

Adam Bereki
818 Spirit
Costa Mesa, California 92626

mailed -
January 12, 2020

Attn: Jim Rice
Superior Court of California
Central Justice Center
700 West Civic Center Dr.
Santa Ana, CA 92701

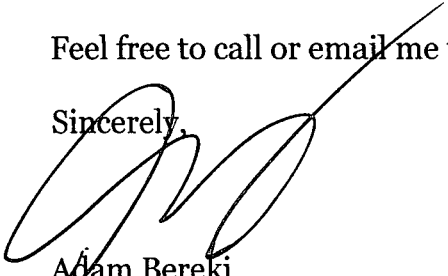
Re: Public Records Act Request

Please provide the documents in your custody and control:

- 1) evidencing the case name and case number of every case appearing in the Central Justice Center for a cause of action under Business and Professions Code sections §7031(a) and/or §7031(b) since January 1, 2015.
- 2) listing the name, address of the court, direct telephone number, and email address of the legal processing supervisors /records & exhibit managers (or similar title) for each superior and appellate Court of California.

Feel free to call or email me with any questions.

Sincerely,



Adam Bereki
abereki@gmail.com
949.241.6693



Adam Bereki <abereki@gmail.com>

Public Records Request

1 message

Adam <abereki@gmail.com>

Tue, Feb 4, 2020 at 9:13 AM

To: Jim Rice <jrice@occourts.org>

Hi Jim,

I sent the following Public Records Request to your office on January 12, 2020. Perhaps you did not receive it, or perhaps I did not receive your reply, which is why I'm sending it again. As you know there is an allotted period of ten days to respond.

Thank you for your help,

Sincerely,

Adam Bereki

 **PRA Jim Rice OC Sup. Ct. .pdf**
152K

Adam Bereki
818 Spirit
Costa Mesa, California 92626

mailed -
January 12, 2020

Attn: Jim Rice
Superior Court of California
Central Justice Center
700 West Civic Center Dr.
Santa Ana, CA 92701

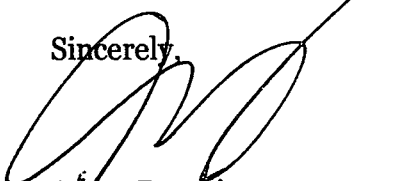
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- 2) listing the name, address of the court, direct telephone number, and email address of the legal processing supervisors /records & exhibit managers (or similar title) for each superior and appellate Court of California.

Feel free to call or email me with any questions.

Sincerely,



Adam Bereki
abereki@gmail.com
949.241.6693



Adam Bereki <abereki@gmail.com>

Public Records Request

PIO <PIO@occourts.org>
To: Adam Bereki <abereki@gmail.com>

Wed, Feb 5, 2020 at 8:58 AM

Hi Mr. Bereki,

Attached find the official acknowledgement and receipt of your request for records.

I am working on locating the information you requested.

Sincerely,

Kostas Kalaitzidis | Public Information Officer



Orange County Superior Court
700 W. Civic Center Dr.

Santa Ana, CA 92701

657.622.7097 (Phone)

714.647.4849 (Fax)

kkalaitzidis@occourts.org

www.occourts.org

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 **2-5-2020_Bereki_response_Extension.pdf**
50K



Superior Court of California County of Orange

JEFF WERTHEIMER
GENERAL COUNSEL

CENTRAL JUSTICE CENTER
700 CIVIC CENTER DRIVE WEST
P.O. BOX 1994
SANTA ANA, CA 92702-1994
PHONE: (657) 622-7723
FAX: (657) 622-8261

recvd:
Feb. 5, 2020

Adam Bereki
Tel: 949.241.6693

Sent via email: Abereki@gmail.com

Re: Request for information and records under Court Rule 10.500

Dear Mr. Bereki:

This letter is in response to your request for records received by the Superior Court of California, County of Orange, on Jan. 23, 2020, pursuant to Rule 10.500 of the California Rules of Court, which applies to judicial administrative records.

In order to properly process your request, the Court needs more time to determine whether it has responsive records, you will be receiving a response within the next 14 days. In particular, we need to conduct extensive research to gather the documents responsive to your request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeff Wertheimer".

Jeff Wertheimer
General Counsel



Adam Bereki <abereki@gmail.com>

Public Records Request

Adam <abereki@gmail.com>

Wed, Feb 5, 2020 at 1:49 PM

To: PIO <PIO@occourts.org>

Thank you Kostas. In discovering that the records supervisor (such as Jim Rice) is not likely the person to handle my primary request (request 1), request 2 should be changed to include only contact information for the Public Information Officer for each Superior and appellate Court of California. I will need to write each Court to obtain the records in request 1.

Sincerely,

Adam Bereki

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Request

4 messages

Adam <abereki@gmail.com> Tue, Feb 4, 2020 at 9:13 AM
To: Jim Rice <jrice@occourts.org>

Hi Jim,

I sent the following Public Records Request to your office on January 12, 2020. Perhaps you did not receive it, or perhaps I did not receive your reply, which is why I'm sending it again. As you know there is an allotted period of ten days to respond.

Thank you for your help,

Sincerely,

Adam Bereki

 **PRA Jim Rice OC Sup. Ct. .pdf**
152K

Jim Rice <jrice@occourts.org> Tue, Feb 4, 2020 at 9:39 AM
To: Adam <abereki@gmail.com>

It was sent to our Public Information office. PIO@occourts.org

[Quoted text hidden]

***** THIS MESSAGE IS FROM AN EXTERNAL SENDER. *****

Adam <abereki@gmail.com> Tue, Feb 4, 2020 at 10:19 AM
To: Jim Rice <jrice@occourts.org>

thank you.
[Quoted text hidden]

Adam <abereki@gmail.com> Tue, Feb 4, 2020 at 10:33 AM
To: pio@occourts.org

Hi, please see the below communication.
[Quoted text hidden]

CALL FROM JEFF

WERTHEIMER

OC GUP. CT GEN CONNER

02 07 20

SEE "CALLS"



Adam Bereki <abereki@gmail.com>

Public Records Request

PIO <PIO@occourts.org>

Tue, Feb 11, 2020 at 2:10 PM

To: Adam Bereki <abereki@gmail.com>, PIO <PIO@occourts.org>

Hello Mr. Bereki,

Attached find a letter responsive to your request.

Sincerely,

Kostas Kalaitzidis | Public Information Officer



Orange County Superior Court
700 W. Civic Center Dr.

Santa Ana, CA 92701

657.622.7097 (Phone)

714.647.4849 (Fax)

kkalaitzidis@occourts.org

www.occourts.org

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 **2-10-2020_Bereki_Transmittal.pdf**
127K



Superior Court of California County of Orange

RECD 2.11.20
VIA EMAIL

JEFF WERTHEIMER
GENERAL COUNSEL

CENTRAL JUSTICE CENTER
700 CIVIC CENTER DRIVE WEST
P.O. BOX 1994
SANTA ANA, CA 92702-1994
PHONE: (657) 622-7723
FAX: (657) 622-8261

Feb. 10, 2020

Adam Bereki
Tel: 949.241.6693

Sent via email: Abereki@gmail.com

Re: Request for information and records under Court Rule 10.500

Dear Mr. Bereki:

This letter is in response to your request for records received by the Superior Court of California, County of Orange, on Jan. 23, 2020, pursuant to Rule 10.500 of the California Rules of Court, which applies to judicial administrative records.

Your specific requests are for "... documents in your custody and control:"

1) *Evidencing the case name and case number of every case appearing in the Central Justice Center for a cause of action under Business and Profession Code sections 7031 (a) and/or 7031(b) since January 1, 2015.*

In response to your request, Court staff conducted a thorough review and determined that the Court does not have the capability to search our data base to gather this information, thus we cannot compile the information, thus we are not obligated to provide it, based on California Rule of Court Rule of Court 10.500(e)(1)(B):

(e) Public access

(1) Access

(B) Nothing in this rule requires a judicial branch entity to create any record or to compile or assemble data in response to a request for judicial administrative records if the judicial branch entity does not compile or assemble the data in the requested form for its own use or for provision to other agencies. For purposes of this rule, selecting data from extractable fields in a single database using software already owned or licensed by the judicial branch entity does not constitute creating a record or compiling or assembling data.

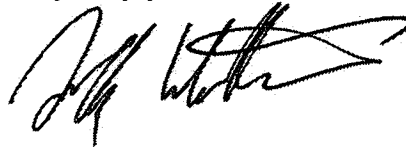
2) *Listing the name, address of the court, direct telephone number, and email address of the legal processing supervisors/ records & exhibit managers (or similar title) for each supervisor and appellate Court of California.*"

The contact information for the Orange County Superior Court's supervisor of records and exhibits is 657-622-7809 or cjrecordsmanagement@occourts.org

Regarding corresponding contact information in other courts, we do not have that information.

If you have additional questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeff Wertheimer", written in a cursive style.

Jeff Wertheimer
General Counsel



Adam Bereki <abereki@gmail.com>

Legislative History Statutes 1939 Chapter 37 Article 2

4 messages

Adam <abereki@gmail.com>

Thu, Jan 9, 2020 at 8:41 AM

To: ArchivesWeb <archivesweb@sos.ca.gov>

Happy new year!

Could you please search your records and determine what you have pursuant to the adoption of Statutes 1939 Chapter 37 Article 2 (see attached). I am specifically looking for documents pertaining to discussion of the ratification of Article 2 section 7031 thereunder though I am not sure if that discussion will be separate.

Thank you,

Adam Bereki
949 241 6693

 **Statutes 1939 Chapter 37 Article 2.pdf**
105K

ArchivesWeb <archivesweb@sos.ca.gov>

Thu, Jan 9, 2020 at 8:47 AM

To: Adam <abereki@gmail.com>

Hello Adam,

Thank you for your email inquiry. The California State Archives has many records related to legislative history. Unfortunately, our earliest legislative history records begin in 1943, and are very skimpy prior to about 1970. Prior to 1943, neither the Governor nor the State Legislature sent bill files or other legislative history records to the State Archives. They did not start transferring records regularly until the late 1960s and early 1970s.

Yours very truly,

Sebastian

Reference Archivist

California State Archives

1020 "O" Street

Sacramento, CA 95814

Reference Desk Phone: 916-653-2246

Reference Desk FAX: 916-653-7363

[Quoted text hidden]

Adam <abereki@gmail.com>
To: ArchivesWeb <archivesweb@sos.ca.gov>

Thu, Jan 9, 2020 at 9:10 AM

Sebastian,

Thank you for your help.

Do you know if I would find more information about these files from the specific office of the state legislature or the governor? If so, do you have any contact information for these office that handle these types of requests?

Thank you.

Adam

ArchivesWeb <archivesweb@sos.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Jan 9, 2020 at 9:40 AM

Hello Adam,

Thank you for your email. No, you could try doing some searches on the Online Archive of California (<http://www.oac.cdlib.org/>) to see if a relevant legislator deposited their papers in a California repository. You could also review newspapers from the time period to see if there was any discussion of the bill. The University of California Riverside's California Digital Newspaper Collection may be of assistance (<https://cdnc.ucr.edu/cgi-bin/cdnc>). You can review the Senate and Assembly Daily Journals at the California State Law Library (<https://www.library.ca.gov/>) for any information, but these Journals are typically very cursory in terms of information about the bills themselves, being mostly an administrative record of voting and other activity on the floor of each house. The State Law Library may also have the various amended versions of the bill as it passed through the Legislature.

Yours very truly,

Sebastian

Reference Archivist

California State Archives

1020 "O" Street

Sacramento, CA 95814

Reference Desk Phone: 916-653-2246

Reference Desk FAX: 916-653-7363

From: Adam <abereki@gmail.com>
Sent: Thursday, January 9, 2020 9:11 AM
To: ArchivesWeb <archivesweb@sos.ca.gov>

[Quoted text hidden]

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Legislative History Statutes 1939 Chapter 37 Article 2

Adam <abereki@gmail.com>

Wed, Jan 29, 2020 at 9:57 AM

To: ArchivesWeb <archivesweb@sos.ca.gov>

Thank you Sebastian.

I would like to make a new request for a certified copy of any document signed by Governor Gary Davis in the year 2001. I am making this request to have documentation of the governors signature, so any document will work.

Also, in a previous request I obtained a certified copy of the governor's chaptered bill file, Chapter 226, 2001. Could you please confirm that in that file, (or any other) that you do not have a copy of Governor Davis' signature and/or approval of [AB 678 (2001)].

Please feel free to call if you have any questions.

Sincerely,

Adam Bereki
949.241.6693

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Legislative History Statutes 1939 Chapter 37 Article 2

ArchivesWeb <archivesweb@sos.ca.gov>

Wed, Jan 29, 2020 at 11:16 AM

To: Adam <abereki@gmail.com>

Hello Adam,

Thank you for your email inquiry. I think there might be some misunderstanding. The Governor's Chaptered Bill File is the working papers of the Governor's Office when he decides if he wants to sign or veto a bill. There is something entirely different and separate called Original Laws, which are actually the laws of California bearing the Governor's signature in ink. I'm not sure, but it sounds like you might be interested in obtaining a copy of an original law? If that is so, we can definitely help with that request. We would need to know the year and the chapter number for each original law.

Yours very truly,

Sebastian

Reference Archivist

California State Archives

1020 "O" Street

Sacramento, CA 95814

Reference Desk Phone: 916-653-2246

Reference Desk FAX: 916-653-7363

From: Adam <abereki@gmail.com>**Sent:** Wednesday, January 29, 2020 5:57 PM

[Quoted text hidden]

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Legislative History Statutes 1939 Chapter 37 Article 2

Adam <abereki@gmail.com>

Wed, Jan 29, 2020 at 12:30 PM

To: ArchivesWeb <archivesweb@sos.ca.gov>

Sebastian,

I think you're correct. Thank you for sorting out the confusion. I was not aware there was another file as when I requested the legislative history I thought I had received all the files pertaining to the Bill, including the Original law. I do not know for certain but I presume it is Chapter 226, 2001 which concurs with the legislative history records of AB 678 (2001) and the Governors Chapter Bill File. If you're aware of some other information that may be available to determine the Chapter please let me know. I am requesting just the Original Law documents pertaining to AB 678 (2001).

Thank you again for your clarity and patience.

Adam

949 241 6693

[Quoted text hidden]

pra@calbar.gov



THE STATE BAR OF CALIFORNIA

REQUEST FOR RECORDS Under California Public Records Act

*Reply Recvd
01/21/20*

*2nd Req Submitted
01/23/20*

Requester Information

Date 1/9/20

First Name Adam Last Name Bereki

Organization _____

Address 818 Spirit

City Costa Mesa State California Zip Code 92626

Email abereki@gmail.com Phone 949.241.6693 Fax _____

Description of Information Requested

Please be as specific as possible. Attach additional sheets of paper as necessary. If a requestor needs assistance in formulating a request, please call (415) 538-2283 or email PRA@calbar.ca.gov.

See Attached

When making your request, please be aware that several categories of State Bar records are exempt from disclosure under Senate Bill 387, including the following:

- Discipline Investigation & Office of Chief Trial Counsel Records (Bus. & Prof. Code § 6086.1(b); Gov. Code § 6254(f).)
- Admissions Records
 - Test Administration Records (Gov. Code § 6254(g).)
 - Moral Character Records (Gov. Code § 6254(f); Bus. & Prof. Code § 6060.2.)
 - Applicant Information (Bus. & Prof. Code § 6060.25.)
- Law Corporation Investigation Records (Bus. & Prof. Code § 6168.)
- Lawyer Assistance Program Records (Bus. & Prof. Code §§ 6232(d); 6234(a).)
- Fee Arbitration Settlement Records (Bus. & Prof. Code § 6200(h).)

SUBMIT THIS FORM

1) By E-mail: PRA@calbar.ca.gov

2) By Mail:
California Public Records Act
Requests State Bar of California
180 Howard Street
San Francisco, California 94105

1/2

1608

emailed 1/9/20

Please provide all documents pertaining to the Bar Association's regulation or supervision of the required course of study for students in law school or any mandatory or continuing education for lawyers pertaining to: (1) the laws of restitution and unjust enrichment, including actions for disgorgement under the laws thereof; (2) the difference between a penal and remedial statute, and (3) the nature of subject matter jurisdiction. If there is no required course of study or information on any of these subjects, please say so. Also, please include any required curriculum outlines or other similar documents detailing the required course of study for a law student.

Provide: (1) the exact words for the oath of office of an attorney on a license pursuant to Business and Professions Code §6067; (2) any records that the following member of the bar has sworn this required oath of office: William George Bissell; (3) a copy of the front and back of a blank license as described by §6067.

Provide any documents whatsoever pertaining to Business and Professions Code §7031. This may include any non-exempt materials pertaining to complaints against an attorney involved in the 'prosecution' of any offense under this section; or other unknown documents.

Thank you,

Adam Bereki

2/2



Adam Bereki <abereki@gmail.com>

Public Records Request- Bereki

pra <pra@calbar.ca.gov>
To: Adam <abereki@gmail.com>

Tue, Jan 21, 2020 at 3:39 PM

Mr. Bereki,

Please find attached a letter and attachment in response to your public records request.

Ellen Louie

Public Records Coordinator

The State Bar of California | 180 Howard Street | San Francisco, CA 94105

Working in support of the mission of the State Bar of California to protect the public.

Please consider the environment before printing this email.

From: Adam [mailto:abereki@gmail.com]
Sent: Thursday, January 09, 2020 9:08 AM
To: pra
Subject: Public Records Request- Bereki

Hi,

[Quoted text hidden]

2 attachments

 **Response Letter to Adam Bereki.pdf**
334K

 **State Bar Registration Card - Copy.pdf**
239K



The State Bar of California

180 Howard Street, San Francisco, CA 94105

pra@calbar.ca.gov

January 21, 2020

Mr. Adam Bereki
818 Spirit
Costa Mesa, CA 92626

Dear Mr. Bereki:

I am writing on behalf of the State Bar of California ("State Bar") in response to your California Public Records Act ("CPRA") request dated January 9, 2020. The State Bar provides the following responses:

REQUEST NO. 1:

Please provide all documents pertaining to the Bar Association's regulation or supervision of the required course of study for students in law school or any mandatory or continuing education for lawyers pertaining to: (1) the laws of restitution and unjust enrichment, including actions for disgorgement under the laws thereof; (2) the difference between a penal and remedial statute, and (3) the nature of subject matter jurisdiction. If there is no required course of study or information on any of these subjects, please say so. Also, please include any required curriculum outlines or other similar documents detailing the required course of study for a law student.

RESPONSE TO REQUEST NO. 1:

The State Bar has no publicly disclosable documents responsive to this request. The State Bar does not regulate or supervise a required course of study for law students, or through mandatory continuing legal education requirements for admitted attorneys, that specifically pertains to the subject areas stated in your request.

REQUEST NO. 2:

Provide: (1) the exact words for the oath of office of an attorney on a license pursuant to Business and Professions Code §6067; (2) any records that the following member of the bar has sworn this required oath of office: William George Bisell; (3) a copy of the front and back of a blank license as described by §6067.

RESPONSE TO REQUEST NO. 2:

Attached please find a copy of the current State Bar Registration Card, which includes the full text of the current oath.

The State Bar has conducted a diligent search for “any records that the following member of the bar has sworn this required oath of office: William George Bissell.” The State Bar does not possess a copy of Mr. Bissell’s sworn oath, nor are we able to locate other records regarding his oath. Our records indicate that Mr. Bissell was admitted to the State Bar of California in 1980. The State Bar did not begin retaining oath cards until approximately June 1995. Mr. Bissell’s oath card would be maintained by the Supreme Court of California, not the State Bar.

REQUEST NO. 3:

Provide any documents whatsoever pertaining to Business and Professions Code §7031. This may include any non-exempt materials pertaining to complaints against an attorney involved in the ‘prosecution’ of any offense under this section; or other unknown documents.

RESPONSE TO REQUEST NO. 3:

The State Bar objects to this request as overbroad and unduly burdensome. The State Bar’s obligation to disclose non-exempt, responsive records is limited to those records that it can locate with reasonable effort. “Reasonable efforts do not require that agencies undertake extraordinarily extensive or intrusive searches.” (*City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 627 [citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 453; *Bertoli v. City of Sebastopol* (2015) 233 Cal.App.4th 353, 371-372].)

Accordingly, a request which requires an agency to search a high volume of data for a “needle in the haystack” is objectionable as unduly burdensome. (*See Deukmejian, supra*, 32 Cal.3d at 453-54 [agency properly refused to disclose records where burden of segregating exempt from non-exempt information on 100 index cards would be substantial].) By the same token, a request for the “wholesale production of records” dating back multiple years is objectionable as overbroad. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1345 [public interest in disclosure of five years’ worth of governor’s calendars was “crushed under the massive weight of the Times’s request”].)

Attorney disciplinary matters are not tracked based on the statutory sections involved in attorneys’ underlying representations. Thus, the only way to respond further to this request would be to collect and review all documents in any way relating to attorney discipline, with no limitation on time period, to determine whether they relate to an attorney involved in the “prosecution” of a matter under the cited section. The State Bar is unable to do so with reasonable effort.

Sincerely,



Ellen Louie
Public Records Coordinator

Attachment

LICENSEE'S FULL NAME:
LAST

FIRST

MIDDLE NAME OR INITIAL

SECOND MIDDLE NAME

(PLEASE PRINT IN BLACK INK, OR TYPE)

OFFICE ADDRESS, OR, IF NONE, OTHER ADDRESS FOR STATE BAR PURPOSES:

FIRM/AGENCY
NAME

ADDRESS,
LINE 1

ADDRESS,
LINE 2

CITY

STATE

ZIP

+

FOREIGN
COUNTRY

TELEPHONE

FAX

E-MAIL

UNDERGRADUATE
DEGREE FROM:

CITY

STATE

LAW DEGREE
FROM:

CITY

STATE

DATES AND PLACES OF
PRIOR ADMISSION TO PRACTICE

REV.04/2019

State Bar Use Only

NUMBER

DATE ADMITTED

COPY

THE STATE BAR OF CALIFORNIA
REGISTRATION CARD
ATTORNEY REGULATION
180 HOWARD STREET
SAN FRANCISCO CA 94105-1617
INFORMATION PROVIDED ON THIS CARD BECOMES PUBLIC RECORD

This card must be signed by the licensee and by the officer administering the oath.

LICENSEE: I hereby enroll myself as an attorney and counselor at law, promising faithfully to perform all legal duties and comply with the obligations prescribed by the laws of the State of California, and declare the information on the reverse to be correct:

OATH (to be taken before a Notary or other authorized administering officer):

solely swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of an attorney and counselor at law to the best of my knowledge and ability. As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity.

(print licensee name)

DATE

SIGNED

(licensee signature)

NOTARY: If oath is taken before a Notary, the Notary must complete this section:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by _____ proved to me on the basis of satisfactory evidence to be the person who appeared before me.

SIGNATURE

COUNTY OF _____

, STATE OF _____

← Place Notary Seal

OR, OTHER: If oath is taken before any other authorized administering officer, the officer must complete this section:

I hereby certify that the foregoing oath, taken by the person above named, as required by law, was formally administered by and subscribed to before me.

DATE

SIGNED

(administering officer signature)

← Place Seal

(print name and title)



Adam Bereki <abereki@gmail.com>

Public Records Request- Bereki

Adam <abereki@gmail.com>

Thu, Jan 23, 2020 at 12:14 PM

To: pra <pra@calbar.ca.gov>

Ms. Louie,

Thank you for your thorough reply. I apologize for the overbroad and unduly burdensome request in Request 3 of my letter. I resubmit Request 3 with the following specificity:

I am looking for records in the custody and control of your agency pertaining to any comments, discussions, recommendations, etc.. pertaining to Business and Professions Code section §7031 and California Civil Jury Instructions, CACI, sections §4560 and §4561. I am aware at this point that your agency, specifically the Litigation Section, has commented on the aforementioned CACI sections based upon the report to the Judicial Council dated June 24, 2016. I do not need you to produce these comments. I am looking for any information in addition to these comments pertaining to your agency's involvement in the ratification or enactment of the aforementioned codes and instructions.

Please feel free to call me with any questions.

Adam Bereki
949 241 6693

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Request- Bereki

pra <pra@calbar.ca.gov>
To: Adam <abereki@gmail.com>

Mon, Feb 3, 2020 at 1:23 PM

Dear Mr. Bereki:

Effective January 1, 2018, the former Sections of the State Bar of California separated from the State Bar and became the California Lawyers Association (CLA). The records and files of the former Sections were transferred to CLA at that time. Nevertheless, the State Bar has searched its existing records with reasonable efforts and has located no records responsive to your follow-up request. Accordingly, it appears that the State Bar does not possess the records you seek. You may wish to contact CLA at info@calawyers.org or 916-516-1760 for further assistance with your request.

Sincerely,

Ellen Louie

Public Records Coordinator

[Quoted text hidden]



REQUEST TO EXAMINE RECORDS IN JOINT CUSTODY OF THE ASSEMBLY AND SENATE

To: Joint Rules Committee

Pursuant to Article 3.5 (commencing with Section 9070) of the Government Code, I hereby request to examine the following legislative records:

See attached

Name of person making request: Adam Bereki

Representing: _____
(organization)

Address: 818 Spirit Costa Mesa, California

Telephone: 949 241 6693

I was permitted to examine the committee records described above on

(date)

Return to: Joint Rules Committee
Attention: Debra Gravert, Chief Administrative Officer
State Capitol, Room 3016
Sacramento, CA 95814

Email: Assembly.Rules@asm.ca.gov
Fax: (916) 319-2810

EMAILED 1/9/20

APPROVAL

Authorized by: _____ Date: _____

Time In: _____ Time Out: _____

All documents in your custody and control pertaining to the enactment of Statutes 1939 Chapter 37 Article 2 also known as and/or codified as the Business and Professions Code. I am specifically looking for information pertaining to code section §7031. I have already contacted the California Secretary of State who informed me they do not have records prior to 1943. If you do not have these records either, please notify me in writing, and if you know, provide the contact information for the agency in whose custody and control these records are maintained.

Please also provide information on how I may view these documents if you have them, given I live in southern California. If you are aware of a copy or other service, I would greatly appreciate it.

Sincerely,

Adam Bereki

A handwritten signature in black ink, appearing to be 'Adam Bereki', is written over the printed name. To the right of the signature, the date '1/9/20' is written in a similar cursive style.



STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0124
(916) 319-2800
FAX (916) 319-2810

CHIEF ADMINISTRATIVE OFFICER
DEBRA GRAVERT

Assembly
California Legislature
Committee on Rules

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MARC LEVINE (D-ALT.)
TYLER DIEP (R-ALT.)

January 15, 2020

Adam Bereki
818 Spirit
Costa Mesa, CA 92626
abereki@gmail.com

Re: Legislative Open Records Act Request

Dear Mr. Bereki:

This letter is in response to your email correspondence dated January 9, 2020, in which you request records under the Legislative Open Records Act. (Gov. Code, § 9070 et seq.) Specifically, you request "all documents . . . pertaining to the enactment of Statutes of 1939 Chapter 37 Article 2 also known as and/or codified as the Business and Professions Code . . . specifically information pertaining to code section § 7031."

The Legislative Open Records Act provides the public access to existing legislative records prepared by the Legislature in the normal course of conducting legislative business. (See Gov. Code, §§ 9072 and 9073.) Under the act, a "legislative record" does not include any writing prepared before December 2, 1974. (Gov. Code, § 9072(c).) Accordingly, the records you seek are not covered by the act.

However, the Witkin State Law Library maintains copies of California State Senate and Assembly bills from 1867 to the present. Reference questions to the State Library may be made through <https://askstatelibrary.libraryresearch.info/>. In addition, the Chief Clerk of the California State Assembly maintains an online archive of historical journals at <https://clerk.assembly.ca.gov/archive-list>.

Sincerely,

DEBRA GRAVERT
Chief Administrative Officer
California State Assembly



Adam Bereki <abereki@gmail.com>

Legislative Open Records Act (LORA) Response from Assembly Committee on Rules

Adam <abereki@gmail.com>

Fri, Jan 24, 2020 at 7:23 AM

To: Assembly Rules <Assembly.Rules@asm.ca.gov>

Thank you Kelli.

Attn: Adam Silver

Adam,

Thank you again for your kindness and candor in helping me with this matter.

Pursuant to our phone conversation yesterday, I'm writing to determine if there are any legislative records whatsoever pertaining to Statutes 1939 Chapter 37 Article 2 (also known as the Business and Professions Code and most specifically, section §7031). The State Archives has informed me they have no records prior to 1943. I also contacted the Witkin Library per Kelli's recommendations and they provided me with Senate Bill 204. However, the library also confirmed this was the only record they had. I do realize that the legislative open records act only requires the legislature provide access to documents after 1974. However, in this case, no other State agency appears to have the complete records. I believe the intent of the records acts were clearly to give the people access to these records. Given this, I'm just requesting if the legislature has any records at all. If there are records, perhaps we can work together to find a way that they may become accessible.

Additionally, Business and Professions Code §7031 was amended in 2001 by AB 678 which added subsection (b). I received this legislative history from the State Archives. I noted that there was only a veto of the Bill from the governor, but no ratification. Does your office have any other records pertaining to the governors involvement, whether by further vetos, commentary or the ratification? I did contact Governor Newsom's office and they said they do not maintain records of prior administrations. Are you aware if these previous administrations are required to maintain records and how one might contact them, if so?

Sincerely,

Adam Bereki
949 241 6693

[Quoted text hidden]



REQUEST FOR JUDICIAL ADMINISTRATIVE RECORDS
Under California Rules of Court, rule 10.500

emailed 1/9/20
returned via email
1/14/20 ✓
New request
1/20/20

Requester Information

Name Adam Bereki
 Organization N/A
 Address (include city and state) 818 Spirit
Costa Mesa, California
 Zip Code 92626
 Telephone Number & Email Address (949) 241-6693
abereki@gmail.com

Description of Information Requested

Please be as specific as possible. Attach additional sheets of paper as necessary.

All records in your custody & control pertaining to Business & Professions Code Section 7031, & California Civil Jury Instructions CACI No. 4560. I am specifically looking for the judicial council's discussion, renewal, & notes pertaining to CACI 4560 & its determination of the meaning & intent of Business & Professions Code sections 7031(a) & 7031(b). Please email with any questions. Thank you.

Will the requested records be used to further your or someone else's commercial, trade, or profit interest?

If so, fees may be reasonably calculated to cover direct costs of duplication or production of records.

YES

NO

Have you recently requested these materials from someone at the Judicial Council of California or a court? *This information will help us more quickly answer your request.*

YES Judicial Council Courts

Name of person & Date of request:

NO

SUBMIT THIS FORM

1) *By Mail:*
Public Access to Judicial Administrative Records
Legal Services
455 Golden Gate Avenue
San Francisco, California 94102

2) *By E-mail:* PAJAR@jud.ca.gov



Adam Bereki <abereki@gmail.com>

Public Records Request - Adam Bereki

2 messages

Adam <abereki@gmail.com>
To: PAJAR@jud.ca.gov

Thu, Jan 9, 2020 at 4:07 PM

Hi,

Please see the attached Public Records Request.

Thank you for your help. Please feel free to email or call with any questions.

Sincerely,

Adam Bereki

 **Request for Records Judicial Council 010920.pdf**
323K

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Tue, Jan 14, 2020 at 11:40 AM

Good afternoon,

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

We have reviewed your request, attached, pursuant to rule 10.500 of the California Rules of Court and have determined that the Judicial Council has disclosable responsive records. Those records are attached to this email. Specifically, we have attached the Civil Jury Instructions (CACI) Revisions that were posted online at www.courts.ca.gov/documents/CACI16-01-invitation-to-comment.pdf for public comment, as well as the report the Advisory Committee on Civil Jury Instructions submitted to the Judicial Council at the council's June 24, 2016 meeting, which is also available online at <https://jcc.legistar.com/View.ashx?M=F&ID=4494496&GUID=9FEDB786-87CC-42AD-8129-96E438B5B2B5>.

We are not including responsive records that are exempt from disclosure pursuant to rule 10.500(f)(1), (5), and (11). If you have questions regarding this matter, you may direct them to Michael Dirckx using the contact information provided in the signature block below.

Sincerely,

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue, San Francisco, California 94102-3688


415-865-7796 | PAJAR@jud.ca.gov | www.courts.ca.gov/publicrecords.htm

[Quoted text hidden]

3 attachments

 **Request for Records Judicial Council 010920.pdf**
323K

 **CACI16-01-invitation-to-comment.pdf**
1664K

 **20160624-16-088A.pdf**
3396K



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 24, 2016

| | |
|---|--|
| Title | Agenda Item Type |
| Jury Instructions: New and Revised Civil Jury Instructions and Verdict Forms | Action Required |
| Rules, Forms, Standards, or Statutes Affected | Effective Date |
| <i>Judicial Council of California Civil Jury Instructions (CACI)</i> | June 24, 2016 |
| Recommended by | Date of Report |
| Advisory Committee on Civil Jury Instructions Hon. Martin J. Tangeman, Chair | May 6, 2016 |
| | Contact |
| | Bruce Greenlee, 415-865-7698 bruce.greenlee@jud.ca.gov |

Executive Summary

The Advisory Committee on Civil Jury Instructions recommends approving for publication the new and revised civil jury instructions and verdict forms prepared by the committee.

Recommendation

The Advisory Committee on Civil Jury Instructions recommends that the Judicial Council, effective June 24, 2016, approve for publication under rules 2.1050 and 10.58 of the California Rules of Court the civil jury instructions prepared by the committee. On Judicial Council approval, the instructions will be published in the official June supplement to the 2016 edition of the *Judicial Council of California Civil Jury Instructions*.

A table of contents and the proposed new and revised civil jury instructions and verdict forms are attached at pages 47–201.

| Instruction | Commentator | Comment | Committee Response |
|---|--|---|---|
| <i>Hinder, Delay, or Defraud a Creditor— Essential Factual Elements</i> | by Todd G. Friedland, President | suggested that “any” rather than “a” be used in the phrase “. . . with actual intent to hinder, delay, or defraud a creditor,” to reflect the language and sense of the statute. Accordingly, the phrase would read, “. . . with actual intent to hinder, delay, or defraud <u>any</u> creditor.” | very good statutory word. That does not make it a good jury instructions word. |
| 4205, “Insolvency” Explained | Orange County Bar Association, by Todd G. Friedland, President | At the second paragraph of the Use Note, first sentence, to make it more accurate, it is suggested the sentence be redrafted as follows: “Property, <u>the transfer of which</u> is potentially voidable under the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), is to be excluded from the computation of the debtor’s assets for purposes of determining insolvency.” | The committee agreed and has made this change. |
| 4560, Recovery of Payments to Unlicensed Contractor | Orange County Bar Association, by Todd G. Friedland, President | <p>At line one of the introductory paragraph, add “applicable to the services being performed” after the term “valid contractor’s license.”</p> <p>In the last sentence of the opening paragraph, substitute “each” instead of “both.”</p> | <p>While the proposed addition may technically be more accurate, the committee finds it to be unnecessary words for an introductory paragraph.</p> <p>There are three elements, so “both” won’t work. “All” is the standard word for use with more than two elements.</p> |

| Instruction | Commentator | Comment | Committee Response |
|-------------|---|--|---|
| | | In element 2, add “applicable to the services being performed” after “valid contractor’s license.” | The element states “That a valid contractor’s license was required <i>to perform these services.</i> ” The committee trusts the jury to understand that if “these services” are for roofing, a plumbing license will not suffice. |
| | | In element three, change to read: “That [<i>name of defendant</i>] was compensated for contractor services by the....”. | The committee agreed that there is a language problem in element 3. It has to be “performed <i>for</i> ” and “was compensated <i>by.</i> ” |
| | State Bar of California, Litigation Section, Jury Instructions Committee, by Reuben Ginsberg, Chair | We would change “both” in the second sentence to “all” because there are three (not two) required elements. | Agreed and changed |
| | | We would insert “and” after element 2. | Also agreed |
| | | We would modify element 3 as follows for clarity: “That [<i>name of defendant</i>] performed and was compensated [<i>name of plaintiff</i>] paid [<i>name of defendant</i>] for contractor services for the [<i>name of plaintiff</i>] as required by <u>performed under the contract.</u> ” | The committee agreed that the proposed revised language is better. |
| | | We would modify the final sentence as follows for clarity and because we think this instruction should expressly state that the plaintiff is entitled to recover damages (unless the defendant meets its | While finding that the proposed revised language is more words than necessary to get this point across, “at all times” has been moved |

| Instruction | Commentator | Comment | Committee Response |
|--|--|--|---|
| | | <p>burden of proof), and specifically all compensation paid to the defendant. The following instruction (CACI No. 4561) then would only clarify the meaning of “all compensation paid.”</p> <p>“[Name of defendant] must then <u>If [name of plaintiff] proves these three things, [name of plaintiff] is entitled to recover all compensation [he/she/it] paid to [name of defendant]. However, plaintiff is not entitled to recover any compensation if [name of defendant] proves that while performing these services, [he/she/it] had a valid contractor’s license at all times as required by law.</u>”</p> | to modify “while performing.” |
| 4561, <i>Damages— All Payments Made to Unlicensed Contractor</i> | Orange County Bar Association, by Todd G. Friedland, President | At line one, change the language to read: “A person who pays money under a contract to a <u>person or entity acting as a contractor who is not licensed at all times during performance of the particular services</u> may recover all...” | The committee finds the proposed revised language to be more words than needed. |
| | | In the second paragraph, change the language to read: “for services under the contract and that <u>[name of defendant] was acting as an unlicensed contractor at any time during...</u> ” | The committee finds the proposed revised language to be more words than needed. |
| | State Bar of California, Litigation Section, Jury | Our proposed revisions to the prior instruction (CACI No. 4560) make the first sentence of this instruction unnecessary, so we would delete it. | The committee disagreed with the proposed revision to 4560. |

| Instruction | Commentator | Comment | Committee Response |
|--|--|--|---|
| | Instructions Committee, by Reuben Ginsberg, Chair | <p>Language in the second paragraph in the instruction could be misconstrued to mean that the plaintiff has the burden to prove not only that the plaintiff paid money for services under the contract, but also that defendant was unlicensed. We would modify this paragraph to clarify the defendant's burden of proof:</p> <p>"If you decide that [<i>name of plaintiff</i>] has proved that [he/she/it] paid money to [<i>name of defendant</i>] for services under the contract and that [<i>name of defendant</i>] <u>has failed to prove that</u> [<i>name of defendant</i>] was unlicensed at any <u>all</u> times during performance, then [<i>name of plaintiff</i>] is entitled to the return of all amounts paid, not just the amounts paid while [name of defendant] was unlicensed. The fact that [<i>name of plaintiff</i>] may have received some or all of the benefits of [<i>name of defendant</i>]'s performance does not affect [his/her/its] right to the return of all amounts paid."</p> | The committee agreed with the comment and has revised the language to make it abundantly clear that the contractor has the burden to prove the license. |
| 4603, <i>Whistleblower Protection—Essential Factual Elements</i> | California Employment Lawyers Association, by David M. deRubertis State Bar of California, Litigation | CELA supports the proposed changes. The proposed revision states that the instruction should be modified "if the retaliation is against a family member of | No response is necessary. The committee agreed with the comment and |

4560. Recovery of Payments to Unlicensed Contractor (Bus. & Prof. Code, § 7031(b))

[Name of plaintiff] claims that *[name of defendant]* did not have a valid contractor's license during all times when *[name of defendant]* was performing services for *[name of plaintiff]* under their contract. To establish this claim, *[name of plaintiff]* must prove all of the following:

1. That there was a contract between *[name of plaintiff]* and *[name of defendant]* under which *[name of defendant]* was required to perform services for *[name of plaintiff]*;
2. That a valid contractor's license was required to perform these services; and
3. That *[name of plaintiff]* paid *[name of defendant]* for contractor services that *[name of defendant]* performed as required by the contract;

[Name of defendant] must then prove that at all times while performing these services, [he/she/it] had a valid contractor's license as required by law.

New June 2016

Directions for Use

Give this instruction in a case in which the plaintiff seeks to recover money paid to an unlicensed contractor for service performed for which a license is required. (Bus. & Prof. Code, § 7031(b).) It may be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

The burden of proof to establish licensure or proper licensure is on the licensee. Proof must be made by producing a verified certificate of licensure from the Contractors' State License Board. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure is on the contractor. (Bus. & Prof. Code, § 7031(d).)

A corporation qualifies for a contractor's license through a responsible managing officer (RMO) or responsible managing employee (RME) who is qualified for the same license classification as the classification being applied for. (Bus. & Prof. Code § 7068(b)(3).) The plaintiff may attack a contractor's license by going behind the face of the license and proving that a required RMO or RME is a sham. The burden of proof remains with the contractor to prove a bona fide RMO or RME. (*Buzgheia v. Leasco Sierra Grove* (1997) 60 Cal.App.4th 374, 385–387 [70 Cal. Rptr. 2d 427].) Whether an RMO or RME is a sham can be a question of fact. (*Jeff Tracy, Inc. v. City of Pico Rivera* (2015) 240 Cal.App.4th 510, 518 [192 Cal.Rptr.3d 600].)

Sources and Authority

- Action to Recover Compensation Paid to Unlicensed Contractor. Business and Professions Code section 7031(b).

Draft—Not Approved by Judicial Council

- Proof of Licensure. Business and Professions Code section 7031(d).
- “Contractor” Defined. Business and Professions Code section 7026.
- “The purpose of the licensing law is to protect the public from incompetence and dishonesty in those who provide building and construction services. The licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business.” (*Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal. Rptr. 517, 803 P.2d 370], internal citations omitted.)
- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . .’ ” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “The current legislative requirement that a contractor plaintiff must, in addition to proving the traditional elements of a contract claim, also prove that it was duly licensed at all times during the performance of the contract does not change this historical right to a jury trial.” (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518, fn. 2.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “In 2001, the Legislature complemented the shield created by subdivision (a) of section 7031 by adding a sword that allows persons who utilize unlicensed contractors to recover compensation paid to the contractor for performing unlicensed work. Section 7031(b) provides that ‘a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract’ unless the substantial compliance doctrine applies.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 519 [100 Cal.Rptr.3d 434], internal citation omitted.)
- “It appears section 7031(b) was designed to treat persons who have utilized unlicensed contractors consistently, regardless of whether they have paid the contractor for the unlicensed work. In short, those who have not paid are protected from being sued for payment and those who have paid may recover all compensation delivered. Thus, unlicensed contractors are not able to avoid the full measure of the CSLB’s civil penalties by (1) requiring prepayment before undertaking the next increment of unlicensed work or (2) retaining progress payments relating to completed phases of the construction.” (*White, supra*, 178 Cal.App.4th at p. 520.)
- “In most cases, a contractor can establish valid licensure by simply producing ‘a verified

Draft—Not Approved by Judicial Council

certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action.' [Contractor] concedes that if this was the only evidence at issue, 'then—perhaps—the issue could be decided by the court without a jury.' But as [contractor] points out, the City was challenging [contractor]'s license by going behind the face of the license to prove that [license holder] was a sham RME or RMO. (*Jeff Tracy, Inc.*, *supra*, 240 Cal.App.4th at p. 518.)

- “[T]he determination of whether [contractor] held a valid class A license involved questions of fact. ‘[W]here there is a conflict in the evidence from which either conclusion could be reached as to the status of the parties, the question must be submitted to the jury. [Citations.] This rule is clearly applicable to cases revolving around the disputed right of a party to bring suit under the provisions of Business and Professions Code section 7031.’ ” (*Jeff Tracy, Inc.*, *supra*, 240 Cal.App.4th at p. 518.)
- “We conclude the authorization of recovery of ‘*all* compensation paid to the unlicensed contractor for performance of any act or contract’ means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided.” (*White, supra*, 178 Cal.App.4th at pp. 520–521, original italics, internal citation omitted.)
- “[A]n unlicensed contractor is subject to forfeiture even if the other contracting party was aware of the contractor's lack of a license, and the other party's bad faith or unjust enrichment cannot be asserted by the contractor as a defense to forfeiture.” (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)

Secondary Sources

1 Witkin, Summary of California Law (10th ed. 2010) Contracts, § 489 et seq.

12 California Real Estate Law and Practice, Ch. 430, *Licensing of Contractors*, § 430.70 (Matthew Bender)

10 California Forms of Pleading and Practice, Ch. 104, *Building Contracts*, § 104.83 (Matthew Bender)

5 California Points and Authorities, Ch. 50A, *Contracts: Performance, Breach, and Defenses*, § 50A.52 et seq. (Matthew Bender)

29 California Legal Forms, Ch. 88, *Licensing of Contractors*, § 88.18 (Matthew Bender)

Draft—Not Approved by Judicial Council

4561. Damages—All Payments Made to Unlicensed Contractor

A person who pays money under a contract to an unlicensed contractor may recover all compensation paid to the unlicensed contractor under the contract.

If you decide that [name of plaintiff] has proved that [he/she/it] paid money to [name of defendant] for services under the contract and that [name of defendant] has failed to prove that [he/she/it] was licensed at all times during performance, then [name of plaintiff] is entitled to the return of all amounts paid, not just the amounts paid while [name of defendant] was unlicensed. The fact that [name of plaintiff] may have received some or all of the benefits of [name of defendant]’s performance does not affect [his/her/its] right to the return of all amounts paid.

New June 2016

Directions for Use

Give this instruction to clarify that the plaintiff is entitled to recover all compensation paid to the unlicensed defendant regardless of any seeming injustice to the contractor. (See *Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal. Rptr. 517, 803 P.2d 370].) It may be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

Sources and Authority

- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . .’ ” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “[I]f a contractor is unlicensed for any period of time while delivering construction services, the contractor forfeits all compensation for the work, not merely compensation for the period when the contractor was unlicensed.” (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)
- “We conclude the authorization of recovery of ‘*all* compensation paid to the unlicensed contractor for performance of any act or contract’ means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 520–521 [100 Cal.Rptr.3d 434], original italics, internal citation omitted.)

Secondary Sources

1 Witkin, Summary of California Law (10th ed. 2010) Contracts, § 489 et seq.

12 California Real Estate Law and Practice, Ch. 430, *Licensing of Contractors*, § 430.70 (Matthew Bender)

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5 California Points and Authorities, Ch. 50A, *Contracts: Performance, Breach, and Defenses*, § 50A.52 et seq. (Matthew Bender)

29 California Legal Forms, Ch. 88, *Licensing of Contractors*, § 88.18 (Matthew Bender)

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

CACI16-01

| | |
|---|--|
| Title | Action Requested |
| Civil Jury Instructions (CACI) Revisions | Review and submit comments by March 4, 2016 |
| Proposed Rules, Forms, Standards, or Statutes | Proposed Effective Date |
| Add and revise jury instructions and verdict forms | June 24, 2016 |
| Proposed by | Contact |
| Advisory Committee on Civil Jury Instructions Hon. Martin J. Tangeman, Chair | Bruce Greenlee, Attorney, 415-865-7698 bruce.greenlee@jud.ca.gov |

Executive Summary and Origin

The Judicial Council Advisory Committee on Civil Jury Instructions has posted proposed revisions and additions to the Judicial Council civil jury instructions (CACI). Under Rule 10.58 of the California Rules of Court, the advisory committee is responsible for regularly reviewing case law and statutes affecting jury instructions and making recommendations to the Judicial Council for updating, revising, and adding topics to the council's civil jury instructions. On approval by the Judicial Council, all changes will be published in the supplement to the 2016 edition of the official LexisNexis CACI publication.

Request for Specific Comments

The advisory committee is again proposing revisions and a slight title change to CACI No. 2334, which would be renamed: *Bad Faith (Third Party)—Failure to Accept Reasonable Settlement Within Liability Policy Limits—Essential Factual Elements*. The proposed changes are similar, but not identical, to those proposed in 2015. On receipt of the many comments submitted last year, consideration of changes to this instruction was deferred for additional deliberation. The reasons why the committee deferred recommendation of changes to this instruction in 2015 are presented at page 6 of the committee’s report to the Judicial Council for its December 11, 2015 meeting. The committee report may be found at

<https://jcc.legistar.com/View.ashx?M=F&ID=4165537&GUID=5AE35403-86B1-425B-85FF-0395E5D41154>

The committee is particularly interested in comments on the following:

- The proposed changes to the last paragraph of the instruction;
- Specific examples of cases in which the reasonableness of the insurer’s failure to accept a policy-limits offer was asserted by the defense, and the basis for the claim of reasonableness (regardless of whether the claim was permitted or rejected by the court).

The advisory committee is particularly interested in learning whether there are cases in which the insurer alleges a reasonable rejection for reasons other than its evaluation of liability and damages.

Attachments

Proposed revised and new instructions and verdict forms: pp. 6–139

Draft—Not Approved by Judicial Council

4560. Recovery of Payments to Unlicensed Contractor (Bus. & Prof. Code, § 7031(b))

[Name of plaintiff] claims that [name of defendant] did not have a valid contractor's license during all times when [name of defendant] was performing services for [name of plaintiff] under their contract. To establish this claim, [name of plaintiff] must prove both of the following:

- 1. That there was a contract between [name of plaintiff] and [name of defendant] under which [name of defendant] was required to perform services for [name of plaintiff];**
- 2. That a valid contractor's license was required to perform these services;**
- 3. That [name of defendant] performed and was compensated for contractor services for the [name of plaintiff] as required by the contract;**

[Name of defendant] must then prove that while performing these services, [he/she/it] had a valid contractor's license at all times as required by law.

New June 2016

Directions for Use

Give this instruction in a case in which the plaintiff seeks to recover money paid to an unlicensed contractor for service performed for which a license is required. (Bus. & Prof. Code, § 7031(b).) It may be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

The burden of proof to establish licensure or proper licensure is on the licensee. Proof must be made by producing a verified certificate of licensure from the Contractors' State License Board. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure is on the contractor. (Bus. & Prof. Code, § 7031(d).)

A corporation qualifies for a contractor's license through a responsible managing officer (RMO) or responsible managing employee (RME) who is qualified for the same license classification as the classification being applied for. (Bus. & Prof. Code § 7068(b)(3).) The plaintiff may attack a contractor's license by going behind the face of the license and proving that a required RMO or RME is a sham. The burden of proof remains with the contractor to prove a bona fide RMO or RME. (*Buzgheia v. Leasco Sierra Grove* (1997) 60 Cal.App.4th 374, 385–387 [70 Cal. Rptr. 2d 427].) Whether an RMO or RME is a sham can be a question of fact. (*Jeff Tracy, Inc. v. City of Pico Rivera* (2015) 240 Cal.App.4th 510, 518 [192 Cal.Rptr.3d 600].)

Sources and Authority

- Action to recover compensation paid to unlicensed contractor. Business and Professions Code section 7031(b).

Draft—Not Approved by Judicial Council

- Proof of licensure. Business and Professions Code section 7031(d).
- “Contractor” defined. Business and Professions Code section 7026.
- “The purpose of the licensing law is to protect the public from incompetence and dishonesty in those who provide building and construction services. The licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business.” (*Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal. Rptr. 517, 803 P.2d 370], internal citations omitted.)
- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . . ’ ” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “The current legislative requirement that a contractor plaintiff must, in addition to proving the traditional elements of a contract claim, also prove that it was duly licensed at all times during the performance of the contract does not change this historical right to a jury trial.” (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518, fn. 2.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “In 2001, the Legislature complemented the shield created by subdivision (a) of section 7031 by adding a sword that allows persons who utilize unlicensed contractors to recover compensation paid to the contractor for performing unlicensed work. Section 7031(b) provides that ‘a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract’ unless the substantial compliance doctrine applies.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 519 [100 Cal.Rptr.3d 434], internal citation omitted.)
- “It appears section 7031(b) was designed to treat persons who have utilized unlicensed contractors consistently, regardless of whether they have paid the contractor for the unlicensed work. In short, those who have not paid are protected from being sued for payment and those who have paid may recover all compensation delivered. Thus, unlicensed contractors are not able to avoid the full measure of the CSLL’s civil penalties by (1) requiring prepayment before undertaking the next increment of unlicensed work or (2) retaining progress payments relating to completed phases of the construction.” (*White, supra*, 178 Cal.App.4th at p. 520.)
- “In most cases, a contractor can establish valid licensure by simply producing ‘a verified

Draft—Not Approved by Judicial Council

certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action.' [contractor] concedes that if this was the only evidence at issue, 'then—perhaps—the issue could be decided by the court without a jury.' But as [contractor] points out, the City was challenging [contractor]'s license by going behind the face of the license to prove that [license holder] was a sham RME or RMO. (*Jeff Tracy, Inc.*, *supra*, 240 Cal.App.4th at p. 518.)

- “[T]he determination of whether [contractor] held a valid class A license involved questions of fact. ‘[W]here there is a conflict in the evidence from which either conclusion could be reached as to the status of the parties, the question must be submitted to the jury. [Citations.] This rule is clearly applicable to cases revolving around the disputed right of a party to bring suit under the provisions of Business and Professions Code section 7031.’ ” (*Jeff Tracy, Inc.*, *supra*, 240 Cal.App.4th at p. 518.)
- “We conclude the authorization of recovery of ‘all compensation paid to the unlicensed contractor for performance of any act or contract’ means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided.” (*White, supra*, 178 Cal.App.4th at pp. 520–521, internal citation omitted.)
- “[A]n unlicensed contractor is subject to forfeiture even if the other contracting party was aware of the contractor's lack of a license, and the other party's bad faith or unjust enrichment cannot be asserted by the contractor as a defense to forfeiture.” (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)

Secondary Sources

Draft—Not Approved by Judicial Council

4561. Damages—All Payments Made to Unlicensed Contractor

A person who pays money under a contract to an unlicensed contractor may recover all compensation paid to the unlicensed contractor under the contract.

If you decide that [name of plaintiff] has proved that [he/she/it] paid money to [name of defendant] for services under the contract and that [name of defendant] was unlicensed at any time during performance, then [name of plaintiff] is entitled to the return of all amounts paid, not just the amounts paid while [name of defendant] was unlicensed. The fact that [name of plaintiff] may have received some or all of the benefits of [name of defendant]’s performance does not affect [his/her/its] right to the return of all amounts paid.

New June 2016

Directions for Use

Give this instruction to clarify that the plaintiff is entitled to recover all compensation paid to the unlicensed defendant regardless of any seeming injustice to the contractor. (See *Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal. Rptr. 517, 803 P.2d 370].) It may be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

Sources and Authority

- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . . ’ ” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “[I]f a contractor is unlicensed for any period of time while delivering construction services, the contractor forfeits all compensation for the work, not merely compensation for the period when the contractor was unlicensed.” (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)
- “We conclude the authorization of recovery of ‘all compensation paid to the unlicensed contractor for performance of any act or contract’ means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 520–521 [100 Cal.Rptr.3d 434], internal citation omitted.)

•

Secondary Sources



Adam Bereki <abereki@gmail.com>

Public Records Request - Adam Bereki

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Mon, Jan 20, 2020 at 12:27 PM

Attention Michael Dirckx:

Thank you for your reply.

In your reply you stated "We are not including responsive records that are exempt from disclosure pursuant to rule 10.500(f)(1), (5), and (11). If you have questions regarding this matter, you may direct them to Michael Dirckx using the contact information provided in the signature block below."

If there are document(s) you did not provide, please provide a title to each document, the number of pages, and the general content of the document so that I am aware of its general contents and that it is in your possession and can subpoena it if necessary.

Sincerely,

Adam Bereki

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Request - Adam Bereki

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Wed, Jan 22, 2020 at 8:42 AM

Good morning,

In your response to our determination, below, you requested a list of the records that we did not provide to you, which are exempt from disclosure pursuant to rule 10.500(f)(1), (5), and (11). No such list exists, and pursuant to rule 10.500(e)(1)(B), judicial branch entities are not required to create new records: "Nothing in this rule requires a judicial branch entity to create any record or to compile or assemble data in response to a request for judicial administrative records if the judicial branch entity does not compile or assemble the data in the requested form for its own use or for provision to other agencies..." Rule 10.500(e)(1)(B).

Therefore, we have no further records to provide to you.

[Quoted text hidden]

Governor Gavin Newsom
1303 10th St. Suite 1173
Sacramento, CA 95814

mailed: ✓
January 9, 2020

Reply rec'd.
1/15/20

RE: Public Records Act Request

Please provide all documents in your custody and control pertaining to Statutes 1939 Chapter 37 Article 2 (Business and Professions Code pertaining to contractors). I am specifically looking for any information retained by your office pertaining to the enactment of Business and Professions Code section §7031 under the aforementioned chapter and article since inception until present. Please respond with a certified copy of these records.

I may be reached via email at abereki@gmail.com or phone 949 241 6693.

Thank you for your help.



Adam Bereki



Recvd email
01/15/20

OFFICE OF THE GOVERNOR

January 15, 2020

Via electronic mail

Adam Bereki
abereki@gmail.com

RE: Public Records Act Request

Dear Mr. Bereki:

This letter is in response to your correspondence received January 14, 2020, requesting, "all documents in your custody and control pertaining to Statutes 1939 Chapter 37 Article 2 (Business and Professions Code pertaining to contractors). I am specifically looking for any information retained by your office pertaining to the enactment of Business and Professions Code section §7031 under the aforementioned chapter and article since inception until present".

No records were found responsive to your request. You may access the entirety of the current version of Article 2 of Chapter 9 of Division 3 of the Business and Professions Code, including Section 7031, at the following link:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=3.&chapter=9.&lawCode=BPC&article=2.

Additionally, please be advised that we are not the custodian of records from prior gubernatorial administrations. You may wish to contact the State Archives at:

California State Archives
1020 O Street
Sacramento, CA 95814

Thank you for contacting Governor Newsom's office.

Sincerely,

A handwritten signature in black ink, appearing to read "David Sapp".

DAVID SAPP

Deputy Legal Affairs Secretary

ASKCSL28880
I was referred to you by the California Assembly. I am looking for the legislative history pertaining to the enactment of Statutes 1939 Chapter 37 Article 2 (Business and Professions Code §7031). The California Secretary of State has informed me they do not have records proper to 1943. I have also contacted the CA Governor who has no records. Thank you for your help.

12/01/2020 09:29 AM
abareak@gmail.com is this email address correct? If not please use Check existing question to correct it.

If you wish to make any changes to your request details, cancel your request, or check on the status of your request, please use the Check existing question link. We will let you know if any delays occur.
If the email addresses shown on this page is correct and you do not receive a confirmation email from us, please check that you are not blocking emails from "California State Library"reftracker@library.ca.gov, and that email from this address is not being put into your junk mail box.

Thank you for using our service. We will contact you soon.
You can now close this window, or use one of the following links:

- Submit another request like this
- Submit a different type of request
- Return to California State Library

California State Library

Privacy Policy

Other options

1645

ASKCSL28880

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ASKCSL28880

Submitted
1/20/20
Reply Recvd
01/20/20



Adam Bereki <abereki@gmail.com>

ASKCSL28880 Response to your Ask Us a Question question

California State Library <reftracker@library.ca.gov>
Reply-To: California State Library <reftracker@library.ca.gov>
To: abereki@gmail.com

Tue, Jan 21, 2020 at 1:33 PM

PLEASE DO NOT REPLY TO THIS RESPONSE EMAIL

request: **ASKCSL28880 is now closed.**

California State Library

Response to your Ask Us a Question request: [ASKCSL28880](#)

We found the following information in response to your request [ASKCSL28880](#) :

Hello Adam,

Thank you for reaching out to the California State Library. In terms of legislative history/intent, the state law library is somewhat limited for the year 1939. I have attached the bill that when passed become BPC § 7031. You can also view the Senate and Assembly Histories for that year at https://clerk.assembly.ca.gov/archive-list?archive_type=histories, but you may find the information minimal.

I would highly suggest that you reach out to the State Archives at <https://www.sos.ca.gov/archives/>, and request any materials (excluding the bill, since it is attached to this message) regarding SB 204 from 1939.

Please let me know if you have any other questions.

Thank you for using our service,

Michael McCurdy
Law Librarian
916-323-9548
Michael.McCurdy@library.ca.gov

Number of documents attached to this message: 1
Attached documents may be listed at the beginning or end of this email

Please use the choices below to respond to this email:

Request more information about this response
Ask a different question

Please click a rating to comment on the service you received in relation to this response.

- ★★★★★ Excellent
- ★★★★☆ Very good
- ★★★☆☆ Good
- ★★☆☆☆ Fair
- ★☆☆☆☆ Poor

This response is in relation to your request: ASKCSL28880

Your question:

I was referred to you by the California Assembly. I am looking for the legislative history pertaining to the enactment of Statutes 1939 Chapter 37 Article 2 (Business and Professions Code §7031). The California Secretary of State has informed me they do not have records proper to 1943. I have also contacted the CA Governor who has no records. Thank you for your help.

Thank you for contacting us.

Ask A Librarian
California State Library

Find us on Facebook | Follow us on Twitter | Follow us on Pinterest | Follow us on Tumblr | Follow us on Instagram | Find us on History Pin

 **1939 Ch 204.pdf**
1600K



Adam Bereki <abereki@gmail.com>

Response to ASKCSL28880

Mccurdy, Michael@CSL <michael.mccurdy@library.ca.gov>
To: Adam <abereki@gmail.com>

Wed, Jan 22, 2020 at 1:29 PM

Hello Adam,

Sorry to hear about the lack of material at the State Archives. I can confirm that SB 204 is all the legislative material we have for the statute you are referencing.

Regards,

Michael McCurdy | Librarian, Witkin State Law Library
California State Library | direct: 916.323.9598

Interested in signing up for the law library's quarterly newsletter? Please click ***here*** for more information.

[Quoted text hidden]



Adam Berekí <aberekí@gmail.com>

Response to ASKCSL28880

Adam <aberekí@gmail.com>

Sun, Jan 26, 2020 at 7:05 AM

To: "Mccurdy, Michael@CSL" <michael.mccurdy@library.ca.gov>

Michael,

I am also trying to locate Governor Gary Davis' approval of Assembly Bill 678 (2001) which was an amendment to Business and Profession Code §7031, adding subsection (b). The State Archives does not have it and the current governors office does not maintain records from previous administrations.

Thank you again for your help.

Adam

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Response to ASKCSL28880

Mccurdy, Michael@CSL <michael.mccurdy@library.ca.gov>
To: Adam <abereki@gmail.com>

Mon, Jan 27, 2020 at 8:17 AM

Hello Adam,

Can you please submit this as a new question at <https://askstatelibrary.libraryresearch.info/ref100.aspx?key=Ref>, as it might be in our Government Publications library.

[Quoted text hidden]

INTRODUCED BY SENATOR PHILLIPS,

January 12, 1939.

WITHOUT REFERENCE TO COMMITTEE.

An act to add Chapter 9, comprising sections 7000 to 7139, inclusive, to Division III and to add section 30016 to Division XXX of the Business and Professions Code, relating to the regulation of contractors and repealing acts and parts of acts specified herein.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 9, comprising sections 7000 to 7139,
2 inclusive, is hereby added to Division III of the Business
3 and Professions Code to read as follows:

4
5 CHAPTER 9. CONTRACTORS.

6
7 Article 1. Administration.

8
9 7000. There is in the Department of Professional and
10 Vocational Standards a Contractors' State License Board,
11 which consists of seven members appointed by the Governor.

12 7001. All members of the board shall be contractors
13 actively engaged in the contracting business, have been so
14 engaged for a period of not less than five years preceding
15 the date of their appointment and shall so continue in the
16 contracting business during the term of their office. No one
17 shall be eligible for appointment who does not at the time
18 hold an unexpired license to operate as a contractor.

19 7002. One member of the board shall be a general engi-
20 neering contractor, three members shall be general building
21 contractors and three members shall be specialty contractors.

22 Each member of the board shall be of recognized standing
23 in his branch of the contracting business, shall be at least
24 thirty years of age and of good character.

1 Each member of the board shall have been a citizen and
2 resident of the State of California for at least five years next
3 preceding his appointment.

4 7003. The terms of the members of the board in office when
5 this chapter takes effect shall expire as follows: One gen-
6 eral building contractor and one specialty contractor, Jan-
7 uary 15, 1940; one general building contractor and one spe-
8 cialty contractor, January 15, 1941; one general building
9 contractor and one specialty contractor, January 15, 1942;
10 the general engineering contractor January 15, 1943.

11 Appointments to fill a vacancy caused by the expiration
12 of the term of office shall be for a term of four years and shall
13 be filled by a member from the same branch of the contracting
14 business as was the branch of the member whose term has
15 expired. Each member shall hold office after the expiration
16 of his term until his successor has been duly appointed and
17 qualified.

18 Vacancies occurring in the membership of the board for
19 any cause shall be filled by appointment for the balance of
20 the unexpired term.

21 7004. Each member of the board shall receive a certificate
22 of appointment from the Governor, and before entering upon
23 the discharge of the duties of his office, shall file with the
24 Secretary of State, the constitutional oath of office.

25 7005. The Governor may remove any member of the board
26 for misconduct, incompetency or neglect of duty.

27 7006. The board shall hold not less than four regular meet-
28 ings each fiscal year, once in July, once in October, once in
29 January and once in April, for the purpose of transacting
30 such business as may properly come before it. At the July
31 meeting of each year the board shall elect officers.

32 Special meetings of the board may be held at such times
33 as the board may provide in its by-laws. Four members of
34 the board may call a special meeting at any time.

35 7007. Four members constitute a quorum at a board
36 meeting.

37 Due notice of each meeting and the time and place thereof
38 shall be given each member in the manner provided by the
39 by-laws.

40 7008. The board may appoint such committees and make
41 such by-laws and rules and regulations it deems necessary to
42 carry out the provisions of this chapter.

43 7009. Any member or committee of the board may admin-
44 ister oaths and may take testimony and proofs concerning all
45 matters within the jurisdiction of the board.

46 7010. The board is vested with all functions and duties
47 relating to the administration of this chapter, except those
48 functions and duties vested in the director under the pro-
49 visions of Division I of this code.

50 7011. The board by and with the approval of the director
51 shall appoint a registrar of contractors, and fix his compen-
52 sation.

1 The registrar shall be the executive secretary of the board
2 and shall carry out all of the administrative duties as pro-
3 vided in this chapter and as delegated to him by the board.

4 For the purpose of administration of this chapter, there may
5 be appointed a deputy registrar, a chief reviewing and hearing
6 officer and such other assistants and subordinates as may be
7 necessary.

8 Appointments shall be made in accordance with the pro-
9 visions of civil service laws.

10 7012. The registrar, with the approval of the board and
11 the director, may, when funds are available, cooperate in the
12 enforcement of governmental legislation relating to the con-
13 struction industry, and shall appoint such assistants as may
14 be necessary therefor.

15 7013. The board may in its discretion review and sustain
16 or reverse by a majority vote any action or decision of the
17 registrar.

18 7014. The board may procure equipment and records
19 necessary to carry out the provisions of this chapter.

20 7015. The board shall adopt a seal for its own use. The
21 seal shall have the words "Contractors' State License Board,
22 State of California," and the care and custody thereof shall
23 be in the hands of the registrar.

24 7016. Each member of the board shall be reimbursed for
25 his traveling expenses necessarily incurred in the performance
26 of his duties hereunder.

27 7017. The board, in addition to the usual periodic reports,
28 shall within thirty days prior to the meeting of the regular
29 session of the Legislature submit to the Governor a full and
30 true report of its transactions during the preceding biennium
31 including a complete statement of the receipts and expenditures
32 of the board during the period.

33 A copy of the report shall be filed with the Secretary of State.

34 All records shall be public records.

35 Article 2. Application of Chapter.

36
37 7025. "Person" as used in this chapter includes an indi-
38 vidual, a firm, copartnership, corporation, association or other
39 organization, or any combination of any thereof.

40 7026. A contractor within the meaning of this chapter
41 is any person, except a licensed architect or a registered civil
42 engineer acting solely in his professional capacity, who in any
43 capacity other than as the employee of another with wages as
44 the sole compensation, undertakes or offers to undertake or
45 purports to have the capacity to undertake or submits a bid,
46 to construct, alter, repair, add to, subtract from, improve,
47 move, wreck or demolish any building, highway, road, rail-
48 road, excavation or other structure, project, development or
49 improvement, or to do any part thereof, including the erection
50 of scaffolding or other structures or works in connection
51 therewith and also including the eradication of or the pro-

1 cessing against infestation by pests structurally injurious to
2 buildings or structures.

3 7027. A contractor in the meaning of this chapter includes
4 subcontractor or specialty contractor, but does not include
5 anyone who merely furnishes materials or supplies without
6 fabricating them into, or consuming them in the performance
7 of, the work of the contractor.

8 7028. It is unlawful for any person to engage in the busi-
9 ness or act in the capacity of a contractor within this State
10 without having a license therefor, unless such person is par-
11 ticularly exempted from the provisions of this chapter.

12 7029. It is unlawful for any two or more licensees, each of
13 whom has been issued a license to engage separately in the
14 business or to act separately in the capacity of a contractor
15 within this State, to jointly submit a bid or otherwise act in
16 the capacity of a contractor within this State without first
17 having secured an additional license for acting in the capacity
18 of such a joint venture or combination in accordance with the
19 provisions of this chapter as provided for an individual,
20 copartnership or corporation.

21 7030. Any person who acts in the capacity of a contractor
22 without a license, and any person who conspires with another
23 person to violate any of the provisions of this chapter, is
24 guilty of a misdemeanor.

25 7031. No person engaged in the business or acting in the
26 capacity of a contractor, may bring or maintain any action in
27 any court of this State for the collection of compensation for
28 the performance of any act or contract for which a license is
29 required by this chapter without alleging and proving that
30 he was a duly licensed contractor at all times during the per-
31 formance of such act or contract.

32 Article 3. Exemptions.

33
34
35 7040. This chapter does not apply to an authorized repre-
36 sentative of the United States Government, the State of Cali-
37 fornia, or any incorporated town, city, county, irrigation
38 district, reclamation district or other municipal or political
39 corporation or subdivision of this State.

40 7041. This chapter does not apply to officers of a court
41 when they are acting within the scope of their office.

42 7042. This chapter does not apply to public utilities oper-
43 ating under the regulation of the State Railroad Commission
44 on construction, maintenance and development work inci-
45 dental to their own business.

46 7043. This chapter does not apply to any construction,
47 repair or operation incidental to the discovering or producing
48 of petroleum or gas, or the drilling, testing, abandoning or
49 other operation of any petroleum or gas well, when performed
50 by an owner or lessee.

1 7044. This chapter does not apply to owners of property,
2 building or improving structures thereon for the occupancy of
3 such owner and not intended for sale.

4 7045. This chapter does not apply to the sale or installa-
5 tion of any finished products, materials or articles of mer-
6 chandise, which are not actually fabricated into and do not
7 become a permanent fixed part of the structure.

8 7046. This chapter does not apply to any construction,
9 alteration, improvement or repair of personal property.

10 7047. This chapter does not apply to any construction,
11 alteration, improvement or repair carried on within the limits
12 and boundaries of any site or reservation, the title of which
13 rests in the Federal Government.

14 7048. This chapter does not apply to any work or operation
15 on one undertaking or project by one or more contracts, the
16 aggregate contract price for which for labor, materials, and
17 all other items, is less than one hundred dollars, such work or
18 operations being considered as of casual, minor or inconse-
19 quential nature.

20 This exemption does not apply in any case wherein the
21 work of construction is only a part of a larger or major opera-
22 tion, whether undertaken by the same or a different contractor,
23 or in which a division of the operation is made in contracts of
24 amounts less than one hundred dollars for the purpose of
25 evasion of this chapter or otherwise.

26 7049. This chapter does not apply to any construction or
27 operation incidental to the construction and repair of irriga-
28 tion and drainage ditches of regularly constituted irrigation
29 districts, reclamation districts, or to farming, dairying, agri-
30 culture, viticulture, horticulture, or stock or poultry raising,
31 or clearing or other work upon land in rural districts for fire
32 prevention purposes, except when performed by a licensee
33 under this chapter.

34

Article 4. Classifications.

35

36 7055. For the purposes of classification, the contracting
37 business includes any or all of the following branches:

38 (a) General engineering contracting.

39 (b) General building contracting.

40 (c) Specialty contracting.

41 7056. A general engineering contractor is a contractor
42 whose principal contracting business is in connection with fixed
43 works for any or all of the following divisions or subjects:
44 irrigation, drainage, water power, water supply, flood control,
45 inland waterways, harbors, railroads, highways, tunnels, air-
46 ports and airways, sewerage and bridges.

47 7057. A general building contractor is a contractor whose
48 principal contracting business is in connection with any struc-
49 ture built, being built, or to be built, for the support, shelter
50 and enclosure of persons, animals, chattels or movable prop-
51 erty of any kind, requiring in its construction the use of more
52

1 than two unrelated building trades or crafts, or to do or super-
2 intend the whole or any part thereof.

3 This does not include anyone who merely furnishes mate-
4 rials or supplies under section 7045 without fabricating them
5 into, or consuming them in the performance of the work of the
6 general building contractor.

7 7058. A specialty contractor is a contractor whose opera-
8 tions as such are the performance of construction work requir-
9 ing special skill and whose principal contracting business
10 involves the use of specialized building trades or crafts.

11 7059. The registrar, with the approval of the board, may
12 adopt rules and regulations necessary to effect the classifica-
13 tion of contractors in accordance with the definitions of the
14 branches of the contracting business and in a manner con-
15 sistent with established usage and procedure as found in the
16 construction business.

17
18 Article 5. Licensing.
19

20 7065. Under rules and regulations adopted by the board
21 and approved by the director, the registrar may investigate,
22 classify and qualify applicants for contractors' licenses by
23 written or oral examination, or both.

24 7066. To obtain an original license, an applicant shall sub-
25 mit to the registrar an application in writing containing the
26 statement that the applicant desires the issuance of a license
27 under the terms of this chapter.

28 . The application shall be made on a form prescribed by the
29 registrar in accordance with the rules and regulations adopted
30 by the board and shall be accompanied by the fee fixed by this
31 chapter.

32 7067. The information contained in the application forms
33 shall include a complete statement of the general nature of
34 the applicant's contracting business, a concise statement of
35 the classification or classifications under which the applicant
36 desires to be qualified as a contractor and, in addition, if the
37 applicant is an individual, his name and address; if a copart-
38 nership, the names and addresses of all partners; and if a
39 corporation, association or other organization, the names and
40 addresses of the president, vice president, secretary, and chief
41 construction managing officer or officers, or responsible manag-
42 ing employee, together with all other information which may
43 be deemed necessary by the registrar.

44 7068. The board shall require an applicant to show such
45 degree of experience, and such general knowledge of the
46 building, safety, health and lien laws of the State and of the
47 rudimentary administrative principles of the contracting busi-
48 ness as the board deems necessary for the safety and pro-
49 tection of the public.

50 An applicant may qualify in regard to his experience and
51 knowledge in the following ways:

1 (a) If an individual, he may qualify by personal appear-
2 ance or by the appearance of his responsible managing
3 employee.

4 (b) If a copartnership, or corporation, or any other com-
5 bination or organization, it may qualify by the appearance
6 of the responsible managing officer or member of the per-
7 sonnel of such applicant firm.

8 If the individual qualifying by the examination of his
9 experience and knowledge ceases for any reason whatsoever,
10 to be connected with the licensee to whom the license is
11 issued, the licensee shall notify the registrar in writing within
12 ten days from such cessation. If a notice is given the license
13 shall remain in force for a reasonable length of time to be
14 determined by rules of the board.

15 If the licensee fails to notify the registrar within the ten-
16 day period, at the end of the period, his license shall be
17 ipso facto suspended. The license shall be reinstated upon
18 the filing of an affidavit, executed by the licensee or a member
19 of the licentiate firm and filed with the registrar, to the effect
20 that the person originally appearing for examination on
21 behalf of the licensee has been replaced by another
22 individual and that this individual has been qualified by
23 examination and that he has not had his license suspended
24 or revoked or that he has not been connected with a licensee
25 who has had his license suspended or revoked for reasons
26 that would preclude this individual from personally qualify-
27 ing as to the good character required of an applicant.

28 7069. An applicant shall possess good character. Lack
29 of character may be established by showing any of the fol-
30 lowing:

31 (a) That the applicant has committed or done any act
32 which, if committed or done by any licensed contractor, would
33 be grounds for the suspension or revocation of a contractor's
34 license.

35 (b) That the applicant has committed or done any act
36 involving dishonesty, fraud or deceit whereby the applicant
37 has been benefited or whereby some injury has been sustained
38 by another.

39 (c) That the applicant bears a bad reputation for honesty
40 and integrity.

41 (d) That the applicant has been convicted of a felony.

42 7070. An applicant shall show that he has never been
43 refused a license or had a license revoked for reasons that
44 would preclude the granting of the license applied for.

45 7071. No license shall be issued to a corporation, copart-
46 nership, or other combination or organization if any respon-
47 sible officer of such corporation, or other combination or
48 organization, or any member of such copartnership does not
49 meet the qualifications required of an applicant other than
50 those qualifications relating to knowledge and experience.

51 7072. Following receipt of the fee and an application
52 furnishing complete information in the manner required by

1 the registrar, and after such examination and investigation
2 as he may require, the registrar, within fifteen days after
3 approval of the application, shall issue a license to the appli-
4 cant permitting him to engage in business as a contractor
5 under the terms of this chapter for the balance of the
6 fiscal year.

7 7073. If information brought to the attention of the regis-
8 trar concerning the character and integrity of an applicant
9 is such that, in the registrar's discretion, it would be proper
10 to deny the application, the registrar shall forthwith notify
11 the applicant by registered mail, or by personal service, to
12 show cause within such time, not less than five days nor
13 more than thirty days, why the application should not be
14 denied.

15 7074. Licenses issued to applicants may be classified in
16 accordance with Article 4 as general engineering, general
17 building and specialty contracting.

18 The specialty contracting division may be further sub-
19 divided in accordance with established practices in the con-
20 struction industry.

21 7075. The license shall be signed by the licensee, shall be
22 nontransferable and shall be displayed in the licensee's main
23 office or chief place of business. Satisfactory evidence of the
24 possession of his license and the current annual renewal
25 thereof shall be exhibited by the licensee upon demand.

26 7076. A surviving member or members of a licensed
27 copartnership by reason of death shall be entitled to continue
28 in business under such license until the expiration date
29 thereof; if application for permission is made to the registrar
30 within thirty days after death of the member, and the appli-
31 cation is approved by the registrar in accordance with the
32 rules and regulations he may adopt.

33

34

Article 6. Records.

35

36 7080. The registrar shall maintain at the office of the
37 department in Sacramento, open to public inspection during
38 office hours, a complete, indexed record of all applications,
39 licenses issued, licenses renewed and all revocations, cancella-
40 tions and suspensions of licenses.

