

CHAPTER 6
INTERVIEW AND INTERROGATION
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CHAPTER 6

INTERVIEW AND INTERROGATION

1. INTRODUCTION. Testimonial evidence is often the most available information in an administrative investigation. Such evidence can be gathered from interviews and criminal and/or administrative interrogations. Interviews are consensual statements in which witnesses, or other involved individuals, provide information pertinent to the investigation. Criminal interrogations also involve statements; however, they involve individuals who are suspected of criminal misconduct and all legal protections (such as Miranda) apply. Administrative interrogations involve compelled statements. Since the employee is ordered to answer questions, statements obtained during administrative interrogations shall not be used to support a criminal investigation.

2. CONFIDENTIALITY.

a. Importance. Investigators and their managers have a legal and ethical obligation to maintain the confidentiality of an internal investigation. This confidentiality specifically includes interviews and/or interrogations conducted by the investigator(s). Such confidentiality is crucial to ensure investigations are not compromised.

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

(1) Ensure all discussions regarding the investigation, interviews, and interrogations are conducted in a private setting away from other personnel. The use of off-site facilities should be considered for this purpose.

(2) Only disclose to witnesses the amount of information necessary to elicit facts which are pertinent to the investigation.

(3) Advise all persons interviewed or interrogated the information discussed is of a confidential matter. At the conclusion of each interview or interrogation, departmental employees shall be directed not to discuss the investigation with any member of the Department, other than their chosen representative and/or supervisors and managers within their chain of command. Further, to ensure the integrity of the investigation, investigators should not have any communication regarding the investigation with any of the involved parties or witnesses outside of the interview or interrogation process. Non-departmental interviewees shall be requested to not discuss the interview with others.

c. Requests for Confidentiality. During the course of the investigation, an investigator may receive a request from a witness to remain confidential. Due to the accused departmental employee's right to review the allegation(s), as well as the right to prepare a potential defense, requests for witness confidentiality cannot be honored.

d. Multiple Employee Investigations. Investigations involving multiple employees, often stemming from a singular incident, can present confidentiality concerns. An employee is only entitled to information within an investigation concerning their own misconduct. Since employees are entitled to transcripts and/or recordings of an entire interview or interrogation, problems can arise when multiple employees' actions are discussed. Therefore, when an employee, during an administrative interrogation, is compelled to answer questions concerning their own alleged misconduct and compelled to answer questions of another employee's misconduct, compartmentalization of the interrogation should be utilized. The Internal Affairs Section (IAS) can assist investigators with the formation of compartmentalized interrogation questions.

(1) Compartmentalization is the strategic questioning of an employee to allow for the digital recording to be stopped and restarted when questions transition from one employee's misconduct to questions concerning another employee's potential misconduct. Compartmentalization will avoid the necessity for multiple interrogations of a single employee.

3. DIGITAL RECORDINGS.

a. Interviewed Departmental Employees. An interview of a departmental employee for an administrative investigation shall be digitally recorded. Approval from the employee to record the interview is not required, but the recording shall not be obtained surreptitiously unless part of a criminal investigation in accordance with Penal Code Section 630, et seq. and *Rattray v. City of National City (51 F.3d 793, 9th Cir. 1994)*. In the event of a recorder malfunction, the investigator shall do one of the following:

(1) The investigator shall complete a memorandum of the interview summarizing the employee's statement (refer to Section 4, Summaries, of this chapter). Once the summary has been completed, the interviewed employee shall be provided the opportunity to review the summary to ensure the summary is an accurate representation of their statement. The interviewed employee should sign and date the memorandum confirming the summary's accuracy.

(2) If a memorandum cannot be completed, the investigator shall re-interview the departmental employee to obtain a recorded statement.

b. Interviewed Non-Departmental Witnesses. A statement obtained from a non-departmental witnesses should be digitally recorded unless the witness objects to the recording. If an objection is made, the investigator shall complete a memorandum summarizing the witness's statement (refer to Section 4, Summaries, of this chapter). The interviewed witness shall be provided the opportunity to review and sign the summary to ensure the summary is an accurate representation of their statement.

(1) Both federal and state law allow law enforcement personnel to surreptitiously record contacts with members of the public. However, in the interest of witness cooperation, and with the understanding a witness may be requested to testify during the appeal process, the surreptitious recording of an interview for an administrative investigation is highly discouraged.

c. Preserving a Digitally Recorded Interview. All digital recordings shall be transferred to digital media and a copy of the digital media shall be included with each copy of the investigative file as an exhibit. Digital media containing all interviews and/or interrogations shall also be booked into evidence in accordance with Highway Patrol Manual (HPM) 70.1, Evidence Manual.

d. Video Recordings. Unless previously approved by the Office of the Commissioner, video recordings shall not be made of administrative interrogations.

4. SUMMARIES.

a. Requirements. Interviews shall be either summarized on a memorandum or transcribed unless the interview yields no testimonial evidence. Witness interviews that yield no testimonial evidence may be summarized in a chronological summary entry, without the need for a memorandum.

(1) If an interview is transcribed, it does not need to be summarized. Summarized interviews shall be a concise synopsis of the information provided during the interview and shall not contain the investigator's opinion.

(2) Investigator's notes shall not be preserved if the information is incorporated into a memorandum summarizing the interview. The investigator who conducted the interview shall be responsible for ensuring the accuracy of the summary.

b. Elements. A proper summary is essential to ensure a quality investigation since others will be relying upon its accuracy. In general, information in a summary should appear in the same order in which it was presented during the interview. Investigators should avoid the use of a 'question and answer' style

summary, which may be over lengthy. Investigators should adhere to the following for all summaries:

- (1) The summary must include all relevant information presented. Do not prepare redacted or edited versions of summaries for use in specific investigation files.
- (2) Include direct quotes when clarifying an important point or when establishing or refuting a key issue.
- (3) Document the summary in third person.
- (4) Identify who prepared the summary.

c. Summary Review. Once an interview summary is completed, the investigator shall request the interviewed subject review and sign the summary memorandum.

- (1) The summary memorandum shall contain a signature line for the interviewed subject and the investigator as follows:

"I have reviewed this statement and attest that it is an accurate summary of the statement I provided on [date]."

(Witness)

Date

"I have used all reasonable diligence in preparing this memorandum, and to the best of my knowledge the information contained herein is true and complete."

