

CHAPTER 8
REVIEW, APPROVAL, AND CLOSING DOCUMENTATION

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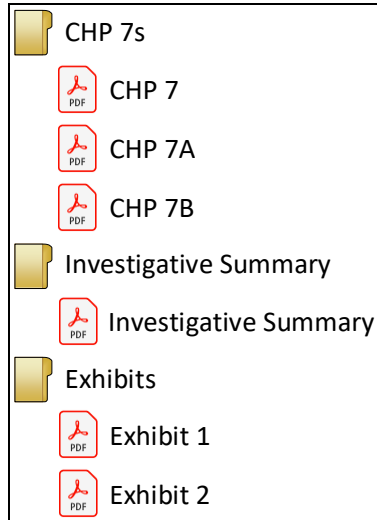
CHAPTER 8

REVIEW, APPROVAL, AND CLOSING DOCUMENTATION

1. INTRODUCTION. The authority to take adverse action or initiate a Rejection During Probation is vested with the appointing power, the Commissioner. Until such time as approved by the Commissioner, or their designee, the internal investigation and its associated penalty is considered a draft and subject to edit and review. Once approved by the Commissioner, or their designee, the internal investigation and its associated penalty is final and may only be changed through the appeal process.

2. INTERNAL INVESTIGATION REVIEW.
 - a. Commander Review. Once the draft internal investigation has been completed by the primary and/or secondary investigators, the Area commander shall review the investigation for accuracy and thoroughness. Once approved, the Area commander shall electronically sign and date the CHP 7, Internal Investigation.
 - (1) If the internal investigation is completed by an investigative cadre, or an investigative team outside of the Area, the cadre/team commander has the responsibility to review and approve the draft investigation.

 - b. Digital Draft. A digital draft of the investigative file shall be created for submission to the Internal Affairs Section (IAS). The digital draft shall be formatted as depicted in the image below: a subfolder titled "CHP 7s" containing the appropriate CHP 7 series forms as described in Chapter 7, Investigation Documentation, of this manual, a subfolder titled "Investigative Summary," and a subfolder titled "Exhibits." All documents shall be saved as a PDF file.



(1) Once the Area-approved draft has been signed, it shall be routed to Division for review. The date the investigation was routed to Division shall be entered on the CHP 7 and the CHP 7E, Internal Investigation Control Log. The command shall retain an electronic copy of the investigative file. After Division approval and prior to routing to the IAS, the command shall ensure any edits made by Division are incorporated into the command draft.

c. Division Commander Review. The Division commander, or their designee, shall review the draft internal investigation for accuracy, thoroughness, and completeness. If edits are required, the command shall be notified with the specific edits requested. The date the command was notified of the edits requested will be entered on the CHP 7 and CHP 7E.

(1) Once review of the draft internal investigation has been completed, the Division commander, or their designee, shall electronically sign the CHP 7 and date the CHP 7 and CHP 7E. The investigative file shall be transferred to digital media storage, i.e., external hard drive, USB drive, flash drive, etc., and routed to the IAS. The date shall be documented on the CHP 7 and CHP 7E.

3. INTERNAL AFFAIRS SECTION RESPONSIBILITY. The IAS will review each draft investigative file for thoroughness, objectivity, and compliance with the Public Safety Officers Procedural Bill of Rights Act. During the review, the IAS may make recommendations through channels regarding revisions to the investigative file. Once the review is complete, the IAS will prepare a Notice of Adverse Action, Rejection During Probation, or Non-Punitive Termination.

- a. Review by the Office of Legal Affairs. The Office of Legal Affairs (OLA) will review the Notice created by the IAS for legal sufficiency and ensure the cited punitive Government Code (GC) Sections are supported by evidence within the investigative file.
- b. Presentation of the Internal Investigation. After review by the OLA, the IAS will present the factors of the case to the Department's Executive Management for penalty determination.

4. INTERNAL INVESTIGATION PENALTY DETERMINATION. As the appointing power, the Commissioner has final disciplinary authority for all administrative investigations. The Commissioner has delegated this disciplinary authority in the following manner:

- a. Assistant Commissioner. The respective Assistant Commissioner, in the chain of command of the involved employee (Staff or Field), is the delegated disciplinary authority of administrative investigations with a recommended penalty of:
 - (1) Formal Written Reprimand.
 - (2) Suspension of one (1) to 20 working days, or the equivalent monthly step reduction.
 - (3) Removal from a specialty pay position for Bargaining Unit 5 personnel.
- b. Commissioner. The Commissioner, or Deputy Commissioner in the absence of the Commissioner, is the final disciplinary authority of administrative investigations with a recommended penalty of:
 - (1) Suspensions in excess of 20 working days, or the equivalent monthly step reduction.
 - (2) Demotion.
 - (3) Dismissal.
 - (4) Rejection During Probation.
 - (5) Non-Punitive Termination.
- c. Dismissal Review Panel. The Commissioner may request a dismissal review panel be convened. The purpose of the panel is to recommend whether the employee's misconduct merits dismissal or a lesser penalty.

d. Return of the Notice to Command. Once the Commissioner, or designee, approves and/or signs the Notice of Adverse Action, Notice of Rejection During Probation, or Notice of Non-Punitive Termination, the IAS will e-mail the affected command the following:

(1) A PDF of the scanned signed notice of Demotion, Dismissal, Rejection During Probation, Non-Punitive termination, Suspension, Step Reduction, Formal Written Reprimand, or Removal from Specialty Pay Position (Bargaining Unit 5 personnel).