41 He shall furnish a certified copy of any license issued,
42 upon receipt of the sum of fifty cents.

43 The certified copy shall be received in all courts and else-
44 where as evidence of the facts stated therein.

45 7081. Whenever funds are available for the purpose, the
46 registrar shall publish a list of the names and addresses of
47 contractors, registered under this chapter and of the licenses
48 issued, suspended or revoked, and such further information
49 with respect to this chapter and its administration as he
50 deems proper.

51 He may furnish the lists to such public works and build-
52 ing departments, public officials or public bodies, and other

1 persons interested in or allied with the building and construc-
2 tion industry in this or any other State as he deems advis-
3 able and, at such intervals as he deems necessary whenever
4 funds are available.

5 Copies of the lists may also be furnished by the registrar
6 upon request to any firm or individual upon payment of a
7 reasonable fee fixed by the registrar.

8 7082. Whenever funds are available for the purpose, the
9 registrar may publish and disseminate to licentiates of the
10 board, and public officials or other persons interested in or
11 allied with the building and construction industry, such infor-
12 mation with relation to the administration and enforcement
13 of this chapter as he deems necessary to carry out its
14 purposes.

15 7083. All licensees shall report to the registrar all changes
16 of personnel, name style or addresses recorded under this
17 chapter within thirty days after the changes are made.

18 7084. The registrar, with the approval of the director may
19 adopt and promulgate the rules and regulations he deems
20 necessary to carry out the provisions of this article.

21
22 Article 7. Disciplinary Proceedings.

23
24 7090. The registrar may upon his own motion and shall
25 upon the verified complaint in writing of any person, investi-
26 gate the actions of any contractor within the State and may
27 temporarily suspend or permanently revoke any license if the
28 holder, while a licensee or applicant hereunder, is guilty of or
29 commits any one or more of the acts or omissions constituting
30 causes for disciplinary action.

31 7091. Upon the filing with the registrar of a verified com-
32 plaint charging a licensee with the commission of any act
33 constituting a cause for disciplinary action within two years
34 prior to the date of filing, the registrar shall forthwith issue
35 a citation.

36 The citation shall direct the licensee, within ten days after
37 service upon him, to appear by filing with the registrar his
38 verified answer to the complaint, showing cause, if any he
39 has, why his license should not be suspended or revoked.

40 The appearance of the licensee by the filing of an answer
41 may be waived by the complainant with the approval of the
42 registrar, in which case the registrar shall proceed to a
43 hearing.

44 Service upon the licensee shall be fully effected by mailing
45 a true copy of the citation together with a true copy of the
46 complaint, by United States registered mail in a sealed
47 envelope with postage fully prepaid thereon, addressed to the
48 licensee at his latest address of record in the registrar's
49 office. Service of the citation shall be complete at the time
50 of deposit in accordance with the provisions of the Code of
51 Civil Procedure relating to service by mail.

1 7092. Upon the filing of the answer, the registrar shall
2 fix a time and place for the hearing and give the licensee and
3 the complainant not less than five days' notice thereof.

4 The notice may be served by mailing a true copy by
5 United States registered mail in a sealed envelope with postage
6 fully prepaid thereon, addressed to the licensee and to the
7 complainant, respectively, at last known address of each.

8 With the notice to the complainant there shall be attached
9 or inclosed a copy of the answer.

10 If either party has appeared by counsel, the notice shall
11 be given in like manner, to counsel instead of to the party.

12 7093. Failure of the licensee to answer or to appear at the
13 hearing, after having been notified, may be deemed an admis-
14 sion by him of the commission of the act or acts charged
15 in the complaint and his license shall thereupon be suspended
16 forthwith pending any hearing of the cause which the regis-
17 trar in his discretion may order. The registrar may, in the
18 event of such failure to answer or to appear at the hearing
19 suspend or revoke the license without further evidence than
20 the verified complaint in the case.

21 7094. Upon the hearing, the registrar shall hear all rele-
22 vant and competent evidence material to the issues. He may
23 continue the hearing from time to time as in his judgment
24 may be necessary or proper.

25 After the hearing is concluded and the matter submitted,
26 the registrar shall, within twenty days after submission, ren-
27 der his decision in writing, suspending or revoking the license
28 or dismissing the complaint, with a brief statement of his
29 reasons therefor.

30 He shall give to the complainant and the licensee, or their
31 respective attorneys, notice of the decision, by mail, in the
32 same manner prescribed for the giving of notice of hearing.

33 7095. The decision may:

34 (a) Provide for the immediate complete suspension by
35 the licensee of all operations as a contractor during the period
36 fixed by the decision.

37 (b) Permit the licensee to complete any or all contracts
38 shown by competent evidence taken at the hearing to be then
39 uncompleted.

40 (c) Impose upon the licensee compliance with such specific
41 conditions as may be just in connection with his operations
42 as a contractor disclosed at the hearing and may further pro-
43 vide that until such conditions are complied with no applica-
44 tion for restoration of the suspended or revoked license shall
45 be accepted by the registrar.

46 7096. The decision of the registrar suspending or revoking
47 a license shall take effect immediately upon the service of the
48 notice of decision. The registrar may grant a stay of execu-
49 tion of the decision suspending or revoking a license, pend-
50 ing the filing by the licensee of an action in the courts regard-
51 ing the decision or an application to the registrar for a
52 rehearing.

1 7097. The licensee may within twenty days after the serv-
2 ice of notice of the decision of the registrar suspending or
3 revoking a license, apply for a rehearing by filing with the
4 registrar his petition in writing therefor. Within five days
5 after the filing of the petition, the registrar shall cause notice
6 thereof to be served upon the complainant by mailing a copy
7 of the petition for rehearing to the complainant in the same
8 manner prescribed for the notice of hearing.

9 Within a period of twenty days after the service of the
10 notice, the registrar shall either grant or deny the petition.
11 If the petition is not granted within the twenty-day period,
12 it shall be deemed denied.

13 In his formal order granting or denying a rehearing, the
14 registrar shall set forth a statement of the particular grounds
15 and reasons for his action on the petition and shall forthwith
16 mail a copy of the order to the parties who have appeared in
17 support of or in opposition to the petition for rehearing.

18 7098. If a rehearing is granted, the registrar shall vacate
19 the decision theretofore rendered suspending or revoking the
20 license and shall set the matter for further hearing on due
21 notice to the parties, given in the manner prescribed for the
22 giving of notice of an original hearing.

23 After submission of the matter upon rehearing, the regis-
24 trar shall promptly render his decision in writing and give
25 notice thereof in the manner prescribed for the giving of
26 notice of a decision rendered upon an original hearing.

27 7099. Any decision of the registrar, whether upon an orig-
28 inal hearing or after a rehearing shall be subject to review
29 by the superior court.

30 The party desiring a review of the decision of the registrar
31 shall file his petition therefor in the superior court within
32 twenty days after service upon him of the registrar's deci-
33 sion, or, in case a rehearing has been applied for, within
34 twenty days after service upon him of the order denying the
35 application therefor, or within twenty days after service upon
36 him of the registrar's decision upon rehearing.

37 7100. In any proceeding for review by a court, the court
38 may in its discretion, upon the filing of a proper bond by the
39 licensee in an amount to be fixed by the court, but not less
40 than one thousand dollars, guaranteeing the compliance by
41 the licensee with specific conditions imposed upon him by the
42 registrar's decision, if any, permit the licensee to continue to
43 do business as a contractor pending entry of judgment by
44 the court in the case.

45 The person desiring a review shall pay to the registrar the
46 sum of twenty cents for each one hundred words of the tran-
47 script of the record and proceedings certified to the reviewing
48 court.

49 7101. A judgment of suspension or cancellation of license
50 by the superior court shall be subject to appeal or review in
51 accordance with the provisions of law as to appeal from or
52 review of judgments of superior courts.

1 There shall be no stay of execution or enforcement of the
2 judgment pending such proceedings on appeal or review unless
3 the appellant or applicant for review shall file a bond in all
4 respects conditioned as, and similar to, the bond required to
5 stay the effect of the registrar's decision in the first instance.

6 The clerk of the court whose judgment has become final
7 shall, within ten days after its entry, transmit, by United
8 States mail, to the registrar, a notice containing information
9 as to the affirmance, modification or reversal of the judgment
10 of the superior court in the matter.

11 7102. After suspension of the license upon any of the
12 grounds set forth in this article, the registrar may renew
13 the license upon proof of compliance by the contractor with
14 all provisions of the decision as to renewal or, in the absence
15 of such decision or any provisions therein as to renewal, in
16 the sound discretion of the registrar.

17 After revocation of a license upon any of the grounds set
18 forth in this article, the license shall not be renewed or re-
19 issued within a period of one year after the final decision of
20 revocation and then only on proper showing that all loss
21 caused by the act or omission for which the license was
22 revoked has been fully satisfied and that all conditions
23 imposed by the decision of revocation have been complied
24 with.

25 7103. At any time before a case is finally submitted to the
26 registrar for decision, whether upon an original hearing, or
27 upon a rehearing, a complaint or answer may upon the motion
28 of either party and with the consent of the registrar, or upon
29 the registrar's own motion be amended. If new charges are
30 alleged in an amended complaint, the defendant may, upon
31 request, be allowed ten days to prepare his defense to such
32 new charges.

33 7104. Any citation, notice or other process or any paper
34 or document required by this article to be served on any party
35 may be personally served as provided in section 1011 of the
36 Code of Civil Procedure with the same effect as if served by
37 mail in the manner provided in this chapter.

38 7105. In any investigation, proceeding or hearing which
39 the registrar is empowered to institute, conduct or hold, the
40 registrar, or any subordinate authorized by him to conduct
41 such investigation, proceeding, or hearing, may administer
42 oaths, certify to official acts, issue subpoenas for the attend-
43 ance of witnesses and the production of books, papers, and
44 records, and exercise all of the powers conferred upon the
45 head of a department by the provisions of section 353 of the
46 Political Code. All of the provisions of that section are incor-
47 porated herein with the same force and effect as if herein set
48 forth at length and wherever in that section "head of a depart-
49 ment" or similar designation occurs, the same, for the purpose
50 of this reference, means the registrar of contractors and such
51 subordinate.

1 7106. The suspension or revocation of license as in this
2 chapter provided may also be embraced in any action other-
3 wise proper in any court involving the licensee's perform-
4 ance of his legal obligation as a contractor.

5 7107. Abandonment without legal excuse of any construc-
6 tion project or operation engaged in or undertaken by the
7 licensee as a contractor constitutes a cause for disciplinary
8 action.

9 7108. Diversion of funds or property received for prose-
10 cution or completion of a specific construction project or oper-
11 ation, or for a specified purpose in the prosecution or
12 completion of any construction project or operation, and their
13 application or use for any other construction project or oper-
14 ation, obligation or purpose constitutes a cause for disci-
15 plinary action.

16 7109. Wilful departure from or disregard of, plans or
17 specifications in any material respect, and prejudicial to
18 another without consent of the owner or his duly authorized
19 representative, and without the consent of the person entitled
20 to have the particular construction project or operation com-
21 pleted in accordance with such plans and specifications con-
22 stitutes a cause for disciplinary action.

23 7110. Wilful or deliberate disregard and violation of the
24 building laws of the State, or of any political subdivision
25 thereof, or of the safety laws or labor laws, or compensation
26 insurance laws of the State constitutes a cause for discipli-
27 nary action.

28 7111. Failure to make and keep records showing all con-
29 tracts, documents, records, receipts and disbursements by a
30 licensee of all of his transactions as a contractor and open to
31 inspection by the registrar for a period of not less than three
32 years after completion of any construction project or opera-
33 tion to which the records refer constitutes a cause for dis-
34 ciplinary action.

35 7112. Misrepresentation of a material fact by an appli-
36 cant in obtaining a license constitutes a cause for disciplinary
37 action.

38 7113. Failure in a material respect on the part of a
39 licensee to complete any construction project or operation for
40 the price stated in the contract for such construction project
41 or operation or in any modification of such contract consti-
42 tutes a cause for disciplinary action.

43 7114. Aiding or abetting an unlicensed person to evade
44 the provisions of this chapter or knowingly combining or con-
45 spiring with an unlicensed person, or allowing one's license to
46 be used by an unlicensed person, or allowing one's license to
47 be used by an unlicensed person, or acting as agent or part-
48 ner or associate, or otherwise, of an unlicensed person with the
49 intent to evade the provisions of this chapter constitutes a
50 cause for disciplinary action.

51 7115. Failure in any material respect to comply with the
52 provisions of this chapter constitutes a cause for disciplinary
53 action.

1 7116. The doing of any wilful or fraudulent act by the
2 licensee as a contractor in consequence of which another is
3 substantially injured constitutes a cause for disciplinary
4 action.

5 7117. Acting in the capacity of a contractor under any
6 license issued hereunder except: (a) in the name of the
7 licensee as set forth upon the license, or (b) in accordance
8 with the personnel of the licensee as set forth in the appli-
9 cation for such license, or as later changed as provided in
10 this chapter, constitutes a cause for disciplinary action.

11 7118. Knowingly entering into a contract with a contrac-
12 tor while such contractor is not licensed as provided in this
13 chapter constitutes a cause for disciplinary action.

14 7119. Wilful failure or refusal without legal excuse on
15 the part of a licensee as a contractor to prosecute a construc-
16 tion project or operation with reasonable diligence causing
17 material injury to another constitutes a cause for disciplinary
18 action.

19 7120. Wilful or deliberate failure by any licensee or agent
20 or officer thereof, to pay any moneys, when due for any
21 materials or services rendered in connection with his opera-
22 tions as a contractor, when he has the capacity to pay or
23 when he has received sufficient funds therefor as payment for
24 the particular construction work, project, or operation for
25 which the services or materials were rendered or purchased
26 constitutes a cause for disciplinary action, as does the false
27 denial of any such amount due or the validity of the claim
28 thereof with intent to secure for himself, his employer, or
29 other person, any discount upon such indebtedness or with
30 intent to hinder, delay, or defraud the person to whom such
31 indebtedness is due.

32
33 Article 8. Revenue.
34

35 7135. The fees received under this chapter shall be deposi-
36 ted in the contractors' license fund. All moneys in the fund
37 are hereby appropriated for the purposes of this chapter.

38 7136. The director shall designate a sum not to exceed
39 ten per cent of the total income of the Contractors' License
40 Board for each fiscal year to be transferred to the professional
41 and vocational standards fund as the board's share of the
42 cost of administration of the department.

43 7137. All licenses issued under the provisions of this chap-
44 ter shall expire on June thirtieth of each year.

45 Application for renewal of a current license at any time
46 before June thirtieth of any year authorizes operation as a
47 contractor by the licensee until the actual issuance of the
48 renewal license for the ensuing fiscal year.

49 In making an application for renewal of a license, the
50 licensee applicant shall not be required to take any other or
51 further examination to obtain a renewal license, if he has
52 not been suspended or his license lapsed for any cause, for

1 a period of one year or more, at the time of making such
2 application.

3 7138. All applications for renewal of a license shall be
4 accompanied by the annual renewal fee and shall be filed with
5 the registrar not later than June thirtieth of each year; other-
6 wise, licenses, applications for renewal of which have not been
7 so filed, shall be ipso facto suspended and shall be renewable
8 only on the payment of the penalty fixed by this chapter in
9 addition to the current renewal fee. Unless so renewed the
10 license shall remain suspended during the remainder of the
11 fiscal year.

12 After a license has been suspended as provided in this sec-
13 tion for the period of one or more fiscal years, the new appli-
14 cation for a license shall be made and the new license issued
15 only in accordance with the provisions of Article 5 of this
16 chapter.

17 7139. The amount of the fees prescribed by this chapter
18 is that fixed by the following schedule:

19 (a) The application fee for an original license is ten dollars.

20 (b) The annual renewal fee is five dollars.

21 (c) The penalty for failure to apply for a renewal of a
22 license is five dollars.

23 SEC. 2. Section 30016 is hereby added to Division XXX
24 of the Business and Professions Code to read as follows:

25 30016. An act entitled "An act providing for the registra-
26 tion of contractors, and defining the term contractor; provid-
27 ing the method of obtaining licenses to engage in the business
28 of contracting, and fixing the fees for such licenses; providing
29 the method of suspension and cancellation of such licenses; and
30 prescribing the punishment for violation of the provisions of
31 this act," approved June 13, 1929, together with all acts
32 amendatory thereof and supplementary thereto, is hereby
33 repealed.



New question confirmation

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Your query, request, comment or information has been logged with our service and will be addressed by the next available staff member. It has been assigned the number ASKCSL28924. Please record this number for future reference.

Question summary

- request ASKCSL28924
- Your question Hello. I am trying to locate Governor Gary Davis' approval of Assembly Bill 678 (2001) which was an amendment to Business and Profession Code §7031, adding subsection (b). The State Archives does not have it and the current governors office does not maintain records from previous administrations. Could you please determine if you have it? Also, I am interested to see if you have different legislative records for Assembly Bill 678 (2001) than those I've received from the State Archives. Are you able to share which documents you have?

Thank you kindly for your diligence and help.
- Received date 1/27/2020 08:26 AM
- Email address abereki@gmail.com [Is this email address correct?](#) If not please use [Check existing question](#) to correct it.

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Adam Bereki <abereki@gmail.com>

ASKCSL28924 Query about your Ask Us a Question

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Reply-To: California State Library <reftracker@library.ca.gov>
To: abereki@gmail.com

Mon, Jan 27, 2020 at 9:53 AM

PLEASE DO NOT REPLY TO THIS **QUERY** EMAILQuery about your request: **ASKCSL28924**

California State Library

We cannot proceed with your Ask Us a Question request until you respond to our query below.

Our query is:

Hello, Adam,

Thank you for your inquiry. I wanted to get some clarification on exactly what you are looking for. In regard to AB 678 (2001) are you looking for a specific document related to Gray Davis' approval? Typically, the State Archives has the actual signed version of the bill, and sometimes additional information, in their Governor's Chaptered Bill Files. The information that the library collects is generally represented by what can be found online through the California Legislative Information page here.

While this bill was approved by the Governor on 9/1/01, there is no corresponding message (as there sometimes is with a veto) found in the Assembly Journals. It may be that there is no corresponding message in regards to the signing, which is not uncommon, but if you have a citation or reference to it, please let me know and I will be happy to look into it further.

[Click here to respond to this query now](#)

This query is in relation to your request: [ASKCSL28924](#)

Your question:

Hello. I am trying to locate Governor Gary Davis' approval of Assembly Bill 678 (2001) which was an amendment to Business and Profession Code §7031, adding subsection (b). The State Archives does not have it and the current governors office does not maintain records from previous administrations. Could you please determine if you have it? Also, I am interested to see if you have different legislative records for Assembly Bill 678 (2001) than those I've received from the State Archives. Are you able to share which documents you have?

Thank you kindly for your diligence and help.

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AB-678 Contractors. (2001-2002)

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Assembly Bill No. 678

CHAPTER 226

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

[Filed with Secretary of State September 04, 2001. Approved by Governor September 01, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 678, Papan. Contractors.

Existing law prohibits any unlicensed contractor from bringing or maintaining an action to recover compensation in any court in this state.

This bill would authorize a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) A person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a

license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing herein shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) did not know or reasonably should not have known that he or she was not duly licensed. Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.



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AB-678 Contractors. (2001-2002)

| Bill Votes | |
|-------------------|---|
| Date | 08/20/01 |
| Result | (PASS) |
| Location | Assembly Floor |
| Ayes Count | 57 |
| Noes Count | 10 |
| NVR Count | 13 |
| Motion | AB 678 Papan Concurrence in Senate Amendments |
| Ayes | Alquist, Aroner, Bates, Bogh, Briggs, Calderon, Canciamilla, Cardoza, Cedillo, Chan, Chavez, Chu, Cohn, Corbett, Correa, Cox, Diaz, Dickerson, Dutra, Frommer, Goldberg, Harman, Havice, Jackson, Keeley, Kehoe, Kelley, Koretz, Leach, Leslie, Liu, Longville, Lowenthal, Maddox, Maldonado, Matthews, Nakano, Negrete McLeod, Oropeza, Rod Pacheco, Papan, Pavley, Reyes, Richman, Salinas, Shelley, Steinberg, Strickland, Strom-Martin, Vargas, Washington, Wayne, Wesson, Wiggins, Wright, Zettel, Hertzberg |
| Noes | Aanestad, Ashburn, Bill Campbell, John Campbell, Cogdill, Daucher, Hollingsworth, Mountjoy, Runner, Wyman |
| NVR | Cardenas, Firebaugh, Florez, Horton, La Suer, Leonard, Migden, Nation, Robert Pacheco, Pescetti, Simitian, Thomson, Wyland |

| Bill Votes | |
|-------------------|---|
| Date | 07/20/01 |
| Result | (PASS) |
| Location | Senate Floor |
| Ayes Count | 23 |
| Noes Count | 10 |
| NVR Count | 0 |
| Motion | Assembly 3rd Reading AB678 Papan By Kuehl |
| Ayes | Alarcon, Alpert, Burton, Chesbro, Costa, Dunn, Escutia, Figueroa, Karnette, Kuehl, Machado, Morrow, Murray, O'Connell, Ortiz, Perata, Polanco, Romero, Soto, Speier, Torlakson, Vasconcellos, Vincent |
| Noes | Ackerman, Battin, Brulte, Haynes, Johnson, Margett, McClintock, Monteith, Oller, Poochigian |
| NVR | |

| Bill Votes | |
|-------------------|--|
| Date | 06/25/01 |
| Result | (PASS) |
| Location | Sen Business, Professions and Economic Development |
| Ayes Count | 6 |
| Noes Count | 0 |
| NVR Count | 0 |
| Motion | Do pass as amended, and re-refer to the Committee on Appropriations. |
| Ayes | Figueroa, Johannessen, Machado, Morrow, O'Connell, Polanco |
| Noes | |
| NVR | |

| Bill Votes | |
|-------------------|--|
| Date | |
| Result | |
| Location | |
| Ayes Count | |
| Noes Count | |
| NVR Count | |
| Motion | |
| Ayes | |
| Noes | |
| NVR | |

| | |
|-------------------|---|
| Date | 05/14/01 |
| Result | (PASS) |
| Location | Assembly Floor |
| Ayes Count | 69 |
| Noes Count | 2 |
| NVR Count | 8 |
| Motion | AB 678 Papan Assembly Third Reading |
| Ayes | Aanestad, Alquist, Aroner, Bates, Bogh, Briggs, Calderon, Bill Campbell, John Campbell, Canciamilla, Cardenas, Cardoza, Cedillo, Chan, Chavez, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Florez, Frommer, Goldberg, Harman, Havice, Horton, Keeley, Kehoe, Kelley, Koretz, Leach, Leonard, Leslie, Liu, Longville, Lowenthal, Maddox, Maldonado, Matthews, Migden, Nakano, Nation, Negrete McLeod, Oropeza, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wesson, Wiggins, Wright, Zettel, Hertzberg |
| Noes | Hollingsworth, Mountjoy |
| NVR | Ashburn, Jackson, La Suer, Robert Pacheco, Rod Pacheco, Simitian, Wyland, Wyman |

| | |
|-------------------|--|
| Bill Votes | |
| Date | 05/08/01 |
| Result | (PASS) |
| Location | Asm Business and Professions |
| Ayes Count | 10 |
| Noes Count | 0 |
| NVR Count | 2 |
| Motion | Do pass. |
| Ayes | Bogh, Cardoza, Cedillo, Chavez, Corbett, Correa, Kelley, Leach, Nation, Wesson |
| Noes | |
| NVR | John Campbell, Koretz |

| | |
|-------------------|---|
| Bill Votes | |
| Date | 04/24/01 |
| Result | (PASS) |
| Location | Asm Judiciary |
| Ayes Count | 8 |
| Noes Count | 0 |
| NVR Count | 2 |
| Motion | Do pass as amended and be re-referred to the Committee on Business and Professions. |
| Ayes | Bates, Corbett, Dutra, Harman, Longville, Shelley, Steinberg, Wayne |
| Noes | |
| NVR | Jackson, Robert Pacheco |



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AB-678 Contractors. (2001-2002)

| Date | Action |
|----------|--|
| 09/04/01 | Chaptered by Secretary of State - Chapter 226, Statutes of 2001. |
| 09/01/01 | Approved by the Governor. |
| 08/24/01 | Enrolled and to the Governor at 4 p.m. |
| 08/20/01 | Senate amendments concurred in. To enrollment. (Ayes 57. Noes 10. Page 3065.) |
| 07/20/01 | Read third time, passed, and to Assembly. (Ayes 23. Noes 10. Page 2136.) |
| 07/20/01 | In Assembly. Concurrence in Senate amendments pending. May be considered on or after July 22 pursuant to Assembly Rule 77. |
| 07/17/01 | From committee: Be placed on second reading file pursuant to Senate Rule 28.8. |
| 07/17/01 | Read second time. To third reading. |
| 07/03/01 | Read second time, amended, and re-referred to Com. on APPR. |
| 07/02/01 | From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 6. Noes 0.) |
| 05/21/01 | Referred to Com. on B. & P. |
| 05/14/01 | Read third time, passed, and to Senate. (Ayes 69. Noes 2. Page 1595.) |
| 05/14/01 | In Senate. Read first time. To Com. on RLS. for assignment. |
| 05/10/01 | Read second time. To third reading. |
| 05/09/01 | From committee: Do pass. (Ayes 10. Noes 0.) (May 8). |
| 05/02/01 | Re-referred to Com. on B. & P. |
| 05/01/01 | Read second time and amended. |
| 04/30/01 | From committee: Amend, do pass as amended, and re-refer to Com. on B. & P. (Ayes 8. Noes 0.) (April 24). |
| 03/12/01 | Referred to Coms. on JUD. and B. & P. |
| 02/23/01 | From printer. May be heard in committee March 25. |
| 02/22/01 | Read first time. To print. |

BILL ANALYSIS

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CONCURRENCE IN SENATE AMENDMENTS

AB 678 (Papan)
As Amended July 3, 2001
Majority vote
-

| | | | | | |
|-----------|------|----------------|---------|-------|-----------------|
| ASSEMBLY: | 69-2 | (May 14, 2001) | SENATE: | 23-10 | (July 20, 2001) |
|-----------|------|----------------|---------|-------|-----------------|

Original Committee Reference: JUD.

SUMMARY : Seeks to authorize persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract. _

The Senate amendments delete language providing that, in the above situation, a person may not recover compensation paid if the person knew that the contractor was unlicensed prior to making any payments to the contractor. _

EXISTING LAW :

- 1) Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual.
- 2) Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total price of the job is \$500 or more and provides that contracting without a license shall be a misdemeanor.

AS PASSED BY THE ASSEMBLY , this bill provided that a person using the services of an unlicensed contractor may not recover compensation paid if the person knew that the contractor was unlicensed prior to making any payments to the contractor.

FISCAL EFFECT : None

COMMENTS : This bill, sponsored by Judge Quentin Kopp, would specifically allow an individual who had used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for

AB 678
Page 2

performance of any act or contract. In commenting on the need for this bill, the author states:

Our state's policy since 1939 reflects in Section 7031 of the Business and Professions Code the intent of the Legislature that the public be protected from unqualified contractors. Since 1939, a contractor must be licensed by the state in order to recover the value of services rendered with or without a written contract. Licensing requirements provide minimal assurance that all persons furnishing construction services in our state possess the requisite skill and character, understand pertinent local laws and codes, and know the rudiments of administering a contracting business. The Legislature had determined that the importance of deterring unlicensed persons from engaging in the building or contracting business outweighs any harshness to an unlicensed party who provides services and then cannot collect compensation.

According to the sponsor, this bill is intended to address the recent case of Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, in which the court, in an unpublished portion of the opinion, referred to the Business and Professions Code, Section 7031(a) prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid to the contractor. Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court

permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise be due Cizek under his contract." This bill is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

Amendments taken in the Senate remove language which provided that a person using the services of an unlicensed contractor may not recover compensation paid if the person knew that the contractor was unlicensed prior to making any payments to the contractor. The Senate deleted this language in order to more strongly encourage contractors to become licensed.

Analysis Prepared by : Saskia Kim / JUD. / (916) 319-2334

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FN: 0002130

BILL ANALYSIS

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| SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 445-6614 Fax: (916) 327-4478 | AB 678 |
|--|--------|

THIRD READING

Bill No: AB 678
 Author: Papan (D)
 Amended: 7/3/01 in Senate
 Vote: 21

SENATE BUSINESS & PROFESSIONS COMMITTEE : 6-0, 6/25/01
 AYES: Figueroa, Johannessen, Machado, Morrow, O'Connell,
 Polanco

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

ASSEMBLY FLOOR : 69-2, 5/14/01 - See last page for vote

SUBJECT : Unlicensed contractors

SOURCE : Judge Quentin L. Kopp

DIGEST : This bill allows individuals who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

ANALYSIS : Existing law:

- 1.Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total price of the job is \$500 or more.
- 2.Provides that contracting without a license shall be a misdemeanor.

CONTINUED

AB 678

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- 3.Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract.

This bill authorizes persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

Comments

Purpose . According to the sponsor, Judge Quentin Kopp, this bill is intended to further encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract. The sponsor believes that permitting recovery of compensation paid to the unlicensed contractor will strengthen the law "in a way which criminal sanctions and enforcement do not seem to do."

Background . In a recent case, Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, the court referenced Business and Professions Code Section 7031(a) as prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid

to the contractor.

Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise be due Cizek under his contract." This bill is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

SUPPORT : (7/17/01)

Judge Quentin L. Kopp (source)

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California Landscape Contractors Association
Construction Industry Legislative Council

Support with amendments

American Fence Contractors' Association, California Chapter
California Fence Contractors' Association
Engineering Contractors' Association
Flasher/Barricade Association

ARGUMENTS IN SUPPORT : The sponsor asserts the Legislature has intended that the public be protected from unqualified contractors by requiring that all contractors be licensed. In order to ensure this requirement is met, current law specifically prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. This bill is, according to the sponsor, "not only consistent with the historical policy of our state but strengthens that policy substantially."

According to the Senate Business and Professions Committee analysis, concern has been voiced that this bill could cause problems for the legitimate contractors in California. The concern deals with the issue of incidental/supplemental work.

ASSEMBLY FLOOR

AYES: Aanestad, Alquist, Aroner, Bates, Bogh, Briggs, Calderon, Bill Campbell, John Campbell, Canciamilla, Cardenas, Cardoza, Cedillo, Chan, Chavez, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Florez, Frommer, Goldberg, Harman, Havice, Horton, Keeley, Kehoe, Kelley, Koretz, Leach, Leonard, Leslie, Liu, Longville, Lowenthal, Maddox, Maldonado, Matthews, Migden, Nakano, Nation, Negrete McLeod, Oropeza, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wesson, Wiggins, Wright, Zettel, Hertzberg
NOES: Hollingsworth, Mountjoy

CP:kb 7/17/01 Senate Floor Analyses

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SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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|SENATE RULES COMMITTEE |                | AB 678 |
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|327-4478 |          |
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THIRD READING

Bill No: AB 678
 Author: Papan (D)
 Amended: 7/3/01 in Senate
 Vote: 21

SENATE BUSINESS & PROFESSIONS COMMITTEE : 6-0, 6/25/01
 AYES: Figueroa, Johannessen, Machado, Morrow, O'Connell,
 Polanco

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

ASSEMBLY FLOOR : 69-2, 5/14/01 - See last page for vote

SUBJECT : Unlicensed contractors

SOURCE : Judge Quentin L. Kopp

DIGEST : This bill allows individuals who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

ANALYSIS : Existing law:

- 1.Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total price of the job is \$500 or more.
- 2.Provides that contracting without a license shall be a misdemeanor.

CONTINUED

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- 3.Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract.

This bill authorizes persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

Comments

Purpose . According to the sponsor, Judge Quentin Kopp, this bill is intended to further encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract. The sponsor believes that permitting recovery of compensation paid to the unlicensed contractor will strengthen the law "in a way which criminal sanctions and enforcement do not seem to do."

Background . In a recent case, Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, the court referenced Business and Professions Code Section 7031(a) as prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid

to the contractor.

Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise be due Cizek under his contract." This bill is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

SUPPORT : (Unable to verify support and opposition at time of this writing.)

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Judge Quentin L. Kopp (source)
California Landscape Contractors Association
Construction Industry Legislative Council

Support with amendments

American Fence Contractors' Association, California Chapter
California Fence Contractors' Association
Engineering Contractors' Association
Flasher/Barricade Association

ARGUMENTS IN SUPPORT : The sponsor asserts the Legislature has intended that the public be protected from unqualified contractors by requiring that all contractors be licensed. In order to ensure this requirement is met, current law specifically prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. This bill is, according to the sponsor, "not only consistent with the historical policy of our state but strengthens that policy substantially."

According to the Senate Business and Professions Committee analysis, concern has been voiced that this bill could cause problems for the legitimate contractors in California. The concern deals with the issue of incidental/supplemental work.

ASSEMBLY FLOOR

AYES: Aanestad, Alquist, Aroner, Bates, Bogh, Briggs, Calderon, Bill Campbell, John Campbell, Canciamilla, Cardenas, Cardoza, Cedillo, Chan, Chavez, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Florez, Frommer, Goldberg, Harman, Havice, Horton, Keeley, Kehoe, Kelley, Koretz, Leach, Leonard, Leslie, Liu, Longville, Lowenthal, Maddox, Maldonado, Matthews, Migden, Nakano, Nation, Negrete McLeod, Oropeza, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wesson, Wiggins, Wright, Zettel, Hertzberg
NOES: Hollingsworth, Mountjoy

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CP:kb 7/17/01 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

BILL ANALYSIS

| | |
|-----------------------------|--------------------|
| Hearing Date: June 25, 2001 | Bill No: AB 678 |
|-----------------------------|--------------------|

SENATE COMMITTEE ON BUSINESS AND PROFESSIONS
Senator Liz Figueroa, Chair

Bill No: AB 678 Author: Papan
As Amended: May 1, 2001 Fiscal: Yes

SUBJECT: Unlicensed contractors.

SUMMARY: Allows individuals who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

Existing law:

- 1) Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total price of the job is \$500 or more.
- 2) Provides that contracting without a license shall be a misdemeanor.
- 3) Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract.

This bill:

- 1) Authorizes persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract.
- 2) Specifies that this authorization is not applicable when the person who used the services of an unlicensed contractor knew that the contractor was unlicensed prior

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Page 2

to the time that any payments are made.

FISCAL EFFECT: None

COMMENTS:

1. Purpose. According to the sponsor, Judge Quentin Kopp, this bill is intended to further encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract. The sponsor believes that permitting recovery of compensation paid to the unlicensed contractor would strengthen the law "in a way which criminal sanctions and enforcement do not seem to do."

2. Background. In a recent case, Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, the court referenced Business and Professions Code Section 7031(a) as prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid to the contractor.

Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the

plaintiffs any amounts that would otherwise be due Cizek under his contract." This measure is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

3.Arguments in Support. The sponsor asserts that the Legislature has intended that the public be protected from unqualified contractors by requiring that all contractors be licensed. In order to ensure that this requirement is met, current law specifically prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. This bill is, according to the sponsor, "not only consistent with the historical

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Page 3

policy of our state but strengthens that policy substantially."

4.Requested Amendments. The Committee has been contacted to raise a concern that this "well-intentioned" bill could cause problems for the legitimate contractors in California. The concern deals with the issue of incidental/supplemental work. Due to the late timing of this concern, this issue is being discussed with the author and sponsor and should be addressed in committee.

SUPPORT AND OPPOSITION:

Support: Judge Quentin L. Kopp (sponsor)
California Landscape Contractors Association
Construction Industry Legislative Council

Support with Amendments:

American Fence Contractors' Association,
California Chapter
California Fence Contractors' Association
Engineering Contractors' Association
Flasher/Barricade Association

Opposition: None on file

Consultant:Robin Hartley

ASSEMBLY THIRD READING
AB 678 (Papan)
As Amended May 1, 2001
Majority vote

JUDICIARY 8 -0 BUSINESS & PROFESSIONS
10-0

| | |
|---|---|
| Ayes: Steinberg, Bates, Corbett, Dutra, Harman, Longville, Shelley, Wayne | Ayes: Correa, Bogh, Cedillo, Chavez, Corbett, Kelley, Leach, Cardoza, Nation, Wesson |
|---|---|

SUMMARY : Seeks to authorize persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract unless the person knew that the contractor was unlicensed prior to making any payments to the contractor. _

EXISTING LAW :

- 1) Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual.
- 2) Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total price of the job is \$500 or more and provides that contracting without a license shall be a misdemeanor.

FISCAL EFFECT : None

COMMENTS : This bill, sponsored by Judge Quentin Kopp, would specifically allow an individual who had used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract, unless the person knew that the contractor was unlicensed prior to making any payments to the contractor. In commenting on the need for this bill, the author states:

Our state's policy since 1939 reflects in Section 7031 of the Business and Professions Code the intent of the Legislature that the public be protected from unqualified contractors. Since 1939, a contractor must be licensed by the state in order to recover the value of services rendered with or without a written contract. Licensing requirements provide minimal assurance that all persons furnishing construction services in our state possess the requisite skill and character, understand pertinent local laws and codes, and know the rudiments of administering a contracting business. The Legislature had determined that the importance of deterring unlicensed persons from engaging in the building or contracting business outweighs any harshness to an unlicensed party who provides services and then cannot collect compensation.

According to the sponsor, this bill is intended to address the recent case of Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, in which the court, in an unpublished portion of the opinion, referred to the Business and Professions Code, Section 7031(a) prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid to the contractor. Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise

be due Cizek under his contract." This bill is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

The sponsor further explains the purpose of this bill, stating:

Section 7031(a) of [the Business and Professions] code requires any contractor suing for money due on a construction contract to allege that he or she was a duly licensed contractor at all times during performance of the work or contract. In AB No. 678, the question has been raised as to whether a person for whom work was performed by an unlicensed contractor would be entitled to recover compensation paid the unlicensed contractor if the person receiving the services knew the contractor was unlicensed. By a parity of reasoning from the state of the law respecting Section 7031(a), knowledge of the status of an

AB 678

Page 3

unlicensed contractor is irrelevant to the recovery of compensation from the unlicensed contractor. California courts have unmistakably ruled that in any action by an unlicensed contractor to recover for the value of a contractor's services rendered or contractual provision, the unlicensed contractor cannot recover money even if the person for whom the work was performed knew the contractor was unlicensed. Hydrotech Systems, Ltd. v. Oasis Waterpark (1991) 52 Cal. 3d 988, 997-998; Vallejo Development Co. v. Beck Development Co., Inc. (1994) 24 Cal. App. 4th 929, 941; see also Pickens v. American Mortgage Exchange (1969) 269 Cal. App. 2d 299, 302 and Cash v. Blackett (1948) 87 Cal. App. 2d 233. ?

AB No. 678 constitutes an additional and consistent legislative determination that such deterrence can best be realized by compelling violators to return all compensation received from providing their unlicensed services. That rationale is reflected in the judicial decisions involving rejected attempts by unlicensed contractors to obtain payment based on knowledge of their unlicensed status by persons sued for non-payment of services rendered. That policy is furthered in AB No. 678 by specifically recognizing the capacity of an owner to recover money already paid an unlicensed contractor, even if the person knew the contractor was unlicensed. (Emphasis in original.)

Analysis Prepared by : Saskia Kim / JUD. / (916) 319-2334

FN: 0000626

BILL ANALYSIS

AB 678
Page 1

Date of Hearing: May 8, 2001

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Lou Correa, Chair
AB 678 (Papan) - As Amended: May 1, 2001

SUBJECT : Unlicensed contractors.

SUMMARY : Authorizes persons who use the services of an unlicensed contractor to bring an action in court to recover all compensation paid to the unlicensed contractor for performance of any act or contract. However, this authorization does not apply when the person who used the services of an unlicensed contractor knew that the contractor was unlicensed prior to the time that any payments are made. _

EXISTING LAW

- 1) Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. (Business and Professions Code section 7031. All further statutory references are to this code.)
- 2) Requires anyone who contracts to do construction work to be licensed by the Contractors State License Board if the total price of the job is \$500 or more and provides that contracting without a license shall be a misdemeanor. (Sections 7048 and 7028.)

FISCAL EFFECT : Unknown. The bill is not keyed fiscal.

COMMENTS :

Purpose of the Bill . The bill allows individuals who use the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor. According to the author, the bill is intended to further encourage unlicensed contractors to become licensed, consistent with existing law.

The bill is sponsored by San Mateo County Superior Court Judge Quentin Kopp. In commenting on the need for the measure, the sponsor states:

AB 678
Page 2

Our state's policy since 1939 reflects in Section 7031 of the Business and Professions Code the intent of the Legislature that the public be protected from unqualified contractors. Since 1939, a contractor must be licensed by the state in order to recover the value of services rendered with or without a written contract. Licensing requirements provide minimal assurance that all persons furnishing construction services in our state possess the requisite skill and character, understand pertinent local laws and codes, and know the rudiments of administering a contracting business. The Legislature had determined that the importance of deterring unlicensed persons from engaging in the building or contracting business outweighs any harshness to an unlicensed party who provides services and then cannot collect compensation.

According to the sponsor, the bill is intended to address the recent case of Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, in which the court, in an unpublished portion of the opinion, referred to Section 7031(a) prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid to the contractor. Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise be due Cizek under his contract."

This measure is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

Unjust Enrichment . According to the author, the bill is intended to protect the public and encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract.

Under the bill, individuals may bring such an action even if the contractor has fully performed. In that case, those using the unlicensed contractor have not been harmed in any way, but are nevertheless authorized to sue to recover compensation paid. As a result, those using unlicensed contractors are arguably unjustly enriched because they are able to reap the benefits of

AB 678

Page 3

the work done by the unlicensed contractor and are then authorized by statute to sue to recover from the contractor all compensation paid.

On the other hand, the author argues that the Legislature has intended that the public be protected from unqualified contractors by requiring that all contractors be licensed. In order to ensure that this requirement is met, current law specifically prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. In Hydrotech Systems, Ltd. v. Waterpark , supra., the court stated "Again, the Legislature recently underscored its insistence on a strict application of section 7031 despite the balance of equities. The 1989 amendments make clear that an unlicensed contractor may not recover either 'in law or equity,' and that suit is barred 'regardless of the merits of the cause of action ?'" As a result, the sponsor notes, the measure "is not only consistent with the historical policy of our state but strengthens that policy substantially."

REGISTERED SUPPORT / OPPOSITION :

Support

Judge Quentin Kopp (Sponsor)

Opposition

None on file.

Analysis Prepared by : Jay Greenwood / B. & P. / (916)
319-3301

BILL ANALYSIS

AB 678
Page 1

Date of Hearing: April 24, 2001

ASSEMBLY COMMITTEE ON JUDICIARY
Darrell Steinberg, Chair
AB 678 (Papan) - As Introduced: February 22, 2001

SUBJECT : UNLICENSED CONTRACTORS

KEY ISSUE : SHOULD AN INDIVIDUAL WHO USES THE SERVICES OF AN UNLICENSED CONTRACTOR BE SPECIFICALLY AUTHORIZED TO BRING AN ACTION TO RECOVER FEES ALREADY PAID TO THE UNLICENSED CONTRACTOR EVEN THOUGH THE CONTRACTOR HAS FULLY PERFORMED AND THE INDIVIDUAL MAY KNOW THE CONTRACTOR IS UNLICENSED?

SYNOPSIS

This Measure Allows Individuals Who Use The Services Of An Unlicensed Contractor To Bring An Action To Recover All Compensation Already Paid To The Unlicensed Contractor. According To The Author, The Measure Is Intended To Further Encourage Unlicensed Contractors To Become Licensed, Consistent With Existing Law. However, The Measure Arguably Allows Individuals Who Use Unlicensed Contractors To Be Unjustly Enriched By Permitting Them To Recover Compensation Already Paid Despite The Fact That The Contractor Has Fully Performed And Despite Knowing That The Contractor Is Unlicensed. An Author's Amendment To Address This Concern Is Contained In The Analysis.

SUMMARY : Seeks to authorize persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract. _

EXISTING LAW :

- 1) Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. (Business and Professions Code section 7031. All further statutory references are to this code.)
- 2) Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total

AB 678
Page 2

price of the job is \$500 or more and provides that contracting without a license shall be a misdemeanor. (Sections 7048 and 7028.)

FISCAL EFFECT : The bill as currently in print is not keyed fiscal.

COMMENTS : This bill, sponsored by Judge Quentin Kopp, would specifically allow an individual who had used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract. In commenting on the need for the measure, the author states:

Our state's policy since 1939 reflects in Section 7031 of the Business and Professions Code the intent of the Legislature that the public be protected from unqualified contractors. Since 1939, a contractor must be licensed by the state in order to recover the value of services rendered with or without a written contract. Licensing requirements provide minimal assurance that all persons furnishing construction services in our state possess the requisite skill and character, understand pertinent local laws and codes, and know the rudiments of administering a contracting business. The Legislature had determined that the importance of deterring unlicensed persons from engaging in the building or contracting business outweighs

any harshness to an unlicensed party who provides services and then cannot collect compensation.

According to the sponsor, this measure is intended to address the recent case of Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, in which the court, in an unpublished portion of the opinion, referred to Section 7031(a) prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid to the contractor. Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise be due Cizek under his contract." This measure is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

The sponsor further explains the purpose of the bill, stating:

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Section 7031(a) of [the Business and Professions] code requires any contractor suing for money due on a construction contract to allege that he or she was a duly licensed contractor at all times during performance of the work or contract. In AB No. 678, the question has been raised as to whether a person for whom work was performed by an unlicensed contractor would be entitled to recover compensation paid the unlicensed contractor if the person receiving the services knew the contractor was unlicensed .

By a parity of reasoning from the state of the law respecting Section 7031(a), knowledge of the status of an unlicensed contractor is irrelevant to the recovery of compensation from the unlicensed contractor. California courts have unmistakably ruled that in any action by an unlicensed contractor to recover for the value of a contractor's services rendered or contractual provision, the unlicensed contractor cannot recover money even if the person for whom the work was performed knew the contractor was unlicensed. Hydrotech Systems, Ltd. v. Oasis Waterpark (1991) 52 Cal. 3d 988, 997-998; Vallejo Development Co. v. Beck Development Co., Inc. (1994) 24 Cal. App. 4th 929, 941; see also Pickens v. American Mortgage Exchange (1969) 269 Cal. App. 2d 299, 302 and Cash v. Blackett (1948) 87 Cal. App. 2d 233. ?

AB No. 678 constitutes an additional and consistent legislative determination that such deterrence can best be realized by compelling violators to return all compensation received from providing their unlicensed services. That rationale is reflected in the judicial decisions involving rejected attempts by unlicensed contractors to obtain payment based on knowledge of their unlicensed status by persons sued for non-payment of services rendered. That policy is furthered in AB No. 678 by specifically recognizing the capacity of an owner to recover money already paid an unlicensed contractor, even if the person knew the contractor was unlicensed. (Emphasis in original.)

Unjust Enrichment. According to the author, this bill is intended to protect the public and encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to

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the unlicensed contractor for performance of any act or contract.

Under the bill, individuals may bring such an action even if the contractor has fully performed and even if they knew the contractor was unlicensed. In that case, those using the

unlicensed contractor have not been harmed in any way, but are nevertheless authorized to sue to recover compensation paid. As a result, those using unlicensed contractors are arguably unjustly enriched because they are able to reap the benefits of the work done by the unlicensed contractor and are then authorized by statute to sue to recover from the contractor all compensation paid. Furthermore, those who knew that the contractor they were employing was unlicensed arguably have "unclean hands," but under this bill they would still be allowed to recover.

On the other hand, the author argues that the Legislature has intended that the public be protected from unqualified contractors by requiring that all contractors be licensed. In order to ensure that this requirement is met, current law specifically prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. In Hydrotech Systems, Ltd. v. Waterpark, supra., the court stated "Again, the Legislature recently underscored its insistence on a strict application of section 7031 despite the balance of equities. The 1989 amendments make clear that an unlicensed contractor may not recover either 'in law or equity,' and that suit is barred 'regardless of the merits of the cause of action.'" As a result, the sponsor notes, the measure "is not only consistent with the historical policy of our state but strengthens that policy substantially."

Author's Amendment. Committee staff discussed with the sponsor whether the bill unfairly results in unjustly enriching an individual who uses an unlicensed contractor knowing that the contractor is unlicensed and then sues to recover compensation paid, despite the full performance of the contractor. The sponsor has agreed the bill should be amended to preclude those individuals who use the services of an unlicensed contractor from being able to recover compensation already paid if they knew that the contractor was unlicensed.

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Page 5

The language of this author's amendment is limited to the individual's actual knowledge of whether or not the contractor is licensed, rather than constructive knowledge of that fact. As a result, the concern may be raised that individuals will purposely remain ignorant as to whether or not a contractor they are employing is licensed. The Committee may therefore wish to discuss with the author and the sponsor whether the bill should be amended to also preclude individuals from being able to recover compensation if they "should have known" that the contractor was unlicensed.

REGISTERED SUPPORT / OPPOSITION :

Support

Judge Quentin Kopp (sponsor)

Opposition

None on file

Analysis Prepared by : Saskia Kim / JUD. / (916) 319-2334



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AB-678 Contractors. (2001-2002)

As Amends the Law Today

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or ~~contract~~ *contract*, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) ~~Except as provided in subdivision (e), a~~ A person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing ~~in this subdivision~~ *herein* shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, ~~notwithstanding subdivision (b) of Section 143,~~ the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) ~~acted promptly and in good faith to remedy the failure to comply with the licensure requirements upon learning of the failure.~~ *did not know or reasonably should not have known that he or she was not duly licensed. Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.*

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

- (1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.
- (2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.



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AB-678 Contractors. (2001-2002)

Current Version: 09/04/01 - Chaptered **Compared to Version:** ⓘ

Assembly Bill No. 678

CHAPTER 226

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

[Filed with Secretary of State September 04, 2001. Approved by Governor September 01, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 678, Papan. Contractors.

Existing law prohibits any unlicensed contractor from bringing or maintaining an action to recover compensation in any court in this state.

This bill would authorize a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) A person who utilizes the services of an unlicensed contractor may bring an action in any court of

competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing herein shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) did not know or reasonably should not have known that he or she was not duly licensed. Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.



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AB-678 Contractors. (2001-2002)

Senate:

Assembly:

| Bill Status | |
|-----------------------------|---|
| Measure: | AB-678 |
| Lead Authors: | Papan (A) |
| Principal Coauthors: | - |
| Coauthors: | - |
| Topic: | Contractors. |
| 31st Day in Print: | - |
| Title: | An act to amend Section 7031 of the Business and Professions Code, relating to contractors. |
| House Location: | |
| Chaptered Date: | 09/04/01 |
| Last Amended Date: | 07/03/01 |

| Type of Measure |
|-----------------|
| Active Bill - |

| Last 5 History Actions | |
|------------------------|---|
| Date | Action |
| 09/04/01 | Chaptered by Secretary of State - Chapter 226, Statutes of 2001. |
| 09/01/01 | Approved by the Governor. |
| 08/24/01 | Enrolled and to the Governor at 4 p.m. |
| 08/20/01 | Senate amendments concurred in. To enrollment. (Ayes 57. Noes 10. Page 3065.) |
| 07/20/01 | Read third time, passed, and to Assembly. (Ayes 23. Noes 10. Page 2136.) |



Adam Bereki <abereki@gmail.com>

ASKCSL28924 Update on the status of your question

1 message

California State Library <reftracker@library.ca.gov>
Reply-To: California State Library <reftracker@library.ca.gov>
To: abereki@gmail.com

Tue, Jan 28, 2020 at 9:04 AM

PLEASE DO NOT REPLY TO THIS EMAIL

Update regarding your request: **ASKCSL28924**

California State Library

Update on the status of your Ask Us a Question request: **ASKCSL28924**

The current status of your request is: Client responded (Waiting For Patron Response)

Our update is:

Hello, Adam,

I'm sorry to say that our library does not have any further information regarding correspondence related to this bill. It's not something our library collects as that generally is submitted to the State Archives. If it is not part of their Governor's Chaptered Bill Files, they also maintain other Governor's Records that may be of use.

Correspondence between the Governor and the Office of Legislative Counsel may be particularly hard to find as this material is generally not publicly published, and even certain citable opinions from the Office of Legislative Counsel are not publicly available to the general public or even to us at the library.

I'm sorry that we do not have this information available here at the library. I hope the Archives may actually have some of this information, but unfortunately it may not be available.

Please let me know if I can be of any further assistance.

Regards,

Garrett Shields
Librarian
916-323-7919
garrett.shields@library.ca.gov

This update is in relation to your request: [ASKCSL28924](#)

Your question:

Hello. I am trying to locate Governor Gary Davis' approval of Assembly Bill 678 (2001) which was an amendment to Business and Profession Code §7031, adding subsection (b). The State Archives does not have it and the current governors office does not maintain records from previous administrations. Could you please determine if you have it? Also, I am interested to see if you have different legislative records for Assembly Bill 678 (2001) than those I've received from the State Archives. Are you able to share which documents you have?

Thank you kindly for your diligence and help.

[Click here for options to manage this request](#)
(cancel it, amend it, add more information, or see its status or history)

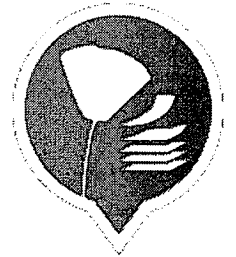
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Alex Padilla
California Secretary of State

What can we help you with?

Search



Legislative Records Program

"In the construction of a statute the intention of the Legislature is to be pursued, if possible" - California Code of Civil Procedure, section 1859.

Since 1872 when the above statute was enacted, California's courts have increasingly relied on legislative intent when interpreting the state's laws. Also well established is the key role that legislative records play in determining the intent of the State Legislature.

By far the richest and most extensive collection of legislative records are held by the California State Archives. The State Archives is the only repository to which legislative committee records may lawfully be transferred. Although state law does not require individual legislators to deposit their records in the State Archives, more than 300 have chosen to do so.

Lawyers, legal scholars, the Legislature, state government agencies, commercial research services and the courts themselves routinely use the State Archives legislative resources which include:

Legislative Committee Records

Bill Files, c.1960 - date

The most significant source of information on specific measures are bill files which may contain analyses prepared by committee staff, the Legislative Analyst, and state agencies; written testimony; Legislative Counsel's opinions; letters in support and opposition; the text of the bill and amendments; press releases and newspaper clippings; background information; and, occasionally audio tapes of hearings.

Hearing Files, c.1940 - date

Typically, legislative hearings focus on a particular subject although discussion concerning specific legislative bills may also be included. The State Archives has transcripts of hearings as well as background materials.

Legislator Records

Author Bill Files, c.1950 - date

In addition to containing records similar to those found in committee bill files, legislator's bill files may also include correspondence and background material from the bill's original sponsor (state agency, outside organization, or individual), letters in support and opposition to the bill, author's floor and committee statements, and press releases.

Governor's Records

Governor's Chaptered Bill Files, 1943-2010

The Governor's Office maintains files for each legislative bill signed into law (chaptered) or vetoed. These files typically contain analyses prepared by the Legislative Counsel, Attorney General, other constitutional officers, state agencies and the Governor's staff. Also available is correspondence from the bill's author as well as affected organizations and individuals. Vetoed bill files include the text of the Governor's veto message.

Other Records

Caucus Bill Files, 1973 - date

Democratic and Republican Caucuses in both the Senate and Assembly prepare analyses which reflect their political party's views.

Senate Floor Analyses Bill Files, 1993 - date

This office prepares nonpartisan analyses of bills which come to the Senate Floor for a vote.

Senate and Assembly Videotapes, 1988 - date

The State Archives also houses videotapes of selected floor session and committee hearings: Senate (1992 - date) and Assembly (1988-1998).

State Agency Records, various dates

Each legislative session state agencies draft new legislation and prepare analyses of bills which affect their programs.

Published Resources

Statutes of California (1850 - date), Deering's California Codes Annotated, Journals of the Legislature (1850 - date), Final Calendars of Legislative Business/Final Histories (1877 - date), and various subject indexes to laws are also available to assist the legislative researcher.

Research Services

The Archives Research Room is open to the public from 9:30 a.m. to 4:00 p.m., Monday through Friday and is closed on state holidays. Archives staff are on duty during these hours to assist those doing legislative research.

The Archives also provides research service for those located outside the Sacramento area who are seeking legislative history information. If a researcher can specify a particular chapter or bill (for a total of up to six), Archives staff will identify and photocopy materials in our collection relating to the bill(s) at a cost of \$0.25/page. The service usually requires at least 3 to 4 working days for research with additional time required for photocopying depending on the size of the order.

Contact the **Reference Desk** (<mailto:archivesweb@sos.ca.gov>) for more information.

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com
949.241.6693

Michael Alio
Risk Manager
County of Orange

CEO/Office of Risk Management
P.O. Box 327
Santa Ana, CA 92702

RE: Public Records Act Request

Via email
January 23, 2020
michael.alio@ocgov.com
Recvd email
reply
01/23/20

Please provide all documents in your custody and control evidencing the following:

- 1) That the Office of Risk Management for the County of Orange acts as the “insurance company” for the errors and omissions of official acts taken by judges assigned to the Superior Court of California, County of Orange.
- 2) That the County of Orange is a municipal corporation and/or was incorporated. Include all documents pertaining to the incorporation.
- 3) That the judges assigned to the Superior Court of California, County of Orange, receive their compensation and benefits from the County of Orange.

Thank you for your help.

Sincerely,

/s/Adam Bereki



Adam Bereki <abereki@gmail.com>

Public Records Act Request- Adam Bereki

Alio, Michael <michael.alio@ocgov.com>
To: Adam <abereki@gmail.com>
Cc: "Shade, Laurie" <laurie.shade@coco.ocgov.com>

Thu, Jan 23, 2020 at 9:24 AM

Mr. Bereki,

The County would not have any responsive records as it relates to #1 and #3 as the Courts are part of the State and not the County. I have copied our County Counsel for your request related to #2 as Risk Management would not have those records.



Michael Alio, MA, ARM-P
Director of Risk Management
CEO | Office of Risk Management
601 N. Ross Street, 5th Floor
Santa Ana, CA 92701
Office: (714) 285-5510 | Fax: (714) 285-5599

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Act Request- Adam Bereki

Shade, Laurie <Laurie.Shade@coco.ocgov.com>

Thu, Jan 23, 2020 at 11:32 AM

To: "Alio, Michael" <Michael.Alio@ocgov.com>, Adam <abereki@gmail.com>

The County of Orange is not a municipal corporation and is not incorporated. Thus no such records to that effect would exist either in this office or elsewhere.

Thank you,

Laurie

***Laurie A. Shade, Senior Deputy
Office of the Orange County Counsel
333 W. Santa Ana Blvd., Suite 407
Santa Ana, CA 92702-1379
Ph: (714) 834-6297/Fax: (714) 834-2359
e-mail: laurie.shade@coco.ocgov.com***

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From: Alio, Michael <michael.alio@ocgov.com>
Sent: Thursday, January 23, 2020 9:25 AM
To: Adam <abereki@gmail.com>

[Quoted text hidden]

[Quoted text hidden]

Office of Risk Management Request 012320.pdf

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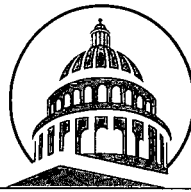


California LEGISLATIVE INFORMATION

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AB-678 Contractors. (2001-2002)

| Bill Analysis |
|---|
| 07/20/01- Assembly Floor Analysis |
| 07/17/01- Senate Floor Analyses |
| 07/17/01- Senate Floor Analyses |
| 06/21/01- Senate Committee |
| 05/11/01- Assembly Floor Analysis |
| 05/07/01- Assembly Committee |
| 04/23/01- Assembly Committee |



Recvd
012520

OFFICE OF
LEGISLATIVE
COUNSEL

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925 I. STREET
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 341-8000
FACSIMILE (916) 341-8020
INTERNET WWW.LEGISLATIVECOUNSEL.CA.GOV

January 21, 2020

Adam Bereki
818 Spirit
Costa Mesa, CA 92626

RE: PUBLIC RECORDS ACT REQUEST

Dear Mr. Bereki:

This letter responds to your correspondence dated January 9, 2020, in which you request records pursuant to the California Public Records Act (Gov. Code § 6250, et seq.). You have asked to be provided with "all documents in [the Legislative Counsel's] custody and control pertaining to Statutes 1939 Chapter 37 Article 2 (Business and Professions Code pertaining to contractors)." You specify that you are seeking "any information retained by [the Legislative Counsel's] office pertaining to the enactment of Business and Professions Code section §7031 under the aforementioned chapter and article since inception until present," including Assembly Bill No. 678 of the 2001-02 Regular Session. Finally, you have asked to be provided "all records pertaining to [the Legislative Counsel] office's determination of the constitutionality of Assembly Bill No. 678."

The records in the custody of the Legislative Counsel are not subject to the California Public Records Act, other than those records already displayed on the internet website www.leginfo.legislature.ca.gov (Gov. Code §§ 6254(m) & 10248.).

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By
Aaron D. Silva
Chief Deputy

ADS:sr

Via mail:
January 23, 2020

Legislative Counsel of California
1315 10th St. Room 3021
Sacramento, CA 95814

RE: Public Records Act Request

Greetings. I did not receive a reply to the Public Records Act Request I sent your office on January 9, 2020. The time to reply is within ten days.

In the event you did not receive my request, I am sending it again. Please email your response to abereki@gmail.com.

In the event you did send an answer, I did not receive it. Please email it to me at abereki@gmail.com.

See the attached letter.

You can also reach me at 949 241 6693 if you have any questions.

Thank you for your help.



Adam Bereki

Legislative Counsel of California
1315 10th St. Room 3021
Sacramento, CA 95814

RE: Public Records Act Request

Please provide all documents in your custody and control pertaining to Statutes 1939 Chapter 37 Article 2 (Business and Professions Code pertaining to contractors). I am specifically looking for any information retained by your office pertaining to the enactment of Business and Professions Code section §7031 under the aforementioned chapter and article since inception until present. This specifically includes Assembly Bill 678. Please respond with a certified copy of these records.

I read on your website that you provide confidential information to the California Legislature. Please provide all documents which do not qualify under any confidentiality laws, rules, or regulations, and identify the other documents in your custody and control that you are not releasing pursuant to the privilege(s) you are asserting.

Please see the attached letter from your office which I have obtained from the Secretary of State. Please Provide all records pertaining to your office's determination of the constitutionality of Assembly Bill No. 678.

I may be reached via email at abereki@gmail.com or phone 949 241 6693.

Thank you for your help.


Adam Bereki

mailed ✓

January 9, 2020

No reply as of

1/23/20

sent another letter via mail

1/23/20

CHIEF DEPUTIES

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Jeffrey A. DeLand

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Carol J. Ussi
Karen L. Ziskind
Jack G. Zorman

OFFICE OF LEGISLATIVE COUNSEL

State Capitol, Suite 3021
Sacramento, California 95814-4996

TELEPHONE (916) 445-3057

FACSIMILE (916) 322-0769

INTERNET www.legislativecounsel.ca.gov

EMAIL LegislativeCounsel@lc.ca.gov



BION M. GREGORY

August 24, 2001

Honorable Gray Davis
Governor of California
Sacramento, CA 95814

ASSEMBLY BILL NO. 678

Dear Governor Davis:

Pursuant to your request, we have reviewed the above-numbered bill authored by Assembly Member Papan and, in our opinion, the title and form are sufficient and the bill, if chaptered, will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By
Alvin D. Gress
Principal Deputy

ADG:sjk

Two copies to Honorable Louis J. Papan,
pursuant to Joint Rule 34.

0963
1706

Legislative Counsel of California
1315 10th St. Room 3021
Sacramento, CA 95814

RE: Public Records Act Request

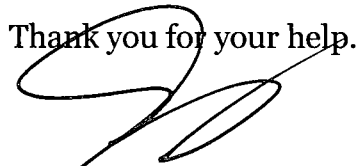
Please provide all documents in your custody and control pertaining to Statutes 1939 Chapter 37 Article 2 (Business and Professions Code pertaining to contractors). I am specifically looking for any information retained by your office pertaining to the enactment of Business and Professions Code section §7031 under the aforementioned chapter and article since inception until present. This specifically includes Assembly Bill 678. Please respond with a certified copy of these records.

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Please see the attached letter from your office which I have obtained from the Secretary of State. Please Provide all records pertaining to your office's determination of the constitutionality of Assembly Bill No. 678.

I may be reached via email at abereki@gmail.com or phone 949 241 6693.

Thank you for your help.



Adam Bereki

marked ✓
January 9, 2020
No reply as of
1/23/20
sent another
letter via
mail
1/23/20

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BION M. GREGORY

August 24, 2001

Honorable Gray Davis
Governor of California
Sacramento, CA 95814

ASSEMBLY BILL NO. 678

Dear Governor Davis:

Pursuant to your request, we have reviewed the above-numbered bill authored by Assembly Member Papan and, in our opinion, the title and form are sufficient and the bill, if chaptered, will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By
Alvin D. Gress
Principal Deputy

ADG:sjk

Two copies to Honorable Louis J. Papan,
pursuant to Joint Rule 34.

Assembly Bill No. 678

CHAPTER 226

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 1, 2001. Filed with Secretary of State September 4, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 678, Papan. Contractors.

Existing law prohibits any unlicensed contractor from bringing or maintaining an action to recover compensation in any court in this state.

This bill would authorize a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

The people of the State of California do enact as follows:

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) A person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.



(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing herein shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) did not know or reasonably should not have known that he or she was not duly licensed. Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.

O

BILL ANALYSIS

AB 678
Page 1

Date of Hearing: April 24, 2001

ASSEMBLY COMMITTEE ON JUDICIARY
Darrell Steinberg, Chair
AB 678 (Papan) - As Introduced: February 22, 2001

SUBJECT : UNLICENSED CONTRACTORS

KEY ISSUE : SHOULD AN INDIVIDUAL WHO USES THE SERVICES OF AN UNLICENSED CONTRACTOR BE SPECIFICALLY AUTHORIZED TO BRING AN ACTION TO RECOVER FEES ALREADY PAID TO THE UNLICENSED CONTRACTOR EVEN THOUGH THE CONTRACTOR HAS FULLY PERFORMED AND THE INDIVIDUAL MAY KNOW THE CONTRACTOR IS UNLICENSED?

SYNOPSIS

This Measure Allows Individuals Who Use The Services Of An Unlicensed Contractor To Bring An Action To Recover All Compensation Already Paid To The Unlicensed Contractor. According To The Author, The Measure Is Intended To Further Encourage Unlicensed Contractors To Become Licensed, Consistent With Existing Law. However, The Measure Arguably Allows Individuals Who Use Unlicensed Contractors To Be Unjustly Enriched By Permitting Them To Recover Compensation Already Paid Despite The Fact That The Contractor Has Fully Performed And Despite Knowing That The Contractor Is Unlicensed. An Author's Amendment To Address This Concern Is Contained In The Analysis.

SUMMARY : Seeks to authorize persons who use the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract. _

EXISTING LAW :

- 1) Prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. (Business and Professions Code section 7031. All further statutory references are to this code.)
- 2) Requires anyone who contracts to do construction work to be licensed by the Contractors' State License Board if the total

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Page 2

price of the job is \$500 or more and provides that contracting without a license shall be a misdemeanor. (Sections 7048 and 7028.)

FISCAL EFFECT : The bill as currently in print is not keyed fiscal.

COMMENTS : This bill, sponsored by Judge Quentin Kopp, would specifically allow an individual who had used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract. In commenting on the need for the measure, the author states:

Our state's policy since 1939 reflects in Section 7031 of the Business and Professions Code the intent of the Legislature that the public be protected from unqualified contractors. Since 1939, a contractor must be licensed by the state in order to recover the value of services rendered with or without a written contract. Licensing requirements provide minimal assurance that all persons furnishing construction services in our state possess the requisite skill and character, understand pertinent local laws and codes, and know the rudiments of administering a contracting business. The Legislature had determined that the importance of deterring unlicensed persons from engaging in the building or contracting business outweighs

any harshness to an unlicensed party who provides services and then cannot collect compensation.

According to the sponsor, this measure is intended to address the recent case of Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, in which the court, in an unpublished portion of the opinion, referred to Section 7031(a) prohibiting an unlicensed contractor from recovering fees, but not requiring any refund of compensation already paid to the contractor. Cooper relied on Culbertson v. Cizek (1964) 225 Cal. App. 2d 451, 473, in which the court permitted the unlicensed contractor to offset "as a defense against sums due the plaintiffs any amounts that would otherwise be due Cizek under his contract." This measure is intended to clearly state that those using the services of unlicensed contractors are entitled to bring an action for recovery of compensation paid.

The sponsor further explains the purpose of the bill, stating:

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Page 3

Section 7031(a) of [the Business and Professions] code requires any contractor suing for money due on a construction contract to allege that he or she was a duly licensed contractor at all times during performance of the work or contract. In AB No. 678, the question has been raised as to whether a person for whom work was performed by an unlicensed contractor would be entitled to recover compensation paid the unlicensed contractor if the person receiving the services knew the contractor was unlicensed.

By a parity of reasoning from the state of the law respecting Section 7031(a), knowledge of the status of an unlicensed contractor is irrelevant to the recovery of compensation from the unlicensed contractor. California courts have unmistakably ruled that in any action by an unlicensed contractor to recover for the value of a contractor's services rendered or contractual provision, the unlicensed contractor cannot recover money even if the person for whom the work was performed knew the contractor was unlicensed. Hydrotech Systems, Ltd. v. Oasis Waterpark (1991) 52 Cal. 3d 988, 997-998; Vallejo Development Co. v. Beck Development Co., Inc. (1994) 24 Cal. App. 4th 929, 941; see also Pickens v. American Mortgage Exchange (1969) 269 Cal. App. 2d 299, 302 and Cash v. Blackett (1948) 87 Cal. App. 2d 233. ?

AB No. 678 constitutes an additional and consistent legislative determination that such deterrence can best be realized by compelling violators to return all compensation received from providing their unlicensed services. That rationale is reflected in the judicial decisions involving rejected attempts by unlicensed contractors to obtain payment based on knowledge of their unlicensed status by persons sued for non-payment of services rendered. That policy is furthered in AB No. 678 by specifically recognizing the capacity of an owner to recover money already paid an unlicensed contractor, even if the person knew the contractor was unlicensed. (Emphasis in original.)

Unjust Enrichment. According to the author, this bill is intended to protect the public and encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to

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Page 4

the unlicensed contractor for performance of any act or contract.

Under the bill, individuals may bring such an action even if the contractor has fully performed and even if they knew the contractor was unlicensed. In that case, those using the

unlicensed contractor have not been harmed in any way, but are nevertheless authorized to sue to recover compensation paid. As a result, those using unlicensed contractors are arguably unjustly enriched because they are able to reap the benefits of the work done by the unlicensed contractor and are then authorized by statute to sue to recover from the contractor all compensation paid. Furthermore, those who knew that the contractor they were employing was unlicensed arguably have "unclean hands," but under this bill they would still be allowed to recover.

On the other hand, the author argues that the Legislature has intended that the public be protected from unqualified contractors by requiring that all contractors be licensed. In order to ensure that this requirement is met, current law specifically prohibits unlicensed contractors from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. In Hydrotech Systems, Ltd. v. Waterpark, supra., the court stated "Again, the Legislature recently underscored its insistence on a strict application of section 7031 despite the balance of equities. The 1989 amendments make clear that an unlicensed contractor may not recover either 'in law or equity,' and that suit is barred 'regardless of the merits of the cause of action?'" As a result, the sponsor notes, the measure "is not only consistent with the historical policy of our state but strengthens that policy substantially."

Author's Amendment. Committee staff discussed with the sponsor whether the bill unfairly results in unjustly enriching an individual who uses an unlicensed contractor knowing that the contractor is unlicensed and then sues to recover compensation paid, despite the full performance of the contractor. The sponsor has agreed the bill should be amended to preclude those individuals who use the services of an unlicensed contractor from being able to recover compensation already paid if they knew that the contractor was unlicensed.

AB 678

Page 5

The language of this author's amendment is limited to the individual's actual knowledge of whether or not the contractor is licensed, rather than constructive knowledge of that fact. As a result, the concern may be raised that individuals will purposely remain ignorant as to whether or not a contractor they are employing is licensed. The Committee may therefore wish to discuss with the author and the sponsor whether the bill should be amended to also preclude individuals from being able to recover compensation if they "should have known" that the contractor was unlicensed.

REGISTERED SUPPORT / OPPOSITION :

Support

Judge Quentin Kopp (sponsor)

Opposition

None on file

-

Analysis Prepared by : Saskia Kim / JUD. / (916) 319-2334

Adam Bereki
c/o 818 Spirit
Costa Mesa, California 92626


January 26, 2020

California Secretary of State
300 S. Spring St.
Los Angeles, CA 90013

RE: Public Records Act Request

Please provide all documents in your custody and control pertaining to California Assembly Bill 678 (2001). If it's more convenient, please feel free to email your response to abereki@gmail.com. You may also call me with any questions at 949.241.6693.

Thank you for your help.



Adam Bereki

02/28/20

02/27/20

ASCSL28924

Hello, I am trying to locate Governor Gary Dave's approval of Assembly Bill 678 (2001) which was an amendment to Business and Professions Code §7031, adding subsection (b). The State Archives does not have it and the current governor's office does not maintain records from previous administrations. Could you please determine if you have it? Also, I am interested to see if you have different legislative records for Assembly Bill 678 (2001) than those I've received from the State Archives. Are you able to share which documents you have?

Thank you kindly for your diligence and help.

1/27/2020 08:28 AM
Client responded (Waiting For Patron Response)

There are no outstanding queries for this question.

1/27/2020 09:53 AM
Hello, Adam.

Thank you for your inquiry. I wanted to get some clarification on exactly what you are looking for. In regard to AB 678 (2001) are you looking for a specific document related to Gary Dave's approval? Typically, the State Archives has the actual signed version of the bill, and sometimes additional information, in their Governor's Charters/ Bill Files. The information that the library collects is generally represented by what can be found online through the California Legislative Information page link.

While this bill was approved by the Governor on 8/1/01, there is no corresponding message (as there sometimes is with a veto) found in the Assembly Journal. It may be that there is no corresponding message in regards to the signing, which is not uncommon, but if you have a citation or reference to it, please let me know and I will be happy to look into it further.

Good morning. Thank you for asking to get further clarity. Yes, I am looking for any documents pertaining to Governor Dave's approval, including any letters or correspondence between him and the Office of Legislative Counsel pertaining to his approval. The State Archives did not have the signed version of the bill. I will check with them to ensure they also checked the Governor's Charters/ Bill Files. I also already have the information on the California Legislative Information page. In other words, my general request is to see what documents you have pertaining to this bill as the other government agencies involved either have only partial records or none at all. If you need further clarity, please don't hesitate to ask. I truly appreciate your help.

Thank you for responding to our query.

Add Attachments to this request.



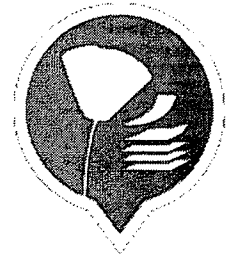
Response to query

Ask new question | Check existing questions | Comments | Home

Alex Padilla
California Secretary of State

What can we help you with?

Search



Governor's Records

The California State Archives holds over 10,000 cubic feet of records from the Governor's Office. Types of records include executive clemency files, pardons, proclamations, executive orders, speeches, press releases, and enrolled bill files. Governors **Earl Warren** (<http://www.oac.cdlib.org/findaid/ark:/13030/tf4b69n6gc/>) and **Goodwin Knight** (<http://www.oac.cdlib.org/findaid/ark:/13030/kt0290187d/>) donated additional records to the State Archives that are available to researchers.

Available Finding Aids

[The Records of the Governor's Office, 1849-1974 finding aid](http://www.oac.cdlib.org/findaid/ark:/13030/tf4t1nb08d/)

[\(http://www.oac.cdlib.org/findaid/ark:/13030/tf4t1nb08d/\)](http://www.oac.cdlib.org/findaid/ark:/13030/tf4t1nb08d/)

[Earl Warren Papers finding aid](http://www.oac.cdlib.org/findaid/ark:/13030/tf4b69n6gc/) (<http://www.oac.cdlib.org/findaid/ark:/13030/tf4b69n6gc/>)

[Goodwin Knight Papers finding aid](http://www.oac.cdlib.org/findaid/ark:/13030/kt0290187d/) (<http://www.oac.cdlib.org/findaid/ark:/13030/kt0290187d/>)

Governor's Records since 1991

Chapter 503 of the Statutes of 1988 dictates the management and retention of Governors' Records in California. This legislation enacted **section 6268 of the Government Code** (<http://leginfo.legislature.ca.gov/faces/codes.xhtml>) and added gubernatorial records to the California Public Records Act. Under section 6268 of the Government Code, all administrations following George Deukmejian are required to transfer all gubernatorial records to the State Archives. The enrolled bill files, press releases, and speech files are open to the public as soon as the Governor leaves office. Writings related to applications for clemency or extradition are available for research after the cases has been closed for a period of at least 25 years. The Governor may restrict all other records for up to 50 years or the death of the Governor, whichever is later.

Prior to this legislation, California Governors were required to preserve only a small group of records that were considered to be "public". Most Governors, though not all, deposited these records at the State Archives. **The Records of the Governor's Office finding aid** (<http://www.oac.cdlib.org/findaid/ark:/13030/tf4t1nb08d/>) identifies the deposits made by each governor from 1849–1975. ②

The California State Archives holds the following types of records created by Governors' administrations from 1959–1991: enrolled bill files, press releases, speech files, and writings related to applications for clemency or extradition.

