



DEPARTMENTAL REGULATIONS
CONCORD POLICE DEPARTMENT

PROCEDURE 31
EFFECTIVE DATE: 1/1994
REVISION DATE: 12/2010
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I.D. NUMBER: 305

Chief of Police

**PROFESSIONAL STANDARDS/ EMPLOYEE'S RIGHTS WHILE UNDER
INVESTIGATION/GRIEVANCE PROCEDURES**

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A. POLICY STATEMENT

The integrity and image of the Concord Police Department is a direct reflection of the conduct of its employees. Our credibility as police professionals is dependent upon how we carry out our duties in our delivery of services to the community. The public and our peers expect and hold us to a higher standard of moral and ethical conduct than the public at large. This is expected of us both on-duty and off-duty. This department and its employees are committed to conducting themselves in a manner that reflects favorably on the department, the City and the profession.

Therefore, all members of the Concord Police Department shall act in a manner that is consistent with the rules and regulations of the City of Concord and the Police Department. Furthermore, all sworn officers shall abide by the Law Enforcement Code of Ethics.

When transgressions by its employees do occur, the Concord Police Department is committed to investigating these matters in an objective, thorough and impartial manner. We will insure we protect the rights of the public and our employees through all phases of the investigation. In order to achieve these ends, the Concord Police Department has within it, a Professional Standards Unit that is dedicated to handling these matters with the utmost integrity.

B. PROFESSIONAL STANDARDS UNIT (PSU)

1. Function

PSU is an investigative and administrative staff unit which acts directly under the authority of the Chief of Police on matters of alleged violations of law, statutes, ordinances, rules, regulations, or misconduct by members of the Concord Police Department. PSU reports directly to the Chief of Police and has full authority to conduct investigations without interference from any member.

2. Authority

PSU has the authority and responsibility to require any member of the department, regardless of rank, to make a full and complete disclosure pertaining to the commission or omission of any act which might conflict with their duties and obligations as a member of the department.

3. Responsibility

PSU is primarily responsible for ensuring the integrity of the Concord Police Department. PSU members shall direct their efforts toward:

- .1 Impartial investigation of complaints.
- .2 Facilitating prompt and just disciplinary action.
- .3 Identification of unclear or inappropriate agency policies, procedures, and rules.

- .4 Identification of organizational conditions which may contribute to misconduct, exposure to liability, or poor efficiency.
- .5 Review and investigation of Risk Management issues that may result in a claim being filed against the City of Concord.

4. Duties

- .1 PSU shall maintain a permanent chronological log of all complaints received. PSU shall keep records of complaints for a minimum period of **the current year, plus the past five years**. Discipline related to staff review of traffic accidents involving members of the department and commendations for members shall also be filed by PSU. All records shall be maintained in a locked file, separate from all other personnel records.
- .2 PSU shall be responsible for the security of all files and records contained within the unit. PSU shall not release any information from these files without the authorization of the Chief of Police, within the following guidelines:
 - .01 Government entities: Information needed by the City Attorney, City officials or those retained to represent the City (Risk Management) may be released subject to the approval of the Chief of Police. PSU will comply with a written order from a court of competent jurisdiction compelling the release of records, pursuant to a Pitchess motion.
 - .02 Supervisors: A concerned supervisor having a legitimate interest in an on-going or completed personnel investigation may discuss that case or review that file with the approval of the Chief of Police. This includes review of a member's file when preparing performance appraisals or making decisions related to transfers or assignments.
 - .03 Subject members: Any member who is the subject of an internal investigation may review records of a completed investigation with the approval of the Chief of Police.

Members facing disciplinary action from an internal investigation may obtain copies of a completed investigation to assist them in preparing for pre-disciplinary conferences, appeals, etc.

Whenever a copy of an investigative file leaves the PSU office, The Police Department can no longer assume any responsibility for its confidentiality. The original investigative report should never be removed from the file. PSU will maintain a record of who reviews and/or receives copies of investigative files.

- .3 Processing complaints:
 - .01 Upon receipt of a complaint or allegation of misconduct against a department member, the Chief of Police will review the complaint and according to established procedure, refer the case to the member's supervisor or conduct an independent investigation. PSU will take no disciplinary action but will, upon completion of its investigation, provide factual conclusions and findings to the Chief of Police and the chain of command of the affected Division.
 - .02 PSU will be responsible for supervising the investigation of complaints against members or alleged/suspected misconduct within the agency and ensuring that all investigations are thorough and completed within a reasonable time. PSU shall assist supervisors engaged in an investigation both as a resource, at their request, or when it is apparent that assistance may be needed.
- .4 Investigation Assignment:
 - .01 PSU, with the approval of the Chief of Police, will determine if the investigation is to be handled by PSU, affected supervisors, or if other department personnel with specific expertise are available and can be utilized in the investigation. If needed, PSU will contact

the appropriate division commander for the assignment of personnel. The assigned investigator will be under the supervision of PSU during the internal investigation.

PSU shall assume responsibility for all investigations involving the following circumstances:

.001 Allegations of excessive force.

.002 The administrative investigation of allegations of criminal acts.

.0001 The criminal investigation shall be conducted by the Investigations and Administrative Services Division.

.0002 The Chief of Police has the option of requesting that an independent law enforcement agency, such as the Sheriff's Department or the District Attorney's Office, handle the criminal investigation.

.003 Severe injury or death resulting from a member's act.

.004 Discharge of a deadly weapon or use of any deadly weapon, whether on or off duty, in a manner which may result in injury or death, including accidental discharge.

.0001 Target practice and the authorized destruction of animals are not included.

.5 Administrative: PSU shall also be responsible for:

.01 Notifying complainants and subject members when investigations are complete and when a disposition has been reached.

.02 Preparing documents related to internal investigations or subsequent disciplinary matters.

.03 Coordinating the presentation of evidence relating to internal investigations at conferences or appeals related to disciplinary action.

.04 Conducting staff inspections or other administrative inspections as required by the Chief of Police.

.6 Data Collection and Analysis

.01 Annual: An annual report summarizing the types of complaints received and the disposition of the complaints shall be prepared by PSU. The names of complainants and subject members shall not be published in this report. **Copies of this report are available to all Police Department command and supervisory personnel as well as the Training Bureau from the Professional Standards Unit.** Notation shall be made of any developing patterns of complaints or violations. Information from the annual report may be made available to the public with authorization from the Chief of Police.

.02 Public Information: Information about the Police Department's internal disciplinary system, including specific information on procedures used by the public in registering complaints against the agency or its employees, are available to the community through the police department's website, posting of complaint forms in the lobby of the Police Department and the Professional Standards Unit.

