



## **POLICE OFFICERS' BILL OF RIGHTS**

**By Rick Pinckard & Brad Fields**

California Codes of Government §§3300-3311 set forth the Police Officers' Bill of Rights, otherwise known as the Public Safety Officers' Procedural Bill of Rights. This bill covers all peace officers as set forth in sections 830.1, 830.2, 830.3, 830.31, 830.32 and 830.33, with certain exceptions.

As set forth in the Code, effective law enforcement depends upon the maintenance of a stable employer-employee relationship between public safety employees and their employers. The Code further states that "in order to ensure that stable relations are continued throughout the state and to further ensure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to public safety officers as defined".

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The Public Safety Officers' Procedural Bill of Rights sets forth that public safety officers are not to be coerced or required to engage in political activity, nor shall they be prohibited from seeking election or serving as members of a governing board of a school district.

The Code further states that if the public safety officer is under investigation and is subject to interrogation which could lead to punitive action, the interrogation shall be conducted at a reasonable hour. The officer shall be informed prior to the investigation as to the rank and the name of the individual in charge of the interrogation and the names of the other interrogating officers who will be present during this questioning process. The officer under investigation shall not be asked by more than two interrogators at a time.

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*A public safety officer under investigation shall not be subjected to offensive language or threatened with punitive action, yet the officer refusing to respond to a question or submit to interrogation shall be informed that failure to answer the questions may result in punitive action.*

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In addition, the Code states that the public safety officer shall be informed of the nature of the investigation and be allowed to attend to his/her own personal necessities. The officer shall not be subjected to offensive language or threatened with punitive action, yet the officer refusing to respond to a question or submit to interrogation shall be informed that failure to answer the questions may result in punitive action.

Furthermore, no promise of reward shall be made as an inducement for answering

any question. Very importantly, the employee shall not cause the officer under investigation or interrogation to be subject to visits by the press or news media without the officer's consent, nor will a photograph or the residential address of the officer be given to the press without the agreement of the officer.

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*Whether it is a critical incident, internal affairs investigation, disciplinary matter and/or criminal defense action, the exercising of your rights is a must.*

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There is significant case law setting forth in greater detail the aforementioned rights. Whether it is a critical incident, internal affairs investigation, disciplinary matter and/or criminal defense action, the exercising of your rights is a must.

### **CRITICAL INCIDENTS**

One of the greatest times of need for legal services is immediately following a critical incident. Bobbitt, Pinckard & Fields, APC, is on call 24 hours a day seven days a week, 365 days a year.

A critical incident could be an officer-involved shooting or other activities in the course and scope of duties which threaten (1) loss of life to you or someone in your presence; (2) loss of employment; (3) criminal prosecution; or (4) high publicity. These events could occur either on or off duty and involve vehicular accidents, significant use-of-force incidents, and/or death-in-custody incidents.

## DISCIPLINARY APPEALS

The Public Safety Officers' Procedural Bill of Rights Act and state and federal laws protect peace officers in certain situations through the right to multiple levels of pre-disciplinary and post-disciplinary appeals for disciplinary actions involving termination, demotion, suspension, punitive transfer, or other non-economic levels of discipline, but not limited to reprimands, disciplinary warnings, counseling, memoranda or other paper-instituted forms of discipline. Through representation, you can protect fully all the rights you have.

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## CRIMINAL DEFENSE ACTIONS

If you are the subject of a criminal investigation by a police agency or there is an issuance of criminal charges by federal, state or local members in this area, you need criminal defense representation.

As you are aware, investigators and supervisors-in-chief who are present at criminal investigations may have concerns about your well-being, yet they have a job to do and cannot allow their personal feelings about an involved officer get in the way. On the other hand, the focus of your association attorney is on you and your best interests.

Therefore, before you provide a voluntary statement in a criminal investigation

or submit to a compelled administrative investigation following a critical incident, you need to consult with your legal representative.

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Bobbitt, Pinckard & Fields attorneys are also available to represent managers or other law enforcement personnel who do not have law enforcement associations available. Please contact our office (858-467-1199) for a free no-obligation consultation. As you are aware, pursuant to the Public Safety Officers' Procedural Bill of Rights Act, representation is a must for any peace officer subject to administrative investigations as a result of on-duty or off-duty allegations of misconduct.

As a peace officer, you have a right to representation whenever you are subject to interrogation which could lead to a punitive action. This right is afforded when you are the subject of an internal affairs investigation or an investigation performed by other supervisors or personnel, or when you are ordered to complete paperwork documenting an incident.

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To ensure that all your rights as set forth in the Public Safety Officers' Procedural Bill of Rights Act are observed, you should consult our offices prior to the interrogation.

Our law firms meet routinely with unions and associations to advise them relative to issues such as Workers' Compensation laws, retirement laws, civil actions, automobile accidents, personal injuries, uninsured/ underinsured coverage, critical incidents, internal affairs investigations, disciplinary appeals, criminal defense actions, labor negotiations, contract enforcement matters and FLSA litigation. These meetings are an important factor in providing proper protection for safety members.



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## **NOTICE**

*Making a false or fraudulent Workers' Compensation claim is a felony subject to up to five years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.*