Earl Warren and Goodwin Knight Papers



The first comprehensive collection of Governor's records came to the State Archives in 1953. Before Governor Earl Warren left California for the United States Supreme Court, former Secretary of State Frank M. Jordan persuaded him to voluntarily donate an unprecedented amount of his gubernatorial records to the State Archives. This substantial donation includes correspondence, administrative files, and subject files of the Governor's office. Today, the Earl Warren papers are thoroughly processed and described in the **[Earl Warren papers finding aid](http://www.oac.cdlib.org/findaid/ark:/13030/tf4b69n6gc/)**. (<http://www.oac.cdlib.org/findaid/ark:/13030/tf4b69n6gc/>)

Earl Warren's successor, Governor Goodwin Knight, followed Warren's example and deposited all of his gubernatorial records in the State Archives in 1958 and 1959. The Goodwin Knight papers are also processed and described in the **[Goodwin Knight papers finding aid](http://www.oac.cdlib.org/findaid/ark:/13030/kt0290187d/)**. (<http://www.oac.cdlib.org/findaid/ark:/13030/kt0290187d/>)

Proclamations and Executive Orders

Governors are required to file all Proclamations and Executive Orders with the Secretary of State. The State Archives maintains an index of Proclamations filed since 1849 and Executive Orders filed since 1947. Researchers need to provide at least an approximate date and title of the Proclamation or Executive Order for staff to locate the correct record. Many **[Proclamations](http://gov.ca.gov/s_proclamations.php)** (http://gov.ca.gov/s_proclamations.php) from 2011 to present and **[Executive Orders](http://gov.ca.gov/s_executiveorders.php)** (http://gov.ca.gov/s_executiveorders.php) from 1999 to present are available on the Governor's website.

Governor's Records at Other Archives

California Governors from 1959–1991 chose to donate the remainder of their records to the following institutions:

Edmund G. "Pat" Brown, **[Bancroft Library at the University of California, Berkeley](http://www.oac.cdlib.org/search?style=oac4;titlesAZ=e;idT=UCb112165941)** (<http://www.oac.cdlib.org/search?style=oac4;titlesAZ=e;idT=UCb112165941>)

Ronald Reagan, Hoover Institution at Stanford University; however, the records are now located at the **[Ronald Reagan Presidential Library](http://www.reagan.utexas.edu/archives/research.html)** (<http://www.reagan.utexas.edu/archives/research.html>)

Edmund G. "Jerry" Brown, **[University of Southern California](http://www.usc.edu/libraries/finding_aids/records/finding_aid.php?fa=0217)** (http://www.usc.edu/libraries/finding_aids/records/finding_aid.php?fa=0217)

George Deukmejian, Hoover Institution at Stanford University; however, the records are now located at the **[California State University, Long Beach University Library](https://www.csulb.edu/university-library)** (<https://www.csulb.edu/university-library>)

Under section 6268 of the Government Code, all administrations following George Deukmejian are required to transfer all gubernatorial records to the State Archives.

More information on California's Governors is available on the California State Library's **[Governors' Gallery](http://governors.library.ca.gov/)** (<http://governors.library.ca.gov/>) website.

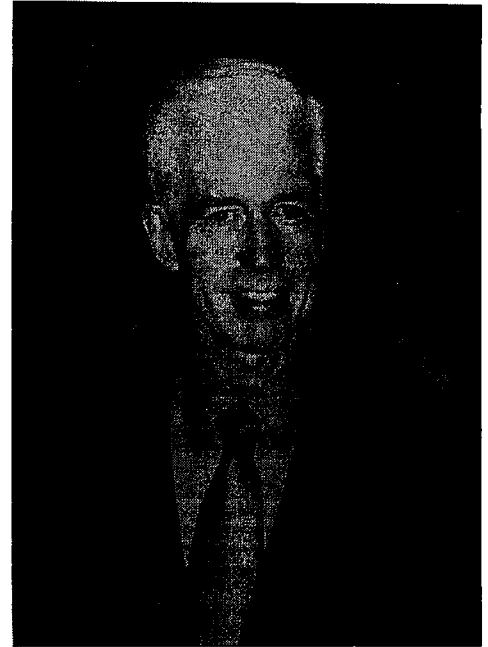
Gray Davis

Joseph Graham "Gray" Davis Jr. (born December 26, 1942) is a retired American attorney and Democratic Party politician who served as the 37th Governor of California from 1999 to 2003. In 2003, only a few months into his second term, Davis was recalled and removed from office, the second state governor successfully recalled in U.S. history. Prior to serving as governor, Davis was chief of staff to Governor Jerry Brown (1975–81), a California State Assemblyman (1983–87), California State Controller (1987–95) and the 44th Lieutenant Governor of California (1995–99). Davis holds a B.A. in history from Stanford University and a J.D. from Columbia Law School. He was awarded a Bronze Star for his service as a Captain in the Vietnam War.

During his time as governor, Davis made education his top priority and California spent eight billion dollars more than was required under Proposition 98 during his first term. Under Davis, California standardized test scores increased for five straight years.^[2] Davis signed the nation's first state law requiring automakers to limit auto emissions. Davis supported laws to ban assault weapons and is also credited with improving relations between California and Mexico.^[3] Davis began his tenure as governor with strong approval ratings but they declined as voters blamed him for the California electricity crisis, the California budget crisis that followed the bursting of the dot-com bubble, and the car tax. Voters were also alienated by Davis's outrageous fundraising efforts and negative campaigning.^[4]

On October 7, 2003, Davis was recalled in the second such election in U.S. history, after the removal of Lynn Frazier of North Dakota in 1921. He was succeeded in office on November 17, 2003 by actor Arnold Schwarzenegger, who won the recall replacement election. Davis spent 1,778 days as governor and signed 5,132 bills out of 6,244, vetoing 1,112 bills.^[5] Since being recalled, Davis has worked as a lecturer at

Gray Davis



37th Governor of California

In office

January 4, 1999 – November 17, 2003

Lieutenant Cruz Bustamante

Preceded by Pete Wilson

Succeeded by Arnold Schwarzenegger

44th Lieutenant Governor of California

In office

January 2, 1995 – January 4, 1999

Governor Pete Wilson

Preceded by Leo T. McCarthy

Succeeded by Cruz Bustamante

28th Controller of California

In office

January 5, 1987 – January 2, 1995

Governor George Deukmejian

the UCLA School of Public Affairs, as an attorney at Loeb & Loeb and sat on the Board of Directors of the animation company DiC Entertainment.

Contents

Early life and political career

Prior to Governorship

- State Controller
- 1992 campaign for Senate
- Lieutenant governor
- 1998 gubernatorial campaign

First term

- Popular start and education
- Domestic partnerships
- Guns and public safety
- Crime
- Relations with Mexico
- Health, environment, business and transportation
- Declining popularity
- California electricity crisis
- Budget crisis

2002 reelection

Public image

Second term

Recall




Life after politics

References

External links

Early life and political career

Davis was born in the Bronx, New York City, the son of Doris (Meyer) Morell and Joseph G. Davis.^[6] Davis moved to California with his family as a child in 1954. He was the first of the family's five children: three boys and two girls. He was

| | |
|---|--|
| | Pete Wilson |
| Preceded by | Kenneth Cory |
| Succeeded by | Kathleen Connell |
| Member of the California State Assembly from the 43rd district | |
| In office | |
| 1982–1986 | |
| Preceded by | Howard Berman |
| Succeeded by | Terry Friedman |
| Chief of Staff to the Governor of California | |
| In office | |
| 1975–1981 | |
| Governor | Jerry Brown |
| Preceded by | Edwin Meese |
| Succeeded by | B. T. Collins |
| Personal details | |
| Born | Joseph Graham Davis Jr. December 26, 1942 Bronx, New York, U.S. |
| Political party | Democratic |
| Spouse(s) | Sharon Ryer (m. 1980) |
| Education | Stanford University (BA) Columbia University (JD) |
| Signature |  |
| Military service | |
| Allegiance |  United States |
| Branch/service |  United States Army |



Adam Bereki <abereki@gmail.com>

7031 Legislature

2 messages

Adam Bereki <abereki@gmail.com>

Sun, Jan 26, 2020 at 6:58 PM

To: Paul <paul@bardosconstruction.com>

Paul,

If I recall correctly, you shared on the phone that you and others had reached out to the California legislature regarding 7031 in an effort to get them to change the law. Could you please share more details about what you did exactly? Who you (and potentially others) spoke with? Are there any records— a paper trail? Audio recordings at a legislative hearing? My case is continuing and I would like to be able to show how honest and diligent efforts have been made by People like you bringing this abuse to their attention, yet nothing changed.

Thank you for your time and help. I hope this keeps moving forward and that you'll also receive vindication for the heinous behavior perpetrated upon you.

Sincerely,

Adam Bereki
949 241 6693

Paul <paul@bardosconstruction.com>

Wed, Jan 29, 2020 at 9:57 AM

To: Adam Bereki <abereki@gmail.com>

Adam,

I looked at your case online and I see that the Court is giving you the opportunity to supplement your brief. I would not take that as any sign of interest or position by the Court to encourage you, but rather, that the Court is giving you every opportunity to state a claim. The Court might also give you several opportunities to amend your complaint before its final ruling. However, should your complaint be dismissed, as I believe it ultimately will be, you could be subject to and defending against sanctions to include opposing party's legal fees and costs on their motion. I believe the defendants in your case have the greater argument the Court will accept.

As for a declaration that I have been unduly harmed by the provisions of 7031, I believe you would be better advised to request judicial notice of the proceedings in my several cases along with any others who defended against similar claims. I don't think it helps you either to cite to testimony before the legislature that was duly heard and considered by them and that resulted in an adverse position was taken against you thereafter.

Best,
Paul

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

7031 Legislature

Adam <abereki@gmail.com>

Wed, Jan 29, 2020 at 10:08 AM

To: Paul <paul@bardosconstruction.com>

Paul,

Thank you for sharing your opinion. Could you please share the dates, times, or other records you may have or be aware of pertaining to attempts to address this issue with the Legislature. I have information you are not aware of and that I have not made public yet that I am looking to corroborate as my investigation continues. I appreciate your help in any way you can.

Sincerely,
Adam

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Act Request- Attn. Justice O'Leary

1 message

Adam <abereki@gmail.com>

Wed, Jan 29, 2020 at 9:31 AM

To: "Reynoso, Alex" <Alex.Reynoso@jud.ca.gov>, "wbissell wgb-law.com" <wbissell@wgb-law.com>

Alex,

Please, confirm your receipt of the attached request and forward it to Presiding Justice O'Leary. It is time sensitive.

Thank you for your help.

Sincerely,

Adam Bereki



PRA Fourth District 012920.docx

17K

Adam Bereki
c/o 818 Spirit
Costa Mesa, California 92626

Sent via email
January 29, 2020

Fourth District Court of Appeal
Attn: Kathleen O'Leary
Presiding Justice
601 W. Santa Ana Blvd.
Santa Ana, California 92701

to Clerk Alex Reynolds
cc Bissell.
(sent - docx version
that was not signed)

RE: Public Records Act Request

Ms. O'Leary,

Please provide all documents in the Court's custody or control evidencing the following:

- 1) The names of each Justice, legal assistant, or other employee who authored or participated in the investigation concerning the factual foundation and legal basis of the Court's Opinion in case number G055075, Bereki v. Humphreys, "case", for which I am a party. ("The Court" or "this Court" refers to the Fourth District Court of Appeal).
- 2) Any timecards or other similar records evidencing the length of time spent on researching and/or writing the Opinion in this case and by whom.
- 3) The MAC Address for each computer used in the research or writing of the Opinion in this case.
- 4) The internet browsing history logs for each computer used in the research, investigation, or writing of the opinion in this case detailing specifically which websites and/or pages were visited. I am only requesting these logs pursuant to this case, not a blanket browsing history for each computer.
- 5) The names of the electronic databases such as Lexis Nexis which the Court used to conduct its research in this case.
- 6) The browsing history logs for the electronic database(s) listed in request 5, pertaining to this case only. The Court may have to retrieve these documents from the electronic provider in request 5.
- 7) The names of the written publications the Court used in this case to conduct its research in this case.
- 8) California's Public Policy on "disgorgement" actions.
- 9) California's Public Policy differentiating penal from remedial actions.
- 10) California's Public Policy that "disgorgement" actions pursuant to Business and Professions Code §7031(b) are different from the non-restitutionary

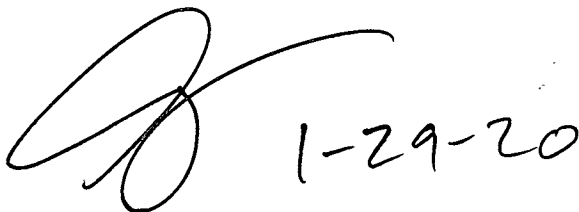
disgorgement actions as held in *Meister v. Mensinger*, 230 Cal. App. 4th 381 and Restatement (third) of Restitution and Unjust Enrichment §51 as adopted therein.

- 11) California's public policy and/or this Court's policy that it is "not permitted to second guess the policy choices of the California Legislature". See for e.g. *Alatriste*, infra p.673.
- 12) A certified copy of the evidence that I profited \$848,000 as was affirmed by the Court in this case. (The Court does not cite in its Opinion where it obtained this evidence or what specific evidence in the case it considered in upholding the trial Court's ruling.)
- 13) A certified copy of the evidence that I performed the work in this case as was determined by the Court pursuant to California Civil Jury Instruction CACI, §4561 (3). (The Court does not cite in its Opinion where it obtained this evidence or what specific evidence in the case it considered in upholding the trial Court's ruling.)
- 14) A certified copy of the evidence that I am "incompetent or dishonest", see Opinion p.7. The Court does not cite in its Opinion where it obtained this evidence or what specific evidence in the case it considered in upholding the trial Court's ruling, or where it exists.)
- 15) A certified copy of each of the briefs submitted in *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal. App. 4th, 656.
- 16) A certified copy of each of the briefs submitted in *Rambeau v. Barker*, 2010 Cal App. Unpub. LEXIS 5610.
- 17) The names, and case numbers of every other case this Court has adjudicated pursuant to Business and Professions Code sections §7031(a) and/or (b).

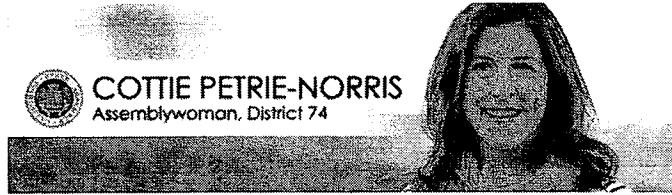
In the event the Court has a policy requiring fees for copying or providing any of the above documents, I ask they be waived pursuant to the fee waiver on file in this case.

In the event the Court refuses to provide any of the above documents, they – or the electronic databases, servers, computers or other storage devices in which they may be accessed – are evidence and the Court is hereby on notice to preserve and protect, and not alter, tamper, or destroy this evidence which is likely to be subject to subpoena. It should be further noted that the preservation of certain electronic data is time sensitive based upon certain computer or server settings. As a result, efforts should be taken to make sure it is preserved and protected.

Thank you for your help. Please feel free to call or email me (abereki@gmail.com,; 949.241.6693) if you have any questions pertaining to this request. Because you were one of the justices involved in this case, I am also forwarding this request to opposing counsel so there can be no accusations of ex parte communication. I will accept your response via email.

A handwritten signature in black ink, followed by the date "1-29-20" written in a similar cursive style.

Contact



* Indicates required fields

* First Name:

* Last Name:

* Address:

* City:

* Zip Code:

Phone: () - ext: type:

* E-mail:

Select an Issue:

Support Oppose

Comments: Characters Left

Hi Cottie, I am reaching out for your help with finding legislative history pertaining to business and professions Code 7031. I have contacted the state assembly and archives as well as the CA Library and the records are minimal. Also, I would like to speak with you about this law as I was fined nearly one million dollars by the Courts and then told this was not a fine, nor was it excessive. The allegation was simply what I was an unlicensed building contractor. Please call at your convenience.

Your privacy is very important to us. By clicking submit, you are agreeing to the practices described in the Privacy and Conditions of Use.

[Privacy and Conditions of Use](#)

Submitted 1/23/20



Adam Bereki <abereki@gmail.com>

Petition For Redress of Grievance- Adam Bereki

1 message

Adam <abereki@gmail.com>
To: jess.huang@asm.ca.gov

Fri, Jan 31, 2020 at 1:18 PM


Jess,

Thank you again for your help. I've included a brief letter along with extensive documentation pertaining to our conversation earlier and the supporting evidence and documentation you requested. Please keep in mind I have provided a preliminary complaint with what I know and understand up to this point as my investigation is ongoing. I ask that you expedite this complaint in whatever way you can as I continue to be harmed and suffer irreparable injury. I realize some of the relief I seek may be beyond the control of the legislature and I'll trust that you'll ensure this complaint makes it to the right people, including those who I've specifically asked you provide it to in my opening letter. You will not need to read all the documents as there are literally hundreds of pages. The opening letter (the first 3 pages) should be enough, in addition to our earlier phone conversation to take the required action.

Again, please confirm your receipt of this email and the attachment.

Sincerely,

Adam Bereki

 **California Legislature Complaint 013120.pdf**

JESS HUANG@asm.ca.gov

CMS Case

Petition For Redress of Grievance
Legislative Redress of Grievance

1/31/20

949. 251 0074

Adam Bereki
c/o 818 Spirit
Costa Mesa, California 92626
abereki@gmail.com
949.241.6693

January 31, 2019

Cottie Petrie Norris
c/o Jess Huang

via email: jess.huang@asm.ca.gov

Re: Petition For Redress of Grievance to the California Legislature

Jess,

Thank you for making the time to speak with me today. Per your request, I am writing this letter detailing the grievances I shared with you on the phone.

California Business and Professions Codes §7031(a) and §7031(b) are anti-constitutional and result in excessive fines and cruel and unusual punishment to the People of California.

In 2017 I was fined \$930,000 for allegedly performing construction work without a contractor's license in a purported "civil" case. See *The Spartan Associates, Inc. v. Humphreys*, 30-2015-00805807, Superior Court of California, County of Orange.

The comparable criminal penalty for the same offense is a fine *up to* \$5,000.

I was a qualifying individual for my company's contractors license (see *The Spartan Associates Inc*, license #927244). I provided the experience requirements and passed the licensing exam. But because the Court found the alleged contract in the above case was with me personally instead of my licensed company, the Court claimed I was unlicensed and ordered the "return of all compensation paid" pursuant to §7031(b).

My case is not some anomaly. This is indeed California's public policy as declared by the California Supreme Court in §7031 cases.

After receiving this excessive, cruel, and unusual punishment imposed by the Court, I knew something was terribly wrong and began investigating the law behind §7031 and how it came to be in California's Legislative History. Suffice it say, there is no Constitutional basis for §7031's enactment or enforcement as applied by the Courts. It is a major fraud being perpetrated upon me and the People of California.

In legal terms, the California's Courts refer to penalties imposed by §7031 actions as "disgorgement". See *Bereki v. Humphreys*, 2010, "Opinion" attached hereto, Exhibit [A]. ✓
The penalties are not disgorgement. Not even remotely.

Disgorgement is a very specific action requiring the surrender or giving up of profits illegally obtained. This is known in law as unjust enrichment and can be found in Civil Code §3517 of California's public policy. I've also included the case of *Meister v. Mensinger*, 230 Cal. App. 4th 381 (2014) along with a copy of Restatement (third) of Restitution and Unjust Enrichment §51 detailing the specific nature of disgorgement actions. (Exhibit [B]). ✓

There is not one California Court following the laws of restitution and unjust enrichment in these "disgorgement" cases. As a result, the judgments rendered thereby are not remedial or equitable as the Courts have repeatedly held, but instead, purely penal and minimally require all of the heightened protections of criminal proceedings which the Court's also deny. This is nothing short of a cascade failure of almost every protection found in the Bill of Rights against arbitrary and despotic government action.

I have also attached a brief I wrote on this subject (Exhibit [C]) as well as the California Legislative History pertaining to §7031(b) (Exhibit [D]). The brief is more than one hundred pages substantiating all of the claims I have stated above by case law. ✓

I am on the verge of being forced into bankruptcy and subject to forfeiture of my entire life estate as a result of this egregious behavior. But I am not alone. See for e.g. the case of *Twenty Nine Palms v. Bardos*, 210 Cal. App. 4th 1435 (2014) and Memorandum of the Bankruptcy Appellate Panel of the 9th Circuit, Bankr, No. 10-41455-DS. where Mr. Bardos was also forced into bankruptcy and unduly harmed.

While I am still awaiting a declaration and other evidence from Mr. Bardos, he has shared with me that he pleaded with the California legislature around the time of this case in 2014 and nothing has changed. This is not acceptable.

Please consider this letter and the supporting documentation a formal complaint as a Petition for Redress of Grievance. I expect a full, fair, and impartial investigation to be conducted in this matter, including an interview with me pertaining to the ongoing injuries I continue to sustain from this heinous and arbitrary abuse of power.

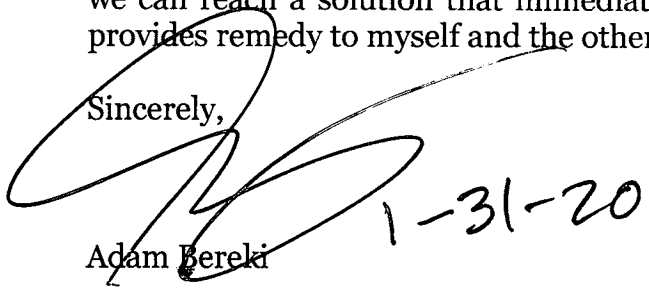
It should be noted my investigation into this fraud is ongoing and the information I am providing you is a debrief if you will, of what has taken me more than two years to discover as I do not have a law degree or any formal training in civil litigation. In the process of my investigation, I have been crying out for help for years, mainly to the Court system, who has absolutely refused to take remedial action and denied every attempt I have made at bringing change.

Therefore, as neither California's Courts nor its Legislature want to listen to the People, I am also forwarding this complaint to United States Department of Justice for criminal investigation. If there is an agency in California which investigates the criminal

misconduct by official actors, you should also forward this complaint to that agency upon receipt.

I remain open, willing, and fully available to discuss these issues with you so that together we can reach a solution that immediately stops this fraudulent criminal behavior and provides remedy to myself and the other People of California who have been harmed.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to be 'Adam Bereki', written over the word 'Sincerely,'.

Adam Bereki

1-31-20

1
2 Exhibit [E]: Trial Court rejection of Plaintiff's Challenge to Jurisdiction.
3 This document is the Notice emailed to Plaintiff by one-legal document
4 services.

5
6 Exhibit [F]: Motion For Judicial Notice. This document is a true and
7 correct copy of the Motion Plaintiff filed on appeal.
8

9
10 Exhibit [G]: Defendants original Cross-Complaint against Plaintiff and
11 Spartan.

12
13 Exhibit [H]: Defendants Motion for Summary Judgment. This is a true
14 and correct copy with the exception that the Exhibits attached to Mrs.
15 Humphreys declaration were removed for brevity as they are the same
16 Exhibits attached to Mr. Humphreys declaration.
17

18
19 Exhibits [I] & [J]: Reporters transcript of "trial" on March 27-28, 2017
20 in this case as certified on December 11, 2017 by Reporter Kelvin
21 Khuong Do- see the last page of each transcript.

22
23 
24 Adam Bereki

23 1-31-20
24 Date



Adam Bereki <abereki@gmail.com>

Petition For Redress of Grievance- Adam Bereki

Huang, Jess <Jess.Huang@asm.ca.gov>

Fri, Jan 31, 2020 at 2:24 PM

To: Adam <abereki@gmail.com>

Cc: "McNabb, Liz" <Liz.McNabb@asm.ca.gov>

Hey Adam!

Thank you for taking the time to to talk this morning, I'm confirming receipt. Will get back to you shortly.

Sent from my iPhone

On Jan 31, 2020, at 1:18 PM, Adam <abereki@gmail.com> wrote:

[Quoted text hidden]

CALL W/ FBI

TO MAKE COMPLAINT

1/31/20

AGENT HUNG UP ON ME

APPROX 1330 HRS

(310) 477-6565



Adam Bereki <abereki@gmail.com>

Legislative Open Records Act (LORA) Response from Assembly Committee on Rules

1 message

Assembly Rules <Assembly.Rules@asm.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Jan 30, 2020 at 4:52 PM

Dear Mr. Bereki:

Attached is the LORA response to your correspondence on January 24, 2020.

Thank you.

Kelli Adams

Assembly Committee on Rules

 **(2020-6(2))BerekiLORA1.30.20.pdf**
950K



STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0124
(916) 319-2800
FAX (916) 319-2810

CHIEF ADMINISTRATIVE OFFICER
DEBRA GRAVERT

Assembly
California Legislature
Committee on Rules

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BUFFY WICKS

MARC LEVINE (D-ALT.)
TYLER DIEP (R-ALT.)

January 30, 2020

R 012920

Adam Bereki
818 Spirit
Costa Mesa, CA 92626
abereki@gmail.com

Re: Legislative Open Records Act Request

Dear Mr. Bereki:

This letter is in response to your email correspondence dated January 24, 2020, in which you reiterate your request under the Legislative Open Records Act. (Gov. Code, § 9070 et seq.) for “any legislative records pertaining to Statutes 1939 Chapter 37 Article 2 (also known as the Business and Professions Code and most specifically, Section 7031).” Your correspondence also requests records pertaining to the “[G]overnor’s involvement, whether by further vetos, commentary, or . . . ratification” relating to Assembly Bill 678 of the 2001-02 Regular Session of the California Legislature.

With regard to your first request, as we previously informed you in our response dated January 15, 2020, the Legislative Open Records Act provides the public access to existing legislative records prepared by the Legislature in the normal course of conducting legislative business. (See Gov. Code, §§ 9072 and 9073.) Under the act, a “legislative record” does not include any writing prepared before December 2, 1974. (Gov. Code, § 9072(c).) As we explained in our January 15 response, the records you seek are not covered by the act. However, the 1939 statute you reference may be accessed through the online archive of the Chief Clerk of the California State Assembly at <https://clerk.assembly.ca.gov/archive-list>.

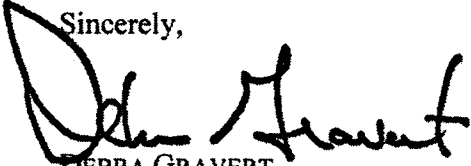
With regard to your second request, Assembly Bill 678 was approved by the Governor and chaptered as Chapter 226 of the Statutes of 2001 on September 1, 2001. Information on Assembly Bill 678, including its history and committee and floor analyses, are accessible online at <http://leginfo.legislature.ca.gov/> by searching for the bill under the “Bill Search” tab. We have no other records that are responsive to this part of your request.



Adam Bereki
January 30, 2020
Page Two

Finally, with regard to whether other entities may be in possession of the records you seek, the Legislative Open Records Act does not require the Legislature to perform legal research, give legal advice, or search for records that are not in the Legislature's custody or control.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra Gravert". The signature is fluid and cursive, with a large initial "D" and "G".

DEBRA GRAVERT
Chief Administrative Officer
California State Assembly

Record call
01-28/20
from clerk - use pajor@jud.ca.gov

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com
949.241.6693

Via mail;
January 23, 2020

Supreme Court of California
350 Mc Allister St.
San Francisco, California 94102

RE: Public Records Act Request

Pursuant to a Public Records Act Request of the California State Bar Association, I was told that your office maintains the oath of office records for members admitted to the California Bar.

Please provide all documents in your custody and control evidencing the following:

- 1) The oath of office for attorney William George Bissell.

Additionally:

- 2) The name, case number, and disposition of all cases submitted to your office for Petition for Writ of Certiorari, Writ of Mandamus, or any other grounds for relief pursuant to Business and Professions Code sections §7031(a) and §7031(b).
- 3) All documents evidencing the legislative history of Business and Professions Code sections §7031(a) or §7031(b), including California Civil Jury Instructions, CACI sections §4560 and §4561. ~~(these documents may or may not be associated with the files or records kept with the information found in request 2 above. Such as, MW Erectors, Inc. V Niederhauser Ornamental & Metal Works, Co. Inc. 6 Cal. 4th 412, Asdourian v. Araj, 38 Cal. 3d 276.)~~
- 4) Correspondence between your office and the legislature, legislative counsel, or governor of California pertaining to Business and Professions Code section §7031.
- 5) Any mandatory or continuing education requirements for law school students or bar members for admission or maintenance of a license to practice law in California.
- 6) The public policy of California pertaining to an action for "disgorgement."
- 7) The public policy of California pertaining to an action for unjust enrichment.
- 8) The public policy of California pertaining to the nature of a penal action and a remedial action.

or further action
not asking you to
conduct research
replies
vhs vs.

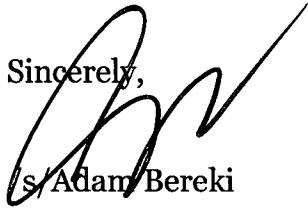
the name is not deliberative or adjudicative

JAE
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nature of a

- 9) The public policy of California pertaining to ~~Article 1, Section 10 of the Constitution for the United States regarding~~ the circulation of gold and silver coin as tender for payment of debts.
- 10) ~~That the California Constitution of 1849 has been repealed.~~ ^{repeal}
- 11) The public policy of California regarding Article IV sections 34 and 35 of the Constitution of 1849.
- 12) The public policy of California to impose "draconian disgorgement penalties" see ~~for e.g. Cham Hill Constructions v. Bd. Of Trs. of Cal. State Univ., 2007 Cal. Super. Lexis 14376 (2007).~~

Sincerely,



/s/ Adam Bereki



REQUEST FOR JUDICIAL ADMINISTRATIVE RECORDS

Under California Rules of Court, rule 10.500

Requester Information

Name ADAM BEREKI

Organization _____

Address 818 SPIRIT COSTA MESA, CALIFORNIA
(include city and state)

Zip Code 92626

Telephone Number & Email Address (949) 241 6693

ABEREKI@GMAIL.COM

Description of Information Requested

Please be as specific as possible. Attach additional sheets of paper as necessary.

SEE ATTACHED.

Will the requested records be used to further your or someone else's commercial, trade, or profit interest?

If so, fees may be reasonably calculated to cover direct costs of duplication or production of records.

YES

NO

Have you recently requested these materials from someone at the Judicial Council of California or a court? This information will help us more quickly answer your request.

YES Judicial Council Courts

Name of person & Date of request: _____

NO

SUBMIT THIS FORM

1) *By Mail:*
Public Access to Judicial Administrative Records
Legal Services
455 Golden Gate Avenue
San Francisco, California 94102

2) *By E-mail:* PAJAR@jud.ca.gov



Adam Bereki <abereki@gmail.com>

Records Request

1 message

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Fri, Jan 31, 2020 at 8:43 AM

Hello,

Please see the attached request for public records. I have included the word file of the request to help with your response.

Thank you for your help.

Sincerely,

Adam Bereki

2 attachments

 **Judicial Council Request 013120.pdf**
1123K

 **Judicial Council Request 013120.docx**
19K

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com
949.241.6693

January 31, 2020

Supreme Court of California,
Fourth District Court of Appeal
(via email to pajar@jud.ca.gov)

RE: Public Records Request

Please see Government Code 54950:

“...The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

Please provide all documents in your custody and control evidencing the following:

- 1) The oath of office for attorney William George Bissell.
- 2) The name, case number, and disposition of all cases submitted to the California Supreme Court for Petition for Writ of Certiorari, Writ of Mandamus, or any other grounds for relief pursuant to Business and Professions Code sections §7031(a) and §7031(b).
- 3) All documents evidencing the legislative history of Business and Professions Code sections §7031(a) or §7031(b), including California Civil Jury Instructions, CACI sections §4560 and §4561 and your review thereof. (These documents may or may not be associated with the files or records kept with the information found in request 2 above such as *MW Erectors, Inc. V Niederhauser Ornamental & Metal Works, Co. Inc.* 6 Cal. 4th 412; *Asdourian v. Araj*, 38 Cal. 3d 276).
- 4) All Correspondence between your offices and the California legislature, Office of legislative counsel, or governor of California pertaining to Business and Professions Code section §7031, CACI 4560 and CACI 4561.
- 5) Any mandatory or continuing education requirements for law school students or bar members for admission or maintenance of a license to practice law in California.
- 6) The public policy of California pertaining to a cause of action for disgorgement.

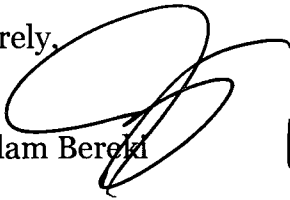
- 7) The public policy of California pertaining to a cause of action for unjust enrichment.
- 8) The public policy of California pertaining to the nature of a penal action and a remedial action.
- 9) The public policy of California that “disgorgement” actions pursuant to Business and Professions Code §7031(b) are different from the non–restitutionary disgorgement actions as held in *Meister v. Mensinger*, 230 Cal. App. 4th 381 and Restatement (third) of Restitution and Unjust Enrichment §51 as adopted therein.
- 10) The public policy of California that it’s Courts are “not permitted to second guess the policy choices of the California Legislature”. See for e.g. *Alatraste*, infra p.673.
- 11) The public policy of California pertaining to the circulation of gold and silver coin as tender for payment of debts.
- 12) The public policy of California pertaining to the circulation of paper money.
- 13) The public policy of California pertaining to the repeal of the Constitution of California of 1849.
- 14) That the Constitution of California of 1849 has been repealed.
- 15) The public policy of California regarding Article IV sections 34 and 35 of the Constitution of 1849.
- 16) The public policy of California to impose “draconian disgorgement penalties” upon its People. See for e.g. *Ch2m Hill Constructions v. Bf. Of Trs. of Cal. State Univ.*, 2007 Cal. Super. Lexis 14376 (2007).
- 17) The names of each Justice, legal assistant, or other employee who authored or participated in the investigation concerning the factual foundation and legal basis of the Fourth District Court of Appeal’s Opinion in case number G055075, Bereki v. Humphreys.
- 18) The timecards or other similar records evidencing the identification of the personnel and time spent on researching and/or writing the Opinion in G055075.
- 19) The MAC Address for each computer used in the research or writing of the Opinion in G055075. A MAC Address is like a license plate for a computer. It is a unique identifying number that can be used to trace transactions the computer engages in on the internet.
- 20) The internet browsing history logs for each computer used in the research, investigation, or writing of the opinion in G055075 detailing specifically which websites and/or pages were visited. I am only requesting these logs pursuant to G055075, not a blanket browsing history for each computer.
- 21) The names of the electronic databases such as Lexis Nexis which the Fourth District Court of Appeal used to conduct its research in this case.
- 22) The browsing history logs for the electronic database(s) listed in request 19, pertaining to this case only. You may have to retrieve these documents from the electronic provider in request 5.
- 23) The names of the written publications the Court used in G055075 to conduct its research.
- 24) A certified copy of the evidence that I profited \$848,000 as was affirmed by the Court in G055075. (The Court does not cite in its Opinion where it obtained this evidence or what specific evidence in the case it considered in upholding the trial Court’s ruling. So there must be some record of it within the documents in your custody or control.)

- 25) A certified copy of the evidence that I performed the work in this case as was determined by the Court in G055075 pursuant to California Civil Jury Instruction CACI, §4561 (3). (The Court does not cite in its Opinion where it obtained this evidence or what specific evidence in the case it considered in upholding the trial Court's ruling.)
- 26) A certified copy of the evidence that I or any of the People of California are "incompetent or dishonest". See for e.g. Opinion in G055075, p.7. (The Court does not cite in its Opinion where it obtained this evidence or what specific evidence in the case it considered in upholding the trial Court's ruling, or where it exists.)
- 27) A certified copy of each of the briefs submitted in *Alatriste v. Cesar's Exterior Designs, Inc.*, 183 Cal. App. 4th, 656.
- 28) A certified copy of each of the briefs submitted in *Rambeau v. Barker*, 2010 Cal App. Unpub. LEXIS 5610.
- 29) The names and case numbers of every case the Courts of California have adjudicated pursuant to Business and Professions Code sections §7031(a) and/or (b).

In the event the Court has a policy requiring fees for copying or providing any of the above documents, I ask they be waived pursuant to the fee waiver on file in this case in G055075.

Sincerely,

/s/Adam Berold



1-31-20



Adam Bereki <abereki@gmail.com>

Records Request

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Mon, Feb 10, 2020 at 9:51 AM

Good morning,

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team. The PAJAR team responds on behalf of California appellate courts to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

The California Supreme Court and the California Court of Appeal, Fourth Appellate District, have made the following determinations regarding the numbered requests contained in your attached letter, dated January 31, 2020:

Request 1:

The Supreme Court: A responsive record is attached, with exempt material redacted. (See Cal. Rules of Court, rule 10.500(e)(1)(C), (f)(3).)

The Court of Appeal: The court has no responsive records.

~~Request 2:~~

Both courts: The courts have no responsive records. ?

Request 3:

Both courts: The courts have no responsive records. The Legislature would have the history of proceedings leading to its enactment of a statute.

Request 4:

Both courts: The courts have no responsive records. ?

Request 5:

Both courts: The courts have no responsive records. You may, however, wish to review rule 9.31 of the California Rules of Court and the following page of California State Bar's website: <http://www.calbar.ca.gov/>

Attorneys/MCLE-CLE.

Requests 6–16:

These paragraphs ask the courts to conduct legal research. The courts are unable to assist you with this task. You may wish to consult the California Courts Self-Help website (<https://www.courts.ca.gov/selfhelp.htm>). It includes information about “Free and Low-Cost Legal Help” (<https://www.courts.ca.gov/selfhelp-lowcosthelp.htm>) and about “Researching the Law” (<https://www.courts.ca.gov/1003.htm>).

Request 17:

Supreme Court: The court has no responsive records.

Court of Appeal: A copy of the court’s opinion is available online (<https://www.courts.ca.gov/opinions/nonpub/G055075.PDF>). All other responsive records are exempt from public disclosure. (See Cal. Rules of Court, rule 10.500(f)(11), (f)(12).)

Request 18:

Both courts: The courts have no responsive records.

Requests 19–23:

Supreme Court: The court has no responsive records.

Court of Appeal: The court has no disclosable responsive records. All responsive records are exempt. (See Cal. Rules of Court, rule 10.500(f)(6), (f)(11), (f)(12).)

Requests 24–26:

Supreme Court: The court has no responsive records.

Court of Appeal: These requests ask the court to explain or defend its opinion in the referenced case. Any challenge or request related to the opinion must be submitted through the appellate process, however, and not through a records request.

Requests 27-28:

Supreme Court: The court has no responsive records.

Court of Appeal: These are requests for adjudicative (or case) records, not judicial administrative records subject to rule 10.500. To request certified copies of case records, you must contact the court clerk’s office. For information about the court, including contact information, see the court’s webpage (<https://www.courts.ca.gov/4dca.htm>).

Request 29:

Both courts: The courts have no responsive records.

Sincerely

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue, San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov | www.courts.ca.gov/publicrecords.htm

[Quoted text hidden]

3 attachments

 **Judicial Council Request 013120.pdf**
1123K

 **Judicial Council Request 013120.docx**
19K

 **Bissell William George.pdf**
1120K

Bissell
Surname

William
Given Name

George
Middle Name

ROLL OF ATTORNEYS OF CALIFORNIA

I hereby enroll myself as an attorney and counselor at law, promising faithfully to perform all legal duties and comply with the obligations prescribed by the laws of the State of California, and declare the following information to be correct:

Full Name William George Bissell Age 29

Home Address [REDACTED] Street

Costa Mesa City Cal State 92627 Zip Code

Office Address _____ Street

_____ City _____ State _____ Zip Code

Prior Admissions in Other Jurisdictions _____

Graduate of what University, if any San Diego State University

Graduate of what Law School, if any Pepperdine University

60854-877 5-78 20M OSP

I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California; and that I will faithfully discharge the duties of an attorney and counselor at law to the best of my knowledge and ability.

Dated: This 16 day of December 1980

B

B

I hereby certify that the foregoing oath, taken by the attorney above named, as required by law, was formally administered by and subscribed to before me

this _____ day of

DEC 16 1980

19

[SEAL]

Clay Probbins Jr.

CA LAWYERS ASSOC.



Adam Bereki <abereki@gmail.com>

Public Records Request

1 message

Adam <abereki@gmail.com>
To: info@calawyers.org

Tue, Feb 4, 2020 at 9:09 AM

Hi, the following is a Public Records Request I made to the State Bar and their reply (below in blue). I am now submitting this request to your office.

Thank you for your help.

Adam Bereki
949 241 6693
abereki@gmail.com

REQUEST TO STATE BAR:

Ms. Louie,

Thank you for your thorough reply. I apologize for the overbroad and unduly burdensome request in Request 3 of my letter. I resubmit Request 3 with the following specificity:

I am looking for records in the custody and control of your agency pertaining to any comments, discussions, recommendations, etc.. pertaining to Business and Professions Code section §7031 and California Civil Jury Instructions, CACI, sections §4560 and §4561. I am aware at this point that your agency, specifically the Litigation Section, has commented on the aforementioned CACI sections based upon the report to the Judicial Council dated June 24, 2016. I do not need you to produce these comments. I am looking for any information in addition to these comments pertaining to your agency's involvement in the ratification or enactment of the aforementioned codes and instructions.

REPLY FROM STATE BAR:

Dear Mr. Bereki:

Effective January 1, 2018, the former Sections of the State Bar of California separated from the State Bar and became the California Lawyers Association (CLA). The records and files of the former Sections were transferred to CLA at that time. Nevertheless, the State Bar has searched its existing records with reasonable efforts and has located no records responsive to your follow-up request. Accordingly, it appears that the State Bar does not possess the records you seek. You may wish to contact CLA at info@calawyers.org or 916-516-1760 for further assistance with your request.

Assembly Bill No. 678

Passed the Assembly August 20, 2001

Hugh R. Hayden
Acting **Chief Clerk of the Assembly**

Passed the Senate July 20, 2001

Gregory P. Schmeis
Secretary of the Senate

This bill was received by the Governor this 24th day of August, 2001, at 7 o'clock **P.M.**

[Signature]
Private Secretary of the Governor

RECEIVED
020720

(d) If license or proper license is converted, then proof of license pursuant to this section shall be made by production of a verified certificate of license from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing herein shall require any person or entity converting license or proper license to produce a verified certificate. When license or proper license is converted, the burden of proof to establish license or proper license shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, the court may determine that there has been substantial compliance with license requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper license, and (3) did not know or reasonably should not have known that he or she was not duly licensed. Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.

CHAPTER 226

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, Papan, Contractor.

Existing law prohibits any unlicensed contractor from bringing or maintaining an action to recover compensation in any court in this state.

This bill would authorize a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

The people of the State of California do enact as follows:

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) A person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

FILED

in the office of the Secretary of State
of the State of California

SEP 04 2001

At 11:39 O'clock A M.
BILLY JONES, Secretary of State

By Marcia M. [Signature]
Deputy Secretary of State

Approved _____ SEP 1 _____, 2001

[Signature]
Governor

Original Law

Ch. 226

Stats. 2001

MF10:1(88)

1755

SECRETARY OF STATE, ALEX PADILLA
The Original of This Document is in
CALIFORNIA STATE ARCHIVES
1020 "O" STREET
SACRAMENTO, CA 95814

SGT. ALCANTAR

#12580

2/7/20



California LEGISLATIVE INFORMATION

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Code: Section: ⓘ

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Search Phrase: [Highlight](#)

PENAL CODE - PEN

PART 1. OF CRIMES AND PUNISHMENTS [25 - 680.4] (Part 1 enacted 1872.)

TITLE 13. OF CRIMES AGAINST PROPERTY [450 - 593g] (Title 13 enacted 1872.)

CHAPTER 5. Larceny [484 - 502.9] (Chapter 5 enacted 1872.)

484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) (1) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars (\$1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(2) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars (\$1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

(Amended by Stats. 2000, Ch. 176, Sec. 1. Effective January 1, 2001.)



2/7/20


All


Missed




Edit




Recents

 **+1 (714) 245-8000** 2:01 PM 
 Santa Ana, CA *SAPD*



+1 (714) 245-8000 2:00 PM 
 Santa Ana, CA

+1 (866) 316-2432 1:52 PM 
 unknown

  **+1 (714) 245-8049 (2)** 1:33 PM 
 Santa Ana, CA *SAPD*

  **(714) 647-5400 (2)** 1:31 PM 
 Santa Ana, CA *SAPD*

 **Vet Baker Bristol** 12:44 PM 
 mobile

 **+1 (657) 622-6878** 10:39 AM 
 Santa Ana, CA *SUP. CT. GEN. COUNSEL*

Mom 10:13 AM 
 mobile



Adam Bereki <abereki@gmail.com>

AB 678 (2001)

1 message

Adam <abereki@gmail.com>
To: gdavis@loeb.com

Sun, Feb 9, 2020 at 7:08 AM

Gray,

Hi, my name is Adam Bereki. I'm writing with an unusual question dating back to your time as Governor to see if you could shine some light on a Bill you approved and how you interpreted it at the time as it seems to have some confusing wording.

The Bill I'm referring to is Assembly Bill 678 (2001) which is Business and Professions Code §7031(b):

Except as provided in subdivision (e), a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

I obtained the legislative history of the Bill which you initially vetoed and found you made the following commentary with regard to why you vetoed it: "*Although I strongly agree that unlicensed contractors must not be allowed to profit from their illegal activities, I can not sign a bill that has the potential of rewarding a knowing accomplice of these activities.*" (I've attached the Enrolled Bill Report from the Governor's Chaptered Bill File).

It seems clear to me that you interpreted §7031(b) to only apply to an unlicensed contractor's profits, not the whole amount from a tainted transaction. Am I understanding correctly?

Allow me share this example which may provide more clarity:

Suppose a homeowner hires an unlicensed contractor and pays them \$500,000 to build a custom home. A dispute arises and the homeowner discovers the contractor is unlicensed and files a claim under §7031(b) for the "return of all compensation paid". An

accounting at the time of trial reveals the contractor spent \$425,000 in materials and labor and made \$75,000 in profit.

Did you interpret §7031(b) to mean that the unlicensed contractor must forfeit the \$75,000 in profit? Or that the unlicensed contractor must forfeit the entire \$500,000?

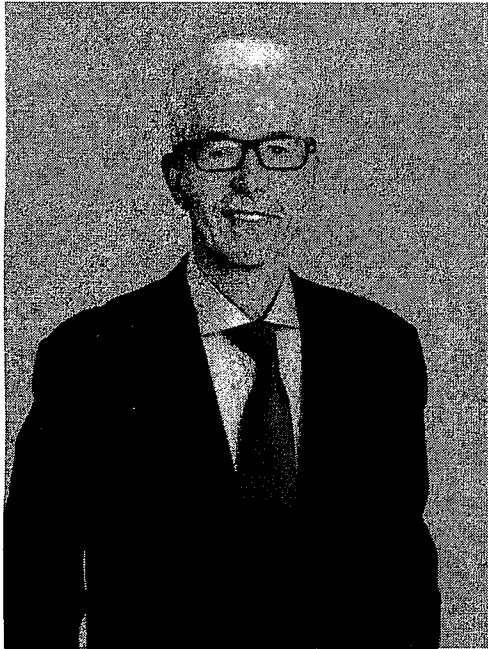
As you can see there is a radical difference in interpreting the word "compensation" in "return all *compensation* paid".

Thank you for your help.

Sincerely,

Adam Bereki

 **7031b Enrolled Bill Report.pdf**
2169K



Governor Gray Davis

(Ret.)

Of Counsel

Los Angeles

gdavis@loeb.com

T: +1.310.282.2206

Joseph "Gray" Davis offers a combination of experience, insight and perspective following a long and distinguished career in California government. He is a trusted advisor to his clients, including companies, nonprofits, research institutes and universities as well as primary and secondary schools. He provides a strategic approach to solving complex issues given the extensive knowledge he has gained over his 30 plus years of public service.

Gray was overwhelmingly elected the 37th governor of California in 1998, winning 58 percent of the vote. As Governor, he made education a top priority, signing legislation to strengthen California's K-12 system, increasing accountability in schools, and expanding access to higher education with a record number of scholarships and college loans. These reforms improved student achievement scores for six consecutive years.

While presiding over California during an economic expansion, Gray made record investments in infrastructure, created four Centers of Science and Innovation on UC campuses, and expanded state health insurance for an additional one million children. He also was the first Governor in the nation to authorize stem cell research. As Governor, he demonstrated bold environmental leadership by signing

the first law in the nation to reduce global warming and greenhouse gases. He also created the first Greenhouse Gas Monitoring Registry, and was the first to establish the nation's most ambitious commitment to renewable energy by creating the statewide Renewables Portfolio Standard. Despite a wave of Republican victories across the nation in 2002, Gray was re-elected to a second term.

To view an archive of his gubernatorial accomplishments, please visit the Governor Gray Davis' Digital Library Web site at www.gray-davis.com.

Governor Davis is also a Distinguished Policy Fellow at the UCLA School of Public Affairs, and regularly speaks before various academic and civic groups. Gray was the Keynote speaker at the Columbia Law School Graduation Ceremony in May of 2009. Gray serves on several civic boards, including the Saban Free Clinic, and is the Co-Chair for the Southern California Leadership Council.

NEWS & INSIGHTS

Leah Bishop and Gray Davis Named Among the Most Influential People in Los Angeles

July 31, 2018 — Announcements/Press Releases

Balancing the Scales

November 2011

Creative Approaches at All Levels of Government Can Cut Costs

October 26, 2011

Will Budget Plan Get Passed?

July 21, 2009 — Media Mentions

The Crisis in California

June 5, 2009 — Media Mentions

EVENTS

Institute for Corporate Counsel

Speaker

December 5, 2012 — Speaking Engagements

Cleantech Connect

Speaker

July 27, 2011 — Seminars

Benjamin S. Crocker Symposium on Real Estate Law & Business 2008

Speaker

April 9, 2008 — Sponsored

Government by the People in California

Speaker

October 28, 2005 — Speaking Engagements

Fisher Center for Real Estate and Urban Economics

Speaker

November 2005

CREDENTIALS

Education

Columbia University School of Law, J.D.

Stanford University, A.B., *With Distinction*

Bar Admissions

California

RECOGNITION & AFFILIATION

Recognition

- Named among "Most Influential People in Los Angeles," Los Angeles Business Journal LA 500 (2018)
- Distinguished Policy Fellow at the UCLA School of Public Affairs

Affiliations

- Member, Southern California Leadership Council

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| DEPARTMENT Consumer Affairs | AUTHOR Papan | BILL NUMBER AB 678 |
| SPONSOR Judge Quentin Kopp | RELATED BILLS: AB 264 (2001), AB 794 (2001), AB 1534 (2001), SB 26 (2001), SB 135 (2001), SB 355 (2001), SB 771 (2001), AB 2833 (2000), SB 2029 (2000) | |
| SUBJECT Unlicensed Contractors | | |

BILL SUMMARY:

This bill would allow a person who uses an unlicensed contractor to recover all compensation paid to the unlicensed contractor.

According to the sponsor, former State Senator and now Judge Quentin Kopp, the bill is intended to address Cooper v. Westbrook Torrey Hills, LP (2000) 81 Cal. App. 4th 1294, where the court, in an unpublished portion of the opinion, referred to Business and Professions Code §7031(a) that prohibits an unlicensed contractor from recovering fees, but does not require an unlicensed contractor to refund any compensation already paid by the property owner.

The bill is intended to protect the public and encourage unlicensed contractors to become licensed by specifically authorizing an individual who has used the services of an unlicensed contractor to bring an action to recover all compensation already paid to the unlicensed contractor for performance of any act or contract.

LEGISLATIVE HISTORY:

AB 794 (Shelley, 2001) would prohibit a licensed contractor from inserting into any contract with an employee specified unlawful contract provisions set forth in the Civil Code. The first hearings on this bill in the Assembly Judiciary were cancelled twice at the author's request.

AB 1534 (Longville, 2001) would require a commercial property owner who contracts for a work of improvement, for construction, alteration, addition to, or repair of the property to provide to the original contractor, if a lending institution is providing a construction loan, a copy of the recorded construction mortgage or deed of trust that shall disclose the amount of the construction loan. The bill would also require an owner to provide security for the project by either a payment bond, irrevocable letter of credit, or a construction security escrow account, as specified. These requirements would not apply to the construction of single-family residences.

SB 26 (Figueroa, 2001) would, among other things, extend the authority of the Contractors' State License Board to appoint a Registrar of contractors to July 1, 2003.

SB 135 (Figueroa, 2001) would require the Contractors' State License Board to disclose complaints against licensed contractors that have been referred for investigation due to a probable violation that, if proven, would be appropriate for suspension or revocation of the contractor's license or criminal

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| VOTE: Assembly | | VOTE: Senate | |
| Floor: | Aye <u>69</u> No <u>2</u> | Floor: | Aye <u>23</u> No <u>10</u> |
| Judiciary Committee: | Aye <u>8</u> No <u>0</u> | Policy Committee: | Aye <u>6</u> No <u>0</u> |
| Business & Professions Committee: | Aye <u>10</u> No <u>0</u> | Fiscal Committee: | Aye _____ No _____ |
| RECOMMENDATION TO GOVERNOR | SIGN <u>X</u> VETO _____ | DEFER TO OTHER AGENCY | |
| DEPARTMENT DIRECTOR | DATE <u>8/16/01</u> | AGENCY SECRETARY | DATE <u>8/23/01</u> |

prosecution. The bill would require a disclaimer that would accompany the disclosure of a complaint. The Joint Legislative Sunset Review Committee is the sponsor of SB 135.

SB 355 (Escutia, 2001) would abrogate the holding in *Aas v. Superior Court of San Diego*, (2000), 24 Cal. 4th 627. The California Supreme Court ruled that causes of action for construction defects based on violations of the building code or other applicable codes require a showing of death, bodily injury, or existing property damage. This bill would alternatively state that a cause of action for construction defects based on violations of the building code or other applicable codes does not require a showing of death, bodily injury, or existing property damage and define the cost of repairing the code violation as the damage that may be recoverable in such cause of action.

SB 771 (Committee on Business and Professions, 2001) was previously an omnibus bill that, among other things, would have authorized the Contractors' State License Board to meet once each quarter, allowed contractors to deal with underground storage tanks, allowed the Registrar to issue citations to unlicensed individuals and unregistered salespersons the Registrar believes violated the Contractors' State License Law and to persons who use an incorrect contractor's license number to defraud others, and would have also authorized the registrar to use collection agencies to collect civil penalties. This bill was amended on July 23, 2001, and now addresses unsolicited and unwanted telephone solicitations. The previous provisions will be added to omnibus bill SB 724 (Senate Business and Professions Committee).

AB 2833 (Alquist, 2000) would have required the Contractors' State License Board to publish on its Internet website by September 15, 2001, a listing of the names and business addresses of all its licensed contractors, including information regarding any disciplinary action, pending investigation or dispute mediation against a licensee. This bill would also have required a new mediation process. The author requested that this bill be withdrawn.

SB 2029 (Figueroa, Chapter 1005, Statutes of 2000) extended the sunset date for the Contractors' State License Board by two years to July 1, 2003, added two additional public members to increase the membership from 13 to 15, established a Contractors' State License Enforcement Program Monitor and required the Board to perform several studies. The Joint Legislative Sunset Review Committee sponsored this law.

DEPARTMENT SERVICE AND PROGRAM HISTORY:

The Contractors' State License Board was established in 1929 to regulate the construction industry. It currently licenses and regulates 218,000 active licensees in more than 40 license classifications that includes general contractors and home improvement contractors. The Board is responsible for investigating complaints filed by consumers against licensed and unlicensed contractors for poor workmanship and construction defects. In fiscal year 1999-2000, the Board received over 26,000 complaints. Of those investigated and confirmed as possible violations, 897 complaints were arbitrated. The Board issued 802 citations to licensed contractors, and 1,644 citations to unlicensed contractors.

SPECIFIC FINDINGS:

Existing law:

- Prohibits an unlicensed contractor from bringing an action to collect compensation for the performance of any act or contract, regardless of the merits of the cause of action brought by the unlicensed individual. Specifically, no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this chapter without alleging that he or she was a duly licensed contractor at

all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person [Business and Professions Code §7031. (a)].

- Requires anyone who contracts to do construction work to be licensed by the Contractors State License Board if the total price of the job is \$500 or more.
- ***Makes any unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs an infraction punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).***
- Makes the following a misdemeanor, punishable by a fine of not less than \$100 nor more than \$5,000 or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment:
 - For an unlicensed person to act in the capacity of a contractor;
 - For an unlicensed person to practice architecture;
 - For an unlicensed person to practice landscape architecture;
 - For an unlicensed engineer to practice engineering;
 - For an unlicensed person to practice land surveying.

This bill would:

- Provide that a person who utilizes the services of an unlicensed contractor may bring a civil action to recover any compensation paid to the unlicensed contractor for work performed. ***This would be regardless of whether the person knew that the contractor was unlicensed prior to making any payments.***

COMMENTS

- As amended on May 1, 2001, this bill would have negated a person's right to recover any compensation paid to an unlicensed contractor if the person knew that the contractor was unlicensed prior to the time any payment was made. This "prior knowledge" standard has now been removed from the bill to give consumers an absolute right to recovery from unlicensed contractors to increase the bill's deterrent effect against unlawful contracting.
- Currently, there is no provision in existing law covering the California Architects Board, the Landscape Architects Technical Committee, or the Board of Professional Engineers and Land Surveyors that allows a consumer to bring such a cause of action.
- Under the Code of Civil Procedure §1029.8, an unlicensed person who causes injury or damage to another person resulting from services performed without license as required, is liable to the injured person for the damages assessed in a civil action. Nothing in this language specifically addresses a homeowner's right to bring an action to recover compensation paid to the unlicensed person without a showing of injury or harm.
- Under Labor Code §1021, any licensed contractor who employs a worker to perform services for which a license is required, is subject to \$100 civil penalty per employee for each day of such employment, in addition to any other penalty provided by law.
- Under Government §13959, crime victims may obtain restitution for the pecuniary losses they suffer as a direct result of criminal acts through compensation from the Crime Victims' Restitution Fund because it is in the public interest to assist residents of the State of California. Pecuniary losses are defined as expenses for which the victim has not been and will not be reimbursed from any other

source. Restitution is administered through the California Victim Compensation and Government Claims Board.

- Likewise, this bill would also promote the public interest by allowing a person who hires an unlicensed contractor to recover the expenses incurred from paying for the unlicensed practice of a profession regulated by the state that constitutes a misdemeanor offense.

HISTORY OF AMENDMENTS

- As introduced on February 22, 2001, this bill would have allowed any person who utilizes the services of an unlicensed contractor to bring an action to recover all compensation paid to the unlicensed contractor for performance of any act or contract. The bill was amended on 5/1/01 to add a caveat that stated "unless the person knew that the contractor was unlicensed prior to the time that any payments were made to the contractor". This language was subsequently removed to give consumers absolute and unrestricted recourse when the bill was amended again on 7/03/01.

CSLB Supports This Bill

- The Contractors' State License Board is in support of this bill, which the Board believes reinforces the existing laws prohibiting unlicensed individuals from providing contracting services. In addition, this bill would extend the current law that precludes an unlicensed contractor from suing for unpaid work by allowing a consumer who uses an unlicensed contractor to recover funds paid to the unlicensed contractor. In addition, the Department sees this bill as supplementing the Board's existing ability to use its administrative authority through the citation and fine process to address unlicensed activity.

REGULATIONS:

None

LEGISLATIVELY-MANDATED REPORTS:

None

COMMISSIONS AND BOARDS:

None

FISCAL IMPACT:

None

NATIONAL INQUIRY:

Federal:

Not applicable

Other States:

Of the 50 states, only 15 (Colorado, Idaho, Illinois, Indiana, Kentucky, Maine, Minnesota, Missouri, New York, Ohio, Pennsylvania, South Dakota, Texas, Vermont and Wyoming) do not license or regulate the contracting industry.

In Oklahoma, SB 354 (Synder, 2001) was signed into law on 6/4/01 creating the Construction Industries Commission to license and regulate the plumbing, electrical, mechanical, fire sprinkler, and alarm industries and building and construction inspectors.

In Oregon, HR 2188 (Governor Kitzhaber, 2001) was signed into law on 5/21/01 to eliminate the Construction Contractors Training Board and create the Construction Contractors Board to license and regulate contractors.

In Hawaii, SB 263 (Chun Oakland, 2001) was introduced on 1/26/01 to prohibit unlicensed contractors from keeping any money paid to them because to allow otherwise would defeat the licensing. Unlicensed contractors would be required to reimburse the moneys paid to consumers. This bill is most like AB 678. This bill was carried over to the next Legislative Session (2002).

In Florida, SB 428 (Dyer, 2001) was signed into law on 6/13/01 that increased the administrative fines that can be imposed for unlicensed contracting and allows the Department of Business and Professional Regulation to impose reasonable investigative and legal costs for prosecution of such violations. Any local governing body that contributes information related to this activity could now collect 30 percent of the fine collected after investigative and legal costs for prosecution are deducted. The department is also now required to create a website accessible to the public that lists the names of persons involved in unlicensed contracting.

PRO AND CON ARGUMENTS:

Arguments in Support of the Bill:

- It is contrary to good public policy to allow a person who violates the law to retain the proceeds from h/her illegal activity.
- This bill would provide consumers with definite recourse to recover any monies paid to an unlicensed contractor regardless of whether the consumer had prior knowledge that the person did not possess a valid and current contractor's license.
- This bill would deter those persons who act as contractors without a required state license from soliciting their services to consumers.
- This bill would prevent unlicensed contractors from being unjustly enriched by receiving and retaining payments for work they may never start or complete.
- The bill would be consistent with current state law to allow the victim of an unlawful act to recover any resulting pecuniary losses.
- The Contractors' State License Board is in support of this bill, which the Board believes reinforces the existing laws prohibiting unlicensed individuals from providing contracting services. Furthermore, the provisions of this bill would supplement the Board's existing ability to use its administrative authority through the citation and fine process to address unlicensed activity.
- This bill would extend the current law that precludes an unlicensed contractor from suing for unpaid work by allowing a consumer who uses an unlicensed contractor to recover funds paid to the unlicensed contractor.

Arguments in Opposition to the Bill:

Though there is no registered opposition, it could be argued that:

- This bill is unnecessary because civil remedies are already available under the Code of Civil Procedure.

VETO MESSAGE
Assembly Bill 678 (Papan), As Amended July 3, 2001

I am returning Assembly Bill 678 without my signature.

This bill would provide that persons who use an unlicensed contractor can bring a civil action to recover all compensation paid to the unlicensed contractor, even in instances when the consumer had prior knowledge that the contractor is unlicensed.

This bill, by allowing persons with prior knowledge of the licensure status of an unlicensed contractor to sue for reimbursement of compensation, has the potential for rewarding unscrupulous consumers who could intentionally hire unlicensed contractors and then bring an action to recover any compensation paid for the work already performed. In cases of a duplicitous nature, such as when a consumer and an unlicensed contractor have agreed to ignore California's licensure requirements that often provide the consumer with a significant savings compared to the cost of working with a licensed contractor, it seems fundamentally unfair that the system should reward consumers who knowingly participate.

Although I strongly agree that unlicensed contractors must not be allowed to profit from their illegal activities, I can not sign a bill that has the potential of rewarding a *knowing* accomplice of these activities.

Sincerely,

GRAY DAVIS, GOVERNOR



Adam Bereki <abereki@gmail.com>

Bereki v Humphreys

1 message

Adam <abereki@gmail.com>

Sun, Feb 9, 2020 at 10:28 AM

To: "wbissell wgb-law.com" <wbissell@wgb-law.com>

Bill,

As I've previously made you aware, I conveyed the real property at 818 Spirit Costa Mesa, California which the Humphreys have placed a lien on to my mother, Roseanne Bereki in November 2010. The property is currently held in the name of the The Living Trust of Adam Bereki to which she is the sole beneficiary. We were unable to transfer the property into her name in 2010 because she was unable to qualify for a loan at the time of transfer. She has been making the mortgage and property tax payments for more than ten years, beginning long before my involvement in the Lido matter which began in 2012.

As I've also made you aware, my mother has serious health conditions continue to and limit further limit her ability to work and function. Without working she will be unable to afford to continue to pay the mortgage and property taxes on Spirit. Her plan for years has always been that she would sell it upon her retirement. This brings up a couple of issues.

First, she could start a lawsuit to quiet title and has consulted counsel to that effect. The lawyer estimated it would cost about \$50,000. There is clearly substantial evidence of her true ownership of the property but she cannot afford to file suit. Moreover, it would minimally result in an equal cost burden to the Humphreys. As a result of the lien and her inability to quiet title and thereby protect her interests, she would be forced to forfeit them. This presumably would make The Living Trust or me responsible.

Neither I nor The Living Trust have any other assets that would even remotely satisfy the unlawful judgment and lien. As I've shared in my verified complaint in the district Court, the "judgment" is about 46 times my qualifying net worth.

I cannot afford to pay the mortgage or property taxes on Spirit. Since the first appeal in this case the Courts have repeatedly approved my filing in forma pauperis. As a result of the "judgment" I cannot work as a contractor to either afford an attorney to represent me or pay the mortgage and property taxes to maintain the Spirit property even if I owned it. I cannot afford an attorney to handle the quiet title action either and most certainly would not have standing as I am not the real party in interest.

This leaves me in the position of being forced to file bankruptcy as result of the foreclosure actions likely brought on as a result of not paying the mortgage or property taxes and being unable to satisfy the unlawful "judgment". I have begun the initial research and preparation of the required forms to do so. In a previous case, the bankruptcy court has held that §7031 judgments are dischargeable.

If my mother is forced to forfeit her interest as a means of self and financial preservation to be able to retire and maintain her health in the best way she can, I will proceed with the bankruptcy and declare a disability homestead for \$175,000 due to my disability retirement with the police department. The bankruptcy will also freeze the foreclosure actions by the mortgage company and County of Orange while the taxes and interest continue too accrue because I cannot afford to pay them.

It is unknown what the Humphreys would receive after the homestead exemption, realtor and other fees required to sell the property and the payment of unpaid taxes, fees, and mortgage costs spanning over the duration of the bankruptcy proceedings.

As another consideration you stated in a recent letter that the Humphreys were willing to consider a "reasonable" offer. I have no idea what the Humphreys would consider "reasonable". Could you please provide this information so we can consider this in our decision on how to move forward.

At this point in time, it is appearing like the only reasonable course of action may be for my mom to abandon her interest and for me to file bankruptcy. As stated, steps to this effect have begun. Additionally, the second installment of property taxes that were due in December 2019 have not been paid. The mortgage payment due February 15th, 2020 will also not be paid if some resolution cannot be made.

Before determining the next steps to take, we again wanted to involve you and the Humphreys in these decisions that will certainly result in the occurrence of extraordinarily costs and even irreversible damages.

Please let us know as soon as possible what reasonable offer the Humphreys would consider and how they want to proceed.

At the minimum, please provide receipt of your this communication.

Sincerely,

Adam Bereki

An official website of the United States government [Here's how you know](#)

HOW TO FILE A COMPLAINT

The Civil Rights Division enforces civil rights laws in a wide variety of contexts. You may use the information on this page to find the appropriate way to submit a complaint or report of a potential civil rights violation. If you are not sure which Section is the most appropriate one to receive your complaint, you may contact the Civil Rights Division at toll-free 855-856-1247 or (202) 344-4433.

[Criminal Section](#)

[Housing and Civil](#)

[Enforcement Section](#)

[Disability Rights Section](#)

[Immigrant and Employee Rights Section](#)

[Educational Opportunities Section](#)

[Special Litigation Section](#)

[Employment Litigation Section](#)

[Voting Section](#)

[Federal Coordination and Compliance](#)

Please let us know if you have trouble understanding English or need help communicating with the Civil Rights Division. If you need an interpreter or if translated material is available when you contact us. If you can, please tell us your language (or dialect).

[Availability of Language Assistance Services \(English\)](#)

[توافر خدمات المساعدة اللغوية - قسم الحقوق المدنية \(Arabic\)](#)

[语言协助服务现成可用 \(Simplified Chinese\)](#)

[語言協助服務現成可用 \(Traditional Chinese\)](#)

[Magagamit na Mga Paglilingkod Ukol sa Tulong na Pangwikain - Sangay sa Mga Karapatang Sibil \(Filipino\)](#)

[Disponibilité de services d'aide linguistique \(French\)](#)

[\[언어 지원 서비스 이용 - 인권국 \(Korean\)](#)

[Disponibilidade de Serviços de Assistência Linguística - Divisão dos Direitos Cívicos \(Portuguese\)](#)

[Управление по делам о нарушениях гражданских прав \(Russian\)](#)

[Disponibilidad de servicios de asistencia lingüística \(Spanish\)](#)

[Sự Sẵn Sàng của Dịch Vụ Hỗ Trợ Ngôn Ngữ \(Vietnamese\)](#)

ALABAMA'S IMMIGRATION LAW H.B. 56

To report potential civil rights concerns related to the impact of Alabama's immigration law H.B. 56, please contact us at hb56@usdoj.gov.

CRIMINAL

Contact your local FBI field office to report incidents of:

- Hate crimes;
- Excessive force or other Constitutional violations by persons acting as law enforcement officials or public officials;
- Human trafficking and involuntary servitude;
- Force, threats, or physical obstruction to interfere with access to reproductive health care services;
- Force or threats to interfere with the exercise of religious beliefs and destruction, defacing, or damage of religious property;
- Force or threats to interfere with the right to vote based on race, color, national origin, or religion.

You can find your local office here:

<https://www.fbi.gov/contact-us/field-offices>

Please include as many details of the incident as possible, such as the dates and times; names of possible witnesses; and supporting documents, such as police and medical reports, or photographs.

BADGE # 9171

REPORT TIP "7" LA OFF. (310) 477 6565

You may also mail a written copy of the complaint and materials you submitted to the FBI to the Criminal Section at

US Department of Justice
Civil Rights Division
Criminal Section - 4CON
950 Pennsylvania Avenue, NW
Washington, DC 20530

DISABILITY RIGHTS

You can file an Americans with Disabilities Act complaint alleging disability discrimination against a State or local government, a public accommodation (including, for example, a restaurant, doctor's office, retail store, hotel, etc.) by mail or online. For information about filing an ADA complaint, visit www.ada.gov/filing_complaint.htm. To file an ADA complaint you may send the materials requested at www.ada.gov/fact_on_complaint.htm to:

US Department of Justice 950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section - 4CON
Washington, D.C. 20530
Fax: (202) 307-1197

You may also file a complaint online at www.ada.gov/complaint/.
If you have questions about filing an ADA complaint, please call:
ADA Information Line: 800-514-0301 (voice) or 800-514-0383 (TTY).

Main Section Telephone Number: 202-307-0663 (voice and TTY)

EDUCATIONAL OPPORTUNITIES

The Educational Opportunities Section enforces federal laws that protect students from harassment or discrimination. The Section is responsible for enforcing Title IV of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, sex, and religion in public schools and institutions of higher learning; the Equal Educational Opportunities Act of 1974, which, among other things, requires states and school districts to provide English Language Learner (ELL) students with appropriate services to overcome language barriers; and the Americans with Disabilities Act, which prohibits disability discrimination. The Section also plays a significant role in enforcing Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, and national origin by recipients of federal funds); Title IX of the Educational Amendments of 1972 (prohibiting discrimination on the basis of sex by recipients of federal funds); and Section 504 of the Rehabilitation Act and the Disabilities Education Act (both of which address disability discrimination and appropriate disability-related services). The Educational Opportunities Section accepts complaints of potential violations:

- By e-mail to education@usdoj.gov
- By telephone at (202) 514-4092 or 1-877-292-3804 (toll-free)
- By facsimile at (202) 514-8337
- By letter to the following address:

U.S. Department of Justice Civil Rights Division
950 Pennsylvania Avenue, N.W.
Educational Opportunities Section - 4CON
Washington, D.C. 20530

In order to properly respond to a complaint, the Section requests that complainants provide their name, address, and the school/school district/university where the alleged discrimination occurred.

EMPLOYMENT LITIGATION

Individual Complaints of Employment Discrimination:

Title VII of the Civil Rights Act of 1964 (**âTitle VIIâ**) prohibits discrimination, including harassment and retaliation, based on sex, color, religion, and national origin. If you believe you have been unlawfully denied an employment opportunity discriminated against by an employer in violation of Title VII, you should contact the **Equal Employment Opportunity Commission (EEOC)**. The EEOC may be contacted by calling **1-800-669-4000** or 1-800-669-6820 (TTY).

The **EEOC** maintains a website with information on [how to file a complaint](#).

Complaints of Employment Discrimination involving a Group or Class of Individuals:

Title VII of the Civil Rights Act of 1964 (âTitle VIIâ) prohibits discrimination, including harassment and retaliation, based on sex, color, religion, and national origin.

Under Title VII, the Attorney General has authority to bring suit against a state or local government employer when to believe that a "pattern or practice" of discrimination exists. Generally, these are factually and legally complex cases that alter an employment practice, such as recruitment, hiring, assignment and promotions, which have the purpose or effect of denying employment or promotional opportunities to a class of individuals.

If you have reason to believe that a state or local government employer has unlawfully denied an employment opportunity or otherwise discriminated against a class of individuals by creating a "pattern or practice" of discrimination in violation of Title VII, you should contact the Department of Justice (DOJ). The DOJ may be contacted by calling (202) 514-3831 or (202) 514-3832.

Complaints of Employment Discrimination involving Service Members:

If you believe you have been discriminated against in employment because of your military service or you have been denied the right to return to your job after deployment, you may seek the assistance of the **Employer Support of the Guard (ESGR)**. You may contact the ESGR about your employment situation by calling toll-free **1 (800) 336-4590**.

If you choose to file a USERRA claim with the **Department of Labor (DOL)**, you may submit a signed hard copy or electronically file. To submit a hard copy, you can download [Form 1010](#) to your computer, complete the items on the form relevant to your claim, print the form, sign and date the form, and then either mail it, fax it or deliver it in person, to the nearest VETS office only. If you prefer to file Form 1010 electronically via the Internet instead of mailing a printed form, you may also submit an online form. It is important that you file with DOL or consult with a private attorney as soon as possible.

Veterans' Employment and Training Service
U.S. Department of Labor
ATTENTION: Form 1010
61 Forsyth Street, S.W., Room 6T85
Atlanta, Georgia 30303

FAX: (404) 562-2313

You also may retain a private attorney to handle your claim and file directly with a court of competent jurisdiction.

FEDERAL COORDINATION AND COMPLIANCE

If you believe you or an individual that you or your organization represents has been discriminated against because of your race, color, sex, religion, national origin, or ancestry, you should contact the Department of Justice (DOJ) at (202) 514-3831 or (202) 514-3832.

color, or national origin, including limited English proficiency (LEP), by programs or activities receiving federal financial assistance, you may contact the Federal Coordination and Compliance Section. If you believe that you or an individual that you represent or an organization you represent has been excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of your sex by any education program or activity receiving federal financial assistance, you may contact the Federal Coordination and Compliance Section.

For information on language assistance services available, click [here](#).

To file a complaint alleging discrimination in programs or activities of entities that receive federal assistance, please use the appropriate complaint form:

English: [Complaint and Consent/Release Form - English \(PDF\)](#)

Español: [Formulario de Denuncia / Formulario de Consentimiento \(PDF\)](#)

Chinese: [投訴表 / 投訴人同意書/授權協議書](#)

Korean: [이의 제기 양식 / 이의 제기자 정보 공개 동의서](#)

Vietnamese: [MẪU ĐƠN KHIẾU NẠI / MẪU CHẤP THUẬN/TIẾT LỘ THÔNG TIN CỦA NGƯỜI KHIẾU NẠI](#)

Please mail the complaint to the following address:

U.S. Department of Justice
Civil Rights Division
Federal Coordination and Compliance Section - 4CON
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Should you need assistance, our phone numbers are:

(888) 848-5306 - English and Spanish (inglés y español)

(202) 307-2222 (voice)

(202) 307-2678 (TDD)

HOUSING AND CIVIL ENFORCEMENT

Housing Discrimination:

Individuals who believe that they have been victims of housing discrimination may file a complaint with the [Department of Housing and Urban Development \(HUD\)](#) or file their own lawsuit in federal or state court. You must file the complaint within one year of the incident you believe to be housing discrimination. You have two years to file your own lawsuit in federal court if you believe you have been sexually harassed by a landlord or someone else connected to your housing, [click here](#) to learn what DOJ can do and to find out how to report what happened.

Credit Discrimination:

Individuals who believe that they have been victims of housing discrimination regarding credit, such as the denial of a loan, may file a [complaint with HUD](#). Individual complaints of discrimination in credit that are not housing-related are handled by [agencies](#) who regulate the individual creditor.

Discrimination in Public Accommodation:

Individuals who believe that they have been victims of housing discrimination in public accommodations, such as a restaurant, hotel, may contact the Housing and Civil Enforcement Section. You may file your own lawsuit in federal court or state court. You may have some rights under other federal laws, state laws, or local ordinance. You should consult with your local enforcement agency.

U.S. Department of Justice
 Civil Rights Division
 Housing and Civil Enforcement Section - 4CON
 950 Pennsylvania Avenue, N.W.
 Washington, D.C. 20530
 (202) 514-4713

Discrimination in Religious Land Use under RLUIPA:

Individuals or entities who believe that they have been victims of discrimination against religious assemblies and ir [contact the Housing and Civil Enforcement Section](#) by writing to the address below, or by e-mail to RLUIPA.compl; or by telephone at (202) 514-4609 or (202) 514-4713. Individuals may also file a lawsuit in federal court.

U.S. Department of Justice
 Civil Rights Division
 Housing and Civil Enforcement Section - 4CON
 950 Pennsylvania Avenue, N.W.
 Washington, D.C. 20530
 (202) 514-4713

Discrimination against Servicemembers:

Individuals who believe that their rights as servicemembers have been violated should consult the [military legal as locator](#). Dependents of servicemembers can also contact or visit local military legal assistance offices where they

IMMIGRANT AND EMPLOYEE RIGHTS SECTION

The Immigrant and Employee Rights Section enforces the anti-discrimination provision of the Immigration and Nat which prohibits discrimination based on an individual's national origin or citizenship status in hiring, firing, or recrui for a fee. The statute also prohibits unfair documentary practices, or "document abuse," during the employment eli (e.g. Form I-9 and/or E-Verify) process, and retaliation or intimidation.

IERcharge forms are available in English, Spanish, Arabic, Chinese, French, Haitian Creole, Korean, Portuguese, Tagalog, and Vietnamese. To view and print these forms, click the links below. For more detailed instructions on h charge, including how to file a charge electronically, please visit IER's [Charge Page](#).