Contents of other PSU files including specific complaints, names of officers involved, and disciplinary action taken are not matters of public information and will not be released without the authority of the Chief of Police.

.03 Tracking of High Risk Events: PSU will maintain files which contain specialized reports outlining the occurrence of police vehicle pursuits and the use of force. This data will be maintained to assist in determining training needs, policy adherence, and liability exposure.

- .04 Risk Management: PSU will maintain files on Claims against the City that affect, directly or indirectly, the police department and/or its members. PSU will also maintain files on any potential Risk Management cases that are brought to the attention of PSU.
- .05 Other analyses or investigations as may be required by the Chief of Police.

5. "Pitchess" Motion Procedure

- .1 As part of court proceedings, a defendant may petition the court to review an officer's personnel records by filing a "Pitchess" motion. If such a motion is filed with the presiding court, the following actions will take place:
 - .01 The Concord City Attorney's Office will be served with a copy of the motion.
 - .02 A copy of the motion will be forwarded to the PSU.
 - .03 The PSU will notify the affected officers of the filing of the motion.
 - .04 The PSU will attend the court hearing as the custodian of records.
 - .05 The presiding judge will review the personnel files and determine what, if any information will be made available to the defense.
 - .001 If the judge orders the release of information from the officer(s) personnel files, a court order will be issued to the Concord City Attorney's Office.
 - .002 The Concord City Attorney's Office will arrange for the release of the appropriate information.

6. "Brady" Material Review

- .1 Under Brady v. Maryland (373 U.S. 83) the District Attorney's Office may review the personnel files of Police Department employees subpoenaed to testify as material witnesses in a criminal trial. The purpose of the review is to determine if there is any exculpatory information that might influence the outcome of the court proceedings. Requests made by the District Attorney's Office for review of an employee's personnel files shall be carried out in the following manner:
 - .01 The request will be forwarded to the PSU.
 - .02 The PSU representative will instruct the Deputy District Attorney making the request to forward a letter to PSU. The letter shall contain the following information:
 - .001 The name of the Deputy District Attorney who is prosecuting the case.
 - .002 The name of the employee(s) whose personnel files the Deputy District Attorney wishes reviewed.
 - .003 The fact that the employee(s) is/are a material witness in the matter, which is before the court.
 - .0001 For the purposes of this policy, a material witness is an employee who has played a significant role in the arrest of the defendant or the investigation of the case, and whose testimony may have an influence on the outcome of the trial.
 - .004 The name of the defendant.
 - .005 The Concord Police Department case number.
 - .006 The court docket number.

- .007 A statement to the effect that if Brady material is found in an employee's personnel file, such information shall only be released to the defense by one of two means:
 - .0001 A Pitchess motion filed by the defense.
 - .0002 An in camera hearing, pursuant to Evidence Code Section 915.
- .008 This written request shall become part of the employee(s)' personnel file(s) for tracking purposes.
- .03 The PSU representative shall review the request with the Chief of Police. The Chief of Police shall determine what personnel files are open to review by PSU.
 - .001 Any dispute between the Police Department and the District Attorney's Office in this area shall be resolved through an in camera hearing.
- .04 The PSU representative will act as the Police Department's reviewing authority.
 - .001 The PSU representative shall contact the prosecuting Deputy District Attorney and advise them whether potential Brady material is present in the employee(s)' personnel file(s).
 - .002 If potential Brady material is present in an employee's personnel file, the PSU representative shall disclose this fact to the prosecuting Deputy District Attorney.
 - .0001 The disclosure shall be limited to the fact that "potential Brady material" is present in the employee's file, including the name(s) of the employee(s) whose file(s) contain the material.
 - .003 The Deputy District Attorney shall be instructed to disclose this fact to the defense and inform the defense that they shall need to file a Pitchess motion in order to seek the material.
- .05 The affected employee(s) shall be notified, in writing, that a Brady review of their personnel file(s) has been done and the results of that review.
 - .001 A copy of the written notice shall be placed in the affected employee(s)' personnel file(s).
- .06 The PSU representative shall forward a memorandum to the Chief of Police documenting the results of the review.
 - .001 A copy of the memorandum shall be placed in the affected employee(s)' personnel file(s).

C. COMPLAINT PROCESS

1. General

- .1 Protection of the public: The public has the right to expect efficient, fair, and impartial law enforcement. To meet this expectation any misconduct by department personnel must be detected, thoroughly investigated, and properly adjudicated to assure the maintenance of these qualities.

The Concord Police Department will investigate all allegations of employee misconduct received from any source outside or inside the department as long as the complaint contains sufficient factual information to warrant an investigation. Each complaint shall be thoroughly and impartially investigated to its logical conclusion and reviewed by the Chief of Police and the chain of command of the affected division. The extent of investigation and documentation required for specific cases will depend upon the merits of each case.

- .2 Protection of the employee: Employees must be protected against false allegations of misconduct. This can be accomplished through a consistently thorough investigative process. While encouraging the filing of legitimate complaints against members as a means by which they can be held accountable to the public, the Concord Police Department simultaneously holds members of the public responsible for the filing of false and malicious allegations against members of this department. In cases of this nature the District Attorney's Office and/or the City Attorney may be consulted to determine if criminal action against complainants is appropriate.

Members of the Concord Police Department who are victims of false and malicious allegations also have the option of filing a counterclaim for defamation against the individual who filed said allegation, pursuant to California Civil Code Section 47.5 (Supp.1992). Specifically, Section 47.5 provides:

(A) Peace officer may bring an action for defamation against an individual who has filed a complaint with that officer's employing agency alleging misconduct, criminal conduct, or incompetence, if that complaint is false, the complaint was made with knowledge that it was false and that it was made with spite, hatred, or ill will. Knowledge that the complaint was false may be proved by a showing that the complainant had no reasonable grounds to believe the statement was true and that the complainant exhibited a reckless disregard for ascertaining the truth.

All members of the Concord Police Department are charged with the responsibility of courteously and willingly receiving any complaint that may be lodged against the department or any employee including complaints made over the telephone, by mail, or by email.

2. Complaints Defined

- .1 Inquiry: An inquiry is a complaint questioning policies, procedure, or tactics used by Concord Police personnel. When the actions of a department member are questioned and it can readily be determined by the receiving supervisor that the member probably acted within accepted Concord Police procedures or tactics, the matter is handled as an inquiry.
- .2 Misconduct Complaint: Misconduct is characterized by an employee's violation of a verbal or written order, department policy, procedure, or rule, City personnel or administrative regulations, municipal ordinance, and/or state or federal law, and may include cases of gross negligence or incompetent work.

