chronological Summary Entry – Interviews and Interrogations.

On May 27, 2018, Sergeant Naves and Public Safety Dispatch Supervisor (PSDS) Judy Barry, ID A54877, conducted an administrative interview with DDA Johnson at the Alameda County District Attorney's Office. The interview was audio recorded (**Exhibit 3**). Sergeant Naves provided audio from the interview to the Northern California Court Reporters (NCCR) Service for transcription.

On December 17, 2022, at approximately 1410 hours, Sergeants Naves and Lane conducted an administrative interrogation of Officer Adams. The interrogation was conducted in a secure room at the Rocky Ridge Police Department. Officer Adams was represented by Officer Ernest Blake, ID 24766, of the CAHP. The administrative interrogation was audio recorded (**Exhibit 15**). Sergeant Naves provided audio from Officer Adams' administrative interrogation to NCCR for transcription.

June 10, 2018, Sergeant Naves received an email from NCCR containing the transcript for the administrative interview of DDA Johnson. Sergeant Naves reviewed and verified the transcript (**Exhibit 16**).

ANNEX B

CHRONOLOGICAL SUMMARY LANGAUGE SAMPLE (*continued*)

Chronological Summary Entry – Description of Exhibits.

On June 12, 2022, Officer Adams was issued a Notice of Administrative Interrogation by Lieutenant Steve Ridge, ID 34567, of the Rocky Ridge Area, to be held on June 16, 2022, at 0800 hours, at the Rocky Ridge Department of Public Works located at 4114 Salt Place, 1st Floor, Rocky Ridge, California (**Exhibit 15**).

On July 25, 2022, Sergeant Naves retrieved Officer Adams' personnel file and reviewed the CHP 118, Performance Appraisal – Officer, for years 2019 through 2021 (**Exhibit #8**).

On July 25, 2022, Sergeant Naves identified and made copies of the following relevant policies (**Exhibits 7, 8, 9, 10, and 11 respectively**):

- General Orders (GO) 0.1, Departmental Mission Statement and Organizational Values.
- GO 0.8, Professional Values.
- Highway Patrol Manual (HPM) 70.6, Use of Force Manual, Chapter 1, Use of Force.
- HPM 100.69, General Law Enforcement Policy Manual, Chapter 1, Arrest Policies.
- HPM 10.3, Personnel Transactions Manual, Chapter 14, Inconsistent and Incompatible Activities.

Chronological Summary Entry – Start of Tolling.

On May 15, 2022, the Rocky Ridge Sheriff's Department initiated a criminal investigation of Officer Adams into allegations of spousal battery, a violation of Penal Code (PC) Section 243(e)(1). As identified in Government Code (GC) Section 3304 (d)(2)(A), this alleged act of misconduct is the subject of a criminal investigation, and this administrative investigation is statutorily tolled beginning May 15, 2022.

On July 6, 2022, the Alameda County District Attorney's Office filed charges in the criminal case against Officer Adams. Those charges included grand theft, a violation of PC Section 487a. As identified in GC Section 3304 (d)(2)(A), this alleged act of misconduct is the subject of a criminal prosecution, and this administrative investigation is statutorily tolled beginning July 6, 2022.

Chronological Summary Entry – End of Tolling.

On October 3, 2022, the Alameda County District Attorney's Office provided written notice to the Rocky Ridge Area the criminal case against Officer Adams had been dismissed, citing a lack of evidence and furtherance of justice. As such, the administrative investigation is no longer tolled as of October 3, 2022.

ANNEX B

CHRONOLOGICAL SUMMARY LANGAUGE SAMPLE (*continued*)

Chronological Summary Entry – Booking of Digital Evidence.

(Audio/Video Recordings):

On September 5, 2022, all audio recordings from interviews and interrogations conducted as part of this investigation were transferred to a digital storage device (i.e., compact disc, thumb drive, hard drive). The digital storage device was booked into evidence at the Rocky Ridge Area Office (E20220123).

(Digital storage device containing documents/files):

On September 6, 2022, Sergeant Naves booked the following items into evidence at the Rocky Ridge Area Office (E20220013).

