



STATE OF WASHINGTON
WASHINGTON STATE PATROL

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May 26, 2021

Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA)
13575 Heathcote Boulevard Suite 320
Gainesville VA 20155

Subject: Washington State Patrol (WSP) Comment on CALEA Accreditation Report

The Washington State Patrol (WSP) is grateful for your careful review of this agency's policies and practices for purposes of reviewing accreditation eligibility. We hold ourselves to the highest standards, and regard CALEA accreditation as a critical affirmation of our commitment. On May 13, 2021, you provided a copy of the draft report regarding WSP's Law Enforcement CALEA Accreditation and invited my comment. I thank you for the opportunity to review the report and comment, and ask that you consider this letter to be my comment on the draft report.

CALEA understands, and indeed leads, the considerable police accountability emphasis being discussed nationally, regionally and locally. In Washington, the state Legislature convened for its regular legislative session from January 11 through April 25, 2021, and considered and passed several legislative amendments related to police tactics, duties, equipment, accountability and transparency. Most of these legislative reforms will take effect July 26, 2021.

The WSP's CALEA Law Enforcement assessment occurred during Washington's legislative session, so the WSP shared with assessors that immediately after the Washington legislature adjourned, the agency would execute policy, training and operational adjustments to comport with both the changes to Washington law, as well as related CALEA standards. Specifically, these policy, training and operational amendments will address four of the CALEA standards (*i.e.*, CALEA standards 1.2.9, 1.2.10, 4.1.1 and 4.1.2) identified by CALEA Compliance Services Member Karen Ashley as needing agency action. The WSP will also use the same policy amendment cycle to adjust the remaining two CALEA standards (*i.e.*, 26.3.6 and 82.2.5) identified by Ms. Ashley as needing agency action.

To that end, the WSP has prepared the enclosed policy drafts for abridged circulation among commanders. They will be signed into effect and published as expeditiously as possible so that the associated training can be provided to employees before July 26, 2021.

- 1.2.9: Biased Policing. The WSP will amend WSP Regulation No. 8.00.260 as indicated in Attachment A, and will adjust its training accordingly.
- 1.2.10: Duty to Intervene. The WSP will address this standard and changes in Washington law through amendment to WSP Regulation Nos. 2.00.010 and 8.00.010 as indicated in Attachment B, and will adjust its training accordingly.



May 26, 2021

- 4.1.1: Use of Reasonable Force. The WSP will address this standard and changes in Washington law through amendment to WSP Regulation No. 2.00.010, as indicated in Attachment C, and will adjust its training accordingly.
- 4.1.2: Use of Deadly Force. The WSP will address this standard and changes in Washington law through amendment to WSP Regulation Nos. 2.00.010, 2.00.020 and 2.00.030, as indicated in Attachment D, and will adjust its training accordingly.
- 26.3.6: Submissions to Tests, Procedures. Attachment E is an Interoffice Communication (IOC) dated May 20, 2021, from Captain Tyler Drake, which references WSP policies and written directives that address this standard, together with additional explanatory notes about WSP's application of them.
- 82.2.5: Reports by Phone, Mail, or Internet. The WSP will address this standard through amendment to WSP Regulation No. 20.00.010 as indicated in Attachment F.

As stated above, the enclosed policy amendments are being circulated in draft form among the agency's commanders. Minor adjustments may result from feedback received but the agency will publish amendments in a substantially similar form as enclosed. The WSP will provide CALEA with the final versions of the enclosed policy amendments upon publication.

The WSP sincerely appreciates your diligent work to review our agency for accreditation, and your patience as we awaited the final versions of statutory amendments in Washington in order to prepare policy amendments that comply with changes in Washington law as well as applicable CALEA standards.

If you have any questions or need additional information, please contact Ms. Mandy Schell, Accreditation Manager, at mandy.schell@wsp.wa.gov.

Sincerely,



CHIEF JOHN R. BATISTE

JRB:aeg

Enclosures

cc: Assistant Chief Marc W. Lamoreaux, Technical Services Bureau
Ms. Dory L. Nicpon, Risk Management Division
Ms. Mandy Schell, Litigation and Strategic Performance Section

ATTACHMENT A
is the succeeding one (1) page

8.00.260 UNBIASED POLICING (CALEA 1.2.9)

I. POLICY

A. Biased-Based Profiling Prohibited

1. Officers shall not use bias-based profiling to initiate traffic stops, field contacts, asset seizures, or forfeiture efforts. Biased-based profiling is the selection of individuals based solely upon a common trait of a group, including, but not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, or cultural group.
2. Employees shall not express any prejudice or bias concerning race, religion, gender, age, politics, national origin, sexual orientation, disability, or similar personal characteristics while in their official capacity as a representative of the agency.
3. The department shall investigate all complaints of bias-based profiling.

B. Training on Unbiased Policing

1. All officers shall receive initial and annual training in issues, including legal updates, related to bias-based profiling.

Applies to: WSP Officers

See Also: RCW 43.43.480, 43.43.490

ATTACHMENT B
is the succeeding five (5) pages

2.00.010 USE OF FORCE – DEFINED (CALEA 1.2.10, 4.1.1, 4.1.2, 4.2.1, 81.2.4)

I. DEFINITION

- A. *Use of force* is defined as "Power dynamically considered, that is, in motion or in action; constraining power, compulsion; strength directed at an end. Force may be applied through the use of a person's body, weapons, equipment, and/or other instruments."
- B. *Excessive force* is defined as force that exceeds the force permitted by law or WSP policy.
- C. *Intervene* is defined as verbal and/or physical action by an on-duty officer to prevent or stop another peace officer from using excessive force.
- D. *Necessary* means that, under the totality of the circumstances, a reasonably effective alternative to the use of force does not exist, and that the amount of force used is a reasonable and proportional response to the threat posed to the officer and others.
- E. Reasonable belief means an impression reliably informed by observations and circumstances.
- F. *Wrongdoing* is defined as conduct observed by an on-duty officer that is contrary to law or WSP policies, provided the conduct is not *de minimis* or technical in nature.

II. POLICY

A. Reasonable Use of Force

- 1. An officer may only use reasonable force to lawfully perform the officer's in accordance with this policy and all applicable laws.
- 2. An officer shall not use a chokehold or neck hold/restraint (see **NECK HOLDS**), but may otherwise use physical force against a person when necessary to:
 - a. protect against criminal conduct where there is probable cause to make an arrest;
 - b. effect an arrest;
 - c. prevent an escape as defined under RCW chapter 9A.76; or
 - d. protect against and imminent threat of bodily injury to the officer, another person, or the person against whom force is being used.
- 3. In the application of force, an officer shall:
 - a. Use reasonable care when determining whether, when, and how to use physical force against another person, taking into account such considerations as whether the person:
 - i. appears to be, or indicates they are, pregnant, a minor, or suicidal;

- ii. is known to be a vulnerable individual as defined in RCW 74.34.020;
 - iii. displays signs of mental, behavioral or physical disability;
 - iv. exhibits drug or alcohol impairment;
 - v. has limited English proficiency; or
 - vi. is in the presence of children.
- b. When possible, exhaust available and appropriate de-escalation tactics such as tactically repositioning to maintain the benefit of time, distance or cover, avoiding competing demands from multiple officers, contacting crisis intervention teams, etc.;
 - c. When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances;
 - d. Terminate the use of physical force as soon as the necessity for such force ends; and
 - e. Provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.