3. External Complaint Reception

- .1 Making complaints: Complaints can be made by anyone, orally or in writing, in person or by telephone, and anonymously.
- .2 Acceptance of complaints: If a reporting party appears in person or calls into the police department, the employee will obtain the citizen's name, address and telephone number and enter the information into a Call History. No employee shall enter the officer's name or identifying information into the Call History. No factual information regarding the substance of the complaint shall be entered into the call history. The complaint will be forwarded to the effected employee's supervisor, available sergeant or Watch Commander.
- .3 Recording of complaints: On receipt of a complaint, by other than PSU, an Internal Affairs (IA) Complaint Form is to be completed. All allegations of employee misconduct should be tape recorded if possible and practical. The member receiving the complaint should obtain enough information to determine what the issue(s) is and define the specific allegation. If the misconduct is minor, immediate corrective action should be taken and no IA Complaint form is necessary. (This shall not apply to complaints resulting in formal discipline.)
- .4 Preliminary investigations: Preliminary interviews and collection of data, such as reports, may be necessary in order to determine the type and immediacy of investigation required. Receiving supervisors must investigate complaints at least to a point where a delay (in referral to another supervisor or PSU) will not jeopardize the investigation.

Complaints appropriately handled as supervisory investigations may be investigated prior to the notification of PSU. Investigations which cannot be completed prior to the end of the investigating supervisor's work shift shall be reported to the PSU by forwarding a copy of the IA Complaint Form.

- .5 When a complaint has been assigned for investigation, the investigator shall contact the complainant and inform them the complaint has been received for investigation and who will be conducting the investigation.

- .01 The investigator shall contact the complainant with periodic status reports.

- .02 The investigator shall notify the complainant when the investigation has been completed and when a disposition has been reached.

- .001 Any information released to the public shall be in accordance with this Procedure.

4. Departmental Complaint Initiation

- .1 Supervisors and commanding officers who personally observe member misconduct have the authority to exercise limited corrective action.

- .01 If the misconduct is minor the supervisor should take immediate corrective action. An IA Complaint Form is not necessary but the supervisor should make note of the incident and advise the employee's immediate supervisor.

- .02 If the misconduct is minor but represents repeated behavior requiring more substantial corrective action and the supervisor believes that documented counseling (employee discussion) is appropriate, a memorandum should be completed explaining the situation and the supervisor's investigation. This report is to be reviewed by the chain of command. The employee discussion will be prepared by the investigating supervisor and served to the employee by that supervisor.

- .03 If the misconduct is serious and the supervisor believes that formal discipline may be appropriate, a memorandum shall be completed detailing the investigation and outlining the recommended discipline. The memorandum is taken to the PSU for assignment of an IA number and forwarded up the chain of command for review by staff and the Chief of Police (see Sections B.3 and B.5 of this Departmental Procedure). Any anticipated discipline will be coordinated by the Chief of Police and PSU and implemented by supervisory staff.

- .2 Complaints initiated by department members other than supervisors or commanding officers shall be handled in the same manner as complaints from sources outside the department.

5. Emergency Call Out

In the event of a significant event involving serious injury or death, or an allegation of misconduct that could result in a substantial suspension, a demotion, or dismissal, PSU and the Chief of Police shall be notified as soon as possible/practical. The PSU may be directed by the Chief of Police to conduct a parallel Administrative Investigation.

6. Emergency Relief from Duty

If in the opinion of the on-duty Operations Commander/Shift Supervisor there is a need to immediately remove an employee from duty, such action shall be in accordance with General order No. 84.

7. Internal Affairs (IA) Complaint Form

- .1 The IA Complaint Form is used to record unresolved inquiries concerning Concord Police Department policy, procedures, or tactics, or allegations of employee misconduct. Use of the IA Complaint Form is not needed for routine requests for information or for minor supervisory initiated corrective action.

- .01 Completion: IA Complaint Forms are available at the Community Service Desk, Records Division and all Field Offices. The form shall be completed by the complaining party. The receiving member accepting the form shall assure the reporting party that the circumstances surrounding the allegation will be thoroughly investigated and that they will be notified upon completion of the investigation.
- .02 Content: Information included should be that which is necessary to begin an investigation into or explain the circumstances surrounding the complaint. IA reports are classified by the PSU as inquiries, supervisory investigations or PSU investigations, based on the information they contain.
- .03 Distribution: The original copy of the IA Complaint Form shall be forwarded to the PSU. PSU will assure that copies are forwarded to the involved employee's chain of command, as well as the Chief of Police.

The PSU will review the complaint and either proceed with a PSU investigation or forward the complaint to the subject member's commander for investigation. The PSU copy of the complaint becomes the initial case file. Department members who are the subject of an internal investigation should receive notice of the complaint within a reasonable time, unless the nature of the investigation requires confidentiality.

- .04 The Chief of Police shall be informed of all formal complaints made against the department or its employees. The notification may be made verbally or in writing.

The Chief of Police, or the command officer acting in his/her stead, shall be notified immediately in all cases of serious alleged misconduct.

D. INTERNAL INVESTIGATIONS

1. General

Investigators of complaints against department members may use investigative methods not available in criminal investigations, subject to procedural safeguards, which provide essential fairness and due process to members.

2. Procedure

.1 Supervisory Investigations

- .01 A supervisory investigation is conducted on less serious or simple allegations of misconduct. Supervisory investigations generally do not require the use of a specialized investigative unit and can be conducted in conjunction with other supervisory duties.

Examples of supervisory investigations include, but are not limited to, traffic complaints, alleged failure to take proper enforcement or investigative action, alleged discourtesy or unprofessionalism displayed by department members, etc.

.2 Inquiries

- .01 An inquiry is a complaint questioning policies, procedures, or tactics used by Concord Police personnel. When the actions of a department member are questioned and it can readily be determined by the receiving supervisor that the member probably acted within accepted Concord Police procedures or tactics, the matter is handled as an inquiry.
- .02 It is the responsibility of the supervisor or PSU member receiving the inquiry to obtain those details necessary to determine the appropriateness of the member's actions.
- .03 The receiving member shall attempt to explain why the policy, procedure, or tactic is used by the Concord Police Department. If the complainant is satisfied with the explanation, no written documentation is necessary.