[English](#)

[Spanish \(español\)](#)

[Arabic \(العربية\)](#)

[Chinese \(中文\)](#)

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U.S. Department of Justice
 Civil Rights Division
 Immigrant and Employee Rights Section - 4CON
 950 Pennsylvania Avenue, N.W.
 Washington, D.C. 20530

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 Employer Hotline: 1-800-255-8155 [Voice] or 1-800-237-2515 [TTY]
 Direct Office Line: 1-202-616-5594 [Voice] or 1-202-616-5525 [TTY]
 Fax: (202) 616-5509

Email: ier@usdoj.gov

SPECIAL LITIGATION

To file a complaint, write the Special Litigation Section (SPL) explaining the situation about which you are complain much detail as possible. If you are aware of similar incidents involving others, please include that information as w have legal authority to represent individuals. In most of SPL's work, a single incident of mistreatment will not be s an investigation. The Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Freedom of Access Entrances Act (FACE) are exceptions to this general rule, and single incidents may be sufficient to start an investig include information on how to contact you if we need further information (such as an address, telephone number a address). Also, do not include original documents as we cannot guarantee their safe return. You can send informa

U.S. Department of Justice
 Civil Rights Division
 Special Litigation Section - 4CON
 950 Pennsylvania Avenue, NW
 Washington, D.C. 20530

The Section can be reached by telephone: **(202) 514-6255** or toll-free at (877) 218-5228.

VOTING

The Voting Section enforces the civil provisions of the federal laws that protect the right to vote, including the Voting Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act, the Help America Vote Rights Acts.

The Voting Section accepts complaints about possible violations of the federal voting rights laws -

- By email at voting.section@usdoj.gov
- By telephone at (800) 253-3931 (toll free)
- By telephone at (202) 307-2767
- By fax at (202) 307-3961
- By complaint form at <http://www.justice.gov/crt/complaint/votintake/index.php>
- By letter to the addresses below:

U.S. Department of Justice
 Civil Rights Division
 Voting Section - 4CON
 950 Pennsylvania Ave., N.W.
 Washington, DC 20530

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8-15



Adam Bereki <abereki@gmail.com>

AB 678 (2001)

Adam <abereki@gmail.com>

Tue, Feb 11, 2020 at 7:24 AM

To: Paul <paul@bardosconstruction.com>

Paul,

Please see the following email to prior Governor Gary Davis about his veto of §7031 only applying to profits.

I've been making inquiry with the State legislature to also find any attempts whereby people like you have raised issues pertaining to §7031. Unfortunately they don't have a system that could identify such records even if they had them. However, they did say certain records may be with the a certain committee if we knew what the committee was and when any correspondence took place.

Could you please be supportive of my efforts that also have the potential to remedy the undue harm you have received by sharing when you contacted the legislature, who and what committee members you spoke with, along with any other records you may have.

I have filed a formal petition for redress of grievance with the California Legislature and am also working on a criminal complaint with the US Department of Justice. If you weren't aware I'm a retired police officer with extensive experience in major fraud and forgery. It is no coincidence I have the training and experience to investigate this issue and do something about it.

Thanks for your continued support.

Adam

----- Forwarded message -----

From: **Adam** <abereki@gmail.com>

Date: Sun, Feb 9, 2020 at 7:08 AM

Subject: AB 678 (2001)

To: <gdavis@loeb.com>

[Quoted text hidden]

 **7031b Enrolled Bill Report.pdf**
2169K



Adam Bereki <abereki@gmail.com>

AB 678 (2001)

Paul <paul@bardosconstruction.com>
To: Adam <abereki@gmail.com>

Tue, Feb 11, 2020 at 9:07 AM

Here's a link to documents that may be of interest to you:

<https://www.dropbox.com/sh/kspvcv7tmr5lqwu/AAAXmaSIAVWIPof9TayMflizya?dl=0>

You might also try Senator Monning's and Assemblyman Bill Berryhill's offices if they are still in the legislature. Monning sponsored SB263 in 2013 and check the records for both the Judiciary and Business and Professions Committees in both houses of the legislature from 2011 to 2013 or so. As I recall there were two attempts at a modification of 7031 on or about 2010-13 both of which failed to pass either house although Governor Brown indicated he was in support of a change in 7031. You might try Jerry Brown's official records on the subject. Phil Vermuelen is/was a well-connected lobbyist in Sacramento who gets involved in small business representation. The AGC was involved in modifications of the law at the time too as were several other building industry trade groups. I spoke back then with their several general counsels. Also try Paul Schifino, former Chair of the CSLB and I believe still on the Board today but not its chair. He has a steel fabrication and erection business in Los Angeles and was involved in litigation over 7031 that brought him to support changes in the law too. I've also attached a letter to the legislators back then that seemed to have gotten some traction at the time.

These records go back 7 years or more so I have little information on whether or not these people would still be interested or are still active politically.

I am aware of your background with the PD and litigation and judgment in your favor arising therefrom.

Paul



Paul Bardos

595 Daley Lane

Kalispell, MT 59901

Paul@BardosConstruction.com

www.bardosconstruction.com

(406) 309-8080 (Office) (909) 982-3831(FAX)

(909) 241-7627 (Cell) Lic # 505220 B, C39, C20

Multiple Award Winning Builder

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[Quoted text hidden]

BILL NUMBER: AB 249 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY AUGUST 22, 2011
AMENDED IN ASSEMBLY APRIL 4, 2011
AMENDED IN ASSEMBLY MARCH 15, 2011

INTRODUCED BY Assembly Member Bill Berryhill

FEBRUARY 3, 2011

An act to amend Section 7031 of the Business and Professions Code,
relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as amended, Bill Berryhill. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors.

Existing law prohibits a person, acting as a contractor, from bringing an action to collect compensation for performance of any act or contract requiring a license without alleging that he or she was licensed at all times during the performance of the act or contract, except as specified. Existing law authorizes a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of all compensation paid to the unlicensed contractor for performance of any act or contract.

This bill would limit the action for recovery of compensation paid to *authorize a person who utilizes those* services for the construction or improvement of residential property, as specified *, to recover 2 times the amount of compensation paid for work performed during periods when the contractor was not duly licensed* . It would also authorize a person who utilizes the services of a contractor for the construction or improvement of property other than specified residential property to bring an action in any court of competent

jurisdiction in this state to recover all compensation paid to the contractor for performance of any act or contract during the time the contractor was not properly licensed. *The bill would authorize a contractor who was duly licensed with respect to a portion of work performed, as specified, to bring an action to recover compensation for that portion of the work. The bill would state the intent of the Legislature in this regard.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e) *subdivisions (e), (g), and (h)* , no person engaged in the business or acting in the capacity of a contractor may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) Except as provided in subdivision (e) *subdivisions (e), (g), and (h)* :

(1) A person that utilizes the services of an unlicensed contractor for the construction or improvement of residential property consisting of one to four units may bring an action in any court of competent jurisdiction in this state to recover all *two times the amount of any* compensation paid to the contractor for performance of any act or contract.

(2) A person that utilizes the services of a contractor for the construction or improvement of property other than residential property consisting of one to four units may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the contractor for performance of any act or

contract that occurred at anytime during which the contractor did not possess a renewable license in accordance with this chapter, or during which the contractor's license was under suspension or expired.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing in this subdivision shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, notwithstanding subdivision (b) of Section 143, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, (3) did not know or reasonably should not have known that he or she was not duly licensed when performance of the act or contract commenced, and (4) acted promptly and in good faith to reinstate his or her license upon learning it was invalid.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the

1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.

(g) If the contractor was duly licensed upon commencement of an act or contract and reinstated a lapsed or suspended license prior to completion of the act or contract, the contractor may bring or maintain an action limited to recovery of compensation payable for any portion of the work performed during periods when the contractor was duly licensed. Any action authorized by subdivision (b) may seek recovery of compensation previously paid to the contractor only for that portion of the work performed during periods when the contractor was not duly licensed.

(h) If the contractor was licensed during the performance of the act or contract but contracted for or performed work outside of his or her license classification, the contractor may bring or maintain an action limited to recovery of compensation payable for that portion of the work performed within the scope of work authorized by his or her license classification. Any action authorized by subdivision (b) may seek recovery of compensation previously paid to the contractor for that portion of the work performed that is not within the scope of work authorized by the contractor's license classification.

SEC. 2. It is the intent of the Legislature that amendments to Section 7031 of the Business and Professions Code made by this act shall affect only the rights of the parties to a contract to bring a civil action under that section to recover compensation paid or payable in connection with a work of improvement. This act shall not be construed to limit or modify any civil action authorized to be brought by the registrar of the Contractors' State License Board or other law enforcement agency to enforce any provision of the Contractors' State License Law.



May 21, 2013

Assemblyman Katcho Achadjian
State Capitol
Sacramento, CA 95814

Dear Mr. Achadjian,

I would appreciate the opportunity to speak with you regarding SB263 and making a needed change in the laws governing how a contractor's license status is determined in California. Through a change in the law, I hope to spare other licensed contractors in California from falling between the cracks in the legal definition of a contractor and thereby being determined to be unlicensed by the courts as has egregiously occurred in my case.

BACKGROUND

I have been a licensed general contractor in the State of California for the past 33 years. I was first licensed as a sole proprietor in August of 1980 with the license number 392817. Following approximately 8 years of contracting, I joined with another licensed contractor in a joint venture under license number 540587 that operated for approximately 5 years. The joint venture entity was dissolved in 1993 and since that time, I have operated my construction business under license number 505220 as a corporation. I am the RMO for the corporate entity and the corporate license has never lapsed or had disciplinary action taken against it, as is the case with all of the licenses I hold. I currently hold a General 'B' license in addition to a C-39 roofing, and C-20 warm air heating and air conditioning subclassifications. I have included copies of the verification of license forms received from the CSLB to confirm these facts and the periods of licensure. In short, I have held an active contractor's license in one form or another in the State of California for the past 33 years.

On July 6, 2010 it was ruled by a San Bernardino Trial Court on a motion for summary judgment that I must disgorge approximately one million dollars to a former client because I was not licensed at all times during performance of the work. This fact raises an irreconcilable contradiction between my status as a licensed contractor and the ruling of the court. It is important to note before going further that there was never a complaint raised at any time following completion of the work of any failure to perform all aspects of the contract or that any of the work was deficient in any manner. In fact, the

case was filed nearly two and one-half years after the work was fully completed, accepted by the owner, and paid in full. The argument raised was purely a legal one based upon section 7031(b) of the California Business and Professions Code and court interpretations of the legislative intent of the section. The case was decided on a motion for summary judgment and without trial.

The reason for this writing is to correct an error in the wording of the present law that allows for such events as have occurred in my case to injure other licensed contractors. A change is needed to preserve the intent of the legislature and the administration of those laws by the CSLB. In its simplest terms, this error comes to exist because the law recognizes business entities not individuals to be the holders of a license. In no other definition of a licensed profession does this quirk in the law exist. As a brief example of this contradiction, both doctors and lawyers are licensed in the state to perform their duties. Both of these groups practice their professions without regard to their business entity type or status and both of these groups are held accountable for their actions on an individual basis by their respective licensing boards. Individuals in either of these groups may lose their license for professional malpractice or come under disciplinary proceedings for other wrongdoings regardless of the business entity they operate. This view of the law does not exist in contracting. *It is the business entity of a contracting firm that is the license holder not the individual in the view of the Courts.*

The Business Entity and Licensure

In March of 2007, I formed a new construction company that began operations as a sole proprietorship. Because I was the RMO for the corporation, and the corporation therefore technically held the license, the court found that the new business entity was not licensed, and that *I could therefore not extend my corporate license or my standing as the RMO of that entity to protect me against the disgorgement theories being proposed in the litigation.* The business entity form governed and based upon the wording of B & P 7025 and 7031 (a) and (b) I was considered under the law to be an *unlicensed person* pursuant to the definitions of B & P 7025 and required to disgorge all monies paid under the contract. *This distinction has been affirmed by a denial of Petition of Certiorari before the California Supreme Court on February 20, 2013 and is reflective of their interpretation of the current wording of the statute.*

THE CASE FOR CHANGE

Legislative Intent Interpreted by the Courts

In *White v. Cridlebaugh* (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 517) the court reasoned that "The licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business. The [laws] are designed to protect the public from incompetent or dishonest providers of building and construction services." This standard established by the legislature and interpreted by the courts is repeated in numerous case decisions thereby establishing the threshold purpose of the license laws and the standard of protection required to preserve the public interest. The only exception found in the law is contained in B & P 7031(c)

and is described in *WSS Industrial (WSS Industrial, supra, 162 Cal.App.4th at pp. 589, 594-595)* where courts describe that the legislature meant for the exception, the “substantial compliance exception,” to provide relief only in very narrow specified circumstances, and “*shall not apply . . . where the [unlicensed contractor] has never been a duly licensed contractor in this state.*” Each of the requirements of 7031 (e) must be complied with in the conjunctive, meaning all of the parts must be relevant to the circumstances for the exception to be considered by the courts.

Section 7031(e): “The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, . . . the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, (3) did not know or reasonably should not have known that he or she was not duly licensed when performance of the act or contract commenced, and (4) acted promptly and in good faith to reinstate his or her license upon learning it was invalid.”

The new business entity created, now falling within the definition of a never before licensed entity, was then determined to be an unlicensed person as legally defined by the law and the provisions of 7031 (b) came to play.

The court then moved to the next step in its analysis. The California license law provides both a “sword” and a “shield” provision. The shield provision¹ provides protection to the owner from an affirmative claim of an unlicensed contractor to collect and the sword provision² allows the owner to require disgorgement of all monies paid to an unlicensed contractor (Sections 7031 (a) and (b) of Business and Professions Code). The intent of the law is clear. To be an unlicensed contractor in the State of California invokes the harshest of consequences to the unlicensed contractor; however, the law does not adequately define who is and who is not a licensed contractor other than in section 7025 that describes the legal entities that may hold a license³. The law is silent, however, about how an existing license holder may be protected during operation of his businesses from claims of being

¹ Section 7031(a) states: “Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.”

² 7031(b), currently reads: “Except as provided in subdivision (e), a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.”

³ 7025 currently reads: “Person” as used in this chapter includes an individual, a firm, copartnership, corporation, association or other organization, or any combination of any thereof.

unlicensed. In the case of the other professionals mentioned an attorney may be "of counsel" to several firms while managing his own practice and a doctor may associate with several hospitals or clinics while maintaining a separate private practice neither of whom have concerns with being challenged for being unlicensed for their various business relationships. *Under the present wording of the law, a duly licensed contractor who is an RMO can be so challenged and required to disgorge all monies paid.*

CONCLUSION

The uncertainty in the law should be changed to recognize licensure as is customarily defined for these other professionals in the State. I write to you and other legislators to request your support in changing the definition of a licensed contractor to create a fair and equitable playing field for the licensed contractor. Such a change would preclude similar inappropriate actions being taken against other legitimate contractors in the future.

This needed change in the law will also go further to protect the public interest. Once a clear definition of a license holder is determined to be in the hands of an individual, those who are unscrupulous and acting against the public interest can be identified and barred from ever contracting in the future again. Under the current wording of the law, these same individuals merely change entities and restart their same operations up under a different name. This change will make those activities far more difficult for those same individuals forcing them away from contracting. The cloak previously provided by the business entity being licensed will fall away leaving the individual exposed to due process and the administrative authority of the CSLB.

I respectfully request that you support a change in the wording of the law defining a licensed contractor, and I welcome the opportunity to speak with you in person.

Sincerely,
BARDOS CONSTRUCTION, INC.



Paul Bardos,
President and Licensed Contractor

Attachments: CSLB Verification of Licenses, Bardos Construction, Co and
Bardos Construction, Inc.



CONTRACTORS STATE LICENSE BOARD

STATE OF CALIFORNIA

9821 Business Park Drive, Sacramento, California 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95828
800-321-CSLB (2752)
www.cslb.ca.gov

Arnold Schwarzenegger, Governor

CERTIFICATION OF RECORDS

I HEREBY CERTIFY under penalty of perjury under the laws of the State of California that I am duly authorized by the Registrar of Contractors, the official custodian of records of the Contractors State License Board, to certify to the contents of said records pursuant to Section 162 of the Business and Professions Code, and Section 1280 and 1284 of the Evidence Code. The following contractor was licensed under the provisions of law administered by said Board as outlined below:

Bardos Construction Company
8034 Camino Predera
Rancho Cucamonga, California 91730

License Number: **392817**
License Type: **Sole Owner**
Issued: **08/26/80**

| | |
|-------------------------------|-------------------------------|
| Classifications: | Effective: |
| B General Building Contractor | Issuance |
| SC-44 Solar | 04/24/81 05/28/82 Removed* |
| C-39 Roofing | 07/20/93 |

| | |
|--------------------------------|--------------------------------|
| Certifications Held: | Effective: |
| Home Improvement Certification | 03/30/99 01/01/04 Removed** |

| | |
|----------------------------|-------------------|
| Personnel: | Effective: |
| Paul Phillip Bardos, Owner | 01/01/83 |

| | |
|----------------|----------------------------------|
| History | 01/01/83 In Effect |
| | 08/31/88 End of Active Period |
| | 09/01/88 Renewed Inactive*** |
| | 01/12/10 |

Additional Information

*The SC-44 classification was eliminated effective 05/28/82. {Board Rule 754.16}

**Home Improvement Certificate (HIC) was eliminated effective 01/01/04. {B & P Code 7150.2}

***A Contractor's Bond and Proof of Workers' Compensation or Exemption are not required on an inactive license.

We have no record of a current Certificate of Workers' Compensation insurance or an Exemption from Workers' Compensation insurance, on file.

Contractors Bond #194665 written by Surety Company of the Pacific in the amount of \$5,000 was in effect 01/01/83; cancelled 02/17/89.

This certificate covers the period 01/01/83 to 01/12/10; however the classification information covers the entire licensing period.

This license is renewed to 08/31/12.

WITNESS MY HAND and seal of said Board this 12th day of January 2010 at Sacramento, California.



SUSAN STIREWALT
CUSTODIAN OF RECORDS



CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, California 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95828
800-321-CSLB (2752)
www.csib.ca.gov

STATE OF CALIFORNIA
Arnold Schwarzenegger, Governor

CERTIFICATION OF RECORDS

I HEREBY CERTIFY under penalty of perjury under the laws of the State of California that I am duly authorized by the Registrar of Contractors, the official custodian of records of the Contractors State License Board, to certify to the contents of said records pursuant to Section 162 of the Business and Professions Code, and Section 1280 and 1284 of the Evidence Code. The following contractor was licensed under the provisions of law administered by said Board as outlined below:

Bardos Construction Inc
8034 Camino Predera
Rancho Cucamonga, California 91730

License Number: 505220
License Type: Corporation
Issued: 02/06/87

Classifications:
B General Building Contractor
C-39 Roofing
C-20 - Warm Air Heating and Ventilating

Effective:
Issuance
10/04/93
10/09/08

Certifications Held:
Home Improvement Certification

Effective:
03/30/99 01/01/04 Removed*

Personnel:
Paul Phillip Bardos, RMO
Nikki Scott Bardos, Officer

Effective:
01/01/93
01/01/93 01/19/93 Removed

History

01/01/93 In Effect Inactive**
05/19/93 End of Inactive Period
05/20/93 Reactivated
01/12/10

Additional Information

*Home Improvement Certification (HIC) was eliminated effective 01/01/04. {B & P Code 7150.2}

**A Contractor's Bond and Proof of Workers' Compensation or Exemption are not required on an inactive license.

This license had a Certificate of Workers' Compensation Insurance in effect 01/01/93; expired 07/01/94.

This license has a Certificate of Workers' Compensation Insurance effective 01/01/95, on file.

Contractor's Bond #930545 written by Surety Company of the Pacific in the amount of \$5,000 was effective 04/16/93; upgraded to \$7,500 effective 07/01/94; replaced by Contractor's Bond #SA5073899 written by Star Insurance Company in the amount of \$7,500 effective 05/01/96; upgraded to \$10,000 effective 01/01/04; replaced by Contractor's Bond #10129212 written by American Contractors Indemnity Company in the amount of \$10,000 was effective 05/01/05; upgraded to \$12,500 effective 01/01/07, on file.



Senator Bill Monning

- HOME
- BIOGRAPHY
- LEGISLATION
- NEWSROOM
- MULTIMEDIA
- DISTRICT
- HELPFUL RESOURCES
- CONTACT US

CONTACT US

Senator Bill Monning - District SD17

* Indicates required fields

First Name: 1

Last Name:

Address:

City:

Zip Code:

Phone: () ext: type:

* E-mail:

Select an issue:

Comments: 1 Characters Left

Hi Senator, Could you please contact me about Business and Professions Code §7031 sub-section (a) and (b). I understand you made some attempts at changing these laws in the past and I would like to speak with you. Thank you

Adam 949 241 6693

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2/11/20
1350



Senator Bill Monning

- HOME
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- NEWSROOM
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- HELPFUL RESOURCES
- CONTACT US

CONTACT US

Senator Bill Monning - District SD17

Your message has been received. Thank you for contacting my office.

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California Central Coast Veterans Cemetery

2/11/20
1350

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com | 949.241.6693

Via mail
2/11/20

Senator Bill Monning
Monterey District Office
99 Pacific Street, Suite 575-F
Monterey, CA 93940

RE: PUBLIC RECORDS ACT REQUEST


Senator,

Thank you for your time. I recently learned you sponsored Senate Bill 263 in 2013 to amend Business and Professions Code §7031. Please provide all documents in your custody and control pertaining to this Bill and any others relating to Business and Professions Code §7031.

Sincerely,



Adam Bereki



Bill Berryhill

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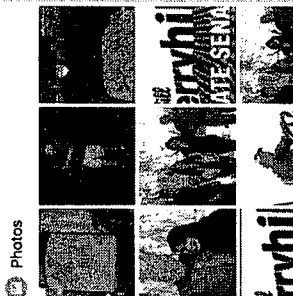
DO YOU KNOW BILL?

To see what he shares with friends, send him a friend request.

Intro

- Farmer at Agriculture Everyday
- Studied at Butte College
- Went to Ponderosa High
- Went to Ceres High
- Lives in Ceres, California
- From Ceres, California

Photos



Friends 3,571

Hank Shaw
 Dave Ackerman
 Alexandra Duarte

Comments

Bill Berryhill May 30, 2018

Come on class of '76 we need a little more participation!! We have a fabulous band called California credence along with some great food and wine. So bring your dancing shoes and let's rock 🎸

24 Comments 1 Share

View 5 more comments

Janice Story Thomasson Great band, sorry I can't make it due to family celebration!
Like · Reply · 1y

Sharon Baker Will be there!!!!
Like · Reply · 1y

Joni Denton Mark and I are going.
Like · Reply · 1y

Jan Kuykendall Bill, thank you for giving me a bottle of your wonderful wine at our reunion, and thanks for signing it.
Like · Reply · 19w

Write a comment...

Bill Berryhill May 26, 2018

Aa I'm .06

8

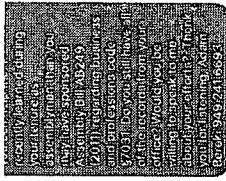
Write a comment...

Bill Berryhill May 24, 2018

ASSEMBLYMAN

2/11/20
C/420

Bill Berryhill



Typing a message...

REQUEST TO EXAMINE RECORDS IN JOINT CUSTODY OF THE ASSEMBLY AND SENATE

To: **Joint Rules Committee**

Pursuant to Article 3.5 (commencing with Section 9070) of the Government Code, I hereby request to examine the following legislative records:

See attached

Name of person making request: Adam Bereki

Representing: _____
(organization)

Address: 818 Spirit Costa Mesa, California 92626

Telephone: 949.241.6693

I was permitted to examine the committee records described above on

(date)

Return to:

Joint Rules Committee
Attention: Debra Gravert, Chief Administrative Officer
State Capitol, Room 3016
Sacramento, CA 95814

Email: Assembly.Rules@asm.ca.gov
Fax: (916) 319-2810

*VIA EMAIL
2/11/20*

APPROVAL

Authorized by: _____ Date: _____

Time In: _____ Time Out: _____

Please provide all documents in your custody and control pertaining to:

SB 263 (2013) sponsored by Senator Monning;

AB 249 (2011) sponsored by Assemblyman Bill Berryhill;

(Both of these Bills pertain to Business and Professions Code §7031)

This request should also be delivered to each committee (especially the Judicial and Business and Professions committees) to also provide all records pertaining to Business and Professions Code §7031 and these aforementioned Bills.

Sincerely,



Adam Bereki
abereki@gmail.com



Adam Bereki <abereki@gmail.com>

Legislative Open Records Act (LORA) Response from Assembly Committee on Rules

1 message

Assembly Rules <Assembly.Rules@asm.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Tue, Feb 18, 2020 at 4:58 PM

Dear Mr. Bereki:

Attached is the LORA response to your correspondence on February 11, 2020.

Thank you,

Kelli Adams

Assembly Committee on Rules

 (2020-31)BerekiLORA2.18.20.pdf
917K



STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0124
(916) 319-2800
FAX (916) 319-2810

CHIEF ADMINISTRATIVE OFFICER
DEBRA GRAVERT

Assembly
California Legislature
Committee on Rules

KEN COOLEY
CHAIR

VICE CHAIR
JORDAN CUNNINGHAM

MEMBERS
WENDY CARRILLO
HEATH FLORA
TIMOTHY S. GRAYSON
SYDNEY KAMLAGER
BRIAN MAIENSCHIEIN
DEVON J. MATHIS
SHARON QUIRK-SILVA
JAMES C. RAMOS
ROBERT RIVAS
BUFFY WICKS

MARC LEVINE (D-ALT.)
TYLER DIEP (R-ALT.)

February 18, 2020

Adam Bereki
818 Spirit
Costa Mesa, CA 92626
abereki@gmail.com

Re: Legislative Open Records Act Request

Dear Mr. Bereki:

This letter is in response to your email correspondence dated February 11, 2020, in which you request records under the Legislative Open Records Act. (Gov. Code, § 9070 et seq.) Specifically, you request the following records:

- 1.) "[A]ll documents in your custody and control pertaining to . . . SB 263 (2013) sponsored by Senator Monning . . . [and] AB 249 (2011) sponsored by Assemblyman Berryhill."
- 2.) "All records pertaining to Business and Professions Code § 7031."

Although your request is addressed to the Joint Rules Committee of the California Legislature, Member and committee bill files are not considered records in the joint custody of the Assembly and Senate. Therefore, this letter responds to your request on behalf of the Assembly Committee on Rules, which is the entity that is deemed to have custody of the records of each Member and committee in the Assembly and the responsibility for making legislative records available for inspection. (Gov. Code, § 9074.) A request for similar records in the custody of the Senate should be made directly to the Senate Committee on Rules.

In regard to the first category of your request described above, we have no records that are responsive to your request. However, records that may be of interest to you may be found on the internet website <http://leginfo.legislature.ca.gov> or at the California State Archives.

In regard to the second category of your request, under the Legislative Open Records Act, requests for records must be sufficiently specific and focused to enable us to identify, review, and produce existing records with reasonable effort. A request that is vague in its parameters or that compels the production of large volumes of material is unduly burdensome. Without a more

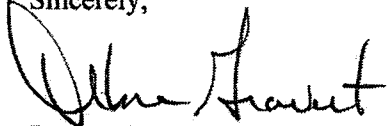


Printed on Recycled Paper

Adam Bereki
February 18, 2020
Page Two

narrowly drawn description of the types of records you are seeking, we are unable to provide you any records in response to your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra Gravert". The signature is fluid and cursive, with a large initial "D" and "G".

DEBRA GRAVERT
Chief Administrative Officer
California State Assembly



Adam Bereki <abereki@gmail.com>

AB 678 (2001)

Adam <abereki@gmail.com>
To: gdavis@loeb.com

Fri, Feb 21, 2020 at 1:11 PM

Hi,

Im writing to follow up on the email below. I have not received an acknowledgement or reply to my request for help. Could you kindly let me know if Gray is not going reply. Thank you,

Adam Bereki

----- Forwarded message -----

From: **Adam** <abereki@gmail.com>
Date: Sun, Feb 9, 2020 at 7:08 AM
Subject: AB 678 (2001)
To: <gdavis@loeb.com>

[Quoted text hidden]

 **7031b Enrolled Bill Report.pdf**
2169K



Adam Bereki <abereki@gmail.com>

AB 678 (2001)

Adam <abereki@gmail.com>
To: jstin@loeb.com

Fri, Feb 21, 2020 at 1:07 PM

Hi,

I'm writing to follow up on the email below as I have not received an acknowledgement or reply. Could you kindly let me know if Gray is going to respond to my request for help?

Sincerely,

Adam Bereki

----- Forwarded message -----

From: **Adam** <abereki@gmail.com>
Date: Sun, Feb 9, 2020 at 7:08 AM
Subject: AB 678 (2001)
To: <gdavis@loeb.com>

[Quoted text hidden]

 **7031b Enrolled Bill Report.pdf**
2169K



Adam Bereki <abereki@gmail.com>

Access to SB 263 records of 2013

4 messages

Violini, Sheron <Sheron.Violini@sen.ca.gov>
To: "andrew.hyslop@sos.ca.gov" <andrew.hyslop@sos.ca.gov>
Cc: "abereki@gmail.com" <abereki@gmail.com>

Fri, Feb 21, 2020 at 11:33 AM

Andrew,

I spoke to Jodie Fujii, COS to Senator Monning this morning. She is going to email you permission to allow Adam Bereki to view and copy the SB 263 file from 2013. I have left a voicemail for Mr. Bereki to call you to request access to the file and if he so chooses request copies at \$.25 per page.

Regards,

Sheron Violini
Deputy Secretary for Operations
Senate Rules Committee
1020 N Street, Room 255
Sacramento, CA 95814
916-651-1504

Hyslop, Andrew <AHyslop@sos.ca.gov>
To: "Violini, Sheron" <Sheron.Violini@sen.ca.gov>
Cc: "abereki@gmail.com" <abereki@gmail.com>

Fri, Feb 21, 2020 at 12:20 PM

Hi Sheron,

Thank you for the update. I will be on the lookout for the email from Jodie. And, await to hear from Mr. Bereki, so the Archives can proceed with the reference request for SB 263 (2013-2014).

Best wishes,

Andrew

Andrew Hyslop, CA

Archivist II

Legislative Records Archivist

California State Archives

Office of the Secretary of State

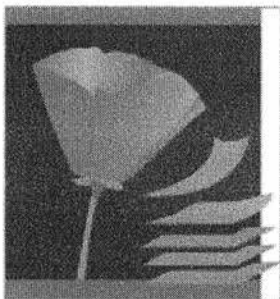
1020 O Street

Sacramento, CA 95814

Telephone: 916-651-1368

Email: ahyslop@sos.ca.gov

Web: <https://www.sos.ca.gov/archives/>



CALIFORNIA STATE ARCHIVES
CELEBRATING 170 YEARS

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Hyslop, Andrew" <AHyslop@sos.ca.gov>
Cc: "Violini, Sheron" <Sheron.Violini@sen.ca.gov>

Fri, Feb 21, 2020 at 12:40 PM

Hi Sharon and Andrew,

Sharon I received your message. Thank you.

Andrew I called and left a message for you. Feel free to call me or respond here.

Thank you for your help.

Adam Bereki
[Quoted text hidden]

Fujii, Jody <Jody.Fujii@sen.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, Feb 21, 2020 at 12:52 PM

Hi Andrew-

Attached you will find a letter allowing Mr. Bereki to view Senator Monning's SB 263 files.

Please let me know if you have any questions.


Warm Regards,

Jody Fujii

From: Violini, Sheron <Sheron.Violini@SEN.CA.GOV>
Sent: Friday, February 21, 2020 11:33 AM
To: andrew.hyslop@sos.ca.gov
Cc: abereki@gmail.com
Subject: Access to SB 263 records of 2013

Andrew,

[Quoted text hidden]

 **Letter to State Archives for the Release of Bill Records.doc**
195K

STATE CAPITOL
SACRAMENTO, CA 95814
(916) 651-4017

California State Senate

SENATOR
BILL MONNING
SEVENTEENTH SENATE DISTRICT



SENATE CAPITOL OFFICE
STATE CAPITOL, ROOM 4040
SACRAMENTO, CA 95814
PHONE: (916) 651-4017

MONTEREY DISTRICT OFFICE
99 PACIFIC AVE., SUITE 575-F
MONTEREY, CA 93940
PHONE: (831) 657-6315

SAN LUIS OBISPO DISTRICT OFFICE
1026 PALM STREET, SUITE-201
SAN LUIS OBISPO, CA 93401
PHONE: (805) 549-3784

SANTA CRUZ DISTRICT OFFICE
701 OCEAN STREET, SUITE 318-A
SANTA CRUZ, CA 95060
PHONE: (831) 425-0401

**SANTA CLARA COUNTY
TELEPHONE NUMBER**
(408) 847-6101

WEB: <http://sd17.senate.ca.gov/>

February 21, 2020

California State Archives
1020 O Street
Sacramento, CA 95814

To Whom It May Concern:

This letter is to respectfully request that Mr. Adam Bereki be permitted to view an archived bill file from 2013.

The State Archives are currently in possession of my bill files from the 2013-14 Legislative Session. Contained in those records is a file on Senate Bill 263 and Mr. Bereki can review and copy its contents.

If you have any questions or concerns regarding this request, please contact my Chief of Staff, Jody Fujii, at 916.651.4017.

Thank you for your attention to this matter.

Sincerely,

M

WILLIAM W. MONNING
Senator, 17th District

WWM:jf

cc: Sheron Violini, Deputy Secretary of Operations
California State Senate

Adam Bereki
818 Spirit
Costa Mesa, California 92626

March 27, 2020

US General Services Administration
300 N. Los Angeles St. #3108
Los Angeles, CA 90012

3/28 VIA STANDARD
USPS FIRST
CLASS

RE: FOIA Request

Please provide all documentation in your custody or control evidencing:

1. the definition of a "federal citizen" and "citizen";
2. how one applies for and becomes a "federal citizen";
3. the rights, duties, and responsibilities of a "federal citizen";
4. the definition of a "federal citizen" and "citizen" as used in such fashion as the "federal citizen services fund";
5. the difference between a "federal citizen" and a "state citizen";
6. the objective, mission statement, and purpose(s) of the Federal Citizen Services Fund and The Office of Citizen Services;

Sincerely,


Adam Bereki

No response
remained
9/16/20

No response
as of 4/28/20

Adam Bereki
818 Spirit
Costa Mesa, California 92626

March 27, 2020

9/16/20

US General Services Administration
300 N. Los Angeles St. #3108
Los Angeles, CA 90012


RE: FOIA Request

ZND REQUEST

Please provide all documentation in your custody or control evidencing:

1. the definition of a "federal citizen" and "citizen";
2. how one applies for and becomes a "federal citizen";
3. the rights, duties, and responsibilities of a "federal citizen";
4. the definition of a "federal citizen" and "citizen" as used in such fashion as the "federal citizen services fund";
5. the difference between a "federal citizen" and a "state citizen";
6. the objective, mission statement, and purpose(s) of the Federal Citizen Services Fund and The Office of Citizen Services;

Sincerely,


Adam Bereki

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com
949.241.6693

April 7, 2020

Judicial Council of California
(via email to pajar@jud.ca.gov)

RE: Public Records Request

Please see Government Code 54950:

“...The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

According to the website <https://www.courts.ca.gov/policyadmin-jc.htm>:

“The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Judicial Council staff help implement the council’s policies.”

Please provide all records in your custody and control evidencing:

1. the policies, rules, or regulations authored, made, or maintained by your agency involving the laws of unjust enrichment or, as more commonly referred, “disgorgement”. To be clear, I am not asking you to do legal research, but instead to provide the administrative records possessed by your agency that, according to the aforementioned website, creates and maintains such policies for the consistent, independent, impartial, and accessible administration of justice.

2. the meeting minutes or other applicable documents pertaining to the Judicial Council's decision(s) to sue Jacobs Facilities, Inc., including the names of each of the Council members who voted for and against commencing the lawsuit and any transcripts of the meeting(s) pertaining to discussion of this matter. See *Judicial Council of California v. Jacobs Facilities, Inc.*, 239 Cal. App. 4th 882 (2015).
3. the itemization of all costs incurred by the Judicial Council in suing Jacobs Facilities, Inc.

Sincerely,

/s/ Adam Bereki



Adam Bereki <abereki@gmail.com>

Request

PAJAR <PAJAR@jud.ca.gov>

Fri, Apr 17, 2020 at 1:50 PM

To: "abereki@gmail.com" <abereki@gmail.com>

Cc: PAJAR <PAJAR@jud.ca.gov>

Good afternoon,

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

We have reviewed the request you submitted below and in the attachment, and have made the following determinations:

Request 1—Judicial Council policies, rules, or regulations regarding unjust enrichment or disgorgement: We have no responsive records.

Request 2—Judicial Council meeting minutes or transcripts recording a decision to initiate the litigation that produced the decision issued in *Judicial Council of Cal. v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882: We have no responsive records.

Request 3—itemization of all Judicial Council costs incurred in the *Jacobs Facilities* litigation referenced above: The Judicial Council incurred attorneys' fees and costs totaling \$3,307,408.78 in litigating the referenced matter over a period of 9 years. All responsive records are exempt from disclosure. (See Cal. Rules of Court, rule 10.500(f)(5), (f)(12).)

You may direct any inquiries regarding this matter to Michael Dirckx using the contact information provided below.

Sincerely,

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov

www.courts.ca.gov/publicrecords.htm

From: Adam <abereki@gmail.com>
Sent: Tuesday, April 7, 2020 9:27 AM
To: PAJAR <PAJAR@jud.ca.gov>
Subject: Request

Please see attached.

Thank you.



Judicial Council Request 040720.docx

16K



Adam Bereki <abereki@gmail.com>

Request

1 message

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Tue, Apr 7, 2020 at 9:27 AM

Please see attached.

Thank you.

 **Judicial Council Request 040720.docx**
16K

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

May 2, 2020

Corporal Anthony Bertagna
Public Information Officer
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

RE: Public Records Act and Other Requests for Production

On February 7, 2020 at about 1420 hours, I telephoned your agency to report criminal behavior by California judges that has deprived me of rights secured by California Constitution and the Constitution for the United States of America. I spoke with Sgt. Alcantar, #280. Alcantar told me he would not take a crime a report and to handle my situation in the Courts.

Please provide all documents in your custody and control evidencing:

- (1) your agency's policy for the handling of criminal complaints. Please include the policy for taking such complaints as well as investigating them and especially any requirements that criminal complaints be mandatorily taken and investigated;
- (2) any notes or other records made pertaining to the above referenced call, including a copy of the call log indicating the time, date, and duration and other information digitally collected or otherwise pertaining to the call;
- (3) a copy of the audio tape of the call;
- (4) the first name of Sgt. Alcantar.
- (5) the name, address, telephone number, and email of your city's representative for serving legal process; and,
- (6) your agency's policy for the storage or safekeeping of recordings made by People making telephonic complaints.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help.

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

May 20, 2020

Commander Rodriguez
Public Information Office
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

RE: Public Records Act and Other Requests for Production

On February 7, 2020 at about 1420 hours, I telephoned your agency to report criminal behavior by California judges that has deprived me of rights secured by the California Constitution and the Constitution for the United States of America. I spoke with Sgt. Alcantar, #280. Alcantar told me he would not take a crime report and to handle my situation in the Courts. I have been attempting to do that without redress and specifically called your agency for help as I understand it is your sworn duty to investigate criminal complaints.

I mailed this request to Corporal Bertagna on or about May 2, 2020 and have not received a reply. The time allotted by law to reply to a Public Records Act request is ten days.

Please provide all of the documents in your custody and control evidencing:

- (1) your agency's policy for the handling of criminal complaints. Please include the policy for taking such complaints as well as investigating them and especially any requirements that criminal complaints be mandatorily taken and investigated;
- (2) any notes or other records made pertaining to the above referenced call with Sgt. Alcantar, including a copy of the call log indicating the time, date, and duration and other information digitally collected or otherwise pertaining to the call;
- (3) a copy of the audio tape of the call– (it actually occurred in two segments as Alcantar had to call me back after briefing);
- (4) the first name of Sgt. Alcantar.

- (5) the name, address, telephone number, and email of your city's representative for serving legal process; and,
- (6) your agency's policy for the storage or safekeeping of recordings made by People making telephonic complaints.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email.

Sincerely,

Adam Bereki



Adam Bereki <abereki@gmail.com>

PRA Response

13 messages

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Jun 4, 2020 at 4:54 PM

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK


EXECUTIVE ASSISTANT TO CHIEF VALENTIN


Office of the Chief of Police | Santa Ana Police Department


Eplotnik@santa-ana.org | (714) 245-8003

###

4 attachments

 **Phn3.zip**
521K

 **WC_2.zip**
13055K

 **WC_1.zip**
4764K

 **Bereki PRA Response .pdf**
477K

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Jun 4, 2020 at 4:57 PM

Mr. Bereki,

Attached is the Records Retention Schedule PDF, as noted in the PRA written response letter. Please note, this is email 2 of 2 in response to your request for Public Records.

Thank you!

Respectfully,

ELIZABETH PLOTNIK


EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

[Quoted text hidden]

2 attachments **Bereki PRA Response .pdf**
477K **records_retention_schedule_2006-045.pdf**
4777K

Adam <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Fri, Jun 5, 2020 at 10:11 AM

Elizabeth,


Good morning. Please forward this email to Commander Rodriguez as my response to his letter I received yesterday. I hope you have a nice weekend.

Sincerely,

Adam

[Quoted text hidden]

2 attachments

 **People v. Cowan, 47 Cal. App. 5th 32.pdf**
968K

 **Rodriguez Reponse to Reequst For Records 060520.pdf**
1730K

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: Adam <abereki@gmail.com>

Mon, Jun 8, 2020 at 11:59 AM

Good Afternoon Adam,

I wanted to confirm that I have received your email and will forward accordingly. Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

[Quoted text hidden]

Adam Bereki <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Mon, Jun 8, 2020 at 12:40 PM

Yes mam. This email is correct.


Sent from my iPhone

On Jun 8, 2020, at 11:59 AM, Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

[Quoted text hidden]

Adam Bereki <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Mon, Jun 8, 2020 at 12:41 PM

Oh I'm sorry I read that wrong. I thought you wanted to confirm my email LOL. 

Sent from my iPhone

On Jun 8, 2020, at 11:59 AM, Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Adam,

[Quoted text hidden]

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: Adam Bereki <abereki@gmail.com>

Mon, Jun 8, 2020 at 12:41 PM

No worries at all Sir 😊 Thank you!

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Mon, Jul 13, 2020 at 11:04 AM

Hi Elizabeth,

Would it be possible to set up a meeting - either virtually or in person - with Chief Valentin to discuss this matter? I expect it would take about twenty minutes of his time.

Sincerely,

Adam Bereki
949.241.6693

[Quoted text hidden]

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: Adam <abereki@gmail.com>

Mon, Jul 13, 2020 at 12:10 PM

Good Morning Mr. Bereki,

I have forwarded your email to Sgt. Hernandez, Chief Valentin's Chief of Staff, for follow-up on Chief Valentin's behalf.

Please let me know if there is anything else I can assist with. Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Adam <abereki@gmail.com>
Sent: Monday, July 13, 2020 11:05 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

[Quoted text hidden]

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: Adam <abereki@gmail.com>

Mon, Jul 13, 2020 at 1:11 PM

Good Afternoon again Mr. Bereki,

Sgt. Hernandez shared that he spoke with you. Sent on his behalf, below is the direct link to our Department's complaint form.

https://www.santa-ana.org/sites/default/files/PD%20Attachments/ComplaintForm-English_001.pdf

Thank you.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Adam <abereki@gmail.com>
Sent: Monday, July 13, 2020 11:05 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Hi Elizabeth,

[Quoted text hidden]

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Mon, Jul 13, 2020 at 1:26 PM

Thank you for your prompt reply Elizabeth. I appreciate your help.
[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Mon, Jul 13, 2020 at 1:37 PM

Elizabeth,

Please forward the attached Public Records Request to Commander Rodriguez. Also, if it would be more expeditious, please just provide Cmdr. Roriguez' email and I can correspond with him directly.

Sincerely,

Adam Bereki
[Quoted text hidden]

 **SAPD Request 071320.pdf**
30K

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: Adam <abereki@gmail.com>

Mon, Jul 13, 2020 at 1:51 PM

Good Afternoon Sir,

Commander Rodriguez's email is as follows: RRodriguez@santa-ana.org , but I am happy to assist in forwarding your email to him as well.

[Quoted text hidden]

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

June 4, 2020

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Dear Mr. Bereki,

The City is in receipt of your request for Public Records dated May 20, 2020 wherein you requested the following:

1. The policy for the handling of criminal complaints, the policy for taking such complaints, as well as investigating them, and any requirements that criminal complaints be mandatorily taken and investigated.

Department policies can be found on our website, using the link below. Please see Policy #322 – Report Preparation.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

2. Any notes or other records made pertaining to the above referenced call with Sgt. Alcantar, including a copy of the call log indicating the time, date and duration and other information digitally collected or otherwise pertaining to the call.

No records exist.

3. A copy of the audio tape of the call – (it actually occurred in two segments as Alcantar had to call me back after briefing).

The audio tape of the calls can be found in the folders attached. ¹

4. The first name of Sgt. Alcantar.

Sergeant Alcantar's first name is Abel.

¹ As you will hear during your review of the audio tapes, portions of the recordings are inaudible. Please be advised the audio levels are connected with the phone system and not the user.

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nimendoza@santa-ana.org

5. The name, address, telephone number, and email of your city's representative for serving legal process.

Please contact the Office of the Clerk of the Council for serving legal process. The address is 20 Civic Center Plaza, Santa Ana, CA 92702, the phone number is (714) 647- 6520, and the email address CityClerk@santa-ana.org.

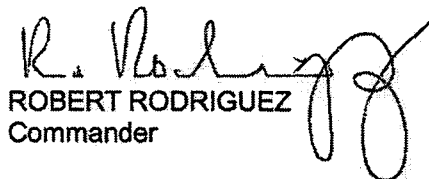
6. Your agency' policy for the storage or safekeeping of recordings made by people making telephonic complaints.

Please see Policy #801 – Communications Division, on our Department website. Additionally, please see the City's Records Retention Schedule in the Resolution PDF document attached.
<https://www.santa-ana.org/pd/training-division/police-department-policies>

If you have any questions, please contact me at (714) 245-8003.

Sincerely,

DAVID VALENTIN
Chief of Police


ROBERT RODRIGUEZ
Commander

ep

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
villegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penalzoza
Ward 2
dpenalzoza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelda M.
Ward
nmandosa@santa-ana.org

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abcreki@gmail.com

June 5, 2020

Commander Rodriguez
Public Information Office
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

RE: Response to Public Records Act and Other Requests for Production

Commander Rodriguez,

Thank you (and Elizabeth) for your prompt, complete, and highly professional reply to my request. I appreciate your hard work and commitment to excellent service.

I'm writing to invite further dialog with you about the reason I contacted your department in the first place-- to report criminal activity afoot in your jurisdiction. Like George Floyd I am crying out for your help to stop the criminal behavior being perpetrated upon me and thus far, Sgt. Alcantar, on behalf of your agency has turned a blind eye.

I have reviewed the documents you provided including the Santa Ana Police Department's policies and procedures as well as other duties prescribed by the Law Enforcement Code of Ethics, a peace officer's oath of office, and our State and National Constitutions and have summarized them below as they pertain to this situation:

CONSTITUTIONAL AND DEPARTMENT MANDATED DUTIES

100.3 ADHERENCE TO LAW ENFORCEMENT CODE OF ETHICS & MISSION, VISION, VALUES STATEMENTS

Sworn members of this department will conduct themselves in accordance with the Law Enforcement Code of Ethics and all members will carry out

their official duties in a manner that compliments the department's mission, vision and values statements.

The Law Enforcement Code of Ethics declares in relevant parts:

*As a law enforcement officer, **my fundamental duty** is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice...*

I will be exemplary in obeying the law and the regulations of my department...

I will enforce the law courteously and appropriately without fear or favor...

I will never engage in acts of corruption...

100.5 CONSTITUTIONAL REQUIREMENTS

All members shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

"I, (employee name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

REPORTING REQUIREMENTS

322.2 REQUIRED REPORTING

Written reports are **required** in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

322.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

- (b) All felony crimes

In an alleged "civil" case, I was fined \$930,000 by a "judge" of the Superior Court of California, County of Orange for allegedly contracting without a construction license. This fine is about 46 times my qualifying net worth and 186 times the comparable criminal monetary penalty of a fine *up to* \$5000. It is clearly excessive, cruel, and unusual punishment and violates both Article I, Section 17 of the California Constitution and the Eight Amendment to the Constitution for the United States.

Just like members of your agency do not have the authority (jurisdiction) to violate the California Constitution, the Constitution for the United States, or the laws enacted in pursuance thereof, neither do judges. The excessive fines clauses found in both our State and National Constitutions declare that excessive fines shall NOT be imposed. There is clearly no judicial discretion here.

Therefore, if a judge or other public official were to take my property without any authority conferred by law, that would be theft. And in the case of usurping the judicial power of California and/or the United States to take my property without compensation by means of force or fear would be robbery. My personal property as well as real property that belongs to my mother, Roseanne Bereki, has been unlawfully taken and/or is in immediate danger of being taken by means of force and fear. I have suffered irreparable financial, social, emotional, and physical damages as a result of this unlawful behavior and am reporting it to you.

I have attached a very recent California Appellate Court decision regarding the duty the California Constitution imposes upon judges to perform an inquiry when ordering a fine so that it does not violate the California Constitution's excessive fines clause and take property that is not authorized by law:

“The touchstone of the constitutional inquiry under the Excessive Fines Clause is the principle of proportionality. The following four considerations bear on proportionality: (1) the defendant's culpability; (2) the relationship between the harm and the penalty; (3) the penalties imposed in similar statutes; and (4) the defendant's ability to pay.” *People v. Cowan*, 47 Cal. App. 5th 32, 32 (2020).

None of these inquiries took place, rendering the judgment against me in violation of due process and void (without authority). Furthermore, as a result of this unlawful judgment, I have been held in a state of constructive custody whereby I have been restrained from earning a living in my profession because I have been suspended by operation of law from acting as a qualifying individual on a construction license until the fine is paid or I declare bankruptcy.

While it is not my intent in this letter to go over each aspect of the case, there are a plethora of other criminal deprivations of rights that also took place that must be reported and investigated.

My case is not just some anomaly. This has indeed been going on in California for decades and there are countless other victims who have been shut down by the Legislature and Courts when speaking out against this despotic behavior.

I realize this is sensitive matter. But as far I can tell, it is within your agency's jurisdiction because the crime occurred in Santa Ana and you have a sworn duty to take the appropriate action.

To be clear, I am not looking to be schmoozed by your agency simply taking a report and promptly putting it on the records shelf to await the shredder in a decade. I demand a thorough and complete investigation be conducted. I know exactly what that looks like having served as an officer for nearly a decade.

In the event you or your agency decide to continue to refuse to take a report and complete a full and fair investigation of my criminal complaint, I ask that you provide your agency's policy(ies) and procedure(s) as well as those of the California Constitution and the Constitution for the United States and any other laws, rules, or regulations that authorize you to do so as well as a certified copy of both your and Sgt. Alcantar's Oath of Office. I also recommend you review sections 18 USC §241 and §242 of the United States Code which deal with federal crimes for deprivation of rights and conspiracy to deprive rights, carefully noting they apply to “any person” which includes judges and police officers in dereliction of their duties:

18 USC §241

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 USC §242

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

See also 42 USC §1983, the civil claim for deprivation of rights which not only applies to individuals, but also municipalities:

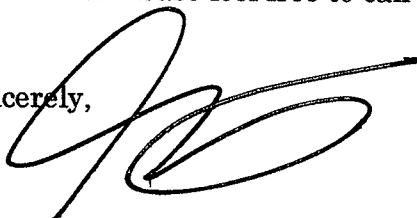
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for

redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

As I see it, your agency's failure to take a report and complete a full, fair, and impartial investigation constitutes a deprivation of my rights and a conspiracy with the other named public officials to deprive me of these rights protected by the California Constitution and the Constitution for the United States. Despite this, I believe you have the integrity to and will take remedial action now that I have brought the situation to your attention.

I am not interested in filing a complaint against Sgt. Alcantar at this time and am simply asking for you and the officers of your agency to perform the duties you have each taken an oath to. I am happy to speak with you over the phone or in person about this. Please feel free to call anytime during dayshift hours.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Bereki', with a long horizontal stroke extending to the right.

Adam Bereki
949.241.6693

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

July 13, 2020

Commander Rodriguez
Public Information Office
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

Public Records Act and Other Requests for Production

Please provide all documents in your custody and control evidencing:

- (1) All communication within your agency and/or the City of Santa Ana or any outside person(s) or agencies pertaining to my original Public Records Request or reply letter dated June 5, 2020.
- (2) Any notes or other records pertaining to the above referenced communications. It is not necessary to provide the contents of the Public Records Act Request again in your reply. I am solely interested in communication you/your agency and others have had pertaining to my request and reply letter dated June 5, 2020.
- (3) A copy of the audio tape of the call with Sgt. Gil Hernandez that took place on July 13, 2020.
- (4) A certified copy of the Oaths of Office for Sgt's. Alcantar, and Gil Hernandez, and Commander Rodriguez.
- (5) A copy of (or email link) to the Santa Ana Police Department Internal Affairs policies and procedures for the handling and investigation of internal complaints.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned documents and phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the number or address provided above.

Sincerely,
/s/ Adam Bereki, 7/13/20

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

(Via email)
May 2, 2020

To:

Mary Eckhardt Hearn
Public Information Officer
111 N. Hill Street, Rm. 107A
Los Angeles, CA 90012
213-830-0815
mhearn@lacourt.org

Kristin Davis
Public Affairs Officer
Kern County Superior Court
Cell: 661-808-0679
Office: 661-868-5399
Kristin.Davis@kern.courts.ca.gov

Marita Ford
Public Information Officer
Riverside Historic Courthouse
4050 Main Street
Riverside, CA 92501
951-777-3163
marita.ford@riverside.courts.ca.gov

Kim Pedersen
Public Information Officer
Court Executive Office/Public Information Office
720 9th street
Sacramento, CA 95814
PIO Cell: 916-591-0050
Fax: 916-874-8229
sscpio@saccourt.ca.gov

Julie S. Van Hook
Management Analyst II
Communications & Public Affairs

247 West Third Street, 11th Floor
San Bernardino, CA 92415-0302
909-708-8779
jvanhook@sb-court.org

Emily Cox
Public Affairs Office
1100 Union Street, 10th Floor
San Diego, CA 92101
619-844-2353
emily.cox@sdcourt.ca.gov

Robert Sherman
Assistant Court Executive Officer
800 South Victoria Avenue, L#2120
Ventura, CA 93009
805-289-8514
Fax: 805-654-5110
robert.sherman@ventura.courts.ca.gov

Suzanne Abi-Rached
Media Coordinator
1100 Van Ness Avenue
Fresno, CA 93724-0002
559-457-1605
Fax: 559-457-1608
sabi-rached@fresno.courts.ca.gov

<https://newsroom.courts.ca.gov/contacts>

(via email)

RE: Public Records Act Request

Please provide all documents in your custody and control evidencing the case name, case number, and disposition/judgment for every case involving a cause of action under California Business & Professions Code sections §7031(a) and §7031(b).

If I have emailed you in error and you are not the person who handles these types of requests, please forward to the appropriate person and notify me.

In contacting the Orange County Superior Court, I was informed that the Court's case management system is unable to search for cases by the cause of action and

therefore the Court was unable to provide me with the information I requested. If this is also the situation with your case management system, please let me know.

I would appreciate your response to this request via email to abereki@gmail.com instead of United States mail.

Thank you for your help.

/s/ Adam Bereki



Adam Bereki <abereki@gmail.com>

Public Records Act Request

4 messages

Adam <abereki@gmail.com>

Sat, May 2, 2020 at 11:50 AM

To: mhearn@lacourt.org, Kristin.Davis@kern.courts.ca.gov, marita.ford@riverside.courts.ca.gov, sscpio@saccourt.ca.gov, jvanhook@sb-court.org, emily.cox@sdcourt.ca.gov, robert.sherman@ventura.courts.ca.gov, sabirached@fresno.courts.ca.gov

Please see the attached Public Records request.

Thank you.

 **7031 Record Request.docx**
15K

Ford, Marita <Marita.Ford@riverside.courts.ca.gov>

Mon, May 4, 2020 at 10:07 AM

To: "abereki@gmail.com" <abereki@gmail.com>

Hello,

The court has received your request for Judicial Administrative Records. I have reviewed your request pursuant to California Rule of Court 10.500 and determined the court has no responsive documents. The court is not required to track these cases separately and our case management system is unable to isolate them for review.

Sincerely,

Marita C. Ford

Riverside Superior Court

Chief Financial Officer /

Public Information Officer

4050 Main Street

Riverside, CA 92501

7951-777-3163

Marita.ford@riverside.courts.ca.gov

[Quoted text hidden]

 **7031 Record Request.docx**
15K

Robert Sherman <Robert.Sherman@ventura.courts.ca.gov>
To: abereki@gmail.com

Mon, May 4, 2020 at 12:04 PM

The court has received your request for Judicial Administrative Records. Your request has been reviewed pursuant to California Rule of Court 10.500 and determined the court has no responsive documents. The court does not track these cases and the case management system is not able to separate them as requested.

Thank you.

Robert Sherman
Assistant Court Executive Officer/C.F.O.
Ventura Superior Court
800 South Victoria Avenue, L#2120
Ventura, CA 93009
(805) 289-8514; Fax (805) 654-5110
robert.sherman@ventura.courts.ca.gov

>>> Adam <abereki@gmail.com> 5/2/2020 11:50 AM >>>
Please see the attached Public Records request.

Thank you.

mailgate.ventura.courts.ca.gov made the following annotations

NOTICE: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

Abi-Rached, Suzanne <sabi-rached@fresno.courts.ca.gov>
To: Adam <abereki@gmail.com>

Fri, May 8, 2020 at 8:55 AM

Good morning Mr. Bereki,

The Court is in receipt of your letter dated May 2, 2020 requesting information related to unlicensed contractor litigation. You request this information pursuant to the California Public Records Act. This authority does not apply to the Superior Court of California, County of Fresno. As an agency provided for in Article VI of the California Constitution, the Court is exempt from the California Public Records Act. (Gov. Code §6252(f); Cal. Const., art. VI, §§ 1 and 4.) The California Public Records Act is found at Government Code sections 6250 et seq. The definitions that apply to the Act can be found at §6252. Of particular note is the definition of state agency. Specifically exempt from the definition of state agency are those agencies provided for in Article IV or Article VI of the California Constitution. Article IV is Legislative. Article VI is Judicial. The superior courts are provided for in Article VI of the California Constitution and thus are exempt from the definition of state agency for purposes of the Public Records Act. It is the public records of state and local agencies that are open to inspection pursuant to the Act. (See Government Code §6253.) As the Superior Court is not a state agency, its records are not governed by the Act. "The unambiguous language of the statute speaks clearly on this point and it expressly exempts the state courts from the provisions of the Act." (*Pantos v. City and County of San Francisco* (1984) 151 Cal.App.3d 258, 262.) The Act does not apply to the judiciary. (*Estate of Hearst* (1977) 67 Cal.App.3d 777, 782.) Therefore, no documents will be provided under the California Public Records Act.

The Court recognizes and supports the public's need for information about the Court's activities and strives to ensure public access to available information consistent with applicable law and court policy. To this end, the Court provides access to its Judicial Administrative records pursuant to California Rules of Court, rules 10.500 and 10.501. We respond to your request pursuant to this authority. First, your request is overbroad as you fail to provide a time frame for your inquiry. Second, the California Rules of Court do not require the Court to create a new record or to compile or assemble data in response to a request. The Court does not track the data you are requesting and does not maintain any report responsive to your request.

Thank you, Suzanne

Suzanne Abi-Rached

Court Division Manager

Juror and Public Services

Media Coordinator

sabi-rached@fresno.courts.ca.gov

(559) 457-1605

From: Adam <abereki@gmail.com>

Sent: Saturday, May 2, 2020 11:50 AM

To: mhearn@lacourt.org; Kristin.Davis@kern.courts.ca.gov; marita.ford@riverside.courts.ca.gov; sscpio@saccourt.ca.gov; jvanhook@sb-court.org; emily.cox@sdcourt.ca.gov;

robert.sherman@ventura.courts.ca.gov; Abi-Rached, Suzanne <sabi-rached@fresno.courts.ca.gov>

Subject: Pubic Records Act Request

Please see the attached Public Records request.

Thank you.



Adam Bereki <abereki@gmail.com>

Public Records Request, Tracking No. 02May2020-041

1 message

Public Records Request <Prr@sdcourt.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Wed, May 6, 2020 at 1:54 PM

Dear Mr. Bereki:

Attached is a letter dated May 6, 2020 from Michael M. Roddy, Executive Officer for San Diego Superior Court, in response to your Public Records Request.

Thank you,

Public Records Request


San Diego Superior Court

c/o: Executive Office

1100 Union Street
San Diego, CA 92101

619-844-2233

PRR@SDCourt.CA.Gov

 **PRR 02May2020-041 - Adam Bereki.pdf**
430K

The Superior Court of California

COUNTY OF SAN DIEGO
EXECUTIVE OFFICE OF THE COURT

MICHAEL M. RODDY
Executive Officer and Clerk
Jury Commissioner

Post Office Box 122724
San Diego, California 92112-2724
(619) 844-2500

May 6, 2020

VIA E-MAIL

Adam Berek
818 Spirit
Costa Mesa, CA
aberek@gmail.com

Re: Public Records Request, Tracking No. 02May2020-041

Dear Mr. Berek:

I am responding to your May 2, 2020 public records request, received via email on May 4, 2020 for "all documents in your custody and control evidencing the case name, case number, and disposition/judgment for every case involving a cause of action under California Business & Professions Code sections §7031(a) and §7031(b)."

The San Diego Superior Court case management system, which is the same as the case management system in Orange County, is unable to search for cases by the cause of action. Therefore, the Court was unable to provide me with the information you have requested.

Sincerely,



MICHAEL M. RODDY
Executive Officer



Adam Bereki <abereki@gmail.com>

RE: Public Records Act Request

1 message

SSCPIO <SSCPIO@saccourt.ca.gov>
To: Adam <abereki@gmail.com>

Tue, May 5, 2020 at 1:39 PM

Mr. Bereki, the court has received your records request. In accordance with California Rule of Court 10.500, it is determined that the court has no responsive documents. The court is not required to track these specific causes of action separately and the court's case management system is unable to cull them out, so the court is unable to satisfy your request.

All my best.

**Kim Pedersen**

Superior Court of California, County of Sacramento

Business Analyst/Public Information Officer – Court Executive Office

720 Ninth Street, Room 611

Sacramento, CA 95814

916-874-6401 – office

916-591-0050 – mobile

916-874-8229 – fax

sscpio@saccourt.ca.gov – PIO email address

From: Adam [mailto:abereki@gmail.com]**Sent:** Saturday, May 02, 2020 11:50 AM**To:** mhearn@lacourt.org; Kristin.Davis@kern.courts.ca.gov; marita.ford@riverside.courts.ca.gov; SSCPIO; jvanhook@sb-court.org; emily.cox@sdcourt.ca.gov; robert.sherman@ventura.courts.ca.gov; sabi-

rached@fresno.courts.ca.gov

Subject: Pubic Records Act Request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see the attached Public Records request.

Thank you.



Adam Bereki <abereki@gmail.com>

Request for Judicial Administrative Records – RJAR 2020-20


1 message

Administrative_Record_Request <Administrative_Record_Request@lacourt.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Tue, May 5, 2020 at 9:19 AM

Please review the attached response to your request for judicial administrative records. Please direct any additional questions in writing, to: Administrative Records Request, Room 105E, Stanley Mosk Courthouse, 111 N. Hill St., Los Angeles, CA 90012.

Please do not email a reply to this message. This email address is not monitored. Instead, please use the mailing address provided above. Thank you.

 **05.02.20 To Bereki 20 - Suspended Response.pdf**
326K



SHERRI R. CARTER
EXECUTIVE OFFICER / CLERK OF COURT

PUBLIC ACCESS TO JUDICIAL ADMINISTRATIVE RECORDS

Superior Court of California County of Los Angeles

May 4, 2020

Via Electronic Mail Only

Mr. Adam Bereki
abereki@gmail.com

Dear Mr. Bereki:

The Court received your emailed records request on May 2, 2020. The Court does not typically accept administrative records requests delivered by e-mail. As reflected on the Court's website,¹ such requests must be submitted in writing and either mailed or delivered. As a one-time courtesy, the Court will respond to your e-mail. In it, you requested the following;

Please provide all documents in your custody and control evidencing the case name, case number, and disposition/judgment for every case involving a cause of action under California Business & Professions Code sections §7031(a) and §7031(b).

If I have emailed you in error and you are not the person who handles these types of requests, please forward to the appropriate person and notify me.

In contacting the Orange County Superior Court, I was informed that the Court's case management system is unable to search for cases by the cause of action and therefore the Court was unable to provide me with the information I requested. If this is also the situation with your case management system, please let me know.

In compliance with the March 17, 2020 Administrative Order of the Presiding Judge regarding the COVID-19 Pandemic, the processing of requests for judicial administrative records is suspended while the Court operates only essential services, as posted on the Court website's at: (<http://www.lacourt.org/generalinfo/publicnotice/PublicNotice.aspx>).

As a result, this office cannot process requests within the usual timeframe. Your request will be held in abeyance and addressed fully once regular court business resumes. Thank you for your patience and cooperation as the Court continues to adjust to the evolving COVID-19 situation.

For the latest updates on Coronavirus/COVID-19-related changes to Court operations, please consult the Court's COVID-19 News Center located at the top of the Court's homepage (www.lacourt.org) and follow the Court on Twitter (@LASuperiorCourt)."

Sincerely,

Sylvia White-Irby
Judicial and Executive Support Director

¹ "Subject to reasonable accommodation for individuals with special needs, requests to inspect or copy the Court's administrative records other than case information must be made in writing by mail or delivery. Email and facsimile requests are not accepted." Written requests to inspect or copy the Court's administrative records should be submitted in writing by mail to: Administrative Records Request, Stanley Mosk Courthouse, Room 105, 111 N. Hill St. Los Angeles, CA 90012. Delivered requests are accepted at the 1st Floor Information booth of the same street address. http://www.lacourt.org/generalinfo/publicnotice/Cjl_PN003.aspx



Adam Bereki <abereki@gmail.com>

Pubic Records Act Request

Ford, Marita <Marita.Ford@riverside.courts.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Mon, May 4, 2020 at 10:07 AM

Hello,

The court has received your request for Judicial Administrative Records. I have reviewed your request pursuant to California Rule of Court 10.500 and determined the court has no responsive documents. The court is not required to track these cases separately and our case management system is unable to isolate them for review.

Sincerely,

Marita C. Ford

Riverside Superior Court

Chief Financial Officer /

Public Information Officer

4050 Main Street

Riverside, CA 92501

7951-777-3163

Marita.ford@riverside.courts.ca.gov

[Quoted text hidden]

 **7031 Record Request.docx**
15K



Adam Bereki <abereki@gmail.com>

Pubic Records Act Request

Robert Sherman <Robert.Sherman@ventura.courts.ca.gov>
To: abereki@gmail.com

Mon, May 4, 2020 at 12:04 PM

The court has received your request for Judicial Administrative Records. Your request has been reviewed pursuant to California Rule of Court 10.500 and determined the court has no responsive documents. The court does not track these cases and the case management system is not able to separate them as requested.

Thank you.

Robert Sherman
Assistant Court Executive Officer/C.F.O.
Ventura Superior Court
800 South Victoria Avenue, L#2120
Ventura, CA 93009
(805) 289-8514; Fax (805) 654-5110
robert.sherman@ventura.courts.ca.gov

>>> Adam <abereki@gmail.com> 5/2/2020 11:50 AM >>>
Please see the attached Public Records request.

Thank you.

mailgate.ventura.courts.ca.gov made the following annotations

NOTICE: This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.



Adam Bereki <abereki@gmail.com>

Pubic Records Act Request

Abi-Rached, Suzanne <sabi-rached@fresno.courts.ca.gov>
To: Adam <abereki@gmail.com>

Fri, May 8, 2020 at 8:55 AM

Good morning Mr. Bereki,

The Court is in receipt of your letter dated May 2, 2020 requesting information related to unlicensed contractor litigation. You request this information pursuant to the California Public Records Act. This authority does not apply to the Superior Court of California, County of Fresno. As an agency provided for in Article VI of the California Constitution, the Court is exempt from the California Public Records Act. (Gov. Code §6252(f); Cal. Const., art. VI, §§ 1 and 4.) The California Public Records Act is found at Government Code sections 6250 et seq. The definitions that apply to the Act can be found at §6252. Of particular note is the definition of state agency. Specifically exempt from the definition of state agency are those agencies provided for in Article IV or Article VI of the California Constitution. Article IV is Legislative. Article VI is Judicial. The superior courts are provided for in Article VI of the California Constitution and thus are exempt from the definition of state agency for purposes of the Public Records Act. It is the public records of state and local agencies that are open to inspection pursuant to the Act. (See Government Code §6253.) As the Superior Court is not a state agency, its records are not governed by the Act. "The unambiguous language of the statute speaks clearly on this point and it expressly exempts the state courts from the provisions of the Act." (*Pantos v. City and County of San Francisco* (1984) 151 Cal.App.3d 258, 262.) The Act does not apply to the judiciary. (*Estate of Hearst* (1977) 67 Cal.App.3d 777, 782.) Therefore, no documents will be provided under the California Public Records Act.

The Court recognizes and supports the public's need for information about the Court's activities and strives to ensure public access to available information consistent with applicable law and court policy. To this end, the Court provides access to its Judicial Administrative records pursuant to California Rules of Court, rules 10.500 and 10.501. We respond to your request pursuant to this authority. First, your request is overbroad as you fail to provide a time frame for your inquiry. Second, the California Rules of Court do not require the Court to create a new record or to compile or assemble data in response to a request. The Court does not track the data you are requesting and does not maintain any report responsive to your request.

Thank you, Suzanne

Suzanne Abi-Rached

Court Division Manager

Juror and Public Services

Media Coordinator

sabi-rached@fresno.courts.ca.gov

(559) 457-1605

From: Adam <abereki@gmail.com>

Sent: Saturday, May 2, 2020 11:50 AM

To: mhearn@lacourt.org; Kristin.Davis@kern.courts.ca.gov; marita.ford@riverside.courts.ca.gov; sscpio@saccourt.ca.gov; jvanhook@sb-court.org; emily.cox@sdcourt.ca.gov; robert.sherman@ventura.courts.ca.gov; Abi-Rached, Suzanne <sabi-rached@fresno.courts.ca.gov>

Subject: Pubic Records Act Request

Please see the attached Public Records request.

Thank you.



Adam Bereki <abereki@gmail.com>

Response to Records Request

1 message

Ortega, Carla <Carla.Ortega@kern.courts.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, May 15, 2020 at 2:29 PM

Dear Mr. Bereki,

Please see the attached response to your records request.

Thank you

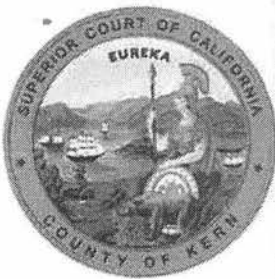
Carla



Carla Ortega
Managing Attorney
Superior Court of California, County of Kern
1415 Truxtun Avenue
Bakersfield, CA 93301
(661) 868-5391 voice
Carla.Ortega@kern.courts.ca.gov

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Bereki Response 5.15.20 signed.pdf



SUPERIOR COURT OF CALIFORNIA COUNTY OF KERN

JUDGES

John L. Fielder
Kenneth C. Twisselman II
Michael G. Bush
John D. Oglesby
Colette M. Humphrey
Craig G. Phillips
Robert S. Tafoya
David R. Lampe
John R. Brownlee
Judith K. Dulcich
Louie L. Vega
John S. Somers
Michael E. Dellostritto
Raymonda B. Marquez
J. Eric Bradshaw
Charles R. Brehmer
Lorna H. Brumfield
Bryan K. Stainfield
Susan M. Gill
Jose R. Benavides
John W. Lua
Stephen D. Schuett
Thomas S. Clark
Brian M. McNamara
Kenneth G. Pritchard
Ralph Wm. Wyatt
David R. Zulfa
Marcos R. Camacho
David Wolf
Kenneth R. Green Jr.
Tiffany Organ-Bowles
Gloria J. Cannon
Gregory A. Pulskamp
Therese M. Foley
Chad A. Louie

COURT COMMISSIONERS

Linda S. Etienne
Alisa R. Knight
Steven Shayer
Cynthia L. Loo
Jason W. Webster
Andrew B. Kendall
Dawn Bittleston

COURT EXECUTIVE OFFICER CLERK OF THE COURT

Tamarah Harber-Pickens

Superior Court of California

1415 Truxtun Avenue
Bakersfield, CA 93301
(661) 868-4934

May 15, 2020

Mr. Adam Bereki
818 Spirit
Costa Mesa, CA 92626

Sent via email to
abereki@gmail.com

Re: Records Request – California Rules of Court, Rule 10.500

Dear Mr. Bereki,

We are in receipt of your May 2, 2020 request for documents involving a cause of action under California Business & Professions Code sections §7031(a) and §7031(b), pursuant to California Rules of Court, rule 10.500. Please excuse our delay in responding to you. As you know, the State of California has been in a State of Emergency relating to COVID-19 since March 4, 2020. The protection of public health and safety in connection with this situation has resulted in significant interference with Superior Court services and proceedings, and Kern County Superior Court has been facing operational challenges due to the COVID-19 pandemic.

Upon review, the Court does not possess any records responsive to your request. We do not have the ability to query specifically for cases involving a cause of action under Business & Professions Code §§ 7031(a) and 7031(b). Our case management software does not contain an event code that specifically cites a cause of action under those code sections. Nor does the system have a civil case type set up under that cause of action that could be queried.

Thank you for your patience.

Sincerely,

Tamarah Harber-Pickens
Court Executive Officer

xc: Carla Ortega, Managing Attorney
Kristin Davis, Public Affairs Officer

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

July 13, 2020

Commander Rodriguez
Public Information Office
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

Public Records Act and Other Requests for Production

Please provide all documents in your custody and control evidencing:

- (1) All communication within your agency and/or the City of Santa Ana or any outside person(s) or agencies pertaining to my original Public Records Request or reply letter dated June 5, 2020.
- (2) Any notes or other records pertaining to the above referenced communications. It is not necessary to provide the contents of the Public Records Act Request again in your reply. I am solely interested in communication you/your agency and others have had pertaining to my request and reply letter dated June 5, 2020.
- (3) A copy of the audio tape of the call with Sgt. Gil Hernandez that took place on July 13, 2020.
- (4) A certified copy of the Oaths of Office for Sgt's. Alcantar, and Gil Hernandez, and Commander Rodriguez.
- (5) A copy of (or email link) to the Santa Ana Police Department Internal Affairs policies and procedures for the handling and investigation of internal complaints.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned documents and phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the number or address provided above.

Sincerely,
/s/ Adam Bereki, 7/13/20



Adam Bereki <abereki@gmail.com>

PRA Response

6 messages

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Rodriguez, Roberto" <RRodriguez@santa-ana.org>

Thu, Jul 23, 2020 at 5:20 PM

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that responsive records will be sent in separate forthcoming emails, to accommodate for their size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

 **Bereki Response - 7.23.2020.pdf**
468K

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Rodriguez, Roberto" <RRodriguez@santa-ana.org>

Thu, Jul 23, 2020 at 5:28 PM

Mr. Bereki,

Please see the Dropbox link below to access all responsive records. This is email 2 of 2 in response to your PRA. Please let me know if you have any questions.

<https://www.dropbox.com/s/lrde5xvvg4qb7hf/All%20Bereki%20Emails.pdf?dl=0>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

[Quoted text hidden]

 **Bereki Response - 7.23.2020.pdf**
468K

Adam Bereki <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Fri, Jul 24, 2020 at 10:15 AM

Thank you Elizabeth.

Sent from my iPhone

On Jul 23, 2020, at 5:28 PM, Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

[Quoted text hidden]
<Bereki Response - 7.23.2020.pdf>

Adam <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Fri, Jul 24, 2020 at 10:23 AM

Elizabeth,

With regard to question 4 and Oaths of Office: Yes, I am looking for the standard oath of office given to every sworn officer. It should have each officer's name on it and their signature below the oath.

Sincerely

Adam Bereki
[Quoted text hidden]

Plotnik, Elizabeth <EPlotnik@santa-ana.org>
To: Adam <abereki@gmail.com>
Cc: "Rodriguez, Roberto" <RRodriguez@santa-ana.org>

Tue, Jul 28, 2020 at 4:22 PM

Good Afternoon Mr. Bereki,

Thank you for your email. With regard to your request wherein you provided the following response " I am looking for the standard oath of office given to every sworn officer. It should have each officer's name on it and their signature below the oath", no records exist.

Please let me know if you have any further questions. Thank you.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>

Wed, Jul 29, 2020 at 7:32 AM

Good morning Elizabeth,

I want to be clear about your reply so there is absolutely no confusion. Confirming the Santa Ana Police Department nor the City of Santa Ana has any record of a signed oath of office for Gil Hernandez (as Sergeant and Police Officer), Abel Alcantar (as Sergeant and Police Officer) or Robert Rodriguez (as Commander, Police Officer, and all posts/positions in between)?

Also just to confirm that the City of Santa Ana nor the Santa Ana Police Department sends Oaths of Office to the State of California?

Sincerely,

Adam Bereki

[Quoted text hidden]

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

July 23, 2020

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Dear Mr. Bereki,

The City is in receipt of your request for Public Records dated July 13, 2020 wherein you requested the following:

1. All communication within your agency and/or the City of Santa Ana or any outside person(s) or agencies pertaining to my original Public Records Request or reply letter dated June 5, 2020.

Please see the emails attached.

2. Any notes or other records pertaining to the above referenced communications. It is not necessary to provide the contents of the Public Records Act Request again in your reply. I am solely interested in communication you/your agency and others have had pertaining to my request and reply letter dated June 5, 2020.

No records exist. Please see the response to #1, as no additional notes or records have been located.

3. A copy of the audio tape of the call with Sgt. Gil Hernandez that took place on July 13, 2020.

No records exist.

4. A certified copy of the Oaths of Office for Sgt's. Alcantar, and Gil Hernandez, and Commander Rodriguez.

We are seeking clarification regarding this request. Are you requesting a copy of the standard oath that is administered to all sworn peace officers by the Santa Ana PD? Please provide clarification so that we can properly respond to your request.

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
villegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

5. A copy of (or email link) to the Santa Ana Police Department Internal Affairs policies and procedures for the handling and investigation of internal complaints.

Department policies and procedures can be found on our website, using the links below. Please see Policy #1010 – Administrative Investigation and Personnel Complaints and Procedure #10100 – Administrative Investigation and Personnel Complaints.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

If you have any questions, please contact me at (714) 245-8003.