Note: A notice sent via PDF using an e-mail message will be considered legal original document for purposes of serving the involved employee.

(3) A CHP 7C, Declaration of Service. See Annex B, of this manual, for a sample CHP 7C.

(4) An unsigned Disclosure List for Prosecuting Agencies (DLPA) Notification memorandum for internal investigations involving uniformed departmental employees. See Annex C, of this manual, for a sample DLPA memorandum.

(5) In matters concerning serious misconduct as defined by Penal Code (PC) section 13510.8, a signed memorandum to the employee informing them the Commission on Peace Officer Standards and Training has been informed of the Department's findings.

5. THE NOTICE. Each Notice of Adverse Action, Notice of Rejection During Probation, or Notice of Non-Punitive Termination, is an administrative legal document used to notify the employee of the action being taken against them for specified act(s) of misconduct or poor performance.

a. Each Notice has within it the following information:

(1) A statement of the nature of the Adverse Action, Rejection During Probation, or Non-Punitive Termination and the penalty's effective date(s). The effective date refers to the date the involved employee would begin serving the specified penalty.

(2) The authoritative GC Section(s) used to impose the recommended penalty.

(3) The facts upon which the cause of action is based (a summary of the misconduct) and describes the specific policy and/or law the employee has been charged with violating.

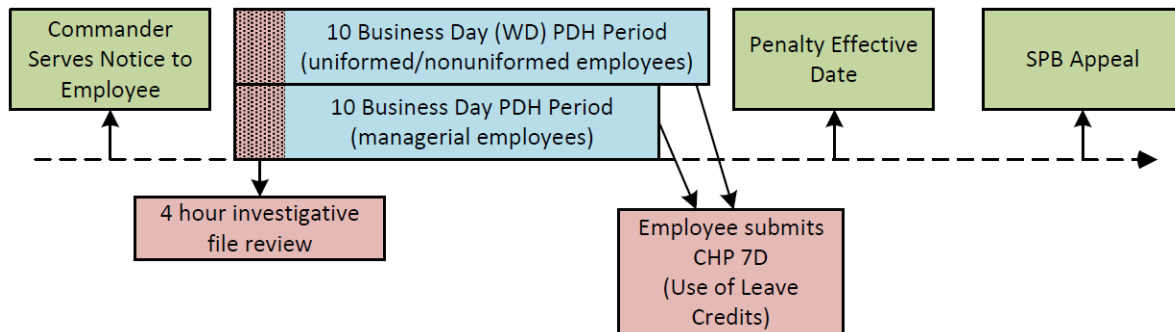
(4) The employee's right to a pre-disciplinary hearing (PDH), to include a review of the investigative file and the dates of, time, and name of the PDH Officer.

(5) Direction regarding the employee's appeal rights through the State Personnel Board (SPB).

b. Commander's Responsibility. Once the PDF notice is e-mailed to the involved employee's command, with coordination through the IAS, the involved employee's commander (or designee) shall complete the following portions of the Notice:

- (1) The effective date(s) of the penalty.
- (2) The dates and times the employee may review the investigative file prior to a PDH.
- (3) The dates of the PDH period.
- (4) The location and name of the PDH Officer.

Note: The following is a visual representation of the process from service of the Notice to the SPB appeal.



6. PENALTY EFFECTIVE DATE. Prior to the effective date of the penalty authorized by the Commissioner, the employee will be provided time to review the investigative file and a period of days to participate in a PDH, if desired. Consequently, the penalty effective date will be determined based upon the classification and rank of the involved employee and the type of penalty assessed by the Commissioner as follows:

a. Suspension and Formal Written Reprimand (Officers and Sergeants). On page one (1) of the Notice, the involved employee's commander or designee shall enter the effective date(s) of the suspension or formal written reprimand, provided the following:

12	
13	STATEMENT OF THE NATURE OF ADVERSE ACTION AND EFFECTIVE DATES
14	You are hereby notified that in accordance with Section 19574 of the California
15	Government Code, you are suspended without pay from your position as an Officer with the
16	Department of California Highway Patrol in the Pinehurst Area for a period of ten (10)
17	consecutive calendar days in accordance with policy. Said suspension is to be effective
18	from _____, at _____ hours,
19	to _____, at _____ hours.

(1) The effective date(s) of the suspension or formal written reprimand shall not precede the end of the PDH period. The IAS should be contacted for assistance in determining an appropriate effective date.

(a) The date of service refers to the date the commander served the signed notice to the involved employee.