- .04 If the complainant is not satisfied with the explanation, an IA Complaint Form that outlines the question asked and the action taken by the member shall be completed. Any related reports shall be attached to the IA form. These documents shall be forwarded to the PSU for review and disposition.
- .05 Inquiries which, in the opinion of the PSU and/or the subject member's supervisory staff, reveal conduct not in compliance with the Concord Police Department directives shall be upgraded to a misconduct allegation and will be investigated as such. Inquiries that are determined to represent sanctioned conduct will be responded to by PSU sending the complainant a letter that reflects the Department's opinion.
- .06 All documented inquiries shall be filed by PSU for tracking and statistical purposes.

.3 Misconduct Investigations

- .01 Misconduct is characterized by an employee's violation of a verbal or written order, department policy, procedure, or rule, City personnel or administrative regulations, municipal ordinance, and/or state or federal law, and may include cases of gross negligence or incompetent work.
- .02 PSU Investigations: A PSU investigation is conducted on serious or complex allegations of misconduct. An internal investigation is determined to be a PSU investigation by the Professional Standards Unit or the Chief of Police primarily based on the nature and complexity of the allegation.

.4 Traffic Collisions

All traffic collisions involving police vehicles shall be reviewed by the Traffic Accident Board of Review (refer to Concord Police Department Procedure No. 22). If the Board of Review finds that the accident was "preventable," the Field Operations Division Commander shall make a disciplinary recommendation, if appropriate. Said review and recommendation shall be forwarded to the PSU and the Chief of Police. The Chief of Police will review the case and has the final authority for assessing disciplinary action.

The PSU will assign a Traffic Collision Number to the case and maintain the case file, with the disciplinary action taken, in the same manner as sustained misconduct investigations.

3. Content of Investigative File

The investigator's final report will be completed in the following format in both PSU and supervisory investigations.

- .1 Report Format: The Investigative Report shall contain all relevant information pertaining to the complaint. Information shall be organized in the following manner:

- .01 Face Sheet: The face sheet shall be directed to the Chief of Police and shall include the Internal Affairs Investigation case number.

The next section will list the Complainant's name, address, phone number, etc. This will be followed by the Involved Officer(s) and/or employee(s). Finally, all witnesses and other related subjects will be listed.

- .02 Complaint: This section of the report shall consist of a summary of the complaint, as made by the complainant. Each alleged act of misconduct as set forth in the complaint shall be itemized. Reference shall be made to those rules, procedures, policies, or the statutes or constitutional provision that would be violated if the allegations were sustained. It shall also include any other violations discovered during the investigation.

- .03 Investigation: Being the main body of the report, this section shall consist of a chronological summary of the investigation. Included shall be pertinent facts obtained through interviews with the complainant, accused member(s), and all available witnesses.
- .04 Findings/Conclusions: This section should summarize the results of the investigation. A finding shall be made on each individual allegation, with sufficient facts to support said finding. The findings shall be restricted to the following dispositions:
 - .001 Sustained: The allegation is found to be true and in violation of the rules, regulations, policies, procedures or orders of the department.
 - .002 Not Sustained: The allegation can neither be proved nor disproved, given the existing evidence.
 - .003 Exonerated: The alleged act or failure to act is found to be true; however, such act or failure to act is permitted, or at least not prohibited, by the department and/or was appropriate under the circumstances in the instant case.
 - .004 Unfounded: The allegation has no basis of fact or has been disproved through the investigation.
 - .005 No Finding: The investigation was terminated because the complainant dropped the complaint or failed to cooperate with the investigation and it was not otherwise possible to return another finding.
- .2 Documents Included in Investigative File:
 - .01 IA Complaint Form and supplemental pages.
 - .02 Written statements.
 - .03 Tape recorded interviews.
 - .04 Copies of all related police reports and other in-house records relative to the investigation.
 - .05 Correspondence: Copies of any memorandums or formal departmental letters related to this investigation.
 - .06 Photographs relating to this investigation.

4. Time Limits

All investigations should be completed as soon as possible in order to be sensitive to the concerns of our employees and the public and to assure that discipline is timely. Investigations should be given high priority by all elements of the Chain of Command. Unless otherwise approved by the Chief of Police, they should be completed and submitted for review without delay.

- .1 PSU Investigations: PSU investigations should be completed within 30 calendar days from the date the complaint was received.
- .2 Supervisory Investigations: Supervisory investigations should be completed within 30 calendar days from the date the complaint was received.
- .3 Inquiries: Inquiries should be completed within 30 calendar days from the date the inquiry was received.
- .4 Staff Review: When a completed Internal Affairs Investigation is submitted to the affected Division Commander for review, said review shall be completed within 7 working days from the date the investigative report was received.

- .5 When reasonable grounds exist, an extension may be sought for the completion of an investigation or the staff review of an investigation through the Office of the Chief of Police. Such delays shall not extend the disposition of the investigation beyond an additional 30 days, although in unusual or complex cases, more than one extension may be granted.
- .6 Status Updates: The PSU will monitor the progress of inquiries and supervisory investigations to ensure that these time lines are followed as closely as practical.

The inability to meet the investigative or review time lines shall not be grounds for an employee to escape disciplinary action warranted by misconduct. These time lines are meant to be Administrative Guidelines only.

5. Investigation Review Procedure

Completed Internal Affairs Investigations shall be processed in the following manner:

- .1 PSU Investigations and Inquiries: At the discretion of the Chief of Police, investigations completed by the PSU shall be processed in one of the following manners:

- .01 When the PSU investigator completes an investigation and no **findings** are made, the investigative report will be forwarded to the affected Division Commander for review and evaluation by the appropriate Chain of Command. The Division Commander shall forward the investigative report along with their **findings and conclusions** and any **disciplinary recommendations** to the PSU within seven (7) working days from the date the report was received.

The PSU will review the **findings and conclusions** and any **disciplinary recommendations** and, along with any appropriate comments, forward same to the Chief of Police for review and disposition.

- .02 When the PSU Investigator completes an investigation and a **finding of sustained** is reached, the completed investigative report will be forwarded to the affected Division Commander for review by the appropriate Chain of Command. The Division Commander shall forward the investigative report along with any **disciplinary recommendations** to the PSU within seven (7) working days from the date the report was received.
The same procedure outlined in Section D.5.1.01 will then be adhered to.

- .03 When the PSU investigator completes an investigation and a finding other than sustained is reached, the PSU will notify the member's immediate supervisor and the affected Division Commander of the results of the investigation.

- .2 Supervisory Investigations and Inquiries: Investigations completed by the affected member's supervisor shall be processed in the following manner:

- .01 The investigating supervisor shall complete a thorough investigation, to include **findings and conclusions**. The completed investigative report shall be forwarded to the Division Commander for review. The Division Commander shall review the investigative report and forward same, along with any appropriate **disciplinary recommendations**, to the PSU within seven (7) working days from the date the report was received.

