

CHAPTER 2
FEDERAL INVESTIGATIONS
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CHAPTER 2

FEDERAL INVESTIGATIONS

1. PURPOSE. The purpose of this chapter is to provide guidelines to departmental personnel responsible for coordinating with federal personnel.

2. POLICY. The Department will assist the National Transportation Safety Board, National Highway Traffic Safety Administration, Federal Highway Administration, other federal agencies with jurisdictional authority, and those agencies contracting with a federal agency in the investigation of incidents that fall within the scope of departmental responsibility. The Department will continue to assume the primary investigative and scene management responsibility for all incidents occurring within its jurisdiction.

3. GENERAL INFORMATION.
 - a. The Department, and various federal agencies, have similar interests in the investigation of certain incidents, particularly those investigated by a Multidisciplinary Accident Investigation Team (MAIT). Some federal agencies have the authority to conduct investigations in cooperation with state agencies to determine probable cause and make recommendations for safety improvements to prevent incidents of a similar nature from occurring in the future. Additionally, multiple federal agencies have been empowered by the United States Congress to conduct safety studies and investigations on matters pertaining to transportation. The Department has the responsibility and authority to conduct investigations to determine the cause, collect information for prosecution, and to identify factors affecting traffic safety in the State of California. In addition to its investigative responsibilities and authority, the Department also has the responsibility to manage incidents that fall within the scope of departmental responsibility. Management of an incident scene includes the authority to coordinate operations, direct traffic, and direct activities at the scene in a manner designed to minimize the risk of death or injury to other persons.

 - b. While a federal agency may be charged with the responsibility to conduct independent investigations, they are also empowered to enter into cooperative agreements or other transactions with any government entity, to confer with employees, and to use available services, records, and facilities of a state agency. The Department, while charged with the responsibility for conducting criminal investigations pursuant to Section 2412 of the California Vehicle Code (CVC), has a similar ability to enter into cooperative agreements with governmental entities. While the investigative responsibilities of various federal agencies and the Department are different, there are significant areas of mutual interest. In light of

these areas of mutual interest, it is advantageous for agencies to cooperate with one another in the investigation of specific incidents.

c. There are many circumstances in which the Department and a federal agency may conduct parallel investigations. Some federal investigations may involve a full team of investigators. These investigations could typically include the involvement of a MAIT due to a high fatality count, a high-profile incident, and/or significant impact on the highway transportation system. However, based on the incident and the scope of the federal agency's investigation or safety study, only one or two representatives may be assigned to the incident scene, whether the incident meets the MAIT call-out criteria or not. One or two representatives may even be assigned and respond to the area to investigate or conduct a safety study following the completion of the CHP investigation.

(1) Any representative notifying the Department of their assignment to conduct a parallel investigation shall have their identification verified and documented for notification purposes. It may be necessary to confer with any district attorney assigned to the case, when applicable.

4. NOTIFICATION PROCEDURES.

a. Any employee receiving notification of a federal agency response, or who becomes aware of an unannounced response to an incident site within the State of California, shall provide the appropriate notification to their chain of command to ensure the Assistant Commissioner, Field, through the Emergency Notification and Tactical Alert Center, and the Enforcement and Planning Division (EPD) are notified. The notification should include the name(s) of the federal agency's representative(s) responding to the site, as well as their estimated date(s) and time(s) of arrival. If notification of the federal agency involvement is not initially made at the Area level, the field Division Chief shall ensure the appropriate Area command has been notified of the federal agency response.

b. If a federal agency's response will require action of this Department, the federal agency will contact EPD, either in writing or via telephone, prior to their response requesting the Department's cooperation or participation. Should a federal agency respond to an Area or field Division without first contacting EPD, that Area or Division shall, through appropriate channels, notify EPD of the request and refer the federal agency representative to EPD prior to committing any departmental resources. Following the notification, EPD will evaluate the

request and make recommendations through channels to the Assistant Commissioner, Field, concerning the extent of the Department's cooperation or participation.

c. Depending on the circumstances of the federal agency's response, it may be necessary to notify the district attorney to ensure the court case will not be jeopardized by their investigation or safety study.

5. GUIDELINES.

a. The following guidelines are designed to assist in establishing an effective working relationship between this Department and federal agencies.

(1) Incident Site Response. Upon notification that a federal agency will be responding to an incident site, the Area commander shall be responsible for the following:

(a) The MAIT having investigative responsibility shall be requested to respond to the incident site.

(b) Depending on the severity of the incident, a request for additional MAIT personnel from adjoining Divisions should be considered.

(c) Establish a meeting, as soon as practical, between the federal agency and CHP investigators. The purpose of this meeting should be to introduce the investigators, brief the federal agency investigators of the current status of the CHP investigation, and to establish an investigative plan which will best accommodate the interests and concerns of both agencies.

(d) An employee of the Department shall be assigned to coordinate with the federal agency spokesperson. The primary duties of this assignment should be to monitor and evaluate the effect of the federal agency's public relations activities on this Department, coordinate the Department's public relations activities, and ensure the accurate and timely flow of all pertinent information to the public. Collaborative efforts and arrangements should be made with the federal agency to allow the exchange of any information prior to its release to the general public.