(Investigator)

Date

5. TRANSCRIPTIONS.

- a. Description. Transcriptions are verbatim written records of an interview or interrogation, completed by departmental personnel or through professional transcription services. Since there is no interpretation or filtering, which can occur in a summary, a transcription offers the best record of an interview or interrogation.
- b. Transcription Services. Commanders may contact their respective Division for transcription services requests for administrative investigations.
- c. Requirements. For cases likely to result in dismissal, departmental employee interrogations shall be transcribed. All other Interrogations of departmental

employees should be transcribed. Further, interviews of primary witnesses should be transcribed for potentially serious cases. In cases where the allegations are relatively minor in nature, a summary memorandum will suffice.

d. Documentation. The following details shall be included in transcripts that are completed by departmental personnel for the purpose of an internal investigation. Refer to Annex A for a sample transcription.

(1) Each line will be numbered.

(2) The name or initials of each individual will be identified prior to the comment or statement. If an individual's initials are utilized, the header of the first page will contain a list of names and their corresponding initials.

(3) The transcriber should remove superfluous information such as verbal pauses (e.g., um, huh, ah) and material that is unintelligible must be marked as such in the transcript. The first page of the transcription shall contain the following statement:

“The record reflects all relevant statements and conversations occurring during the course of the [insert interview or interrogation] but is not verbatim. For clarity, superfluous words, verbal pauses and/or inaudible tones have been eliminated.”

(4) The name of the person who was interrogated/interviewed will be included in the footer of each page.

(5) The name of the individual who prepared the transcription shall be identified on the transcription.

e. Verification. All transcripts shall be reviewed and verified by an investigator. The verifying investigator shall listen to the entire recording while simultaneously reviewing the transcript. When a discrepancy is noted, the investigator shall correct the error on the transcript.

(1) If there are egregious errors in the transcript completed by a transcription service, the transcript should be sent back to the contracted vendor for corrections and an entry noting such shall be made in the chronological summary.

(2) All transcripts are to include the following attestation to be signed by the investigator.

“I have used all reasonable diligence in reviewing this transcription, made corrections where necessary, and to the best of my knowledge the information contained herein is true and complete.”

[Verifying Investigator’s Printed Name]

Investigator Signature, ID #

Date

(2) Once verified, the transcript with attestation and transcriptionist certification will be an exhibit in the investigative file.

6. INTERVIEWS.

a. General. The interview is one of the most important tools an investigator has at their disposal. Pre-planning is essential for conducting a successful interview. All interviews, regardless of the exculpatory, incriminating, or benign nature of the information obtained, shall be included in the investigation. If a witness is unavailable (i.e., out of state; military deployment) or refuses subsequent contacts with the Department, the investigator shall reference this in the chronological summary.

b. List. The investigator should begin by creating a list of all persons who potentially need to be interviewed. This should be part of the investigative plan, and should include the following:

(1) Contact Information.

(2) Connection to the matter under investigation, including what information is potentially expected.

(3) Known relationships with the employee(s) under investigation as well as other key witnesses (potentially for investigation compromise).

(4) Expected absences, such as extended training or vacation. Some witnesses may be transient and only available for a short time.

c. Sequencing. In general, interviews should be conducted in an order that begins with the least involved, or periphery witnesses, and work toward those with the most direct knowledge of the matter under investigation. This will help ensure that the investigator has the maximum amount of information when preparing for and conducting interviews of key witnesses. In cases where extended absences are expected, it may be necessary to conduct some interviews earlier than desired, which will avoid lengthy delays. When a witness has a close personal or

professional relationship with the involved employee, it may be beneficial to schedule such interviews immediately before or after the involved employee is questioned. This will reduce the likelihood of compromising the investigation. When an investigation involves multiple employees, investigators should consider scheduling interviews consecutively to inhibit inappropriate communication between personnel.

d. Timeliness. Available witnesses should be interviewed as soon as practical after the investigation is initiated. This gives the investigator an opportunity to elicit information from witnesses before their statements become tainted, vague, or forgotten. Most importantly, it allows for the preservation of evidence before it is destroyed or lost. If it becomes difficult to locate and/or contact a witness, the investigation should proceed without extended delay.

e. In Person/Telephonic. Interviews are preferably performed in person, using secure locations. However, telephonic interviews can be a useful option for investigators when the interviewee is not readily available for an in-person interview or for periphery witnesses who are not expected to provide substantive information. Telephonic interviews can also be used when a witness refuses to be interviewed in person.

f. Employees. Members of the Department not accused of misconduct are obligated to fully cooperate with investigators and have an affirmative duty to answer questions during internal investigations. Departmental employees who are witnesses do not have a right to know the nature of the investigation. Investigators should use their discretion when revealing those parts of the investigation they believe the witness needs to know to answer questions.

(1) Representation. Supervisors and managers must remain cognizant of the employee's perception of the nature of the interview or meeting. While employees are not normally allowed representation during an investigative interview, a belief on the employee's part that adverse action is being considered, may be sufficient grounds to warrant granting representation rights. Employees expressing concern should be advised that they are not suspected of misconduct and, if such issues arise, the interview will be stopped. When an employee insists on having a representative present, the investigator should consult with a manager in their chain of command for guidance. In some instances, it may be necessary to conduct an administrative interrogation instead of an interview.

(2) Refusal. If an employee refuses to be interviewed, whether due to a perception of culpability or for any other reason, the investigator should consult with their chain of command for guidance before ordering the

employee to comply. In such instances, it may be necessary to conduct an administrative interrogation instead of an interview.

(3) Interviewee Misconduct. If, at any time during the interview, the investigator believes the employee is either admitting to actionable misconduct or is engaging in misconduct through failure to cooperate, the interview shall be immediately stopped to protect the employee's rights. An administrative interrogation may be required.

(4) Written Statements. To preclude any potential violation of the Public Safety Officers Procedural Bill of Rights (POBR) Act, directing an employee to prepare a memorandum (describing the employee's version of the matter in question) when an adverse action is warranted, is prohibited. However, subsequent to an interview, a request may be made to the employee to prepare a memorandum, after consulting or obtaining assistance from a representative, for the purpose of clarifying specific issues.

g. Preparation. Being thoroughly prepared for an interview will ensure the highest quality of information is obtained in the timeliest manner. The following steps should be accomplished when preparing for an interview:

(1) Become thoroughly familiar with the allegations prior to the interview. Review the investigative file and investigative plan.

(2) Create a list of questions that will adequately cover the interviewee's knowledge of the matter under investigation. With concurrence of the Division Commander, the IAS is available to assist with question development or review.

(3) Schedule the interview as soon as possible after contacting the interviewee. If the employee is unavailable, document attempts to contact in the chronological summary and continue with the investigation. Persistence when contacting witnesses will help answer future questions if a particular witness was not interviewed.