The PSU will review the **findings and conclusions** and any **disciplinary recommendations** and, along with any appropriate comments, forward same to the Chief of Police for review and disposition.

- .3 Chief of Police Review: The Chief of Police is not bound to the case **Findings/Conclusions** or **recommendations** of any subordinate. The Chief of Police may make a new and separate **Finding/Conclusion** and may implement the **disciplinary** action the Chief deems appropriate.

E. INTERNAL DISCIPLINE

1. General

The Concord Police Department has an obligation to ensure that department procedures and actions are reasonable and effective. To meet this obligation the department provides a readily available process in which community and department members can have confidence that complaints against department procedures and actions will be given efficient and fair attention. The goal of both internal investigations and the adjudication of investigations is to protect the integrity of the Concord Police Department in three ways:

- .1 Identifying inadequate policies, rules, or procedures or organizational conditions which tend to result in misconduct.
- .2 Identifying, correcting, or removing as appropriate, members guilty of misconduct.
- .3 Identifying and recognizing proper adherence to adequate policies, rules, or procedures where no misconduct has occurred, even if complaints occur.

2. Performance and Misconduct

- .1 **Accountability:** All members of the Concord Police Department are required to establish and maintain a working knowledge of the Concord Police Department Policy Manual, all laws and ordinances in force in the City of Concord and the written policies, procedures, and rules of the City and the Department. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule, or policy in question.

When it is alleged that an employee has committed an improper act or a breach of discipline, it is incumbent upon the supervisor or manager who is investigating the allegation to determine if the transgression is a matter of performance or misconduct. The nature and seriousness of the allegation and the employee's history of like or similar conduct should be taken into consideration in determining if the matter is to be handled as an issue of performance or misconduct.

- .2 **Performance:** An allegation of improper conduct that is determined by the employee's supervisor or manager to be minor in nature, such as described in Section D.2.1 of this policy, may be addressed as part of the employee's Performance Appraisal. The intent of this process is to allow the supervisor/manager the ability to modify an employee's behavior in a manner that is less intrusive than a formal Internal Affairs (IA) investigation. In order to effectively modify inappropriate behavior through the Performance Appraisal process, the supervisor/manager must: 1) identify the specific improper conduct and its cause(s), 2) counsel the employee regarding the inappropriateness of the conduct, 3) make recommendations to the employee to assist them in correcting their behavior and, 4) monitor the employee's performance to ensure the improper behavior has been appropriately modified. All of this is to be documented in the employee's Performance Appraisal. If a formal disciplinary process (IA) has been initiated, the performance process cannot be utilized until the case has been concluded.
- .3 **Misconduct:** An allegation of improper conduct that is determined by the employee's supervisor/manager to be of serious nature or is shown to be repetitive should result in a formal investigation (IA). Improper conduct of this nature may include violations of department policy, rules or procedures, City of Concord ordinances, or administrative regulations or laws of the State of California or the United States. At the conclusion of the investigation, the Chief of Police, or his/her designee, may determine that formal disciplinary action is not warranted and may implement informal corrective action, which may take the form of oral counseling, training, or similar rehabilitative measures. Such corrective action may be administered in conjunction with or in lieu of discipline.
- .4 **Disciplinary Action:** Discipline is the means by which we ensure that all personnel abide by the policies, procedures, rules and regulations of this Department. Sustained findings of misconduct may subject the employee to either informal corrective action or formal discipline. The application of informal corrective action or formal discipline will depend on the reason for its use and the manner in which it is imposed. Disciplinary action taken against any member of the Concord Police

Department shall be done in a manner prescribed by the personnel policies, rules, and procedures of the City of Concord and the Concord Police Department.

.01 Types of Informal Corrective Action

.001 Oral Counseling: Utilizing an event slip or employee discussion form for documentation

.002 Training: Training is considered an informal corrective action and shall be employed whenever it is determined that an employee's performance can be improved or misconduct can be corrected through its use.

.0001 When the Chief of Police, Division Commander or Lieutenant, determines that training is to be imposed as the appropriate level of discipline for a finding of sustained misconduct or as a method of improving an employee's deficient performance, the Division Commander of the involved employee shall be responsible for ensuring that the appropriate training is provided. The Division Commander shall also ensure that the results of such training are made a part of the investigative report.

.0002 It shall be the responsibility of the employee's immediate supervisor to ensure training when the need for training is identified, by recommending through the chain of command that the Training Bureau provide such training.

.02 Types of Formal Discipline

.001 Written Reprimand (Copy to personnel file)

.002 Suspension

.003 Reduction in Pay

.004 Demotion

.005 Dismissal

Discipline will, for the most part, be administered in a progressive fashion (minimal to maximal). The seriousness of the incident, the circumstances surrounding the incident, the employee's past disciplinary record, the employee's past work performance, the overall negative impact on the organization the incident caused, and the prognosis for future similar problems, will all be taken into consideration in the administration of discipline. The Chief of Police reserves executive privilege to modify disciplinary action as appropriate for each case.

.5 Authority For Disciplinary Actions: The Chief of Police shall have authority to take disciplinary action, provided also that the Chief of Police shall delegate to subordinate supervisory employees the authority to issue letters of reprimand and make immediate suspensions in emergency situations. The duration of such suspensions may not be stipulated however, except by the Chief of Police. The Chief of Police must approve all levels of formal discipline prior to the imposition of discipline. The Personnel Director shall be notified of any contemplated disciplinary action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practical, the Personnel Director may be notified as soon as possible subsequent to the time the action is taken.

.01 Captains have the authority to impose letters of reprimand and suspensions but only with the review and approval of the Chief of Police. Captains can also make suspensions in emergency situations as well as handle all levels of informal discipline.

.02 Lieutenants and Sergeants have the authority to make suspensions in emergency situations as well as handle all levels of informal discipline such as oral counseling or ordering training as a corrective action for poor performance/ misconduct.

- .6 Duty to Confront Misconduct: It shall be the duty of all commanders, supervisors, and members to take corrective action as appropriate and/or submit a written report to the Division Commander or his/her designee, whenever they learn through personal observation or report, of any violation of the department's rules, policies, procedures, City of Concord ordinances, laws of the state of California or the United States, by any member of the department.
- .7 Duty to Report Off-duty Misconduct: If a member of the Concord Police Department is arrested or should reasonably be aware they are the subject of a criminal investigation by another law enforcement agency, that employee is required to immediately report the matter to the on-duty Concord Police Department Operations Commander or Shift Supervisor.
 - .01 The Operations Commander/Shift Supervisor shall immediately report the incident to the Chief of Police or his/her designee.

