

## **3-01/110.70 - Consideration for Defendants, Inmates, or Prisoners**

Whenever a Department member determines a defendant has materially assisted the Department in any criminal investigation, the concerned investigator, with prior approval, may prepare a letter for signature from the investigator's unit commander to the local Supervising City Attorney, Supervising District Attorney, or federal prosecutor if the case is pending in court, requesting that the defendant's action be taken into special penalty consideration.

Whenever a Department member determines an inmate or prisoner has materially assisted the Department in any criminal investigation, that investigator, with prior approval, may prepare a letter for signature from the investigator's unit commander to the sheriff of the county where the inmate is being housed, or to the warden of the Department of Corrections' facility where the prisoner is serving a sentence, or to the State Parole Board if the prisoner is scheduled to appear at a parole hearing.

Whenever such a letter has been approved by the unit commander, it shall contain the following:

- Reason for the inmate's arrest or prisoner's conviction so that recipient of the letter knows the magnitude of the crime;
- Information provided or action taken by the defendant, inmate, or prisoner which assisted the investigation;
- What action the investigator took as a result of the information provided by the defendant, inmate, or prisoner and the results of the investigator's actions;
- What the investigator is seeking, i.e., special penalty consideration such as no jail, a specific jail or prison term, probation, the minimum sentence allowed by law, special conditions of confinement, or release on parole.

### The Approval Process

Prior to taking any affirmative steps to process and seek approval, the investigator initiating the request for consideration shall contact his or her unit commander and explain the justification for the request. Thereafter, if a decision is made to proceed further and gather information to initiate the formal approval process, the investigator shall contact the Supervising City Attorney, Supervising District Attorney, or Assistant United States Attorney who prosecuted or is prosecuting the case to discuss the matter and seek input. Any outside agency having jurisdiction of, or an interest in, the defendant, inmate, or prisoner (e.g., parole, or another police agency, or probation officer if on formal probation) shall also be contacted unless communication will endanger the safety of the defendant, inmate, or prisoner. These timely contacts will allow for the resolution of any potential conflicts with other agencies prior to presenting the matter in court or to a jail supervisor, warden, or parole board. Once the investigator has made these contacts, the consideration package may be prepared for submission to the unit commander. As noted below, the package shall include the input/position of the applicable prosecutor, probation officer and/or parole officer, or policing agency in regard to the proposed recommendation to be included in the letter.

### The Consideration Package

At a minimum, the consideration package shall contain the following information:

- A memorandum to the unit commander that sets forth the formal consideration request and contains:
  - The name and address of the concerned local office of the City Attorney, District Attorney, United States Attorney, correctional facility, or parole board;
  - The name and rank of the concerned supervising prosecutor;
  - The position of the concerned local prosecutorial office, probation, parole, and/or policing agency in regard to the proposed recommendations;
  - The case numbers and all pending charges and prior convictions against the defendant, inmate, or prisoner for whom the letter is to be written;
  - The specific consideration the investigator seeks to recommend;
  - The next court date, parole hearing date, or other relevant hearing date;
  - Whether the defendant, inmate, or prisoner has any history of violence in or out of custody with an explanation of the violence;
  - Identification of the investigating agency/unit making the request;
  - Identification of any other agencies that have an interest in the defendant, inmate, or prisoner; and if so, the names of those officers/deputies/prosecutors contacted and a statement as to whether they approve of the consideration request;
  - Whether the defendant is continuing to assist the Department in its current investigative efforts;
  - Appropriate supervisory notation and approval (e.g. detective supervisor or watch commander); and
  - A thorough description of the results of the information provided by the defendant to the investigator (e.g., number of warrants served, number of arrests made, property seized, etc.).
- Current RAPS, CCHRS, and DMV printouts;
- The original arrest reports documenting the defendant's, inmates, or prisoner's current charges;
- Reports or memoranda that document the results of the defendant's, inmates, or prisoner's information/assistance (e.g., search warrants served, arrest reports etc.);
- A draft of a letter of request for the unit commander's signature;
- Any other appropriate and useful information.

The consideration package shall be submitted to the unit commander who will review the appropriateness of the request and then forward the package to the concerned area commander who, after review, will submit the package to the concerned division chief for approval.

Upon receipt of the package, the concerned division chief shall review the special consideration request and all supporting documentation, and determine the appropriateness of the Unit Commander's recommendation. A request for a Letter of Consideration shall be predicated on assistance to the Department, rather than on personal or other interaction between the individual and the Department employee which is not tied to a current criminal investigation. Any request for a Letter of Consideration based merely on favorable contacts with a defendant, inmate, or prisoner who has not materially assisted the Department in a specific criminal investigation, shall not be approved.

If the recommendation is approved by the division chief, the consideration package will be returned to the originating unit, and the letter will be prepared for the unit commander's signature.

**NOTE:** Letters of Consideration for narcotics charges must, in addition to the above approval procedures, also be routed to and approved by the Detective Division Chief prior to the issuance of the final Letter of Consideration.

Letters of Consideration must, in addition to the above approval procedures, also be routed to and approved by the Sheriff if opposed by any other agency, entity, or department.

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