B. Reportable Uses of Force

- 1. Physical take-downs, leg sweeps, or any technique which forcibly requires the subject to end up on the ground from means other than his/her own.
- 2. Restraint Strap, if used to overcome combative resistance or aggression.
- 3. Use of OC-10.
- 4. Use of the Taser.
- 5. Striking with hand/fist or foot.
- 6. Any use of an impact tool, whether designed for that function or not.
- 7. Any action that results in a complaint of injury and/or any form of visible injury to a subject.
- 8. Use of the Pursuit Immobilization Technique at 40 miles per hour or higher.
- 9. Use of a vehicle in an act of intentional intervention.
- 10. Use of any firearm (*including unintentional discharge*), except as outlined in the **ANIMAL DESTRUCTION** policy.

C. Reporting Use of Force

1. In any instance where an officer uses force the officer shall immediately notify a supervisor.
2. If an arrest is made, the officer shall complete an arrest report and any other reports necessary to satisfy prosecutorial requirements.

D. Duty to Intervene, Rendering Aid and Report

1. An officer shall, when in a position to do so, intervene to prevent or stop excessive force by a peace officer permitted by law or WSP policy.
2. An officer shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at the scene controlled by law enforcement.
3. An officer shall immediately report to a supervisor when the officer:
 - a. Is involved in an intervention;
 - b. Observes excessive force by another peace officer; or
 - c. Observes wrongdoing by another peace officer, or has a good faith reasonable belief, that another peace officer has committed wrongdoing.
4. Officers shall not be disciplined or retaliated against as a result of intervening, reporting excessive force, or reporting wrongdoing in good faith.

E. Investigation of Use of Force

1. The use of force investigation process evaluates the appropriateness of the force, alternatives to the force, tactics used to administer the force, or the training and supervisory concerns related to the use of force incident.
2. Use of force shall be investigated by a supervisor
3. Use of force (including lethal force, which includes intentional intervention) is not, by definition, a criminal allegation.
4. Use of lethal force resulting in death, substantial bodily harm, or great bodily harm shall be investigated first by an independent investigation team. All other use of lethal force shall be investigated first by the Criminal Investigation Division. For the purposes of this policy, it is not considered criminal, unless evidence is discovered which would lead to the filing of criminal charges by the appropriate prosecutor.
5. The procedures for conducting a use of force investigation are outlined in the **USE OF FORCE – RESPONSIBILITIES – INVESTIGATION** policy and the *Administrative Investigation Manual*.
6. If there are no indications or allegations of policy violations, the supervisor shall complete a use of force investigation and the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit).

7. If there appears that a policy violation may have occurred, the supervisor shall submit the Use of Force FLUP and an Internal Incident Report (IIR) through the chain of command. If a policy is suspected or alleged, in addition to completing the IIR, the supervisor shall ensure that the division/district commander is notified of the incident and briefed on the facts leading the supervisor to believe a violation has occurred.

Applies to: WSP Officers

See Also: WSP Policy **Animal Destruction, Responsibilities – Investigation, Rules of Conduct**, RCW 36.28A.445 {Render Aid}; RCWs

8.00.010 RULES OF CONDUCT (CALEA 1.1.1, 26.1.1, 52.2.2)

I. POLICY

A. Employees Required to Obey Rules of Conduct

1. The WSP Rules of Conduct shall govern the official and unofficial actions of all employees. A violation of the Rules of Conduct may be sufficient cause for disciplinary action.
2. Employees shall obey all laws of the United States, of this state, and of local jurisdictions.
3. Employees shall not commit any acts or omissions which would constitute a violation of any of the rules, regulations, directives, orders, or policies of the state of Washington or the WSP. Ignorance shall not be considered justification for any violation.

B. Reporting Violations of Laws, Ordinances, Policy, or Orders

1. Employees who know of or observe violations of laws, ordinances, department policy, or official orders on the part of other department employees shall proceed as follows:
 - a. Report such incidents at once to their immediate supervisor.
 - b. Employees who believe that they possess information of such gravity that it must be brought to the immediate personal attention of the Chief may do so.
 - c. If on-duty employees are confronted with a public incident involving disorderly conduct of an off-duty employee which cannot be handled in a routine manner, the case shall be brought before an on-duty supervisor or commander for disposition.
2. An employee shall not make a knowingly false complaint against any other employee.

C. Employees Under Criminal Investigation

1. Any employee who is under criminal investigation, accused of criminal misconduct, or who has been arrested and/or charged with a crime—either on or off duty—shall notify their division/district commander immediately. The matter will be handled in accordance with the provisions of the *Administrative Investigation Manual*.
2. Additionally, any employee who is the subject of a restraining/protection/anti-harassment/no-contact order shall notify their division/district commander immediately and provide a copy of the order for review. The division/district commander will then conduct a review of the facts surrounding the order.

Applies to: All WSP Employees
See Also: WSP Policy **Criminal Actions**

ATTACHMENT C
is the succeeding four (4) pages

2.00.010 USE OF FORCE – DEFINED (CALEA 1.2.10, 4.1.1, 4.1.2, 4.2.1, 81.2.4)

I. DEFINITION

- A. *Use of force* is defined as "Power dynamically considered, that is, in motion or in action; constraining power, compulsion; strength directed at an end. Force may be applied through the use of a person's body, weapons, equipment, and/or other instruments."
- B. *Excessive force* is defined as force that exceeds the force permitted by law or WSP policy.
- C. *Intervene* is defined as verbal and/or physical action by an on-duty officer to prevent or stop another peace officer from using excessive force.
- D. *Necessary* means that, under the totality of the circumstances, a reasonably effective alternative to the use of force does not exist, and that the amount of force used is a reasonable and proportional response to the threat posed to the officer and others.
- E. Reasonable belief means an impression reliably informed by observations and circumstances.
- F. *Wrongdoing* is defined as conduct observed by an on-duty officer that is contrary to law or WSP policies, provided the conduct is not *de minimis* or technical in nature.

II. POLICY

A. Reasonable Use of Force

1. An officer may only use reasonable force to lawfully perform the officer's in accordance with this policy and all applicable laws.
2. An officer shall not use a chokehold or neck hold/restraint (see **NECK HOLDS**), but may otherwise use physical force against a person when necessary to:
 - a. protect against criminal conduct where there is probable cause to make an arrest;
 - b. effect an arrest;
 - c. prevent an escape as defined under RCW chapter 9A.76; or
 - d. protect against and imminent threat of bodily injury to the officer, another person, or the person against whom force is being used.
3. In the application of force, an officer shall:
 - a. Use reasonable care when determining whether, when, and how to use physical force against another person, taking into account such considerations as whether the person:
 - i. appears to be, or indicates they are, pregnant, a minor, or suicidal;

- ii. is known to be a vulnerable individual as defined in RCW 74.34.020;
 - iii. displays signs of mental, behavioral or physical disability;
 - iv. exhibits drug or alcohol impairment;
 - v. has limited English proficiency; or
 - vi. is in the presence of children.
- b. When possible, exhaust available and appropriate de-escalation tactics such as tactically repositioning to maintain the benefit of time, distance or cover, avoiding competing demands from multiple officers, contacting crisis intervention teams, etc.;
 - c. When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances;
 - d. Terminate the use of physical force as soon as the necessity for such force ends; and
 - e. Provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.