3. Adjudication of Investigations

All disciplinary actions will be based on a standard of "preponderance of evidence". "Proof beyond a reasonable doubt" is not required.

- .1 Investigative dispositions: Each investigation shall include a "conclusion of fact," which is required for each allegation of misconduct. The final disposition of each allegation of member misconduct is classified in one of the following ways:
 - .01 **Sustained:** The allegation is found to be true and in violation of the rules, regulations, policies, procedures or orders of the department.
 - .02 **Not Sustained:** The allegation can neither be proved nor disproved, given the existing evidence.
 - .03 **Exonerated:** The alleged act or failure to act is found to be true; however, such act or failure to act is permitted, or at least not prohibited, by the department and/or was appropriate under the circumstances in the instant case.
 - .04 **Unfounded:** The allegation has no basis of fact or has been disproved through the investigation.
 - .05 **No Finding:** The investigation was terminated because the complainant dropped the complaint or failed to cooperate with the investigation and it was not otherwise possible to return another finding.
- .2 Discovered Misconduct: Employee misconduct not alleged in the complaint but disclosed by an investigation shall be classified as a "sustained" violation if it is serious enough to warrant disciplinary action.

Minor misconduct or inappropriate actions not warranting formal discipline and/or not constituting specific violations of policies, rules, procedures, etc. shall be addressed in the findings and conclusions of the investigation. Appropriate action shall be taken to correct these identified deficiencies. (Options shall include, but not be limited to, supervisory counseling, training, revisions to existing policies, rules, procedures, etc., and the creation of new policy, rules, procedures, etc.)

- .3 Inquiry Investigations: If a reviewing staff member is not satisfied by actions reported in an inquiry, the case may be upgraded to an allegation of misconduct and may be returned for additional work by the submitting investigator or the PSU.

4. Appeal of Disciplinary Action

- .1 Any permanent member, as defined in City of Concord Policy & Procedure 37, who is adjudicated to be in violation of department policy, procedure or rule, or any ordinance or law, will receive corrective action or disciplinary sanction. If the member is to be given any form of formal

discipline, he/she is entitled to an appeal process as outlined in City of Concord Policy & Procedure No. 37.31

.2 Pursuant to the Public Safety Officer's Procedural Bill of Rights, the Police Department has established an appeal process for "at will" (non-permanent) sworn personnel who are facing dismissal from the department. The appeal process is limited to the following steps:

.01 Advanced written notice stating the reasons for the dismissal will be provided to the officer.

.001 The dismissal will not take place until the officer has had a reasonable chance to respond to the notice.

.02 The officer and his/her representative, if any, will have an opportunity to present the officer's case to the Chief of Police.

.03 The officer is responsible for convincing the Chief of Police to abandon or reduce the discipline.

.04 The Chief of Police will thereafter make a final decision to sustain, reverse or modify the dismissal.

5. Notice of Suspension and Termination

If an investigation of employee conduct results in a suspension or termination, the employee shall receive a statement citing the reason for the suspension or termination and the effective date(s) as provided by *Skelly v. State Personnel Board*.

.1 If the misconduct results in dismissal, the employee shall be referred to the Human Resources Department for information regarding the status of fringe and retirement benefits.

6. Records

.1 Documentation of Discipline: Documentation of case dispositions including disciplinary action taken is included in the investigative case file prior to its being closed. Original documentation of disciplinary action taken is placed in the employee's personnel file.

.2 Documentation of Investigations: Completed investigations shall be kept by the PSU for a minimum period of the current year, plus five years from the completion of the investigation. This includes those cases where misconduct is found to be only minor and resulted in documented oral counseling, not discipline. Investigations shall be destroyed, in accordance with City of Concord regulations governing the destruction of public records, at the end of the aforementioned retention period.

.3 Documentation of Inquiries: Completed inquiries shall be kept by the PSU for a minimum period of the current year, plus five years from the completion of the inquiry. This includes those cases where misconduct is found to be only minor and resulted in documented oral counseling, not discipline. Inquiries shall be destroyed, in accordance with City of Concord regulations governing the destruction of public records, at the end of the aforementioned retention period.

.4 Documentation of Complaints: Records of complaints only, which were not resolved to the complainant's satisfaction or were not withdrawn or abandoned, not resulting in investigations or inquiries, shall be kept by the PSU for a minimum period of the current year, plus five years from the date of the complaint. This includes those complaints where misconduct is found to be only minor and resulted in documented oral counseling, not discipline. Records of Complaints shall be destroyed, in accordance with City of Concord regulations governing the destruction of public records, at the end of the aforementioned retention period.

7. Traffic Accidents

Documentation of traffic accidents involving police vehicles shall be maintained in the same manner as misconduct investigations.

F. EMPLOYEE RIGHTS WHILE UNDER INVESTIGATION

1. When a sworn member, as defined under Penal Code Section 830.1, of this department is the subject of an investigation that may lead to disciplinary action, he/she shall be treated in a manner that is compliant with Government Code Sections 3300-3313 (the Public Safety Officer's Procedural Bill of Rights).
 - .1 Prior to any interview a sworn officer who is the subject of an internal affairs investigation shall be served with a **Notice of Interview, which could lead to disciplinary action**. The notice shall specify:
 - .01 The allegation(s) of misconduct.
 - .02 The facts supporting such allegations.
 - .03 The alleged City, department of law violation.
 - .04 Date and time of the interview.
 - .05 Who will be in charge of the interview.
 - .06 The rights afforded the subject officer.
2. When a non-sworn member of this department is the subject of an investigation that could lead to disciplinary action, he/she shall be afforded the protections enumerated in City of Concord Policy & Procedure No. 37.31 and their Memorandum of Understanding.
3. Allegations of misconduct made against reserve police officers, as defined under Penal Code Section 830.6, and volunteers will be investigated within the provisions of this policy.
4. Interview Rules
 - .1 Sworn personnel under administrative investigation shall be advised of their rights under Chapter 9.7 of the Government Code, commencing with Section 3300, set forth in the Public Safety Officer's Procedural Bill of Rights.
 - .2 Provisions of the Public Safety Officer's Procedural Bill of Rights do not apply to reserve officers, non-sworn personnel, volunteers, or sworn personnel who are witnesses.
 - .3 Pursuant to current law, if the employee refuses to answer the investigator's questions, he/she shall be given a direct order to do so. If the employee disobeys the direct order by continuing his/her refusal, they may be charged with insubordination under City Personnel Rules, Policy & Procedure No. 37.31.
5. Employees, sworn and non-sworn, accused of misconduct shall **not** be required to submit to a polygraph examination.
6. During an investigation, the subject employee may be requested to submit financial records that are deemed appropriate to either prove or disprove the allegations under investigation. Requests for financial records of sworn personnel accused of misconduct shall be in accordance with Government Code 3308. Non-sworn employees accused of misconduct shall not be unreasonably required to submit financial disclosure statements or other items of personal property records in connection with complaint investigations.
7. Employees shall **not** be required to stand in "physical" line-up proceedings for the purpose of complaint investigations.

