

Silver. Hadden. Silver. Wexler + Levine

A Professional Corporation

1428 Second Street, Suite 200, Santa Monica, CA 90401 □ Telephone 310-393-1486 □ Facsimile 310-395-5801 □ SHSLaborLaw.com

The Public Safety Officers' Procedural Bill of Rights Act (CA Gov't Code §§3300-3311)

TO WHOM THE ACT APPLIES

Peace officers specified in Penal Code §§ 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except sub.div (e), 830.34, 830.35, except subdiv. (c), 830.36, 830.37, 830.38, 830.4, 830.5

WHEN DOES ACT APPLY?

POBOR applies when an officer is:

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

WHEN DOES ACT NOT APPLY?

- Counseling, instruction or informal verbal admonishment.
- Routine unplanned contact.
- Investigations concerned solely and directly with alleged criminal activities.

For A Full Copy of POBOR

Please visit

SHSLaborLaw.com

RIGHTS BEFORE INTERROGATION

- To consult with a representative.
- To be advised of the name, rank and command of the interrogating officers and those to be present during the interrogation.
- To be advised of the nature of the investigation being conducted

RIGHTS DURING INTERROGATION

- To representation throughout the interview.
- To record the entire interview.
- To be issued a *Miranda* warning if any criminal charges are contemplated.
- To be questioned by no more than two interrogators at one time.
- To be free from offensive language or threats.
- To have access to any recording of a first interrogation prior to a second one.
- To be interrogated at a reasonable time, preferably on duty.

POBOR REQUIRES EMPLOYER TO:

- Allow you to inspect files used for qualifications for employment, promotions, additional compensation, termination or disciplinary action.
- Show you adverse comments prior to entry being made in a personnel file.
- Provide you opportunity to respond to adverse comments within 30 days.
- Grant non-probationary officers opportunity to appeal punitive action
- Generally speaking, initiate disciplinary action within one year of learning of any misconduct that occurred after 1/1/1998.

POBOR PROHIBITS YOUR EMPLOYER FROM:

- Compelling a lie detector test, penalizing you for refusing to take such test, making notation of refusal.
- Searching your locker/storage space unless search warrant, prior notice, your consent or in your presence
- Inquiring into your personal finances, except as otherwise required by law.
- Disciplining you for exercising rights under the Act/grievance procedure.

BEFORE ANSWERING ANY QUESTIONS THAT COULD LEAD TO PUNITIVE ACTION:

- Invoke your *right* to a representative
- Exercise your *right* to record your interrogation.
- Exercise your *right* to know the nature of the investigation being conducted
- Do not reveal personal financial information, unless required by law
- Never volunteer to take an alcohol or drug test, or a lie detector exam
- Document any suspected abuse of your rights.

NON-WAIVER STATEMENT

If you are ordered to answer questions without a representative, demand that the statement be recorded and read the following:

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

SHSWL

SILVER.HADDEN.SILVER.WEXLER+LEVINE

A PROFESSIONAL LAW CORPORATION

1428 Second Street, Suite 200
Santa Monica, CA 90401
Tel. 310-393-1486
Fax. 310-395-5801
www.SHSLaborLaw.com

- Litigation
- Labor Negotiations
- Disciplinary Defense
- Criminal Defense
- Grievances
- Writs and Appeals
- Workers' Comp & Disability Retirements

"Protecting The Protectors Since 1971"