UNIT ORDER #48 - PROCEDURE FOR CALCULATING THE ONE-YEAR STATUTE

Policy:

Within ten (10) days of being assigned a case, the Internal Affairs Bureau (IAB) investigator shall calculate and note in the case file, the one-year statute of limitations date.

Procedure:

The investigator shall use the incident date as the presumptive start date with which to calculate the Peace Officer Bill of Rights' one-year statute of limitations period for completion of administrative investigations (Government Code Section 3304). The "Department notification date" or "Department awareness date" shall no longer be used as the presumptive start date in calculating the one-year statute date.

In cases where the date of discovery of the allegation of misconduct ("Department awareness date") is different from the incident date, it may be unreasonable to use the incident date as the start date to calculate the one-year statute date. The investigator shall discuss the facts of the case with his/her team lieutenant in order to decide whether the incident date or the Department awareness date will be used to determine the one-year statute date. Such consultation shall be noted in the investigative file.

For criminal monitor cases, the investigator shall consult with his/her team lieutenant in order to determine the one-year statute date. Such consultation shall be noted in the investigative file.

Note: The time is tolled from the date that the criminal investigation began to the date that it ended. The ending date is one of the following: 1) the date that the criminal investigating unit or agency closed the investigation (i.e., did not seek a criminal filing); 2) the date of the District Attorney case reject; or 3) the date of the adjudication of the criminal case in court.

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In cases where there may be other legal basis for revising the one-year date (e.g., a Subject signed a written waiver of the statute of limitations; the investigation is a multi-jurisdictional investigation; the investigation involves more than one Subject; the investigation involves a Subject who is incapacitated or otherwise unavailable; the Subject is named as a party in related civil litigation; or the investigation involves a workers' compensation fraud allegation [refer to 3304(d) 1 through 8]) and it may be unreasonable to continue to use one-year from the incident date for the one-year deadline, the investigator shall discuss the basis for the revision of the deadline with his/her team lieutenant in recalculating the one-year deadline. Such consultation shall be noted in the investigative file.

Modification of any previously-calculated one-year statute date shall not be undertaken without consultation with, and concurrence of, an IAB lieutenant. Such consultation shall be noted in the investigative file.

Upon calculation of the one-year statute date, the IAB investigator shall ensure that the date is entered into PRMS.

The Internal Affairs Bureau statute date worksheet shall be used to calculate of the one-year statute date.

The investigator shall indicate the incident date and the one-year statute date on the IAB case cover.

Note: Although the one-year statute date shall be calculated for all cases, the one-year statute of limitations period for completion of administrative investigations applies only to sworn subjects.

<u>**Disclaimer:**</u>

This management directive provides guidance in the formulation of an internal IAB deadline for purposes of case management only and does not establish any individual rights, entitlements, defenses or privileges, and no Sheriff's Department employee may rely on it for any such purpose. It is merely an internal IAB policy, and is not in itself a limitations period, or an interpretation of the law.

- ## Unit Order #48 - ATTACHMENT

ONE-YEAR STATUTE DATE CALCULATION

(Management Directive #48)

DATE	EVENT
	Incident
	Department Awaren
	Criminal Investigation E

		Criminal Investigation ended/I
		One Year Statute D

Guidelines:

One-year statute date shall be calculated from the incident date.

* In cases where the date discovery of the allegation of misconduct "Department awareness date" is different from the incident date, it may be unreasonable to use the incident date as the start date to calculate the one-year statute date. The investigator <u>shall</u> discuss the facts of the case with his/her team lieutenant in order to decide whether the incident date or the Department awareness date will be used to determine the one-year statute date.

** The investigator <u>shall</u> discuss the facts of the case with his/her team lieutenant in order to determine the date the criminal investigation began.

*** The ending date is one of the following: 1) the date that the criminal investigating unit or agency closed the investigation (i.e., did not seek a criminal filing); 2) the date of the District Attorney case reject; or 3) the date of the adjudication of the criminal case in court.