B. Reportable Uses of Force

1. Physical take-downs, leg sweeps, or any technique which forcibly requires the subject to end up on the ground from means other than his/her own.
2. Restraint Strap, if used to overcome combative resistance or aggression.
3. Use of OC-10.
4. Use of the Taser.
5. Striking with hand/fist or foot.
6. Any use of an impact tool, whether designed for that function or not.
7. Any action that results in a complaint of injury and/or any form of visible injury to a subject.
8. Use of the Pursuit Immobilization Technique at 40 miles per hour or higher.
9. Use of a vehicle in an act of intentional intervention.
10. Use of any firearm (*including unintentional discharge*), except as outlined in the **ANIMAL DESTRUCTION** policy.

C. Reporting Use of Force

1. In any instance where an officer uses force the officer shall immediately notify a supervisor.
2. If an arrest is made, the officer shall complete an arrest report and any other reports necessary to satisfy prosecutorial requirements.

D. Duty to Intervene, Rendering Aid and Report

1. An officer shall, when in a position to do so, intervene to prevent or stop excessive force by a peace officer permitted by law or WSP policy.
2. An officer shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at the scene controlled by law enforcement.
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 - c. Observes wrongdoing by another peace officer, or has a good faith reasonable belief, that another peace officer has committed wrongdoing.
4. Officers shall not be disciplined or retaliated against as a result of intervening, reporting excessive force, or reporting wrongdoing in good faith.

E. Investigation of Use of Force

1. The use of force investigation process evaluates the appropriateness of the force, alternatives to the force, tactics used to administer the force, or the training and supervisory concerns related to the use of force incident.
2. Use of force shall be investigated by a supervisor
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4. Use of lethal force resulting in death, substantial bodily harm, or great bodily harm shall be investigated first by an independent investigation team. All other use of lethal force shall be investigated first by the Criminal Investigation Division. For the purposes of this policy, it is not considered criminal, unless evidence is discovered which would lead to the filing of criminal charges by the appropriate prosecutor.
5. The procedures for conducting a use of force investigation are outlined in the **USE OF FORCE – RESPONSIBILITIES – INVESTIGATION** policy and the *Administrative Investigation Manual*.
6. If there are no indications or allegations of policy violations, the supervisor shall complete a use of force investigation and the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit).

7. If there appears that a policy violation may have occurred, the supervisor shall submit the Use of Force FLUP and an Internal Incident Report (IIR) through the chain of command. If a policy is suspected or alleged, in addition to completing the IIR, the supervisor shall ensure that the division/district commander is notified of the incident and briefed on the facts leading the supervisor to believe a violation has occurred.

Applies to: WSP Officers

See Also: WSP Policy **Animal Destruction, Responsibilities – Investigation, Rules of Conduct**, RCW 36.28A.445 {Render Aid}; RCWs

ATTACHMENT D
is the succeeding five (5) pages

2.00.010 USE OF FORCE – DEFINED (CALEA 1.2.10, 4.1.1, 4.1.2, 4.2.1, 81.2.4)

I. DEFINITION

- A. *Use of force* is defined as "Power dynamically considered, that is, in motion or in action; constraining power, compulsion; strength directed at an end. Force may be applied through the use of a person's body, weapons, equipment, and/or other instruments."
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II. POLICY

A. Reasonable Use of Force

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 - a. Use reasonable care when determining whether, when, and how to use physical force against another person, taking into account such considerations as whether the person:
 - i. appears to be, or indicates they are, pregnant, a minor, or suicidal;

- ii. is known to be a vulnerable individual as defined in RCW 74.34.020;
 - iii. displays signs of mental, behavioral or physical disability;
 - iv. exhibits drug or alcohol impairment;
 - v. has limited English proficiency; or
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- b. When possible, exhaust available and appropriate de-escalation tactics such as tactically repositioning to maintain the benefit of time, distance or cover, avoiding competing demands from multiple officers, contacting crisis intervention teams, etc.;
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- 5. Striking with hand/fist or foot.
- 6. Any use of an impact tool, whether designed for that function or not.
- 7. Any action that results in a complaint of injury and/or any form of visible injury to a subject.
- 8. Use of the Pursuit Immobilization Technique at 40 miles per hour or higher.
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5. The procedures for conducting a use of force investigation are outlined in the **USE OF FORCE – RESPONSIBILITIES – INVESTIGATION** policy and the *Administrative Investigation Manual*.
6. If there are no indications or allegations of policy violations, the supervisor shall complete a use of force investigation and the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit).

7. If there appears that a policy violation may have occurred, the supervisor shall submit the Use of Force FLUP and an Internal Incident Report (IIR) through the chain of command. If a policy is suspected or alleged, in addition to completing the IIR, the supervisor shall ensure that the division/district commander is notified of the incident and briefed on the facts leading the supervisor to believe a violation has occurred.

Applies to: WSP Officers

See Also: WSP Policy **Animal Destruction, Responsibilities – Investigation, Rules of Conduct**, RCW 36.28A.445 {Render Aid}; RCWs

2.00.020 LETHAL USE OF FORCE – WSP OFFICERS (CALEA 1.2.1, 4.1.2, 74.3.1)

I. DEFINITIONS

- A. *"Imminent threat of serious physical injury or death"* means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the officer or another person.
- B. *"Necessary"* means that, under the totality of circumstances, a reasonably effective alternative to the use of lethal force does not exist, and that the amount of force used is reasonable and proportional response to the threat posed to the officer and others.
- C. *"Totality of the circumstances"* means all facts known to the officer leading up to and at the time of the use of force, and includes the actions of the person against whom the officer uses such force, and the actions of the officer.

II. POLICY

A. Lethal Force – Use by WSP Officers

1. An officer may use lethal force against another person only when necessary to protect against an imminent threat of serious physical injury or death to the officer or another person.
2. An officer shall, when possible, use available and appropriate less lethal alternatives before using lethal force.
3. An officer shall terminate the use of physical force as soon as the necessity for such force ends.
4. An officer shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at the scene controlled by law enforcement.
5. Use of force policies, to include definitions, shall be included in, and reviewed during annual in-service training.

Applies to: WSP Officers

See Also: WSP Policy **Lethal Use of Force – WSP CVEOs and Trooper Cadets**; RCW 9A.16.040

2.00.030 LETHAL USE OF FORCE – WSP CVEOS AND TROOPER CADETS (CALEA 1.2.1, 4.1.2)

I. DEFINITIONS

- A. “*Imminent threat of serious physical injury or death*” means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the officer or another person.
- B. “*Necessary*” means that, under the totality of circumstances, a reasonably effective alternative to the use of lethal force does not exist, and that the amount of force used is reasonable and proportional response to the threat posed to the officer and others.

II. POLICY

A. Lethal Force – Use by WSP Commercial Vehicle Enforcement Officers and Trooper Cadets

1. WSP CVEO/trooper cadet may use lethal force against another person only when necessary to protect against an imminent threat of serious physical injury or death to the officer or another person in the CVEO's/cadet's immediate presence.
2. A WSP CVEO/trooper cadets shall not intervene in situations outside of their immediate presence. In such instances, WSP CVEOs/trooper cadets shall call for a WSP officer or other law enforcement officer to respond.
3. A WSP CVEO/trooper cadet shall not pursue a fleeing individual.
4. A WSP CVEO/trooper cadet shall, when possible, use available and appropriate less lethal alternatives before using lethal force.
5. A WSP CVEO/trooper cadet shall terminate the use of physical force as soon as the necessity for such force ends.
6. A WSP CVEO/trooper cadet shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.
7. Use of force policies, to include definitions, shall be included in, and reviewed during annual in-service training.