(4) Ensure the recording equipment is working properly and there is a sufficient amount of batteries available. Two (2) recording devices should be used, in case of mechanical failure.

h. Conducting. Objectivity of the investigator is key to conducting a successful interview. The Investigator shall not prejudge the circumstances, approaching the task with an open mind and a fair, unbiased attitude. The following guidelines have been established to assist the investigator:

- (1) Interviews can be accomplished by a single investigator or by an investigative team, limited to a maximum of two (2) investigators. The investigative team approach is the preferred method, as one investigator can act as the primary interviewer while the other can act as the secondary. The second investigator serves a critical role by ensuring the interview stays focused and all the relevant prearranged questions have been answered, while also observing the interviewee for valuable non-verbal cues.
- (2) Start the interview by providing an explanation for your presence.
- (3) Document the interviewed person's full name, residence and/or business address, and telephone numbers on the witness list, as applicable.
- (4) Record the interview as specified previously in this chapter.
- (5) Begin the recorded portion of the interview by stating the date, time, and specific location of the interview. All persons present shall verbally identify themselves by name, rank or title, and assignment (to enable subsequent voice identification of the persons present).
- (6) To set the interviewee more at ease, it is often valuable to begin with asking a few background questions. Examples of such questions include asking about current assignment, past assignments, tenure with the Department, etc.
- (7) Allow the person being interviewed to relate their version of the incident without interruption. In a typical interview, the investigator will do very little speaking. Listen carefully to the statement and refer to the list of questions to be sure all available information is obtained. Ask questions to clarify specific points.
- (8) Maintain self-control. Do not allow inflammatory comments to affect composure. Be respectful and courteous at all times during the interview.
- (9) Verify the location of each witness, what each witness observed, and determine if witnesses were in a position to observe the incident as they recall.
- (10) Ascertain any relationship between the witness and other involved parties, including departmental employees, which might bias the witness's statement.
- (11) Obtain physical descriptions of involved employees, when applicable.

(12) Direct questions to the specific allegations. Be certain to ask if the specific allegation(s) did, in fact, occur.

(13) Follow-up on any new allegations or other information revealed during the course of an interview.

(14) Inquire if the interviewee knows of any other witnesses or evidence. Obtain other witnesses' contact information.

(15) Do not routinely dismiss information that may appear to be irrelevant. It may later open other avenues that need to be investigated.

(16) If contradictory information is presented by the interviewee, tactfully clarify such discrepancies.

(17) If the interviewee is not a departmental employee, and it appears adverse action may be warranted against the subject investigated, ask if the interviewee will be available to testify at a State Personnel Board hearing and incorporate the response into the interview summary.

7. ADMINISTRATIVE INTERVIEWS BY ALLIED AGENCIES.

a. Employee Responsibility. The Department does not require employees to provide a statement as a witness in an allied agency's administrative investigation. However, a uniformed employee may be subject to other requirements by the Commission on Peace Officer Standards and Training (POST). POST has the authority to review internal investigations and/or take action on a peace officer's certification when there are allegations of serious misconduct by a peace officer. This would include failure to cooperate with an investigation into police misconduct as described in Penal Code Section 13510.8(b)(8).

b. Commander Responsibility. If an allied agency requests to conduct an administrative interview with an on-duty employee, the availability of that employee shall be at the commander's discretion. Commanders shall not alter or adjust an employee's schedule to facilitate a potential interview. Commanders should consider the needs of the Department and its mission to provide safety and service to the public while also maintaining a positive working relationship with the allied agency making the request.

(1) If the requested employee is not currently on-duty, the commander should obtain the allied agency investigator's information and provide it to the employee.

c. Employee Advisement. If the employee voluntarily agrees to the interview, the employee shall be advised by a supervisor or manager prior to the interview of the following: “*You are not required to provide a statement as a witness in a non-departmental administrative matter. If you consent to being interviewed, you may withdraw that consent at any time. Should you be subjected to any threat, coercion, or promise, you should stop the interview and make notification to your supervisor or manager.*”

8. CRIMINAL INTERROGATIONS. Criminal interrogations are not compelled statements; therefore, the person questioned may choose which questions to answer, if any.

a. Notification. Employee notification is not required prior to a criminal interrogation.

b. Scheduling. It is highly recommended to schedule a criminal interrogation prior to an administrative interrogation. This will ensure information from the compelled statement of an administrative interrogation does not contaminate the criminal investigation. Further, evidence presented during an administrative investigation may telegraph and weaken the criminal investigation.

c. Miranda Admonishment. If an employee is subject to a criminal interrogation, prior to being questioned, investigators shall advise the employee of their Constitutional rights through the Miranda Warning (*Miranda v. Arizona [1966] 384 U.S. 436*). A CHP 8A, Criminal Interrogation Record, may be used to ensure this requirement is met. Refer to Annex B for a sample CHP 8A.

d. Representation. Prior to a criminal interrogation, an employee is entitled to legal counsel as established in the U.S. Constitution’s 6th Amendment. However, POBR does not apply to criminal proceedings and therefore a departmental representative (unless also a licensed attorney) cannot represent an employee during a criminal interrogation.

e. Assistance to Allied Agencies. Commands shall provide an employee’s work schedule and contact information to allied agency criminal investigators for a criminal interrogation. However, by law, the employee is not obligated to answer questions or provide any information. The employee shall not be subjected to any departmental sanction for exercising these rights.

f. Preparation. Preparation for a criminal interrogation will vary on a case-by-case basis. While the preparation of questions is encouraged, the criminal investigator should be prepared to ask follow-up and/or clarifying questions as the interrogation progresses. Unlike an administrative interrogation, the questions

asked in a criminal interrogation may prompt a narrative response, may be leading, and may be less direct or deposition style in nature.

g. Conducting. Due to the nature of criminal investigations, interrogators should be prepared for multiple outcomes, to include confessions, invocation of the employee's Miranda rights, evasiveness etc. Rapport should be considered a tool, as the employee is not compelled to answer questions during a criminal investigation.

(1) While criminal investigators may not participate in an administrative interrogation, an administrative investigator may observe the criminal interrogation in certain instances. This is desirable if an employee waives their Miranda rights and agrees to answer questions. In this case, the entire criminal statement should be included in the administrative investigation. The IAS should be consulted regarding whether an administrative investigator is allowed to observe the criminal interrogation.