One digital storage device containing the following:

Original transcription of the interview of:

Mr. Eric Johnson, interviewed on June 16, 2022.

Mrs. Pamela Harrison, interviewed on June 20, 2022.

Original transcription of the administrative interrogation of:

Officer Ben Rothchild, ID 43321, interrogated on July 17, 2022.

ANNEX C

CIVILIANS' RESPONSE LETTER AND QUESTIONNAIRE

State of California—Transportation Agency

GAVIN NEWSOM, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

1234 Auburn Valley Road
New Castle, CA 94298
(916) 555-6789
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



August 10, 2022

File No.: 031.12345.13456.

Mr. John Smith
1234 Right Way
Sacramento, CA 95822

Dear Mr. Smith:

In an effort to maintain the highest standards of public service, the California Highway Patrol is conducting a survey of civilians contacted by our officers. Your answers and comments will have no bearing on any legal proceeding, if any, which may have resulted from your encounter.

Our records indicate you were contacted by an officer of this Department on August 1, 2022. Your assistance in offering responses to the following questions, and any comments you may wish to add, is greatly appreciated. For your convenience, a self-addressed stamped envelope is provided for return of the enclosed survey form.

Thank you in advance for assisting us with evaluating the professionalism of our personnel, and their commitment to our organizational values of respect for others, fairness, ethical practices, and equitable treatment for all. Please respond by September 10, 2022. If you have any questions or would like to discuss your impressions of our officer(s) in person, you may contact Sergeant Robert Pressley of the Red Rock Area at (916) 555-6789.

Sincerely,

R. J. FIELDS, Captain
Commander
Red Rock Area

Enclosure

Safety, Service, and Security



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ANNEX C

CIVILIANS' RESPONSE LETTER AND QUESTIONNAIRE (*continued*)

CALIFORNIA HIGHWAY PATROL

CIVILIAN RESPONSE QUESTIONNAIRE

The following questions were designed to ascertain your impressions regarding a particular contact with a member of this Department. If you would like to offer a response to a different contact, or with a different member of this Department, please feel free to copy the questionnaire for this purpose. For responses on more than one contact please include as much information as possible, such as the officer's name, date and time, and the location where the encounter occurred.

1. Was the officer courteous and professional? _____

2. Did the officer explain the violation, or the reason for contacting you? _____

3. Was the officer prompt and efficient during the encounter? _____

4. After obtaining your identification, did the officer advise that you would be receiving a citation, or did the officer engage in conversation? _____

5. How long would you estimate your encounter with the officer lasted? _____

6. Did the officer provide any assistance you needed or requested? _____

7. Do you feel you were treated fairly and with respect? _____

8. What impression of the California Highway Patrol did the encounter leave you with? _____

ANNEX D

NOTICE OF INTENT TO DESTROY ADMINISTRATIVE EVIDENCE

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 INTENT TO DESTROY ADMINISTRATIVE EVIDENCE

You are hereby notified of the pending [repair/destruction] of administrative evidence associated with an internal investigation involving you. The administrative evidence scheduled for [repair/destruction] is:

1. [Area] Lidar #8 Serial Number [#####]

You are requested to respond to this notification within [##] business days in writing to express your desire to examine the above listed evidence for exculpatory value. A non-response will waive your right to such an examination. In the event you wish to exercise your rights to examine the item in question, a time will be arranged for you to do so. This examination will be conducted under the supervision of Sergeant [Name, ID #####] of the [Area]. You will have the right to have the representative of your choice present for the examination of the item in question as long as your chosen representative is not a subject of or witness to this investigation and is not in your immediate chain of command.

Once the [repair/destruction] of the damaged item has been completed, any invoices, receipts, or other documentation relative to the cost associated with the [repair/destruction] of the item will be included as an exhibit in this investigation.

Safety, Service, and Security



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

ANNEX D

NOTICE OF INTENT TO DESTROY ADMINISTRATIVE EVIDENCE (*continued*)

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

Any questions regarding this matter may be directed to your supervisor or manager.

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

cc: [*Employee's Representative*]

I hereby acknowledge receipt of this memorandum.

Employee's Signature

ID

Date

Service information:

Supervisor's Signature

ID

Time