Sincerely,

DAVID VALENTIN
Chief of Police


ROBERT RODRIGUEZ
Commander

ep

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Panalozza
Ward 2
dpanalozza@santa-ana.org

Jose Solerio
Ward 3
jsolerio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Neida Mendoza
Ward 6
nmendoza@santa-ana.org

Administrative Investigation and Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of employees of the Santa Ana Police Department and administrative investigations in connection with an allegation of misconduct. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an SAPD employee in the normal course of duty, by a supervisor or any other SAPD employee, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Santa Ana Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its employees.

The Department will accept and address all complaints of misconduct in accordance with this policy, applicable federal, state and local law, municipal and county rules, and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure the community is provided with information and resources to report misconduct without concern for reprisal or retaliation.

The Department will timely complete all personnel investigations from the receipt of the complaint or recommendation to initiate an investigation. Inspectors will make every effort to complete assigned personnel investigations within 120 days. The Chief of Police or his/her designee may grant exceptions in cases involving multiple employees, criminal charges or otherwise extraordinary in nature. The Department shall comply in all cases with the time limits and exceptions defined in Government Code section 3304, subsections (c) through (g). The Internal Affairs Unit Commander shall monitor all internal investigations to ensure compliance with this policy and the Government Code.

The Santa Ana Police Department recognizes the importance of stable employer/employee relations, as well as the need to respect the rights provided to peace officers by the Public Safety Officers' Procedural Bill of Rights. Therefore, the Department's internal investigative procedures shall conform to Government Code Sections 3300-3313 in their entirety. **These investigative procedures shall apply to all full-time, regular employees, without regard for sworn status.**

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance, if true, would constitute a violation of department policy or of federal, state or local law, City or Department policy or rule. Personnel complaints may be generated internally or by members of the public.

Santa Ana Police Department

Santa Ana PD Policy Manual

Administrative Investigation and Personnel Complaints

Inquiries about conduct or performance, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by employees of the Santa Ana Police Department.

1010.3.1 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department employee who becomes aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department employee and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person, e-mail or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving employee shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the Department (Penal Code § 832.7).

Assignment of cases to Internal Affairs shall be at the sole discretion of the Chief of Police. Complaints alleging misconduct originating within the Department may, with the approval of the

Santa Ana Police Department

Santa Ana PD Policy Manual

Administrative Investigation and Personnel Complaints

Bureau Commander, be handled at the Division level. The Internal Affairs Commander shall be notified of any internal investigation being handled at the Bureau level prior to the start of that investigation.

1010.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

1010.5 DOCUMENTATION

Supervisors shall ensure that all complaints are documented. The supervisor shall ensure that the nature of the complaint is described in detail as much as possible.

All complaints and inquiries should also be documented in a Blue Team entry, which records and tracks complaints. The Blue Team entry shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Internal Affairs Unit Commander should audit all complaints and send an audit report to the Chief of Police or the authorized designee.

1010.6 ADMINISTRATIVE INVESTIGATIONS

No investigation shall be undertaken against an SAPD employee solely because the SAPD employee has been placed on a prosecutor's list or the name of the SAPD employee may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the SAPD employee has been placed on a list or is subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the SAPD employee's immediate supervisor, unless the supervisor is the complainant or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct another supervisor to investigate a complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - (a) The original complaint form will be uploaded into a Blue Team entry, which will be directed to the Bureau Commander of the accused SAPD employee, via the chain of command, who will take appropriate action and/or determine who will be responsible for the investigation.
 - (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant

Administrative Investigation and Personnel Complaints

is at issue, a supervisor shall orally report the matter to the SAPD Employee's Bureau Commander or the Chief of Police, who will initiate appropriate action.

- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - (a) Follow-up contact with the complainant should be made within 24 hours of the Department's receipt of the complaint.
 - (b) If the matter is resolved and no further action is required, the supervisor will note the resolution in the corresponding Blue Team entry and forward it to the Division Commander.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief of Police is notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Human Resources Division and the Division Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Bureau Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused SAPD employee are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are conducted during reasonable hours if possible.

1010.7 ADMINISTRATIVE SEARCHES

No SAPD employee shall have his/her locker, or other space for storage that may be assigned to them searched except in his or her presence, or with his or her consent, or unless a valid search warrant has been obtained or where he or she has been notified a search will be conducted. This section shall apply only to lockers or other space for storage that are owned or leased by the employing agency (Government Code § 3309).

1010.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties

Santa Ana Police Department

Santa Ana PD Policy Manual

Administrative Investigation and Personnel Complaints

- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

1010.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to paid administrative leave. Any employee placed on paid administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1010.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Department shall not be required to impose discipline within the one year period pursuant to the provisions set forth in Government Code section 3304 (Tolling). The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Santa Ana Police Department may release information concerning the arrest or detention of any SAPD employee, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.10 PRE-DISCIPLINE EMPLOYEE PROCESS

The pre-discipline process is intended to provide the employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The process does not involve a formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

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- (c) The employee may suggest that further investigation be conducted or may offer additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1010.11 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an SAPD employee tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.12 POST-DISCIPLINE APPEAL RIGHTS FOR SUSPENSION WITHOUT PAY, REDUCTION IN PAY OR STEP, DEMOTION, DISMISSAL, PUNITIVE TRANSFER OR TERMINATION

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. An administrative appeal instituted by an SAPD employee shall be conducted in conformance with rules and procedures adopted by the City's Civil Service Rules and Regulations, the Memorandum of Understanding and as provided in Chapter 9, Section 9-118, of the Santa Ana Municipal Code. If an employee is successful in overturning or reducing the disciplinary action implemented by the Chief of Police, the Personnel Board's decision shall replace the Notice of Adverse Decision.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an SAPD employee has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

1010.13 POST-DISCIPLINE APPEAL RIGHTS FOR OTHER DISCIPLINARY FINDINGS IN ADMINISTRATIVE INVESTIGATION

The Santa Ana Police Department has established the following process to conform to Government Code 3304.5 with respect to the rules and procedures for an administrative appeal where an administrative appeal is not presently provided in the Santa Ana Municipal Code (SAMC Section 9-118).

This process applies to all full-time sworn and non-sworn non-probationary employees of the Department. This process shall apply to supervisory counselings used as a disciplinary finding in an administrative investigation. This process shall not apply to supervisory counselings that are noted on a supervisor's log and retained by the supervisor as documentation for the employee's

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performance evaluation. This process shall not apply to non-punitive transfers out of a premium pay assignment, numerical scoring in performance evaluations and merit pay denial due to performance.

The issue to be determined in such appeal is whether good cause exists for the imposition of the punitive action and, if so, what punitive action is appropriate under the circumstances. The punitive action will take effect after the Chief of Police has made a decision and prior to any further appeal.

1010.13.1 APPEAL PROCESS

- (a) Within 10 calendar days of receipt of notification of discipline, the employee shall file a written request for appeal with his or her Bureau Commander. The request for appeal shall include a statement of the action being appealed and the remedy desired. Failure to file a request for appeal within the allowed time shall constitute a waiver of the right to this administrative appeal procedure.
- (b) Upon receipt of the request for appeal, the Bureau Commander shall schedule a meeting with the appealing employee and his or her representative, Monday through Friday between 0900 and 1700 hours. An attempt will be made to schedule this meeting during the appealing employee's regular work hours but if this is not possible the employee will appear without compensation at the scheduled meeting. If the appeal results in a rescission of the punishment, the appealing employee, who appeared outside of regular work hours, will be compensated for his or her time based on straight time used to appear at this meeting. Said meeting shall take place within 10 calendar days of receipt by the Bureau Commander of the request for appeal unless the parties agree to extend this time.
 1. Prior to the meeting, the Bureau Commander shall gather all documents relevant to the punitive action, including any documents submitted by the employee, and present a copy of them to the appealing employee. Within 5 business days of the meeting, the Bureau Commander shall notify the appealing employee of his or her decision. The Bureau Commander may sustain, rescind or modify the punitive action. An employee who is not satisfied with the decision of the Bureau Commander shall, within 10 calendar days, file a written request for appeal with the Chief of Police.
- (c) Within 10 calendar says of receipt by the Chief of Police of the request to appeal, the meeting shall take place unless the parties agree to extend this time. At the meeting, the Chief will consider all arguments that may be presented by the appealing employee or representative and the Bureau Commander regarding the existence of good cause for the discipline and the appropriateness of the action taken. The meeting with the Chief of Police will occur Monday through Friday between 0900 and 1700 hours. An attempt will be made to schedule this meeting during the appealing employee's regular work hours but if this is not possible the appealing employee will appear without compensation at the scheduled meeting. If the appeal results in a rescission of the punishment, the appealing employee, who appeared outside of regular work hours, will be compensated for his or her time based on straight time used to appear at this meeting.

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- (d) Within 5 business days of the meeting, the Chief of Police shall notify the appealing employee and the Bureau Commander of the decision to sustain, rescind or modify the disciplinary action. The Chief of Police shall notify the appealing employee of any personnel relied on in making this decision.
- (e) Within 10 calendar days, an employee who is not satisfied with the Chief's decision shall, file a written request for appeal with the City's Human Resources Director. The request for appeal shall include a statement of the action being appealed and the remedy desired. Failure to file a request for appeal within the allotted time shall constitute a waiver of the right to this administrative appeal procedure.
- (f) Upon receipt of the request for appeal, the City's Human Resources Director shall contact a hearing officer chosen by the parties and paid for by the City. A list of at least 3 hearing officers will be provided to both parties. If both sides cannot agree on one of the 3 hearing officers each side will strike one hearing officer and the remaining hearing officer will be the chosen hearing officer for that specific hearing. An evidentiary hearing shall be convened by the hearing officer as soon as all parties are available.
 - 1. The hearing before the hearing officer shall be audio recorded.
 - 2. The formal rules of evidence do not apply and all relevant evidence shall be admissible. Hearsay evidence is admissible with the understanding that such hearsay must be evidence upon which people may reasonably rely and that hearsay evidence alone may not support a finding by the hearing officer.
 - 3. Each party shall be responsible for obtaining the appearance of their respective witnesses.
- (g) The hearing officer shall accept documentary evidence and hear oral testimony under oath. The parties may present opening statements and oral argument on the issue of whether good cause exists for the punitive action and, if so, whether the punitive action is appropriate under the circumstances. There is no right to cross-examine witnesses by either party. At the close of the hearing the hearing officer shall issue written findings of fact and conclusions of law and make a decision to sustain, rescind or modify the punitive action within 14 business days.
- (h) The findings of fact, conclusions of law and decision shall be served by first class mail, postage pre-paid upon the City's Human Resources Director who shall serve the Findings and Conclusions upon the Chief, the involved employee and representative by personal service or first class mail. The Findings shall be accompanied by an affidavit or certificate of service/ mailing and shall advise the employee that the time within which judicial review of the decision may be sought is governed by C.C.P. Section 1094.6.
 - 1. The decision by the hearing officer will be binding on both parties.
 - 2. An employee who requests an appeal under this procedure shall bear his/her own costs in association with the appeal, including but not limited to witness and attorney fees.
- (i) Employees shall continue to be entitled to an appeal in accordance with existing procedures set forth in the Santa Ana Municipal Code Section 9-118, for suspensions,

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demotions, or dismissals. When such cases also involve a reassignment, the entire case will be heard pursuant to the Municipal Code, i.e., if, as a result of a misconduct case, an SAPD employee receives a suspension and a reassignment, then the case will not be bifurcated.

1010.14 PROBATIONARY EMPLOYEES AND OTHER EMPLOYEES

At-will and probationary employees and those SAPD employees other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary SAPD employee subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

1010.15 IMPOSITION OF DISCIPLINE

If, after investigation and any pre-disciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the SAPD employee in writing of its decision to impose discipline, including the date the discipline will be imposed, within 30 days of its decision, except if the SAPD employee is unavailable for discipline.

When the final decision of the Chief of Police is termination, the imposition of discipline will be immediate. Internal Affairs will meet with the SAPD employee and ensure that the discipline is served. In all other cases, the affected Bureau or Division Commander will meet with the employee to serve the discipline. This responsibility should not be relegated to a subordinate whose rank is less than management/commander.

When the discipline involves a suspension with options, the SAPD employee may elect to forfeit accumulated vacation, time off, holiday and/or compensatory time, which will then be processed by the Division Commander.

The forfeiture of vacation or compensatory time shall occur immediately or as soon as practical, after the serving of the Notice of Adverse Decision.

Should the SAPD employee elect to take a portion of the disciplinary time off without pay, or when the imposition of discipline is without options, the Bureau/Division Commander will determine when and how the suspension will be served based on organizational needs.

Suspensions with or without options will be served within 90 days from the service of a Notice of Adverse Decision. In extraordinary circumstances, the Chief of Police may extend this period for good cause.

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The SAPD employee's manager will be responsible for ensuring that the suspension is served and that the appropriate forms and reports are completed. The manager will submit a memorandum to Internal Affairs and SAPD's Fiscal Section, along with the appropriate non-regular time report, documenting the service of the suspension. The documentation will be included in the Internal Affairs file.

1010.16 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the City of Santa Ana's Records Retention Policy, City procedures, and pursuant to state law and applicable court order.

ADMINISTRATIVE INVESTIGATION PROCEDURES

10100.1 PURPOSE

These procedures provide guidelines for conducting administrative investigations regarding the conduct of employees of the Santa Ana Police Department. These procedures shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an SAPD employee in the normal course of duty, by a supervisor or any other SAPD employee, nor shall these procedures apply to a criminal investigation.

10100.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or an SAPD employee of the Internal Affairs Unit, the following applies to SAPD employees covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303 et seq.).

Prior to the interrogation of an accused SAPD employee during an investigation, he/she will be provided with an Internal Affairs Memorandum titled "ADMINISTRATIVE INVESTIGATION-NOTIFICATION OF INTERROGATION," which will be completed by the sergeant assigned the investigation (Attachment A). An Internal Affairs supervisor, or the supervisor conducting the investigation, will serve the memorandum personally and the SAPD employee will acknowledge receipt of the document in writing.

The Notice shall provide the SAPD employee with the following information:

- (a) The date and time the interrogation shall be conducted.
- (b) The nature of the investigation including the date and time of the incident in question, the name, rank and commanding officer in charge of the investigation, the interviewing officers and all other persons to be present during the interrogation, a general description of the act(s) or omission(s) giving rise to the investigation, and the possible Department policies that may have been violated. The information included should allow a reasonable person to understand the nature of the investigation
- (c) Inform the SAPD employee that the complete interrogation shall be recorded and the SAPD employee has the ability to also record the interrogation.
- (d) If prior to or during the interrogation of an SAPD employee, it is deemed that the SAPD employee may be charged with a criminal offense, he or she shall be immediately informed of his or her constitutional rights. If this information is known prior to the SAPD employee's interrogation, the Notice of Interrogation shall include said advisement.
- (e) The SAPD employee has the right to be represented by a representative of his or her choice who may be present at all times during the interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

ADMINISTRATIVE INVESTIGATION PROCEDURES

10100.2.1 ADMINISTRATIVE INVESTIGATION INTERROGATION

- (a) Interrogation of an accused SAPD employee shall be conducted during reasonable hours and preferably when the SAPD employee is on-duty. If the SAPD employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the accused SAPD employee, interrogation of an SAPD employee shall be at the Santa Ana Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused SAPD employee.
- (d) All interrogations shall be for a reasonable period and the accused SAPD employee's personal needs should be accommodated.
- (e) No accused SAPD employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (f) Any accused SAPD employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - (a) The accused SAPD employee should be given an order to answer questions in an administrative investigation that might incriminate the SAPD employee in a criminal matter only after the SAPD employee has been given a Lybarger advisement. Administrative investigators should consider the impact that compelling a statement from the accused SAPD employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the agency in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - (a) No information or evidence administratively coerced from an accused SAPD employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (g) The interviewer shall record all interrogations of SAPD employees and witnesses. The accused SAPD employee may also record the interrogation. If the accused SAPD employee has been previously interrogated, a copy of that recorded interrogation shall be provided to the SAPD employee prior to any subsequent interrogation.
- (h) All accused SAPD employees subjected to an interrogation that could result in discipline have the right to have an uninvolved representative present during the interrogation. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interrogated.
- (i) All accused SAPD employees shall provide complete and truthful responses to questions posed during an interrogation.
- (j) No accused SAPD employee may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

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ADMINISTRATIVE INVESTIGATION PROCEDURES

- (k) If at any time should the witness SAPD employee request representation, the interrogation will be stopped and he/she will be given an opportunity to speak with a representative at that time. The witness SAPD employee will be given a reasonable amount of time under the circumstances to speak with a representative. If, after the consultation with a representative, the employee still desires representation, the SAPD employee will be given a reasonable period of time to obtain such representation and return for the interrogation. In most cases, a "reasonable" period of time will be 24 hours. No negative action will be taken against a witness SAPD employee for requesting a representative.

10100.2.2 SUBSEQUENT INTERROGATION

If an additional interrogation is required of any SAPD employee, in a reasonable time prior to the subsequent interrogation(s), the SAPD employee will be provided a Notice of Interrogation and will be informed if the nature and scope of the investigation has changed or been expanded.

In a reasonable time prior to any subsequent interrogation of an SAPD employee, or when further proceedings are being contemplated, the SAPD employee shall be given a copy of the recording of the prior interrogation(s), and shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the SAPD employee's personnel file. The SAPD employee being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.

10100.2.3 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be thorough, complete and essentially follow this format when a memorandum is required to document the investigation:

- (a) To: Chief of Police via the affected Bureau Commander
- (b) Date: The date the administrative report was completed
- (c) From: Supervisor/manager's name and badge number
- (d) Subject (Re): Complaint/internal investigation involving (employee's name and badge number)
- (e) Summary: Summarize the incident, the allegations and the conclusion (sustained, not sustained, etc.)
- (f) Focus SAPD Employee(s): List the name(s) of the employee(s) who are the focus of the investigation, along with their badge number and rank
- (g) Witness SAPD Employee(s): The same information as listed for focus employees
- (h) Complainant(s): Full name and prior complaint history. The complainant's date of birth, address, telephone number, business name, business address, business telephone number should be included in the corresponding Blue Team entry

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ADMINISTRATIVE INVESTIGATION PROCEDURES

- (i) Witness Members of the Public: Full name. His/her date of birth, home, business address, and telephone numbers should be included in the corresponding Blue Team entry
- (j) Evidence: Such as photographs, tape recordings, sketches, medical reports, legal documents, arrest reports, etc. These evidence items, as well as others pertinent to the investigation, shall be listed and attached to the original report that is to be submitted to the Chief of Police. In alleged criminal matters, evidence shall be handled as in other criminal cases, indicating chain and location of evidence. Interviews of complainants, employees, and witnesses shall be audio recorded and processed with the completed investigation, and shall be retained by Internal Affairs
- (k) Investigations: The report should be written in the first person, in active voice when possible (i.e. "Jones told me he ordered the items."), and in the following format:
 - (a) The report will be a comprehensive summary, although not a complete transcription, of all relevant information developed through the investigation
 - (b) When summarizing a statement or inferring something from it, use extreme care to be absolutely accurate, and include quotes when necessary to portray the exact meaning of the statement
 - (c) The investigation will be written in chronological order
 - (d) The last name of the complainant, witness or employee should be prefaced above their statement. For example: Interview of Mike Jones - November 18, 2004, 1400-1600 Hours. In the interview summary, state the location of the interview
 - (e) Occasionally and to avoid confusion, preface the last names of members of the Department with their title (i.e. Officer, PSO, Cadet, Detention Officer, etc.)
 - (f) When summarizing a part of the investigation that is not an interrogation, preface the section with the date the investigative action took place, followed by "Investigation Continued (Date)"
 - (g) There should be no conclusions or opinions in the body of the investigative report. This portion is reserved for facts, statements, description of evidence, and the observations of the investigator regarding demeanor of individuals, state of the evidence, etc.
- (l) Conclusion: This is the portion of the report where the investigator ties the entire investigation together, reaching sound, thorough, and well-supported conclusions on each of the charges. Identify each alleged violation by departmental policy/order number, section and subsection, and name.

10100.2.4 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

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ADMINISTRATIVE INVESTIGATION PROCEDURES

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

10100.2.5 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

10100.3 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

10100.3.1 INTERNAL AFFAIRS COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Internal Affairs Commander shall review the entire investigative file and complete a Disposition Memorandum that includes recommendations regarding the disposition of any allegations.

Each administrative investigation shall be classified with one of the following dispositions:

1. **Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.
2. **Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.
3. **Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the SAPD employee.
4. **Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

10100.3.2 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file, and any other relevant materials. The Division Commander shall complete a Cover Memorandum and forward it to the Bureau Commander.

Prior to forwarding to the Bureau Commander, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any Cover Memorandum to the Bureau Commander, the Division Commander shall include all relevant materials. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

ADMINISTRATIVE INVESTIGATION PROCEDURES

10100.3.3 BUREAU COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Bureau Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Bureau Commander shall make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Bureau Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Bureau Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

10100.3.4 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Bureau Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police, in his/her sole discretion shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the SAPD employee with a pre-disciplinary procedural due process hearing () by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the SAPD employee with:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - (a) Upon a showing of good cause by the SAPD employee, the Chief of Police may grant a reasonable extension of time for the SAPD employee to respond.
 - (b) If the SAPD employee elects to respond orally, the presentation (Skelly) may be recorded by the Department. Upon request, the SAPD employee shall be provided with a copy of the recording.

Once the SAPD employee has completed his/her response or if the SAPD employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the SAPD employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

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ADMINISTRATIVE INVESTIGATION PROCEDURES

10100.3.5 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(e)).

10100.3.6 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(e)).

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

July 29,2020

Commander Rodriguez
Public Information Office
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

Public Records Act Request For Production

Please provide all documents in your custody and control evidencing:

- (1) A certified copy of the Oaths of Office for Chief David Valentin and the unknown investigator(s) assigned to investigate the Citizen Complaint I made.
- (2) The City of Santa Ana and Santa Ana Police Department policies for the recording, filing, and handling of Oaths of Office for sworn personnel.
- (3) A copy of a blank Oath of Office used by the City of Santa Ana and the Santa Ana Police Department to comply with California Constitution Article XX, Sec. 3 and Gov. Code §3102.
- (4) All documents evidencing the Santa Ana Police Department's compliance with California Constitution Article XX, Sec. 3 and Gov. Code §3102 that all active duty sworn officers have both taken and subscribed an Oath of Office for each post/position upon which they are currently assigned and each position they have been assigned to since their career inception with the Department. This should include the date the Oath was taken and who the employee was sworn in by.

Please email your response to this request within the time allotted by law to abereki@gmail.com. If you can only provide partial compliance with certain requests in the allotted time, please provide that information, even if incomplete. I will respond that I have received your reply(ies) via email. Thank you for your time and help. If you have any questions, please don't hesitate to call or email at the phone number or address provided above.

Sincerely,
/s/ Adam Bereki, 7/29/20

SAPD OATHS



Adam Bereki <abereki@gmail.com>

Public Records Act Request 072920- Adam Bereki

Adam <abereki@gmail.com>

Wed, Jul 29, 2020 at 8:48 AM

To: "Plotnik, Elizabeth" <EPlotnik@santa-ana.org>, RRodriguez@santa-ana.org
Bcc: G Cressend <gcressend@gmail.com>, William Henshall <ccaspari@live.com>

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

SAPD Request 072920.pdf
35K

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SAPD OATHS



Adam Bereki <abereki@gmail.com>

Public Records Act Request 072920- Adam Bereki

Esparza, Enrique <EEsparza@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Aug 6, 2020 at 4:04 PM

Mr. Bereki,

Attached, please find the response to your request for public records. For you convenience, below are the direct links included in your written resonse.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/102.pdf>

https://library.municode.com/ca/santa_ana/codes/code_of_ordinances?nodeId=PTITHCH_ARTXIMIPREOFEM_S1104ADOA

https://library.municode.com/ca/santa_ana/codes/code_of_ordinances?nodeId=PTITHCH_ARTXIMIPREOFEM_S1105OAOA

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920- Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Adam <abereki@gmail.com>

Sent: Wednesday, July 29, 2020 8:49 AM

To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>

Subject: Public Records Act Request 072920- Adam Bereki

Commander Rodriguez,

[Quoted text hidden]

4 attachments



Oath of Office Script.pdf

241K



Oath of Office.pdf

105K



Chief Valentin Oath of Office.pdf

265K



PRA Response - 8.6.2020.pdf

814K

Oath of Office

102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

102.2 POLICY

It is the policy of the Santa Ana Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

"I, (employee name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105). A copy of the oath of office will be maintained by the department.

VERSION: JUL 27, 2020 (CURRENT)

SANTA ANA MUNICIPAL CODE modified

SUPPLEMENT HISTORY TABLE modified

PART I - THE CHARTER

ARTICLE I - INCORPORATION AND SUCCESSION

ARTICLE II - POWERS OF THE CITY

ARTICLE III - FORM OF GOVERNMENT

ARTICLE IV - CITY COUNCIL

ARTICLE V - CITY MANAGER

ARTICLE VI - REVENUE AND TAXATION

ARTICLE VII - OFFICERS AND EMPLOYEES

ARTICLE VIII - BOARD OF EDUCATION

ARTICLE IX - APPOINTIVE BOARDS AND COMMISSIONS

ARTICLE X - CIVIL SERVICE

ARTICLE XI - MISCELLANEOUS PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

Sec. 1100. - Investigations by the city council or city manager.

Secs. 1101, 1102. - Reserved.

Sec. 1103. - Official bonds.

Sec. 1104. - Administering oaths.

Sec. 1105. - Oath of office.

Sec. 1106. - Officers of the city.

Sec. 1107. - Reserved.

ARTICLE XII - ELECTIONS

ARTICLE XIII - FRANCHISES

ARTICLE XIV - RETIREMENT

ARTICLE XV - LEGAL PROVISIONS

CHARTER COMPARATIVE TABLE

Chapter 1 - GENERAL PROVISIONS

ARTICLE XI. - MISCELLANEOUS PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

Sec. 1100. - Investigations by the city council or city manager.

The City Council, the City Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigation as to City affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence.

Secs. 1101, 1102. - Reserved.

Editor's note— Ord. No. NS 1405, adopted March 13, 1978, approved at election June 6, 1978, repealed §§ 1101 and 1102 relative to publicity of records, illegal contracts and financial interest of officers and employees.

Sec. 1103. - Official bonds.

The City Council shall, by ordinance, fix the amounts and terms of the official bonds of all officers and employees of the City who are required by this charter or by ordinance to give such bonds. All bonds shall be executed by a responsible surety, shall be approved by the City Attorney as to form, and shall be filed with and remain in the keeping of the director of finance, provided that the bond of the director of finance shall be filed with and remain in the keeping of the Clerk of the Council. The premium on any official bond furnished under the provisions of this section and executed by a corporate surety shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his bond, for any wrongful act or omission of his subordinates, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

Sec. 1104. - Administering oaths.

Each head of an office, department, or other agency and his deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his department.

Sec. 1105. - Oath of office.

Each member of the City Council and of every board and commission and each officer and full-time employee shall, before entering upon the duties of his office, take and subscribe an oath or affirmation as prescribed by law and to be filed and kept in the office of the director of personnel.

(Ord. No. NS-1642, 8-2-82, approved at election 11-2-82)

Sec. 1106. - Officers of the city.

The officers of the City shall be:

Members of the City Council,

City Manager,

City Attorney,

Clerk of the Council,

Such other officers as shall be specified by ordinance.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78)

Sec. 1107. - Reserved.

Editor's note— Res. No. 2018-047, 5-4(Exh. A), adopted July 3, 2018 and approved at the election of November 6, 2018, repealed § 1107. Former § 1107 pertained to gifts to officers and employees prohibited and derived from Ord. No. NS-1405, adopted March 13, 1978, approved at election June 6, 1978.

< Sec. 1015 - Penalty for violation of article.

ARTICLE XII - ELECTIONS

SANTA ANA POLICE DEPARTMENT

PEACE OFFICER OATH OF OFFICE

STATE OF CALIFORNIA

I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties upon which I am about to enter.



Oath of Office

Employee

State of California)
County of Orange) SS
City of Santa Ana)

I _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature

Date

Full Name

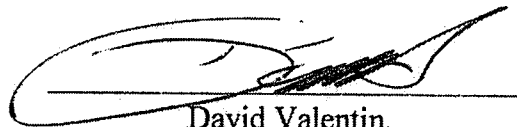
Note: as an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee. C.C.P. SS 2015.6

CITY OF SANTA ANA

OATH OF OFFICE

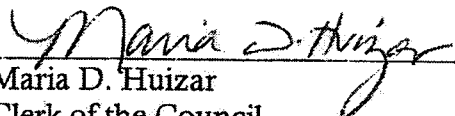
State of California }
County of Orange } ss.

I, David Valentin, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, Foreign and Domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; that I will well and faithfully discharge the duties upon which I am about to enter.



David Valentin,
Chief of Police

The above oath was taken and subscribed to before me this 6th day of March, 2018.



Maria D. Huizar
Clerk of the Council

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penalzoa
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

August 6, 2020

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Re: Response to Public Records Act Request – Determination

Dear Mr. Bereki,

Thank you for providing clarification regarding the records you are seeking, as it was previously unclear. It appears now that the records you are seeking are records compliant with the Oath of Office Department Policy 102.4. Below please find the City's response to your request for Public Records dated July 29, 2020:

1. A) A certified copy of the Oaths of Office for Chief David Valentin...

A copy of Chief David Valentin's "Oath of Office" is being provided with the Chief's consent.

B) ...and the unknown investigator(s) assigned to investigate the Citizen Complaint I made.

The record you have requested will not be disclosed and is exempt from disclosure pursuant to Government Code § 6254(c), which exempts, "personnel, medical or similar files the disclosure of which would constitute an unwarranted invasion of personal privacy." Specifically, personnel files of an agency that employs peace officers are confidential and exempt from disclosure pursuant to Government Code §6254(k) [Penal Code §§ 832.7; Evidence Code §§ 1043]. Additionally, the records are exempt from disclosure pursuant to Government Code §6255(a), as the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of personnel records.

2. The City of Santa Ana and Santa Ana Police Department policies for the recording, filing, and handling of Oaths of Office for sworn personnel.

Department policies can be found on our website, using the link below. Please see Policy #102 – Oath of Office. Additionally, Sections 1104 and 1105 of the City of Santa Ana Municipal Code pertain to Oaths of Office and can be found on the City website using the links below.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/102.pdf>

https://library.municode.com/ca/santa_ana/codes/code_of_ordinances?nodid=PTITHCH_A_RTXIMIPRREOFEM_S1104ADOA

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
villegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penalzoa
Ward 2
dpenalzoa@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

https://library.municode.com/ca/santa_ana/codes/code_of_ordinances?nodeld=PTITHCH_A_RTXIMIPRREOFEM_S1105OAOF

3. A copy of a blank Oath of Office used by the City of Santa Ana and the Santa Ana Police Department to comply with California Constitution Article XX, Sec.3 and Gov. Code §3102.

Please see the documents attached.

4. All documents evidencing the Santa Ana Police Department's compliance with California Constitution Article XX, Sec. 3 and Gov. Code §3102 that all active duty sworn officers have both taken **and** subscribed an Oath of Office for each post/position upon which they are currently assigned and each position they have been assigned to since their career inception with the Department. This should include the date the Oath was taken and who the employee was sworn in by.

The records you have requested will not be disclosed and are exempt from disclosure pursuant to Government Code § 6254(c), which exempts, "personnel, medical or similar files the disclosure of which would constitute an unwarranted invasion of personal privacy." Specifically, personnel files of an agency that employs peace officers are confidential and exempt from disclosure pursuant to Government Code §6254(k) [Penal Code §§ 832.7 and Evidence Code §§ 1043]. Additionally, the records are exempt from disclosure pursuant to Government Code §6255(a), as the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of personnel records. All City employees take and subscribe an Oath at the time they are hired, and as such, no records exist with respect to their post/position, with the exception of the Chief of Police, as provided in response to request #1.

Pursuant to Government Code §6253(d)(3), the person responsible for the denial is Chief of Police David Valentin. This response is meant to completely comply with your request. Should you have any questions, please contact me at (714) 245-8410.

Sincerely,

DAVID VALENTIN
Chief of Police



ENRIQUE ESPARZA
Deputy Chief, Administration Bureau

ep

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacera
Ward 4
pbacera@santa-ana.org

Netida Mendoza
Ward 6
nmendoza@santa-ana.org



Adam Bereki <abereki@gmail.com>

Public Records Act Request 072920- Adam Bereki

Adam <abereki@gmail.com>

Fri, Aug 7, 2020 at 7:31 AM

To: "Esparza, Enrique" <EEsparza@santa-ana.org>


Mr. Esparza,

Please see my attached objections to your/Chief Valentin's non-disclosure items.

Sincerely,

Adam Bereki

[Quoted text hidden]

 **SAPD Reply 080720.pdf**
75K

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

August 6, 2020

Enrique Esparza
Santa Ana Police Department ("SAPD")
60 Civic Center Plaza
Santa Ana, CA 92701
Via email reply to: eesparza@santa-ana.org

RE: Public Records Act Reply Received 08/06/20

I object to Chief Valentin's/your responses based upon Government Code §6254(c) listed on items 1B and 4 in your reply dated August 6, 2020 for the following reasons:

1. An Oath of Office does not contain *any* private privileged personal information such as a home address, phone number, birth records, or medical information, etc., which might constitute an invasion of the officer's privacy as directly referenced in Gov. Code §6254(c). See also Gov. Code §6254.18 defining "personal information"- an Oath of Office is not included.

According to the Oath of Office forms you provided in your response the Oath *only* contains the name of the officer and their signature subscribing the Oath which is not exempt from disclosure under any known lawful precedent in the State of California. See for e.g. §832.7(A)(5).

A public official by nature of being a *public* official has no privacy right to their name. You have not provided any specific reasonable reason as to how your non-disclosure of an officer's name either could or reasonably would outweigh *any* public interest. I have requested Oaths of Office from the Superior Court of California, Fourth District Court of Appeal and California Secretary of State. Each agency has timely complied with the request and I will gladly provide you with their responses on request. Are you really prepared to make the argument that a police officer is somehow special from other public office holders and exempt from this requirement? Is it not your department's policy that an officer's name and badge number be displayed on their uniform and provided to a Citizen on request?

2. I have repeatedly attempted to make a criminal complaint to a sworn police officer employed by the City of Santa Ana and based upon Public Records Act requests I've received by your agency thus far, at least three of the four "officers" have not subscribed an oath commensurate with Constitutional law, SAPD policy or the Santa Ana Municipal Code and are therefore, arguably, not officially in office. It is lawfully required that I make my complaint to an officer who is lawfully in office.
3. In enacting the Public Records Act, "the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary **right** of every person in this state." Gov. Code §6254 (bold emphasis added). Because there is no violation of any officer's privacy, I have a **right** to the information I requested. Furthermore, the People of California also have a duty to ensure that the officials acting as agents of the Public Trust are lawfully in office and performing their duties as required by Constitution and Statute. If we have no way to obtain this information, how could we possibly notify our representatives or other accountable officials to make any changes? How could we possibly make a Citizen complaint or file a lawsuit with allegations of misconduct?
4. In your response labeled 4, you state, "[a]ll City employees take and subscribe an Oath at the time they are hired..." This is not true. Your agency's recent response evidences that at least Sgt. Alcantar, Sgt. Hernandez, and Commander Rodriguez have not subscribed an Oath of Office. This information came directly from Elizabeth Plotnik, the Chief's secretary stating that these records do not exist. The fact that you are either knowingly making false representations or making false representation based upon facts you have not confirmed to be true is yet another monumental reason for transparency and the disclosure of the documents I requested.

Just as troubling is your response that the Oath of Office is not administered for each post/position an officer is assigned to and therefore "no records exist". Each post/position has different duties under statutory and Constitutional law and department policy. Each post is an entirely distinct position with a different title and salary. Therefore, an officer must be sworn into that position. The position sworn into must also be declared on the Oath and there is no such field in the Oath of Office form you sent designating this information.

In furtherance of the original request I made, please:

- A. Provide all documents evidencing the date of creation for the record you provided entitled "Oath of Office.pdf."

B. Provide the all of the documents requested including each officer's date of hire, oath of office, each position occupied within the department throughout their course and scope of employment, and the date of appointment to said position.

Sincerely,

/s/ Adam Bereki, 8/6/2020

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

August 7, 2020

Orange County Sheriff's Department
(hereafter "OCSD")
Via Email: prarequests@ocsd.org

RE: Public Records Act and Other Requests for Production

Please provide all documents in your custody and control evidencing:

1. A blank Oath of Office form as required to be signed by all sworn police officers/deputies pursuant to the California Constitution Article XX and/or Government Code §3102.
2. The signed Oaths of Office for Sgt. A. Salceda, Deputy S. Demaio, Deputy J. Fields and Lt. Alday. This request should also include all documents evidencing the date of hire, date of swear-in and oath for each post/position appointed to.
3. A roster of all of the OCSD sworn personnel (to include first and last names and badge numbers) assigned to the Central Justice Center Courthouse on 08/06/20 between 1000 hours and 1050 hours.
4. All video camera footage for the Central Justice Center Courthouse outside the main entrance doors facing W. Civic Center Dr. under the entrance canopy between 1000 hours and 1050 hours on 08/06/20. This area was referred to by a Deputy Fields as the "triage" area.
5. All documents (including notes, incident logs, reports etc.) made by Sgt. Salceda, Deputy Demaio, and an unknown Sergeant involving their interaction with Adam Bereki on 8/6/20 regarding his attempt to make a criminal complaint against a judge for fraud and/or theft while acting without lawful authority.
6. All audio and/or video recordings made by the personnel listed in request 5 (or any other personnel) pursuant to the incident in request 5.
7. A copy of the phone calls with OCSD Dispatch Supervisor "Aaron" on 08/06/20 at about 0856 hours and 0925 hours.
8. A copy of the phone call with OCSD Watch Commander Lt. Alday on 08/06/20 at about 0925 hours after being transferred from Dispatch Supervisor "Aaron".
9. The OCSD policy for taking crime/incident reports and information reports.
10. A complete copy of the OCSD Internal Affairs Policy and OCSD Standard Operating Procedure Manual.

11. The first names and badge numbers for the above-mentioned deputies (Salceda, Demaio, Alday, Fields) and the first and last name spelling for dispatch supervisor "Aaron".
12. A signed copy of the Code of Professional Conduct and Law Enforcement Code of Ethics (if the OCSD requires such a signature) for deputies Alcantar, Demaio, Alday, and Fields.
13. All training directives, bulletins, updates or other documents pertaining to department training involving the investigation of fraud, theft, and robbery. This request should include any training by the Commission on Peace Officer Standards and Training, also known as "POST".
14. A copy of the OCSD policy declaring that public officials, including judges, are not bound by the California Penal Code and/or the California Constitution.
15. A copy of the OCSD policy declaring that the OCSD will not take a crime report involving the commission of a crime by public officials including judges.
16. A copy of the OCSD policy declaring that judges acting without constitutional authority are immune from criminal investigation and/or prosecution and the OCSD will therefore not take a crime report and/or complete an investigation.

Please take all of the necessary steps to preserve, as evidence, all of the original documents and recordings requested above.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 8/7/2020

OCSD #1



Adam Bereki <abereki@gmail.com>

PRA Request- Bereki

3 messages

Adam <abereki@gmail.com>
To: prarequests@ocsd.org

Fri, Aug 7, 2020 at 8:00 AM

Good day,

Please see the attached PRA request.

Sincerely,

Adam Bereki

 **OCSD Pra Request 080720 .pdf**
48K

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Mon, Aug 17, 2020 at 5:03 PM

Hello Mr. Bereki,

Please see the attached letter regarding your request.

Veronica Musico


Staff Specialist – CPRA Unit

Orange County Sheriff’s Department

714-834-6449

[Quoted text hidden]

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links.
Forward suspicious messages to Helpdesk@ocsd.org.

 **Adam Bereki PRA.pdf**
187K

Adam <abereki@gmail.com>
To: Prarequests <Prarequests@ocsd.org>

Mon, Aug 17, 2020 at 5:50 PM

Thank you Veronica. I received your letter.

Sincerely,

Adam Bereki

[Quoted text hidden]



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

August 17, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Friday, August 7, 2020.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Records Division.

Because of the need to search for and collect records from other divisions, the date for response to your request is extended, pursuant to Government Code § 6253 (c) (1). We expect to make a determination of your request on or before Monday, August 31, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Beaver", with a long horizontal flourish extending to the right.

Robert Beaver
Senior Director
OCSD Records Division

RB: vm



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

August 31, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Friday, August 7, 2020.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Department ("OCSD") Records Division.

The attached records, sent to you through Microsoft OneDrive, are responsive to numbers 1, 2, 3, 7, 8, and 12 of your request. Please be advised that redactions were made to portions of the Field Operations Manual pursuant to California Government Code section 6255. The interest in nondisclosure outweighs any interest in disclosure as disclosure of the redacted information may reveal confidential law enforcement tactics that could potentially allow burglary suspects to avoid detection.

Regarding number 2, specifically the signed Oath of Office for Sheriff's Special Officer Fields, please note that we were unable to locate a record.

In regards to numbers 4, 5, 6, 14, 15 and 16 of your request, the OCSD has no responsive records. Please note that the video cameras at the Central Justice Center Courthouse in Santa Ana are maintained by the Superior Court of Orange County. You may wish to request video footage from the Superior Court of Orange County.

In regards to numbers 9 and 10 requesting copies of the "OCSD policy for taking crime/incident reports and information reports" and a "complete copy of the OCSD Internal Affairs Policy and OCSD Standard Operating Procedure Manual", the Sheriff's Department does not have a separate Internal Affairs Policy. OCSD has a policy on report preparation in the Department Manual, and a policy on report forms in the Department's Field Operations Manual. Both items are available publicly and may be accessed at the following links:

OCSD Department Manual

<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116496>

Report Preparation

Policy 338

Adam Bereki
August 31, 2020
Page 2

OCSD Field Operations Manual
<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116489>

Report Forms

Section 39

You may access OCSD policies on our Sheriff's website at www.ocsd.org, in the POLICIES link on the left side of the home page.

In regards to number 11 which requests the first name, last name and badge number of certain personnel, please note that OCSD identifies personnel by PIN number as opposed to badge number. The information for the personnel you requested is as follows:

| | |
|--|----------|
| Cruz Alday, Lieutenant | PIN 4970 |
| Alejandro Salceda, Sergeant | PIN 4062 |
| Sherri Demaio, Deputy Sheriff I | PIN 5396 |
| Freddie Fields, Sheriff's Special Officer II | PIN 7842 |
| Aaron Berenschot, Supervising Radio Dispatcher | PIN 4811 |

Regarding number 12 which requests "signed cop[ies] of the Code of Professional Conduct and Law Enforcement Code of Ethics", employees are required to electronically acknowledge receipt and review of Department policies and there is not a signature accompanying this electronic acknowledgment. We have enclosed Equipment Issue Inventory forms which were located by our Professional Standards Division staff. The form was signed to acknowledge receipt of the Department's Rules and Regulations and other items. The policies are available publicly and may be accessed at the following links:

OCSD Department Manual
<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116496>

| | |
|--------------------------------|---------------------|
| Law Enforcement Code of Ethics | Page 2 |
| Code of Professional Conduct | Policy 1001; p. 443 |

Finally, regarding number 13 which requests all OCSD and Commission on Peace Officer Standards and Training ("POST") "training directives, bulletins, updates or other documents pertaining to department training involving the investigation of fraud, theft, and robbery", the records are publically available and may be accessed on the OCSD and POST websites. The following is a list of policies responsive to your request along with their web address:

OCSD Field Operations Manual <https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116489>

Burglary Cases

Section 7

Adam Bereki
August 31, 2020
Page 3

POST Student Workbooks

<https://post.ca.gov/Download-Student-Workbooks/CAv5POSTACC-Workbooks-1>

| | |
|--------------------------------------|-------|
| Victimology/Crisis Intervention | LD 04 |
| Property Crimes | LD 06 |
| Crimes Against Persons | LD 07 |
| Presentation of Evidence | LD 17 |
| Investigative Report Writing | LD 18 |
| Vehicle Pullovers | LD 23 |
| Crime Scenes, Evidence and Forensics | LD 30 |

If you are unable to access the web addresses for the policies referenced in this letter you may request hard copies by contacting Staff Specialist Veronica Musico at 714-834-6449.

Sincerely,



Edward Lee, Director
OCSD Records Division

EL: vm
Attachments
cc: Media Relations



Certificate of Appointment-Oath/Affirmation

STATE OF CALIFORNIA }
County of Orange } ss.

I, _____ County of Orange, State
(Department Head's Name) (Title/or Agency Name)

of California, do hereby appoint _____
(Employee's Full Name)

_____ in and for said *County of Orange*
(Employee's Title)

given under my hand this ____ day of April, 2020.

Department Head's Signature (stamp ok.)

Department Head's Printed Name

I, _____, do solemnly swear (or affirm) that I will support
(Employee's Full Name)
and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and I will well and faithfully discharge the duties upon which I am about to enter.

Clerk-Recorder
File Stamp

STATE OF CALIFORNIA }
County of Orange } ss.
Subscribed and sworn to before me, this ____ day of April, 2020.

Submitting Agency's Authorized Deputy Signature

Printed Name of Agency's Authorized Deputy

****Please note: The Clerk-Recorder Department is designated by statute to file the certificate of oath for elected and appointed County officers. The certificate of oath for "other" County employees may be filed in either the Clerk-Recorder Department or in the employee's official personnel file. The oath form is to be prepared by the submitting agency.*

Certificate of Appointment

FILED

JUN 19 1998

STATE OF CALIFORNIA, }
County of Orange, } ss.

I, Brad Gates, Sheriff-Coroner

GARY L. GRANVILLE, Clerk-Recorder
By [Signature] DEPUTY

In and for said

County of Orange, State of California,

do hereby appoint Cruz Alday

Deputy Sheriff I in and for said County

GIVEN under my hand this 21st day of July, 19 98.

Brad Gates

STATE OF CALIFORNIA }
COUNTY OF ORANGE, } ss.

I, Cruz Alday

do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

[Signature]
Signature of Officer or Employee

Subscribed and sworn to before me this 21st day of July, 19 98.

Gary L. Granville
County Clerk

Melissa Buczyński
Deputy Clerk



FILED

JUN 21 1995

Certificate of Appointment

GARY L. GRANVILLE, Clerk-Recorder
By _____ DEPUTY

STATE OF CALIFORNIA, }
County of Orange, } ss.

I, Brad Gates, Sheriff - Coroner

in and for said _____ County of Orange, State of California,

do hereby appoint Alejandro Rojas Salceda

Deputy Sheriff I in and for said _____ County

GIVEN under my hand this 20th day of June, 1995

Brad Gates

STATE OF CALIFORNIA }
COUNTY OF ORANGE, } ss.

I, Alejandro Rojas Salceda, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Alfredo P. Salceda
Signature of Officer or Employee

Subscribed and sworn to before me this 20th day of June, 1995

Gary L. Granville
County Clerk

Shelly Ransom
Deputy Clerk



Certificate of Appointment

FILED

APR 21 1999

STATE OF CALIFORNIA, }
County of Orange, } ss.

GARY L. GRANVILLE, Clerk-Recorder
By: [Signature] DEPUTY

I, Michael S. Carona, Sheriff-Coroner

in and for said County of Orange, State of California,

do hereby appoint Sherri Lynn Langus

Deputy Sheriff in and for said County

GIVEN under my hand this 17th day of April, 1999.

[Signature]

STATE OF CALIFORNIA, }
County of Orange, } ss.

I, Sherri Lynn Langus, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

[Signature: Sherri Lynn Langus]
Signature of Officer or Employee

Subscribed and sworn to before me this 17th day of April, 1999.



Gary L. Granville

County Clerk

[Signature: Melissa Buczynski]
Deputy Clerk

| Last Name | First Name | PID | Badge | Job Title |
|------------|------------|-------|-------|-----------|
| Aguayo | Juan | 1566 | 2584 | Deputy |
| Alcantar | Antonio | 9007 | 2344 | Deputy |
| Alfaro | Manuel | 4820 | 2305 | Deputy |
| Alvarenga | Roger | 8617 | 1250 | Deputy |
| Area | Kevin | 5906 | 2399 | Deputy |
| Chavez | Pedro | 8170 | 1310 | Deputy |
| Chavez | Ramiro | 10130 | 1250 | Deputy |
| Cruz | Miguel | 3321 | 2272 | Deputy |
| Cuellar | Saul | 8103 | 1381 | Deputy |
| Cuellar | Rene | 2190 | 2752 | Deputy |
| Danaher | Tim | 3948 | 1574 | Deputy |
| Delgadillo | Daniel | 10416 | 2298 | Deputy |
| DeMaio | Sherri | 5396 | 2244 | Deputy |
| Duran | Michael | 3330 | 1727 | Deputy |
| Franklin | Brandy | 8524 | 1981 | Deputy |
| Garcia | Melvin | 7240 | 2699 | Deputy |
| Giacoletti | Michael | 4797 | 2315 | Deputy |
| Gooselaw | Eric | 4966 | 504 | Sgt |
| Guereca | Aldo | 10588 | 2988 | Deputy |
| Guerrero | Pat | 6069 | 2568 | Deputy |
| Gunnell | Devin | 9278 | 1655 | Deputy |
| Gutierrez | Fernando | 8526 | 2607 | Deputy |
| Hamilton | Patrick | 3342 | 2793 | Deputy |
| Heflin | Bixby | 6090 | 2594 | Deputy |
| Ho | Jimmy | 9245 | 2536 | Deputy |
| Hosanna | David | 6100 | 1501 | Deputy |
| Jones | Marvin | 6110 | 2550 | Deputy |
| Kruis | Brigette | 10104 | 2426 | Deputy |
| Laabs | Jeffrey | 10417 | 1925 | Deputy |
| LaPyrne | Ana | 4068 | 2781 | Deputy |
| Loveless | Kevin | 5496 | 2761 | Deputy |
| Martins | Sherry | 7098 | 2849 | Deputy |
| Mauger | John | 1048 | 2727 | Deputy |
| Mcdermott | Brian | 9472 | 1345 | Deputy |
| MILLER | ASHLEY | 8624 | 2256 | Deputy |
| Mitchell | Sharia | 9924 | 7554 | Deputy |
| Morishita | Mark | 172 | 2733 | Deputy |
| MUGICA | MANUEL | 11269 | 1387 | Deputy |
| Murphy | Jason | 9249 | 2762 | Deputy |
| Murphy | David | 5184 | 588 | Sgt |
| Nguyen | Minh | 11268 | 1382 | Deputy |
| Nguyen | Huy | 4331 | 2196 | Deputy |
| Patino | Miguel | 8485 | 2831 | Deputy |
| Ramirez | Fabiola | 8637 | 2087 | Deputy |
| Ramirez | Joe | 1129 | 2489 | Deputy |
| Ring | Chad | 3361 | 2800 | Deputy |
| Robinson | Maria | 4046 | 2846 | Deputy |

| | | | | |
|------------|-------------|-------|------|----------|
| Rodriguez | Ishmael | 3594 | 2710 | Deputy |
| Rodriguez | Alejandro | 8757 | 1337 | Deputy |
| Rodriguez | Anthony | 2259 | 2507 | Deputy |
| Rudisill | Daniel | 8640 | 1988 | Deputy |
| Sa | David | 1271 | 2040 | Deputy |
| Salceda | Alejandro | 4062 | 387 | Sergeant |
| Santos | Gary | 9935 | 2794 | Deputy |
| Scrip | Denver | 1055 | 2841 | Deputy |
| Smith | Jeffrey | 3238 | 2323 | Deputy |
| Streed | Christopher | 1132 | 2713 | Deputy |
| Strong | Scott | 1059 | 1353 | Deputy |
| Sung | Paul | 8853 | 2952 | Deputy |
| Tran | Jonathan | 10479 | 1716 | Deputy |
| Trinh | Binh | 1422 | 1943 | Deputy |
| Vago | Thomas | 10598 | 1785 | Deputy |
| Vieyra | Jeremy | 8891 | 2731 | Deputy |
| Villasenor | Salvador | 2094 | 2862 | Deputy |
| Vitro | Matthew | 9001 | 2667 | Deputy |
| Wright | Medina | 9845 | 2529 | Deputy |
| York | Jillian | 9733 | 2131 | Deputy |

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PROFESSIONAL STANDARDS DIVISION

Policy Manual Verification Acknowledgment

The Orange County Sheriff's Department Policy Manual is available on-line at the OCSD *Intranet* in the "Employee Center." This manual is designed to provide all sworn and professional staff members of this department with a readily applicable, clear concept of department policies, rules, and regulations. All personnel are expected to read and study this material in its entirety. This manual is not intended to specifically cover all of the many situations that constantly confront the members of a law enforcement organization. Your chain of command should be consulted for clarity in such circumstances.

This manual is confidential in nature and as such, the information contained herein is not to be divulged to those for whom it is not intended.



Employee Acknowledgment:

I have read the above and acknowledge the expectation to read the Policy Manual for the Orange County Sheriff's Department. I understand it is my responsibility to access this Manual on the Sheriff's Intranet at my place of work.

Employee's Printed Name Antonio Alcantar, Jr
Rank SSO
Signature [Handwritten Signature]
Date 6/13/12

File Copy

**ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PROFESSIONAL STANDARDS DIVISION
EQUIPMENT ISSUE INVENTORY**

NAME: Sherril L. Langus DATE APPOINTED: 4-17-99

| QUANTITY | ITEM | DATE OF ISSUANCE | | INITIALS | DATE RETURNED |
|----------|--|------------------|----------------|----------|---------------|
| | | Item | Purchase Order | | |
| 1 | BADGE: Deputy Sheriff Type Pin # 2244 | 4/19/99 | | X JL | |
| 1 | CAP BADGE | " | | X JL | |
| 1 | SHERIFF'S DEPT. ID CARD | " | | X JL | |
| 1 | RULES & REGS. MANUAL Book # 3041 | " | | X JL | |
| | KEY # 1151, 1172 | | | X JL | |
| 1 | NAME BAR | 4/19/99 | D99-3500 | X JL | |
| 1 | JACKET New Generation (Patrol) | " | " | X JL | |
| | JACKET (CST/Dispatcher) | | | | |
| 2 | TROUSERS | 4/19/99 | D99-3500 | X JL | |
| 1 | SHIRTS, Long Sleeve | " | " | X JL | |
| 2 | SHIRTS, Short Sleeve | " | " | X JL | |
| 1 | TIE & TIE BAR | " | " | X JL | |
| 1 | CAP | " | " | X JL | |
| 1 | BATON RING STRAP | " | " | X JL | |
| 4 | BELT KEEPERS | " | " | X JL | |
| 1 | HANDCUFF CASE | " | " | X JL | |
| 1 | GUN BELT | " | " | X JL | |
| 1 | TROUSER BELT | " | " | X JL | |
| 1 | KEY STRAP | " | " | X JL | |
| 1 | BATON | " | " | X JL | |
| 1 | RAIN GEAR/ PEPPER SPRAY HOLDER | " | " | X JL | |

I understand and agree that the above checked items of County property (or a purchase order for the items) have been issued to me. All County issued property is to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final paycheck for any of the items not so returned.

DATE: X 4-19-99 SIGNATURE: X Sherril L. Langus

**ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PROFESSIONAL STANDARDS DIVISION
EQUIPMENT ISSUE INVENTORY**

NAME: Cruz Alday

DATE APPOINTED: 1-9-98

| QUANTITY | ITEM | DATE OF ISSUANCE | | INITIALS | DATE RETURNED |
|----------|---|------------------|--------------|----------|---------------|
| | | Item | Purch. Order | | |
| 1 | BADGE Type <u>Pin</u> Number <u>2277</u> | 12-30-97 | | X CA | |
| 1 | CAP BADGE | 12-30-97 | | X CA | |
| 1 | SHERIFF'S DEPARTMENT I.D. CARD | 12-30-97 | | X CA | |
| 1 | RULES & REG. Manual Book # <u>4080</u> | 12-30-97 | | X CA | |
| 1 | KEY # <u>1151</u> | 8-3-98 | | SB | |
| 1 | NAME BAR | 12-30-97 | D98-0735 | X CA | |
| 1 | JACKET New Generation (Patrol) | " | " | X CA | |
| | JACKET (CST/Dispatcher) | | | | |
| 2 | TROUSERS | " | " | X CA | |
| | SHIRTS, Long Sleeve | | | | |
| 2 | SHIRTS, Short Sleeve | " | " | X CA | |
| 1 | CAP | " | " | X CA | |
| 1 | BATON RING STRAP | " | " | X CA | |
| 4 | BELT KEEPERS | " | " | X CA | |
| 1 | HANDCUFF CASE | " | " | X CA | |
| 1 | GUN BELT | " | " | X CA | |
| 1 | TROUSER BELT | " | " | X CA | |
| 1 | KEY STRAP | " | " | X CA | |
| 1 | BATON | 12-30-97 | D98-1957 | X CA | |
| 1 | RAIN GEAR <u>Pepper Spray Holder</u> | " | " | X CA | |

I understand and agree that the above checked items of County property (or a purchase order for the items) have been issued to me. All County issued property is to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final paycheck for any of the items not so returned.

EX 12/30/97

SIGNATURE: X S Alday

1911

**ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PROFESSIONAL STANDARDS DIVISION
EQUIPMENT ISSUE INVENTORY**

NAME: Freddie Fields Jr DATE APPOINTED: 12-27-02

| QUANTITY | ITEM | DATE OF ISSUANCE | | INITIALS | DATE RETURNED |
|----------|-----------------------------------|------------------|----------------|----------|---------------|
| | | Item | Purchase Order | | |
| | BADGE: Type: # | | D0300001998 | | |
| | CAP BADGE | | \$532.01 | | |
| 1 | SHERIFF'S DEPT. ID CARD | | | X # | |
| 1 | RULES & REGS. MANUAL Book # | | | # | |
| | KEY # | | | | |
| 1 | NAME BAR | | | # | |
| 1 | JACKET New Generation (Patrol) | | | # | |
| | JACKET (CST/Dispatcher) | | | | |
| | CARDIGAN SWEATER | | | | |
| 2 | TROUSERS | | | # | |
| 1 | SHIRTS, Long Sleeve | | | # | |
| 2 | SHIRTS, Short Sleeve | | | # | |
| 1 | TIE & TIE BAR | | | # | |
| 1 | CAP | | | # | |
| 1 | BATON RING STRAP | | | # | |
| 4 | BELT KEEPERS | | | # | |
| 1 | HANDCUFF CASE | | | # | |
| 1 | GUN BELT | | | # | |
| 1 | TROUSER BELT | | | # | |
| 1 | KEY STRAP | | | # | |
| 1 | BATON | | | # | |
| 1 | PEPPER SPRAY HOLDER | | | # | |
| | RAINGEAR | | | | |

I understand and agree that the above checked items of County property (or a purchase order for the items) have been issued to me. All County issued property is to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final paycheck for any of the items not so returned.

DATE: X 12.20.2002 SIGNATURE: X Freddie Fields Jr

Basic Course Workbook Series Student Materials

Learning Domain 2
Criminal Justice System
Version 6.4

**Basic Course Workbook Series
Student Materials
Learning Domain 2
Criminal Justice System
Version 6.4**

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THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

LD 2: Criminal Justice System

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Chapter Synopsis

Learning need To be effective leaders, peace officers must be aware of the constitutional rights of all individuals within the United States, regardless of citizenship status, and the role the criminal justice system has in protecting those rights.

Constitutionally protected rights [2.01.1] The basic rights and freedoms protected by the U.S. Constitution and its amendments apply to all individuals in the United States *regardless of citizenship status*

Components and primary goals [2.01.8] Procedural Justice (Voice, Neutrality, Respect, and Trustworthiness)

An approach to policing based on giving people the opportunity to tell their story, remaining neutral in the decision-making and behavior, treating people with respect, and explaining actions in a way that communicates caring for people's concerns to demonstrate trustworthiness.

The criminal justice system is made up of three components:

- law enforcement
- judicial
- corrections

There are seven primary goals of the criminal justice system:

- guarantee due process of the law
 - prevent crime
 - protect life and property
 - uphold and enforce the law
 - dispense equal justice
 - apprehend offenders
 - assure victims' rights
-

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Specifically, whose rights are protected by the U.S. Constitution and its amendments? Would an illegal alien enjoy these protections? How about a person traveling in the country as a tourist?

2. List the three primary components of the criminal justice system. In your own words, describe how you think each component complements the others.

Continued on next page

Workbook Learning Activities, Continued

Activity questions
(continued)

5. Match the rights and privileges in the left column with the appropriate Amendment in the right column.

| Right/Freedom | Amendment |
|--|----------------------------|
| a. Freedom from self-incrimination | _____ First Amendment |
| b. Freedom from excessive bail | _____ |
| c. Freedom of the press | _____ Fourth Amendment |
| d. Right to equal protection of the law | _____ Fifth Amendment |
| e. Freedom from unreasonable searches and seizures | _____ Sixth Amendment |
| f. Right to a public trial by an impartial jury | _____ Eighth Amendment |
| g. Freedom of speech | _____ |
| h. Right to due process | _____ Fourteenth Amendment |
| i. Right to be told of charges when arrested | _____ |
| j. Right to counsel | _____ |
| k. Freedom from cruel and unusual punishment | _____ |

Criminal Justice System, Continued

**Components
and primary
goals**
(continued)

| Goal | Additional Information |
|---------------------------------------|---|
| Dispense Equal Justice | <ul style="list-style-type: none">• The Fourteenth Amendment of the U.S. Constitution guarantees equal justice under the law to all persons• Individuals from each component of the criminal justice system must treat all persons equally, fairly, and with justice |
| Apprehend Offenders | <ul style="list-style-type: none">• Apprehending offenders deprives them of their liberty and requires them to answer the criminal charges brought against them |
| Assure Victim's Rights | <ul style="list-style-type: none">• In the effort to apprehend and deal with the criminal, the criminal justice system cannot overlook the victim• Victims must be made aware of their rights and of the services that are available to them |

Criminal Justice System, Continued

Components and primary goals (continued)

There are seven primary goals of the criminal justice system. Ideally, each should be considered equal; yet in reality, a particular goal may be considered more important by one component or individual within the criminal justice system.

The following table identifies the primary goals of the criminal justice system.

| Goal | Additional Information |
|-----------------------------------|---|
| Guarantee Due Process | <ul style="list-style-type: none">• Due process of the law is guaranteed by the U.S. and California Constitutions, overseen by the courts, and practiced daily by peace officers |
| Prevent Crime | <ul style="list-style-type: none">• Crime prevention is more than the apprehension of offenders• Peace officer presence in the community and interactions with citizens also serves to prevent crime |
| Protect Life and Property | <ul style="list-style-type: none">• Peace officers must be dedicated to protect and defend the members of their communities as well as those individuals' property |
| Uphold and Enforce the Law | <ul style="list-style-type: none">• The law enforcement component of the justice system has the <i>primary</i> responsibility to uphold the law• The judiciary system, through rulings of the court, and the corrections component also play a role in enforcement |

Continued on next page

Criminal Justice System

Introduction

The criminal justice system is a complex structure through which individuals suspected of a crime are apprehended by a law enforcement component, accused and tried by a judicial component, and if convicted, punished by a corrections component.

Leadership

The criminal justice system can be frightening and frustrating to law-abiding community members. Court delays, testifying, cross-examination, and legal fees can all be viewed as indignities over and above the original victimization. Peace officers must act as leaders by helping others to understand and respect the processes designed to protect an individual's rights.

Components and primary goals

The criminal justice system is made up of three components:

- law enforcement
- judicial
- corrections

Each component has its own unique function, departments, and goals. For the criminal justice system as a whole to meet its major goals, each component must function together with the others as a *total system*, rather than as a collection of independent agencies and organizations.

Continued on next page

Constitutionally Protected Rights, Continued

Fourteenth amendment

The Fourteenth Amendment was added to the Bill of Rights in 1868 after the Civil War. It has led the way to ensuring that peace officers apply the law equally to all people regardless of race, creed, nationality, religious preference, national origin, wealth, or status.

| Amendment XIV - Citizenship, Due Process, and Equal Protection | |
|---|---|
| Text | “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” |
| Elements | <ul style="list-style-type: none"> • No state may: <ul style="list-style-type: none"> - limit privileges or immunities of U.S. citizens - deny due process of the law to any person - deny equal protection of the law to any person |
| Provisions | <ul style="list-style-type: none"> • Persons protected under the U.S. Constitution cannot be denied life, freedom, or their property without a course of legal proceedings by the government justifying the action • Due process of the law begins at the point of the initial investigation • States may provide further rights not defined by the U.S Constitution |

Constitutionally Protected Rights, Continued

Eighth amendment

The purpose of bail is to ensure the return of the suspect at subsequent proceedings. Unless the right to bail before trial is preserved, the presumption of innocence would lose its meaning.

When an assignment involves the supervision of prisoners, it becomes the officer's responsibility to safeguard all prisoners' rights to be protected from cruel and unusual punishment.

| Amendment VIII - Bails, Fines, Punishments | |
|---|---|
| Text | “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” |
| Elements | <ul style="list-style-type: none"> • Excessive bails and fines are not allowed • Punishment must be reasonable based on the crime |
| Provisions | <ul style="list-style-type: none"> • Defendants have a right to bail before conviction to permit the unhampered preparation of a defense • Bail serves to prevent the infliction of punishment prior to conviction • The courts have established limitations on what is acceptable punishment, thereby defining “cruel and unusual” punishment • Punishments of torture (such as drawing and quartering, disemboweling alive, beheading, public dissecting, and burning alive) and all others in the same line of unnecessary cruelty are forbidden by this amendment |

NOTE: Prisoners can be informed of their rights but officers are not allowed to refer any prisoner to a particular bail agent.

Continued on next page

Constitutionally Protected Rights, Continued

Sixth amendment

Officers must be aware of and respect the constitutional rights of all individuals concerning criminal procedure. The Sixth Amendment entitles a suspect to the assistance of counsel once adversary judicial proceedings have commenced. This right also affects an officer's ability to question a suspect and obtain admissible statements.

| Amendment VI - Mode of Trial in Criminal Proceedings | |
|---|--|
| Text | “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.” |
| Elements | <ul style="list-style-type: none"> • Individuals who have been accused of a crime have the right to: <ul style="list-style-type: none"> - a speedy and public trial by a jury - be informed of the accusations against them - confront their accusers - subpoena witnesses for their defense - have legal counsel |
| Provisions | <ul style="list-style-type: none"> • Any violation of the rights noted in this amendment may result in: <ul style="list-style-type: none"> - exclusion of evidence - dismissal of the case and/or - criminal liability to the officer or the officer's agency |

NOTE: Peace officers should take care not to refer a defendant to any particular attorney, as this would be a conflict of interest.

Continued on next page

Constitutionally Protected Rights, Continued

Fifth amendment

Peace officers need to understand the relationship between a person's right against self-incrimination and their responsibility to advise individuals of their right to remain silent when applicable.

| Amendment V - Criminal Proceedings, Condemnation of Property | |
|---|---|
| Text | “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.” |
| Elements | <ul style="list-style-type: none"> • Protection against a second prosecution after acquittal or conviction (double jeopardy) • Protection against self-incrimination • Due process before legal actions |
| Provisions | <ul style="list-style-type: none"> • Individuals may not be tried for the same offense twice • Individuals cannot be compelled to testify against themselves at a criminal case • Individuals must be afforded due process of law before they can be deprived of life, liberty, or property |

Continued on next page

Constitutionally Protected Rights, Continued

Fourth amendment

All peace officers must respect each individual's right to be secure in his or her home, papers, and belongings against unreasonable search and seizure. To protect those rights, officers must be aware of and abide by warrant requirements and related procedures which must be followed when obtaining a warrant.

| Amendment IV - Searches, Seizures, and Warrants | |
|--|--|
| Text | “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.” |
| Elements | <ul style="list-style-type: none"> • <i>Unreasonable</i> searches and seizures are not allowed • Search and arrest warrants must show <i>probable cause</i> and must specifically identify items or individuals to be searched or seized |
| Provisions | <ul style="list-style-type: none"> • The Fourth Amendment does <i>not</i> give individuals an <i>absolute right</i> to privacy; neither does it prohibit all searches • When performing a legal arrest, officers may thoroughly search a person along with that person's effects for any weapons and/or contraband without a warrant. Officers may also properly seize such items for use as evidence • An individual's home may not be used as a place of refuge for criminals • On fresh and immediate pursuit, officers may follow a criminal who has taken refuge in a house or building, and may force their way into the building without a warrant to make the arrest |

NOTE: The provisions of the Fourth Amendment are discussed in greater detail in Learning Domain 16: *Search and Seizure*.

Continued on next page

Constitutionally Protected Rights, Continued

First amendment

Peace officers are required to ensure that a person's First Amendment rights are protected and enforced, by allowing individuals to speak freely, exercise their religious beliefs, and peaceably assemble. It is also the responsibility of peace officers to protect these individual rights against infringement by others.

| Amendment I : Restrictions on Powers of Congress | |
|---|---|
| Text | “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the individual’s Government for a redress of grievances.” |
| Elements | <ul style="list-style-type: none"> • Separation of church and state • Government cannot endorse any religion • All individuals must be allowed to worship, or not worship, as they choose • All individuals have the right to freedom of expression of their ideas (i.e., freedom of speech, press, and assembly) • Individuals who feel they have been wronged have the right to petition the government to rectify the circumstances |
| Provisions | <ul style="list-style-type: none"> • The rights of free speech must be exercised reasonably. Individuals do not have the right to: <ul style="list-style-type: none"> - shout “fire!” in a crowded auditorium - scream or shout to the point of disturbing the peace - disturb an orderly assembly, a church service, or a session of the court - incite a riot - urge others to commit a crime - accost others in a public place with language likely to produce a violent response - falsely report the presence of an explosive device (bomb) |

Continued on next page

Constitutionally Protected Rights, Continued

Law enforcement and basic rights

Law enforcement officers are bound to protect the rights and freedoms of *all* individuals as guaranteed in the U.S. Constitution, Bill of Rights, and later amendments. By abiding by the principles of procedural justice, peace officers will ensure agreement with all Constitutional Amendments.

Six amendments have direct impact on peace officers' actions and conduct.

| Amendment | Basic Rights and Freedoms |
|-------------------|---|
| First | <ul style="list-style-type: none"> • Freedom of religion • Freedom of speech • Freedom of the press • Freedom of assembly • Right to petition the government for a redress of grievances |
| Fourth | <ul style="list-style-type: none"> • Freedom from unreasonable searches and seizures |
| Fifth | <ul style="list-style-type: none"> • Freedom from being tried twice for the same crime • Freedom from self-incrimination |
| Sixth | <ul style="list-style-type: none"> • Right to be told of charges when arrested • Right to a speedy trial • Right to a public trial by an impartial jury • Right to confront witnesses • Right to counsel |
| Eighth | <ul style="list-style-type: none"> • Freedom from excessive bail • Freedom from cruel and unusual punishments |
| Fourteenth | <ul style="list-style-type: none"> • Basic right of a defendant in a judicial proceeding • The requisites for trial (due process) • Right to equal protection of the laws |

Continued on next page

Constitutionally Protected Rights, Continued

Bill of rights

Along with establishing the powers of government, the U.S. Constitution places limits on those powers. The original U.S. Constitution contained only a few provisions guaranteeing individual rights.

The first session of the U.S. Congress proposed ten **amendments** or changes to the constitution to further clarify the rights of individuals under the U.S. Constitution. These amendments, commonly referred to as the **Bill of Rights** were sent to the states and were ratified in December 1791.

Since that time additional amendments have been added to the U.S. Constitution. Today there are 27 amendments. The Bill of Rights and the later amendments limit the power of state and local governments as well as the federal government.

Ethics

The criminal justice system gives law enforcement two extraordinary powers:

- the power of arrest
- the power to use deadly force

The authority to do so does not come from the rule of an authoritarian dictator. Rather it comes from the will and consent of the people who put their trust in law enforcement to use that power with the utmost of care and restraint. This is why it is important to emphasize that peace officers do not confer “police powers” on themselves. These powers come to the criminal justice system from the people they serve.

Basic rights and freedoms

The basic rights and freedoms protected by the U.S. Constitution and its amendments apply to all individuals in the United States *regardless of citizenship*. The following table identifies a number of the freedoms and rights which cannot be taken away by the government.

Continued on next page

Constitutionally Protected Rights

Introduction

A **constitution** is a written document that embodies the basic laws of a nation or state. The U.S. Constitution as well as the California Constitution identifies the powers and duties of the government and the rights that are afforded to all individuals in our country or state.

U.S. constitution

The U.S. Constitution sets forth the highest law of the land which all public officials are bound by oath to enforce. It became effective in 1789 upon ratification by nine of the thirteen states (all remaining states ratified it by May 1790). Today the U.S. Constitution remains the longest lasting written constitution in the world.

The authors of the U.S. Constitution established this document “in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty.”

Framework of government

The U.S. Constitution establishes the basic framework of government, dividing the lawmaking power among three branches of government. Each branch is separate and has the power to restrain the other branches.

The branches of government include the:

- executive branch
 - legislative branch
 - judicial branch
-

Continued on next page

Overview, Continued

In this chapter This chapter focuses on the constitutionally protected rights of individuals and how those rights apply to the criminal justice system. Refer to the table below for a specific topic.

| Topic | See Page |
|-----------------------------------|-----------------|
| Constitutionally Protected Rights | 1-3 |
| Criminal Justice System | 1-13 |
| Chapter Synopsis | 1-15 |
| Workbook Learning Activities | 1-16 |

Chapter 1

Introduction to the Criminal Justice System

Overview

Learning need To be effective leaders, peace officers must be aware of the constitutional rights of all individuals within the United States, regardless of citizenship status, and the role the criminal justice system has in protecting those rights.

Learning objectives The following table identifies the learning objectives for this chapter

| After completing study of this chapter, the student will be able to: | Objective ID |
|--|--|
| <ul style="list-style-type: none">• Identify the freedoms and rights afforded to individuals under the U.S. Constitution, the Bill of Rights, and later amendments | 2.01.1 |
| <ul style="list-style-type: none">• Identify how the U.S. Constitution amendments apply to the actions and conduct of peace officers<ul style="list-style-type: none">- First Amendment- Fourth Amendment- Fifth Amendment- Sixth Amendment- Eighth Amendment- Fourteenth Amendment | 2.01.2 2.01.3 2.01.4 2.01.5 2.01.6 2.01.7 |
| <ul style="list-style-type: none">• Discuss the components and primary goals of the criminal justice system | 2.01.8 |

Continued on next page

How to Use the Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning prior to classroom attendance, for test preparation, and for remedial training.

Workbook format

To use the workbook most effectively, follow the steps listed below.

| Step | Action |
|------|---|
| 1 | Begin by reading the: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST Instructional System and how it should be used. |
| 2 | Refer to the Chapter Synopsis at the end of each chapter to review the key points that support the chapter objectives. |
| 3 | Read the text. |
| 4 | Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter. |
| 5 | Refer to the Glossary for a definition of important terms. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g., <u>term</u>). |

Preface

Introduction

Student workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course training requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points,
 - supplementary material, and
 - a glossary of terms used in this workbook.
-

Chapter 2

Law Enforcement

Overview

Learning need Peace officers must realize that law enforcement is not solely the function of police and sheriff agencies. There are many other federal, state, and local law enforcement agencies that are part of the criminal justice system.

Learning objectives The chart below identifies the student learning objectives for this chapter

| After completing study of this chapter, the student will be able to: | Objective ID |
|--|---------------------|
| <ul style="list-style-type: none">List the primary federal, state, and local law enforcement agencies within the criminal justice system | 2.02.14 |

In this chapter This chapter focuses on law enforcement agencies that comprise the law enforcement component of the criminal justice system. Refer to the chart below for a specific topic.

| Topic | See Page |
|------------------------------|-----------------|
| Law Enforcement Agencies | 2-2 |
| Chapter Synopsis | 2-4 |
| Workbook Learning Activities | 2-5 |

Law Enforcement Agencies

Introduction

There are many federal, state and local law enforcement agencies that are part of the criminal justice system.

Agencies with law enforcement responsibilities in California

Federal, state and local agencies have law enforcement responsibilities in California. Specific law enforcement authority (e.g., arrest/firearm authority) for each is determined by law. Some examples of such agencies are noted in the following table:

| Federal Agencies |
|---|
| U. S. Department of Homeland Security Federal Bureau of Investigation (FBI) Drug Enforcement Administration (DEA) U. S. Marshal Service Immigration and Customs Enforcement (ICE) Alcohol, Tobacco, and Firearms Division (ATF) Secret Service (SS) U.S. Postal Inspectors (USPS) Armed Forces Police |

Continued on next page

Law Enforcement Agencies, Continued

**Agencies with
law enforcement
responsibilities
in California**
(continued)

| State Agencies |
|---|
| Youth and Adult Correctional Agency California Highway Patrol (CHP) Department of Alcoholic Beverage Control (ABC) Department of Fish and Game (F&G) Department of Forestry and Fire Protection (DOF) Department of Justice (DOJ) Department of Insurance (DOI) Department of Motor Vehicles (DMV) Department of Parks and Recreation (DPR) Franchise Tax Board (FTB) Office of State Fire Marshal (SFM) University/College Police Departments Department of Health Services (CDHS) |

| Local Agencies |
|--|
| Airport Police County Marshals Housing Police Municipal Police School District Police Sheriffs' Departments Transportation Police Port Authority Police |

Chapter Synopsis

Learning need Peace officers must realize that law enforcement is not solely the function of police and sheriff agencies. There are many other federal, state, and local law enforcement agencies that are part of the criminal justice system.

Law enforcement agencies with responsibilities in California [2.02.14] Federal, state, and local agencies have law enforcement responsibilities in California. Specific law enforcement authority (e.g., arrest/firearm authority) for each is determined by law

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. List agencies with law enforcement responsibilities in California:
 - a) Federal agencies (list four):

 - b) State agencies (list six):

 - c) Local Agencies (list five):

2. Describe a situation where Federal and State agencies might work together to resolve a law enforcement problem.

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. Give an example of an incident in which two or more local law enforcement agencies might combine efforts.

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

Continued on next page

Workbook Corrections, Continued

Student notes

Chapter 3

Judicial System

Overview

Learning need Peace officers must understand the judicial component of the criminal justice system because much of their work results in cases that go to court.