9. ADMINISTRATIVE INTERROGATIONS.

a. General. Unless investigative or logistical circumstances dictate otherwise, all employees accused of misconduct are to be afforded an opportunity to present their version of events and/or refute the allegations.

b. Purpose. The administrative interrogation affords the investigator an opportunity to question an employee regarding their involvement or culpability into alleged misconduct. An administrative interrogation is a compelled statement. An employee refusing to answer questions or provide requested information can be deemed insubordinate. The administrative interrogation also gives the involved employee an opportunity to present exculpatory and/or mitigating information.

c. Necessity. In most cases an administrative interrogation is necessary to conclude the investigation, either by exonerating the employee or determining the misconduct occurred based upon a preponderance of the evidence. The interrogation also allows the employee to present any mitigating information or present evidence. In certain instances, an administrative interrogation will not be necessary, such as a self-initiated rejection during probation or employee cannot be interrogated due to medical reasons. The IAS should be consulted regarding completing an investigation without an administrative interrogation.

d. Recording. All interrogations shall be audio recorded. The employee being interrogated shall have the right to bring a personal audio recording device and record any and all aspects of the interrogation.

e. Multiple Interrogations. Although not prohibited, subjecting an employee to multiple administrative interrogations regarding the same matter should be avoided. Prior to an employee being the subject of additional administrative interrogations regarding the same subject area(s), the employee shall be given a copy of the recordings of all previous administrative interrogations, as well as the related transcripts from those interrogations if available. "Prior to" in this case does not mean immediately before since the employee should have time to review their previous statements.

f. Employee Rights. When an employee is under investigation and subjected to interrogation regarding matters which will likely lead to adverse action, the interrogation shall be conducted under the provisions of Government Code (GC) Section 3303.

(1) An employee's right to a representative shall not apply to any questioning of an employee in the normal course of duty, counseling, instruction, informal verbal admonishments, or other routine or unplanned contact with a supervisor or fellow employee.

(2) If, during a contact, information surfaces which indicates the employee is likely to be subject to an adverse action, the solicitation of information shall immediately cease, and the employee shall be informed of the right to representation.

10. PREPARING FOR THE ADMINISTRATIVE INTERROGATION. Thorough preparation will result in a smooth and productive interrogation, while reducing stress on all involved parties.

a. Formulating Questions. Using the allegations as a guide, establish a line of questioning using a logical progression. Without a list of questions or guide to follow, the interrogation may wander, and important issues could be overlooked. Moreover, an unnecessarily lengthy or unplanned interrogation will result in wasted summation and/or transcription time and detract from its value. The specific line of questioning used for a given interrogation will vary widely with such factors as the interrogator's experience, nature and severity of the allegations and the level of cooperation expected from the interrogated employee. In general, a basic framework of questions should follow the four-phase approach to the administrative interrogation. A sample Administrative Interrogation Reference Guide is located on the IAS reference page on the intranet.

b. Phase 1 – Initial. These are background questions about the employee's departmental work history, including current assignment and shift. This is intended to set the employee at ease by answering questions of a non-threatening nature, as well as set a tone of objectivity.

c. Phase 2 – Foundation. Foundational questions establish an employee’s knowledge and understanding of the specific policy or law they have alleged to have violated. Establishing this foundation should occur in the following manner:

(1) Inquire what the employee’s understanding is of a particular policy or law prior to the policy’s presentation.

(2) Present the policy or law and instruct the employee to read aloud the relevant portion.

(3) Confirm if the read policy or law was consistent with the employee’s understanding. This will show how close or divergent the employee’s understanding of the policy is and will establish culpability.

(4) General Order (GO) 0.1, Departmental Mission Statement, Organizational Values, GO 0.8, Professional Values, and for peace officers GO 0.13, Code of Honor, are departmental philosophies. Although we hold our employees to these standards, deviations from these expectations, in and of themselves, do not constitute specific actionable findings and shall not be charged in the Notice of Adverse Action. Interrogators shall not attempt to solicit an admission of violation of GO 0.1, GO 0.8, or GO 0.13 during an interrogation.

However, the State Personnel Board determined these General Orders contain an organizational motto as well as broad and general statements about integrity, ethical behavior, and equitable treatment. As such, interrogators shall establish an employee’s awareness of these GOs.

(5) Training and Experience. Establish the employee’s relevant training and applicable experience on a given topic to establish the employee’s baseline knowledge.

(6) Prior Progressive Discipline. Past actions in the employee’s work history if related to the current allegation(s). This may establish a pattern of conduct or show lack of progress and/or improvement by the employee, relative to the current issue.

d. Phase 3 – Allegations. Questions regarding the specifics of each allegation being investigated, intended to get a clear understanding of the employee’s version of the events.

(1) Present Evidence. Show the involved employee the relevant evidence and seek confirmation or rejection of its accuracy and authenticity.

e. Phase 4 – Closing.

(1) Direct Questions. Direct questions to the employee if their actions violated a specific policy.

(2) Representative Clarification. This is the time the Department will solicit the representative to ask clarifying questions. However, depending on the complexity of the interrogation, the representative may ask clarifying questions throughout the interrogation or after each allegation during Phase Three, so long as they do not unnecessarily delay or disrupt the interrogation.

(3) Ask for Evidence. Ask if there is any evidence, additional witnesses, or information the employee would like to present that they feel would be relevant to the investigation. In certain circumstances, employees may have information which they feel mitigates their responsibility for the alleged misconduct (e.g., divorce, illness, death in the family, or past practice). The employee may offer this information during the interrogation with an understanding that the employee is doing so voluntarily and without any promise of leniency.

(4) Employee Assistance Program. At the conclusion of the interrogation, the investigator should advise the employee of the Department's Employee Assistance Program (EAP), the services it offers, and, if applicable, provide the employee with a formal EAP referral, or refer the employee to the Office of Employee Safety and Assistance.

(5) Confidentiality Admonishment. At the conclusion of the interrogation (but while on record) the investigator shall advise the employee:

“This investigation is ongoing and you are ordered not to discuss the interrogation or investigation with any member of this Department, nor any involved non-departmental party or witness, other than your chosen representative, attorney, supervisors and managers with your chain of command. You are reminded that violations of this order are considered insubordination and could result in disciplinary action up to and including dismissal. [Name of employee being interrogated], do you understand the admonishment I have just read?”

If applicable, the employee shall be directed not to disclose copies, or the contents of the interrogation recording made on behalf of the employee. These direct orders will remain in effect until the employee is either served with a final Notice of Adverse Action, or the investigation is concluded. Ensure the ending time is on record at the conclusion of the interrogation.

