

## **INVESTIGATION**

**6472**

(June 2000)

### **Responsibility**

#### **All**

The purpose of these guidelines is to provide supervisors, managers, and investigators with suggestions and resources to assist in the thorough and complete investigation into allegations of misconduct. The guidelines are not intended to interfere with the discretionary decision making process of either department in the administration of progressive discipline or personnel management.

## **AUTHORITY FOR INVESTIGATION**

**6472.1**

(No.21 May 2016)

### **Responsibility**

#### **All**

All joint investigations must be authorized by either the CAL FIRE Unit Chief or Region Chief, and the CDCR Warden or Chief Deputy Warden/Superintendent. In certain cases, the investigation may be authorized directly by the Director or the Chief Deputy Director of either department. Assigned departmental investigators shall report to one departmental administrator representing the administrator authorizing the investigation.

## **INVESTIGATION SCOPE**

**6472.2**

(No.21 May 2016)

### **Responsibility**

#### **All**

Prior to an investigation being initiated the scope of the investigation shall be determined. The authorizing administrators shall instruct all investigators whether the scope of the investigation is criminal or administrative. In those instances where the scope cannot initially be determined, the authorizing administrators shall be apprised of all information obtained during the course of the investigation. When practical, all investigators shall be informed of the scope of the investigation.

## **INTERAGENCY MEETING**

**6472.3**

(No.21 May 2016)

### **Responsibility**

#### **All**

Prior to the investigation beginning, a meeting with representatives from both departments and from all other involved agencies shall be conducted. Each agency will state specifically their involvement and intent regarding the investigation. All investigators shall be provided information regarding specific department policies and agreement(s) as to how employee investigations are conducted. At the conclusion of the meeting, investigators from all agencies shall understand the scope and purpose of the investigation.

## **LEAD AGENCY**

**6472.4**

(No.21 May 2016)

### **Responsibility**

#### **All**

All cases involving allegations by one department against the employees of the other should be conducted jointly, unless one of the departments declines to participate. For each investigation, one department will be the lead agency. The lead agency shall be responsible for completing the investigation and providing the proper documentation to all associated agencies. The lead agency shall conduct the investigation as an equal co-partner. All investigative decisions shall be made with the consent of all involved agencies. The investigative decisions shall be directed toward the most efficient and thorough conclusion of the investigation.

The lead agency shall be determined by an evaluation of jurisdictional authority. The agency which has the primary responsibility for the enforcement of the law, regulation, or policy allegedly violated will be the lead agency. For example, investigations centering on alleged violations of CDCR regulations by CAL FIRE staff will normally be considered to be under CDCR jurisdiction. Administrative investigations potentially leading to adverse action may be considered jurisdiction of the employing agency, regardless of where the incident occurred.

DJJ Allegations made by one department's staff member against a staff member of the other department shall be treated as a citizen's complaint. The Camp Superintendent and Division Chief may jointly conduct a preliminary inquiry prior to initiating the investigation authorization request process. Each department shall follow its respective workplace violence process/ procedure in the event that a workplace violence allegation is made.

**FINDINGS**  
(No.21 May 2016)

6472.5

**Responsibility**

**All**

Findings and recommendations of the investigation team will be presented to the Warden of the parent institution and to the CAL FIRE Regional Chief. The initiation of employee disciplinary actions as a result of the investigation will be the responsibility of the appointing power. Either department may initiate such legal and administrative remedies as are within their authority.

**All**

DJJ documentation of personnel investigations shall be considered confidential and any distribution of reports or other documents shall be done in accordance with departmental policies, the Peace Officer Bill of Rights, and applicable bargaining unit agreements. The initiation of the adverse action process shall be the responsibility of the employee's appointing authority and shall comply with that department's adverse action process.

**DISTRICT ATTORNEY INVESTIGATORS**  
(No.21 May 2016)

6472.6

**Responsibility**

**All**

Many counties are provided state funds to cover expenses in the investigation and prosecution of crimes related to state prisons and offenders. This may be a resource to be used during an investigation of crimes related to offenders on prison grounds. CDCR investigators are familiar with the use of this resource, and often times have already established contacts in the district attorney's office.

## **PEACE OFFICERS' BILL OF RIGHTS (POBR)** (No.21 May 2016)

6472.7

### **Responsibility**

#### **All**

On occasion, investigations may involve employees of either department who are appointed as department peace officers. When department peace officers are being investigated by their own department where adverse action may result against a peace officer employee, the Peace Officers Bill of Rights becomes effective.

However, the POBR does not apply in cases where the peace officer is being interrogated by another law enforcement agency in a criminal matter. In cases such as these, the officer's "Miranda" rights would apply. This is true even though an investigator from the suspect's own department may be assisting the lead investigating department, so long as all questioning is conducted by investigators of the other department, and the investigator from the suspect's own department is not an active member of the interview.

If a peace officer refuses to answer questions in the criminal investigation, such refusal cannot be deemed insubordination, and cannot be used in support of an administrative action against the officer.

If the officer is being investigated as a departmental employee, rather than as a criminal suspect, or has been ordered by his department to cooperate in the investigation conducted by another agency, then the Lybarger admonishments must be given, and any questions that the officer answers under compulsion of threat of discipline cannot be used against that officer in subsequent criminal proceedings. However, such answers may be used for administrative (disciplinary) purposes.

Additionally, when involved in investigations with other departments, investigators should be made aware of any department policies or contractual agreement(s) which may involve employee rights and the peace officers bill of rights. As an example, all CDCR employees are covered by the peace officer bill of rights by CDCR departmental policy.

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