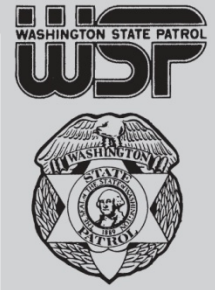
Applies to: WSP CVEOs and Trooper Cadets

See Also: WSP Policy **Lethal Use of Force – WSP Officers**; RCW 9A.16.040

ATTACHMENT E
is the succeeding fifteen (15) pages

INTEROFFICE COMMUNICATION

WASHINGTON STATE PATROL



TO: Ms. Mandy Schell, Litigation and Strategic Performance Section

FROM: Captain Tyler Drake, Office of Professional Standards

SUBJECT: CALEA Standard 26.3.6

DATE: May 20, 2021

During the Washington State Patrol's (WSP) most recent Law Enforcement Assessment by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), the assessors posed a question about CALEA Standard 26.3.6. Specifically, CALEA requested documentation regarding the written directives that address the conditions when the WSP may require employees to submit financial disclosure statements during an internal affairs investigation. This Interoffice Communication explains the WSP's written directives germane to this standard, with additional explanatory notations regarding the WSP's interpretation and application of them.

WSP Regulation 7.00.020 Investigations and Questioning (A) Conditions of Questioning (g) states, "Employees are required to comply with the regulation concerning **INTERNAL INVESTIGATIONS**. This regulation requires employees to fully and truthfully answer all questions asked during, *and cooperate fully in*, any and all administrative investigations." (Emphasis added.) To advise employees of the conditions¹ when their cooperation in the investigation may require them to submit evidence, that same section goes on to explain, "All questions asked and actions taken [e.g., requirement to submit financial disclosure statement] during such administrative investigations will be specifically, directly, and narrowly related to performance of duties within the scope of employment and fitness to hold the position." See attached WSP Regulation 7.00.020 Investigations and Questioning (A) Conditions of Questioning.

WSP Regulation 7.00.020 Investigations and Questioning (A) Conditions of Questioning (g) cross-references "the regulation concerning **INTERNAL INVESTIGATIONS**" (i.e., WSP Regulation 8.00.020 Internal Investigations), which requires that all WSP employees with information relevant to an internal investigation "shall prepare written statements as directed, setting forth the facts in order that a record shall be available for future reference. . . . [and] . . . shall fully answer all questions related thereto."

Employees contacted during an administrative investigation are reminded of these requirements in a written Administrative Investigation Advance Notice Form for Commissioned and/or an oral directive issued at the Chief's authority at the inception of the recorded interview of any accused or witness employee. See the Administrative Investigation Advanced Notice Form for Commissioned and the three Internal Investigation Recorded Statement Guides, attached.

¹ CALEA Standard 26.3.6 requires description of the conditions when an employee may, during an internal affairs investigation, be required to submit certain evidence.



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WSP publishes two Administrative Investigation Manuals (AIM): one for commissioned officers and one for civil service employees. Chapter 3 of both AIMs advises all WSP employees how WSP will conduct administrative investigations. Chapter 3 directs the investigator to, among other tasks, “[g]ather all relevant reports, documents and/or evidence . . . [and] . . . [d]etermine what evidence exists. All pertinent evidence should be collected (evidence that can either prove or disprove the allegation).” *See* page 3-1 of each AIM, attached.

Chapter 3 in each manual also requires that if necessary, the investigator will “remind the employee of the regulation requiring full cooperation and truthful response to questions. If necessary, order the employee to cooperate. If the employee and representative fail to heed this warning or order, indicate this on the record. Then advise the employee that his/her action is insubordinate and may result in another allegation.” *See* page 3-10 of the commissioned AIM and page 3-11 of the civil service AIM, attached.

Read together, these directives inform WSP employees that the conditions when a WSP employee may be required to submit financial disclosure statements are when: 1) the WSP determines what questions/evidence are relevant to the allegations under investigation; and 2) the employee’s refusal to provide them would constitute failure to cooperate fully with the investigation and/or insubordination.

In practice, if there are allegations to be investigated internally for which an employee’s financial disclosure statements will be relevant evidence, those allegations are typically referred for criminal investigation and a prosecutorial determination first. Only thereafter, does the WSP resume its administrative investigation fully informed by all of the evidence from the criminal investigation.

TMM

Attachments (10)

7.00.020 INVESTIGATIONS AND QUESTIONING (CALEA 52.2.5)

I. POLICY

A. Conditions of Questioning

1. When an employee's actions, or a failure to act, comes under investigation and employees are subjected to questioning by their supervisor or any other member of the department which could lead to punitive action, the questioning shall be conducted under the following conditions:

NOTE: For the purpose of this section, punitive action is defined as any action which may lead to dismissal, demotion, suspension with or without pay, loss of annual leave days or holiday credits, or reduction in salary.

- a. Employees under investigation shall be informed of the nature of the investigation prior to any questioning. They may agree to answer questions at that time or request that questioning be delayed for up to five (5) calendar days in order to obtain legal advice or other assistance.
- b. The employee under investigation shall be informed of the name of the person in charge of the investigation and the name of questioners and all other persons to be present during the questioning. The employee shall be informed of what investigative section the investigator represents.
- c. The questioning shall be conducted at a reasonable hour, preferably at a time when the employee is on duty or during the normal waking hours for the employee, unless the seriousness of the investigation requires otherwise. If such questioning occurs during off-duty time of the employee being questioned, the employee shall be compensated for such off-duty time in accordance with regular department procedures.
- d. Any questioning session shall be for a reasonable period, taking into consideration the gravity and complexity of the issue being investigated. Persons being questioned shall be allowed to attend to their own personal physical necessities as needed.
- e. If prior to or during any questioning it appears the employee's actions or omissions may amount to a crime, the investigation shall stop and the Chief shall be notified immediately. The Chief shall determine whether to continue the administrative investigation or to conduct a criminal investigation.
- f. In most instances, a criminal investigation of an employee will be conducted by the Investigative Services Bureau. Any attempt to obtain a statement from the suspected employee will be preceded by the giving of and inquiring as to the understanding of the employee's Constitutional Rights. A suspected employee is one for which a criminal investigation has gone past the investigatory stage to the accusatory stage.
- g. Employees are required to comply with the regulation concerning **INTERNAL INVESTIGATIONS**. This regulation requires employees to fully and truthfully

answer all questions asked during, and cooperate fully in, any and all administrative investigations. All questions asked and actions taken during such administrative investigations will be specifically, directly, and narrowly related to performance of duties within the scope of employment and fitness to hold the position.