- f. Mock Interrogation. It is recommended investigators complete a mock interrogation to assist with identifying flow, poorly worded questions, duplicate questions, or superfluous speech.
- g. Location. The location of the interrogation should be reserved in advance and shall provide maximum privacy. Locations outside the workplace should be used out of consideration for the employee or to maintain confidentiality. The room should be prearranged to facilitate the audio recording and avoid distractions.
- h. Exhibits or Evidence. The investigators should have multiple copies of any exhibits (policy references, training records, standard operating procedures, etc.) or evidence they plan to present or use during the interrogation. Prior to the interrogation, the documents or evidence should be placed so the investigators can easily locate any item, when needed. If 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.
- i. Public Safety Officers Procedural Bill of Rights Act Review. Prior to the interrogation, the interrogators should review and be familiar with the role of the representative and the employee's rights pursuant to POBR.
- j. Interrogation Scheduling. The interrogation shall be conducted at a reasonable hour, preferably when the employee is on duty, or during the employee's normal waking hours, unless the seriousness of the investigation requires otherwise. If conducted outside of the employee's scheduled hours of work, the employee shall be entitled to overtime.

11. NOTICE OF ADMINISTRATIVE INTERROGATION. The involved employee shall be provided official notice of interrogation covering the nature of the investigation. A sample Notice of Administrative Interrogation is located in Annex C and in the IAS intranet reference page. The following shall apply while preparing the notice:

- a. Required Elements. Per GC Section 3303, the Notice of Administrative Interrogation is required to inform the employee under investigation of the following:
 - (1) The nature and scope of the interrogation. The scope will include the date(s) surrounding the incident(s) which led to the alleged misconduct and the general policies that may be covered. The scope must be specific enough for the employee and their representative to be able to prepare for the interrogation, while not being so specific as to limit the interrogators in the questions they may ask (since the scope cannot be expanded once the interrogation begins).

- (2) The rank, name, and command of the lead and assistant interrogator.
- (3) The date, time, and location of the interrogation.
- (4) The employees right to be represented by a representative of their choice.

b. Representation. The representative may be someone other than a designated bargaining unit representative. However, the representative shall not be a person subject to the same investigation, which could include, victims, witnesses or supervisors/managers within the employee's immediate chain of command. If an employee requests a specific representative, a reasonable accommodation shall be made if possible, taking into account, work schedules, travel time, severity of the allegation and the immediate availability of the chosen representative. If the employee selects a representative who is unwilling or unable to attend within a reasonable period of time, the interrogation should not be postponed. The involved employee will be directed to select a different representative who is available.

Note: The representative shall not be required to disclose, nor be subject to any adverse action for refusing to disclose, any information received from the employee under investigation.

c. Attorney Representatives. Lawyers and licensed attorneys acting as a representative have no more rights or authority than labor representatives. To avoid potential problems, the attorney's role should be clarified prior to the interrogation.

d. Timeframe. In most instances, it is reasonable to provide an employee three (3) business days' notice prior to an interrogation. A request from a representative for a longer notice period may be reasonable due to the unavailability of representatives. However, there may be time-sensitive investigations which require service less than 24 hours (or immediately prior to) the interrogation. Commanders should consult with their respective Division, the IAS, and the Office of Employee Relations if less than three (3) business days' notice is being considered or if a continuance is requested by the employee or their representative. Commands shall obtain approval from the appropriate Commissioner if less than three (3) business days' notice is required.

e. Mitigating Evidence. The notice shall advise the employee of the right to voluntarily provide any mitigating evidence which the employee feels may be directly related to the alleged misconduct. All information and/or evidence submitted by the employee shall be included in the internal investigation as an exhibit. Such information and/or evidence shall be given appropriate consideration by the investigators when determining the investigation findings.

f. Service of a Notice of Administrative Interrogation. The employee shall sign and date the notice of administrative interrogation 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.

(1) The original signed notice of administrative interrogation will be retained by the employee.

(2) Copies of the signed notice of administrative interrogation will be included in the administrative investigation.

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

g. Verbal Notice. In rare circumstances, an employee may be unavailable for personal service of the notice of administrative interrogation. If this occurs, the employee shall be advised verbally (of the information contained in the notice). This fact shall be noted in the investigative file's chronological summary. Additionally, the employee's representative should be notified of the verbal notice. Regardless of the verbal notification, the employee shall be served with a printed copy of the notice prior to the actual interrogation.

12. UNIFORMED EMPLOYEE ACCESS TO DEPARTMENTAL VIDEO RECORDINGS.

a. Policy. When departmental Mobile Video/Audio Recording System (MVARs) recordings, departmental Body Worn Camera (BWC) recordings or security camera system (SCS) recordings at CHP facilities, are to be used as part of an administrative interrogation, uniformed employees and their chosen representative shall be provided reasonable time and a means to view the recording(s) at a predetermined location prior to an administrative interrogation. Included is the digital media from employee purchased BWCs used in the course of that employee's departmental duties. Policy regarding MVARs recording is located in General Orders 100.61, Use of Mobile Video/Audio Recording Systems. Policy regarding BWC recording is located in Management Memorandum 22-013.

(1) A copy of the MVARs, BWC or SCS recordings shall not be provided to the employee and their representative prior to the completion of the administrative investigation.

b. Notice of Video Recordings. Notice to a uniformed employee of the option to review MVARs, BWC or SCS recordings shall be included in a Notice of Administrative Interrogation. As an example, the notice shall include the following language:

“Video Recordings captured on departmental [MVARs/BWC/SCS] will be used during this administrative interrogation. As such, you will be afforded [XXXX] hours to review the recordings. You have the right to have a representative of your choice present during the review. If a review is desired, you or your representative shall coordinate the review of the recordings with [Primary Investigator].”

c. Criminal Investigation. If an employee is under criminal investigation in conjunction with an administrative investigation, review of MVARs, BWC or SCS recordings prior to the administrative interrogation shall be authorized and coordinated with the prosecuting authority.

13. CONDUCTING AN ADMINISTRATIVE INTERROGATION.

a. Investigators Responsibility. The investigators in an interrogation are acting on behalf of the Department and, as such, are responsible for obtaining answers from the employee. The investigators are in charge of the interrogation and shall adhere to the following guidelines when interrogating a departmental employee:

(1) All applicable portions of the CHP 8, Administrative Interrogation Record, should be completed prior to the interrogation. The nature of the investigation on the CHP 8 should be the same as the scope in the Notice of Administrative Interrogation unless further clarification was needed prior to beginning the interrogation. A sample of the CHP 8 is located in Annex D and in the IAS intranet reference page.

(2) All questions directed to the employee under investigation shall be asked by and through no more than two (2) interrogators at one time.

(3) The purpose of the interrogation is to elicit facts and not to intimidate the employee. Therefore, the employee shall not be subjected to any offensive language or threatened with adverse action, except that an employee refusing to respond to questions or submit to an interrogation shall be informed that failure to answer questions directly related to the investigation or interrogation may result in adverse action.

(4) The interrogator should avoid asking leading questions. It is important to obtain the employee's statement in the employee's own words. In cases where the employee is evasive or non-responsive, a leading question may be appropriate.

