

# ADOPT

## Article 4. Peace Officer Certification.

### § 1206. Peace Officer Standards Accountability Division Investigations.

11 CA ADC § 1206

(a) The primary responsibilities of the division shall be to review investigations conducted by law enforcement agencies or any other investigative authority and to conduct additional investigations, as necessary, into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification. The division shall present findings and recommendations to the board and Commission and bring proceedings seeking the suspension or revocation of certification of peace officers as directed by the board and Commission, per Penal Code Section 13509.5.

(1) The division shall only have authority to review and investigate allegations for purposes of decertification.

(2) The division shall have the authority to review any agency or other investigative authority file, as well as to conduct additional investigation, if necessary.

(A) The division, in its discretion, may investigate without the request of the Commission or board, any serious misconduct for revocation of certification of a peace officer.

(B) Investigations may be conducted by the division if:

1. The investigating agency's investigation was inadequate.
2. The investigating agency's investigation was improper.
3. The investigating agency refused the division's request to review an allegation of serious misconduct.
4. The investigating agency refused to provide the division a copy of the administrative investigation.
5. The investigating agency refused the division's request to conduct further investigation.

(C) During an interrogation of a peace officer by the division, the peace officer shall have the following rights:

1. The peace officer shall be informed of the nature of the investigation prior to any interrogation.
2. The peace officer will be given written notice of the date, time, and location of the interrogation.

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3. The peace officer has the right to representation during the interrogation by a representative of their choice who may be present at all times during the interrogation. The representative shall not be a witness or a subject of the investigation.
  4. The interrogation of a peace officer may be recorded. If a recording is made of the interrogation, the peace officer may have access to the recording if any further proceedings are contemplated or prior to any further interrogation at a subsequent time.
  5. The peace officer under interrogation shall be allowed to attend to their own personal physical necessities.
- (b) The commission shall establish procedures for accepting complaints from members of the public regarding peace officers or law enforcement agencies. These complaints may be investigated by the division or referred to the peace officers' employing agency or the Department of Justice.
- (1) Public complaints shall be submitted to the commission via one of the following:
- (A) The Commission on Peace Officer Standards and Training (POST) website.
  - (B) Email.
  - (C) Phone.
  - (D) United States Postal or Courier Services.
  - (E) In person at POST during regular business hours.
  - (F) Facsimile.
- (2) Upon receipt of a public complaint, the division shall review the allegation of misconduct against the peace officer, identify the employing agency, and forward the complaint for investigation as appropriate.
- (A) If the allegation does not rise to the level of serious misconduct as defined, the division shall administratively close the file.
  - (B) If during the employing agency's investigation, it is deemed the allegation does rise to the level of serious misconduct as defined, the agency shall report the allegation to the division, per Commission Regulation 1207.
- (c) The board, in their discretion, may request the division to review an investigative file or recommend the Commission direct the division to investigate any potential grounds for decertification of a peace officer.

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- (1) Those requests and recommendations from the board to the division or Commission must be based upon a decision by a majority vote.
- (2) Requests by the board to the division to review an investigative file must be for:
  - A. An allegation of serious misconduct pending investigation by the employing agency.
  - B. An allegation of serious misconduct already under review by the division, or
  - C. An allegation of serious misconduct has been reviewed and closed by the employing agency or the division.
- (3) The board shall only make requests for the division to review an investigative file for an allegation of serious misconduct as defined in subsection (c).
- (d) The employing agency shall have primary responsibility for completing investigations into alleged serious misconduct.
  - (1) If a complaint of alleged misconduct is deemed to involve a peace officer, the division shall forward the complaint to the appropriate employing agency for review and investigation.
- (e) Upon recommendation by the division that a certification of a peace officer be suspended or revoked:
  - (1) The peace officer may request a review of the division's findings before the board and Commission for review per Commission Regulation 1209.
  - (2) If the peace officer does not request a review of the division's findings, the recommended action will stand without further proceedings per Commission Regulation 1209.

Note: Authority cited: Sections 13509.5, 13509.6, 13510.1, 13510.8 and 13510.85, Penal Code. Reference: Sections 13509.5, 13509.6, 13510.1, 13510.8 and 13510.85, Penal Code.