Learning objectives The chart below identifies the student learning objectives for this chapter

| After completing study of this chapter, the student will be able to... | Objective ID |
|---|--------------|
| <ul style="list-style-type: none"> • Discuss the objectives of the Judicial component of the criminal justice system | 2.03.10 |
| <ul style="list-style-type: none"> • Discuss the organization of the California court system, including positions commonly recognized as part of the judicial system | 2.03.11 |
| <ul style="list-style-type: none"> • Discuss the judicial process in criminal cases | 2.03.12 |

In this chapter This chapter focuses on the judicial system. Refer to the chart below for a specific topic.

| Topic | See Page |
|-------------------------------------|----------|
| California Court System | 3-2 |
| Judicial Process for Criminal Cases | 3-4 |
| Chapter Synopsis | 3-7 |
| Workbook Learning Activities | 3-8 |

California Court System

Introduction

According to the U.S. Constitution, the judicial power of the United States shall be vested in one Supreme Court “and such inferior courts as Congress may deem necessary.” This system of higher and lower courts makes up the judicial component of the criminal justice system.

Judicial system objectives

The objectives of the judicial component of the criminal justice system include:

- providing due process of the law
 - rendering fair judgments
 - dispensing just punishment
 - assuring victim’s rights
-

California court system organization and positions

The California court system is based upon the federal system. It is comprised of one State Supreme Court, lower **trial courts**, and higher courts called **appellate courts** to listen to **appeals** from the lower courts. The following table identifies the primary functions of the two levels of courts.

| Level | Court | Primary Function |
|--------|------------------|---|
| Lower | Trial Courts | <ul style="list-style-type: none">• Receive evidence and consider cases involving criminal activity or civil disputes |
| Higher | Appellate Courts | <ul style="list-style-type: none">• Referred to as the <i>higher courts</i> of the judicial system• Hear appeals from lower trial courts |

Continued on next page

California Court System, Continued

**California
court system
organization
and positions**
(continued)

Several positions are commonly recognized as part of the judicial component of the criminal justice system. The following table identifies the primary positions within the judicial system.

| | Responsibilities |
|------------------------------|--|
| Judges | <ul style="list-style-type: none">• Administering justice in a fair and impartial manner by applying the facts of the law |
| Prosecuting Attorneys | <ul style="list-style-type: none">• Prosecuting individuals accused of criminal activities• Protecting public rights and privileges |
| Defense Attorneys | <ul style="list-style-type: none">• Defending the accused• Defending the rights and privileges of citizens |

Judicial Process for Criminal Cases

Introduction

In criminal cases the judicial process begins once an offender has been arrested or indicted for a crime. The function of the judicial process in criminal cases is to determine a defendant's guilt or innocence.

Judicial process

Before a criminal case reaches trial, several preliminary proceedings must occur. The basic steps in a felony prosecution are shown below.

| Steps | Description |
|-----------------------------|--|
| <u>Arrest</u> | Taking a person into custody <ul style="list-style-type: none">• in a case• in the manner authorized by law |
| <u>Arraignment</u> | The legal procedure where the court informs defendants of <ul style="list-style-type: none">• the nature of the charges against them• their eligibility for bail• their constitutional rights to<ul style="list-style-type: none">- counsel at all stages of the judicial process- plead guilty or not guilty to the charges, and- a trial by court or by a jury |
| <u>Right to Bail</u> | A defendant's constitutional right to <ul style="list-style-type: none">• reasonable bail<ul style="list-style-type: none">- to permit the unhampered preparation of a defense before trial |

Continued on next page

Judicial Process for Criminal Cases, Continued

Judicial
process
(continued)

| Proceeding | Description |
|-----------------------------------|---|
| <u>Bail</u> | <ul style="list-style-type: none"> • <u>Right to Bail</u> - A defendant's constitutional right to reasonable bail <ul style="list-style-type: none"> - to permit the unhampered preparation of a defense before trial • A security deposited with a competent court or magistrate <ul style="list-style-type: none"> - to ensure that the accused person will appear for trial when summoned |
| <u>Preliminary hearing</u> | <p>A screening procedure used in felony cases to determine</p> <ul style="list-style-type: none"> • if there is enough evidence <ul style="list-style-type: none"> - to hold a defendant for trial |
| <u>Indictment</u> | <ul style="list-style-type: none"> • An indictment is an accusation in writing formally charging a person with a crime or public offense • Many states, including California, also use the grand jury indictment process to bring serious felony criminal cases to trial • It is the grand jury's responsibility to determine if there is sufficient cause to believe that a person has committed a crime and should be made to stand trial • A grand jury indictment is filed with the superior court by the district attorney. The court then issues a warrant and the offender is arrested. The defendant is then held for arraignment in superior court |

Continued on next page

Judicial Process for Criminal Cases, Continued

**Judicial
process
(continued)**

| Proceeding | Description |
|--------------------------|--|
| <u>Trial</u> | <ul style="list-style-type: none">• A formal, judicial examination and determination• of issues (law or fact) between parties |
| <u>Sentencing</u> | A judgment that is formally pronounced by the court <ul style="list-style-type: none">• upon the defendant<ul style="list-style-type: none">- after conviction- in a criminal prosecution |
| <u>Grand Jury</u> | A body of a set number of citizens from within a county <ul style="list-style-type: none">• sworn to receive<ul style="list-style-type: none">- complaints and- accusations in criminal cases• responsible for determining if there is sufficient cause to believe that an individual<ul style="list-style-type: none">- has committed a crime and- should be made to stand trial |

Chapter Synopsis

Learning need Peace officers must understand the judicial component of the criminal justice system because much of their work results in cases that go to court.

Judicial system objectives [2.03.10] The objectives of the judicial component of the criminal justice system include providing due process of the law, rendering fair judgments, dispensing just punishment, and assuring victim's rights

California court system organization and positions [2.03.11] The California court system is based upon the federal system. It is comprised of:

- one State Supreme Court
- lower trial courts
- higher courts, called appellate courts
 - to listen to appeals from the lower courts

There are several positions commonly recognized as part of the judicial component of the criminal justice system. The primary positions are judges, magistrates, prosecuting attorneys, and defense attorneys

Judicial process [2.03.12] In criminal cases the judicial process begins once an offender has been arrested or indicted for a crime

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. A 23-year-old male is arrested in California for possession of cocaine base for sale, a felony. Outline the step-by-step judicial process that must take place to bring the suspect to trial.

2. List the primary positions commonly recognized as part of the judicial system, and describe their responsibilities.

Continued on next page

Workbook Learning Activity, Continued

Activity questions
(continued)

3. List the different levels of courts in the California court system, and their primary functions.

4. What are the differences between an arraignment and a preliminary hearing? What takes place during each procedure?

| Arraignment | Preliminary Hearing |
|--------------------|----------------------------|
| | |

Continued on next page

Workbook Learning Activity, Continued

Student notes

Chapter 4

Corrections, Parole and Probation

Overview

Learning need

Peace officers should recognize that the California Department of Corrections and Rehabilitation (CDCR) is a component of the criminal justice system. Officers must also be familiar with the differences between parole and probation conditions, and their role in the enforcement of those conditions.

Learning objectives

The chart below identifies the student learning objectives for this chapter

| After completing study of this chapter, the student will be able to: | Objective ID |
|--|---------------------|
| <ul style="list-style-type: none">• Discuss the objectives and responsibilities of the correction's component of the criminal justice system | 2.04.1 |
| <ul style="list-style-type: none">• Recall the definitions of parole and probation | 2.04.3 2.04.4 |
| <ul style="list-style-type: none">• Identify the differences between<ul style="list-style-type: none">- parole- probation | 2.04.5 2.04.6 |

Continued on next page

Overview, Continued

In this chapter This chapter focuses on the corrections system. Refer to the chart below for a specific topic.

| Topic | See Page |
|------------------------------|-----------------|
| Corrections | 4-3 |
| Parole and Probation | 4-5 |
| Chapter Synopsis | 4-9 |
| Workbook Learning Activities | 4-10 |

Corrections

Introduction

When an offender is arrested by law enforcement and found guilty by the judicial process, the government has the right to punish the offender. A wide range of punishment and treatment options are available to the government.

Corrections objectives

The objectives of the corrections component of the criminal justice system include:

- confining prisoners
 - rehabilitating prisoners
 - supervising parolees and probationers in the community
 - assuring victim's rights
-

Corrections agencies' responsibilities

The State of California and local agencies have distinct responsibilities in the corrections component of the criminal justice system.

The California Department of Corrections and Rehabilitation (CDCR) of the State of California is responsible for the oversight of both major components of the state's correctional system for convicted felons:

- CDCR is responsible for the incarceration of convicted adults (generally 18 years or older)
 - The Board of Prison Terms (BOPT) is responsible for the administration of parole conditions of prisoners (18 years or older) released from CDC institutions
 - The CDCR is responsible for the incarceration of convicted youthful offenders (generally ages 13 years to 25 years of age)
 - The Youthful Offender Parole Board (YOPB) is responsible for the administration of parole conditions of wards (13 years to 25 years of age) released from the custody of CDCR - Juvenile Division
-

Continued on next page

Corrections, Continued

Corrections agencies' responsibilities (continued)

The following table identifies these responsibilities.

| Department | Responsibility |
|--|---|
| California Department of Corrections (CDC) | <ul style="list-style-type: none"> • operates the State's adult prison system • confines felons who have been sentenced to state prison |
| California Board of Prison Terms | <ul style="list-style-type: none"> • supervises inmates who have been released on parole from CDCR |
| California Department of Corrections and Rehabilitation – Juvenile Division | <ul style="list-style-type: none"> • operates the State's youthful offender detention system • confines offenders (wards) between the ages of 13 and 25 |
| Youthful Offender Parole Board (YOPB) | <ul style="list-style-type: none"> • supervises wards who have been released on parole from CDCR – Juvenile Division |
| Local Government Agencies | <ul style="list-style-type: none"> • oversees the operation of detention facilities that confine people <ul style="list-style-type: none"> - awaiting trial - sentenced to less than one year |

Parole and Probation

Introduction

The primary role of both parole and probation is to protect the community from future criminal acts of individuals who have been convicted of a crime, imprisoned and subsequently released back into the community.

Parole vs. probation

The following table provides definitions and descriptions of **parole** and **probation**.

| | <i>Parole is...</i> | <i>Probation is...</i> |
|------------------------|---|--|
| Administered by | <ul style="list-style-type: none"> • Parole and Community Services of the CDCR, or • CDCR – Juvenile Division | <ul style="list-style-type: none"> • county probation departments |
| Definition | <ul style="list-style-type: none"> • a conditional release from a state prison which allows an individual to serve the remainder of a sentence | <ul style="list-style-type: none"> • the suspension of the imposition or execution of a sentence and the order (by the court) of conditional and revocable release in(to) the community <i>Penal Code Section 1203</i> • a sentencing option for an individual convicted of a criminal offense |

Continued on next page

Parole and Probation, Continued

**Parole vs.
probation
(continued)**

| | <i>Parole is...</i> | <i>Probation is...</i> |
|---------------------|---|--|
| Imposition | <ul style="list-style-type: none"> • imposed by an administrative board at a parole hearing • dependent upon: <ul style="list-style-type: none"> - statutory requirements - the type of sentence being served - institutional recommendations | <ul style="list-style-type: none"> • imposed at the court's discretion in the county where the offense occurred |
| Revocable by | <ul style="list-style-type: none"> • parole agent • administrative board review | <ul style="list-style-type: none"> • probation officer recommendation • court enactment |

Continued on next page

Parole and Probation, Continued

Conditions

Several general conditions of parole and probation may be imposed on a convicted person. The following table identifies these conditions.

| Conditions of <i>Parole</i> | Conditions of <i>Probation</i> |
|--|--|
| <p>Parolees must:</p> <ul style="list-style-type: none"> • comply with all instructions of their parole officers • not travel more than 50 miles from their residence without prior approval from their parole officers • not be absent from their county of residence for more than 48 hours or leave the State of California without prior written approval from their parole officers • inform their parole officers within 72 hours of any change of employment, employment location, or termination of employment | <p>Probationers are commonly required to:</p> <ul style="list-style-type: none"> • comply with all instructions of and maintain contact with their probation officer • not use alcohol or other intoxicants • not associate with certain specified individuals • not possess firearms or other weapons |

Continued on next page

Parole and Probation, Continued

| Conditions (continued) | Conditions of <i>Parole</i> | Conditions of <i>Probation</i> |
|---------------------------|---|---|
| | <ul style="list-style-type: none"> • not engage in conduct prohibited by law; must inform their parole officers if they are arrested for a felony or misdemeanor crime • not own, use, have access to, or have under their control any: <ul style="list-style-type: none"> - firearm, ammunition, or weapon listed in <i>Penal Code Section 12020</i> - knife with a blade longer than two inches • the officer must know about the parole conditions before the search. An officer may conduct a parole search without reasonable suspicion but cannot conduct a parole search for arbitrary, capricious or harassment reasons | <p>Probationers <i>may</i> be required to:</p> <ul style="list-style-type: none"> • serve time in jail as an alternative to prison • pay a fine • make restitution • secure a bond • participate on work projects • submit to drug testing • submit to warrantless searches at any time without reasonable suspicion of criminal activity on the part of the probationer |

Summary probation

Probationary conditions ordered by the court, following a conviction. A probation officer does not formally supervise a person on summary probation. Only the court can sanction a summary probationer for violations of the conditions of summary probation (*Penal Code Section 1203(b)*).

Generally, officers cannot arrest a person for violation of summary probation. Officers must submit a report to the court notifying the court of the violation of the terms of the subject's summary probation.

Chapter Synopsis

Learning need Peace officers should recognize that the California Department of Corrections and Rehabilitation (CDCR) is a component of the criminal justice system. Officers must also be familiar with the differences between parole and probation conditions, and their role in the enforcement of those conditions.

Corrections objectives and responsibilities [2.04.1] The objectives of the corrections component of the criminal justice system include:

- confining prisoners
- rehabilitating prisoners
- supervising parolees and probationers in the community
- assuring victim's rights

Parole and probation [2.04.3, 2.04.4] The primary role of both parole and probation is to protect the community from future criminal acts of individuals who have been convicted of a crime, imprisoned and subsequently released back into the community

Differences between parole and probation [2.04.5, 2.04.6] Parole is a conditional release from a state prison which allows an individual to serve the remainder of a sentence

Probation is the suspension of the imposition or execution of a sentence and the order (by the court) of conditional and revocable release in(to) the community. *Penal Code Section 1203*), a sentencing option for an individual convicted of a criminal offense

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity question

1. Consider the stated objectives of the corrections component of the justice system. How do these objectives serve to aid in attaining the major goals of the entire criminal justice system?

2. In your own words, describe the differences between parole and probation.

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. John Wilson is on parole and would like to attend his niece's wedding in another state. What conditions must he meet in order to make the trip? How long can he remain? What must he do if he wishes to stay longer than the allotted time period? How would your answers differ if he were on probation rather than parole?

Continued on next page

Workbook Learning Activities, Continued

Student notes

Glossary

| | |
|-------------------------|--|
| Introduction | The key vocabulary terms for LD 2: Criminal Justice System are listed below with the definitions as they apply to this workbook. |
| amendments | Modifications or changes made for the better, such as amendments to the U.S. Constitution |
| appeals | Requests to a higher court to review or revise decisions made by lower court |
| appellate courts | Referred to as the higher courts of the judicial system; hear appeals from lower trial courts |
| arrest | Taking a person into custody in a case, and in the manner authorized by the law |
| arraignment | Legal procedure where the court informs defendants of the nature of the charges against them and of their constitutional rights to have counsel, to plead guilty or not guilty, and to have a jury trial |
| bail | A security deposited with a competent court or magistrate to ensure that the accused person will appear for trial when summoned |
| Bill of Rights | The first ten amendments to the U.S. Constitution |
| competent court | Any court, civil or criminal, having authority to handle a particular case |
| constitution | A written document that embodies the basic laws of a nation or state |

Continued on next page

Glossary, Continued

| | |
|----------------------------|--|
| due process | A course of legal proceedings according to the rules and principles which have been established by the government; basic rights of a defendant in judicial proceedings and the requisites for a fair trial |
| grand jury | A body of a set number of citizens from within the county who are sworn to receive complaints and accusation in criminal cases; responsible for determining if there is sufficient cause to believe a person has committed a crime and should be made to stand trial |
| indictment | An accusation in writing formally charging a person with a crime or public offense |
| magistrate | An officer of the court having power to issue a warrant for the arrest of a person charged with a public offense |
| parole | A conditional release from confinement which allows an individual to serve the remainder of a sentence outside of prison |
| preliminary hearing | A screening procedure used in felony cases to determine if there is enough evidence to hold a defendant for trial |
| probation | A sentencing option for an individual convicted of a criminal offense |
| right to bail | A defendant's constitutional right to reasonable bail to permit the unhampered preparation of a defense before trial |
| sentencing | A judgment that is formally pronounced by the court upon a defendant after conviction in a criminal trial |

Continued on next page

Glossary, Continued

trial A formal judicial examination and determination of issues (law or fact) between parties

trial courts Referred to as the lower courts; receive evidence and consider cases involving criminal activity or civil disputes

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

August 5, 2020

“Commander” Robert Rodriguez
Santa Ana Police Department (“SAPD”)
60 Civic Center Plaza
Santa Ana, CA 92701

Public Records Act and Other Requests for Production

Please provide all documents in your custody and control evidencing:

- (1) All communication within your agency and/or the City of Santa Ana or any outside person(s), businesses, or agencies pertaining to any of the Public Records Act Requests or the Citizen Complaint I filed.
- (2) A copy of the audio tape of the phone call with “Sgt.” Macchiaroli that took place on August 5, 2020 pursuant to the aforementioned Citizen Complaint I filed.
- (3) All research documents prepared by “Sgt.” Macchiaroli pursuant to the aforementioned Citizen Complaint for subjects such as the definition of “disgorgement” and her determination that the information I was presenting to her (1) was not a crime; (2) that my complaint should be made to the Commission on Judicial Performance; and, (3) that the Santa Ana Police Department was not going to take a crime report. (Macchiaroli told me on the aforementioned phone call she was a “fact finder” so I am specifically looking for all of the documents she relied upon to form the factual foundation and legal basis for her aforementioned conclusions of fact and law).
- (4) A copy of the law enforcement code of ethics as adopted by SAPD policy.
- (5) The complete training records for “Sgt.” Macchiaroli, “Sgt.” Alcantar, “Sgt.” Hernandez, and “Commander” Rodriguez.
- (6) The SAPD Standard Operating Procedure manual.
- (7) All department training pertaining to fraud, theft, or robbery investigations. This should include any Peace Officer Standards and Training (“POST”) requirements or updates and any training the department has created on its own or otherwise pertaining to this subject matter.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned documents and phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the number or email address provided above.

Sincerely,
/s/ Adam Bereki, 8/5/2020



Adam Bereki <abereki@gmail.com>

Public Records Request #9174

4 messages

Ramirez, Rita <RRamirez@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Mon, Aug 17, 2020 at 4:26 PM

Dear Mr. Bereki,

The City of Santa Ana ("City") has reviewed your request for records dated August 5, 2020. I appreciate your patience while we gathered the information you requested. Please see the following response provided to me by Commander Rodriguez on August 11, 2020, pertaining to items 1-3:

(1) All communication within your agency and/or the City of Santa Ana or any outside person(s), businesses, or agencies pertaining to any of the Public Records Act Requests or the Citizen Complaint I filed.

The documents are attached via dropbox:

<https://www.dropbox.com/s/9fsbuwfu5e4o3ab/Bereki%20PRA%209174.pdf?dl=0>

(2) A copy of the audiotape of the phone call with "Sgt." Macchiaroli that took place on August 5, 2020, pursuant to the aforementioned Citizen Complaint I filed.

Regarding the phone call with Sgt. Macchiaroli that took place on August 5, 2020 regarding the Citizen't Compliant, the record requested will not be disclosed. Because the City is not providing the exempt information described above, the CPRA requires the City to provide a written response when a records request is denied, either in whole or in part. (Gov. Code § 6255, subd. (b).) The records you have requested will not be disclosed and are exempt from disclosure. Specifically, internal affairs investigative files involving personnel of an agency that employs peace officers are confidential and exempt from disclosure pursuant to Government Code §6254(k) [Penal Code §§ 832.5, 832.7, 832.8; Evidence Code §§ 1043, 1045.] The records are also exempt from disclosure pursuant to Government Code §6255(a) in that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure records that are the subject of an active administrative investigation. Furthermore, the records requested do not fall under the categories set forth in Penal Code § 832.7(b)(1).

Pursuant to Government Code §6253(d)(3), the person responsible for the denial is Chief of Police David Valentin. This response is meant to completely comply with your request.

(3) All research documents prepared by "Sgt." Macchiaroli pursuant to the aforementioned Citizen Complaint for

subjects such as the definition of "disgorgement" and her determination that the information I was presenting to her (1) was not a crime; (2) that my complaint should be made to the Commission on Judicial Performance; and, (3) that the Santa Ana Police Department was not going to take a crime report. (Macchiaroli told me on the aforementioned phone call she was a "fact finder" so I am specifically looking for all of the documents she relied upon to form the factual foundation and legal basis for her aforementioned conclusions of fact and law).

No records exist that are responsive to question three.

Please note that I am currently working on the additional items 4-7 and should have a response no later than the end of the week.

Again, thank you for your patience.

Rita J. Ramirez

Police Administrative Manager

Records/Evidence

Santa Ana Police Department

Office: 714-245-8620

#WEARESAPD



Adam <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Mon, Aug 17, 2020 at 5:49 PM

Thank you Rita, I received your partial response.

Sincerely,

Adam

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Tue, Aug 18, 2020 at 7:35 AM

Rita,

With regard to your/Chief Valentin's response labeled (2), I object. Penal Code §832.7(b)(1) states:

b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, **the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act** (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

Subsection (C)(2) thereunder states:

(2) Records that **shall** be released pursuant to this subdivision **include all investigative reports**; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; **all materials compiled and presented for review** to the district attorney or **to any person** [ie the Chief of Police or Commander] or body charged with determining whether to file criminal charges against an officer in connection with an incident, **or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings**; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, **and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.**

The recording of the phone call between Sgt. Macchiaroli and I is required to be disclosed. It was created by my consent to be recorded. It contains information pertinent and in addition to the complaint I filed and has no private privileged information about any of the officers I made complaints against. Its disclosure would not pose any risk to officer safety.

If you are aware of actual case law that would not permit me to receive this information or that further clarifies the legislative intent of this or any other preclusive section, I am happy to entertain it.

Sincerely,

Adam Bereki

On Mon, Aug 17, 2020 at 4:26 PM Ramirez, Rita <RRamirez@santa-ana.org> wrote:
[Quoted text hidden]

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam <abereki@gmail.com>

Wed, Aug 19, 2020 at 12:21 PM

Good Morning Mr. Bereki,

Please see the attached letter.

Rita Ramirez

[Quoted text hidden]

 **MX-5071_20200819_121853.pdf**
215K

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

August 19, 2020

SENT VIA EMAIL

abereki@gmail.com

Response to Public Records Act Request #9174

Dear Mr. Bereki:

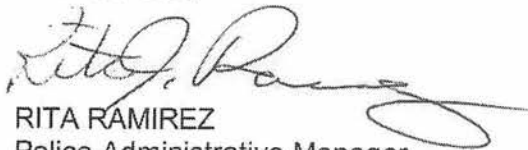
This letter is to address your concerns in your email dated August 18, 2020 wherein you stated you objected to what I provided to you in my first response to your request for records. In your email, you stated that Penal code 832.7(b)(1) and subsection (C)(2) was applicable to your request. The sections you quote are not applicable and only apply to specific categories of records.

The records of the phone calls between Sergeant Macchiaroli and you are part of a pending Internal Affairs investigation and considered confidential and not subject to disclosure as set forth in the penal code.

Should you have any questions regarding this matter, kindly contact me at 714-245-8620.

Sincerely,

DAVID VALENTIN
Chief of Police


RITA RAMIREZ
Police Administrative Manager
Records/Evidence

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

1979



Adam Bereki <abereki@gmail.com>

Public Records Request #9174

3 messages

Ramirez, Rita <RRamirez@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Tue, Aug 18, 2020 at 5:58 PM

Good Evening Mr. Bereki,

I am responding to your request to the following items of your public records request #9174:

- 4) A copy of the law enforcement code of ethics as adopted by SAPD policy.
- 6) The SAPD Standard Operating Procedure manual

Please refer to the link provided below:

<https://www.santa-ana.org/pd/training-division/police-department-policies>

- 5) The complete training records for Sgt. Macchiaroli, Sgt. Alcantar, Sgt. Hernandez and Commander Rodriguez (see attached).








I am still working on retrieving information regarding item #7 and I will email you as soon as I gather the information.

Thank you for your patience,

Rita J. Ramirez
Police Administrative Manager
Records/Evidence
Santa Ana Police Department
Office: 714-245-8620
#WEARESAPD



8 attachments

-  **M. Macchiaroli Training Record DMS.XLSX**
15K
-  **A. Alcantar Training Record DMS.XLSX**
15K
-  **G. Hernandez Training Record DMS.XLSX**
16K
-  **R. Rodriguez Training Record DMS.XLSX**
13K
-  **MACCHIAROLI, MICHELLE 2704.pdf**
131K
-  **ALCANTAR, ABEL.PDF**
133K
-  **HERNANDEZ, GILBERT 2901.pdf**
129K
-  **RODRIGUEZ, ROBERT R119.pdf**
117K

Adam <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Wed, Aug 19, 2020 at 8:18 AM

Thank you Rita. I appreciate your help, diligence, and communication. I received your answer.

Sincerely,

Adam
[Quoted text hidden]

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam <abereki@gmail.com>

Wed, Aug 19, 2020 at 1:25 PM

Hi Mr. Bereki,

In response to item #7 on your public records request #9174.

There are no records that exist for: "All department training to fraud, theft, or robbery investigations. This should include any Peace Officer Standards and Training ("POST") requirements or updates and any training the department has created on its own or otherwise pertaining to this subject matter."

Thank you,

Rita

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRR

2 messages

Wharton, Matthew <MWharton@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Esparza, Enrique" <EEsparza@santa-ana.org>

Thu, Aug 13, 2020 at 1:35 PM

Good afternoon Mr. Bereki,

Please see the attached correspondence.

Regards,

Sergeant Matt Wharton

Human Resources Division

Santa Ana Police Department


Office: (714)245-8501 Email: mwharton@santa-ana.org



One Team - One Mission

#JoinSAPD

MX-5071_20200813_133306.pdf

 250K

Adam <abereki@gmail.com>

Thu, Aug 13, 2020 at 2:25 PM

To: "Wharton, Matthew" <MWharton@santa-ana.org>, "Esparza, Enrique" <EEsparza@santa-ana.org>

Matt,

Thank you for your email memorializing part of our conversation this morning. I agree with the narrowing of the scope you made in your attached letter on the sole grounds that I was told by Deputy Chief Esparza that Elizabeth Plotnik had made a honest mistake in response to an earlier Public Records Act request I had made. In that request I asked for the oaths of office for Sgt. Hernandez, Sgt. Alcantar, and Commander Rodriguez. Plotnik informed me that these records did not exist. Deputy Chief Esparza informed me today that Plotnik had made an honest mistake and that these records may exist at the City personnel department. It is based on this representation that I narrowed the scope of the request for the oath of offices only to the four officers you listed.

Also pursuant to our conversation, we agreed:

(1) that you would contact each of the four officers in writing in an attempt to obtain their consent to make a copy of their oath of office to provide to me since you believed the oaths were protected by privacy privilege as part of the officers personnel file. You also agreed that you would provide this email or other chain of written communication with each of the officers obtaining either consent or denial as part of your response to my request;

(2) that if the officers consented, you would obtain a copy of their oath and provide it to me pursuant to my request;

(3) that if the officers did not consent, you would inspect their personnel file to confirm or deny the existence of the oath and the date of authentication (signing) and then provide this information in your response to my request.

Please let me know if I have stated our agreement as you also understood it, or, if not, what you understood differently.

Sincerely,

Adam Bereki

[Quoted text hidden]

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT

60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

August 13, 2020

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Re: Public Records Act Request – Clarification

Dear Mr. Bereki,

Thank you for providing clarification and narrowing the scope of your request for Public Records, which was received on August 6th, 2020 as a result of our response to your initial Public Records Act Request.

- A) Provide all documents evidencing the date of creation for the record you provided entitled "Oath of Office.pdf".
- B) Provide the all of the documents requested including each officer's date of hire, oath of office, each position occupied within the department throughout their course and scope of employment, and the date of appointment to said position. **Clarification received: for Commander Rodriguez, Sergeant Hernandez, Sergeant Alcantar and Sergeant Macchiaroli.**

The city will process and respond to your request by August 17th, 2020. If you have any further questions or concerns regarding the processing of this request, please contact Sergeant Matt Wharton at (714) 245-8501.

Sincerely,

DAVID VALENTIN
Chief of Police

ENRIQUE ESPARZA
Deputy Chief, Administration Bureau

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
villegas@santa-ana.org

Vicente Sarmiento
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Phil Bacerra
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pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

1985



Adam Bereki <abereki@gmail.com>

Phone Numbers

2 messages

Esparza, Enrique <EEsparza@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Wharton, Matthew" <MWharton@santa-ana.org>

Thu, Aug 13, 2020 at 10:25 AM

Mr. Bereki,

Thank you for taking my call this morning. Please feel free to call Sergeant Wharton or me if we can be of assistance in the future.

Sergeant Matthew Wharton

714 245-8501

Enrique Esparza

Deputy Chief-Administration Bureau

Santa Ana Police Department

714 245-8410 | eesparza@santa-ana.org

Adam Bereki <abereki@gmail.com>
To: "Esparza, Enrique" <EEsparza@santa-ana.org>

Thu, Aug 13, 2020 at 10:33 AM

Got it. Thank you. Thanks for calling.

Sent from my iPhone

On Aug 13, 2020, at 10:25 AM, Esparza, Enrique <EEsparza@santa-ana.org> wrote:

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRR

6 messages

Wharton, Matthew <MWharton@santa-ana.org>

Mon, Aug 17, 2020 at 1:23 PM

To: "abereki@gmail.com" <abereki@gmail.com>

Cc: "Esparza, Enrique" <EEsparza@santa-ana.org>, "Bogosian, Tamara" <TBogosian@santa-ana.org>

Good afternoon Mr. Bereki,

Please see the attached correspondence reference your PRR.

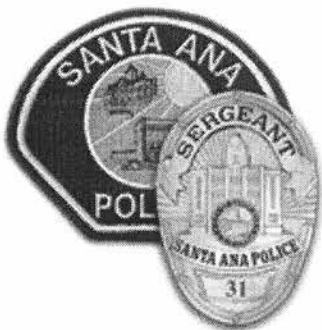
Regards,

Sergeant Matt Wharton

Human Resources Division

Santa Ana Police Department


Office: (714)245-8501 Email: mwharton@santa-ana.org



One Team - One Mission

#JoinSAPD

MX-5071_20200817_132104.pdf

 772K

Adam <abereki@gmail.com>

Mon, Aug 17, 2020 at 1:48 PM

To: "Wharton, Matthew" <MWharton@santa-ana.org>, "Esparza, Enrique" <EEsparza@santa-ana.org>

Matt,

Thank you for your reply.

Given Sgt. Macchiaroli did not consent, did you go to the City to verify she did in fact have a valid oath of office as we discussed and you agreed to do (See Item 3 in the email I sent you and D. Chief Esparza subsequent to our conversation- a copy is below. I was unable to find this information in your reply.

Also, and this is just a heads just a heads up, the second paragraph of these Oaths of Office that you sent were deemed unconstitutional years ago. Maybe you'll want to have the officers retake the oath that is constitutional? Notice too how on these oaths the actual office taken is what is sworn to. This field is missing from your current forms. It's my understanding that an Oath must be taken for each position as there are different duties.

Sincerely,

Adam

Matt,

Thank you for your email memorializing part of our conversation this morning. I agree with the narrowing of the scope you made in your attached letter on the sole grounds that I was told by Deputy Chief Esparza that Elizabeth Plotnik had made a honest mistake in response to an earlier Public Records Act request I had made. In that request I asked for the oaths of office for Sgt. Hernandez, Sgt. Alcantar, and Commander Rodriguez. Plotnik informed me that these records did not exist. Deputy Chief Esparza informed me today that Plotnik had made an honest mistake and that these records may exist at the City personnel department. It is based on this representation that I narrowed the scope of the request for the oath of offices only to the four officers you listed.

Also pursuant to our conversation, we agreed:

- (1) that you would contact each of the four officers in writing in an attempt to obtain their consent to make a copy of their oath of office to provide to me since you believed the oaths were protected by privacy privilege as part of the officers personnel file. You also agreed that you would provide this email or other chain of written communication with each of the officers obtaining either consent or denial as part of your response to my request;
- (2) that if the officers consented, you would obtain a copy of their oath and provide it to me pursuant to my request;
- (3) that if the officers did not consent, you would inspect their personnel file to confirm or deny the existence of the oath and the date of authentication (signing) and then provide this information in your response to my request.

Please let me know if I have stated our agreement as you also understood it, or, if not, what you understood differently.

Sincerely,

Adam Bereki

[Quoted text hidden]

Adam <abereki@gmail.com>
To: Adam Bereki <abereki@gmail.com>

Mon, Aug 17, 2020 at 3:52 PM

Matt and I spoke on the phone around 1530 hrs. He confirmed that Macchiaroli had a valid oath of office and he verified it. See zoom titled "SAPD CALL WITH WHARTON 081720"

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Wharton, Matthew" <MWharton@santa-ana.org>

Wed, Aug 19, 2020 at 3:23 PM

Matt,

I know we spoke on the phone about this, but I just want your confirmation in writing. Confirming that you did inspect the city personnel records and located an oath of office for Michelle Macchiaroli? What was the date on the oath? Was there a position the oath was taken for? If so, what was the listed position?

Thanks

Adam Bereki

On Mon, Aug 17, 2020 at 1:23 PM Wharton, Matthew <MWharton@santa-ana.org> wrote:

[Quoted text hidden]

Wharton, Matthew <MWharton@santa-ana.org>
To: Adam <abereki@gmail.com>

Thu, Aug 20, 2020 at 7:50 AM

Good morning Mr. Bereki,

Yes, I inspected the records and there is an Oath of Office document for Police Officer dated 01-04-2000.

Regards,

Sergeant Matt Wharton

Human Resources Division

Santa Ana Police Department

Office: (714)245-8501 Email: mwharton@santa-ana.org



One Team - One Mission

#JoinSAPD

[Quoted text hidden]

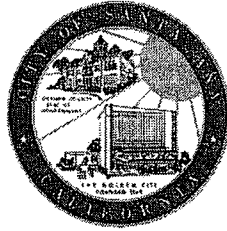
Adam <abereki@gmail.com>
To: "Wharton, Matthew" <MWharton@santa-ana.org>

Thu, Aug 20, 2020 at 8:28 AM

Thank you.

[Quoted text hidden]

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solario



CITY MANAGER
Kristine Ridge
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Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

August 17, 2020

VIA E-MAIL ONLY

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Re: Public Records Act Request

Dear Mr. Bereki,

The Santa Ana Police Department has completed its review and evaluation of your request for public records, which was received by City staff on August 6, 2020 regarding the following information:

- A) Provide all documents evidencing the date of creation for the record you provided entitled "Oath of Office.pdf".

There are no records that reflect the date the Oath of Office record was "created". Notwithstanding, the Oath of Office record was last revised on March 27, 2019 at 08:49:42 a.m. - refer to the attached document. As you can see, the Oath of Office records provided for Commander Rodriguez, Sergeant Hernandez, Sergeant Alcantar (pursuant to their consent) indicates they were previously revised on January 5, 1996.

- B) Provide the all of the documents requested including each officer's date of hire, oath of office, each position occupied within the department throughout their course and scope of employment, and the date of appointment to said position.

Pursuant to your agreement on August 13, 2020, wherein you limited your request for the Oaths of Office for Commander Rodriguez, Sergeant Hernandez, Sergeant Alcantar and Sergeant Macchiaroli.

See attached the Oath of Office records, with redactions, for Commander Rodriguez, Sergeant Hernandez and Sergeant Alcantar pursuant to each officer's verbal consent to release this record only. Redactions have been made pursuant Government Code §6255(a), as the public interest served by not disclosing the record clearly outweighs the

SANTA ANA CITY COUNCIL

Miguel A. Pulido
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Juan Villegas
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Jose Solario
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jsolario@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

1991

public interest served by disclosure of portions of the record (PERS enrollment, previous employment and signature).

Sergeant Macchiaroli did not give consent to release her Oath of Office record, and as such, it will not be disclosed pursuant to Government Code §6254(c) which exempts, "personnel, medical or similar files the disclosure of which would constitute an unwarranted invasion of personal privacy." Specifically, personnel files of an agency that employs peace officers are confidential and exempt from disclosure pursuant to Government Code §6254(k) [Penal Code §§ 832.7; Evidence Code §§ 1043]. Additionally, the records are exempt from disclosure pursuant to Government Code §6255(a), as the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of personnel records.

See attached record that provides each of the requested officers' date of hire, position and dates of appointment to each position.

Pursuant to Government Code §6253(d)(3), the person responsible for the denial and redactions is Chief of Police David Valentin. This response is meant to completely comply with your request. Should you have any questions, please contact Sergeant Matt Wharton at (714) 245-8501.

Sincerely,

DAVID VALENTIN
Chief of Police



ENRIQUE ESPARZA
Deputy Chief, Administration Bureau

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendez
Ward 5
nmendoza@santa-ana.org



OATH OF OFFICE

State of California)
County of Orange) SS
City of Santa Ana)

I, Abel Adcantar, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: NO EXCEPTIONS (if no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of Police Officer Lateral (name of office) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

03-19-98
Date

[Redacted Signature]
Signature

Note: As an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee. C.C.P. SS 2015.6

Are you an active member of the Public Employee's Retirement System (PERS)?

[Redacted Answer]

Have you had any other public employment in California, not covered by PERS?

[Redacted Answer]



OATH OF OFFICE

State of California)
County of Orange) SS
City of Santa Ana)

I, Gilbert Hernandez, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: NO EXCEPTIONS (if no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of Police Officer (name of office) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

09-22-03 Date
Signature

Note: As an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee. C.C.P. SS 2015.6

Are you an active member of the Public Employee's Retirement System (PERS)?

Have you had any other public employment in California, not covered by PERS?



OATH OF OFFICE

State of California)
County of Orange) SS
City of Santa Ana)

I, Robert P. Rodriguez, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: NO EXCEPTIONS (if no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of Police Officer (name of office) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

9-29-00 Date Signature

Note: As an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee. C.C.P. SS 2015.6

Are you an active member of the Public Employee's Retirement System (PERS)?

[Redacted answer]

Have you had any other public employment in California, not covered by PERS?

[Redacted answer]

| Timestamp | Action Type | Performed By | Performed By Employee # | Description |
|------------------------|--------------------------|----------------|-------------------------|--|
| 05/10/2019 08:47:08 AM | Form settings changed. | Angela Maynard | 107131 | Print Only Font Size changed from "26" to "28" |
| 03/29/2019 01:00:11 AM | Form settings changed. | System | System | Status changed from "Pending" to "Active" |
| 03/27/2019 08:53:53 AM | Form settings changed. | Angela Maynard | 107131 | Multiple properties changed. |
| 03/27/2019 08:49:42 AM | New form version created | Angela Maynard | 107131 | New version of "Death of Office" created |

Alcantar, Abel

Date of hire: 04/01/1998

Corporal: 05/31/2012

Corporal Lead: 07/27/2014

Sergeant: 08/01/2017

Hernandez, Gilbert

Date of hire: 10/13/2003

Corporal: 02/02/2011

Detective Sergeant: 07/01/2014

Sergeant: 07/01/2019

Macchiaroli, Michelle

Date of hire: 02/14/2000

Corporal: 08/01/2005

Detective: 10/15/2008

Corporal: 06/04/2012

Corporal lead: 03/09/2014

Corporal: 02/07/2016

Corporal lead: 06/01/2016

Acting Sergeant: 06/21/2016

Sergeant: 03/05/2017

Rodriguez, Robert

Date of hire: 11/01/2000

Detective: 05/01/2006

Corporal: 02/15/2009

Sergeant: 03/07/2014

Commander: 04/01/2018

A. ALCANTAR TRAINING RECORD DMS

| Username | Last Name | First Name | Job Title | Location | Certificate Name | Awarded Date | Expiration Date | Certificate Type | Credit Hours |
|----------|-----------|------------|-----------------|-------------------|--|----------------|-----------------|-------------------------|--------------|
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | POST Distracted Driver Video | 9/25/17 15:26 | | Driver Training | 0.1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Shooting at Moving Vehicles | 5/17/17 12:56 | | Firearms and Tactics | 0.15 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Cover and Concealment FTC - 2017-01 | 2/1/17 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Officer Involved Shootings for Field Supervisors | 12/4/18 | | Leadership/Ethics | 16 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Gas Mask Fit Testing | 12/12/19 11:28 | 12/12/20 11:28 | Health and Safety | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Gas Mask Fit Testing | 9/27/18 16:51 | 9/27/19 16:51 | Health and Safety | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Gas Mask Fit Testing | 10/17/17 | 10/17/18 | Health and Safety | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Mandatory Training (First Aid Update/Mobile CAD/Biased Based Policing) | 2/21/17 18:00 | | Mandatory Training | 6 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Technology in Investigations | 2/3/17 23:00 | | Investigations | 40 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | POST Supervisory Course | 11/3/17 | | Leadership/Ethics | 80 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | ACT - Defensive Tactics ARSTCTCL (PSP) | 12/12/19 11:28 | | Defensive Tactics | 4 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | ACT - Defensive Tactics ARSTCTCL (PSP) | 9/27/18 16:51 | | Defensive Tactics | 4 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Domestic Violence Update | 9/27/18 16:51 | | Investigations | 1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Bloodborne Pathogens | 12/12/19 11:28 | | Awareness | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Bloodborne Pathogens | 9/27/18 16:51 | | Awareness | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Bloodborne Pathogens | 9/27/17 12:00 | | Awareness | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Laura's Law | 7/25/17 11:15 | | Policy/Legal | 0.7 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Decision making - MLO - FTC - 2017-05 | 6/22/17 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Tactical Communication | 12/12/19 11:28 | | Communications | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Tactical Communication | 9/27/17 12:04 | | Communications | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Driving Simulator Course | 9/27/17 12:04 | | Driver Training | 4 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Force Option Simulator | 3/16/20 8:51 | | Firearms and Tactics | 4 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Force Option Simulator | 9/27/17 12:06 | | Firearms and Tactics | 4 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Fentanyl | 6/18/18 6:47 | | Awareness | 0.08 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Fentanyl | 7/19/17 8:43 | | Awareness | 0.08 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Handgun Firearms Training FTC - 2017-07 | 8/1/17 7:20 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Administrative Investigations & the Interview Process | 7/11/17 | | Policy/Legal | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Internal Affairs | 2/14/18 | | Investigations | 24 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | On and Off Duty Handgun Training FTC - 2017-08 | 9/5/17 9:31 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Patrol Rifle and Handgun Training FTC - 2017-09 | 11/1/17 12:01 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Lateral Head Displacement | 9/25/17 15:31 | | Defensive Tactics | 0.1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Standardized Field Sobriety Tests (SFTs) Roll Call Training | 9/22/17 | | Drug/DUI Symposium | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Two Officer Takedown | 10/16/17 9:30 | | Defensive Tactics | 0.07 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Concealed Carry Weapon Licensing (CCW) | 9/15/17 | | Firearms and Tactics | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Sexual Harassment Prevention for Supervisors AB 1825 | 10/9/17 | | Leadership/Ethics | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Body Worn Camera Training - SAPD | 8/29/17 | | Policy/Legal | 4 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Handgun Manipulations 2017-11 FTC | 12/1/17 9:59 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | 2017 New Pursuit Policy Update - Supervisor | 12/12/17 | | Driver Training | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Weapons Inspection 2017-12 FTC | 1/31/18 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Close Contact / Weapon Retention - FTC - 2017-02 | 3/1/17 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | AR-15 Rifle Malfunctions/Cover/Concealment - FTC - 2017-03 | 4/1/17 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | DOMAV7 Rifle feedway stoppage clearance FTC - 2017-04 | 5/1/17 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Supervisor Leadership Institute of Law Enforcement - FBI LEEDA | 1/11/19 | | Leadership/Ethics | 28 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Handgun and Rifle Training FTC - 2018-02 | 3/1/18 8:25 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | First Aid CPR Update | 3/10/18 | 3/10/20 1:00 | Health and Safety | 8 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Transgender Community LGBT | 12/12/19 11:28 | | Awareness | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Transgender Community LGBT | 3/27/18 16:51 | | Awareness | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Driver Awareness - Slow Speed Driving | 9/27/18 16:51 | | Driver Training | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Re-Certification | 12/12/19 11:28 | | Firearms and Tactics | 1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Re-Certification | 9/27/18 16:51 | | Firearms and Tactics | 1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Taser Re-Certification | 12/12/19 11:28 | | Firearms and Tactics | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Taser Re-Certification | 9/27/18 16:51 | | Firearms and Tactics | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | OC Spray Re-Certification | 12/12/19 11:28 | | Firearms and Tactics | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | OC Spray Re-Certification | 9/27/18 16:51 | | Firearms and Tactics | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Handgun Firearms Training - FTC - 2018-04 | 5/1/18 15:52 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Shotgun Training - 2018-03 | 4/3/18 15:13 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-05 | 6/5/18 12:13 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Immigration Violations | 6/2/18 13:16 | | Policy/Legal | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-06 | 7/3/18 9:57 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Principled Policing | 6/12/18 | | Policy/Legal | 8 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | RIPP HOBBLE - Max Restraint Technique | 5/21/18 | | Firearms and Tactics | 1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Tactical Seatbelt - Course DRT-V00004 | 7/21/18 9:44 | | Awareness | 0.1 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Handgun Manipulations 2018-07 FTC | 8/1/18 8:07 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Transition from Taser to Handgun Escalation 2018-08 FTC | 9/4/18 16:34 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Counterfeit Currency | 8/20/18 14:36 | | Investigations | 0.15 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | SHO, WHO, Two hand Shooting 2018-09 FTC | 10/24/18 15:48 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-10 | 10/29/18 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-11 | 11/25/18 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-02 | 2/24/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-03 | 3/23/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-04 | 4/26/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun Training - FTC 2019-05 | 3/23/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-06 | 6/21/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Ballistic Plates and Carriers | 3/7/19 13:12 | | Health and Safety | 0.05 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Vehicle Pursuit Policy (WEB) | 12/12/19 11:28 | | Other/Miscellaneous | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Car Stops | 12/12/19 11:28 | | Awareness | 2 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | AB 392 UOF Training Video | 1/19/20 14:10 | | Awareness | 0 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Performance Analysis for First Line Supervisors | 11/14/19 | | Awareness | 24 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Spike Strip | 2/8/20 | | Awareness | 0 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Taser 7 | 3/16/20 8:44 | | Defensive Tactics | 0 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | BolaWrap | 3/16/20 8:48 | | Defensive Tactics | 0 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-07 | 7/25/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-08 | 8/23/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-09 | 9/26/19 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-10 | 10/31/19 | | Firearms Qualifications | 1.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | FTC-02-20 | 2/6/20 | | Firearms Qualifications | 0.5 |
| P2580 | Alcantar | Abel | Police Sergeant | Police Department | FTC-2019-11 | 1/30/20 | | Firearms Qualifications | 0.5 |



Santa Ana Police Department
Individual Training Activity

09/06/2017

Page 1 of 8 pages

Person: **Abel Alcantar**

Personal

Agency: Santa Ana Police Department
ID #: A59-I11

Employment

| <u>Property</u> | <u>Value</u> | <u>From</u> | <u>Through</u> |
|-----------------------|----------------------|-------------|----------------|
| Active Status: | Active | 04/01/1998 | // |
| Duty Status: | Full Duty | // | // |
| Time Status: | Full Time | // | // |
| Rank: | Police Officer | 04/01/1998 | // |
| Work Unit: | Unknown / Not Listed | // | // |
| Station: | Headquarters Station | // | // |
| Division: | | // | // |

Scheduled Training In: 2016

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|---------------|--------|-------|-------|-----------|
| - 1-3761 | 10/05/2016 | Tactical Rifle Course | *** None *** | ✓ | P | | 24:00 |
| - 1-3678 | 06/17/2016 | First Aid / Cpr | *** None *** | ✓ | P | | 08:00 |
| - 1-3678 | 06/17/2016 | Arrest and Control | *** None *** | ✓ | P | | 04:00 |
| - 1-3678 | 06/17/2016 | Pursuit Policy Update | *** None *** | ✓ | P | | 01:00 |
| - 1-3678 | 06/17/2016 | Domestic Violence Update | *** None *** | ✓ | P | | 01:00 |
| - 1-3678 | 06/17/2016 | Bloodborne Pathogens Safety | *** None *** | ✓ | P | | 00:20 |
| - 1-3019 | 06/09/2016 | Crisis Intervention Trng for Le | *** None *** | ✓ | P | | 16:00 |
| - 1-3738 | 06/09/2016 | Crisis Intervention Training - Understanding Mental Illness on the Street | *** None *** | ✓ | P | | 16:00 |

Totals For Training Completed in: 2016 Completed 8 of 8 Modules **70:20**

Scheduled Training In: 2015

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|--|---------------|--------|-------|-------|-----------|
| - 1-3648 | 11/19/2015 | 7 habits for highly effective law enforcement | *** None *** | ✓ | P | | 24:00 |
| - 1-3907 | 09/28/2015 | Chemical Suit Training Video | *** None *** | ✓ | P | | 00:15 |
| - 1-3634 | 09/14/2015 | Respiratory Gas Mask Fit Testing | *** None *** | ✓ | P | | 00:20 |
| - 1-3634 | 09/14/2015 | Chemical Suit Training | *** None *** | ✓ | P | | 00:20 |
| - 1-3490 | 05/11/2015 | Driver Simulator / SB 719 Pursuit Policy Update | *** None *** | ✓ | P | | 04:00 |
| - 1-3490 | 05/11/2015 | Force Options | *** None *** | ✓ | P | | 04:00 |
| - 1-3490 | 05/11/2015 | LGBT | *** None *** | ✓ | P | | 02:00 |
| - 1-3490 | 05/11/2015 | Tactical Communications | *** None *** | ✓ | P | | 02:00 |
| - 1-3490 | 05/11/2015 | Bloodborne Pathogens Safety | *** None *** | ✓ | P | | 01:00 |

Totals For Training Completed in: 2015 Completed 9 of 9 Modules **37:55**

Santa Ana Police Department
Individual Training Activity



09/06/2017

Page 2 of 8 pages

Person: **Abel Alcantar** (Continued)

Scheduled Training In: 2014

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|-----------------------------|---------------|--------|-------|-------|-----------|
| - 1-3222 | 05/16/2014 | First Aid/ Cpr | CA-POST | ✓ | P | | 08:00 |
| | | | - -13 | | | | |
| - 1-3222 | 05/16/2014 | Arrest and Control | CA-POST | ✓ | P | | 04:00 |
| | | | - -13 | | | | |
| - 1-3222 | 05/16/2014 | Bloodborne Pathogens Safety | CA-POST | ✓ | P | | 01:00 |
| | | | - -13 | | | | |
| - 1-3222 | 05/16/2014 | Less Lethal Recertification | CA-POST | ✓ | P | | 01:00 |
| | | | - -13 | | | | |
| - 1-3222 | 05/16/2014 | Driver Awareness Update | CA-POST | ✓ | P | | 01:00 |
| | | | - -13 | | | | |
| - 1-3222 | 05/16/2014 | Domestic Violence | CA-POST | ✓ | P | | 00:30 |
| | | | - -13 | | | | |
| - 1-3222 | 05/16/2014 | Mental Illness | CA-POST | ✓ | P | | 00:30 |
| | | | - -13 | | | | |

Totals For Training Completed in: 2014 Completed 7 of 7 Modules 16:00

Scheduled Training In: 2013

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---------------------------------------|---------------|--------|-------|-------|-----------|
| - 1-3150 | 11/07/2013 | Vehicle Impounds- Roll Call | *** None *** | ✓ | P | | 00:30 |
| - 1-3631 | 10/29/2013 | D.O. 323 Vehicle Impounds | *** None *** | ✓ | P | | 00:30 |
| - 1-3148 | 09/26/2013 | Sexual Harassment Prevention Training | *** None *** | ✓ | P | | 02:00 |
| - 1-2989 | 06/19/2013 | Racial Profiling Update | CA-POST | ✓ | P | | 02:00 |
| - 1-2990 | 06/19/2013 | Tactical Communications (Psp) | CA-POST | ✓ | P | | 02:00 |
| - 1-2991 | 06/19/2013 | Driver Training Simulator | CA-POST | ✓ | P | | 04:00 |
| - 1-2992 | 06/19/2013 | Force Options Simulator | CA-POST | ✓ | P | | 04:00 |
| - 1-2780 | 01/17/2013 | Clets Less Than Full Access Exam | *** None *** | ✓ | P | | 01:00 |

Totals For Training Completed in: 2013 Completed 8 of 8 Modules 16:00

Scheduled Training In: 2012

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---------------------------|------------------|--------|-------|-------|-----------|
| - 1-2584 | 07/18/2012 | Arstctl (Psp) | CA-POST | ✓ | P | | 06:00 |
| | | | 2490-29503-11001 | | | | |
| - 1-2585 | 07/18/2012 | First Aid/ Cpr | CA-POST | ✓ | P | | 12:00 |
| - 1-2448 | 05/23/2012 | Driver Training Simulator | CA-POST | ✓ | P | | 04:00 |
| | | | 2490-20985-11028 | | | | |
| - 1-2449 | 05/23/2012 | Force Option-Simulator | CA-POST | ✓ | P | | 04:00 |
| | | | 2490-21065-11028 | | | | |

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Person: **Abel Alcantar** (Continued)

Scheduled Training In: 2012 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 1-2450 | 05/23/2012 | Tactical Communications | CA-POST 9180-25554-11 | ✓ | P | | 04:00 |
| - 1-2271 | 02/15/2012 | Immediate Action Teams (lat) | CA-POST 2090-22289-11008 | ✓ | P | | 30:00 |

Totals For Training Completed in: 2012 Completed 6 of 6 Modules **60:00**

Scheduled Training In: 2011

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|------------------------|---------------|--------|-------|-------|-----------|
| - 1-2157 | 10/28/2011 | Pursuit Policy Update | *** None *** | ✓ | P | | 01:00 |
| - 1-1851 | 04/21/2011 | Drug Abuse Recognition | CA-POST | ✓ | P | | 24:00 |

Totals For Training Completed in: 2011 Completed 2 of 2 Modules **25:00**

Scheduled Training In: 2010

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|-------------------|---------------|--------|-------|-------|-----------|
| - 1-1454 | 08/23/2010 | 40 Mm Less Lethal | *** None *** | ✓ | P | | 02:00 |

Totals For Training Completed in: 2010 Completed 1 of 1 Modules **02:00**

Scheduled Training In: 2009

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|-----------------------------|--------|-------|-------|-----------|
| - 1-0632 | 09/01/2009 | Sb 719 Pursuit Policy Training | *** None *** | ✓ | P | | 01:00 |
| - 1-0617 | 08/27/2009 | Field Training Officer Update | CA-POST | ✓ | P | | 24:00 |
| - 1-0607 | 08/26/2009 | Respiratory Fit Test-Inspection-Training | *** None *** | ✓ | P | | 01:00 |
| - 1-0623 | 07/14/2009 | Administrative Citation | *** None *** | ✓ | P | | 01:00 |
| - 1-0325 | 05/18/2009 | Domestic Violence Update | *** None *** | ✓ | P | | 01:00 |
| - 1-0216 | 03/23/2009 | Mobile Field Force Training | CA-POST | ✓ | P | | 01:00 |
| - 1-0157 | 02/25/2009 | Rapid Deployment for the First Responder | CA-POST 2490-24180-08003 | ✓ | P | | 09:00 |
| - 1-0171 | 02/25/2009 | Marsy's Law Training | *** None *** | ✓ | P | | 01:00 |

Totals For Training Completed in: 2009 Completed 8 of 8 Modules **39:00**

Scheduled Training In: 2008

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|---------------|--------|-------|-------|-----------|
| - 1-2782 | 09/30/2008 | Clets Less Than Full Access Exam | *** None *** | ✓ | P | | 01:00 |
| - -9983 | 08/27/2008 | Respiratory Fit Test-Inspection-Training | *** None *** | ✓ | P | | 01:00 |



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Person: **Abel Alcantar** (Continued)

Scheduled Training In: 2008 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--------------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 9604 | 04/18/2008 | Racial Profiling Update | CA-POST 2490-29000-07176 | ✓ | P | | 02:00 |
| - 9593 | 04/11/2008 | Tactical Communications | CA-POST 2490-29504-07016 | ✓ | P | | 02:00 |
| - 9594 | 04/11/2008 | Arrest and Control Techniques Update | CA-POST 2490-29503-07017 | ✓ | P | | 06:00 |
| - 9591 | 04/10/2008 | Force Option-Simulator | CA-POST 2490-21065-07016 | ✓ | P | | 04:00 |
| - 9592 | 04/10/2008 | Driver Training Simulator | CA-POST 2490-20985-07016 | ✓ | P | | 04:00 |
| - 9590 | 04/09/2008 | First Aid/Cpr | CA-POST 2490-21771-07008 | ✓ | P | | 08:00 |

Totals For Training Completed in: 2008 Completed 8 of 8 Modules 28:00

Scheduled Training In: 2007

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|------------------------|---------------|--------|-------|-------|-----------|
| - 9155 | 08/24/2007 | Buccal Swab Collection | *** None *** | ✓ | P | | 01:00 |
| - 8471 | 01/05/2007 | Fit Testing -Size 2 | *** None *** | ✓ | P | | 00:30 |

Totals For Training Completed in: 2007 Completed 2 of 2 Modules 01:30

Scheduled Training In: 2006

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 7968 | 09/21/2006 | IS-700 Introduction To Nims | *** None *** | ✓ | P | | 02:00 |
| - 8238 | 09/21/2006 | IS-100 Introduction To Nims | *** None *** | ✓ | P | | 04:00 |
| - 7784 | 08/28/2006 | X26 Taser Certification | *** None *** | ✓ | P | | 06:00 |
| - 7564 | 05/18/2006 | Use and Under the Influence of Narcotics | CA-POST 2490-22172-05002 | ✓ | P | | 08:00 |

Totals For Training Completed in: 2006 Completed 4 of 4 Modules 20:00

Scheduled Training In: 2005

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|---------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 7174 | 12/08/2005 | Fit Testing -Size 2 | *** None *** | ✓ | P | | 00:30 |
| - 7128 | 12/01/2005 | Basic Search Warrants | CA-POST 2490-29900-05013 | ✓ | P | | 08:00 |
| - 7137 | 11/09/2005 | Patrol Rifle Deployment Program | CA-POST | ✓ | P | | 16:00 |

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Person: **Abel Alcantar** (Continued)

Scheduled Training In: 2005 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|---|-----------------------------|--------|-------|-------|-----------|
| - 7091 | 10/17/2005 | Domestic Violence for Patrol | CA-POST | ✓ | P | | 08:00 |
| - 6989 | 05/01/2005 | Clets Less Than Full Access Proficiency | *** None *** | ✓ | P | | 01:00 |
| - 6712 | 04/20/2005 | Community Oriented Policing | CA-POST | ✓ | P | | 08:00 |
| - 6686 | 04/06/2005 | First Aid | CA-POST 2490-29900-04025 | ✓ | P | | 04:00 |
| - 6687 | 04/06/2005 | Cpr | CA-POST 2490-29900-04031 | ✓ | P | | 04:00 |
| - 6689 | 04/05/2005 | Force Options Simulator | CA-POST 2490-21065-04011 | ✓ | P | | 04:00 |
| - 6691 | 04/05/2005 | Tactical Communications | CA-POST 2490-29504-04011 | ✓ | P | | 04:00 |
| - 6938 | 04/05/2005 | Officer Safety | CA-POST | ✓ | P | | 02:00 |
| - 6690 | 04/04/2005 | Ac 12 Psp Arrest & Control | CA-POST 2490-29503-04011 | ✓ | P | | 08:00 |
| - 6688 | 04/04/2005 | Driver Training Simulator | CA-POST 2490-20985-04011 | ✓ | P | | 04:00 |
| - 6699 | 04/04/2005 | Ac 8.1 Expandable Baton | CA-POST | ✓ | P | | 02:00 |
| - 6700 | 04/04/2005 | Ac 13.1 Restraint/Positional Update | CA-POST | ✓ | P | | 00:30 |

Totals For Training Completed in: 2005 Completed 15 of 15 Modules 74:00

Scheduled Training In: 2004

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|-----------------------------|---------------|--------|-------|-------|-----------|
| - 6776 | 12/14/2004 | Fit Testing -Size 2 | *** None *** | ✓ | P | | 00:30 |
| - 6347 | 09/29/2004 | Mobile Field Force Training | CA-POST | ✓ | P | | 08:00 |

Totals For Training Completed in: 2004 Completed 2 of 2 Modules 08:30

Scheduled Training In: 2003

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 5587 | 12/31/2003 | Clets Less Than Full Access Exam | *** None *** | ✓ | P | | 01:00 |
| - 5848 | 12/10/2003 | Emergency Response To Terrorism Incident | CA-POST 2060-20103-03025 | ✓ | P | | 16:00 |
| - 5640 | 08/06/2003 | Tactical Communications/Dv | CA-POST | ✓ | P | | 03:00 |
| - 5639 | 08/06/2003 | Racial Profiling | CA-POST | ✓ | P | | 05:00 |
| - 5656 | 08/05/2003 | Force Options Simulator | CA-POST | ✓ | P | | 04:00 |
| - 5657 | 08/05/2003 | Officer Safety/Field Tactics S&K | CA-POST | ✓ | P | | 04:00 |

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Person: Abel Alcantar (Continued)

Scheduled Training In: 2003 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|------------------|--------|-------|-------|-----------|
| - 5630 | 08/04/2003 | Driver Training Simulator | CA-POST | ✓ | P | | 04:00 |
| - 5629 | 08/04/2003 | Ac 12.1 Psp Arrest & Control | CA-POST | ✓ | P | | 04:00 |
| - 5688 | 06/30/2003 | Clets Less/Full Access Operat(Doj/Ncic) | *** None *** | ✓ | P | | 02:00 |
| - 5584 | 04/01/2003 | Alco Sensor IV XI | *** None *** | ✓ | P | | 04:00 |
| - 5301 | 02/19/2003 | Digital Crime Scene | CA-POST | ✓ | P | | 08:00 |
| | | | 2490-29900-02036 | | | | |
| - 5233 | 01/13/2003 | Hate Crimes & Extremism | CA-POST | ✓ | P | | 08:00 |
| | | | 7630-23291-02007 | | | | |

Totals For Training Completed in: 2003 Completed 12 of 12 Modules 63:00

Scheduled Training In: 2002

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|---|------------------|--------|-------|-------|-----------|
| - 4957 | 11/13/2002 | Cop/Mapping Implementation | CA-POST | ✓ | P | | 08:00 |
| | | | 2490-29900-02018 | | | | |
| - 4593 | 06/03/2002 | Instructor Development | CA-POST | ✓ | P | | 40:00 |
| - 5097 | 05/21/2002 | Suicide by Cop | CA-POST | ✓ | P | | 08:00 |
| - 4545 | 02/20/2002 | Drug Id / Packaging & Street Development | CA-POST | ✓ | P | | 16:00 |
| | | | 2490-21981-01001 | | | | |
| - 4538 | 01/08/2002 | Mod #21 #24 Designer/ Use S&K | CA-POST | ✓ | P | | 08:00 |
| | | | 2490-29900-01020 | | | | |

Totals For Training Completed in: 2002 Completed 5 of 5 Modules 80:00

Scheduled Training In: 2001

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--------------------------------|------------------|--------|-------|-------|-----------|
| - 4393 | 06/29/2001 | Traffic Collision Inv | CA-POST | ✓ | P | | 40:00 |
| | | | 2490-33590-00001 | | | | |
| - 4349 | 05/16/2001 | First Aid / Cpr S&K | CA-POST | ✓ | P | | 08:00 |
| | | | 3670-29900-00027 | | | | |
| - 4268 | 02/14/2001 | Vehicle Theft S&K | CA-POST | ✓ | P | | 08:00 |
| | | | 2490-29900-00013 | | | | |
| - 4264 | 02/08/2001 | Domestic Viol. 1st Respond S&K | CA-POST | ✓ | P | | 08:00 |
| | | | 2490-29900-00011 | | | | |

Totals For Training Completed in: 2001 Completed 4 of 4 Modules 64:00

2004

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Person: **Abel Alcantar** (Continued)

Scheduled Training In: 2000

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 4177 | 10/11/2000 | Invest Gang Suppression S&K | CA-POST 2490-29900-00002 | ✓ | P | | 04:00 |
| - 4109 | 07/21/2000 | Prison Gang Activitiy | CA-POST 2060-23200-00001 | ✓ | P | | 24:00 |
| - 3988 | 03/08/2000 | Weapons of Mass Destruct S&K | CA-POST 2490-29900-99018 | ✓ | P | | 04:00 |

Totals For Training Completed in: 2000 Completed 3 of 3 Modules 32:00

Scheduled Training In: 1999

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|-------------------------|-----------------------------|--------|-------|-------|-----------|
| - 3688 | 05/05/1999 | Firearms/Tactical Rifle | CA-POST 2490-32075-98012 | ✓ | P | | 08:00 |

Totals For Training Completed in: 1999 Completed 1 of 1 Modules 08:00

Scheduled Training In: 1997

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|-----------------------|-----------------------------|--------|-------|-------|-----------|
| - 2934 | 05/29/1997 | Tactical Shooting S&K | CA-POST 1850-29900-96595 | ✓ | P | | 08:00 |

Totals For Training Completed in: 1997 Completed 1 of 1 Modules 08:00

Scheduled Training In: 1996

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 2730 | 11/08/1996 | Hobble Training S&K | CA-POST 1850-29900-96678 | ✓ | P | | 02:00 |
| - 2716 | 10/23/1996 | Bicycle Patrol | CA-POST 1850-23820-96007 | ✓ | P | | 24:00 |
| - 2701 | 10/14/1996 | Firearms Tactical Shooting S&K | CA-POST 1850-29900-96304 | ✓ | P | | 08:00 |
| - 2702 | 10/14/1996 | Firearms Tactical Shooting S&K | CA-POST 1850-29900-96666 | ✓ | P | | 08:00 |
| - 2694 | 10/10/1996 | Gang Awareness, Adv. | CA-POST 1850-23210-96002 | ✓ | P | | 24:00 |
| - 2691 | 10/04/1996 | Arrest & Control Tech - Basic | CA-POST 1850-20990-96028 | ✓ | P | | 40:00 |
| - 2654 | 08/26/1996 | Problem Oriented Policing | CA-POST 1850-22430-96024 | ✓ | P | | 08:00 |

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Person: **Abel Alcantar** (Continued)

Scheduled Training In: 1996 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|------------------------|-----------------------------|--------|-------|-------|-----------|
| - -2530 | 03/28/1996 | Network Communications | CA-POST 1850-20681-95077 | ✓ | P | | 16:00 |

Totals For Training Completed in: 1996 Completed 8 of 8 Modules 130:00

Scheduled Training In: 1995

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|--------------------------------|-----------------------------|--------|-------|-------|-----------|
| - -2438 | 10/27/1995 | Basic Course-Intensive | CA-POST 1850-00100-94011 | ✓ | P | | 1,064:00 |
| - -2425 | 10/12/1995 | Collapsible Baton Training S&K | CA-POST 1850-29900-95156 | ✓ | P | | 04:00 |

Totals For Training Completed in: 1995 Completed 2 of 2 Modules 1,068:00

Totals For: Abel Alcantar Completed 116 of 116 Modules 1,851:15

G. HERNANDEZ
TRAINING RECORD DMS

| Username | Last Name | First Name | Job Title | Location | Certificate Name | Awarded Date | Expiration Date | Certificate Type | Credit Hours |
|----------|-----------|------------|-----------------|-------------------|--|----------------|-----------------|-------------------------|--------------|
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | POST Distracted Driver Video | 10/3/17 15:19 | | Driver Training | 0.1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Tactical Rifle (Patrol Rifle) - Long Course | 12/15/16 18:00 | | Firearms and Tactics | 24 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Force Encounters Analysis: Understanding Human Performance during Critical Incidents | 4/28/17 | | Awareness | 24 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Shooting at Moving Vehicles | 5/16/17 19:27 | | Firearms and Tactics | 0.15 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Cover and Concealment FTC - 2017-01 | 2/1/17 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Master Pistol Instructor | 10/19/17 | 10/20/20 | Firearms and Tactics | 16 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Sherman Block Supervisory Leadership Institute | 6/6/18 | | Leadership/Ethics | 192 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Academy Instructor Certificate (AICC) - IDI Level 1 | 6/1/19 | | POST Certificates | 40 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Gas Mask Fit Testing | 9/30/19 9:03 | 9/30/20 9:03 | Health and Safety | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Gas Mask Fit Testing | 10/8/18 15:41 | 10/8/19 15:41 | Health and Safety | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Gas Mask Fit Testing | 8/28/17 | 8/28/18 | Health and Safety | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Mandatory Training (First Aid Update/Mobile CAD/Biased Based Policing) | 2/21/17 18:00 | | Mandatory Training | 6 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Unintentional Discharge Procedures | 3/7/17 | | Firearms and Tactics | 1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | ACT - Defensive Tactics ARSTCTL (PSP) | 9/30/19 9:03 | | Defensive Tactics | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | ACT - Defensive Tactics ARSTCTL (PSP) | 10/8/18 15:41 | | Defensive Tactics | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Domestic Violence Update | 10/8/18 15:41 | | Investigations | 1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Bloodborne Pathogens | 9/30/19 9:03 | | Awareness | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Bloodborne Pathogens | 10/8/18 15:41 | | Awareness | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Bloodborne Pathogens | 10/25/17 8:10 | | Awareness | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Laura's Law | 7/22/17 22:54 | | Policy/Legal | 0.7 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Decision making - MILO - FTC - 2017-05 | 6/7/17 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | CalGang Proxy Login Search Training | 7/26/17 11:22 | | Investigations | 0.1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Supervisory Certificate | 9/19/19 | | POST Certificates | |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Tactical Communication | 9/30/19 9:03 | | Communications | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Tactical Communication | 10/25/17 8:11 | | Communications | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Driving Simulator Course | 10/25/17 8:14 | | Driver Training | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Force Option Simulator | 6/9/20 7:43 | | Firearms and Tactics | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Force Option Simulator | 10/25/17 8:16 | | Firearms and Tactics | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Fentanyl | 6/20/18 20:15 | | Awareness | 0.08 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Fentanyl | 7/18/17 12:25 | | Awareness | 0.08 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Handgun Firearms Training FTC - 2017-07 | 8/1/17 7:20 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Gang Awareness Training | 5/26/16 | | Investigations | 8 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Supervising High Risk Warrants | 4/20/16 | | Leadership/Ethics | 24 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Auxiliary Firearms Instructor | 1/19/18 | | Firearms and Tactics | 10 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Auxiliary Firearms Instructor | 5/4/17 | | Firearms and Tactics | 10 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Train the Trainer | 10/21/16 | | Firearms and Tactics | 1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Administrative Investigations & the Interview Process | 7/11/17 | | Policy/Legal | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Less Lethal Instructor Course | 8/19/17 16:00 | | Firearms and Tactics | 16 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | On and Off Duty Handgun Training FTC - 2017-08 | 9/5/17 9:31 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Patrol Rifle and Handgun Training FTC - 2017-09 | 11/1/17 12:01 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Lateral Head Displacement | 10/3/17 19:08 | | Defensive Tactics | 0.1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Two Officer Takedown | 11/27/17 19:36 | | Defensive Tactics | 0.07 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Sexual Harassment Prevention for Supervisors AB 1825 | 11/13/17 | | Leadership/Ethics | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Body Worn Camera Training - SAPD | 9/5/17 | | Policy/Legal | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Handgun Manipulations 2017-11 FTC | 12/1/17 9:59 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Contemporary Issues | 11/8/17 | | Investigations | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Critical Legal Issues Update | 11/15/17 | | Policy/Legal | 7 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | 2017 New Pursuit Policy Update - Supervisor | 12/19/17 | | Driver Training | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Weapons Inspection 2017-12 FTC | 1/31/18 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Close Contact / Weapon Retention - FTC - 2017-02 | 3/1/17 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | AR-15 Rifle Malfunctions/Cover/Concealment - FTC - 2017-03 | 4/1/17 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | DDM4V7 Rifle feedway stoppage clearance FTC - 2017-04 | 5/1/17 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Tactical Debrief | 12/11/17 | | Firearms and Tactics | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | LA CLEAR Overview and WC Orientation | 11/18/18 | | Investigations | 3 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Supervisor Leadership Institute of Law Enforcement - FBI LEEDA | 12/6/19 | | Leadership/Ethics | 28 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Handgun and Rifle Training FTC - 2018-02 | 3/1/18 8:25 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Transgender Community LGBT | 9/30/19 9:03 | | Awareness | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Transgender Community LGBT | 10/8/18 15:41 | | Awareness | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Driver Awareness - Slow Speed Driving | 10/8/18 15:41 | | Driver Training | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Re-Certification | 9/30/19 9:03 | | Firearms and Tactics | 1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Re-Certification | 10/8/18 15:41 | | Firearms and Tactics | 1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Taser Re-Certification | 9/30/19 9:03 | | Firearms and Tactics | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Taser Re-Certification | 10/8/18 15:41 | | Firearms and Tactics | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | OC Spray Re-Certification | 9/30/19 9:03 | | Firearms and Tactics | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | OC Spray Re-Certification | 10/8/18 15:41 | | Firearms and Tactics | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Handgun Firearms Training - FTC - 2018-04 | 5/1/18 15:52 | | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Shotgun Training - 2018-03 | 4/3/18 15:13 | | Firearms Qualifications | 0.5 |

| | | | | | | | | |
|-------|-----------|-----|-----------------|-------------------|---|----------------|-------------------------|------|
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-05 | 6/5/18 12:13 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Immigration Violations | 6/20/18 20:23 | Policy/Legal | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-06 | 7/3/18 9:57 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Weapons Training and Breaching Fundamentals | 5/30/18 | Firearms and Tactics | 5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Gangs 101 and Prison Gangs | 6/14/18 | Investigations | 8 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Tactical Seatbelt - Course DRT-V00004 | 8/3/18 13:47 | Awareness | 0.1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Handgun Manipulations 2018-07 FTC | 8/1/18 8:07 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Transition from Taser to Handgun Escalation 2018-08 FTC | 9/4/18 16:34 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Counterfeit Currency | 8/25/18 1:05 | Investigations | 0.15 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | SHO, WHO, Two hand Shooting 2018-09 FTC | 10/24/18 15:48 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-10 | 10/24/18 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-11 | 11/28/18 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-02 | 2/20/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-03 | 3/22/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-04 | 4/17/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun Training - FTC 2019-05 | 5/22/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-06 | 6/11/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Bullet Proof Mind | 8/20/18 | Other/Miscellaneous | 16 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Las Vegas Shooting Debrief | 8/28/18 | Awareness | 4 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Ballistic Plates and Carriers | 3/11/19 12:18 | Health and Safety | 0.05 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Civil Liability Update | 1/30/19 | Policy/Legal | 24 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Vehicle Pursuit Policy (WEB) | 9/30/19 9:03 | Other/Miscellaneous | 2 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Car Stops | 9/30/19 9:03 | Awareness | |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | AB 392 UOF Training Video | 1/16/20 9:15 | Awareness | 0 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Naloxone | 1/27/20 | Other/Miscellaneous | 1 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Oversized Vehicle Ordinance | 1/29/20 | Traffic | |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Oversized Vehicle Ordinance | 1/27/20 | Traffic | |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Taser 7 | 6/9/20 7:51 | Defensive Tactics | 0 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | BolaWrap | 6/9/20 7:47 | Defensive Tactics | |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-07 | 7/30/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-08 | 8/15/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-09 | 9/10/19 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-10 | 10/10/19 | Firearms Qualifications | 1.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | FTC-02-20 | 2/5/20 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | FTC-2019-11 | 1/29/20 | Firearms Qualifications | 0.5 |
| P2901 | Hernandez | Gil | Police Sergeant | Police Department | Trauma Informed Care | 8/3/20 14:46 | Awareness | 0.5 |

Santa Ana Police Department
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Person: Gilbert Hernandez

Personal

Agency: Santa Ana Police Department
ID #: 2901

Employment

| <u>Property</u> | <u>Value</u> | <u>From</u> | <u>Through</u> |
|-----------------------|----------------------|-------------|----------------|
| Active Status: | Active | 10/13/2003 | // |
| Duty Status: | Full Duty | // | // |
| Time Status: | Full Time | // | // |
| Rank: | Corporal | 02/02/2011 | // |
| Work Unit: | Patrol Bureau | // | // |
| Station: | Headquarters Station | // | // |
| Division: | | // | // |

Scheduled Training In: 2016

| <u>TMS #</u> | <u>Ended</u> | <u>Subject</u> | <u>Certification</u> | <u>Compl.</u> | <u>Grade</u> | <u>Score</u> | <u>Tng. Time</u> |
|--------------|--------------|-----------------------------|----------------------|---------------|--------------|--------------|------------------|
| - 1-3946 | 07/13/2016 | Mobile Field Force Training | *** None *** | ✓ | P | | 01:00 |
| - 1-3680 | 06/28/2016 | First Aid / Cpr | *** None *** | ✓ | P | | 08:00 |
| - 1-3680 | 06/28/2016 | Arrest and Control | *** None *** | ✓ | P | | 04:00 |
| - 1-3680 | 06/28/2016 | Pursuit Policy Update | *** None *** | ✓ | P | | 01:00 |
| - 1-3680 | 06/28/2016 | Domestic Violence Update | *** None *** | ✓ | P | | 01:00 |
| - 1-3680 | 06/28/2016 | Bloodborne Pathogens Safety | *** None *** | ✓ | P | | 00:20 |