- h. During the course of an administrative investigation, employees may be asked questions which would incriminate them. These questions must be answered or the employee will be subject to disciplinary action, which could include termination of employment with the department. This does not constitute giving up any Constitutional Rights, as any information gained as a result of an employee's answers to such questions cannot and will not be used in any manner against them in any criminal proceeding. This is consistent with law which provides no employee may be directed or required to give up their Fifth Amendment right against self-incrimination.
- i. Employees, at their request and own expense, shall have the right to be represented by a person of their choice who may be present at all times during questioning. The person's representative may not interfere with the investigation and will be subject to the direction of the investigator.
- j. Employees shall not be subjected to any offensive language, nor shall investigators make promises or threats as an inducement to answer questions.
- k. The department shall not cause employees being questioned to be subjected to visits by the press or news media, nor shall their home address be given to the press or news media without their express consent.
- l. The complete questioning of an employee may be recorded. If a tape recording is made of the questioning, the employee shall be entitled to a copy of any tape recording in which they participated. The employee shall be informed at the start of the questioning that the session is being recorded.

B. Not Applicable in Normal Course of Duty

1. This section shall not apply to any routine discussion with an employee in the normal course of duty, nor to counseling, instruction, or informal verbal admonishment by, or other routine contact with, a supervisor or any other employee.

Applies to: WSP Officers

See Also: Garrity Advisement; WSP Policy **Internal Investigations**

8.00.020 INTERNAL INVESTIGATIONS (CALEA 52.2.6)

I. POLICY

A. Preparation of Written Statements and Answering Questions as Required

1. Whenever there is public criticism of the department, or when complaints are received in connection with any police action, investigation, or inquiry indicating misconduct of employees; harassment or intimidation of subjects, individuals, or groups; or dereliction of any nature by the department or employees of the department, all employees engaged in such police action, investigation, hearing, or other inquiry shall prepare written statements as directed, setting forth the facts in order that a record shall be available for future reference. Due to the internal administrative nature of such police action, investigation, hearing, or other inquiry, all employees shall fully answer all questions relating thereto. Procedures in cases that will result in criminal prosecution shall include those rights accorded to all citizens of the state.

B. Medical Examinations; Tests; Photographs; Lineups

1. The Chief or the Chief's designee may order employees to submit to lineups, photographs, medical, ballistics, chemical, and other tests (excluding the polygraph, except as specified in RCW 49.44.120) related to a departmental internal investigation.

Applies to: All WSP Employees

See Also: RCW 49.44.120

**ADMINISTRATIVE INVESTIGATION ADVANCE NOTICE FORM
(COMMISSIONED ONLY)**



EMPLOYEE FULL NAME, RANK/TITLE, and BADGE NO. (If applicable)	OPS CASE NO.
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I have read, understand, and have been provided a copy of the Employee Rights (WSP form 3000-371-012 and Regulation 7.00.010) and Regulation 7.00.020, Investigations and Questioning, of the Washington State Patrol.

I have been informed of the nature of the investigation and provided with information apprising me of the allegations contained within the complaint.

ALLEGATION(S)
Violation(s) of the following WSP policies and regulations in effect in (appropriate year[s]):

I have been advised of my status as the accused. I am fully aware that if this investigation finds I have violated State Patrol rules or regulations, I may be subject to disciplinary action.

The questions asked during the investigation will be specifically, directly, and narrowly related to the performance of my duties within the scope of my employment. At no time during the course of this investigation will I be directed or required to give up my Fifth Amendment Constitutional right against self-incrimination. Any information gained from me as a result of my answers to the questions cannot be used against me in any criminal proceedings. If I should refuse to answer any questions regarding the above-stated subject matter, I will be in violation of Regulation 8.00.120, Insubordination, (A) Requirement to Obey Orders. A refusal to answer questions could result in termination of employment. You are reminded that during this investigation, you will be expected to comply with Regulation 12.00.020 Complaints; II. Policy (G) Interference with Discipline.

Effective immediately, you are directed by the Chief of the Washington State Patrol to have no communication regarding this matter, either on-duty or off-duty, with:

- Any person who is a potential witness; or
- Any person who may be materially involved with the administrative investigation.

This directive means you are prohibited from communicating to these individuals about this matter by any means to include: fax, telephone, mail, electronic messaging, social media, in-person, person to person relay, or any other form of communication.

Failure to comply with this directive shall be considered a violation of regulations 8.00.120 Insubordination and 12.00.020 Complaints; II. Policy (G) Interference with Discipline, and may result in discipline up to and including termination. You are not prohibited from discussing this matter with your union representative, legal advisor, and/or confidential resources such as crisis referral services or a spouse.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. Note: Adjudication or conclusion of the case is when either the employee has been advised in writing by the appointing authority of a non-adverse finding, contemplated proven finding, or a settlement agreement has been reached. If a settlement agreement is reached, the directive will no longer be in effect on the date of the last signature of the settlement agreement.

PERSON IN CHARGE OF THIS INVESTIGATION	INTERVIEWERS
OTHER PERSONS PRESENT	

I HAVE READ AND UNDERSTAND THE ABOVE AND SIGN THIS FORM FREELY, WITHOUT ANY THREATS OR PROMISES.

SIGNATURE	DATE
-----------	------

WITNESS	DATE
---------	------

I UNDERSTAND I MAY REQUEST UP TO FIVE DAYS TO CONSULT WITH AN ATTORNEY AND/OR PREPARE TO PARTICIPATE IN THE INVESTIGATION.

I am willing to waive my ☐ five days and answer questions at this time.

SIGNATURE	DATE
-----------	------

I elect to exercise the ☐ five days to prepare to answer questions.

SIGNATURE	DATE
-----------	------

NOTE: THIS FORM MAY BE HANDWRITTEN OR TYPEWRITTEN

**Internal Investigation – Recorded Statement Guide
(Commissioned Employee – ACCUSED)**



I am _____ of the Washington State Patrol.

The date is _____. It is _____ a.m./p.m. The OPS case number is _____.

I am interviewing _____ who has received copies of and understands the Washington State Patrol Employee Rights as outlined in the collective bargaining agreement, and/or regulation(s), and the Investigative Advance Notice form. Do you have any questions regarding these forms? ☐ Yes ☐ No

This interview is taking place at _____.

Also present is _____ and _____
_____ who will be representing _____.

COMPLETE THE FOLLOWING WHEN RECORDING

_____, do you understand this interview is being recorded?
(Other person[s] present) ☐ Yes ☐ No

_____, do you understand this interview is being recorded?
(Accused) ☐ Yes ☐ No

Please state your full name (spell your first and last), business address, and your present assignment with the Washington State Patrol?

This interview is for internal purposes. Internal Affairs investigations deal with alleged administrative violations of regulations and not criminal violations.

Do you understand? ☐ Yes ☐ No

This interview is for the purpose of discussing administrative allegations lodged against _____
Employee name

READ TO THE WSP EMPLOYEE

Under the authority of the Chief of the Washington State Patrol, you are hereby ordered to answer all questions asked of you truthfully and completely. Failure to do so shall be considered insubordination, and may result in discipline up to and including termination. You shall not communicate any information related to this administrative investigation by any manner, including, but not limited to, fax, telephone, mail, electronic messaging, in-person, person to person relay, either on-duty or off-duty, with any persons, employees, or potential witnesses until the conclusion of this investigation.

Do you understand this directive? ☐ Yes ☐ No

AT THE END OF THE INTERVIEW...

This concludes the interview. The time is now _____ a.m./p.m.

NOTE: THIS FORM MAY BE HANDWRITTEN OR TYPEWRITTEN

**Internal Investigation – Recorded Statement Guide
(Civil Service Employee – ACCUSED)**



I am _____ of the Washington State Patrol.

The date is _____. It is _____ a.m./p.m. The OPS case number is _____.