8. During an investigation, the subject employee may be requested to submit to a chemical test at the agency's expense to either prove or disprove the allegation(s) under investigation. In cases where a sworn officer has discharged his/her firearm while on-duty, they may be requested to submit to a chemical test at the agency's expense to either prove or disprove the presence/absence of any narcotic, dangerous drug or alcohol in their system. The subject employee shall not be forced, coerced or intimidated into taking such tests except as permitted by law. In all cases, the provisions of Section 3300 of the California Government Code (Peace Officers Bill of Rights) shall prevail.
9. During an investigation, the subject employee may be photographed for the purposes of either proving or disproving the allegation(s). This is to include photographing for purposes of formation/presentation of photo line-up by Professional Standards personnel. In all cases, the provisions of Section 3300 of the California Government Code (Peace Officers Bill of Rights) shall prevail.
10. Department Action: Pre-investigation/Administrative Leave
 - .1 When an employee of this department is the subject of an Administrative Investigation for serious misconduct, the Chief of Police, or his/her designee, may place the employee on paid Administrative Leave. This will occur when it is the belief of the Chief of Police that placing the employee on Administrative Leave is in the best interest of the employee, the department, the City and the community.
 - .01 An employee who is placed on Administrative Leave shall immediately surrender his/her department identification card, badge, department keys, and issued firearm to his/her Division Commander or designee.
 - .02 An employee who has been placed on Administrative Leave shall receive verbal and/or written directives from the Chief of Police or his/her Division Commander regarding building access and duties while on Administrative Leave. The directive may include the fact that the officer's peace officer powers are suspended for the duration of the Administrative Leave.
 - .03 In all instances of administrative leave, it shall be at the discretion of the Chief of Police or his/her Division Commander to mandate the Police employee to surrender his/her department issued identification card and badge, department keys, and issued firearm for the duration of the leave. If such leave is mandated, the officer's peace officer powers shall be suspended for the duration of the administrative leave.
 - .2 In all instances of suspensions, it shall be at the discretion of the Chief of Police to mandate the Police employee to surrender his/her department issued identification card and badge, department keys, and issued firearm to his/her Division Commander at the end of the last working shift preceding the start of the suspension. If such suspension is mandated, the officer's peace officer powers shall be suspended for the duration of the imposed suspension.
 - .01 During the course of the suspension, the suspended employee shall adhere to the rules and regulations of the City and Police Department, and conduct him/herself as Police Department employee, except in those instances relating specifically to exercise of authority and powers of law restricted to a Police Officer.
 - .3 Supervisory personnel shall be notified of the employee's status by either the Chief of Police or Division Commander as soon as possible after the employee is advised of the pending action.
- 11 Additional circumstances under which an employee may be placed on paid Administrative Leave.
 - .1 If an employee is under investigation and his/her presence in the Department might be disruptive to the investigation, the employee may be placed on paid Administrative Leave.
 - .2 An employee may be placed on paid Administrative Leave pending a fitness for duty examination.

G. GRIEVANCE PROCEDURES

1. Department employees may bring forth concerns relating to any alleged unfair or improper aspect of employment and seek correction thereof. Such concerns may be filed in the form of a grievance as outlined in City Policy & Procedure No. 37.29.
2. If a complaint is reduced to writing, in the form of a grievance, a copy shall be forwarded to the PSU.
 - .1 Copies of all correspondence, at each stage of the grievance process, shall also be forwarded to the PSU.
 - .2 PSU personnel will maintain a separate and secure file for each grievance that is filed by department personnel.
 - .3 Only PSU personnel, the Chief of Police, the employee filing the grievance and his/her representative, and those authorized by the Chief of Police shall have access to a grievance file.



EXHIBIT A

CITIZEN REPORT PROCEDURE AND FORM

TO THE CITIZENS OF THE CITY OF CONCORD

As your Chief of Police, I am committed to provide the highest quality of law enforcement available. In order to achieve this goal I welcome your comments, suggestions, constructive criticism, and valid complaints regarding actions or inactions by department members or matters of department policy.

As an aid to assist me in this regard, a Citizen Report form has been prepared. This report can be given to any department member at any time of the day or day of the week and it will be forwarded to the Office of the Chief of Police.

Each report received will be thoroughly investigated and I will initiate appropriate corrective action when necessary. You will be informed of the results of the completed investigation.

Any commendation of actions of department employees will result in appropriate recognition.

Should you care to make your report in person, you may come to Police Headquarters located at 1350 Galindo Street in Concord. Should you desire to complete your report in writing, you may mail or bring this form to the same address. You can be assured that you will be received courteously and that thorough consideration will be given to your concerns.

If, for any reason, you desire confidentiality in this matter your request will be honored.

I hope that you will feel free to express yourself on any matter which you feel should be brought to my attention. Each citizen's report will receive my personal attention as I recognize that the first responsibility of department members is to serve and protect our citizens.

Sincerely,

Guy Swanger
Chief of Police
City of Concord

Citizen Report Procedure and Form (Cont'd)

INVESTIGATIVE PROCEDURE

You may choose to come to the Police Department in person to make your citizen's report as experience has indicated that it is most desirable to obtain information during a personal interview. Additionally, you have the options of making your citizen's report by telephone or in writing utilizing this form, and you have the option of remaining anonymous.

If you desire to identify yourself you will be asked to provide the following information:

1. Your name, address, and telephone number;
2. If a specific incident is involved, the date, time, and location of that incident;
3. The names of any possible witnesses and telephone numbers, if available;
4. If the incident involves an arrest, the name, address and telephone number of the individual arrested, if available;
5. If the incident involves a member of the department, his name, position in the department, and car number, if available;
6. Details of the subject matter which prompted your interest;
7. In some circumstances you may be asked to voluntarily cooperate with a polygraph examination.