(5) While conducting an interrogation, investigators should be careful of their choice of words and tonal inflections since these may subject the employee to duress. Each aspect of the allegation must be covered thoroughly, and an answer or explanation obtained for each charge.

(6) No promise of reward shall be made to an employee as an inducement for answering any question. This includes a promise of immunity from adverse action.

(7) The representative's primary role during the interrogation is to assure compliance with the rights provided to the employee. Specifically, the representative's role includes the following:

(a) Seek clarification of questions during the interview.

(b) Ask the employee questions to clarify previous answers or to elicit further relevant information once the investigator has finished questioning the employee.

(c) Introduce mitigating factors.

(d) Suggest other witnesses, as well as request breaks when reasonable.

(8) The representative is not allowed to:

(a) Answer questions on behalf of the employee.

(b) Consult with the employee before the employee answers each question.

(c) Present witnesses.

(d) Make a "closing argument."

Note. Investigators should not respond conclusively to queries from the representative regarding the perceived truthfulness of the employee being interrogated. The investigation is ongoing, and findings have yet been determined.

(8) While the investigator is under no obligation to respond to the representative's objections, it may be appropriate to take a break to seek advice. Otherwise, the investigator should acknowledge the representative's objection and continue with the interrogation as previously planned. If the interrogation continues over an objection and subsequently results in a

violation of POBR, the line of questioning may be removed from the case file by the IAS after consultation with OLA.

(9) Typically, investigators should not question employees regarding matters not mentioned in the Notice of Administrative Interrogation; however, such issues volunteered by the employee during the interrogation may be addressed to their logical conclusion.

(10) The investigator may take notes during the interrogation to keep the employee's responses fresh in the investigator's mind. Additionally, this allows for clarification of inconsistent or contradictory statements if the employee is evasive, deceptive, or untruthful during questioning. Once a statement has been transcribed or summarized, the investigator shall purge their notes.

b. Disruptions. The interrogation shall be handled in a setting of cooperation amongst the interrogators, the employee, and the employee's representative. Although not relegated to the role of a passive observer, the representative cannot be disruptive or transform the interview into an adversarial contest. In the event the representative is disruptive or interfering with the interrogation, the interrogator should re-admonish the representative using the CHP 8, advising further disruptions will result in the representative's removal or replacement. Additionally, it may be beneficial to take a break to assist with reestablishing composure of the involved. If the disruption continues, the representative should be dismissed, and the employee advised to select another. This may require the interrogation to be postponed.

Removal, dismissal and similar issues shall be reported to the Office of Employee Relations, who will advise the representative's employee organization. If it is not practical to postpone the interrogation, the investigators should make reasonable attempts to obtain a representative for the employee and should only proceed without one as a last resort in the most time-critical interrogations.

c. Ground Rules Off-Record, Not Audio Recorded. Before the interrogation begins, the investigators should establish the following ground rules for the interrogation:

- (1) Ensure each person understands they are to give audible clear responses (no nodding or gestures), and refrain from talking over each other.
- (2) Familiarize each person with location of restrooms, break areas, etc.
- (3) Confirm all parties can be there for the duration of the interrogation.
- (4) Ensure all cellphones and desk phones are turned off.

(5) Explain how and when breaks are anticipated to be taken (approximately every hour, as needed, for lunch etc.).

(6) Explain after each break, the employee will be asked if any discussion occurred between the investigators and the employee related to the investigation (i.e., “*Officer Smith, during the break did either myself or Sergeant Jones discuss any relevant matter related to this investigation with you?*”).

(7) Explain to the employee the CHP 8 will be read in its entirety into the record and, at the indicated time, each person will state their full name and identification number and spell their last name for the record.

(8) Ensure there are no questions regarding the ground rules prior to starting the audio recording.

d. On-Record, Audio Recorded.

(1) Read the entire CHP 8 and obtain the required signatures on the form.

(2) If the employee or their representative requests pre-interrogation discovery, respectfully deny the request with the following statement, “*Pursuant to policy contained within HPM 10.2, Government Code Section 3303(g), and the decision rendered in Pasadena Police Officers Association v City of Pasadena, your request for disclosure of evidence is denied.*” If the request is in writing, further state, “*the documented request will be included as an exhibit in the investigative file.*”

(3) Begin asking the four (4) phase-approach questions completed prior to the interrogation.

(4) Once the interrogation has been completed, the employee shall be admonished the investigation and interrogation are to remain confidential. Ensure the employee provides an affirmative response to the confidentiality admonishment.

(5) End the audio recording with the time the interrogation concluded.

14. WRITTEN INTERROGATORY.

a. Appropriate Usage. Written interrogatories should be used sparingly and only at the discretion of Division management. Some of the circumstances in which the use of written interrogatories in lieu of an in-person physical interrogation are as follows:

- (1) The allegations are so simplistic the interrogation only consists of a few questions.
- (2) An employee is on extended leave, and travel to the employee's location is impractical.
- (3) The employee is on leave due to an illness or injury, and there is a medical reason which precludes an interrogation in person.
 - (a) If the leave will be extended, and sufficient evidence exists to prove by a preponderance the misconduct occurred, the investigation should be completed and submitted for review in accordance with established timeframes. However, if the Division commander believes it is necessary to toll the administrative investigation, approval from the Office of the Commissioner is required.

b. Right to Representation. If a written interrogatory is used as a means of interrogating an employee suspected of misconduct, the employee shall be afforded the right to a representative. The representative's role is the same as during a standard administrative interrogation. Like a standard interrogation, answers to all the questions shall be provided by the employee and in the employee's own words.

c. Procedure. The written series of questions are integrated into a memorandum from the commander directing the employee to answer the questions completely and honestly. The employee's rights are incorporated into the memorandum. A sample Written Interrogatory is located in Annex E and in the IAS intranet reference page. The employee is then given a reasonable amount of time to complete and return the interrogatory. The specific process for completing a written interrogatory is as follows:

- (1) While on duty, the employee shall be provided a private, secure area to complete the written interrogatory. The employee shall print his responses on a separate sheet of paper and sign/date the bottom of each printed page.
- (2) When serving the employee with the Written Interrogatory memorandum, the original shall be provided to the employee for completion. A copy of the Written Interrogatory memorandum shall be retained until the original is returned, at which time the copy should be destroyed.

15. MARITAL PRIVILEGE. In accordance with Evidence Code Section 970 - 981, the marital privilege exempts a married person from having to testify against their spouse in any proceeding. The intention of the marital privilege is to protect confidential communications between two individuals at the time they were in a marital relationship.

