

IF QUESTIONED, MAKE SURE TO ASK IF YOUR ANSWERS COULD LEAD TO PUNITIVE ACTION.

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 to destroy, tamper with or conceal information during IA to harm officer.

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

NON-WAIVER STATEMENT

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."



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THE ULTIMATE BACKUP



TO CONTACT A REPRESENTATIVE CALL:

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**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.

KNOWING YOUR RIGHTS CAN SAVE YOUR CAREER

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.

During the interrogation, you have the right to:

- Representation throughout the interview.
- Record the entire interview.
- Be issued a *Miranda* warning if any criminal charges are contemplated.
- Be provided a *Lybarger* admonition compelling you to answer questions but protecting your statement from being used against you in criminal proceedings.
- 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 files regarding your qualifications for employment, promotions, additional compensation, termination or disciplinary action.
- Show you adverse comments prior to entry in a 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 the Department's rules.
- Initiate disciplinary action within one year of a supervisor learning of any misconduct.

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, without prior notice or without a search warrant.
- Demanding personal financial information except in very limited circumstances.