A member of the department will be assigned to contact you and an investigator will interview all available witnesses, involved department members, and will examine all relevant documentary and physical evidence.

Each citizen's report will be examined on its own merit. Should your citizen's report involve an allegation of improper action by a member or members of this department there are four possible findings which will result from our investigation:

1. **Sustained:** the investigation disclosed sufficient evidence to clearly prove the allegation;
2. **Not sustained:** the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
3. **Unfounded:** the investigation has produced sufficient evidence to prove that the act or acts complained of did not occur as alleged.
4. **Exonerated:** the acts which provided the basis for the allegation occurred; however, investigation revealed that the acts were justified, lawful, and proper.
5. **Commendation:** the acts of an employee were exemplary and deserving special recognition.

Should the investigation of this citizen's report indicate improved actions by a member of this department, I will initiate corrective action in accordance with the policies and procedures employed in this department. Such actions may include counseling, retraining, or disciplinary action against the employee.

Citizen's reports are investigated by members of the department specifically assigned by me. As Chief of Police I feel it is my responsibility to review the final report and approve the findings of an investigation. I will notify you by mail upon the completion of the investigation which is initiated by your report.

In Summary...

Citizen reports assist me in maintaining the present quality of law enforcement in the City of Concord and provide a means for improvement. They additionally assure the citizen that corrective action is taken if there is misconduct by a member of the Concord Police Department. Further, a thorough and impartial investigation procedure protects police officers from unwarranted accusations.



EXHIBIT B

SAMPLE MEMORANDUM

DATE:

TO:

FROM:

SUBJECT: INTERVIEW WHICH COULD LEAD TO DISCIPLINARY ACTION

Synopsis of incident.

In the event that the allegations are sustained, it would constitute a violation of one or more of the following:

Specify policy and procedure violation(s).

You are to report to my office **location**, to answer questions regarding the allegations as well as to offer any explanation and/or circumstances which you believe might provide insight into the fact of this matter.

The date and time of this interview is on your **on or off** duty time, and you will be compensated accordingly. In the event you find the date and time inconvenient and you wish to change it to some other day more suitable to you, please advise me as soon as possible and I will reset the interview to a time convenient to both of us.

The interview will be conducted by me and I will be in charge of the interview. The complete interview will be recorded. You will have access to the tape if any further proceedings are contemplated or prior to any further interview at a subsequent time. You have the right to bring your own recording device and record any and all aspects of the interview. You will be entitled to all reports and/or complaints made by me or other persons, except those that are deemed by the department to be confidential. No notes or reports, which are deemed confidential, will be entered into your personnel file. You do not have the right to any "pre-interview discovery".

You have the right to be represented by the representative of your choice who may be present at all times during the interview. This representative shall not be a person subject to the same investigation. The representative shall not be required to disclose any information received from you while under the investigation in non-criminal matters.

You will not be subject to visits by the press or news media without your express consent. Neither your home address nor photograph will be given to the press or news media without your express

consent. If prior to or during the interview it is deemed that you may be charged with a criminal offense, you shall be immediately informed of your constitutional rights.

You are advised that your rights are fully outlined in the Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300 - 3313.

If you have any questions prior to the interview, please do not hesitate to call me at my office at **[number]**.



EXHIBIT C

SAMPLE INTERVIEW ADMONITION

Professional Standards Investigation Professional Standards Unit Interview Admonition

You are advised that I am authorized by the Chief of Police as the *title and assignment* to question you as a part of an official investigation by the Concord Police Department. You will be asked questions specifically directed and narrowly related to the performance of your official duties. You are entitled to all the rights and privileges guaranteed by the Constitution and the laws of the United States and the State of California, including the right not to be compelled to incriminate yourself and the right to have legal counsel present at each and every stage of the investigation.

I further wish to advise you that if you refuse to answer questions relating to the performance of your official duties, you will be subject to Departmental charges, which could result in your dismissal from the Concord Police Department.

If you do answer, your statements and any information or evidence gathered by reason of such statements will be held confidential, consistent with Penal Code section 832.7 and will not be divulged except as required by law. Your statements may, however, be used against you subsequently in relation to Departmental charges. In addition, any statements you make under the compulsion or the threat or such discipline cannot be used against you in any subsequent criminal proceeding.

My name is *name, title and assignment* of the Concord Police Department. This is a Professional Standards Investigation being conducted at the Concord Police Department on *date* at about *time*. In addition to me, *name all present attending interview*.

I will be the officer in charge of the investigation. All questions during the interview will be asked by me. The interview will be recorded. You will have access to the tape if any further proceedings are contemplated or prior to any further interview at a subsequent time. You have the right to use your own recording device and record any and all aspects of this interview.

You will be entitled to all reports and/or complaints relating to this investigation made by me or other persons, except those, which are deemed by the department to be confidential. No notes or reports, which are deemed to be confidential by the department, will be entered into your personnel file.

You have the right to be represented by the representative of your choice who may be present at all times during the interview.

You will not be subject to visits by the press or news media without your express consent, nor shall your home address or photograph be given to the press or news media without your express consent.

At any time during this interview you will be allowed to use the restroom, get a drink of water, or take a short break. At no time will you be threatened with punitive action or promised any type of reward or inducement. No offensive language will be used during the course of this interview.

If at any time during this interview it is deemed that you may be charged with a criminal offense, you will immediately be informed of your Constitutional rights.

Did you receive my memorandum of Notice of Interview Which Could Lead to Discipline dated [date]?

Do you fully understand the contents of that memorandum? _____

Do you fully understand what I have said to you so far? _____

Do you have any questions before we begin? _____

MIRANDA ADMONISHMENT

If the aforementioned allegations are sustained, the possibility of criminal conduct exists. I feel it appropriate at this time to inform you of your Constitutional rights.

You have the right to remain silent. Do you understand this right? _____

Anything you say may be used against you in court. Do you understand this right? _____

You have the right to talk to an attorney before you answer questions and the right to have that attorney present with you during questioning. Do you understand this right? _____

If you cannot afford an attorney and want an attorney to represent you, an attorney will be appointed before any questioning to represent you free of charge. Do you understand this right? _____

LYBARGER WARNING

This investigation is for administrative purposes only and I hereby Order you to answer questions pertaining to this investigation.

Although you have the right to remain silent and not incriminate yourself, your silence can be deemed insubordination and result in administrative action being taken up to and including termination.

Any statement you make under compulsion of the threat of such discipline cannot be used against you in a later criminal proceeding arising out of this investigation.

Do you understand that I am now ordering you to answer my questions truthfully? _____