(2) Suspensions shall be computed based on an eight (8)-hour shift within a 24-hour workday. Those employees assigned to an Alternate Work Week (9/80, 4/10, or 3/12) will need to be placed on a standard eight (8)-hour shift for the duration of the suspension.

(3) Suspension days are to be scheduled consecutively, with no regular days off (RDOs) or holidays during the suspension period. Any RDOs for a given state pay period must be scheduled outside of the suspension period. As such, for longer suspensions it may be necessary to set the suspension period to occur over consecutive pay periods. Suspensions may be up to 42 days. Suspensions in excess of 42 days shall be coordinated by the IAS and the Office of the Commissioner.

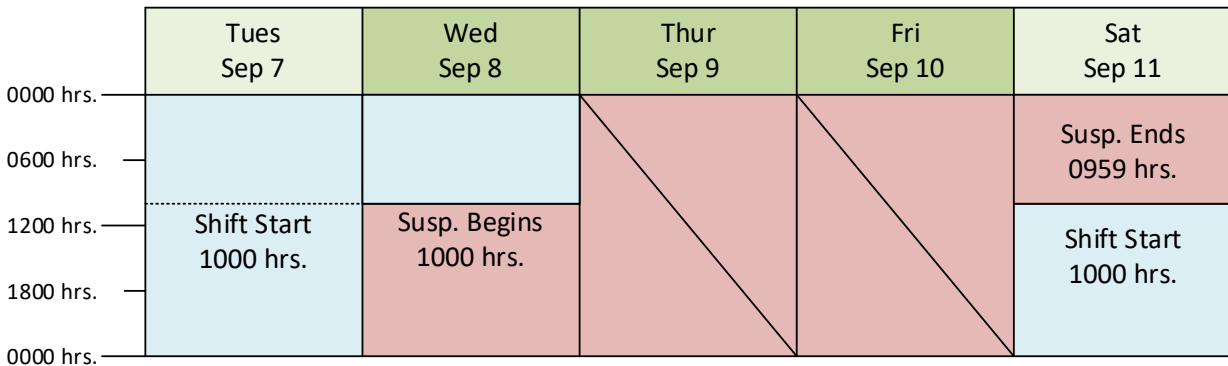
(4) Each day of suspension covers a 24-hour period; however, the employee is only docked for eight (8) hours during that 24-hour period. The employee is not authorized to conduct departmental business during the suspension period and is in essence separated from the Department throughout the suspension.

(5) Suspensions shall not result in Fair Labor Standards Act (FLSA) overtime or positive excess hours. This is accomplished by setting the suspension period such that the number of RDOs either before or after the suspension period satisfies the requirements for that particular pay period (e.g., 8, 9 or 10 days). Since suspension days are not counted as workdays,

FLSA overtime will not be incurred no matter how many RDOs are in a given FLSA period.

(6) The suspension time will begin at the start of the employee's assigned shift time and will end one (1) minute prior to that shift start time on the first day after the suspension period, which may be an RDO.

Example. An officer was served with a three (3)-day suspension. The officer's normal shift started at 1000 hours. The effective start date and time of the suspension will be September 8, at 1000 hours. The effective end date and time of the suspension will be September 11, at 0959 hours. The officer may return to their normal shift on September 11, at 1000 hours.



(7) The dates of a suspension are at the discretion of the commander in conjunction with the operational needs of the Department. Due to the complexity of suspensions in excess of 20 days, IAS assistance is recommended.

(8) Suspension periods shall not include days on disability leave (e.g., Labor Code Section 4800.5).

(9) An employee must have 11 or more working days (includes the usage of leave credits, compensated time off) in a monthly pay period to have a qualifying pay period. Since time absent due to a suspension is considered a temporary separation from the Department, the employee's next merit salary adjustment may be delayed and/or accrual of vacation, annual leave, and sick leave credits may be affected. Refer to Highway Patrol Manual (HPM) 10.3, Personnel Transactions Manual, Chapter 6, Salaries; Chapter 9, Separations; Chapter 21, Sick Leave and Bereavement Leave; and Chapter 22, Vacation, Annual Leave, and Holiday-in-Lieu, for further details. In cases where a suspension will cause a non-qualifying pay period for the employee, the commander shall be responsible for preparing a Notice of Non-Qualifying Pay Period memorandum. The memorandum will notify the employee of the effects to the employee's pay and/or benefits. See Annex D, of this manual,

for a sample Notice of Non-Qualifying Pay Period memorandum. This memorandum shall be served concurrently with the Notice of Adverse Action.