I am interviewing _____ who has received copies of and understands the Civil Service Restrictive Contact Order IOC and the Civil Service Internal Incident Report pertaining to this investigation. Do you have any questions regarding these forms? ☐ Yes ☐ No

This interview is taking place at _____.

Also present is _____ and _____
_____ who will be representing _____.

COMPLETE THE FOLLOWING WHEN RECORDING

_____, do you understand this interview is being recorded?
(Other person[s] present) ☐ Yes ☐ No

_____, do you understand this interview is being recorded?
(Accused) ☐ Yes ☐ No

Please state your full name (spell your first and last), business address, and your present assignment with the Washington State Patrol?

This interview is for internal purposes. Internal Affairs investigations deal with alleged administrative violations of regulations and not criminal violations.

Do you understand? ☐ Yes ☐ No

This interview is for the purpose of discussing administrative allegations lodged against _____
Employee name

READ TO THE WSP EMPLOYEE

Under the authority of the Chief of the Washington State Patrol, you are hereby ordered to answer all questions asked of you truthfully and completely. Failure to do so shall be considered insubordination, and may result in discipline up to and including termination. You shall not communicate any information related to this administrative investigation by any manner, including, but not limited to, fax, telephone, mail, electronic messaging, in-person, person to person relay, either on-duty or off-duty, with any persons, employees, or potential witnesses until the conclusion of this investigation.

Do you understand this directive? ☐ Yes ☐ No

AT THE END OF THE INTERVIEW...

This concludes the interview. The time is now _____ a.m./p.m.

NOTE: THIS FORM MAY BE HANDWRITTEN OR TYPEWRITTEN

Internal Investigation – Recorded Statement Guide (Employee – WITNESS)



I am _____ of the Washington State Patrol.

The date is _____. It is _____ a.m./p.m. The OPS case number is _____.

I am interviewing _____.

Also present during the interview is _____.

This interview is taking place at _____.

This interview is for the purpose of discussing administrative allegations lodged against a department employee.

COMPLETE THE FOLLOWING WHEN RECORDING

_____, do you understand this interview is being recorded?
(Other person[s] present) ☐ Yes ☐ No

Please state your full name (spell your first and last), business address, telephone number, and your present assignment with the Washington State Patrol (if applicable)?

_____, do you understand this interview is being recorded?
(Employee witness) ☐ Yes ☐ No

Please state your full name (spell your first and last), business address, telephone number, and your present assignment with the Washington State Patrol?

READ TO THE WSP EMPLOYEE WITNESS

Under the authority of the Chief of the Washington State Patrol, you are hereby ordered to answer all questions asked of you truthfully and completely. Failure to do so shall be considered insubordination, and may result in discipline up to and including termination. You shall not communicate any information related to this administrative investigation by any manner, including, but not limited to, fax, telephone, mail, electronic messaging, in-person, person to person relay, either on-duty or off-duty, with any persons, employees, or potential witnesses until the conclusion of this investigation.

Do you understand this directive? ☐ Yes ☐ No

You are advised you are being questioned as a witness, and should your answers reveal violations of State Patrol rules and/or regulations, you are entitled to invoke your Employee Rights as outlined in your collective bargaining agreement, and/or *WSP Regulation Manual*.

Do you understand? ☐ Yes ☐ No

AT THE END OF THE INTERVIEW . . .

This concludes the interview. The time is now _____ a.m./p.m.

NOTE: THIS FORM MAY BE HANDWRITTEN OR TYPEWRITTEN

Chapter 3

Commissioned Personnel/Conducting Administrative Investigations

Conducting a fair, objective administrative investigation is extremely important. The investigator must be open-minded, unbiased, and capable of searching for and gathering the facts. When assigning an investigator, commanders should consider the accused employee, the skill level of the investigator, any relationship between the two, the complaint/allegation against the employee, and likelihood of a fair and impartial investigation.

A. Guidelines for Conducting the Investigation

1. Investigation Techniques

Once a complaint or allegation has been accepted and an investigator is selected, the investigator should consider developing an investigative plan. Once prepared, the investigative plan should be periodically reviewed, evaluated for completed tasks, and modified to meet requirements of an evolving case.

In this plan, the investigator should:

- Evaluate the specific allegations by reviewing the Internal Incident Report ([WSP form 3000-371-183](#)) (IIR) and other documents to develop a clear perspective of each allegation.
- Consider potential motives of both the employee and the complainant.
- Anticipate possible defenses/explanations of all witnesses and the accused employee. By anticipating possible defenses/explanations, the interviewer is better prepared to ask follow-up questions.
- Determine who to question and in what order.
- Gather all relevant reports, documents, and/or evidence. The Required Forms Checklist for OPS Cases should be referenced to ensure all required documents are collected for the type of investigation conducted.
- Decide what questions will be asked of which witnesses. Complete a question guide to ensure a detailed, audio-recorded statement is obtained from the complainant and the accused, specifically regarding all aspects of the allegation(s).
- Determine what evidence exists. All pertinent evidence should be collected (evidence that can either prove or disprove the allegation.)
- Determine what reports, policies, procedures, or other documents are available to assist in the investigation. Review preliminary investigation reports and other police/citizen documents.
- Identify potential problems and discrepancies in the information already obtain.

Chapter 3

Conducting Administrative Investigations

Conducting a fair, objective administrative investigation is extremely important. The investigator must be open-minded, unbiased, and capable of searching for and gathering the facts. When assigning an investigator, commanders should consider the accused employee, the skill level of the investigator, any relationship between the two, the complaint/allegation against the employee, and the likelihood of a fair and impartial investigation.

A. GUIDELINES FOR CONDUCTING THE INVESTIGATION

1. Investigation Techniques

Once a complaint or allegation has been accepted and an investigator is selected, the investigator should consider developing an investigative plan. Once prepared, the investigative plan should be periodically reviewed, evaluated for completed tasks, and modified to meet requirements of an evolving case.

In this plan, the investigator should:

- Evaluate the specific allegations by reviewing the Internal Incident Report (WSP form 3000-371-009 Civil Service) (IIR) and other documents to develop a clear perspective of each allegation.
- Consider potential motives of both the employee and the complainant.
- Anticipate possible defenses/explanations of all witnesses and the accused employee. By anticipating possible defenses/explanations, the interviewer is better prepared to ask follow-up questions.
- Determine who to question and in what order.
- Gather all relevant reports, documents, and/or evidence. The Required Forms Checklist for OPS Cases should be referenced to ensure all required documents are collected for the type of investigation conducted.
- Decide what questions will be asked of which witnesses. Complete a question guide to ensure a detailed, audio-recorded statement is obtained from the complainant and the accused, specifically regarding all aspects of the allegation(s).
- Determine what evidence exists. All pertinent evidence should be collected (evidence that can either prove or disprove the allegation).
- Develop a reasonable timeframe to complete the investigation. Note the due date and time limitations, such as days off and vacation schedules, as well as transient/tourist witnesses, etc.
- Determine what reports, policies, procedures, or other documents are available to assist in the investigation. Review preliminary investigation reports and other police/citizen documents.

Chapter 3

Commissioned Personnel/Conducting Administrative Investigations

Follow up on such remarks; they may be relevant to the investigation. If a statement summary is taken, have the interviewee review and acknowledge accuracy by signing the summary.

