

HANDLING CRITICAL INCIDENTS

Prior to your representative arriving, limit any statements you make to "Public Safety" information.

DO NOT explain WHY or HOW you reacted to the incident. Provide the following (public safety information) if asked by a supervisor:

- Identify the crime scene including all weapons and evidence.
- Identify anyone injured and their location.
- Identify the number of rounds fired and direction.
- Identify or describe witnesses.
- Identify or describe outstanding suspects/vehicles, including direction of travel, elapsed time, weapon information, and nature of crimes.

DO NOT provide a detailed statement without advice from legal counsel. If the Department orders your cooperation without legal counsel, read the following non-waiver statement:

"I have been refused the right to have a legal representative of my choice. I understand that I am being ordered to make a report or answer questions and that if I do not comply with the order, I may be disciplined for insubordination. Therefore, I have no alternative but to abide by the order but by doing so, I do not waive my Constitutional right to remain silent."

DO NOT provide a blood or urine sample until after consulting with legal counsel.

DO NOT talk to anybody aside from your legal counsel about the incident.

DO NOT text, email or post anything on social media about the incident.

No later than one day after a critical incident occurs, telephone the PORAC Legal Defense Fund at **(800) 255-5610** to open an LDF file. Then, contact the RLS Legal Defense Case Coordinator: Northern CA **(925) 609-1699**; Southern CA **(310) 393-1486**. Time for each call will be 10-15 minutes.

NON-WAIVER STATEMENT (ADMIN CASES)

If you are ordered to answer questions or write a report without representation, demand that the statement be recorded and read the following or include the following at the outset of the report:

"I am making this statement involuntarily, pursuant to a direct order and under threat of disciplinary action. By compelling my statement without representation, the Department has failed to comply with the Public Safety Officers' Procedural Bill of Rights Act. I do not waive any of my rights under this law, our Union contract, or any other local, state or federal laws. Further, I am not waiving my right to remain silent under the California Constitution or under the Fifth and Fourteenth Amendments of the United States Constitution."

OFFICES THROUGHOUT CALIFORNIA

RLSlawyers.com

©2024 Rains Lucia Stern St. Phalle & Silver, PC



**RAINS LUCIA STERN
ST. PHALLE & SILVER, PC**

THE ULTIMATE BACKUP



**Quick Reference to
Peace Officers' Rights**

(CA Gov't Code §§ 3300-3313)

WHEN DOES THE ACT APPLY?

The POBRA applies when a peace officer is:

- Under investigation about a matter that could lead to punitive action, AND
- Subjected to interrogation.

WHEN MAY THE ACT NOT APPLY?

- Counseling, instruction, or informal verbal admonishment.
- Routine or unplanned contact.
- Investigations of purely criminal matters.

TO CONTACT A REPRESENTATIVE CALL:

RLS NORCAL (925) 609-1699

RLS SOCAL (310) 393-1486

PORAC LDF (800) 255-5610

RIGHTS OF PEACE OFFICERS

Before interrogation, you have the right to:

- Consult with a representative.
- Be advised of the name, rank and command of the interrogating officers and those to be present during the interrogation.
- Be advised of the nature of the investigation with factual specificity.

During the interrogation, you have the right to:

- Representation throughout the interview.
- Record the entire interview.
- Be provided a *Lybarger* admonition compelling you to answer questions if you may be charged with a criminal offense.
- Be questioned by no more than two interrogators at one time.
- Be free of offensive language or threats.
- Have access to any recording of a first interrogation prior to a second one.
- Be interrogated on-duty or at another reasonable time if public safety requires.
- Attend to your personal physical needs.

THE POBRA REQUIRES YOUR EMPLOYER TO:

- Allow you to inspect your personnel file, or any files regarding your qualifications for employment, promotions, additional compensation, termination or disciplinary action.
- Show you adverse comments prior to entry in your personnel file.
- Provide you an opportunity to respond to adverse comments within 30 days.
- Grant you the opportunity to appeal punitive action in accordance with Department policies/applicable MOU.
- Initiate disciplinary action within one year of a supervisor learning of any misconduct.
- Notify you of the decision to impose punitive action within 30 days of the agency's decision.

THE POBRA PROHIBITS YOUR EMPLOYER FROM:

- Compelling a lie detector test, penalizing you for refusing to take such test, making a notation of your refusal.
- Searching your locker/assigned storage space without your consent or in your presence, unless you are given prior notice or the employer has a search warrant.
- Demanding personal financial information except in very limited circumstances.

IF QUESTIONED, MAKE SURE TO ASK IF YOUR ANSWERS COULD LEAD TO PUNITIVE ACTION. IF THE ANSWER IS "YES," YOU ARE ENTITLED TO REPRESENTATION.

IMPORTANT CODES:

Penal Code §632 - You cannot secretly record confidential communications.

Civil Code §56.10 - Fit for duty doctor cannot release medical information to department without your consent, except fit or unfit status. You cannot be disciplined for failure to sign release.

Penal Code §135.5 - Misdemeanor for agency official to destroy, tamper with or conceal information gathered during IA to harm officer.

Government Code §3305.5 - Cannot be disciplined merely for being on a *Brady* list.

**KNOWING YOUR RIGHTS
CAN SAVE YOUR CAREER**