(10) An employee must have one (1) working day (includes the usage of leave credits, compensated time off) in a monthly pay period to qualify for paid medical benefits. Commanders shall make every effort to ensure scheduled suspensions do not result in the loss of paid medical benefits.

b. Suspension and Formal Written Reprimand (Nonuniformed and All Managerial Employees). On page one (1) of the Notice, the involved employee's commander or designee shall enter the effective date(s) of the suspension or formal written reprimand, provided the following:

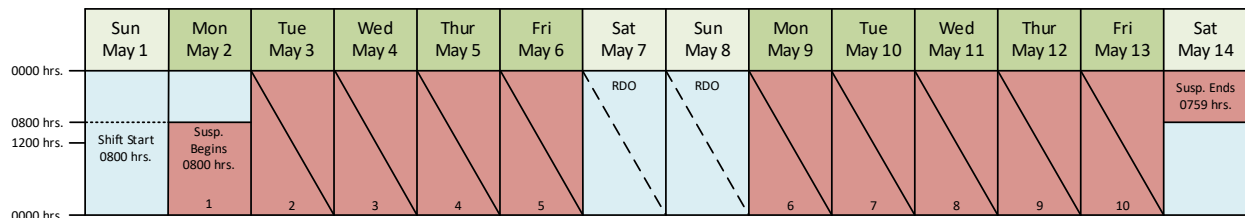
(1) The effective date(s) of the suspension or formal written reprimand shall not precede the end of the PDH period. The IAS should be contacted for assistance in determining an appropriate effective date.

(2) Suspensions shall be computed based on an eight (8)-hour shift within a 24-hour workday. Those employees assigned to an Alternate Work Week (9/80, 4/10, or 3/12) will need to be placed on a standard eight (8)-hour shift for the duration of the suspension.

(a) Nonuniformed Employees. Suspension days are counted Monday through Friday, excluding holidays that fall within the business week. Those RDOs that fall within the suspension period, are kept as days off, but do not count toward the suspension days.

Holidays that fall during the business week and occur while the nonuniformed employee is on suspension, are treated as a paid holiday and do not count toward the suspension.

Example: A nonuniformed or managerial employee received a ten (10)-day suspension. The employee's regular work schedule is from 0800 hours to 1600 hours, Monday through Friday, with weekends off.



(b) Uniformed Managers. Suspension days are counted Monday through Friday, **including** holidays that fall within the business week.

Those RDOs that fall within the suspension period, are kept as days off, but do not count toward the suspension days.

For uniformed managers, the holiday is considered a day of suspension.

(3) Suspension times begin at the start of the employee's assigned shift and end one (1) minute before that shift start time on the first day after the suspension period, which may be an RDO.

(4) Suspension periods shall not include days on temporary disability leave. An employee on limited duty can still be suspended if they are working full days; however, issues may arise if the employee is working on limited duty part time in the workplace and part time on temporary disability leave.

(5) An employee must have 11 or more working days (includes the usage of leave credits, compensated time off, and holidays for nonuniformed personnel) in a monthly pay period to have a qualifying pay period. As time absent due to a suspension is considered a temporary separation from the Department, the employee's next merit salary adjustment may be delayed and/or accrual of vacation, annual leave, and sick leave credits may be affected (Refer to HPM 10.3, Chapters 6, 9, 21, and 22 for further details). Employers are required to notify employees of anything that will affect pay or benefits. Therefore, in cases where a suspension will cause a non-qualifying pay period for the employee, the commander shall be responsible for preparing a Notice of Non-Qualifying Pay Period memorandum notifying the employee of the effects to pay and/or benefits.

(6) An employee must have (depending on the classification) one (1), two (2), or three (3) working days (includes the usage of leave credits, compensated time off and holidays for nonuniformed employees) in a monthly pay period to qualify for paid medical benefits. Commanders shall make every effort to ensure scheduled suspensions do not result in the loss of paid medical benefits.

(7) If a Work Week Group E, managers and above, or Work Week Group SE, attorneys and above, as defined in HPM 10.3, Chapter 28, Attendance Reporting, Annex A, employee receives a suspension penalty, it shall not be in less than full week increments to comply with the provisions of Labor Code Section 515 and Title 29 of the Code of Federal Regulations, Section 541.118.

c. Dismissal, Rejection During Probation, and Non-Punitive Termination (All Employees). On page one (1) of the Notice, the involved employee's commander or designee shall enter an effective date of the Dismissal, Rejection During

Probation, or Non-Punitive Termination five (5) business days after the last day of the PDH period (See paragraph 6, of this Chapter, for PDH period dates).

(1) The time entered will be 1700 hours on the date specified.

d. Demotion (All Employees). On page one (1) of the Notice, the involved employee's commander or designee shall enter an effective date of the demotion at least 15 calendar days after the last day of the PDH period.

(1) The time entered will be 1700 hours on the date specified.

(2) The effective date can be later than specified above, and, for time keeping purposes, it is recommended to coincide with the first day of the pay period.

(3) The effective date can also be set earlier, if the situation warrants, but shall not be any earlier than five (5) business days after the last day of the PDH period. For questions regarding how the employee's pay will be affected, contact Human Resources Section.

e. Monthly Step Reduction (All Employees). On page one (1) of the Notice, the involved employee's commander or designee shall enter the effective dates of the monthly step reduction(s), provided the following:

(1) The effective date of the monthly step reduction shall be a minimum of 25 calendar days from the date of service of the notice.

(2) Once beyond the 25 calendar days, the starting effective date shall be the first day of the new pay period at 0001 hours. The ending date will be on the last day of the pay period at 2359 hours, given the number of step-reduced months.