G. Right to Representation – Accused Employees

Prior to questioning about an incident which could reasonably be expected to result in discipline, the Employer's representative shall notify the employee of the employee's right to be represented by either an Association representative or an attorney during the course of the questioning, and of the right to five (5) calendar days advance notice of questioning. Employees, at their request and own expense, shall have the right to be represented by a person of their choice who may be present at all times during the questioning. The employee's representative may counsel the employee only to the extent allowed by law under *Weingarten v. NLRB* and its progeny. At the employee's option, the employee may be accompanied by both an attorney and an Association representative during the disciplinary interview; provided, however, that only one (1) of them may speak at the interview. ([WSPTA Article 19.16](#); [WSPLA Article 16.15](#))

Employees are required to fully and truthfully answer all questions asked during, and cooperate fully in, any and all administrative investigations. All questions asked and actions taken during such administrative investigations will be specifically, directly, and narrowly related to performance of duties within the scope of employment and fitness to hold the position. ([WSPTA Article 19.11](#); [WSPLA Article 16.10](#))

The investigator can limit the number of representatives and restrict their participation. Only one representative will be allowed to speak at the interview.

Representatives shall be allowed to:

- Counsel the employee prior to the interview.
- Ascertain the charges at the beginning of the interview (refer to the Internal Incident Report.)
- Counsel the employee during the interview.
- Question the employee at the conclusion of the interview.
- Offer mitigating circumstances and investigative leads at the conclusion of the interview.

The interviewer should clarify the representative's role prior to the interview. The interviewer should refer to specific collective bargaining agreements or consult with OPS for further information. Under no circumstances are representatives allowed to coach, lead or testify for the employee during the interview.

An objection from the representative shall be noted for the record. When this does occur, the interviewer, after considering the objection, should note it on tape or other medium and then order the employee to answer the question.

Chapter 3

Commissioned Personnel/Conducting Administrative Investigations

Example:

Investigator – “Trooper Jones, explain the circumstances surrounding the contact with the complainant.”

Representative – “Objection. The question is too broad and not narrowly and specifically related to the complaint.”

Investigator – “Objection noted. Trooper Jones, you are ordered to answer the question.”

Allow the employee to briefly confer with the representative at any time, except when a question is pending. You can order the employee to answer before allowing them to confer with their representative. Note when this occurs on the record. This is different than a break. Reasonable breaks are allowed, but at the discretion of the investigator. The employee can make any comments or clarifications after such conference. Remember, it is the employee who is required to answer the question. The representative or attorney cannot speak for the employee.

Unreasonable delays or disruptions are not permitted. If this occurs, remind the employee of the regulation requiring full cooperation and truthful response to questions. If necessary, order the employee to cooperate.

If the employee and representative fail to heed this warning or order, indicate this on the record. Then advise the employee that his/her action is insubordinate and may result in another allegation.

In incidents of insubordination during the interview the investigator must ensure the following:

- That the employee was given a direct order by a supervisor or is not willfully submitting to the authority of the Chief, which the investigator is acting under. (Recorded Statements Guide(s) – See Examples Section.)
- The employee was reminded of the specific agency rule or regulation that compels the officer to comply. ([WSP Regulation 7.00.020 Investigations And Questioning](#))
- The employee was specifically advised that failure to comply with the order would subject the employee to discipline. ([WSP Regulation 8.00.120 Insubordination](#))
- The employee, in fact, disobeyed the order or rule.

The investigator must ensure he/she did nothing to provoke or contribute to the incident and that the order was legal. If this occurs, and the representative or the employee wishes to comment on record, allow it at the end of the interview.

H. Right to Representation – Departmental and Non-Departmental Witnesses/Complainants

Witnesses do not necessarily have a right to representation during the interview.

Chapter 3

Conducting Administrative Investigations

G. RIGHT TO REPRESENTATION – ACCUSED EMPLOYEES

Upon request, an employee has the right to a union representative at an investigatory interview called by the Employer, if the employee reasonably believes discipline could result. An employee may also have a union representative at a pre-disciplinary meeting. If the requested representative is not reasonably available, the employee will select another representative who is available. Employees seeking representation are responsible for contacting their representative.

NOTE: *This section shall not apply to any routine discussion with an employee in the normal course of duty, nor to counseling, instruction, or informal verbal admonishment by, or other routine contact with, a supervisor or any other employee. (WSP Regulation 7.00.020, INVESTIGATIONS AND QUESTIONING, (B) **Not applicable in Normal Course of Duty**).*

The role of the representative is to provide assistance and counsel to the employee, rather than serve as an adversary to the investigator. The exercise of employee rights will not interfere with the Employer's right to conduct the investigation.

The investigator can limit the number of representatives and restrict their participation. Only one representative will be allowed to speak at the interview.

Representatives shall be allowed to:

- Counsel the employee prior to the interview.
- Ascertain the charges at the beginning of the interview (refer to the Internal Incident Report).
- Counsel the employee during the interview.
- Question the employee at the conclusion of the interview.
- Offer mitigating circumstances and investigative leads at the conclusion of the interview.

The interviewer should clarify the representative's role prior to the interview. The interviewer should refer to specific collective bargaining agreements or consult with OPS for further information. Under no circumstances are representatives allowed to coach, lead, or testify for the employee during the interview.

An objection from the representative shall be noted for the record. When this does occur, the interviewer, after considering the objection, should note it on tape or other medium and then order the employee to answer the question.

Example:

Investigator: "Mr. Jones, explain the circumstances surrounding the contact with the complainant."

Chapter 3

Conducting Administrative Investigations

Representative: *"Objection. The question is too broad and not narrowly and specifically related to the complaint."*

Investigator: *"Objection noted. Mr. Jones, you are ordered to answer the question."*

Allow the employee to briefly confer with the representative at any time, except when a question is pending. You can order the employee to answer before allowing them to confer with their representative. Note when this occurs on the record. This is different than a break. Reasonable breaks are allowed, but at the discretion of the investigator. The employee can make any comments or clarifications after such conference. Remember, it is the employee who is required to answer the question. The representative or attorney cannot speak for the employee.

Unreasonable delays or disruptions are not permitted. If this occurs, remind the employee of the regulation requiring full cooperation and truthful response to questions. If necessary, order the employee to cooperate.

If the employee and representative fail to heed this warning or order, indicate this on the record. Then advise the employee that his/her action is insubordinate and may result in another allegation.

In incidents of insubordination during the interview, the investigator must ensure the following:

- That the employee was given a direct order by a supervisor or is not willfully submitting to the authority of the Chief, which the investigator is acting under. (Recorded Statement Guide(s) – See *Examples Section*).
- The employee was reminded of the specific agency rule or regulation that compels the employee to comply. (WSP Regulation 7.00.020 Investigations And Questioning)
- The employee was specifically advised that failure to comply with the order would subject the employee to discipline. (WSP Regulation 8.00.120 Insubordination)
- The employee, in fact, disobeyed the order or rule.

The investigator must ensure he/she did nothing to provoke or contribute to the incident and that the order was legal. If this occurs, and the representative or the employee wishes to comment on record, allow it at the end of the interview.

H. RIGHT TO REPRESENTATION – DEPARTMENTAL AND NON-DEPARTMENTAL WITNESSES/COMPLAINANTS

Witnesses do not necessarily have a right to representation during the interview.