Totals For Training Completed in: 2016 Completed 6 of 6 Modules 15:20

Scheduled Training In: 2015

| <u>TMS #</u> | <u>Ended</u> | <u>Subject</u> | <u>Certification</u> | <u>Compl.</u> | <u>Grade</u> | <u>Score</u> | <u>Tng. Time</u> |
|--------------|--------------|---|----------------------|---------------|--------------|--------------|------------------|
| - 1-3717 | 12/17/2015 | Swat Team Leader Training | *** None *** | ✓ | P | | 10:00 |
| - 1-3618 | 10/07/2015 | OC Mexican Mafia Training | *** None *** | ✓ | P | | 04:00 |
| - 1-1601 | 09/24/2015 | Cato Tactical Conference | *** None *** | ✓ | P | | 32:00 |
| - 1-3594 | 08/13/2015 | SWAT Training | *** None *** | ✓ | P | | 10:00 |
| - 1-3542 | 08/12/2015 | Driver Simulator / SB 719 Pursuit Policy Update | *** None *** | ✓ | P | | 04:00 |
| - 1-3542 | 08/12/2015 | Force Options | *** None *** | ✓ | P | | 04:00 |
| - 1-3542 | 08/12/2015 | LGBT | *** None *** | ✓ | P | | 02:00 |
| - 1-3542 | 08/12/2015 | Tactical Communications | *** None *** | ✓ | P | | 02:00 |
| - 1-3542 | 08/12/2015 | Bloodborne Pathogens Safety | *** None *** | ✓ | P | | 01:00 |
| - 1-3599 | 07/09/2015 | Theater Assaults | *** None *** | ✓ | P | | 06:00 |
| - 1-3598 | 07/09/2015 | Ballistic Shields | *** None *** | ✓ | P | | 01:30 |
| - 1-3555 | 06/03/2015 | Swat Team Leader Course | *** None *** | ✓ | P | | 08:00 |
| - 1-3501 | 05/27/2015 | Topics of Concern | *** None *** | ✓ | P | | 01:30 |
| - 1-3501 | 05/27/2015 | Blue Team | *** None *** | ✓ | P | | 01:30 |
| - 1-3501 | 05/27/2015 | AB 301/ Right to Representation | *** None *** | ✓ | P | | 01:00 |



Santa Ana Police Department
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Person: **Gilbert Hernandez** (Continued)

Scheduled Training In: 2015 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|---------------|--------|-------|-------|-----------|
| - 1-3501 | 05/27/2015 | Administrative Report Writing | *** None *** | ✓ | P | | 01:00 |
| - 1-3501 | 05/27/2015 | Sergeant Discussion | *** None *** | ✓ | P | | 01:00 |
| - 1-3501 | 05/27/2015 | Field Training Program | *** None *** | ✓ | P | | 01:00 |
| - 1-3501 | 05/27/2015 | DV and Child Abuse Field Investigations | *** None *** | ✓ | P | | 01:00 |
| - 1-3501 | 05/27/2015 | Stress Management | *** None *** | ✓ | P | | 01:00 |
| - 1-3501 | 05/27/2015 | Uniformity when Using WIKI | *** None *** | ✓ | P | | 01:00 |
| - 1-3469 | 03/23/2015 | Auxiliary Firearms Instructor Training | *** None *** | ✓ | P | | 10:00 |

Totals For Training Completed in: 2015 Completed 22 of 22 Modules 104:30

Scheduled Training In: 2014

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|------------------|--------|-------|-------|-----------|
| - 1-3407 | 12/03/2014 | Canine Liability for Handlers and Supervisors | *** None *** | ✓ | P | | 08:00 |
| - 1-3329 | 11/12/2014 | Auxiliary Firearms Instructor Training | *** None *** | ✓ | P | | 09:00 |
| - 1-3332 | 10/31/2014 | POST Supervisory Course | *** None *** | ✓ | P | | 80:00 |
| - 1-3474 | 09/08/2014 | Perimeter Containment/ Foot Pursuit Protocols 2014-T1-1-1 | *** None *** | ✓ | P | | 02:00 |
| - 1-3225 | 06/09/2014 | First Aid/ Cpr | CA-POST - -13 | ✓ | P | | 08:00 |
| - 1-3225 | 06/09/2014 | Arrest and Control | CA-POST - -13 | ✓ | P | | 04:00 |
| - 1-3225 | 06/09/2014 | Less Lethal Recertification | CA-POST - -13 | ✓ | P | | 01:00 |
| - 1-3225 | 06/09/2014 | Bloodborne Pathogens Safety | CA-POST - -13 | ✓ | P | | 01:00 |
| - 1-3225 | 06/09/2014 | Driver Awareness Update | CA-POST - -13 | ✓ | P | | 01:00 |
| - 1-3225 | 06/09/2014 | Mental Illness | CA-POST - -13 | ✓ | P | | 00:30 |
| - 1-3225 | 06/09/2014 | Domestic Violence | CA-POST - -13 | ✓ | P | | 00:30 |

Totals For Training Completed in: 2014 Completed 11 of 11 Modules 115:00

Scheduled Training In: 2013

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|------------------|---------------|--------|-------|-------|-----------|
| - 1-3112 | 12/19/2013 | Driver Simulator | *** None *** | ✓ | P | | 04:00 |



**Santa Ana Police Department
Individual Training Activity**

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Person: Gilbert Hernandez (Continued)

Scheduled Training In: 2013 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|----------------------------------|---------------|--------|-------|-------|-----------|
| - 1-3112 | 12/19/2013 | Force Options Simulator | *** None *** | ✓ | | P | 04:00 |
| - 1-3112 | 12/19/2013 | Racial Profiling | *** None *** | | | | 02:00 |
| - 1-3112 | 12/19/2013 | Tactical Communications | *** None *** | ✓ | | P | 02:00 |
| - 1-3095 | 10/23/2013 | Auxiliary Rangemasters | *** None *** | ✓ | | P | 10:00 |
| - 1-2983 | 06/20/2013 | Canine Liability for Swat | *** None *** | ✓ | | P | 16:00 |
| - 1-2780 | 01/17/2013 | Clets Less Than Full Access Exam | *** None *** | ✓ | | P | 01:00 |

Totals For Training Completed in: 2013 Completed 6 of 7 Modules **39:00**

Scheduled Training In: 2012

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|-----------------------------|--------|-------|-------|-----------|
| - 1-2733 | 10/25/2012 | Tactical Emergency Casualty Care for Le | CA-POST | ✓ | | P | 09:00 |
| - 1-2664 | 09/28/2012 | Firearms Instructor Course | CA-POST | ✓ | | P | 40:00 |
| - 1-2621 | 08/24/2012 | Swat Team Leader Course | CA-POST 1185-23030-12001 | ✓ | | P | 40:00 |
| - 1-2360 | 04/06/2012 | Active Bombers | CA-POST | ✓ | | P | 24:00 |

Totals For Training Completed in: 2012 Completed 4 of 4 Modules **113:00**

Scheduled Training In: 2011

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|-----------------------------|--------|-------|-------|-----------|
| - 1-2180 | 11/16/2011 | Parole Leads Training | CA-POST | ✓ | | P | 03:00 |
| - 1-2143 | 11/04/2011 | Sexual Harassment for Supervisors | *** None *** | ✓ | | P | 02:00 |
| - 1-2136 | 10/05/2011 | High Profile Homicides | CA-POST 1225-31924-11001 | ✓ | | P | 08:00 |
| - 1-2066 | 08/16/2011 | Pursuit Policy Update | *** None *** | ✓ | | P | 01:00 |
| - 1-2068 | 08/16/2011 | Arstctl | CA-POST 2490-29503-11003 | ✓ | | P | 06:00 |
| - 1-2069 | 08/16/2011 | First Aid / Cpr | CA-POST 9180-25559-11 | ✓ | | P | 12:00 |
| - 1-1923 | 06/10/2011 | Tactical Science | CA-POST 1237-30860-10002 | ✓ | | P | 40:00 |
| - 1-1722 | 04/05/2011 | Driver Training Simulator | CA-POST 2490-20985-10026 | ✓ | | P | 04:00 |
| - 1-1723 | 04/05/2011 | Force Option-Simulator | CA-POST 2490-21065-10032 | ✓ | | P | 04:00 |
| - 1-1724 | 04/05/2011 | Tactical Communications (Psp) | CA-POST | ✓ | | P | 02:00 |
| - 1-1613 | 01/19/2011 | Immediate Action Teams - School Setting | *** None *** | ✓ | | P | 30:00 |

Totals For Training Completed in: 2011 Completed 11 of 11 Modules **112:00**



Santa Ana Police Department
Individual Training Activity

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Person: Gilbert Hernandez (Continued)

Scheduled Training In: 2010

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|--|---------------|--------|-------|-------|-----------|
| - 1-1486 | 10/08/2010 | Active Shooter Response Instructor Cours | CA-POST | ✓ | P | | 32:00 |
| - 1-1382 | 04/23/2010 | Force Options Simulator | CA-POST | ✓ | P | | 04:00 |
| - 1-1383 | 04/23/2010 | Driver Training Simulator | CA-POST | ✓ | P | | 04:00 |
| - 1-1390 | 04/22/2010 | Tactical Communications (Psp) | *** None *** | ✓ | P | | 02:00 |
| - 1-1391 | 04/22/2010 | Arrest and Control (Psp) | CA-POST | ✓ | P | | 06:00 |
| - 1-1388 | 04/21/2010 | Tactical Principals | *** None *** | ✓ | P | | 04:00 |
| - 1-1389 | 04/21/2010 | First Aid / Cpr | *** None *** | ✓ | P | | 06:00 |

Totals For Training Completed in: 2010 Completed 7 of 7 Modules **58:00**

Scheduled Training In: 2009

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 1-0803 | 10/29/2009 | Sb 719 Pursuit Policy Training | *** None *** | ✓ | P | | 01:00 |
| - 1-0363 | 06/11/2009 | Respiratory Fit Test-Inspection-Training | *** None *** | ✓ | P | | 01:00 |
| - 1-0311 | 05/15/2009 | Swat Counter Terrorism Operations | *** None *** | ✓ | P | | 32:00 |
| - 1-0197 | 03/19/2009 | Advanced Gang Investigation | CA-POST 2490-23181-08002 | ✓ | P | | 24:00 |

Totals For Training Completed in: 2009 Completed 4 of 4 Modules **58:00**

Scheduled Training In: 2008

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 1-0018 | 11/07/2008 | Tactical Communications (Psp) | CA-POST 2490-29504-08010 | ✓ | P | | 02:00 |
| - 1-0019 | 11/07/2008 | Arrest and Control (Psp) | CA-POST 2490-29503-08010 | ✓ | P | | 06:00 |
| - 1-0016 | 11/06/2008 | Driver Training Simulator | CA-POST 2490-20985-08010 | ✓ | P | | 04:00 |
| - 1-0017 | 11/06/2008 | Force Option-Simulator | CA-POST 2490-21065-08010 | ✓ | P | | 04:00 |
| - 1-0015 | 11/05/2008 | First Aid/Cpr Refresher | CA-POST 2490-21771-08005 | ✓ | P | | 08:00 |
| - 1-2782 | 09/30/2008 | Clets Less Than Full Access Exam | *** None *** | ✓ | P | | 01:00 |
| - -9922 | 09/25/2008 | Taser Instructor Course | *** None *** | ✓ | P | | 16:00 |
| - -9981 | 06/05/2008 | Respiratory Fit Test-Inspection-Training | *** None *** | ✓ | P | | 01:00 |
| - -9570 | 02/21/2008 | Explosive Booby Trap | CA-POST 2060-30091-07001 | ✓ | P | | 04:00 |

Totals For Training Completed in: 2008 Completed 9 of 9 Modules **46:00**

Santa Ana Police Department
Individual Training Activity



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Person: **Gilbert Hernandez** (Continued)

Scheduled Training In: 2007

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 9108 | 08/30/2007 | X26 Taser Re-Certification | *** None *** | ✓ | P | | 04:00 |
| - 8936 | 07/21/2007 | Incident Command System | *** None *** | ✓ | P | | 24:00 |
| - 8935 | 07/17/2007 | Wmd Hands-On-Training Course | *** None *** | ✓ | P | | 16:00 |
| - 8689 | 05/11/2007 | Act 12.1 | CA-POST 2490-29503-06019 | ✓ | P | | 06:00 |
| - 8688 | 05/11/2007 | Tactical Communications | CA-POST 2490-29504-06018 | ✓ | P | | 02:00 |
| - 8603 | 05/10/2007 | Driver Simulator | CA-POST 2490-20985-06018 | ✓ | P | | 04:00 |
| - 8687 | 05/10/2007 | Force Options | CA-POST 2490-21065-06018 | ✓ | P | | 04:00 |
| - 8686 | 05/09/2007 | First Aid/Cpr | CA-POST 2490-21771-06009 | ✓ | P | | 08:00 |
| - 8379 | 02/23/2007 | IS-100 Introduction To Nims | *** None *** | ✓ | P | | 02:00 |
| - 8380 | 02/23/2007 | IS-700 Introduction To Nims | *** None *** | ✓ | P | | 02:00 |

Totals For Training Completed in: 2007 Completed 10 of 10 Modules 72:00

Scheduled Training In: 2006

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|---------------|--------|-------|-------|-----------|
| - 8173 | 11/15/2006 | Chemical Atents of Opportunity for Terro | *** None *** | ✓ | P | | 08:00 |
| - 7726 | 07/13/2006 | M26 Advanced Taser & Taser X26 | *** None *** | ✓ | P | | 16:00 |
| - 7728 | 05/24/2006 | Fit Testing -Size 2 | *** None *** | ✓ | P | | 00:30 |
| - 7511 | 04/24/2006 | X26 Taser Certification | *** None *** | ✓ | P | | 04:00 |

Totals For Training Completed in: 2006 Completed 4 of 4 Modules 28:30

Scheduled Training In: 2005

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 7128 | 12/01/2005 | Basic Search Warrants | CA-POST 2490-29900-05013 | ✓ | P | | 08:00 |
| - 7092 | 10/26/2005 | Parole Leads | *** None *** | ✓ | P | | 08:00 |
| - 7086 | 10/07/2005 | Special Weapons and Tactics Basic Academ | CA-POST | ✓ | P | | 80:00 |
| - 7012 | 08/12/2005 | Police Tactical Operations-Cbrne | *** None *** | ✓ | P | | 40:00 |
| - 6759 | 05/18/2005 | Cal/Gang Training | *** None *** | ✓ | P | | 08:00 |
| - 6989 | 05/01/2005 | Clets Less Than Full Access Proficiency | *** None *** | ✓ | P | | 01:00 |
| - 6712 | 04/20/2005 | Community Oriented Policing | CA-POST | ✓ | P | | 08:00 |

Santa Ana Police Department
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Person: **Gilbert Hernandez** (Continued)

Scheduled Training In: 2005 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - -6705 | 04/13/2005 | Arrest & Control Techniques | CA-POST 2490-29503-04018 | ✓ | P | | 08:00 |
| - -6637 | 03/16/2005 | Emergency Response To Terrorism Incident | CA-POST 2060-20103-04063 | ✓ | P | | 16:00 |

Totals For Training Completed in: 2005 Completed 9 of 9 Modules 177:00

Scheduled Training In: 2004

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|--------------------------------|---------------|--------|-------|-------|-----------|
| - -6461 | 10/22/2004 | Street Gangs and Sub-Cultures | CA-POST | ✓ | P | | 40:00 |
| - -6430 | 10/13/2004 | Investigative Gang Suppression | CA-POST | ✓ | P | | 08:00 |
| - -6347 | 09/29/2004 | Mobile Field Force Training | CA-POST | ✓ | P | | 08:00 |
| - -6101 | 05/05/2004 | First Aid | CA-POST | ✓ | P | | 04:00 |
| - -6102 | 05/05/2004 | Cpr | CA-POST | ✓ | P | | 04:00 |
| - -6062 | 05/04/2004 | Force Options Simulator | CA-POST | ✓ | P | | 04:00 |
| - -6063 | 05/04/2004 | Officer Safety | CA-POST | ✓ | P | | 02:00 |
| - -6064 | 05/04/2004 | Tactical Communications | CA-POST | ✓ | P | | 02:00 |
| - -6065 | 05/03/2004 | Ac 12.1 Psp Arrest & Control | CA-POST | ✓ | P | | 04:00 |
| - -6066 | 05/03/2004 | Driver Training Simulator | CA-POST | ✓ | P | | 04:00 |

Totals For Training Completed in: 2004 Completed 10 of 10 Modules 80:00

Scheduled Training In: 2003

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|-------------------------------------|---------------|--------|-------|-------|-----------|
| - -5772 | 10/17/2003 | Ac 12.1 Psp Arrest & Control | CA-POST | ✓ | P | | 04:00 |
| - -5771 | 10/17/2003 | Ac 8.2 Expandable Baton Update | *** None *** | ✓ | P | | 00:30 |
| - -5770 | 10/17/2003 | Ac 13.1 Restraint/Positional Update | *** None *** | ✓ | P | | 00:30 |
| - -5769 | 10/17/2003 | Ac 11.2 Chemical Agent | *** None *** | ✓ | P | | 00:30 |

Totals For Training Completed in: 2003 Completed 4 of 4 Modules 05:30

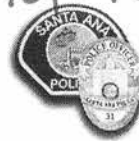
Totals For: Gilbert Hernandez Completed 117 of 118 Modules 1,023:50

M. MACCHIAROLI TRAINING RECORD PMS

| Username | Last Name | First Name | Job Title | Location | Certificate Name | Awarded Date | Expiration Date | Certificate Type | Credit Hours |
|----------|-------------|------------|-----------------|-------------------|--|----------------|-----------------|-------------------------|--------------|
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | POST Distracted Driver Video | 10/14/17 22:37 | | Driver Training | 0.1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Shooting at Moving Vehicles | 5/20/17 20:15 | | Firearms and Tactics | 0.15 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Cover and Concealment FTC - 2017-01 | 2/1/17 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | CLETS | 4/19/19 | 4/19/21 | Policy/Legal | 0 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Gas Mask Fit Testing | 10/1/19 10:45 | 10/1/20 10:45 | Health and Safety | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Gas Mask Fit Testing | 9/27/18 16:51 | 9/27/19 16:51 | Health and Safety | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Gas Mask Fit Testing | 9/29/17 | 9/29/18 | Health and Safety | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Mandatory Training (First Aid Update/Mobile CAD/Biased Based Policing) | 3/8/17 18:00 | | Mandatory Training | 6 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | OC Needle Exchange Program | 1/18/17 | | Awareness | 0 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | POST Supervisory Course | 6/23/17 18:00 | | Leadership/Ethics | 80 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | ACT - Defensive Tactics ARSTCTL (PSP) | 10/1/19 10:45 | | Defensive Tactics | 4 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | ACT - Defensive Tactics ARSTCTL (PSP) | 9/27/18 16:51 | | Defensive Tactics | 4 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Domestic Violence Update | 9/27/18 16:51 | | Investigations | 1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Sergeants Training | 4/5/17 18:00 | | Leadership/Ethics | 9 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Bloodborne Pathogens | 10/1/19 10:45 | | Awareness | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Bloodborne Pathogens | 9/27/18 16:51 | | Awareness | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Bloodborne Pathogens | 7/19/17 | | Awareness | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Laura's Law | 8/13/17 23:03 | | Policy/Legal | 0.7 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Decision making - MILO - FTC - 2017-05 | 5/28/17 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | CalGang Proxy Login Search Training | 8/13/17 23:02 | | Investigations | 0.1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Supervisory Certificate | 7/19/19 | | POST Certificates | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Tactical Communication | 10/1/19 10:45 | | Communications | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Tactical Communication | 7/19/17 | | Communications | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Driving Simulator Course | 7/19/17 | | Driver Training | 4 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Force Option Simulator | 6/9/20 7:43 | | Firearms and Tactics | 4 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Force Option Simulator | 7/19/17 | | Firearms and Tactics | 4 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Fentanyl | 6/21/18 7:22 | | Awareness | 0.08 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Fentanyl | 8/13/17 23:08 | | Awareness | 0.08 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Handgun Firearms Training FTC - 2017-07 | 8/1/17 7:20 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Administrative Investigations & the Interview Process | 7/13/17 | | Policy/Legal | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Internal Affairs | 10/18/17 | | Investigations | 24 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | On and Off Duty Handgun Training FTC - 2017-08 | 9/5/17 9:31 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Patrol Rifle and Handgun Training FTC - 2017-09 | 11/1/17 12:01 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Lateral Head Displacement | 10/14/17 23:26 | | Defensive Tactics | 0.1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Ford Interceptor SUV Training | 9/25/17 | | Driver Training | 0.25 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Two Officer Takedown | 10/14/17 23:30 | | Defensive Tactics | 0.07 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Concealed Carry Weapon Licensing (CCW) | 9/15/17 | | Firearms and Tactics | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Sexual Harassment Prevention for Supervisors AB 1825 | 10/31/17 | | Leadership/Ethics | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Body Worn Camera Training - SAPD | 8/29/17 | | Policy/Legal | 4 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Naloxone Kit Distribution Test | 10/23/17 | | Health and Safety | 1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Naloxone Kit Distribution Confirmation | 10/23/17 | 7/1/19 | Health and Safety | 0 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Handgun Manipulations 2017-11 FTC | 12/1/17 9:59 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Officer Involved Shooting OIS Investigations | 5/11/18 | | Investigations | 40 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | 2017 New Pursuit Policy Update - Supervisor | 12/9/17 | | Driver Training | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Weapons Inspection 2017-12 FTC | 1/31/18 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Close Contact / Weapon Retention - FTC - 2017-02 | 3/1/17 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | AR-15 Rifle Malfunctions/Cover/Concealment - FTC - 2017-03 | 4/1/17 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | DDM4V7 Rifle feedway stoppage clearance FTC - 2017-04 | 5/1/17 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Handgun and Rifle Training FTC - 2018-02 | 3/1/18 8:25 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | First Aid CPR Update | 1/25/18 | 1/25/20 | Health and Safety | 8 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Transgender Community LGBT | 10/1/19 10:45 | | Awareness | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Transgender Community LGBT | 9/27/18 16:51 | | Awareness | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Driver Awareness - Slow Speed Driving | 9/27/18 16:51 | | Driver Training | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Re-Certification | 10/1/19 10:45 | | Firearms and Tactics | 1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | 40 MM Less Lethal Launcher Re-Certification | 9/27/18 16:51 | | Firearms and Tactics | 1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Taser Re-Certification | 10/1/19 10:45 | | Firearms and Tactics | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Taser Re-Certification | 9/27/18 16:51 | | Firearms and Tactics | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | OC Spray Re-Certification | 10/1/19 10:45 | | Firearms and Tactics | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | OC Spray Re-Certification | 9/27/18 16:51 | | Firearms and Tactics | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Handgun Firearms Training - FTC - 2018-04 | 5/1/18 15:52 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Shotgun Training - 2018-03 | 4/3/18 15:13 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-05 | 6/5/18 12:13 | | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Immigration Violations | 6/12/18 7:48 | | Policy/Legal | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-06 | 7/3/18 9:57 | | Firearms Qualifications | 0.5 |

2015

| | | | | | | | | |
|-------|-------------|----------|-----------------|-------------------|---|----------------|-------------------------|------|
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Principled Policing | 6/12/18 | Policy/Legal | 8 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | RIPP HOBBLE - Max Restraint Technique | 5/25/18 | Firearms and Tactics | 1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Tactical Seatbelt - Course DRT-V00004 | 7/26/18 8:08 | Awareness | 0.1 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Handgun Manipulations 2018-07 FTC | 8/1/18 8:07 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Transition from Taser to Handgun Escalation 2018-08 FTC | 9/4/18 16:34 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Counterfeit Currency | 8/22/18 8:34 | Investigations | 0.15 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | SHO, WHO, Two hand Shooting 2018-09 FTC | 10/24/18 15:48 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-10 | 10/25/18 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2018-11 | 11/30/18 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-02 | 2/28/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-03 | 3/28/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-04 | 4/26/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun Training - FTC 2019-05 | 5/23/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-06 | 6/27/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Ballistic Plates and Carriers | 3/11/19 7:42 | Health and Safety | 0.05 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Force Science Certification | 5/10/19 | Investigations | 40 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Vehicle Pursuit Policy (WEB) | 10/1/19 10:45 | Other/Miscellaneous | 2 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Car Stops | 10/1/19 10:45 | Awareness | |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | AB 392 UOF Training Video | 1/22/20 12:54 | Awareness | 0 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Taser 7 | 6/9/20 7:51 | Defensive Tactics | 0 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | BolaWrap | 6/9/20 7:47 | Defensive Tactics | |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-07 | 7/25/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-08 | 8/21/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-09 | 9/26/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Rifle and Handgun - FTC - 2019-10 | 10/23/19 | Firearms Qualifications | 1.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | FTC-02-20 | 2/20/20 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | FTC-2019-11 | 12/26/19 | Firearms Qualifications | 0.5 |
| P2704 | Macchiaroli | Michelle | Police Sergeant | Police Department | Trauma Informed Care | 7/30/20 12:14 | Awareness | 0.5 |



Santa Ana Police Department
Individual Training Activity

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Person: **Michelle Macchiaroli**

Personal

Agency: Santa Ana Police Department
ID #: 2704

Employment

| <u>Property</u> | <u>Value</u> | <u>From</u> | <u>Through</u> |
|-----------------------|----------------------|-------------|----------------|
| Active Status: | Active | 02/14/2000 | // |
| Duty Status: | Full Duty | // | // |
| Time Status: | Full Time | // | // |
| Rank: | Police Officer | 02/14/2000 | // |
| Work Unit: | Unknown / Not Listed | // | // |
| Station: | Headquarters Station | // | // |
| Division: | | // | // |

Scheduled Training In: 2016

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|------------------|--------|-------|-------|-----------|
| - 1-3953 | 08/16/2016 | Ambush / Counter Ambush | *** None *** | ✓ | P | | 00:30 |
| - 1-3945 | 07/12/2016 | Mobile Field Force Training | *** None *** | ✓ | P | | 01:00 |
| - 1-3680 | 06/28/2016 | First Aid / Cpr | *** None *** | ✓ | P | | 08:00 |
| - 1-3680 | 06/28/2016 | Arrest and Control | *** None *** | ✓ | P | | 04:00 |
| - 1-3680 | 06/28/2016 | Pursuit Policy Update | *** None *** | ✓ | P | | 01:00 |
| - 1-3680 | 06/28/2016 | Domestic Violence Update | *** None *** | ✓ | P | | 01:00 |
| - 1-3680 | 06/28/2016 | Bloodborne Pathogens Safety | *** None *** | ✓ | P | | 00:20 |
| - 1-3634 | 06/22/2016 | Respiratory Gas Mask Fit Testing | *** None *** | ✓ | P | | 00:20 |
| - 1-3634 | 06/22/2016 | Chemical Suit Training | *** None *** | ✓ | P | | 00:20 |
| - 1-3881 | 05/12/2016 | Patrol Rifle Course | CA-POST - -15 | ✓ | P | | 24:00 |
| - 1-3864 | 05/03/2016 | Officer Involved Shootings for the Field Supervisor | *** None *** | ✓ | P | | 16:00 |
| - 1-3891 | 04/20/2016 | Mental Illness/Centralized Assessment Team | *** None *** | ✓ | P | | 00:30 |
| - -9734 | 04/07/2016 | Assertive Supervision Workshop | *** None *** | ✓ | P | | 24:00 |
| - 1-3780 | 03/04/2016 | FTO Update Course | *** None *** | ✓ | P | | 24:00 |

Totals For Training Completed in: 2016 Completed 14 of 14 Modules 105:00

Scheduled Training In: 2015

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|---------------|--------|-------|-------|-----------|
| - 1-3441 | 03/18/2015 | Driver Simulator / SB 719 Pursuit Policy Update | *** None *** | ✓ | P | | 04:00 |
| - 1-3441 | 03/18/2015 | Force Options Simulator | *** None *** | ✓ | P | | 04:00 |
| - 1-3441 | 03/18/2015 | LGBT | *** None *** | ✓ | P | | 02:00 |
| - 1-3441 | 03/18/2015 | Taccomm (Psp) | *** None *** | ✓ | P | | 02:00 |
| - 1-3441 | 03/18/2015 | Bloodborne Pathogens Safety | *** None *** | ✓ | P | | 01:00 |

Totals For Training Completed in: 2015 Completed 5 of 5 Modules 13:00

Santa Ana Police Department
Individual Training Activity



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Person: **Michelle Macchiaroli** (Continued)

Scheduled Training In: 2013

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|----------------------------------|--------------------------|--------|-------|-------|-----------|
| - 1-2780 | 01/17/2013 | Clets Less Than Full Access Exam | *** None *** | ✓ | | P | 01:00 |
| Totals For Training Completed in: 2013 | | | Completed 1 of 1 Modules | | | | 01:00 |

Scheduled Training In: 2012

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|---------------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 1-2651 | 10/08/2012 | Arstctl (Psp) | CA-POST 2490-29503-12013 | ✓ | | P | 06:00 |
| - 1-2652 | 10/08/2012 | First Aid-Cpr | *** None *** | ✓ | | P | 12:00 |
| - 1-2266 | 02/09/2012 | Interview & Interrogation for Murders | *** None *** | ✓ | | P | 08:00 |
| Totals For Training Completed in: 2012 | | | Completed 3 of 3 Modules | | | | 26:00 |

Scheduled Training In: 2011

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|-------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 1-2077 | 08/24/2011 | Pursuit Policy Update | *** None *** | ✓ | | P | 01:00 |
| - 1-2082 | 08/24/2011 | Arstctl | CA-POST 2490-20953-11008 | ✓ | | P | 06:00 |
| - 1-2083 | 08/24/2011 | First Aid/Cpr | CA-POST 9180-25559-11 | ✓ | | P | 12:00 |
| - 1-1801 | 05/11/2011 | Driver Simulator | CA-POST 2490-20985-10 | ✓ | | P | 04:00 |
| - 1-1802 | 05/11/2011 | Force Option-Simulator | CA-POST 2490-21065-10 | ✓ | | P | 04:00 |
| - 1-1803 | 05/11/2011 | Tactical Communications (Psp) | CA-POST | ✓ | | P | 02:00 |
| Totals For Training Completed in: 2011 | | | Completed 6 of 6 Modules | | | | 29:00 |

Scheduled Training In: 2010

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|--|--------------------------|--------|-------|-------|-----------|
| - 1-1201 | 05/27/2010 | Gang Awareness Training | *** None *** | ✓ | | P | 08:00 |
| - 1-1126 | 01/13/2010 | Rapid Deployment for the First Responder | CA-POST | ✓ | | P | 09:00 |
| Totals For Training Completed in: 2010 | | | Completed 2 of 2 Modules | | | | 17:00 |

Scheduled Training In: 2009

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|-------------------------|---------------|--------|-------|-------|-----------|
| - 1-0752 | 09/23/2009 | Pursuit Policy Update | *** None *** | ✓ | | P | 01:00 |
| - 1-0637 | 08/08/2009 | Administrative Citation | *** None *** | ✓ | | P | 01:00 |

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Person: **Michelle Macchiaroli** (Continued)

Scheduled Training In: 2009 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|----------|------------|---|-----------------------------|--------|-------|-------|-----------|
| - 1-0576 | 07/24/2009 | Street Gang Training | CA-POST | ✓ | P | | 28:00 |
| - 1-0433 | 06/25/2009 | Respiratory Fit Test-Inspection-Training | *** None *** | ✓ | P | | 01:00 |
| - 1-0304 | 05/08/2009 | Driver Training Simulator | CA-POST 2490-20985-08018 | ✓ | P | | 04:00 |
| - 1-0305 | 05/08/2009 | Force Option-Simulator | CA-POST 2490-21065-08018 | ✓ | P | | 04:00 |
| - 1-0302 | 05/07/2009 | Tactical Communications (Psp) | CA-POST | ✓ | P | | 02:00 |
| - 1-0303 | 05/07/2009 | Arrest and Control (Psp) | CA-POST 2490-29503-08019 | ✓ | P | | 06:00 |
| - 1-0301 | 05/06/2009 | First Aid/Cpr Refresher | CA-POST | ✓ | P | | 08:00 |
| - 1-0269 | 04/15/2009 | Mobile Field Force | *** None *** | ✓ | P | | 01:00 |
| - 1-0227 | 03/26/2009 | Marsy's Law Training | *** None *** | ✓ | P | | 01:00 |
| - 1-0120 | 01/28/2009 | Act 12.1 (Psp) | CA-POST | ✓ | P | | 06:00 |

Totals For Training Completed in: 2009 Completed 12 of 12 Modules 63:00

Scheduled Training In: 2008

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|-----------------------------------|-----------------------------|--------|-------|-------|-----------|
| - -9688 | 05/16/2008 | Racial Profiling Update | CA-POST 2490-29000-07176 | ✓ | P | | 02:00 |
| - -9529 | 01/25/2008 | Ois Administrative Investigations | *** None *** | ✓ | P | | 01:00 |

Totals For Training Completed in: 2008 Completed 2 of 2 Modules 03:00

Scheduled Training In: 2007

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - -9352 | 12/06/2007 | Field Training Officer Update | CA-POST | ✓ | P | | 24:00 |
| - -9333 | 11/30/2007 | Sexual Harassment Update for Supervisors | *** None *** | ✓ | P | | 02:00 |
| - -9262 | 10/25/2007 | Search Warrant/Arrest-High Risk | CA-POST 2060-24271-07002 | ✓ | P | | 24:00 |
| - -9154 | 08/27/2007 | Buccal Swab Collection | *** None *** | ✓ | P | | 01:00 |
| - -8784 | 07/27/2007 | Act 12.1 | CA-POST 2490-29503-06023 | ✓ | P | | 06:00 |
| - -9399 | 07/18/2007 | Fit Testing - Size 3 | *** None *** | ✓ | P | | 00:30 |
| - -8779 | 06/25/2007 | Search Warrants for Investigators | CA-POST 2490-24260-06002 | ✓ | P | | 08:00 |
| - -8761 | 06/13/2007 | Cal/Gang Training | CA-POST | ✓ | P | | 08:00 |
| - -8722 | 05/30/2007 | Parole Leads Training | *** None *** | ✓ | P | | 03:00 |

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Person: **Michelle Macchiaroli** (Continued)

Scheduled Training In: 2007 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 8572 | 03/30/2007 | Incident Response To Terrorist Bombings | *** None *** | ✓ | P | | 32:00 |
| - 8628 | 03/29/2007 | Incident Response To Terrorist Bombings | *** None *** | ✓ | P | | 04:00 |
| - 8627 | 03/29/2007 | Prevention and Response To Suicide Bombi | *** None *** | ✓ | P | | 03:00 |
| - 8502 | 03/22/2007 | Women Leaders in Law Enforcement Confere | *** None *** | ✓ | P | | 08:00 |
| - 8280 | 01/24/2007 | Adv. Gang Investigation Course | CA-POST 2490-23181-06002 | ✓ | P | | 24:00 |

Totals For Training Completed in: 2007 Completed 14 of 14 Modules 147:30

Scheduled Training In: 2006

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 8199 | 12/06/2006 | Leadership Development Program | CA-POST | ✓ | P | | 40:00 |
| - 8161 | 11/09/2006 | Women Leaders in Law Enforcement Confere | *** None *** | ✓ | P | | 08:00 |
| - 7982 | 10/02/2006 | Sems Intro | CA-POST 1174-20778-06018 | ✓ | P | | 02:00 |
| - 7983 | 10/02/2006 | ICS100 | CA-POST 1174-20778-06018 | ✓ | P | | 02:00 |
| - 7984 | 10/02/2006 | ICS200 | CA-POST 1174-20778-06018 | ✓ | P | | 02:00 |
| - 7985 | 10/02/2006 | IS-700 Introduction To Nims | CA-POST 1174-20778-06018 | ✓ | P | | 02:00 |
| - 7778 | 08/22/2006 | X26 Taser Certification | *** None *** | ✓ | P | | 06:00 |
| - 7589 | 05/23/2006 | Fit Testing - Size 3 | *** None *** | ✓ | P | | 00:30 |
| - 7536 | 05/03/2006 | First Aid | CA-POST 2490-33590-05002 | ✓ | P | | 04:00 |
| - 7537 | 05/03/2006 | Cpr | CA-POST 2490-29900-05029 | ✓ | P | | 04:00 |
| - 7543 | 05/02/2006 | Force Options Simulator | CA-POST 2490-21065-05017 | ✓ | P | | 04:00 |
| - 7544 | 05/02/2006 | Driver Training Simulator | CA-POST 2490-20985-05017 | ✓ | P | | 04:00 |
| - 7542 | 05/01/2006 | Tactical Communications | CA-POST 2490-29504-05017 | ✓ | P | | 02:00 |
| - 7565 | 04/27/2006 | Basic Traffic Collision Investigation | CA-POST 2490-33590-05002 | ✓ | P | | 40:00 |

Santa Ana Police Department
Individual Training Activity



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| Person: | | Michelle Macchiaroli | | | | (Continued) |
|--|------------|--|---------------|--------|-------|-----------------|
| Scheduled Training In: | | 2006 | | | | (Continued) |
| TMS # | Ended | Subject | Certification | Compl. | Grade | Score Tng. Time |
| - 7508 | 04/20/2006 | Elements of Supervision | *** None *** | ✓ | P | 04:00 |
| - 7447 | 03/21/2006 | IS-700 Introduction To Nims | *** None *** | ✓ | P | 02:00 |
| Totals For Training Completed in: | | 2006 Completed 16 of 16 Modules | | | | 126:30 |

| Scheduled Training In: | | 2005 | | | | |
|--|------------|---|------------------|--------|-------|-----------------|
| TMS # | Ended | Subject | Certification | Compl. | Grade | Score Tng. Time |
| - 7123 | 11/29/2005 | Teambuilding for Supervisors | CA-POST | ✓ | P | 08:00 |
| - 7124 | 10/28/2005 | Supervisory Update | CA-POST | ✓ | P | 40:00 |
| | | | 2490-12000-05001 | | | |
| - 6771 | 05/01/2005 | Electronic Tracking Systems | *** None *** | ✓ | P | 08:00 |
| - 6989 | 05/01/2005 | Clets Less Than Full Access Proficiency | *** None *** | ✓ | P | 01:00 |
| - 7122 | 04/29/2005 | Field Training Officer Course | CA-POST | ✓ | P | 40:00 |
| - 6824 | 04/19/2005 | Fit Testing - Size 3 | *** None *** | ✓ | P | 00:30 |
| - 6555 | 01/25/2005 | Ets Train the Trainer Course | CA-POST | ✓ | P | 08:00 |
| Totals For Training Completed in: | | 2005 Completed 7 of 7 Modules | | | | 105:30 |

| Scheduled Training In: | | 2004 | | | | |
|--|------------|--|------------------|--------|-------|-----------------|
| TMS # | Ended | Subject | Certification | Compl. | Grade | Score Tng. Time |
| - 6448 | 10/27/2004 | Mobile Field Force Part I S&K | CA-POST | ✓ | P | 08:00 |
| | | | 2490-29900-04018 | | | |
| - 6033 | 04/07/2004 | Emergency Response To Terrorism Incident | CA-POST | ✓ | P | 16:00 |
| | | | 2060-20103-03056 | | | |
| Totals For Training Completed in: | | 2004 Completed 2 of 2 Modules | | | | 24:00 |

| Scheduled Training In: | | 2003 | | | | |
|-------------------------------|------------|------------------------------|------------------|--------|-------|-----------------|
| TMS # | Ended | Subject | Certification | Compl. | Grade | Score Tng. Time |
| - 5819 | 11/05/2003 | Racial Profiling | CA-POST | ✓ | P | 05:00 |
| | | | 2490-23282-03009 | | | |
| - 5814 | 11/04/2003 | Officer Safety | CA-POST | ✓ | P | 04:00 |
| | | | 2490-29900-03039 | | | |
| - 5815 | 11/04/2003 | Force Options Simulator | CA-POST | ✓ | P | 04:00 |
| | | | 2490-21065-03017 | | | |
| - 5798 | 11/03/2003 | Ac 12.1 Psp Arrest & Control | CA-POST | ✓ | P | 04:00 |
| | | | 2490-29503-03017 | | | |
| - 5800 | 11/03/2003 | Driver Training Simulator | CA-POST | ✓ | P | 04:00 |
| | | | 2490-29503-03017 | | | |



Santa Ana Police Department
Individual Training Activity

09/08/2017

Page 6 of 7 pages

Person: **Michelle Macchiaroli** (Continued)

Scheduled Training In: 2003 (Continued)

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|--|-----------------------------|--------|-------|-------|-----------|
| - 5821 | 11/02/2003 | Tactical Communications | *** None *** | ✓ | P | | 03:00 |
| - 5818 | 10/20/2003 | Cpr/First Aid | CA-POST | ✓ | P | | 08:00 |
| - 5649 | 08/12/2003 | Parolee Encounters | CA-POST 2490-29900-03013 | ✓ | P | | 08:00 |
| - 5688 | 06/30/2003 | Clets Less/Full Access Operat(Doj/Ncic) | *** None *** | ✓ | P | | 02:00 |
| - 5543 | 05/28/2003 | Development of Confidential Informants | CA-POST 2490-29900-02030 | ✓ | P | | 08:00 |
| - 5540 | 05/21/2003 | Interview and Interrogation, Basic | CA-POST | ✓ | P | | 08:00 |
| - 5380 | 03/18/2003 | Less Lethal FN303 | *** None *** | ✓ | P | | 04:00 |
| - 5290 | 02/12/2003 | Gang Suppression Investigation | CA-POST | ✓ | P | | 08:00 |
| Totals For Training Completed in: 2003 | | | Completed 13 of 13 Modules | | | | 70:00 |

Scheduled Training In: 2002

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|---|-----------------------------|--------|-------|-------|-----------|
| - 4868 | 09/04/2002 | Domestic Violence/1st Respdr. | CA-POST 2490-32345-02002 | ✓ | P | | 08:00 |
| - 4545 | 02/20/2002 | Drug Id / Packaging & Street Development | CA-POST 2490-21981-01001 | ✓ | P | | 16:00 |
| Totals For Training Completed in: 2002 | | | Completed 2 of 2 Modules | | | | 24:00 |

Scheduled Training In: 2001

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|-------------------|-----------------------------|--------|-------|-------|-----------|
| - 4267 | 02/13/2001 | Vehicle Theft S&K | CA-POST 2490-29900-00012 | ✓ | P | | 08:00 |
| Totals For Training Completed in: 2001 | | | Completed 1 of 1 Modules | | | | 08:00 |

Scheduled Training In: 2000

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|---|------------|----------------------------|-----------------------------|--------|-------|-------|-----------|
| - 4153 | 09/21/2000 | Drug Influence - 11550 H&s | CA-POST 2060-22220-00002 | ✓ | P | | 24:00 |
| - 4017 | 03/31/2000 | Telecourse | CA-POST 2490-30000-99003 | ✓ | P | | 02:00 |
| - 4010 | 03/29/2000 | Modules # 33, 36 S&K | CA-POST 3670-29900-99026 | ✓ | P | | 08:00 |
| - 5459 | 02/21/2000 | Ac 11.2 Chemical Agent | *** None *** | ✓ | P | | 02:00 |
| Totals For Training Completed in: 2000 | | | Completed 4 of 4 Modules | | | | 36:00 |

Santa Ana Police Department
Individual Training Activity



09/08/2017

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Person: **Michelle Macchiaroli** (Continued)

Scheduled Training In: 1999

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|-------------------------------|-----------------------------|--------|-------|-------|-----------|
| - 3887 | 10/28/1999 | Prison Gang Activitiy | CA-POST 2060-23200-99003 | ✓ | P | | 24:00 |
| - 3553 | 01/30/1999 | Drug Alcohol Recognition Trng | CA-POST 2060-20311-98006 | ✓ | P | | 24:00 |

Totals For Training Completed in: 1999 Completed 2 of 2 Modules 48:00

Scheduled Training In: 1997

| TMS # | Ended | Subject | Certification | Compl. | Grade | Score | Tng. Time |
|--------|------------|-------------------------|-----------------------------|--------|-------|-------|-----------|
| - 2834 | 03/12/1997 | Basic Course-Intensive | CA-POST 2060-00100-96002 | ✓ | P | | 952:00 |
| - 2825 | 03/05/1997 | Laser Firearms Training | CA-POST 2060-21050-96041 | ✓ | P | | 08:00 |

Totals For Training Completed in: 1997 Completed 2 of 2 Modules 960:00

Totals For: Michelle Macchiaroli Completed 108 of 108 Modules 1,806:30

R. RODRIGUEZ TRAINING RECORD DMS

| Username | Last Name | First Name | Job Title | Location | Certificate Name | Awarded Date | Expiration Date | Certificate Type | Credit Hours |
|----------|-----------|------------|------------------------|-------------------|--|----------------|-----------------|---------------------------|--------------|
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | POST Distracted Driver Video | 10/18/17 10:12 | | Driver Training | 0.1 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Shooting at Moving Vehicles | 6/20/17 8:54 | | Firearms and Tactics | 0.15 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Shooting at Moving Vehicles | | 5/17/17 | Firearms and Tactics | 0.15 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Cover and Concealment FTC - 2017-01 | | 2/1/17 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Principles of Force Science | | 1/26/18 | Leadership/Ethics | 40 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | POST Management Course | | 11/1/18 | Leadership/Ethics | 104 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Gas Mask Fit Testing | | 12/7/17 | 12/7/18 Health and Safety | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Mandatory Training (First Aid Update/Mobile CAD/Biased Based Policing) | | 2/10/17 | Mandatory Training | 6 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Partnering for Success: Seconds in Command | | 2/6/20 | Leadership/Ethics | 7 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Partnering for Success: Seconds in Command | | 2/6/20 | Leadership/Ethics | 7 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Bloodborne Pathogens | | 10/26/17 9:59 | Awareness | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Laura's Law | | 7/28/17 12:25 | Policy/Legal | 0.7 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Decision making - MILO - FTC - 2017-05 | | 5/31/17 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Supervisory Certificate | | 6/13/19 | POST Certificates | |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Tactical Communication | | 10/26/17 9:58 | Communications | 2 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Driving Simulator Course | | 10/26/17 9:58 | Driver Training | 4 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Force Option Simulator | | 10/26/17 9:57 | Firearms and Tactics | 4 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Fentanyl | | 6/17/18 0:24 | Awareness | 0.08 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Fentanyl | | 7/28/17 12:30 | Awareness | 0.08 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Handgun Firearms Training FTC - 2017-07 | | 8/1/17 7:20 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | On and Off Duty Handgun Training FTC - 2017-08 | | 9/5/17 9:31 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Patrol Rifle and Handgun Training FTC - 2017-09 | | 11/1/17 12:01 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Lateral Head Displacement | | 10/18/17 10:14 | Defensive Tactics | 0.1 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Two Officer Takedown | | 10/18/17 10:16 | Defensive Tactics | 0.07 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Role of the Chief | | 1/10/19 | Leadership/Ethics | 32 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Sexual Harassment Prevention for Supervisors AB 1825 | | 11/1/17 | Leadership/Ethics | 2 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Body Worn Camera Training - SAPD | | 8/29/17 | Policy/Legal | 4 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Strategic and Succession Police Planning | | 11/6/19 | Other/Miscellaneous | 8 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Handgun Manipulations 2017-11 FTC | | 12/1/17 9:59 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Command Leadership Institute CLI | | 3/9/19 | Leadership/Ethics | 28 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | 2017 New Pursuit Policy Update - Supervisor | | 12/14/17 | Driver Training | 2 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Weapons Inspection 2017-12 FTC | | 1/31/18 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Close Contact / Weapon Retention - FTC - 2017-02 | | 3/1/17 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | AR-15 Rifle Malfunctions/Cover/Concealment - FTC - 2017-03 | | 4/1/17 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | DDM4V7 Rifle feedway stoppage clearance FTC - 2017-04 | | 5/1/17 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Supervisor Leadership Institute of Law Enforcement - FBI LEEDA | | 8/24/18 | Leadership/Ethics | 28 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Handgun and Rifle Training FTC - 2018-02 | | 3/1/18 8:25 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Public Safety Leadership Program | | 12/9/16 | Leadership/Ethics | 80 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Handgun Firearms Training - FTC - 2018-04 | | 5/1/18 15:52 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Shotgun Training - 2018-03 | | 4/3/18 15:13 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2018-05 | | 6/5/18 12:13 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Immigration Violations | | 6/17/18 0:33 | Policy/Legal | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2018-06 | | 7/3/18 9:57 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Management Certificate | | 6/13/19 | POST Certificates | |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Tactical Seatbelt - Course DRT-V00004 | | 7/23/18 18:17 | Awareness | 0.1 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Handgun Manipulations 2018-07 FTC | | 8/1/18 8:07 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Transition from Taser to Handgun Escalation 2018-08 FTC | | 9/4/18 16:34 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Counterfeit Currency | | 8/22/18 9:51 | Investigations | 0.15 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | SHO, WHO, Two hand Shooting 2018-09 FTC | | 10/24/18 15:48 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2018-10 | | 10/22/18 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2018-11 | | 11/20/18 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-02 | | 2/10/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-03 | | 3/28/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-04 | | 4/25/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun Training - FTC 2019-05 | | 5/18/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-06 | | 6/19/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Ballistic Plates and Carriers | | 3/10/19 17:05 | Health and Safety | 0.05 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | AB 392 UOF Training Video | | 2/10/20 6:51 | Awareness | 0 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-07 | | 7/26/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-08 | | 8/26/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-09 | | 9/26/19 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | Rifle and Handgun - FTC - 2019-10 | | 10/30/19 | Firearms Qualifications | 1.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | FTC-02-20 | | 2/28/20 | Firearms Qualifications | 0.5 |
| P2755 | Rodriguez | Roberto | Police Lieutenant (RM) | Police Department | FTC-2019-11 | | 1/24/20 | Firearms Qualifications | 0.5 |



Santa Ana Police Department
Individual Training Activity

09/12/2017

Page 1 of 1 page

Person: **Robert Rodriguez**

Personal

Agency: Santa Ana Police Department
ID #: R119

Employment

| <u>Property</u> | <u>Value</u> | <u>From</u> | <u>Through</u> |
|-----------------------|----------------------|-------------|----------------|
| Active Status: | Active | 09/04/2007 | // |
| Duty Status: | Full Duty | // | // |
| Time Status: | Full Time | // | // |
| Rank: | Non-peace Officer | 09/04/2007 | // |
| Work Unit: | Training | // | // |
| Station: | Headquarters Station | // | // |
| Division: | | // | // |

Scheduled Training In: 2016

| <u>TMS #</u> | <u>Ended</u> | <u>Subject</u> | <u>Certification</u> | <u>Compl. Grade</u> | <u>Score</u> | <u>Tng. Time</u> |
|--------------|--------------|---|----------------------|---------------------|--------------|------------------|
| - 1-3952 | 08/29/2016 | Investigating Sexual Assault & Sex Related Crimes in Confinement Settings | *** None *** | ✓ | P | 00:30 |

Totals For Training Completed in: 2016 Completed 1 of 1 Modules 00:30

Scheduled Training In: 2013

| <u>TMS #</u> | <u>Ended</u> | <u>Subject</u> | <u>Certification</u> | <u>Compl. Grade</u> | <u>Score</u> | <u>Tng. Time</u> |
|--------------|--------------|----------------------------------|----------------------|---------------------|--------------|------------------|
| - 1-2780 | 01/17/2013 | Clets Less Than Full Access Exam | *** None *** | ✓ | P | 01:00 |

Totals For Training Completed in: 2013 Completed 1 of 1 Modules 01:00

Scheduled Training In: 2010

| <u>TMS #</u> | <u>Ended</u> | <u>Subject</u> | <u>Certification</u> | <u>Compl. Grade</u> | <u>Score</u> | <u>Tng. Time</u> |
|--------------|--------------|---|----------------------|---------------------|--------------|------------------|
| - 1-1467 | 09/29/2010 | Immediate Action Teams - School Setting | *** None *** | ✓ | P | 30:00 |

Totals For Training Completed in: 2010 Completed 1 of 1 Modules 30:00

Scheduled Training In: 2008

| <u>TMS #</u> | <u>Ended</u> | <u>Subject</u> | <u>Certification</u> | <u>Compl. Grade</u> | <u>Score</u> | <u>Tng. Time</u> |
|--------------|--------------|----------------------------------|----------------------|---------------------|--------------|------------------|
| - 1-2782 | 09/30/2008 | Clets Less Than Full Access Exam | *** None *** | ✓ | P | 01:00 |

Totals For Training Completed in: 2008 Completed 1 of 1 Modules 01:00

Totals For: Robert Rodriguez Completed 4 of 4 Modules 32:30

From: [Adam](#)
To: [Rodriguez, Roberto](#)
Subject: Assignment of Citizen Complaint-Adam Bereki
Date: Wednesday, July 29, 2020 7:41:45 AM

Commander Rodriguez,

Please provide me with the name, contact information, and complaint number for the person handling the citizen complaint I filed.

Sincerely,

Adam Bereki

From: Adam
To: Plotnik, Elizabeth; Rodriguez, Roberto
Subject: Citizen Complaint by Adam Bereki
Date: Monday, July 20, 2020 12:17:32 PM
Attachments: [Liu v. SEC, 2020 U.S. LEXIS 3374.pdf](#)
[Exhibit B2 People v. Cowan, 47 Cal. App. 5th 32.pdf](#)
[Exhibit B1 Rodriguez Reponse to Reequst For Records 060520.pdf](#)
[Citizen Complaint to SAPD by Adam Bereki 0702020.pdf](#)

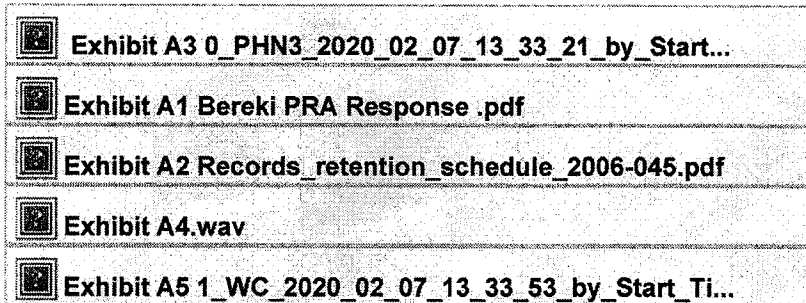
Elizabeth,

Good afternoon. Please forward the attached complaint to Chief Valentin and any other necessary personnel. I have already copied Commander Rodriguez. I have also included a copy of several of the important cases I referenced. I have not yet received the Public Record Act request for a copy of the phone call between Sgt. Hernandez and I, but it should be preserved as evidence and included as Exhibit [C] with this complaint.

Thank you for your help.

Sincerely,

Adam Bereki



From: [Plotnik, Elizabeth](#)
To: [Rodriguez, Roberto](#)
Subject: FW: FW: PRA Response
Date: Monday, July 13, 2020 11:44:00 AM
Attachments: [People v. Cowan, 47 Cal. App. 5th 32.pdf](#)
[Rodriguez Reponse to Reequst For Records 060520.pdf](#)

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Plotnik, Elizabeth
Sent: Monday, June 8, 2020 11:58 AM
To: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: FW: PRA Response

Cmdr. Rodriguez,

Please see the email/attachments in response to our PRA response sent on Thursday, and let me know how I can assist. Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Friday, June 5, 2020 10:12 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: FW: PRA Response

Elizabeth,

Good morning. Please forward this email to Commander Rodriguez as my response to his letter I received yesterday. I hope you have a nice weekend.

Sincerely,

Adam

On Thu, Jun 4, 2020 at 4:58 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

|

Mr. Bereki,

Attached is the Records Retention Schedule PDF, as noted in the PRA written response letter. Please note, this is email 2 of 2 in response to your request for Public Records.

Thank you!

Respectfully,

ELIZABETH PLOTNIK

Executive Assistant to Chief Valentin

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Plotnik, Elizabeth

Sent: Thursday, June 4, 2020 4:54 PM

To: 'abereki@gmail.com' <abereki@gmail.com>

Subject: PRA Response

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK

Executive Assistant to Chief Valentin

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Plotnik, Elizabeth
To: Rodriguez, Roberto
Subject: FW: FW: PRA Response
Date: Monday, June 8, 2020 11:58:23 AM
Attachments: [People v. Cowan, 47 Cal. App. 5th 32.pdf](#)
[Rodriguez Reponse to Reequst For Records 060520.pdf](#)

Cmdr. Rodriguez,

Please see the email/attachments in response to our PRA response sent on Thursday, and let me know how I can assist. Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Friday, June 5, 2020 10:12 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: FW: PRA Response

Elizabeth,

Good morning. Please forward this email to Commander Rodriguez as my response to his letter I received yesterday. I hope you have a nice weekend.

Sincerely,

Adam

On Thu, Jun 4, 2020 at 4:58 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Mr. Bereki,

Attached is the Records Retention Schedule PDF, as noted in the PRA written response letter. Please note, this is email 2 of 2 in response to your request for Public Records.

Thank you!

Respectfully,

ELIZABETH PLOTNIK

Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Plotnik, Elizabeth
Sent: Thursday, June 4, 2020 4:54 PM
To: 'abereki@gmail.com' <abereki@gmail.com>
Subject: PRA Response

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK
Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Plotnik, Elizabeth
To: Rodriguez, Roberto
Subject: FW: PRA Response
Date: Monday, July 13, 2020 11:28:25 AM

Good Morning Cmdr. Rodriguez,

Wanted to forward the email request below....this gentleman had responded to our PRA response (forwarded to you) back on June 5th, but is now requesting to meet with the Chief.

Please let me know your thoughts and/or how I should respond. Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Monday, July 13, 2020 11:05 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Hi Elizabeth,

Would it be possible to set up a meeting - either virtually or in person - with Chief Valentin to discuss this matter? I expect it would take about twenty minutes of his time.

Sincerely,

Adam Bereki
949.241.6693

On Thu, Jun 4, 2020 at 4:54 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK
Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department

From: Plotnik, Elizabeth
To: Rodriguez, Roberto
Subject: FW: PRA Response
Date: Monday, July 13, 2020 1:51:44 PM
Attachments: SAPD Request 071320.pdf

Cmdr. Rodriguez,

Please see the email below/attached. Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Monday, July 13, 2020 1:37 PM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Elizabeth,

Please forward the attached Public Records Request to Commander Rodriguez. Also, if it would be more expeditious, please just provide Cmdr. Roriguez' email and I can correspond with him directly.

Sincerely,

Adam Bereki

On Mon, Jul 13, 2020 at 1:11 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon again Mr. Bereki,

Sgt. Hernandez shared that he spoke with you. Sent on his behalf, below is the direct link to our Department's complaint form.

https://www.santa-ana.org/sites/default/files/PD%20Attachments/ComplaintForm-English_001.pdf

Thank you.

Respectfully,

ELIZABETH PLOTNIK
Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003

###

From: Adam <abereki@gmail.com>
Sent: Monday, July 13, 2020 11:05 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Hi Elizabeth,

Would it be possible to set up a meeting - either virtually or in person - with Chief Valentin to discuss this matter? I expect it would take about twenty minutes of his time.

Sincerely,

Adam Bereki
949.241.6693

On Thu, Jun 4, 2020 at 4:54 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK
Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003

###

From: [Plotnik, Elizabeth](#)
To: abereki@gmail.com
Cc: [Rodriguez, Roberto](#)
Subject: FW: PRA Response
Date: Thursday, July 23, 2020 5:21:41 PM
Attachments: [Bereki Emails 1 of 2.pdf](#)

Mr. Bereki,

Please see the PDF attached. This is the second email in response to your PRA noted in the email below.

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Plotnik, Elizabeth
Sent: Thursday, July 23, 2020 5:20 PM
To: 'abereki@gmail.com' <abereki@gmail.com>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: PRA Response

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that responsive records will be sent in separate forthcoming emails, to accommodate for their size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: [Plotnik, Elizabeth](#)
To: [Rodriguez, Roberto](#)
Subject: FW: PRA Response
Date: Wednesday, July 29, 2020 8:53:56 AM

Good Morning Cmdr. Rodriguez,

Sharing the email below for your awareness. Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 7:33 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Good morning Elizabeth,

I want to be clear about your reply so there is absolutely no confusion. Confirming the Santa Ana Police Department nor the City of Santa Ana has any record of a signed oath of office for Gil Hernandez (as Sergeant and Police Officer), Abel Alcantar (as Sergeant and Police Officer) or Robert Rodriguez (as Commander, Police Officer, and all posts/positions in between)?

Also just to confirm that the City of Santa Ana nor the Santa Ana Police Department sends Oaths of Office to the State of California?

Sincerely,

Adam Bereki

On Tue, Jul 28, 2020 at 4:22 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Mr. Bereki,

Thank you for your email. With regard to your request wherein you provided the following response " I am looking for the standard oath of office given to every sworn officer. It should have each officer's name on it and their signature below the oath", no records exist.

Please let me know if you have any further questions. Thank you.

Respectfully,

ELIZABETH PLOTNIK

Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Friday, July 24, 2020 10:23 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Elizabeth,

With regard to question 4 and Oaths of Office: Yes, I am looking for the standard oath of office given to every sworn officer. It should have each officer's name on it and their signature below the oath.

Sincerely

Adam Bereki

On Thu, Jul 23, 2020 at 5:20 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that responsive records will be sent in separate forthcoming emails, to accommodate for their size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

Executive Assistant to Chief Valentin
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: [Plotnik, Elizabeth](#)
To: abereki@gmail.com
Cc: [Rodriguez, Roberto](#)
Subject: FW: PRA Response
Date: Thursday, July 23, 2020 5:28:35 PM
Attachments: [Bereki Response - 7.23.2020.pdf](#)

Mr. Bereki,

Please see the Dropbox link below to access all responsive records. This is email 2 of 2 in response to your PRA. Please let me know if you have any questions.

<https://www.dropbox.com/s/lrde5xvvg4qb7hf/All%20Bereki%20Emails.pdf?dl=0>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Elotnik@santa-ana.org | (714) 245-8003

###

From: Plotnik, Elizabeth
Sent: Thursday, July 23, 2020 5:20 PM
To: 'abereki@gmail.com' <abereki@gmail.com>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: PRA Response

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that responsive records will be sent in separate forthcoming emails, to accommodate for their size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

From: [Rodriguez, Roberto](#)
To: [Plotnik, Elizabeth](#)
Subject: FW: Public Records Act Request 072920– Adam Bereki
Date: Thursday, July 30, 2020 6:04:53 PM
Attachments: [image004.png](#)
[image008.png](#)
[image001.png](#)
[image005.png](#)

Hi Elizabeth,

Below is Mr. Bereki's response. It's just an FYI for the file.

Thank you for your excellent work this week.

Commander Robert Rodriguez

Santa Ana Police Department
Executive Officer / Internal Affairs Division
Office: (714) 245 – 8014
Cell: (714) 448 – 6095
rrodriguez@santa-ana.org



#WEARESAPD

From: Adam <abereki@gmail.com>
Sent: Thursday, July 30, 2020 5:42 PM
To: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Re: Public Records Act Request 072920– Adam Bereki

Robert,

Thanks for letting me know about the link to make PRA requests. I'll be happy to use it in the future.

Sincerely,

Adam Bereki

On Thu, Jul 30, 2020 at 4:43 PM Rodriguez, Roberto <RRodriguez@santa-ana.org> wrote:

Mr. Bereki,

We received your request via an attachment to the email below, sent yesterday, July 29, 2020. We will log it at this time; however, in the future, all Public Records Requests should go through the City Clerk's Office using the PRA form found at this link below, so that it can be processed and calendared accordingly.

<https://ecms.santa-ana.org/Forms/prr>

Thank you,

Commander Robert Rodriguez

Santa Ana Police Department
Executive Officer / Internal Affairs Division
Office: (714) 245 – 8014
rrodriguez@santa-ana.org



#WEARESAPD

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested

three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: [Ferrer, Lourdes](#)
To: [Sangenito, Cindi](#)
Subject: FW: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, July 29, 2020 4:17:00 PM
Attachments: [SAPD Request 072920.pdf](#)
[image001.png](#)

Hi Cindi—here's the request we just chatted about.

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Sorenson, Mathew <MSorenson@santa-ana.org>
Sent: Wednesday, July 29, 2020 4:09 PM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

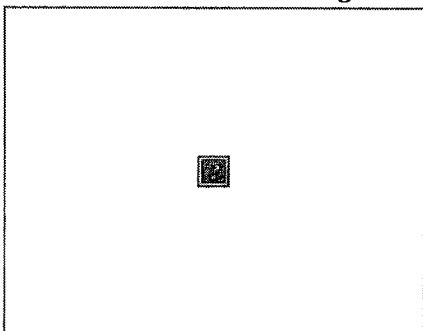
Lou,

Below is the email and attached is the PRA request.

Thank you,

Commander Mat Sorenson

Santa Ana Police Department
Training Division / SWAT / Backgrounds
Desk: 714) 245-8051
Cell: 562) 528-6558
msorenson@santa-ana.org



#WEARESAPD

From: Esparza, Enrique
Sent: Wednesday, July 29, 2020 3:55 PM
To: Sorenson, Mathew <MSorenson@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Here's the email

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD

policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: [Ferrer, Lourdes](#)
To: [Esparza, Enrique](#)
Subject: FW: Public Records Act Request 072920– Adam Bereki
Date: Thursday, July 30, 2020 10:26:00 AM
Attachments: [image001.png](#)

Steven will be discussing the request with the attorney.

Do you know the deadline to respond?

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Sengenito, Cindi <CSengenito@santa-ana.org>
Sent: Thursday, July 30, 2020 10:14 AM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: RE: Public Records Act Request 072920– Adam Bereki

Steven is going to talk to the Attorney & see if we can provide the info or not.
We wouldn't be able to give him the oaths of the "unknown officers" who looked into his investigation. That makes NO sense.

From: Ferrer, Lourdes
Sent: Thursday, July 30, 2020 9:53 AM
To: Sengenito, Cindi <CSengenito@santa-ana.org>
Subject: RE: Public Records Act Request 072920– Adam Bereki

Hi Cindi— DC Esparza wants me to confirm the request will be handled by City HR; the requestor filed complaints against the PD staff he encountered right before this PRA, so Esparza just wants to be sure it doesn't fall off anyone's radar.

Thanks!

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Ferrer, Lourdes

Sent: Wednesday, July 29, 2020 4:17 PM

To: Sangenito, Cindi <CSangenito@santa-ana.org>

Subject: FW: Public Records Act Request 072920– Adam Bereki

Hi Cindi—here's the request we just chatted about.

-Lou

Lourdes Ferrer

Senior Human Resources Analyst

Santa Ana Police Department

714-245-8670

From: Sorenson, Mathew <MSorenson@santa-ana.org>

Sent: Wednesday, July 29, 2020 4:09 PM

To: Ferrer, Lourdes <LFerrer@santa-ana.org>

Subject: FW: Public Records Act Request 072920– Adam Bereki

Lou,

Below is the email and attached is the PRA request.

Thank you,

Commander Mat Sorenson

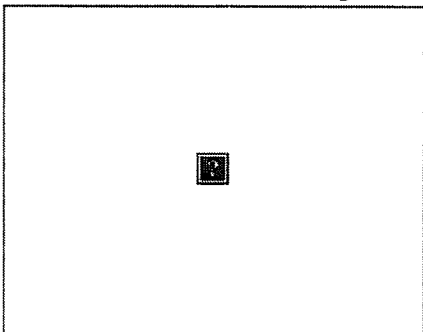
Santa Ana Police Department

Training Division / SWAT / Backgrounds

Desk: 714) 245-8051

Cell: 562) 528-6558

msorenson@santa-ana.org



#WEARESAPD

From: Esparza, Enrique
Sent: Wednesday, July 29, 2020 3:55 PM
To: Sorenson, Mathew <MSorenson@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Here's the email

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic

problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: [Plotnik, Elizabeth](#)
To: [Esparza, Enrique](#)
Cc: [Rodriguez, Roberto](#)
Subject: FW: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, July 29, 2020 9:51:45 AM
Attachments: [SAPD Request 072920.pdf](#)

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

elplotnik@santa-ana.org | (714) 245-8003

###

From: Adam <abereki@gmail.com>

Sent: Wednesday, July 29, 2020 8:49 AM

To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>

Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: [Ramirez, Rita](#)
To: [Rodriguez, Roberto](#)
Subject: FW: Public Records Request 9174 - Bereki - Due 8/15/2020
Date: Thursday, August 6, 2020 10:46:19 AM
Attachments: [Public Records Request.pdf](#)
[SAPD Request 080520.pdf](#)
Importance: High

Hello Commander Rodriguez,

This PRR has been assigned to you. Please make sure that I receive the disposition of this PRR no later than 08/15/2020.

Thank you.

Rita Ramirez

From: Do Not Reply PRR
Sent: Thursday, August 6, 2020 8:02 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Ramirez, Rita <RRamirez@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>; Quintana, David <DQuintana@santa-ana.org>; Public_Records_Forwarding <Public_Records_Forwarding@santa-ana.org>
Subject: Public Records Request 9174 - Bereki - Due 8/15/2020

Lead Agency: PD
Additional:

The attached Public Records Request (ID 9174) was received in the Clerk of the Council's Office on 8/5/2020 4:14:11 PM.

Requester: Adam Bereki

A response letter or notice of extension must be mailed to the requestor by your agency no later than 10 calendar days on or before **8/15/2020**.

PD, please perform the following steps to process and fulfill this request.

1. Open the Request in [Laserfiche Forms](#).
2. Someone from your Team (Lead Agency) needs to Assign the Request to Themselves (Assign to Me button in upper right).
3. Produce the requested records and make available / provide to the Requester.
 - Work with Additional Agency(ies) as necessary
 - Consult the City Attorney's Office if you need legal assistance.
 - Collect fees from the Requestor as required.
4. Close the Request - click the Completed button at bottom of form.

Thank you,
Clerk of the Council Office
714-647-6520

From: [Plotnik, Elizabeth](#)
To: [Sangenito, Cindi](#)
Subject: Oath of Office Documents
Date: Thursday, July 23, 2020 8:31:02 AM

Hi Cindi!

It was great chatting with you yesterday!

Thank you for your help in determining whether a "civil service" oath of office form/document exists for the following personnel:

Cmdr. Roberto Rodriguez (101474)
Sgt. Gilbert Hernandez (103797)
Sgt. Abel Alcantar (6267)

Thank you ☺

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: [Plotnik, Elizabeth](#)
To: abereki@gmail.com
Subject: PRA Response
Date: Thursday, June 4, 2020 4:54:24 PM
Attachments: [Phn3.zip](#)
[WC 2.zip](#)
[WC 1.zip](#)
[Bereki PRA Response .pdf](#)

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Plotnik, Elizabeth
To: abereki@gmail.com
Subject: PRA Response
Date: Thursday, June 4, 2020 4:51:26 PM
Attachments: Phn3.zip
WC_2.zip
WC_1.zip
[records_retention_schedule_2006-045.pdf](#)
[Bereki PRA Response .pdf](#)

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: [Plotnik, Elizabeth](#)
To: abereki@gmail.com
Cc: [Rodriguez, Roberto](#)
Subject: PRA Response
Date: Thursday, July 23, 2020 5:17:23 PM
Attachments: [Bereki Response - 7.23.2020 compressed.pdf](#)
[Bereki Emails 1 of 2.pdf](#)

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that a second PDF containing responsive records will be sent in a separate email, to accommodate for its size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: [Plotnik, Elizabeth](#)
To: abereki@gmail.com
Cc: [Rodriguez, Roberto](#)
Subject: PRA Response
Date: Thursday, July 23, 2020 5:20:10 PM
Attachments: [Bereki Response - 7.23.2020.pdf](#)

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that responsive records will be sent in separate forthcoming emails, to accommodate for their size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Plotnik, Elizabeth
To: abereki@gmail.com
Cc: [Rodriguez, Roberto](#)
Subject: PRA Response
Date: Thursday, July 23, 2020 5:14:43 PM
Attachments: [Bereki Emails 1 of 2.pdf](#)
[Bereki Response - 7.23.2020.pdf](#)

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that a second PDF containing responsive records will be sent in a separate email, to accommodate for its size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: [Plotnik, Elizabeth](#)
To: [Leyde, Karen](#); [Ramirez, Rita](#); [Gatt, Sandra](#); [Rodriguez, Roberto](#)
Cc: [Bogosian, Tamara](#)
Subject: Preservation of Evidence Request
Date: Wednesday, July 22, 2020 5:13:51 PM
Attachments: [Bereki PRA - May 2020.pdf](#)
[FW PRA Response.msg](#)
[Rodriguez Reponse to Reequst For Records 060520.pdf](#)
[SAPD Request 071320.pdf](#)

Good Afternoon,

Please see the letter attached requesting preservation of Evidence provided by Mr. Bereki. Please ensure audio, documents, emails and records in connection with Mr. Bereki are retained and preserved pursuant to this request. This is essentially a request to “hold” all evidence. **Please do not destroy, delete or dispose** any records pertaining to Mr. Bereki.

For your reference, I have included Mr. Bereki’s original PRA, our response to it (2 emails), his reply letter, and his 2nd PRA/preservation request. The response to the July 13th PRA is forthcoming and will be provided to you once finalized. Please let me know if you have any questions.

Thank you.

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam
To: Plotnik, Elizabeth; Rodriguez, Roberto
Subject: Public Records Act Request 072920- Adam Bereki
Date: Wednesday, July 29, 2020 8:49:10 AM
Attachments: SAPD Request 072920.pdf

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: DoNotReply_PRR@santa-ana.org
To: [Plotnik, Elizabeth](#); [Ramirez, Rita](#)
Cc: [Rodriguez, Roberto](#); [Wharton, Matthew](#); [Quintana, David](#); public_records_forwarding@santa-ana.org
Subject: Public Records Request 8892 - BEREKI - Due 6/26/2020
Date: Wednesday, May 27, 2020 11:38:23 AM
Attachments: [Public Records Request.pdf](#)
[Bereki PRA - May 2020.pdf](#)

Lead Agency: PD
Additional:

The attached Public Records Request (ID 8892) was received in the Clerk of the Council's Office on 5/27/2020 11:10:20 AM.

Requester: ADAM BEREKI

A response letter or notice of extension must be mailed to the requestor by your agency no later than 10 calendar days on or before **6/26/2020**.

PD, please perform the following steps to process and fulfill this request.

1. Open the Request in [Laserfiche Forms](#).
2. Someone from your Team (Lead Agency) needs to Assign the Request to Themselves (Assign to Me button in upper right).
3. Produce the requested records and make available / provide to the Requester.
 - Work with Additional Agency(ies) as necessary
 - Consult the City Attorney's Office if you need legal assistance.
 - Collect fees from the Requestor as required.
4. Close the Request - click the Completed button at bottom of form.

Thank you,
Clerk of the Council Office
714-647-6520

From: DoNotReply_PRR@santa-ana.org
To: [Plotnik, Elizabeth](#); [Ramirez, Rita](#)
Cc: [Rodriguez, Roberto](#); [Quintana, David](#); public_records_forwarding@santa-ana.org
Subject: Public Records Request 9174 - Bereki - Due 8/15/2020
Date: Thursday, August 6, 2020 8:02:02 AM
Attachments: [Public Records Request.pdf](#)
[SAPD Request 080520.pdf](#)

Lead Agency: PD

Additional:

The attached Public Records Request (ID 9174) was received in the Clerk of the Council's Office on 8/5/2020 4:14:11 PM.

Requester: Adam Bereki

A response letter or notice of extension must be mailed to the requestor by your agency no later than 10 calendar days on or before **8/15/2020**.

PD, please perform the following steps to process and fulfill this request.

1. Open the Request in [Laserfiche Forms](#).
2. Someone from your Team (Lead Agency) needs to Assign the Request to Themselves (Assign to Me button in upper right).
3. Produce the requested records and make available / provide to the Requester.
 - Work with Additional Agency(ies) as necessary
 - Consult the City Attorney's Office if you need legal assistance.
 - Collect fees from the Requestor as required.
4. Close the Request - click the Completed button at bottom of form.

Thank you,
Clerk of the Council Office
714-647-6520

From: Plotnik, Elizabeth
To: abereki@gmail.com; Rodriguez, Roberto
Subject: RE: Citizen Complaint by Adam Bereki
Date: Monday, July 20, 2020 12:27:05 PM

Good Afternoon Mr. Bereki,

This email is to confirm that I have received your email below and will forward accordingly. Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Monday, July 20, 2020 12:17 PM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Citizen Complaint by Adam Bereki






Elizabeth,

Good afternoon. Please forward the attached complaint to Chief Valentin and any other necessary personnel. I have already copied Commander Rodriguez. I have also included a copy of several of the important cases I referenced. I have not yet received the Public Record Act request for a copy of the phone call between Sgt. Hernandez and I, but it should be preserved as evidence and included as Exhibit [C] with this complaint.

Thank you for your help.

Sincerely,

Adam Bereki

-  Exhibit A3 0_PHN3_2020_02_07_13_33_21_by_Start...
-  Exhibit A1 Bereki PRA Response .pdf
-  Exhibit A2 Records_retention_schedule_2006-045.pdf
-  Exhibit A4.wav
-  Exhibit A5 1_WC_2020_02_07_13_33_53_by_Start TL...

From: Plotnik, Elizabeth
To: Sangenito, Cindi
Subject: RE: Oath of Office Documents
Date: Wednesday, July 29, 2020 4:52:37 PM

Hi Cindi!

Yes, if you can scan them to me, that would be great! Thank you ☺

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Sangenito, Cindi <CSangenito@santa-ana.org>
Sent: Monday, July 27, 2020 12:50 PM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: RE: Oath of Office Documents

Elizabeth-

We found copies of all 3 of the Oaths for the officers listed below. Let me know if you'd like them scanned to you?

From: Plotnik, Elizabeth
Sent: Thursday, July 23, 2020 8:31 AM
To: Sangenito, Cindi <CSangenito@santa-ana.org>
Subject: Oath of Office Documents

Hi Cindi!

It was great chatting with you yesterday!

Thank you for your help in determining whether a "civil service" oath of office form/document exists for the following personnel:

Cmdr. Roberto Rodriguez (101474)

Sgt. Gilbert Hernandez (103797)

Sgt. Abel Alcantar (6267)

Thank you ☺

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: [Plotnik, Elizabeth](#)
To: [Sangenito, Cindi](#)
Subject: RE: PD Oaths
Date: Thursday, July 30, 2020 9:04:14 AM

Thank you Cindi!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

-----Original Message-----

From: Sangenito, Cindi <CSangenito@santa-ana.org>
Sent: Thursday, July 30, 2020 9:03 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: PD Oaths

Elizabeth-

Attached is the email you sent & the oaths for the 3 officers.
Let me know if I can help you with anything else.
Cindi

From: Plotnik, Elizabeth
To: abereki@gmail.com
Subject: RE: PRA Response
Date: Monday, July 13, 2020 1:11:10 PM

Good Afternoon again Mr. Bereki,

Sgt. Hernandez shared that he spoke with you. Sent on his behalf, below is the direct link to our Department's complaint form.

https://www.santa-ana.org/sites/default/files/PD%20Attachments/ComplaintForm-English_001.pdf

Thank you.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Adam <abereki@gmail.com>
Sent: Monday, July 13, 2020 11:05 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Hi Elizabeth,

Would it be possible to set up a meeting - either virtually or in person - with Chief Valentin to discuss this matter? I expect it would take about twenty minutes of his time.