7. PRE-DISCIPLINARY HEARING TIME FRAMES. Pursuant to California Code of Regulations Title 2, Section 52.6, an employee is entitled to respond to a Notice of Adverse Action, Rejection During Probation, or Non-Punitive Termination during their PDH period. To prepare such a response, the employee, and a representative of their choosing, may review the investigative file. For information on the selection of the PDH Officer and the PDH process, see Chapter 9, Pre-Disciplinary Hearings, Leave Credits, and Appeals, of this manual.

Example: Uniformed Employee Notice.

1	RIGHT TO RESPOND TO APPOINTING AUTHORITY
2	You are entitled to (10) business days within which to respond to this notice,
3	either orally or in writing. You are entitled to a reasonable amount of state time to prepare your
4	response to the charges. You <u>are not</u> entitled to a formal hearing with examination of witnesses
5	at this stage of the proceedings. However, you may be accompanied by a representative of
6	your choice to assist you in reviewing the file, preparing and/or presenting your response.
7	Accordingly, you will be authorized on _____,
8	from _____ hours to _____ hours, to review the file, and you have
9	until _____, at 1700 hours, to present a response
10	to _____ of _____ Division.

- a. Employee Review Time. The employee and employee’s representative shall be granted four (4) hours of state time to review the investigation file and prepare a PDH response. The review is normally scheduled during the first business day of the scheduled PDH period but may also be the same day the notice is served if sufficient duty time remains (the last four [4] hours of the employee’s scheduled shift on the day the Notice is served).

- b. Scheduling the Pre-Disciplinary Hearing. The involved employee’s commander or designee shall contact their Division to obtain the name of the PDH Officer and ensure the PDH Officer will be available during the PDH period. The commander will enter the name and Division of the PDH Officer in the Notice. The commander should contact the IAS to coordinate the PDH period dates.

- c. Pre-Disciplinary Hearing Period. Unless circumstances require a modification, the following PDH period time frames shall be adhered to:
 - (1) Managerial Employees. The PDH period starts the first business day after the Notice is served at 0800 hours and ends at 1700 hours on the tenth business day.

 - (2) Uniformed Employees. The PDH period starts the first business day after the Notice is served at 0800 hours and ends at 1700 hours on the tenth business day.

 - (3) Nonuniformed Employees. The PDH period starts the first business day after the Notice is served at 0800 hours and ends at 1700 hours on the tenth business day.

(a) If service of the Notice is required to be completed by mail, the commander shall add five (5) business days to the PDH period. If the service is required to be mailed out of state, the commander shall add ten (10) business days to the PDH period.

8. SIGNATURE BLOCK.

a. Commissioner. In penalties of Dismissal, Rejection During Probation, Non-Punitive Termination, and Demotion, the Commissioner, or their designee, will sign and date the Notice prior to the Notice being forwarded to the command for service to the employee.

(1) In all other instances, the appropriate Assistance Commissioner will sign and date the Notice.

9. SERVICE OF THE NOTICE. Following receipt from the IAS, the final Notice shall be served to the employee in person whenever possible and should be served by the employee's commander. In addition to the final Notice, the employee shall be provided a digital copy of the completed investigative file, to include all exhibits, and the DLPA notification memorandum (uniformed employee), and a final determination memorandum if the matter included serious misconduct as defined by PC section 13510.8 (uniformed employee). The effective date of the service is upon delivery to the employee. A designated person, such as an attorney or representative, can be served instead of the involved employee, but the employee must have provided prior written notification of such a designation.

a. Service by Mail. In an instance where personal service is not possible, the IAS shall be notified. The Notice and a digital copy of the investigative file shall be placed in a sealed envelope and addressed to the last known address of the employee. The envelope shall be mailed by certified mail with a return receipt requested. The date of mailing is the date of service.

b. CHP 7C, Declaration of Service. The person who completed service to the involved employee, either personally or via certified mail, shall complete the CHP 7C, Declaration of Service. The CHP 7C is an official form signed under penalty of perjury.

c. Incomplete Service. If mailed documents are returned as undeliverable (e.g., moved, no forwarding address), a reasonable effort should be made to ascertain the employee's current address. If a new address is located, service should again be attempted. A new CHP 7C reflecting the new address must be completed.

If the delay in service affects the effective date of the action, contact the IAS to prepare an amended notice to reflect the extended effective date.

