



## QUICK REFERENCE GUIDE TO THE POBR

Who is Covered Under the POBR?	Personnel Files
<ul style="list-style-type: none"><li>All peace officers specified in Penal Code sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5. (Gov. Code, § 3301.)</li></ul>	<ul style="list-style-type: none"><li>An officer has the right to review and sign any adverse comment before it is placed in his/her personnel file. If the officer refuses to sign the adverse comment, the refusal must be noted on the document. (Gov. Code, § 3305.)</li><li>An officer has <b>30 days</b> to file a written response to any adverse comment entered in his/her personnel file. This response must be attached to the adverse comment in the file. (Gov. Code, § 3306.)</li><li>An officer may <b>inspect</b> his/her personnel file upon reasonable request. (Gov. Code, § 3306.5(a).)</li><li>An officer may request removal or correction of material in personnel file believed to be mistaken or unlawful. Agency must respond to the request within 30 calendar days. (Gov. Code, § 3306.5(c), (d).)</li></ul>
Political Activity	Privacy Rights
<ul style="list-style-type: none"><li>Except whenever on duty or in uniform, an officer cannot be required to, or prohibited from, engaging in political activity. (Gov. Code, § 3302(a).)</li><li>An officer cannot be prohibited from seeking election to or serving as a member of the governing board of a school district. (Gov. Code, § 3302(b).)</li></ul>	<ul style="list-style-type: none"><li>Cannot search an officer's locker or other assigned storage space without one of the following: (1) the officer's consent, (2) the officer's presence, (3) prior notification, <b>or</b> (4) a search warrant. (Gov. Code, § 3309.)</li><li>Cannot require an officer to disclose his/her property, income, assets, sources of income, debts, or expenditures, unless required by law. (Gov. Code, § 3308.)</li></ul>

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Interrogations	Imposing Discipline
<ul style="list-style-type: none"> <li>The Act does not apply to counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other officer. (Gov. Code, § 3303(i).)</li> </ul> <p><b><u>Pre-Interrogation Notices</u></b></p> <ul style="list-style-type: none"> <li>Must advise the officer of the nature of the investigation (e.g. date of investigated action, brief description of alleged misconduct, rules, regulations or statutes at issue) “prior to” the interrogation. (Gov. Code, § 3303(c).) In <i>Ellins v. City of Sierra Madre</i> (2016) 244 Cal.App.4th 445, the Court of Appeal held that “prior to” means the officer must have sufficient time to meaningfully consult with his or her representative.</li> <li>Must advise the officer of the <b>rank, name, and command</b> of the person in charge of the interrogation, the interrogating officer(s) (no more than two), and all others present during the interrogation. (Gov. Code, § 3303(b).)</li> </ul> <p><b><u>No Pre-Interrogation Right to Materials</u></b></p> <ul style="list-style-type: none"> <li>In <i>Pasadena Police Officers Association v. City of Pasadena</i> (1990) 51 Cal.3d 564, the California Supreme Court held that public safety officers are not entitled to pre-interrogation discovery under the POBR.</li> </ul> <p><b><u>Interrogation Procedures</u></b></p> <ul style="list-style-type: none"> <li>Must be conducted at a reasonable time and officer must be paid for time spent. (Gov. Code, § 3303(a).)</li> <li>Must be for a reasonable period of time. (Gov. Code, § 3303(d).)</li> <li>Right to representation if interrogation focuses on matters which are likely to result in punitive action. (Gov. Code, § 3303(i).)</li> <li>No mandatory lie detector testing. (Gov. Code, § 3307.)</li> </ul> <p><b><u>Post-Interrogation Right to Materials</u></b></p> <ul style="list-style-type: none"> <li>Officer is entitled to <b>access the recording</b> of the interrogation, any <b>stenographer’s notes</b>, and <b>non-confidential reports or complaints</b> if discipline is going to be imposed or prior to any further interrogation. (Gov. Code, § 3303(g).)</li> <li>Consult a labor relations attorney before providing a subject officer with documents or other materials.</li> </ul> <p><b><u>Interrogations With Possible Criminal Misconduct</u></b></p> <ul style="list-style-type: none"> <li>Must advise the officer of his/her <b>Miranda</b> rights prior to or during the interrogation if the officer may be charged with a criminal offense. (Gov. Code, § 3303(h).)</li> </ul>	<p><b><u>Statute of Limitations</u></b></p> <ul style="list-style-type: none"> <li>Generally, the agency must complete its investigation and notify the officer of its proposed discipline within <b>one year</b> of the agency’s discovery by a person authorized to initiate an investigation of the allegation of the misconduct. (Gov. Code, § 3304(d).)</li> </ul> <p><b><u>Notice of Intent to Discipline</u></b></p> <ul style="list-style-type: none"> <li>Where the discipline would involve the removal of a property interest (e.g. suspension, demotion, or termination), the agency must include the proposed discipline, rules or statutes violated, factual bases for findings, effective date of the proposed action, and how the proposed discipline was determined.</li> <li>Include copies of <b>all materials</b> supporting the decision.</li> <li>Advise the officer of <b>right to a Skelly conference</b> and that failure to provide a timely request will waive the officer’s right to respond prior to the imposition of discipline.</li> <li>Advise the officer that he/she has the right to have a representative at the <i>Skelly</i> conference.</li> </ul> <p><b><u>Notice of Discipline</u></b></p> <ul style="list-style-type: none"> <li>Must notify the officer in writing of the decision to impose discipline, including the date the discipline will be imposed, within 30 days of the decision. (Gov. Code, § 3304(f).)</li> </ul> <p><b><u>Punitive Actions</u></b></p> <ul style="list-style-type: none"> <li>Means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)</li> </ul> <p><b><u>Administrative Appeals</u></b></p> <ul style="list-style-type: none"> <li>If punitive action is imposed, officer has the right to an administrative appeal. (Gov. Code, § 3304(b).)</li> <li>Agency must adopt administrative appeal procedures. (Gov. Code, § 3304.5.)</li> </ul>

*This reference guide contains generalized legal information as it existed at the time the guide was prepared in August 2019. Changes in the law occur on an ongoing basis. For these reasons, the legal information cited in this reference guide should not be acted upon in any particular situation without attorney advice.*