ATTACHMENT F
is the succeeding four (4) pages

20.00.010 PRELIMINARY AND FOLLOW-UP INVESTIGATION (CALEA 42.1.1, 42.1.2, 42.1.4, 42.1.5, 42.2.1, 42.2.2, 55.2.4, 61.2.1, 61.2.2, 82.2.5, 83.2.1, 83.2.2, 83.2.6)

I. POLICY

A. Responsibility for Preliminary Investigations

1. Except in those cases where the presence of a uniformed officer would obviously prevent a complete investigation being made, the preliminary investigation shall be conducted by the officer responsible for the call for police service.
2. As soon as the preliminary investigation is concluded, and before the officer goes off duty, the original documents from the initial investigation report shall be completed and forwarded to his or her supervisor. The supervisor shall review and sign the reports. The completed reports shall be delivered to the case detective. All information obtained at the scene of the offense and any other information that may be of aid in a continuing investigation shall be included. Original supplemental reports shall be forwarded to the appropriate Investigative Services Bureau (ISB) supervisor as they are completed by field employees.
3. The investigating officer shall be responsible for initiating action to inform a duty sergeant of the investigation. Notification of the ISB of a serious crime or one requiring immediate on-the-scene follow-up investigation will be the responsibility of the duty sergeant.
4. In the event circumstances exist where photographs are not taken or physical evidence is not gathered on a felony investigation, the investigating officer's report to the supervisor shall explain why evidence or photographs were not submitted. A notation shall be made in the case file.

B. Immediate Follow-Up Investigations

1. Some investigations may require immediate response and investigation from ISB. Upon receiving notification from a supervisor, the appropriate ISB supervisor shall assign a detective to the following:
 - a. Major crimes against persons or property on the Capitol Campus or other state property as determined by the Chief's Office.
 - b. Threats against the Governor, Governor's family, members of the legislature, and department employees (see **THREATS AGAINST STATE OFFICIALS**).² The ISB supervisor may assign a detective to the following:
 - a. Any police activity-related death, serious injury, extensive damage (this includes all department employees), or at the request of the district commander.
 - b. All felony collision investigations.
 - c. Criminal acts committed against departmental employees due to the performance of their duties or affiliation with the department.

- d. Motor vehicle, heavy equipment, or boat theft, including, but not limited to:
 - (1) "Chop shop" operations
 - (2) Vehicle stripping
 - (3) Insurance fraud
 - (4) Salvage switch operations
 - (5) Fraudulent documents
 - e. Motor vehicle or aircraft license fraud where a follow-up investigation is too time-consuming for Field Operations Bureau (FOB) employees.
 - f. Major narcotics trafficking.
 - g. Organized crime activity. Persons, businesses, or organizations in the detachment area suspected of such activities.
 - h. Human trafficking.
3. Reports shall be submitted to the appropriate ISB supervisor. A follow-up investigation may be authorized by this supervisor upon reviewing initial reports.

C. Field Operations Bureau Responsibilities

- 1. FOB shall be responsible for conducting and completing the investigation of all non-criminal calls for police service, and for misdemeanor crimes not specifically authorized for referral to specialized investigative units.
- 2. In incidents of a non-criminal nature and in misdemeanor offenses, the officer will request the assistance of the detachment supervisor when the need for counsel and guidance arises.
- 3. The investigation of most misdemeanor crimes can be completed by the officer. Misdemeanor offenses should be referred to the Criminal Investigation Division for follow-up only when the following conditions exist:
 - a. The offense appears to be a part of a pattern of such offenses.
 - b. Follow-up is required in widely separated locations outside the geographic boundaries of the district in which the offense occurred.
 - c. The officer cannot reasonably be expected to continue the investigation because of the level of expertise needed.
- 4. In some cases initiated by FOB, additional investigation will be required at the end of the tour of duty of the investigating officer. In such cases, the investigating officer's detachment supervisor will determine whether the investigation should be discontinued until the assigned officer's next tour of duty or continued by officers on

the relieving shift. Except in cases where the investigation would be jeopardized by its temporary discontinuance, it shall remain the responsibility of the investigating officer.

5. Preliminary reports shall be completed by those officers involved prior to going off shift, then immediately forwarded to the detachment supervisor.
6. A supplemental report must be prepared by each officer who works on the case, but not necessarily on each occasion the case is worked.
7. Supervisors completing an ICS-201 Incident Briefing Form will have met the reporting requirements of this section.

D. Investigative Services Bureau Responsibilities

1. At the direction of the ISB supervisor, detectives shall conduct the follow-up investigations. Case assignment in the investigative units shall be made by the supervisor.
2. Requests for immediate assistance shall be made by the detachment supervisor to the ISB supervisor. The detective responding will assume investigative responsibility of all felony investigations. If it is determined that felony or exigent circumstances are not involved, the detective may assist the investigating officer. This decision will be made by the detective and the detachment supervisor after jointly reviewing the known facts of the incident.
3. It is understood that not all felonies need a detective response. Examples of these would be an occupied stolen with no follow-up or simple possession of illegal drugs. The working protocol for the area should be developed into a district policy by the ISB supervisor and district command.
4. If the investigation is relinquished by the detachment supervisor, the officer conducting the preliminary investigation shall obtain adequate information to properly complete a field report. The field report will be forwarded through channels to the appropriate ISB supervisor. When authorized by a supervisor, the officer charged with the preliminary investigation responsibility may provide further assistance to the detective in the follow-up investigation.
5. After the case responsibility is assumed by ISB, the detective is responsible for providing timely reporting to the local prosecutor for the preliminary appearance, if the investigation results in an arrest or incarceration. The report or investigative checklist shall indicate if the defendant is a habitual offender.
6. The ISB supervisor shall keep the local district commander updated as to the status of the investigation until the case is closed.
7. Upon closure of the investigation, and when the case involves use of force by an officer, a copy of the completed report will be forwarded as outlined in the *Administrative Investigation Manual*.

E. Crime Scene Processing Responsibilities

1. Detectives with specialized crime scene training shall act as crime scene specialists.
2. If special assistance is required for the gathering of physical evidence at the scene, the request will be authorized by the field supervisor and assistance will be provided by the specialist.
3. If the expertise needed is beyond the capability of the specialist, assistance shall be requested from the Crime Scene Response Team (CSRT).
4. All requests for CSRT assistance shall be initiated through the CSRT Commander. The CSRT Commander is contacted during normal business hours through the Criminal Investigation Division at Headquarters. After hours, the CSRT Commander can be reached through Communications. CSRT members shall then assist in the collection and processing of all physical evidence.
5. When assistance has been requested of either the crime scene specialist or the CSRT, response shall be made within one hour, distance permitting.

F. Detachment Supervisor Responsibilities

1. It is the responsibility of the detachment supervisor to ensure that an adequate and complete preliminary investigation was made and to review and approve the preliminary reports.
2. A completed copy of the preliminary and supplemental reports shall be forwarded by the detachment supervisor to the appropriate ISB supervisor.
3. The detachment supervisor shall notify the district command whenever a case is referred to ISB.

G. All Employees' Responsibilities

1. When an employee receives an incident report by mail, telephone, or internet, the employee shall immediately forward it to the employee's commander who will refer it to the appropriate unit within the agency for review and investigation according to applicable laws and policy.

Applies to: All WSP Employees

See Also: WSP Policy **Threats Against State Officials**; Incident Briefing Form