- (1) If a new address is not located, return a copy of the notice, a copy of the returned envelope bearing evidence of its non-delivery, the CHP 7C, and a memorandum detailing the efforts made to properly serve the employee to the IAS who will forward the information to the State Personnel Board.

d. Service Delays. If there is a delay in service which exceeds 29 calendar days, the IAS shall be contacted. All notices shall be served within 30 calendar days of the Department's decision to impose discipline, defined as when the notice is approved by the Office of the Commissioner. Employees who are on vacation, on injury status, on military leave, etc., may still be served if the employee is physically available. In cases where the employee is unavailable for service, the Area commander or designee shall contact the IAS for guidance. A notice shall not be delayed simply because an employee is pending retirement.

e. Post Service. Immediately following service of the final notice to the employee, the following documents shall be e-mailed to the IAS at IAS_Notification@chp.ca.gov:

- (1) A scanned PDF of the final notice.
- (2) A scanned PDF of the completed CHP 7C.
- (3) A scanned PDF of the completed DLPA notification memorandum (if a uniformed employee).
 - (a) A digital backup of the investigative file and associated documentation will be maintained by the IAS.
 - (b) If the employee was separated from state service through Dismissal, Rejection During Probation, or Non-Punitive Termination, notification shall be made to Human Resource Section, Personnel Transaction Unit, at PTU@chp.ca.gov.

f. Amended Notice. When necessary, the IAS will prepare an Amended Notice to modify the original Notice (e.g., change effective date, modify language, modify the penalty). Amended notices shall be served in the same manner as the original. Commanders who feel an amended notice is necessary should contact the IAS.

g. Decision to Stay Penalty Dates. If an employee has been served a Notice of Adverse Action, which specifies a suspension as the penalty, and the employee is placed on disability leave prior to the effective suspension date, the following shall occur:

(1) If it appears the employee will not return to full duty prior to the effective date on the notice, the employee's commander shall notify the IAS of the employee's change in duty status.

(2) Employees on limited duty may still have a suspension imposed without returning to full duty. The IAS should be consulted on imposing a suspension when an employee is on limited duty status.

(3) The IAS will make notification to the SPB through confidential memorandum of a Decision to Stay Penalty Dates. See Annex E, of this manual, for a Decision to Stay Penalty Dates sample memorandum.

(4) Upon command's notification to the IAS of the employee's return to duty, the IAS will forward an Amended Notice with new penalty dates and CHP 7C to the employee's commander for service to the employee. Service of the Amended Notice will be in the same manner specified in paragraph 9 of this chapter, with the new CHP 7C completed by the commander upon service to the employee.

h. Distribution of Documents. A printed copy of the final Notice, completed CHP 7C, and completed DLPA notification memorandum (if applicable) shall be placed into the employee's personnel folder.

10. MISCELLANEOUS INVESTIGATIONS. The IAS will review draft miscellaneous investigative files in the same manner as other investigations. The IAS will provide a factual brief of the investigative file along with the draft closing documentation prepared by the employee's command to the appropriate Assistant Commissioner for review and approval.

Note: If an employee resigns or retires during an internal investigation, or prior to the service of the Notice of Adverse Action, refer to Chapter 10, Separations During an Internal Investigation, of this manual.

a. Serving the Employee. Once the miscellaneous investigation is approved, the IAS will e-mail the Assistant Commissioner's memorandum approving the closing documentation to the affected command. A CHP 7C will also be attached to be completed by the commander, or their designee, upon service to an active employee.

(1) For active employees, once served closing documentation, the signed closing documentation will be entered into the employee's personnel folder. A copy of the signed closing documentation and CHP 7C will be e-mailed to the IAS for inclusion into the investigative file.

b. Rescinding Closing Documentation. If it becomes necessary to rescind closing documentation which has previously been served to an employee, the following procedures shall apply:

(1) The rescinded closing documentation shall be removed from the employee's field personnel folder and destroyed. If a new document is to be issued in place of the one being rescinded, the retention period for the amended document will be determined by the date the rescinded document was issued.

(a) If a response was filed with the original closing document, pursuant to GC 3306, the document shall be removed from the employee's field personnel folder and given back to the employee.

(2) The IAS will ensure the digital copy of the rescinded closing documentation (and GC 3306 response if applicable) is removed from the final investigative file.

c. Release of a Miscellaneous Investigation. Pursuant to a written request, employees who have been the subject of an adverse action which was subsequently converted to a miscellaneous investigation shall be provided with a redacted copy of the investigative file in accordance with the following procedures:

(1) Prior to the release, the employee shall sign a Release of Miscellaneous Investigation File memorandum acknowledging the release and confidentiality of the investigative file, as well as the fact that portions of the investigation may have been redacted. See Annex F, of this manual, for a Release of Miscellaneous Investigation File sample memorandum.

(2) The signed memorandum shall be placed in the employee's personnel folder, with a scanned copy e-mailed to the IAS. Once the signed memorandum is received, the IAS will attach the memorandum to the investigative file. The memorandum will be retained for the life of the investigative file.

(3) The employee shall be provided only a copy of the materials required to be released under state and federal law. The IAS will forward the redacted investigative file back to the command so that it may be provided to the employee.

11. CONTROL AND RETENTION. The IAS will maintain a digital copy of all final investigative files. The IAS shall ensure all administrative investigations are purged after a period of five (5) years, commencing from the date the employee is served with the Notice of Adverse Action or the closing documentation. The IAS shall ensure

administrative investigations that result in a formal written reprimand are purged after a period of three (3) years.

Note: Pursuant to PC 832.5(b) adverse actions arising from a sustained civilian complaint shall be retained for 15 years.

a. Employee Field Personnel Folders. Commands will maintain a printed copy of the signed notice served to the employee, a printed copy of the completed CHP 7C, and a printed copy of the DLPA notification (if applicable) in the employee's field personnel folder.