However, in accordance with case law, the above marital privilege does not apply to administrative investigations and hearings regarding peace officer misconduct where both individuals are departmental employees. If the interview or interrogation of two departmental employees who are spouses is considered, consult with the IAS and OLA.

ANNEX A
SAMPLE TRANSCRIPTION

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	<p>TRANSCRIPTION OF ADMINISTRATIVE INTERROGATION</p> <p>OF</p> <p>OFFICER JOHN JONES, ID 54321</p> <p>PRIEST RIVER AREA</p> <p>JANUARY 21, 2022</p> <p>Interviewed by: SERGEANT MIKE SMITH</p> <p>SERGEANT ASHLEY ASHBY</p> <p>Following is the record of an Administrative Interrogation conducted by the Priest River Area on January 21, 2022, with Officer John Jones, ID 54321, who is the subject of this investigation. The interrogation was recorded and is being maintained by the Priest River Area. The recorded reflects all relevant statements and conversations occurring during the course of the interrogation but is not verbatim. For clarity, superfluous words, phrases, and/or inaudible tones have been eliminated. This transcript was prepared by Office Assistant Mary Parker, ID A54321.</p> <p>SMITH: The date is January 21, 2022, the time is approximately 1230 hours. I am the lead interrogator Sergeant Mike Smith, ID 43210, from the Priest River Area. Assisting in this interrogation today is:</p>	
---	--	--

JOHN JONES

-1-

January 21, 2022

ANNEX A
SAMPLE TRANSCRIPTION (*continued*)


1	*****Continue with transcription*****		
2			
3	- INTERVIEW CONCLUDED -		
4	---o0o---		
5			
6	"I have used all reasonable diligence in reviewing this		
7	transcription, made corrections where necessary, and to the		
8	best of my knowledge the information contained herein is		
9	true and complete."		
10			
11	Date: 1/21/2022		
12			
13	Sergeant Mike Smith		
14			
15			
16	<table style="width: 100%;"><tr><td style="width: 60%; border-top: 1px solid black;">Investigator Signature and ID</td><td style="width: 40%; border-top: 1px solid black;">Date</td></tr></table>	Investigator Signature and ID	Date
Investigator Signature and ID	Date		

-4-

JOHN JONES January 21, 2022

ANNEX B

SAMPLE CHP 8A, CRIMINAL INTERROGATION RECORD

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL CRIMINAL INTERROGATION RECORD CHP 8A (Rev. 10-22) OPI 031			
CRIMINAL INTERROGATION ONLY			
Start recording and state the following:			
The date is _____, the time is approximately _____ hours. I am the lead interrogator:			
RANK	LEAD INTERROGATOR'S NAME (FIRST M/ LAST)	I.D. NUMBER	COMMAND NAME
Assisting in this interrogation today is:			
RANK	ASSISTANT INTERROGATOR'S NAME (FIRST M/ LAST)	I.D. NUMBER	COMMAND NAME
The subject of this interrogation is:			
RANK	INTERROGATED PERSON'S NAME (FIRST M/ LAST)	I.D. NUMBER	COMMAND NAME
Representing the subject is:			
REPRESENTATIVE'S NAME (FIRST M/ LAST)		BARGAINING UNIT, LAW FIRM, ETC.	
This interrogation is being recorded at:			
LOCATION			
_____, (Employee's rank and full name)			
<ol style="list-style-type: none">1. You have the right to remain silent.2. Anything you say can and will be used against you in a court of law.3. You have the right to an attorney and have an attorney present before and during questioning.4. If you cannot afford an attorney, one will be appointed free of charge to represent you before and during questioning, if you desire.			
WAIVER			
1. Do you understand each of these rights as I explained to you? (Detail the employee's exact response.)			
2. Having these rights in mind, do you wish to talk to us now? (Detail the employee's exact response.)			
<i>(If the employee refuses to waive his/her constitutional rights, the criminal interrogation shall be terminated. The criminal interrogation may continue if the employee waives his/her rights.)</i>			
RECORDING(S)			
WHOSE EQUIPMENT WAS USED? <input type="checkbox"/> DEPARTMENTAL <input type="checkbox"/> PERSONAL <input type="checkbox"/> OTHER:		EVIDENCE NUMBER(S)	
WERE OTHER RECORDING(S) MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, WHO MADE THEM?	
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ANNEX C

SAMPLE NOTICE OF ADMINISTRATIVE INTERROGATION

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 INTERROGATION

If you have not been previously advised, the Department is presently conducting an internal investigation into allegations of misconduct involving you. You are hereby notified you will be the subject of an administrative interrogation on [Date] at [Time] hours. The interrogation will be conducted at [Location], located at [Address]. [Rank and Name], ID [#####], of the [Area], will be in charge of the interrogation, and assisting will be [Rank and Name], ID [#####], of the [Area]. The interrogation will be related to the following:

- Your knowledge concerning the facts and circumstances of, and your involvement in, [Provide a brief description of the incident which resulted in the alleged misconduct] which occurred on or about [Date of the incident or date range of the alleged misconduct].
- Your knowledge, training, and experience related to [List of all policies the employee is alleged to have violated. For example: General Order (GO) 0.1, Organizational Values; GO 0.8, Professional Values; Highway Patrol Manual (HPM) 10.2, Internal Investigations Manual, Chapter 1, Introduction and Notifications; HPM 10.3, Personnel Transactions Manual, Chapter 14, Inconsistent and Incompatible Activities, to include Annex A, General Conduct and Misuse of Position, and Annex B, Incompatible and Inconsistent Activities.]

As an employee of the California Highway Patrol, you are entitled to have a representative present. The representative may not be in your chain of command, or a subject or witness of the same investigation. If you so desire, you may audio record the interrogation. You may also voluntarily provide any evidence you feel may be directly related to the alleged misconduct.

Safety, Service, and Security



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CHP 51WP (Rev. 05/2013) OPI 076

ANNEX C

SAMPLE NOTICE OF ADMINISTRATIVE INTERROGATION (*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.