(e) During the period that the field investigation is active, daily meetings should be held between key investigative personnel of the federal agency and CHP. These meetings should be used to compare notes on the acquisition of factual data, discuss areas of concern, and establish the investigative plan for the following day.

(f) At the end of the active field investigation period, a debriefing of all key investigative personnel of the federal agency and CHP should be conducted. The purpose of this meeting should be to compare factual data collected and to discuss areas of mutual concern prior to completing either agency's investigation report.

(2) Studies on Transportation Safety. Upon notification that a federal agency will be conducting a safety study, the Area commander shall be responsible for the following:

- (a) Notify the Division commander or designee of the safety study.
- (b) Ensure the criteria for the safety study to be conducted by a federal agency are disseminated to the appropriate field and/or staff personnel.
- (c) Establish a procedure for notifying the federal agency when an incident occurs which meets the specific criteria of the safety study.
- (d) Provide the federal agency investigator involved in the safety study with reasonable and timely access to the information necessary to conduct a thorough evaluation, with the concurrence of the district attorney's office, when applicable.
- (e) Keep the Division commander advised of any problems associated with the Department's involvement in the safety study.
- (f) Ensure notification to the affected California Department of Transportation district, if applicable.

(3) Access to Data. Some federal agencies have the right to access the incident scene, collect evidence, inspect vehicles and facilities, examine records, and interview witnesses and involved parties as a part of their investigation process. With respect to this authority, and with the concurrence of the district attorney, the federal agency should be given reasonable and timely access to the following:

(a) Incident Scene. The federal agency investigators should be allowed to view the scene and take measurements, photographs, and conduct other functions relevant to their investigation, in coordination with the respective MAIT.

1 The collection of evidence at the incident scene or any destructive analysis performed by federal agency investigators should be approved by the departmental employee in charge of the CHP investigation and conducted in cooperation with the district attorney's office.

a Prior to any destructive analysis conducted by the Department or a federal agency, the Department will make every effort to notify all interested parties of the proposed analysis and to inform them of their right to seek a court injunction to stop the analysis.

b Interested parties include all individuals listed in Section 20012 CVC.

2 Factual data collected prior to the federal agency's arrival should be disclosed to federal agency investigators in a timely manner.

(b) Vehicles. Federal agency investigators should be allowed to view, take measurements, photograph, and conduct other nondestructive analysis of the vehicles and/or their components as a part of their investigation, in coordination with the respective MAIT.

1 Any destructive analysis or testing by the federal agency shall be conducted in cooperation with the district attorney's office and this Department.

a Prior to any destructive analysis conducted by the Department or federal agency, the Department will make every effort to notify all interested parties of the proposed analysis and to inform them of their right to seek a court injunction to stop the analysis.

b Interested parties include all individuals listed in Section 20012 CVC.

2 The collection of physical evidence, vehicle or system components, or any other evidence associated with a vehicle by a federal agency investigator shall be with the approval of the departmental employee in charge of the CHP investigation, in coordination with the respective MAIT and the district attorney.

(c) Involved Parties and Witnesses. The federal agency investigators, with district attorney approval, should be given the opportunity to interview all involved parties, parties of interest, and witnesses. In cases where the criminal aspects of the CHP investigation could be jeopardized by allowing federal agency investigators access to parties or witnesses, the following accommodations should be considered:

1 A CHP investigator should be assigned to each federal agency investigator. This will allow a more efficient exchange of information relevant to the investigation.

2 Allow the federal agency human factors investigator to participate in the CHP interviews or allow the federal agency human factors investigator to provide input into the questions to be asked by the CHP investigator.

3 Provide the federal agency human factors investigator a draft summary of the interview.

(d) Records, Files, and Facilities Inspections. The access of motor carrier facility records, CHP inspection records, driver license records of involved parties, etc., shall, with district attorney approval, be coordinated between the departmental employee in charge of the CHP investigation and the federal agency investigator. The federal agency's access to records or other information which could adversely affect the criminal prosecution of the case should be coordinated through the appropriate district attorney's office.

(4) Conflict of Interest. In those limited instances where a federal agency's investigative activity conflicts with the interests of the Department, the interests of the Department shall have priority. Efforts should be made to resolve any conflict that may arise at the lowest possible level of command.

(a) The Area commander shall keep the appropriate field Division Chief apprised of significant conflicts that may arise.

(b) The Division Chief shall, in turn, keep EPD informed of the nature of significant conflicts that may develop between this Department and the federal agency. Enforcement and Planning Division will evaluate areas of conflict and make recommendations to the Assistant Commissioner, Field.

(5) Criminal Investigations. In cases where criminal prosecution is a possibility, any investigation activity conducted by a federal agency which could adversely affect the criminal prosecution of the case should be coordinated through the appropriate district attorney's office.

(6) Civil Litigation Investigations. In non-prosecution cases, the CHP should request to be included in any administrative warrants requested by the federal agency. This allows CHP investigators access to information being provided to the federal agency.