(1) For miscellaneous investigations, commands will maintain a printed copy of the signed closing documentation in the employee's field personnel folder.

b. Field Personnel Folder Retention. An employee's signed notice and the associated CHP 7C and DLPA notification shall be maintained for five (5) years from the date of the service of the notice, then purged.

(1) If an internal investigation resulted in a Formal Written Reprimand, the Formal Written Reprimand shall be maintained for three (3) years from the date of service.

(2) All other closing documentation issued to an employee shall be maintained for three (3) years from the date of service.

c. CHP 7E, Investigation Control Log. Divisions shall maintain their CHP 7E for a period of five (5) years from the end of the calendar year.

12. OTHER CONSIDERATIONS.

a. Release of Internal Investigations. Any request for release of an internal investigation through a Public Records Act request or similar request shall be directed to the IAS. The IAS shall not disclose personnel records except through proper legal procedure and after consultation with the OLA and the Office of Risk Management.

(1) Only departmental employees with a legitimate need to know as a part of their duties may have access to an internal investigation.

(2) As the Department's legal representatives, a copy may be released to the State Compensation Insurance Fund, Office of the Attorney General, or other counsel as confirmed by the OLA. Normally, such releases will be coordinated through the OLA.

(3) The Department may release internal investigations with allegations of serious misconduct to the Commission on Peace Officer Standards and Training, as required by Penal Code Section 13510.8.

(4) Penal Code Section 832.7(b) provides that certain investigations are subject to public release. Refer to HPM 11.1, Administrative Procedures Manual, Chapter 13, Information Disclosures – Public Records and Rights of Privacy.

(5) Penal Code Section 832.7(e) provides the Department may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement they know to be false concerning the investigation or the imposition of disciplinary action.

(6) An unauthorized disclosure of peace officer personnel records in violation of PC Section 832.7 may constitute a criminal act. Additionally, individuals may be subject to disciplinary action and/or civil liability.

b. Surrender of State Property. When an employee is suspended or removed from state service, it is considered a separation (either temporary or permanent) from the Department. Therefore, state property (ID card, badge, cap piece, state-owned police protective equipment) assigned to or in possession of the employee shall be surrendered at the time of separation.

c. Removal of Peace Officer Powers. For uniformed employees, peace officer powers are suspended during a temporary or permanent separation from the Department.

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ANNEX A

CHP 7C, DECLARATION OF SERVICE

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
DECLARATION OF SERVICE
CHP 7C (Rev. 11-22) OPI 031

Print Button

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

NAME OF PERSON SERVING DOCUMENT

①

DATE DOCUMENT SERVED

②

TYPE OF DOCUMENT SERVED (CHECK ALL THAT APPLY)

Copy of Investigative File ③

Memorandum of Direction ⑨

Notice of Adverse Action ④

Memorandum of Findings ⑩

Notice of Rejection During Probation ⑤

Other (Specify): ⑪

Notice of Non-Punitive Action ⑥

Amended Notice ⑦

Predisciplinary Hearing Officer's Decision ⑧

NAME OF EMPLOYEE SERVED

⑫

HOW DOCUMENT WAS SERVED

 Personal Service, by personally delivering to and leaving with said person the original thereof at the address set forth below.
⑬

 Service by Mail, by placing the original thereof in a sealed envelope addressed to the last known address of said employee at
⑭ the address set forth below and depositing said envelope in the United States Mail, registered, with return receipt requested
and postage thereon fully prepaid, at ⑮, California.

ADDRESS (WHERE SERVICE IS MADE)

⑯

I am and was at the time of the service of the attached paper(s) over the age of 18 years and not a party to the proceedings involved.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on ⑰ at ⑱, California.

SIGNATURE OF PERSON SERVING DOCUMENT

⑲

DATE

⑳

Distribution:	
<p style="text-align: center;">For cases resulting in Adverse Action, Rejection During Probation, and Non-Punitive Termination</p> <ul style="list-style-type: none"> A copy of the investigative file shall be given to the employee. A copy of the completed CHP 7C and a copy of the Notice shall be emailed to the Office of Internal Affairs (OIA) as soon as possible. A copy of the completed CHP 7C and a copy of the Notice shall be emailed to Division. The original completed CHP 7C and a copy of the Notice shall be placed in the investigative file at Area. A copy of the completed CHP 7C and a copy of the Notice shall be placed in the employee's personnel folder. 	<p style="text-align: center;">For cases resulting in the issuance of a Memorandum of Findings, Memorandum of Direction, or other miscellaneous documentation</p> <ul style="list-style-type: none"> The original signed closing document shall be provided to the employee. One (1) copy of the issued closing document, with the signature of the acknowledging employee, shall be emailed to OIA to be included in the original investigative file. One (1) copy of the issued closing document, with the signature of the acknowledging employee, shall be emailed to Division. One (1) copy of the issued closing document, with the signature of the acknowledging employee, shall be placed in the copy of the miscellaneous investigation file kept at the Area. One (1) copy of the issued closing document, with the signature of the acknowledging employee, shall be placed in the employee's personnel folder.