[*NAME*], [*Rank*]
Commander

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID Date

Service information:

Supervisor's Signature ID Date

ANNEX D

SAMPLE CHP 8, ADMINISTRATIVE INTERROGATION RECORD

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL ADMINISTRATIVE INTERROGATION RECORD CHP 8 (Rev. 10-22) OPI 031		<input type="button" value="Print Button"/>	
ADMINISTRATIVE INTERROGATION ONLY			
Start recording and state the following:			
The date is _____, the time is approximately _____ hours. I am the lead interrogator:			
RANK	LEAD INTERROGATOR'S NAME (FIRST M./ LAST)	I.D. NUMBER	COMMAND NAME
Assisting in this interrogation today is:			
RANK	ASSISTANT INTERROGATOR'S NAME (FIRST M./ LAST)	I.D. NUMBER	COMMAND NAME
The subject of this interrogation is:			
RANK	INTERROGATED PERSON'S NAME (FIRST M./ LAST)	I.D. NUMBER	COMMAND NAME
Representing the subject is:			
REPRESENTATIVE'S NAME (FIRST M./ LAST)		BARGAINING UNIT, LAW FIRM, ETC.	
This interrogation is being recorded at:			
LOCATION			
This is an administrative interrogation concerning the California Highway Patrol, involving (briefly describe the nature of the interrogation):			
<input type="checkbox"/> Add page 2			
You are being questioned as part of an official internal investigation. You are hereby directed to answer all questions honestly and completely. Your refusal to answer, or any type of evasion, deception, dishonesty, or lack of cooperation on your part, could constitute insubordination and/or inexcusable neglect of duty, and result in disciplinary action up to and including dismissal.			
Neither your statement nor any information or evidence which is gained by reason of such statement can be used against you in any criminal proceedings. No promise or reward will be made as an inducement for the answer to any question. You may record this interrogation or have access to the Department's recording if any further proceedings are contemplated. You have the right to be represented by an individual of your choice who may be present at all times during your interrogation, provided the person chosen is not the subject of this inquiry or in your chain of command. In addition, you may also voluntarily provide any evidence you feel may be directly related to this investigation.			
(Directed to representative, if present.) Although you as a representative are here to assist the employee, the Department is only interested in hearing the employee's account of the matter under investigation. You may participate during the interrogation, when appropriate, but you may not interfere with or cause unnecessary delay in the orderly course of the interrogation. You will be given an opportunity to make clarifying statements and ask clarifying questions.			
Do you both understand? <input type="checkbox"/> Yes <input type="checkbox"/> No Do either of you have any questions? <input type="checkbox"/> Yes <input type="checkbox"/> No			
SIGNATURES			
LEAD INTERROGATOR		PERSON INTERROGATED	
ASSISTANT INTERROGATOR		REPRESENTATIVE	
RECORDING(S)			
WHOSE EQUIPMENT WAS USED? <input type="checkbox"/> DEPARTMENTAL <input type="checkbox"/> PERSONAL <input type="checkbox"/> OTHER:		EVIDENCE NUMBER(S)	
WERE OTHER RECORDING(S) MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, WHO MADE THEM?	
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ANNEX E

SAMPLE WRITTEN INTERROGATORY

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 WRITTEN INTERROGATORY

If you have not been previously advised, the Department is presently conducting an internal investigation into allegations of misconduct involving you, specifically:

- Your knowledge concerning the facts and circumstances of, and your involvement in, [Provide a brief description of the incident which resulted in the alleged misconduct. Example: The accidental discharge of a departmentally issued tactical rifle, which occurred on or about August 23, 2022.]

Due to [Reason requiring the written interrogatory. Example: your planned extended absence], a written interrogatory has been chosen as the method to question you regarding this incident. You are hereby directed to answer all questions honestly and completely. Your refusal to answer, or any type of evasion, deception, dishonesty, or lack of cooperation on your part, could constitute insubordination and/or inexcusable neglect of duty, and result in disciplinary action up to and including dismissal.

Neither your written statement nor any information or evidence which is gained by reason of such written statement can be used against you in any criminal proceeding. No promise or reward will be made as an inducement for the answer to any question. You have the right to have a representative of your choice present to assist you in preparing your responses, provided the person chosen is not in your chain of command, or a subject or witness of the same investigation. In addition, you may also voluntarily provide any evidence you feel may be directly related to the alleged misconduct.

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

ANNEX E

SAMPLE WRITTEN INTERROGATORY (*continued*)

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

Further, you are directed to review the following departmental publications prior to composing your responses to the written interrogatory:

- [List of all policies the employee is alleged to have violated. Example: General Order (GO) 0.1, Organizational Values; and GO 0.8, Professional Values. Highway Patrol Manual (HPM) 70.8, Firearms Manual, Chapter 2, Firearms Safety, and Chapter 7, Tactical Rifle.]

You are directed to prepare a detailed written response answering the following questions individually in the order presented. Use separate paper to record your responses. You are to sign and date each page of your response. You are further directed to return this memorandum along with your written responses to [Primary investigator or designee] no later than [Time] on [Date].

[NAME], [Rank]
Commander

I hereby acknowledge receipt of this memorandum.

Employee's Signature ID Date

Service information:

Supervisor's Signature ID Date

ANNEX E

SAMPLE WRITTEN INTERROGATORY (*continued*)

[*Employee Name, ID #*]
Page 3
[*Date*]

Please provide a detailed response to the following questions:

[*Example questions*]

1. Were you working on Sunday, August 23, 2022, at approximately 1430 hours?
2. Was there a supervisor working during your shift?
3. Who was the supervisor?
4. What training have you received regarding the use of the departmental tactical rifle?
5. When did you last attend the range wherein the rifle was utilized?
6. When did you last qualify with the departmental rifle?
7. Did you conduct a pre-patrol inspection of your supplemental weapons, specifically the tactical rifle?
8. Describe the steps you took when performing the inspection.
9. Did you ensure the safety was on?
10. Did you remove the magazine from the rifle?
11. Did you check the chamber of the rifle to see if it was clear?
12. Was the chamber of the rifle in fact clear?
13. Did you check the function of the rifle?
14. Was a round discharged from the rifle during the function check?
15. How did that occur?
16. To your knowledge, did the discharged bullet strike anyone or anything?
17. What did you do immediately after the accidental discharge?
18. Did you report the incident to your supervisor?

ANNEX E

SAMPLE WRITTEN INTERROGATORY (*continued*)

[*Employee Name, ID #*]
Page 4
[*Date*]

- 19. How soon after the discharge did you report the incident to your supervisor?
- 20. Did your actions cause the discharge of the tactical rifle?
- 21. When you failed to ensure the chamber of the rifle was clear and discharged it, did you violate policy contained in HPM 70.8, Chapter 2?
- 22. Why or why not?
- 23. When you failed to ensure the chamber of the rifle was clear and discharged it, did you violate policy contained in HPM 70.8, Chapter 7?
- 24. Why or why not?
- 25. Do you have any closing comments, or mitigating information you would like the Department to consider before closing this investigation?

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. You are also prohibited from disclosing the contents of this memorandum or your responses. 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 a member of the command's management, or an employee representative of your choice.

I have answered all questions honestly and completely to the best of my ability. Further, I acknowledge the confidentiality attestation above:

Employee's Signature ID Date

Representative present during question response:

Representative's Signature ID Date