Refer to Highway Patrol Manual 10.2, Internal Investigation Manual, Chapter 8 Review, Approval, and Closing Documentation, for further information.

Chp7C_1122.pdf

ANNEX A

CHP 7C, DECLARATION OF SERVICE (*continued*)

Instructions.

1. Full name of individual serving document(s) (e.g., Notice of Adverse Action, Notice of Rejection During Probation, Notice of Non-Punitive Termination).
2. Drop down date for service of document(s).
3. Check if a copy of the investigative file is being provided.
4. Check if serving a Notice of Adverse Action.
5. Check if serving a Notice of Rejection During Probation.
6. Check if serving a Notice of Non-Punitive Action.
7. Check if serving an Amended Notice.
8. Check if serving a Predisciplinary Hearing Officer's Decision.
9. Check if serving a Memorandum of Direction
10. Check if serving a Memorandum of Findings
11. Check if serving other documentation. Specify document(s) provided.
12. Full name, rank, and identification number of individual being served.
13. Check if individual is served document(s) personally.
14. Check if individual is served document(s) by mail.
15. Location of the post office where documents are mailed from. Complete only if item 14 is selected.
16. Location documents were personally served or mailed to.
17. Drop down date indicating when CHP 7C, Declaration of Service, was prepared.
18. City in which the individual completed the CHP 7C.
19. Signature of individual serving document(s).
20. Drop down date individual signed item 19.

ANNEX B

DISCLOSURE LIST FOR PROSECUTING AGENCIES NOTIFICATION

State of California

Transportation Agency

M e m o r a n d u m

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

Date: August 14, 2022

To: Pinehurst Area
Attention: Officer Neal Diamond, ID 65432

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Pinehurst Area

File No.: 031.30035.54632

Subject: DISCLOSURE LIST FOR PROSECUTING AGENCIES NOTIFICATION

Per departmental policy outlined in General Order (GO) 10.25, this memorandum is to advise you that your name and identification number will be placed on the Department's Disclosure List for Prosecuting Agencies (DLPA) as the result of the adverse action being taken against you. Your name and identification number will be maintained on the DLPA for the date prescribed in GO 10.25, beginning from the effective date of the adverse action.

Captain W.J. Smith
Commander

cc: Internal Affairs Section

Safety, Service, and Security

CHP 51WP (Rev. 06/2015) OPI 076



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ANNEX D

DECISION TO STAY PENALTY DATES

State of California

Transportation Agency

Memorandum

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

Date: January 25, 2023

To: State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Internal Affairs Section

File No.: 031.16022.A12103.A22-076

Subject: DECISION TO STAY PENALTY DATES,
OFFICER PATRICK A. SAJAK, ID 54321

Until further notice, please stay the penalty dates of the *Notice of Adverse Action* served on Officer Patrick A. Sajak, ID 54321, of the Pinehurst Area. The original penalty was a ten (10) consecutive calendar day period with an effective date of January 27, 2023, at 0800 hours, to February 6, 2023, at 0759 hours. The employee has been currently placed off work by his physician. When Officer Sajak returns to duty, an amended notice reflecting new penalty dates will be submitted.

The action taken in this case was approved by the appointing power.

W. J. SMITH, Captain
Commander

Attachments

cc: Human Resources Section, Personnel Transactions Unit
Office of Assistant Commissioner, Field
Valley Division
Pinehurst Area

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ANNEX E

RELEASE OF MISCELLANEOUS INVESTIGATION FILE

State of California

Transportation Agency

Memorandum

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

Date: September 3, 2022

To: Officer Jaime Lannister, ID 41234

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Castle Rock Area

File No.: 148.31313.38383

Subject: **RELEASE OF MISCELLANEOUS INVESTIGATION FILE**

You are being provided a copy of the Miscellaneous Investigation file, Case Number 22-148-02, prepared by the Castle Rock Area. You were the subject of this investigation and have requested a copy.

Pursuant to Penal Code Section 832.7, these documents are considered confidential by the Department. Release of any portion of the investigative file to any person or entity, other than your attorney or personal representative, is prohibited.

In the event you intend to use these documents, or the information contained therein, for civil litigation, prior to release you must file a discovery motion with the court pursuant to Evidence Code Section 1043, and the court must order the documents released to maintain the confidentiality of the documents. It is recommended you discuss these ramifications with your attorney or personal representative prior to any disclosure.

This memorandum will be placed in your personnel folder; an additional copy will attach to the Miscellaneous Investigation.

T. GREYJOY, Captain
Commander

Safety, Service, and Security

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



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ANNEX E

RELEASE OF MISCELLANEOUS INVESTIGATION FILE (*continued*)

Officer Jaime Lannister, ID 41234
Page 2
September 3, 2022

I hereby acknowledge receipt of this memorandum.

Employee's Signature

ID

Date

Service information:

Supervisor's Signature

ID

Time