Sincerely,

Adam Bereki
949.241.6693

On Thu, Jun 4, 2020 at 4:54 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Mr. Bereki,

On behalf of Commander Rodriguez, please see the response to your Request for Public Records attached. Thank you.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Respectfully,

ELIZABETH PLOTNIK
Executive Assistant to Chief Valentin

Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Plotnik, Elizabeth
To: abereki@gmail.com
Cc: Rodriguez, Roberto
Subject: RE: PRA Response
Date: Tuesday, July 28, 2020 4:22:18 PM

Good Afternoon Mr. Bereki,

Thank you for your email. With regard to your request wherein you provided the following response " I am looking for the standard oath of office given to every sworn officer. It should have each officer's name on it and their signature below the oath", no records exist.

Please let me know if you have any further questions. Thank you.

Respectfully,

ELIZABETH PLOTNIK

EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Friday, July 24, 2020 10:23 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>
Subject: Re: PRA Response

Elizabeth,

With regard to question 4 and Oaths of Office: Yes, I am looking for the standard oath of office given to every sworn officer. It should have each officer's name on it and their signature below the oath.

Sincerely

Adam Bereki

On Thu, Jul 23, 2020 at 5:20 PM Plotnik, Elizabeth <EPlotnik@santa-ana.org> wrote:

Good Afternoon Mr. Bereki,

Please see the attached response to your PRA request. Also, please note that responsive records will be sent in separate forthcoming emails, to accommodate for their size. Additionally, below are the direct links noted in the written response.

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/1010.pdf>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/Dept%20Procedures/10100.pdf>

Thank you Sir.

Respectfully,

ELIZABETH PLOTNIK

Executive Assistant to Chief Valentin

Office of the Chief of Police | Santa Ana Police Department

Eplotnik@santa-ana.org | (714) 245-8003

###

From: Adam
To: Rodriguez, Roberto
Subject: Re: Public Records Act Request 072920- Adam Bereki
Date: Thursday, July 30, 2020 5:42:26 PM
Attachments: [image004.png](#)
[image008.png](#)

Robert,

Thanks for letting me know about the link to make PRA requests. I'll be happy to use it in the future.

Sincerely,

Adam Bereki

On Thu, Jul 30, 2020 at 4:43 PM Rodriguez, Roberto <RRodriguez@santa-ana.org> wrote:

Mr. Bereki,

We received your request via an attachment to the email below, sent yesterday, July 29, 2020. We will log it at this time; however, in the future, all Public Records Requests should go through the City Clerk's Office using the PRA form found at this link below, so that it can be processed and calendared accordingly.

<https://ecms.santa-ana.org/Forms/prr>

Thank you,

Commander Robert Rodriguez

Santa Ana Police Department

Executive Officer / Internal Affairs Division

Office: (714) 245 – 8014

rrodriguez@santa-ana.org



#WEARESAPD

From: Adam <abereki@gmail.com>

Sent: Wednesday, July 29, 2020 8:49 AM

To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>

Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: Ferrer, Lourdes
To: Sorenson, Mathew
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, July 29, 2020 5:02:00 PM
Attachments: image001.png

The request was sent to Cindi Sangenito, I talked to her before sending it over. She said, they would address it.

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

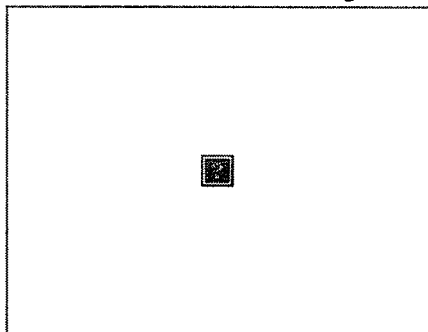
From: Sorenson, Mathew <MSorenson@santa-ana.org>
Sent: Wednesday, July 29, 2020 4:09 PM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Lou,

Below is the email and attached is the PRA request.

Thank you,

Commander Mat Sorenson
Santa Ana Police Department
Training Division / SWAT / Backgrounds
Desk: 714) 245-8051
Cell: 562) 528-6558
msorenson@santa-ana.org



#WEARESAPD

From: Esparza, Enrique
Sent: Wednesday, July 29, 2020 3:55 PM
To: Sorenson, Mathew <MSorenson@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Here's the email

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: [Ferrer, Lourdes](#)
To: [Sangenito, Cindi](#)
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, August 5, 2020 4:07:00 PM
Attachments: [image001.png](#)

Hi Cindi—any word on this PRA from Adam Bereki? Will HR be responding?

Thanks!

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Sangenito, Cindi <CSangenito@santa-ana.org>
Sent: Thursday, July 30, 2020 10:14 AM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: RE: Public Records Act Request 072920– Adam Bereki

Steven is going to talk to the Attorney & see if we can provide the info or not.
We wouldn't be able to give him the oaths of the "unknown officers" who looked into his investigation. That makes NO sense.

From: Ferrer, Lourdes
Sent: Thursday, July 30, 2020 9:53 AM
To: Sangenito, Cindi <CSangenito@santa-ana.org>
Subject: RE: Public Records Act Request 072920– Adam Bereki

Hi Cindi— DC Esparza wants me to confirm the request will be handled by City HR; the requestor filed complaints against the PD staff he encountered right before this PRA, so Esparza just wants to be sure it doesn't fall off anyone's radar.

Thanks!

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Ferrer, Lourdes

Sent: Wednesday, July 29, 2020 4:17 PM
To: Sangenito, Cindi <CSangenito@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Hi Cindi—here’s the request we just chatted about.

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

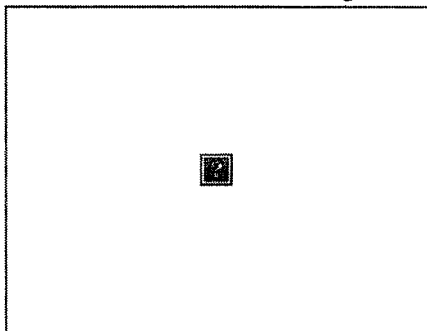
From: Sorenson, Mathew <MSorenson@santa-ana.org>
Sent: Wednesday, July 29, 2020 4:09 PM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Lou,

Below is the email and attached is the PRA request.

Thank you,

Commander Mat Sorenson
Santa Ana Police Department
Training Division / SWAT / Backgrounds
Desk: 714) 245-8051
Cell: 562) 528-6558
msorenson@santa-ana.org



#WEARESAPD

From: Esparza, Enrique
Sent: Wednesday, July 29, 2020 3:55 PM
To: Sorenson, Mathew <MSorenson@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Here's the email

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic

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In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: Ferrer, Lourdes
To: Sorenson, Mathew
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, July 29, 2020 4:10:00 PM
Attachments: image001.png

The muni code spells out that the oath of office records are held with the personnel director:

https://library.municode.com/ca/santa_ana/codes/code_of_ordinances?nodeId=PT:THCH_ARTXIMIPRREOFEM_S1105OAOE

So I'll send it over to City HR.

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

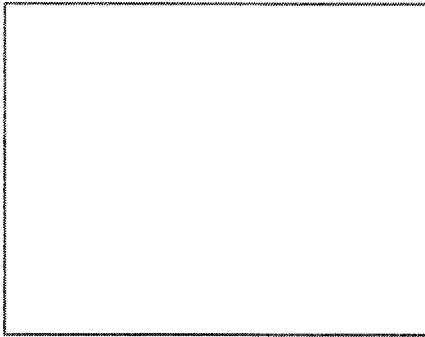
From: Sorenson, Mathew <MSorenson@santa-ana.org>
Sent: Wednesday, July 29, 2020 4:09 PM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

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Commander Mat Sorenson
Santa Ana Police Department
Training Division / SWAT / Backgrounds
Desk: 714) 245-8051
Cell: 562) 528-6558
msorenson@santa-ana.org



#WEARESAPD

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Sent: Wednesday, July 29, 2020 3:55 PM
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Subject: FW: Public Records Act Request 072920– Adam Bereki

Here's the email

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

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In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

From: Ferrer, Lourdes
To: Sanguenito, Cindi
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Thursday, July 30, 2020 10:26:00 AM
Attachments: image001.png

Thanks!

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Sanguenito, Cindi <CSanguenito@santa-ana.org>
Sent: Thursday, July 30, 2020 10:14 AM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: RE: Public Records Act Request 072920– Adam Bereki

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Thanks!

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Sent: Wednesday, July 29, 2020 4:09 PM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

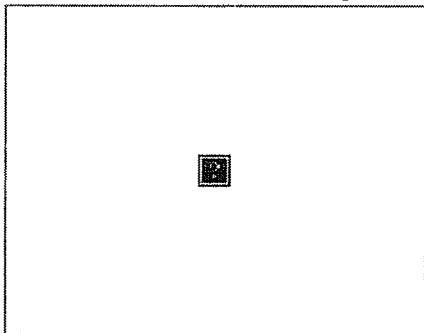
Lou,

Below is the email and attached is the PRA request.

Thank you,

Commander Mat Sorenson

Santa Ana Police Department
Training Division / SWAT / Backgrounds
Desk: 714) 245-8051
Cell: 562) 528-6558
msorenson@santa-ana.org



#WEARESAPD

From: Esparza, Enrique
Sent: Wednesday, July 29, 2020 3:55 PM

To: Sorenson, Mathew <MSorenson@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Here's the email

Enrique Esparza
Deputy Chief-Administration Bureau
Santa Ana Police Department
714 245-8410 | eesparza@santa-ana.org

From: Plotnik, Elizabeth
Sent: Wednesday, July 29, 2020 9:52 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Cc: Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
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From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

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Adam Bereki

From: Ferrer, Lourdes
To: Esparza, Enrique; Sorenson, Mathew
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, August 5, 2020 4:24:00 PM
Attachments: [RE Public Records Act Request 072920 Adam Bereki.msg](#)
[image001.png](#)

Update: Steven's response is attached. Tamara will address the matter with Mr. Bereki—requesting a formal PRA request is made through the CC's office.

-Lou

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Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Ferrer, Lourdes
Sent: Thursday, July 30, 2020 10:27 AM
To: Esparza, Enrique <EEsparza@santa-ana.org>
Subject: FW: Public Records Act Request 072920– Adam Bereki

Steven will be discussing the request with the attorney.

Do you know the deadline to respond?

-Lou

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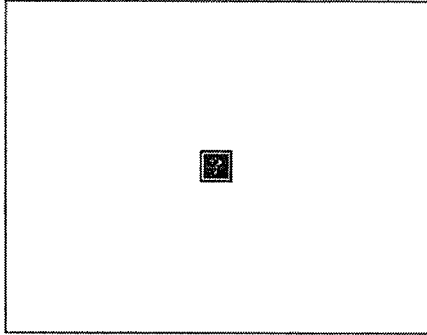
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To: Sangenito, Cindi
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Thursday, July 30, 2020 9:53:00 AM
Attachments: [SAPD Request 072920.pdf](#)
[image001.png](#)

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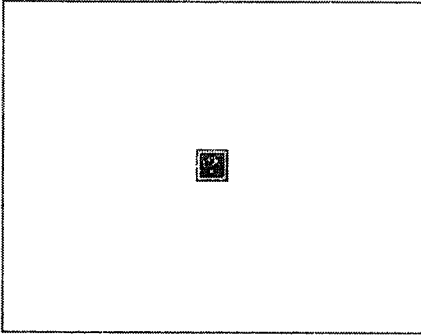
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From: Ferrer, Lourdes
To: Pham, Steven
Cc: Sangenito, Cindi
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Wednesday, August 5, 2020 4:22:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image004.png](#)
[image007.png](#)
[image008.png](#)

Thank you for the update, I'll relay the message back to DC Esparza and Cmdr. Sorenson.

Thanks!

-Lou

Lourdes Ferrer
Senior Human Resources Analyst
Santa Ana Police Department
714-245-8670

From: Pham, Steven <SPham@santa-ana.org>
Sent: Wednesday, August 5, 2020 4:20 PM
To: Ferrer, Lourdes <LFerrer@santa-ana.org>
Cc: Sangenito, Cindi <CSangenito@santa-ana.org>
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Thank you!

Steven V Pham
Executive Director of Human Resources
City of Santa Ana | Human Resources Department
20 Civic Center Plaza M-24
Santa Ana, Ca. 92701
spham@santa-ana.org
714.647.5372

<http://www.santa-ana.org/>

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Cc: Pham, Steven <SPham@santa-ana.org>
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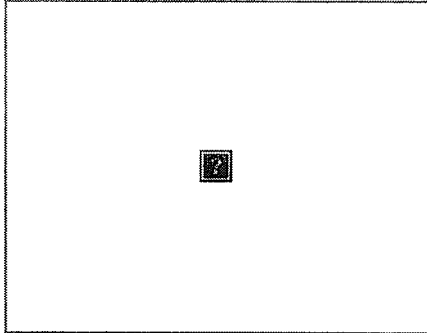
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Adam Bereki

From: [Rodriguez, Roberto](#)
To: abereki@gmail.com
Cc: [Plotnik, Elizabeth](#)
Subject: RE: Public Records Act Request 072920– Adam Bereki
Date: Thursday, July 30, 2020 4:43:30 PM
Attachments: [image004.png](#)
[image008.png](#)

Mr. Bereki,

We received your request via an attachment to the email below, sent yesterday, July 29, 2020. We will log it at this time; however, in the future, all Public Records Requests should go through the City Clerk's Office using the PRA form found at this link below, so that it can be processed and calendared accordingly.

<https://ecms.santa-ana.org/Forms/prr>

Thank you,

Commander Robert Rodriguez

Santa Ana Police Department
Executive Officer / Internal Affairs Division
Office: (714) 245 – 8014
rrodriguez@santa-ana.org



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Date: Wednesday, August 5, 2020 4:20:15 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

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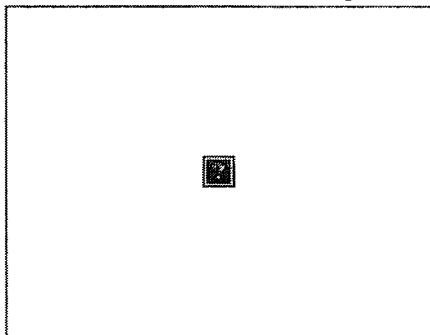
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Subject: FW: Public Records Act Request 072920– Adam Bereki

Good Morning Deputy Chief Esparza,

Can you please oversee a response to the attached PRA? Thank you Sir!

Respectfully,

ELIZABETH PLOTNIK
EXECUTIVE ASSISTANT TO CHIEF VALENTIN
Office of the Chief of Police | Santa Ana Police Department
Eplotnik@santa-ana.org | (714) 245-8003
###

From: Adam <abereki@gmail.com>
Sent: Wednesday, July 29, 2020 8:49 AM
To: Plotnik, Elizabeth <EPlotnik@santa-ana.org>; Rodriguez, Roberto <RRodriguez@santa-ana.org>
Subject: Public Records Act Request 072920– Adam Bereki

Commander Rodriguez,

Please see the attached PRA request. (I have included Elizabeth Plotnik).

Request 4 is unquestionably a large request. My obvious concern is that pursuant to the final reply I received yesterday from the PRA request I made on 7/13/20 it appears that neither you nor Sergeant's Alcantar or Hernandez are lawfully in office pursuant to California Constitution Article XX, Sec. 3 and/or Government Code §3102 and therefore may have no authority to do anything much less collect a salary from the public treasury. For clarity, an Oath of Office must be taken AND subscribed (signed) pursuant to the aforementioned authorities and SAPD policy 102.3. While I can't be certain from only having requested three oaths of office, the fact these records don't exist is obviously indicative of what may be a department-wide systemic problem.

As my criminal complaint must be made to and investigated by a sworn officer, I need to

know exactly who it is on your department that is or is not lawfully in office.

In the meantime, please forward the attached Public Records Request to someone on your department who is a sworn officer and has authority to take the requested action. Please also include me in the email (and provide their complete name and contact information) so I know who to communicate with.

Sincerely,

Adam Bereki

Adam Bereki
818 Spirit
Costa Mesa, California 92626
Abereki@gmail.com | 949.241.6693

Contractors State License Board
(hereafter "CSLB")
Via email: RecCert@cslb.ca.gov

August 13, 2020

RE: Public Records Act Request

Please provide all documents in your custody or control pertaining to the following:

1. The number of "license checks" performed on the CSLB's website under "check a license" in 2018 and 2019.
2. The number of questions on the licensing exam for general contractor pertaining to: (1) law; (2) the general construction trade; (3) any other subjects.
3. Assembly Bill 678 (2001) (otherwise known as Business and Professions Code §7031(b)). I am interested in all letters, emails, or other communication internally within the CSLB and/or externally to legislators, government officials (such as the governor, legislative counsel, or others) pertaining to this Bill either before its ratification around 2001 or any time after. This should also include (1) any studies or other relevant licensing or statistical data the CSLB provided to the legislature pertaining to the enactment of AB678 and (2) any requests for this data from the legislature. If there are no records for each of these specific requests, please say so.
4. Any letters to the CSLB from citizens, businesses, or others pertaining to Business and Professions Code §7031 or AB 678 (2001).
5. Any action the CSLB takes whatsoever to manipulate, change, or alter the results or outcome in any way of any licensing exam. This should include, for example, changing the passing grade etc. to alter the number of passing applications. This request should include any and all protocols, methods, and procedures used in this or any other similar process.
6. The CSLB's policies and procedures pertaining to the licensing examination for all trades.
7. All Training materials produced by the CSLB and available to the public for applicants to study for the licensing exam, This request should include the date(s) of creation and publication of these documents; where they can be found on the CSLB's website or elsewhere; and their direct correlation to actual examination questions.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 8/13/20



Adam Bereki <abereki@gmail.com>

Public Records Act Request

7 messages

Maier, Ellen@CSLB <Ellen.Maier@cslb.ca.gov>
To: "Abereki@gmail.com" <Abereki@gmail.com>

Wed, Aug 19, 2020 at 10:37 AM


Good morning Mr. Bereki,

Attached is a response to your Public Records Act Request.

Thank you

Ellen Maier
Staff Service Analyst
Ellen.Maier@cslb.ca.gov
916-843-6432

Hello- In response to the COVID-19 health emergency I am currently teleworking. As a result, it may take additional time to respond to your email.

 **CSLB Copier_20200819_093825.pdf**
299K

Adam <abereki@gmail.com>
To: Ellen.Maier@cslb.ca.gov

Wed, Sep 16, 2020 at 8:30 AM

Hi Ellen,

I have not received the response. Can you please confirm it was mailed out on Sept. 7 as you stated? Please also feel free, as I requested to simply scan and email the response to me at this address.

Sincerely,

Adam Bereki

[Quoted text hidden]

Maier, Ellen@CSLB <Ellen.Maier@cslb.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 10:55 AM

Good morning Mr. Bereki,

We will produce the records requested January 31, 2021.

Thank you

From: Adam <abereki@gmail.com>
Sent: Wednesday, September 16, 2020 8:30 AM
To: Maier, Ellen@CSLB <Ellen.Maier@cslb.ca.gov>
Subject: Re: Public Records Act Request

CAUTION: This email originated from outside of CSLB. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]

Maier, Ellen@CSLB <Ellen.Maier@cslb.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 11:06 AM

Good morning Mr. Bereki,

There is a large volume of records and it would take the Board approximately 4 months to review and produce the records.

Thank you

From: Adam <abereki@gmail.com>
Sent: Wednesday, September 16, 2020 8:30 AM
To: Maier, Ellen@CSLB <Ellen.Maier@cslb.ca.gov>
Subject: Re: Public Records Act Request

CAUTION: This email originated from outside of CSLB. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Ellen,

[Quoted text hidden]

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Maier, Ellen@CSLB" <Ellen.Maier@cslb.ca.gov>

Thu, Sep 17, 2020 at 12:31 PM

Thank you for your reply Ellen. I understand the request may require a large volume of records. However, the time I need these files is sensitive. I'm sure there is a way we can work together so that perhaps partial responses could be made over time rather than all at once. The items that are the most sensitive at this point are #3 and #4. Do you think you could have those by the end of September? Also, if it would be easier, I would like to receive the records via email so there is no need to copy them.

Sincerely,

Adam Bereki
[Quoted text hidden]

Maier, Ellen@CSLB <Ellen.Maier@cslb.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 2:46 PM

Good afternoon Mr. Bereki,

Unfortunately, request #3 and #4 still would require that the Board review a large volume of records to determine which ones are responsive and which ones are not exempt from production. As such, the Board is unable to comply with your request to produce non-exempt responsive records for request #3 and #4 by the end of September 2020. The Board estimates that it will take about 4 months to be able to review all potentially responsive records and to determine which ones are responsive and not-exempt from production under the Public Records Act.

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Maier, Ellen@CSLB" <Ellen.Maier@cslb.ca.gov>

Thu, Sep 17, 2020 at 3:47 PM

Ok, thank you.

Adam Bereki

[Quoted text hidden]



CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, CA 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95826
800.321.CSLB (2752) | www.cslb.ca.gov | CheckTheLicenseFirst.com

STATE OF CALIFORNIA
Governor Gavin Newsom

August 19, 2020

Sent via email – Abereki@gmail.com

Adam Bereki
818 Spirit
Costa Mesa, CA 92626

RE: Public Records Act Request

Date of Unit Receipt: August 13, 2020

Dear Mr. Bereki,

This is to acknowledge receipt of your request for a copy of documents. The Contractors State License Board (CSLB) is unable to provide the copies within the 10-day time period stipulated in Government Code Section 6253(c). This is to notify you that we require an extension of time for the following reason:

The determination of your request necessitates the searching for, collection, and examination of a potentially voluminous amount of records. As such, the Board extends the date of the determination of your request by fourteen days to September 7, 2020. (See Govt Code, section 6253 (c).

We anticipate a response to be mailed by September 7, 2020.

If you have any questions or need further assistance, please contact me at the address above or via telephone at (916) 255-1693.

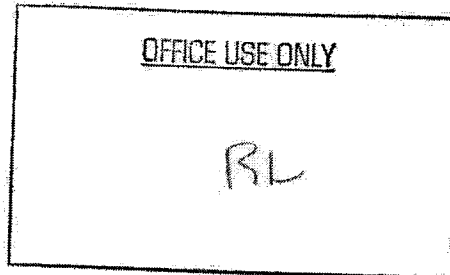
Sincerely,

Holly
Holly Young
Custodian of Records
Record Certification Unit

Adam Bereki
818 Spirit
Costa Mesa, California 92626
Abereki@gmail.com | 949.241.6693



Contractors State License Board
(hereafter "CSLB")
Via email: RecCert@cslb.ca.gov



August 13, 2020

RE: Public Records Act Request

Please provide all documents in your custody or control pertaining to the following:

1. The number of "license checks" performed on the CSLB's website under "check a license" in 2018 and 2019.
2. The number of questions on the licensing exam for general contractor pertaining to: (1) law; (2) the general construction trade; (3) any other subjects.
3. Assembly Bill 678 (2001) (otherwise known as Business and Professions Code §7031(b)). I am interested in all letters, emails, or other communication internally within the CSLB and/or externally to legislators, government officials (such as the governor, legislative counsel, or others) pertaining to this Bill either before its ratification around 2001 or any time after. This should also include (1) any studies or other relevant licensing or statistical data the CSLB provided to the legislature pertaining to the enactment of AB678 and (2) any requests for this data from the legislature. If there are no records for each of these specific requests, please say so.
4. Any letters to the CSLB from citizens, businesses, or others pertaining to Business and Professions Code §7031 or AB 678 (2001).
5. Any action the CSLB takes whatsoever to manipulate, change, or alter the results or outcome in any way of any licensing exam. This should include, for example, changing the passing grade etc. to alter the number of passing applications. This request should include any and all protocols, methods, and procedures used in this or any other similar process.
6. The CSLB's policies and procedures pertaining to the licensing examination for all trades.
7. All Training materials produced by the CSLB and available to the public for applicants to study for the licensing exam, This request should include the date(s) of creation and publication of these documents; where they can be found on the CSLB's website or elsewhere; and their direct correlation to actual examination questions.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 8/13/20

Adam Bereki
c/o 818 Spirit
Costa Mesa, California 92626
abereki@gmail.com
949.241.6693

August 18, 2020

California State Assembly

Via email: assembly.rules@asm.ca.gov

RE: Public Records Act Request

Good day.

Please provide all documents in your custody or control pertaining to the policies, procedures, rules, regulations, or other guidelines for the handling of Petitions for Redress of Grievance pursuant to California Constitution Article I, Section 3.

If you are not the appropriate department who would handle this request, please forward.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the number or address provided above.

Sincerely,

/s/Adam Bereki

August 18, 2020



Adam Bereki <abereki@gmail.com>

Records Request

3 messages

Adam <abereki@gmail.com>

Tue, Aug 18, 2020 at 10:09 AM

To: Assembly Rules <assembly.rules@asm.ca.gov>

Good Day,

Please see the attached request.

Thank you for your help.

Adam Bereki.

**PRA Request Petition For Redress State Assembly.docx**

14K

Assembly Rules <Assembly.Rules@asm.ca.gov>

Tue, Aug 18, 2020 at 10:24 AM

To: "abereki@gmail.com" <abereki@gmail.com>

Dear Mr. Bereki,

We are in receipt of your correspondence requesting records under the Legislative Open Records Act. (Gov. Code, § 9070 et seq.) Due to the public health emergency with regard to the novel coronavirus (COVID-19), we are currently working with limited resources. Given this limitation, our response to your request may be delayed. Rest assured that we will respond to your request and will do our very best to respond timely in accordance with the act.

Thank you.

[Quoted text hidden]

**PRA Request Petition For Redress State Assembly.docx**

14K

Adam <abereki@gmail.com>

Wed, Aug 19, 2020 at 8:21 AM

To: Assembly Rules <Assembly.Rules@asm.ca.gov>

Thank you for your message. I received it.

Sincerely,

Adam Bereki

[Quoted text hidden]



STATE CAPITOL
 P.O. BOX 942849
 SACRAMENTO, CA 94249-0124
 (916) 319-2800
 FAX (916) 319-2810

CHIEF ADMINISTRATIVE OFFICER
 DEBRA GRAVERT

Assembly
 California Legislature
 Committee on Rules
 KEN COOLEY
 CHAIR

VICE CHAIR
 JORDAN CUNNINGHAM
 MEMBERS
 WENDY CARRILLO
 HEATH FLORA
 TIMOTHY S. GRAYSON
 SYDNEY KAMLAGER
 BRIAN MAIENSCHIN
 DEVON J. MATHIS
 SHARON QUIRK-SILVA
 JAMES C. RAMOS
 ROBERT RIVAS
 BUFFY WICKS
 MARC LEVINE (D-ALT.)
 TYLER DIEP (R-ALT.)

August 25, 2020

Adam Bereki
 818 Spirit
 Costa Mesa, CA 92626
 abereki@gmail.com

Re: Legislative Open Records Act Request

Dear Mr. Bereki:

This letter is in response to your correspondence dated August 18, 2020, in which you request "all documents . . . pertaining to the policies, procedures, rules, regulations, or other guidelines for the handling of Petitions for Redress of Grievance pursuant to California Constitution Article I, Section 3." We construe your request as a request for legislative records under the Legislative Open Records Act. (Gov. Code, § 9070 et seq.)

Under the Legislative Open Records Act, requests for records must be sufficiently specific and focused to enable us to identify, review, and produce existing legislative records with reasonable effort. A request that is vague in its parameters or that compels the production of large volumes of material is unduly burdensome. Without a more narrowly drawn description of the types of records you are seeking, we are unable to provide you any records in response to your request. Please be advised that the Legislative Open Records Act is a statutory mechanism by which a citizen may request to inspect an existing legislative record prepared in the normal course of conducting the public's business. (Gov. Code, §§ 9072 & 9073.) It is not a means to request the Legislature to create a new record by compiling publicly available information into a list, report, or guide.

Sincerely,

DEBRA GRAVERT
 Chief Administrative Officer
 California State Assembly



Adam Bereki <abereki@gmail.com>

LORA Response from Assembly Committee on Rules

1 message

Assembly Rules <Assembly.Rules@asm.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Tue, Aug 25, 2020 at 1:30 PM


Dear Mr. Bereki:

Attached is the LORA response to your correspondence on August 18, 2020.

Thank you.

Kelli Adams

Assembly Committee on Rules

 **(2020-136)BerekiLORA8.25.20.pdf**
84K

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

August 18, 2020

Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701
Via Online Submission

RE: Public Records Act and Other Requests for Production

Please provide all documents in your custody and control evidencing:

1. All of the duties for the following positions within your agency:
 - a. Police Officer
 - b. Corporal
 - c. Corporal Lead
 - d. Detective
 - e. Sergeant (for the position within Field Operations Bureau and Internal Affairs)
 - f. Detective Sergeant
 - g. Internal Affairs Investigator (if different than item e.)
 - h. Commander (for the positions of Watch Commander and Executive Officer)
 - i. Deputy Chief (for the assignments of the Administrative and Field Operations Bureau)
 - j. Chief of Police

as prescribed by the California Constitution, Constitution for the United States, California statutes, codes (including municipal codes), or any other rules or regulations. This should also include duties implied by the nature of position, post, or office held, though not specifically enumerated. Where the duties of each post or position include the duties of other posts or positions, those duties should be restated. For example, a Detective Sergeant still may be required to perform the duties of a police officer.

2. A copy of the Santa Ana Police Department policy declaring that judges acting without constitutional authority are immune from criminal investigation and/or prosecution and the SAPD will therefore not take a crime report and/or complete an investigation.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the number or address provided above.

Sincerely,

/s/ Adam Bereki, 8/18/20



Adam Bereki <abereki@gmail.com>

Public Records Request #9226

1 message

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam <abereki@gmail.com>

Wed, Aug 19, 2020 at 1:35 PM

Good Afternoon Mr. Bereki,

Please see the attached response to your most recent public records request.

Have a good rest of your afternoon,

Rita J. Ramirez

Police Administrative Manager


Records/Evidence

Santa Ana Police Department

Office: 714-245-8620

#WEARESAPD



 **MX-5071_20200819_090221.pdf**
548K

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

August 19, 2020

VIA E-MAIL ONLY

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Re: Public Records Act Request

Dear Mr. Bereki,

The Santa Ana Police Department has completed its review and evaluation of your request for public records, which was received by City staff on August 18, 2020 regarding the following information:

Provide all documents in your custody for the following positions with your agency:

1. All of the duties for the following positions within your agency:
 - a. Police Officer
 - b. Corporal
 - c. Corporal Lead
 - d. Detective
 - e. Sergeant (for the position within Field Operations Bureau and Internal Affairs)
 - f. Detective Sergeant
 - g. Internal Affairs Investigator (if different than item e.)
 - h. Commander (for the positions of Watch Commander and Executive Officer)
 - i. Deputy Chief (for the assignments of the Administrative and Field Operations Bureau)
 - j. Chief of Police

Department policies can be found on our website, using the link below. Please refer to Department Policy # 101, 206, 320, 400, 420, 1038 and 1039 for the information you are requesting. Attached is Department Order 550 which covers the Inspector Designation and Authority. Please note the Detective designation is an assignment for Police Officers in the Investigations Bureau, however, the job duties are attached.

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpanaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

<https://www.santa-ana.org/pd/training-division/police-department-policies>

Additionally, job duties can be found on the City website:

<https://www.governmentjobs.com/careers/santaana/classspecs>

2. A copy of the Santa Ana Police Department policy declaring that judges acting without constitutional authority are immune from criminal investigation and/or prosecution and the SAPD will therefore not take a crime report and/or complete an investigation.

No records deemed responsive to your request have been identified.

This response is meant to completely comply with your request. Should you have any questions, please contact Sergeant Matt Wharton at (714) 245-8501.

Sincerely,

DAVID VALENTIN
Chief of Police



ENRIQUE ESPARZA
Deputy Chief, Administration Bureau

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacarra
Ward 4
pbacarra@santa-ana.org

Nelida M
War
nmendoza@santa-ana.org

Santa Ana Police Department

Departmental Order #550 – Inspector Designation and Authority

| | |
|--|----------|
| Purpose | 2 |
| I. Duties and Responsibilities | 2 |
| II. Appointment of Inspector Classification | 2 |
| III. Level of Authority | 2 |

Purpose

The purpose of this order is to establish the classification of Inspector within the Office of the Chief of Police and Professional Standards and to outline the duties, responsibilities and authority of Inspectors.

I. Duties and Responsibilities

The classification of Inspector is established to enhance the organizational authority of Professional Standards and supervisors assigned to the Criminal Intelligence position in the Office of the Chief of Police. Professional Standards is responsible for the investigation of allegations of employee misconduct; the administrative investigation of officer involved shootings; the investigation of in-custody deaths; the investigation of claims against the Department for civil damages; and other duties as assigned. The Inspector assigned to the Criminal Intelligence position will maintain a close working relationship on complex and sensitive cases with the FBI's Organized Crime Squad and the Orange County District Attorney's Organized Crime Unit. All reports of a sensitive nature will be reported directly to the Chief of Police.

II. Appointment of Inspector Classification

- A. All Inspectors within Professional Standards serve at the discretion of the Chief of Police.
- B. All police sergeants and corporals assigned to the Office of the Chief of Police and Professional Standards will be classified as Inspectors.

III. Level of Authority

- A. Inspectors assigned to Professional Standards have been delegated the authority by the Chief of Police to issue orders compelling cooperation in an investigation from all personnel, regardless of rank, within the Department. Refusal to obey an Inspector's lawful order to cooperate in an investigation shall be deemed insubordination and the employee may be subject to disciplinary action up to, and including, termination.
- B. The Inspector will maintain the supervisory authority and responsibility of a police sergeant or corporal when serving in a capacity other than Professional Standards.

MEMORANDUM

Criminal Investigations Division



TO: Sworn Personnel
FROM: Commander Matt Brown
DATE: February 19, 2020
SUBJECT: Change of Assignment – Special Investigations Unit Detective

The Investigations Bureau is currently accepting letters of interest for Detective in the Special Investigations Unit. Those interested in this opportunity must submit a change of assignment request through their chain of command by **1700 hours, February 25, 2020** along with a one-page summary of their experience and qualifications, and a sample of a complex sexual assault or child abuse investigation they have handled. Applicants must also e-mail Sergeant Zepeda and me to advise they submitted a change of assignment request, as we will schedule interviews for **Friday, February 28, 2020**. Please direct your questions regarding this position to Sergeant Zepeda.

The person selected for this position may be required to work unusual or long hours and may be required to respond from home to assist with ongoing incidents of a critical nature. In addition, all Special Investigations Unit detectives are required to participate in the Patrol Backfill Program.

The Special Investigations Unit currently has one detective opening. There may be a second position available in the near future, when staffing allows. These positions will be used to supplement staffing in Child Abuse and Sexual Assaults.

QUALIFICATIONS

Officers interested in this position must have attained "C" step, be off probation, and be willing to work varied hours and days. For the current opening, the ability to speak Spanish is desirable but not required.

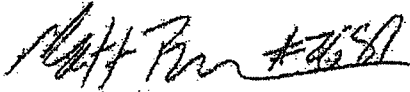
The successful candidate will possess the following skills:

- Demonstrated ability to conduct in-depth investigations and write comprehensive reports.
- Knowledge of Criminal Law and Search & Seizure rules.
- Knowledge of investigative resources.
- History of successful outcomes when investigating child sexual/physical abuse.
- Ability to conduct multiple investigations in a timely and effective manner.
- Ability to work closely with other department personnel.
- Ability to collaborate with other detectives, patrol officers, law enforcement agencies, district attorney's employees and other stakeholders.
- Demonstrated ability to conduct probative suspect and victim interviews.
- Ability to work as a contributing member in a close-knit team environment.

- An understanding of the City of Santa Ana's Strategic Plan goals, especially as they relate to addressing Special Crimes issues.

SELECTION PROCESS

The selection process will include an evaluation of the candidate's personnel file, interview of current and/or past supervisors, and an oral interview. The interview panel will consist of two sergeants from the Investigations Bureau and one sergeant from Field Operations.



Commander Matt Brown
Criminal Investigations Division

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Santa Ana Police Department to perform their functions based on established legal authority.

100.2 POLICY

It is the policy of the Santa Ana Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate the abuse of law enforcement authority.

100.3 ADHERENCE TO LAW ENFORCEMENT CODE OF ETHICS & MISSION, VISION, VALUES STATEMENTS

Sworn members of this department will conduct themselves in accordance with the Law Enforcement Code of Ethics and all members will carry out their official duties in a manner that compliments the department's mission, vision and values statements.

100.4 PEACE OFFICER POWERS

Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.1 et seq.).

100.4.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE SANTA ANA POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Santa Ana Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person committed a felony.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.
- (c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

Santa Ana Police Department

Santa Ana PD Policy Manual

Law Enforcement Authority

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the City should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

100.4.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE SANTA ANA POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Santa Ana Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.
- (c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.
- (d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the officer such as certain domestic violence offenses.
- (e) In compliance with an arrest warrant.

100.4.3 DELIVERY TO NEAREST MAGISTRATE

When an officer makes an arrest pursuant to a warrant issued in a county other than where the person was arrested, the officer shall inform the person of the right to be taken before a magistrate in the county where the warrant was issued (Penal Code § 821; Penal Code § 822).

100.4.4 TIME OF MISDEMEANOR ARRESTS

Officers shall not arrest a person for a misdemeanor between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next day unless (Penal Code § 840):

- (a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
 1. A misdemeanor committed in the presence of the officer.
 2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).
- (b) The arrest is made in a public place.
- (c) The arrest is made with the person in custody pursuant to another lawful arrest.
- (d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

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Law Enforcement Authority

100.5 CONSTITUTIONAL REQUIREMENTS

All members shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

100.6 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

The person arrested out of state must be taken without unnecessary delay before a magistrate of the county in which the arrest was made (ARS § 13-3833; NRS 171.158; ORS 133.440).

Chief Executive Officer

101.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

Field Supervision Staffing Requirements

206.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available for all shifts. The Department intends to balance the employee's needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Department.

206.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least two field supervisors on duty whenever possible. Watch Commanders will ensure that at least two field supervisors are deployed during each watch, in addition to a Watch Commander.

206.2.1 SUPERVISION DEPLOYMENTS

In order to accommodate training and other unforeseen circumstances, Corporals may be used as field supervisors in place of a field sergeant.

In the event of an absence of the regularly scheduled Watch Commander, a Sergeant may act as the Watch Commander on a temporary basis.

Standards of Conduct

320.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Santa Ana Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

320.2 POLICY

The continued employment or appointment of every member of the Santa Ana Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

320.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

320.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanning the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

320.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

320.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

320.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

320.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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320.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Santa Ana Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

320.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

320.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

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320.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

320.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, video footage, photos, audio recordings or reports obtained as a result of the member's position with this department.
 - 1. Members of this department shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Santa Ana Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

320.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Human Resources Division of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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320.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on--duty at official legislative or political sessions or campaign activity using any property or equipment for any campaign purpose, including use of any City equipment, City email, materials, seal or logo.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (i) Any act on- or off-duty that brings discredit to this department.

320.5.9 CONDUCT

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- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

320.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

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- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

320.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Patrol Function

400.1 PURPOSE AND SCOPE

This policy defines the patrol function and addresses intraorganizational cooperation and information sharing.

400.2 POLICY

The Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

400.3 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked patrol vehicles in assigned jurisdictional areas of Santa Ana. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.
- (h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
- (i) Directing and controlling traffic.

400.4 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all bureaus and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily roll calls and to attend roll calls of other bureaus or specialized units. Information should be shared with outside agencies and the

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public in conformance with Department policies and applicable laws. Members are encouraged to share information with other units and bureaus.

400.5 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

400.5.1 CAMPUS LIAISON

A college or university in this jurisdiction should designate a liaison between the Department and students exercising rights guaranteed by the First Amendment to the United States Constitution, a similar provision of the California Constitution or both (Education Code § 66303). Designated Department staff member will work with the liaison regarding relevant issues, scheduled events, training and crowd control.

Watch Commanders

420.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Commander will oversee each watch.

420.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Commander is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

420.3 WATCH COMMANDER RESPONSIBILITIES

420.3.1 ADMINISTRATIVE RESPONSIBILITIES

- (a) Functional supervision of all watch personnel
- (b) Administrative reporting concerning issues affecting the efficiency and performance of the Bureau/Department
- (c) Maintain Watch Commanders' Reference Manual and appropriate documents to a current level
- (d) Oversee administrative reporting and all recommendations for discipline and recognition involving shift personnel.
- (e) Notify appropriate chain of command personnel regarding significant events
- (f) Interface with District Commanders and Managers on Department issues
- (g) Functional management of the Communications Center and Telephonic Reporting Unit
- (h) Liaison with Detention Facility supervision to ensure orderly operation and interaction
- (i) Advise in matters of legal interpretation, arrest, search and seizure
- (j) Facilitate roll call training and oversee roll call
- (k) Supervise the Station Supervisor
- (l) Act as Press Information Officer in the absence of media relation's personnel
- (m) Oversee scheduling, non-regular time off usage and overtime expenditures
- (n) Evaluate and prepare performance evaluations of subordinates
- (o) Review and complete the Managers's comments on officer evaluations
- (p) Interview, evaluate and assist persons making complaints

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- (q) Monitor and track field use of force actions and administrative investigations to ensure proper documentation
- (r) Review and approve supervisor's Blue Team entries
- (s) Other responsibilities as observed or assigned.

420.3.2 OPERATIONAL RESPONSIBILITIES

- (a) Tactical Commander of Field Operations
- (b) Coordinate first response to major incidents and natural disasters
- (c) Coordinate mutual-aid situations and ensure adherence to the Incident Command System
- (d) Debrief and critique major incidents as soon as possible with shift personnel for training and clarification purposes
- (e) Arrange for special unit call-out and re-call plan, when appropriate
- (f) Command a working knowledge of SWAT, crisis negotiation, canine, air support, officer involved shooting team and peer support policies to allow for informed decisions on deployment
- (g) Maintain building and parking security through regular and thorough inspections
- (h) Perform inspectional role by spending time in the field
- (i) Coordinate with district sergeants to provide uniform supervision of all field personnel
- (j) ensure timely and proper handling of prisoners and witnesses brought to the station
- (k) Maintain adherence to statutory guidelines in dealing with juvenile detention
- (l) Oversee after hours range operation and compliance with required weapons qualifications
- (m) Liaison with phone company personnel for traces, unlisted numbers and emergency services

Duty Regulations for Police Managers

1038.1 PURPOSE

This policy establishes duty regulations for Police Managers.

1038.2 POLICY

Police Managers are salaried employees and are expected to work the number of hours necessary to fulfill the responsibilities of their respective assignments or to meet the mission of the Department. Time worked beyond the regular workday that is incidental to fulfilling these responsibilities is expected to be without compensation. However, there are special circumstances when Managers will receive compensation, either through adjusting their regular working hours or by changing their regular days off.

Managers who are routinely required to work beyond the regular workday to fulfill their responsibilities may adjust their hours on the day of the occurrence or the day immediately following the occurrence with the permission of their immediate manager. Managers will not be allowed to accumulate hours for the purpose of taking complete workdays off at a later time. When Managers are required to work on what would regularly be a day off, they may change their days off within the same scheduling period with the permission of their immediate managers. Day off changes cannot be carried more than 30 days from the occurrence.

It is each manager's personal responsibility to ensure regular days off, vacation and holiday times are accurately projected in advance of the occurrence and approved by their manager. Any changes in the projection must be made through the use of the standard non-regular time reporting slip signed and authorized by their manager. When Managers are off duty during an administrative working day, they shall cause their absence and the required information to be reported to their commanding officer.

Corporal, Senior Correctional Officer, and Lead Designations

1039.1 PURPOSE

This policy defines the role and duty assignment of Corporals and establishes procedures for the selection of Corporal, Senior Correctional Officer and Lead positions.

1039.2 POLICY

It is the policy of the Santa Ana Police Department to use the Corporal, Senior Correctional Officer and Lead positions to supplement and assist supervision throughout the Department according to need, as determined by the Chief of Police.

1039.3 CORPORAL DEFINED

- (a) A Corporal is a voluntary non-civil service assignment designated to supplement supervision and provide assistance with a broad range of supervisory duties.
 - 1. A Corporal may be assigned/delegated a wide variety of supervisory responsibilities appropriate to their level of authority, experience, and aptitude. The ultimate responsibility for supervisory matters, however, shall remain with the Sergeant to whom the Corporal has been assigned.
 - 2. The Corporal assignment does not relieve the individual from any other job duties or responsibilities, associated with their particular assignment or duty as a Police Officer.

1039.4 LEVEL OF AUTHORITY

- (a) In the absence of the responsible Sergeant, Corporals shall serve as the immediate supervisor of their assigned team/detail and assume supervisory authority and responsibility.
 - 1. Subordinate personnel shall comply with the lawful orders of a Corporal in accordance with the Standards of Conduct policy.
 - 2. Exceptions:
 - (a) Corporals are subordinate to all Sergeants regardless of their Bureau, Division, or duty assignment.
 - (b) Corporals shall not perform any tasks specifically assigned or limited to Sergeants e.g., certain use of force investigations and reports as outlined in D.O. 425.
 - 3. When necessary, due to the long term absence of a sergeant, and subject to the guidelines established in the POA MOU, a Corporal may be temporarily upgraded to "Acting Sergeant" status by the Chief of Police.

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- (b) Unless otherwise regulated by Departmental Policy, Rules, and Regulations, or by the direction of a superior officer, a Corporal shall have the authority to:
 - 1. Prepare use of force reports as designated in the Use of Force Policy.
 - 2. Approve Police Reports
 - 3. Approve Criminal Arrests
 - 4. Prepare Deployment Schedules
 - 5. Evaluate Employee Performance
 - 6. Perform other supervisory tasks/special assignments as delegated by their Sergeant or higher authority.
- (c) Corporals may assist in the investigation of minor personnel misconduct and citizen complaints of service.
 - 1. Corporals may recommend disciplinary action and may, with the approval of their Sergeant or superior officer, administer minor disciplinary action.

1039.5 RESPONSIBILITIES

- (a) The supervisory duties/assignments of a Corporal shall be determined by the Team/Detail Sergeant, Division, District, or Watch Commander to which they are assigned.
 - 1. The ultimate responsibility for the quality of work and supervisory actions of a Corporal rests with the immediate supervisor to which they are assigned.

1039.6 CORPORAL SELECTION PROCESS

- (a) A candidate for assignment as a Corporal must have five (5) years of experience as a Police Officer, three (3) of which shall be as a Santa Ana Police Officer.
- (b) Desirable but not Required Characteristics of Corporals:
 - 1. Present or prior service as a Field Training Officer.
 - 2. Completion of college-level course work that is relevant to the assignment.
 - 3. Present or prior service as a police detective.
- (c) The corporal testing components and shall be designed to select candidates who have the following traits:
 - 1. Demonstrated leadership ability and decision-making skills based on sound judgment, current law enforcement practices, and departmental standards.
 - 2. Demonstrated working knowledge of departmental policies, procedures, rules, and regulations, state and local criminal laws.
 - 3. Possess a working knowledge and understanding of the Chief's Policing Philosophy and the Department's Mission, Vision, and Values.
 - 4. Demonstrated interpersonal skills in working effectively with fellow employees, members of the community and outside agency personnel.

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Corporal, Senior Correctional Officer, and Lead Designations

5. Consistently display a positive attitude, is hard-working and highly motivated.
 6. Demonstrated ethical behavior in professional affairs.
- (d) Testing Process for Corporal
1. Upon notification of a Corporal selection process, interested personnel shall submit a Request for Change of Assignment form to their Bureau Commander via their chain of command.
 2. All Change of Assignment forms will proceed through the chain of command where the affected supervisors shall review and sign the form for the position. All forms are then sent to PD Human Resources.
 3. The Manager of PD Human Resources will coordinate the department-wide Corporal selection process on an annual or as needed basis.
 4. Human Resources will conduct a review of the Request for Change of Assignment forms submitted to ensure that candidates meet all minimum requirements. Those candidates who meet the minimum requirements will be invited to continue in the selection process.
 5. Qualified candidates will participate in a written examination, which will be scored. Candidates must achieve a score of at least 80% on the written examination to continue in the process. The written examination will account for 50% of the total score in the selection process.
 6. Candidates who pass the written examination will be ranked in order of their score.
 7. The candidates who are selected to advance from the written examination will be invited to participate in an oral examination that will be administered and scored by an oral examination panel.
 - (a) The oral examination panel will consist of two sergeants and one corporal selected as follows: one sergeant from 2 different Bureaus and one corporal from the Field Operations Bureau.
 - (b) The panel will evaluate each applicant across the following four dimensions as they relate to successful performance as a Corporal:
 1. Technical and procedural knowledge
 2. Problem-solving and decision-making
 3. Interpersonal and communication skills
 4. Supervisory and leadership skills
 - (c) Candidates will be required to submit a focused resume specific to the performance dimensions listed above and a sample of previously completed work product (3 pages maximum). The focused resume will be reviewed by the oral examination panel and may be used by the panel to determine if the candidate possesses the desired traits listed in section b 1-5. The panel's assessment of the resume may be a contributing factor

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to the candidates overall oral score. The guidelines for the focused resume component will be provided by the Human Resources Manager.

- (d) Candidates must achieve an oral examination score of at least 70% to continue in the process score. The oral examination will account for 50% of the overall score in the selection process.
8. Each candidate's final score in the process will be calculated as follows:
- (a) The written score will be multiplied by .50 to produce a weighted written score.
 - (b) The oral score will be multiplied by .50 to produce a weighted oral score.
 - (c) The two weighted scores will be added to arrive at an initial score.
 - (d) Promotional points will be added to arrive at a final score. Promotional points will be awarded on the basis of .5 points per completed year of service. Years of service will be calculated from the closing date of the testing announcement and will include only that period of time in which the candidate performed sworn law enforcement duties (as defined in CPC Section 830.1) with the City Santa Ana. The maximum number of promotional points that can be awarded is 5.0 (i.e. 10 or more years of service).
9. A ranked list of Qualified Corporal Candidates will be established. Each candidate's position on the list will be based on their final score. This list will be valid for one year.
10. Candidates accepting a Corporal position on the list will be assigned to Field Operations: Patrol for their first assignment.
- (a) The Chief of Police has the discretion to waive or delay the assignment to Patrol based on the needs of the Department.
- (e) Corporals who wish to become Field Training Officers must successfully pass the FTO selection process as outlined in the Field Training Officer Procedure. Corporals who become FTOs shall first attend a POST approved 40-hour FTO school prior to training any new or lateral officers and before receiving the FTO incentive pay.
- (f) Filling Corporal Vacancies - Specialized Assignments
- 1. The Bureau Commander in which a Corporal assignment or vacancy exists, except for Patrol Corporal, will issue a Request for Change of Assignment announcement with the necessary requirements for that assignment. The selection process will consist of a two-part assessment: a qualified/not-qualified Bureau Personnel File Review Process and a scored and ranked Oral Examination.
 - 2. The Bureau Personnel File Review Process will consist of the affected Bureau Commander selecting supervisors/managers to review the personnel files of candidates for the specialized Corporal's assignment. The review will evaluate the following five elements to determine if the candidate is qualified or not qualified:

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- (a) Personal Attributes
 - (b) Employee experience
 - (c) Writing ability
 - (d) Education and training,
 - (e) Job contributions, commendations, and discipline
3. Those candidates that are found to be qualified will be invited to compete in the Oral Examination. The Oral Examination will consist of at least two supervisors and/or managers administering the examination. The examination will be scored and the overall oral examination score will determine the ranking of the candidates. Upon arriving at the overall ranking the Bureau Commander has the choice of the first three candidates with the final approval of the selection by the Chief of Police.
- (g) Reinstatement of Former Corporals
1. A former corporal who surrendered his/her corporal status in good standing may request reinstatement at any time to fill a vacancy in any non-specialized assignment that has been identified by the affected Bureau Commander.
 2. Former corporals who request reinstatement shall take precedence over any candidate on the List of Qualified Corporal Candidates who have not yet been promoted.
- (h) All Corporal selections are subject to approval by the Chief of Police.

1039.7 SENIOR CORRECTIONAL OFFICER SELECTION

Santa Ana Jail Policy and Procedure Order 01.06 will govern the selection of Senior Correctional Officer.

1039.8 NON-CIVIL SERVICE LEAD POSITION SELECTION

- (a) Requirements
1. Attainment of "C" Step pay bracket with the City of Santa Ana and completion of the probationary period.
 2. Recommendation of the current supervisor and appropriate Division and Bureau Commander.
 3. Demonstrated leadership ability and decision making skills based on sound judgment, current law enforcement practices and departmental standards.
 4. Demonstrated working knowledge of departmental policies, procedures, rules and regulations, state and local criminal laws.
 5. Possess a working knowledge and understanding of the Chief's Policing Philosophy.
 6. Demonstrated sound judgment, an understanding of decision-making principles, and a history of exhibiting self-control.

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7. Demonstrated interpersonal skills in working effectively with fellow employees, members of the community, and outside agency personnel.
8. Consistently display a positive attitude, be hardworking, and highly motivated.
9. Demonstrated ethical behavior in professional affairs.

(b) Department Wide Selection Process

1. Upon notification of a Lead selection process, interested personnel shall submit a Request for Change of Assignment to their Bureau Commander via their chain of command.
2. All Change of Assignment forms will proceed through the chain of command, where the affected supervisors shall comment on the employee's suitability for the position. All forms will then be sent to Human Resources.
3. The Manager of Human Resources will coordinate the department-wide Lead selection process.
 - (a) The Police Human Resources Division will conduct a review of the Request for Change of Assignments submitted to ensure that candidates meet all minimum requirements. Those candidates who meet the requirements will be invited to continue in the selection process.
4. Selection for a Lead position will be based on a two-part process: a Bureau Personnel File Review Process and an Oral Examination.
5. The Bureau Personnel File Review Process will consist of the affected Bureau Commander selecting supervisors/managers to review the personnel files of candidates for the Lead position. The review will evaluate the following five elements:
 - (a) Personal Attributes
 - (b) Employee experience
 - (c) Writing ability (a written essay will be required and included as part of the assessment of a candidate's writing ability)
 - (d) Education and training
 - (e) Job contributions, commendations and discipline: The file will be scored and weighted 50% of the overall score.
6. Qualified candidates will participate in an oral examination that will be administered and scored by an oral examination panel.
 - (a) The interview panel will consist of three supervisors and/or managers selected by the affected Bureau Commander.
 - (b) The panel will evaluate each applicant across the following four dimensions as they relate to successful performance as a Lead:
 1. Technical and procedural knowledge
 2. Problem-solving and decision-making

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3. Interpersonal and communication skills
4. Supervisory and leadership skills: Candidates must achieve an oral interview score of 70% to continue in the process. Candidates must pass each of the four dimensions to achieve an overall passing score.
 - (a) The oral examination will account for 50% of the overall score.
7. The oral examination score will be multiplied by .50 to produce a weighted oral examination score. The Bureau File Review score will be multiplied by .50 to produce a weighted promotability score. The two weighted scores will be added to arrive at a final score.
8. A ranked List of Qualified Candidates will be established. Each candidate's position on the list will be based on his/her final score. This list will be valid from six months to two years at the discretion of the Chief of Police.
9. A candidate may decline to accept a lead appointment. If they decline, they will retain their position on the list and have the opportunity to accept or decline a future opening based upon their position on the list.
10. All Lead selections are subject to approval by the Chief of Police.

1039.9 CORPORAL, SENIOR CORRECTIONAL OFFICER, AND LEAD ASSIGNMENT - TERMS AND CONDITIONS

- (a) Removal from Assignment
 1. The Bureau Commander may remove the assignment from an employee when there is evidence the employee is unable or unwilling to perform the duties of the assignment competently.
 - (a) An employee may appeal their removal from the assignment pursuant to the relevant provisions in the current MOU. The removal of an assignment, however, is not subject to the Civil Service review process.
- (b) Relinquishment of Assignment
 1. An employee may surrender their assignment, without prejudice, by notifying their Bureau Commander via a Request for Change of Assignment form.
- (c) Transfers
 1. Corporals may, with the approval of their Bureau Commander, transfer between Divisions within their assigned Bureaus.
 2. The Corporal assignment may be transferable outside of their assigned Bureau depending on the individual's background/experience and the nature of the assignment.
- (d) Seniority

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1. Seniority is based on the date appointed as a corporal, senior correctional officer or lead.
 - (a) When two or more employees are appointed on the same date, seniority will be based on their ranking on the candidate list from which they were appointed.
 - (b) When two or more officers are appointed as corporals from two different lists on the same date, those appointed from a Sergeant's list will have seniority over those appointed from a Corporal's list.
 - (c) Employees who voluntarily surrender their status for any reason, and who are subsequently reappointed, will have their seniority date adjusted to account for only the time served as in their assignment. If an employee's assignment is removed due to a disciplinary finding and the employee subsequently retests and is reappointed, his/her seniority in the assignment will begin at that time adjusted seniority date is the same as another employee in the same assignment (i.e. corporal, senior correctional officer or lead). The employee whose initial appointment was earlier will be senior.
2. For time off, long term vacation, and holidays, seniority for officers and corporals will be based on tenure with the Department as a sworn officer, regardless of rank, as indicated in the Short Term and Long Term Time Off Scheduling Policy.
3. For Patrol Shift Sign-Ups, corporals will sign up for positions based on their seniority as corporals, as explained in the Patrol Schedule and Shift-Change Policy. Available corporal positions will be determined by the Field Operations Bureau Commander based on the needs of the Department.

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

May 2, 2020

Submitted
8/19/20

Submitted VIA Efoia on 5/3/2020

RE: Freedom of Information Act and Other Requests for Production

On January 31, 2020 at around 1315 hours, I telephoned your agency from the above telephone number to report criminal behavior by California judges that have deprived me of rights secured by the Constitution for the United States of America. The call-taker told me that the FBI does not investigate this type of criminal behavior and hung up on me.

Please provide all documents in your custody and control evidencing:

- (1) your agency's policy for the handling of complaints involving deprivations of Constitutional rights. Please include the policy for taking such complaints as well as investigating them and especially any requirements that complaints of this nature be mandatorily taken and investigated;
- (2) the law and any related policies, procedures, or regulations that empower or authorize your agency to investigate criminal and other offenses or violations of law against citizens of the United States or State Citizens;
- (3) any notes or other records made by the call taker or anyone else pertaining to the above referenced call, including a copy of the call log indicating the time, date, and duration and other information collected pertaining to the call;
- (4) a copy of the audio tape of the call;
- (5) the name, title, and badge number of the call taker;
- (6) the name, address, telephone number, and email of your agency's representative for serving deprivation of constitutional rights claims against the FBI; and,
- (7) your agency's policy for the storage or safekeeping of recordings made by People making telephonic complaints.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it.

Thank you for your time and help.



August 26, 2020

MR. ADAM BEREKI
818 SPIRIT
COSTA MESA, CA 92626

FOIPA Request No.: 1473773-000
Subject: BEREKI, ADAM

Dear Mr. Bereki:

This acknowledges receipt of your Freedom of Information/Privacy Acts (FOIPA) request to the FBI. Below you will find check boxes and informational paragraphs about your request, as well as specific determinations required by these statutes. Please read each one carefully.

- Your request has been received at FBI Headquarters for processing.
- You submitted your request via the FBI's eFOIPA system.
 - We have reviewed your request and determined it is consistent with the FBI eFOIPA terms of service. Future correspondence about your FOIPA request will be provided in an email link unless the record's file type is not supported by the eFOIPA system.
 - We have reviewed your request and determined it is not consistent with the FBI eFOIPA terms of service. Future correspondence about your FOIPA request will be sent through standard mail.
- The subject of your request is currently being processed and documents will be released to you upon completion.
- Release of responsive records will be posted to the FBI's electronic FOIA Library (The Vault), <http://vault.fbi.gov>, and you will be contacted when the release is posted.
- Your request for a public interest fee waiver is under consideration and you will be advised of the decision if fees are applicable. If your fee waiver is not granted, you will be responsible for applicable fees per your designated requester fee category below.
- For the purpose of assessing any fees, we have determined:
 - As a commercial use requester, you will be charged applicable search, review, and duplication fees in accordance with 5 USC § 552 (a)(4)(A)(ii)(I).
 - As an educational institution, noncommercial scientific institution or representative of the news media requester, you will be charged applicable duplication fees in accordance with 5 USC § 552 (a)(4)(A)(ii)(II).
 - As a general (all others) requester, you will be charged applicable search and duplication fees in accordance with 5 USC § 552 (a)(4)(A)(ii)(III).

Please check the status of your FOIPA request at www.fbi.gov/foia by clicking on **FOIPA Status** and entering your FOIPA Request Number. Status updates are adjusted weekly. The status of newly assigned requests may not be available until the next weekly update. If the FOIPA has been closed the notice will indicate that appropriate correspondence has been mailed to the address on file.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Alternatively, you may contact the FBI's FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division



Federal Bureau of Investigation
Washington, D.C. 20535

September 3, 2020

MR. ADAM BEREKI
818 SPIRIT
COSTA MESA, CA 92626

Request No.: 1473773-000
Subject: BEREKI, ADAM

Dear Mr. Bereki:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Based on the information you provided, we conducted a search of the places reasonably expected to have records. However, we were unable to identify records responsive to your request. Therefore, your request is being closed. If you have additional information pertaining to the subject of your request, please submit a new request providing the details, and we will conduct an additional search.

Please see the paragraphs below for relevant information that may be specific to your request. Only checked boxes contain corresponding paragraphs relevant to your request. If no boxes are checked, the corresponding information does not apply.

- Please be advised that your request was reopened based on the additional information you provided. A new search was conducted, and we were unable to identify responsive records.
- Records potentially responsive to your request were destroyed. Since this material could not be reviewed, it is not known if it was responsive to your request. Record retention and disposal is carried out under supervision of the National Archives and Records Administration (NARA) according to Title 44 United States Code Section 3301, Title 36 Code of Federal Regulations (CFR) Chapter 12 Sub-chapter B Part 1228, and 36 CFR 1229.10. Please be advised that the General Records Schedule (GRS) disposition authority for FOIPA records is DAA-GRS-2016-0002-0001 (GRS 4.2, Item 020).
- Records potentially responsive to your request were transferred to the National Archives and Records Administration (NARA). If you wish to review these records, file a FOIPA request with NARA at the following address:

National Archives and Records Administration
Special Access and FOIA
8601 Adelphi Road, Room 5500
College Park, MD 20740-6001
- Potentially responsive records were identified during the search. However, we were advised that they were not in their expected locations. An additional search for the missing records also met with unsuccessful results. Since we were unable to review the records, we were unable to determine if they were responsive to your request.
- The portion of your request concerning an FBI identification record – commonly referred to as a criminal history record or “rap sheet” – has been forwarded to the Criminal Justice Information Services (CJIS) Division for processing. For additional information, see the enclosed FBI FOIPA Addendum General Information Section.
- Requests for expedited processing are not applicable when a final response is issued within ten calendar days.
- Police departments should be aware that the search conducted was limited to FBI records. Requests for criminal history records or rap sheets should be directed to Criminal Justice Information Services (CJIS). Information regarding CJIS is listed in the enclosed FBI FOIPA Addendum General Information Section.

Records potentially responsive to your request were transferred to the National Personnel Records Center - Civilian Personnel Records (NPRC-CPR). In order to obtain information on a file located at the NPRC, your request must be mailed to the following address:

National Archives and Records Administration
ATTN: Archival Programs
P.O. Box 38757
St. Louis, MO 63138

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. "Part 1" of the Addendum includes standard responses that apply to all requests. "Part 2" includes additional standard responses that apply to all requests for records about yourself or any third party individuals. "Part 3" includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Alternatively, you may contact the FBI's FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division

Enclosures

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Records for Incarcerated Individuals.** The FBI can neither confirm nor deny the existence of records which could reasonably be expected to endanger the life or physical safety of any incarcerated individual pursuant to FOIA exemptions (b)(7)(E), (b)(7)(F), and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (b)(7)(F), and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems or locations where responsive records would reasonably be found. A standard search normally consists of a search for main files in the Central Records System (CRS), an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. Unless specifically requested, a standard search does not include references, administrative records of previous FOIPA requests, or civil litigation files. For additional information about our record searches, visit www.fbi.gov/services/information-management/foipa/requesting-fbi-records.
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.
- (iv) **National Name Check Program (NNCP).** The mission of NNCP is to analyze and report information in response to name check requests received from federal agencies, for the purpose of protecting the United States from foreign and domestic threats to national security. Please be advised that this is a service provided to other federal agencies. Private Citizens cannot request a name check.

EXPLANATION OF EXEMPTIONS

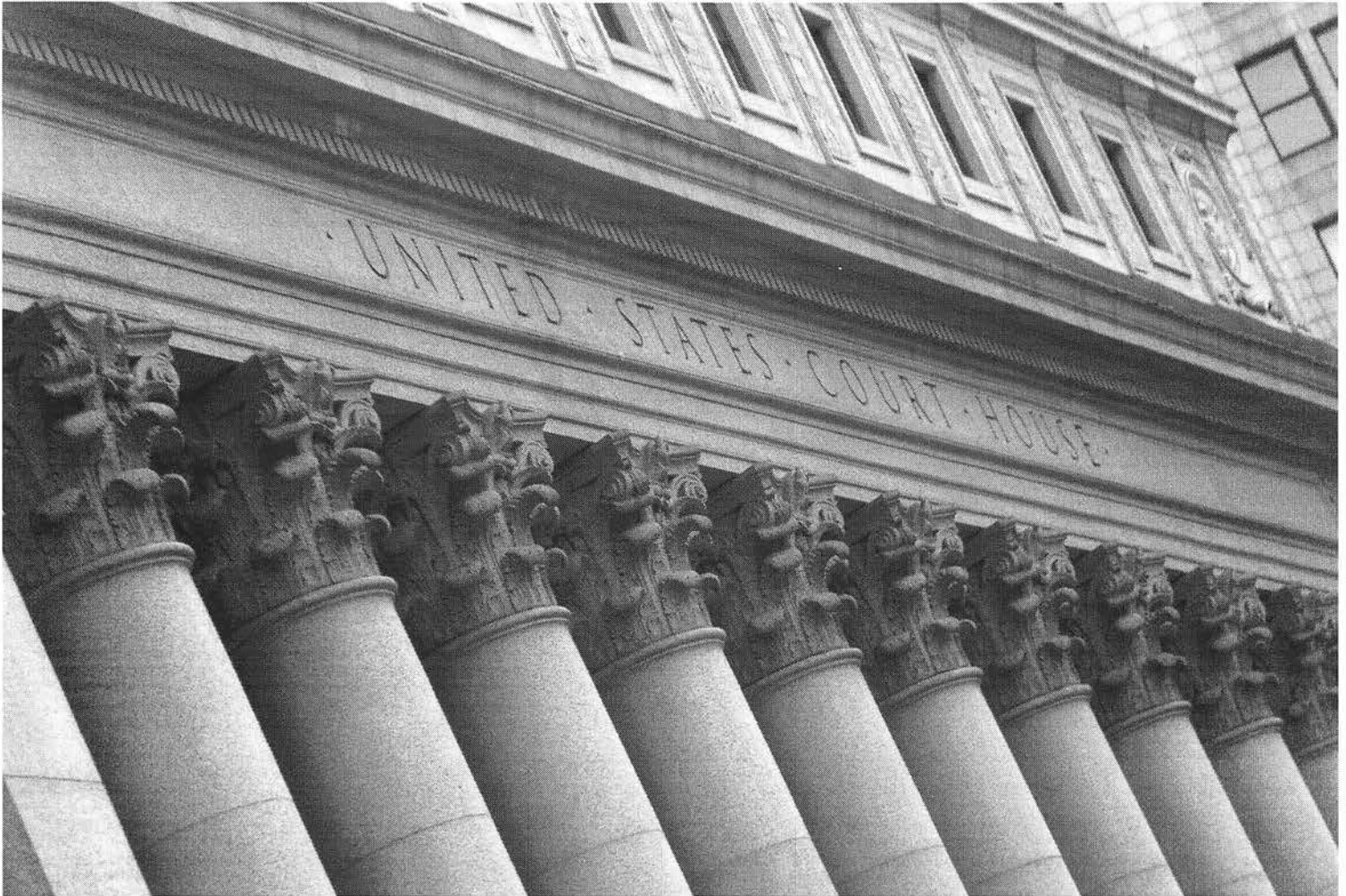
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Civil Rights



Since its earliest days, the FBI has helped protect the civil rights of the American people. A dozen of its first 34 special agents, for example, were experts in peonage—the modern-day equivalent of slave labor. The Bureau began battling the KKK as early as 1918, and for years it handled color of law cases involving police brutality. Today, protecting civil rights remains one of its top priorities.

The FBI is the primary federal agency responsible for investigating allegations regarding violations of federal civil rights statutes. These laws are designed to protect the civil rights of all persons—citizens and non-citizens alike—within U.S. territory. Using its full suite of investigative and intelligence capabilities, the Bureau today works closely with its partners to prevent and address hate crime, color of law violations, and Freedom of Access to Clinic Entrances (FACE) Act violations.

The FBI has also established productive and meaningful liaison relationships with state and local law enforcement agencies, prosecutors, non-governmental organizations, and community and minority groups to improve reporting of civil rights violations, promote the benefits of sharing information and intelligence, and develop proactive strategies for identifying and addressing trends in this field.

Priority Issues

The FBI opens hundreds of civil rights cases each year, and it's a responsibility the Bureau takes very seriously. The Bureau's civil rights program investigates hate crimes, color of law violations, and Freedom of Access to Clinic Entrances (FACE) Act violations.



(<https://www.fbi.gov/investigate/civil-rights/hate-crimes>)

Hate Crimes

(<https://www.fbi.gov/investigate/civil-rights/hate-crimes>)

Hate crimes are the highest priority of the FBI's civil rights program because of the devastating impact they have on families and communities. The Bureau investigates hundreds of these cases every year, and we work to detect and prevent incidents through law enforcement training, public outreach, and partnerships with community groups.

Freedom of Access to Clinic Entrances (FACE) Act Violations

Beginning in the mid-1980s, the United States witnessed a dramatic escalation in the number of acts of violence and harassment directed towards reproductive health care providers and clinics. These incidents, typically in the form of blockades, arson, use of chemical irritants, bomb threats, death threats, stalking, and vandalism, continued well into the next decade. In 1993, the first murder of a reproductive health care provider occurred. Dr. David Gunn, a physician who provided abortion services, was murdered during an anti-abortion protest at a clinic in Pensacola, Florida.

<https://www.fbi.gov/investigate/civil-rights>

Color of Law Violations

Law enforcement officers and other officials like judges and prosecutors have been given tremendous power by local, state, and federal government agencies—authority they must have to enforce the law and ensure justice in our country. These powers include the authority to detain and arrest suspects, to search and seize property, to bring criminal charges, to make rulings in court, and to use deadly force in certain situations.

Preventing abuse of this authority, however, is equally necessary to the health of our nation's democracy. That's why it's a federal crime for anyone acting under "color of law" to willfully deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. "Color of law" simply means the person is using authority given to him or her by a local, state, or federal government agency.

The FBI is the lead federal agency for investigating color of law violations, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority. Off-duty conduct may be covered if the perpetrator asserted his or her official status in some way. Those violations include, but are not limited to, the following acts:

Excessive force: In making arrests, maintaining order, and defending life, law enforcement officers are allowed to use whatever force is "reasonably" necessary. The breadth and scope of the use of force is vast—from just the physical presence of the officer to the use of deadly force. Violations of federal law occur when it can be shown that the force used was willfully "unreasonable" or "excessive."

Sexual assault: Sexual assault by officials acting under color of law can happen in jails, during traffic stops, or in other settings where officials might use their position of authority to coerce an individual into sexual compliance. The compliance is generally gained because of a threat of an official action against the person if he or she doesn't comply.

False arrest and obstruction of justice: The Fourth Amendment of the U.S. Constitution guarantees the right against unreasonable searches or seizures. A law enforcement official using authority provided under the color of law is allowed to stop individuals and, under certain circumstances, to search them and retain their property. It is in the abuse of that discretionary power—such as an unlawful detention or illegal confiscation of property—that a violation of a person's civil rights may occur.

In response to the alarming trend of increasing violence, the U.S. Congress enacted the Freedom of Access to Clinic Entrances (FACE) Act, Title 18 U.S.C. Section 248, in 1994. Often referred to by its acronym, the FACE Act makes it a federal crime to injure, intimidate, or interfere with those seeking to obtain or provide reproductive health care services – including through assault, murder, burglary, physical blockade, and making threatening phone calls and mailings. This law also prohibits damaging or destroying any facility because reproductive health services are provided within.

Since the passage of the FACE Act, the number of violent crimes committed against reproductive health care providers and facilities has dramatically decreased. The FBI and its local, state, tribal, and federal law enforcement partners aggressively pursue all violations of the statute for eventual prosecution by local United States Attorney's Offices and/or the Department of Justice Civil Rights Division in Washington, D.C.

In addition to the FACE Act, other frequently considered federal statutes in FACE Act investigations include: Arson or Bombing, Title 18 U.S.C. Section 844(h); Mail Threats/Threatening Communications, Title 18 U.S.C. Section 875(c); Interstate Threats, Title 18 U.S.C. Section 876(c); and Use of Firearm During the Commission of a Federal Violation, Title 18 U.S.C. Section 924(c). Violators of the FACE Act are subject to criminal penalties, including imprisonment and fines. The severity of the punishment demands upon the nature of the offense and whether or not the person who committed the crime is a repeat offender.

It should be noted the FACE Act does not criminalize the lawful exercise of one's constitutional rights. For instance, it is not a violation to protest peacefully outside of a reproductive health care facility, including such actions as carrying signs, chanting, singing hymns, distributing literature, and shouting as part of First Amendment protected activities – as long as no threats are communicated and facility access is in no way impeded.

Filing a Complaint

To file a color of law complaint, contact your local FBI office by telephone, in writing, or in person. The following information should be provided:

- All identifying information for the victim(s);
- As much identifying information as possible regarding the subject(s), including position, rank, and agency employed;
- Date and time of incident;
- Location of incident;
- Names, addresses, and telephone numbers of any witness(es);
- A complete chronology of events; and
- Any report numbers and charges with respect to the incident.

You may also contact the United States Attorney's Office in your district or send a written complaint to:

Fabricating evidence against or falsely arresting an individual also violates the color of law statute, taking away the person's rights of due process and unreasonable seizure. In the case of deprivation of property, the color of law statute would be violated by unlawfully obtaining or maintaining a person's property, which oversteps or misapplies the official's authority.

The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. During an arrest or detention, these rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

Deprivation of medical care: Individuals in custody have a right to medical treatment for serious medical needs. An official acting under color of law who recognizes the serious medical need, but knowingly and willfully denies or prevents access to medical care may have committed a federal color of law violation.

Failure to keep from harm: The public counts on its law enforcement officials to protect local communities. If it's shown that an official willfully failed to keep an individual from harm, that official could be in violation of the color of law statute.

Assistant Attorney General
 Civil Rights Division
 Criminal Section
 950 Pennsylvania Avenue, Northwest
 Washington, DC 20530

FBI investigations vary in length. Once our investigation is complete, we forward the findings to the U.S. Attorney's Office within the local jurisdiction and to the U.S. Department of Justice in Washington, D.C., which decide whether or not to proceed toward prosecution and handle any prosecutions that follow.

Civil Applications

While the FBI does not investigate civil violations, Title 42, U.S.C., Section 14141 makes it unlawful for state or local law enforcement agencies to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or U.S. laws. This law, commonly referred to as the Police Misconduct Statute, gives the Department of Justice authority to seek civil remedies in cases where law enforcement agencies have policies or practices that foster a pattern of misconduct by employees. This action is directed against an agency, not against individual officers. The types of issues which may initiate a pattern and practice investigation include:

- Lack of supervision/monitoring of officers' actions;
- Lack of justification or reporting by officers on incidents involving the use of force;
- Lack of, or improper training of, officers; and
- Citizen complaint processes that treat complainants as adversaries.

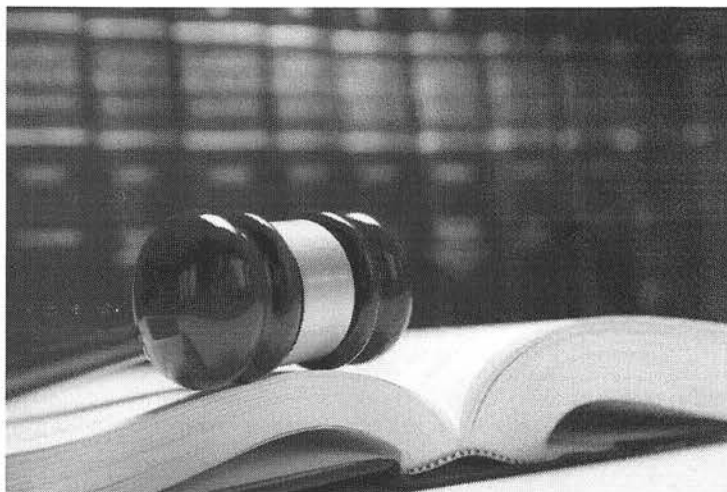
Under Title 42, U.S.C., Section 1997, the Department of Justice has the ability to initiate civil actions against mental hospitals, retardation facilities, jails, prisons, nursing homes, and juvenile detention facilities when there are allegations of systemic derivations of the constitutional rights of institutionalized persons.



(<https://www.fbi.gov/investigate/civil-rights/international-human-rights-unit>)

International Human Rights Violations

(<https://www.fbi.gov/investigate/civilrights/federal-civil-rights-statutes>)



(<https://www.fbi.gov/investigate/civil-rights/federal-civil-rights-statutes>)

Federal Civil Rights Statutes

(<https://www.fbi.gov/investigate/civ>)

The FBI is able to investigate civil rights violations based on a series of federal laws.

rights/international-human-rights-unit)

The International Human Rights Unit plays a vital role in coordinated efforts to identify, locate, investigate, and prosecute perpetrators of genocide, war...

External Resources

- Office of the U.S. Attorneys (<https://www.justice.gov/usao>)
- U.S. Dept. of Justice Civil Rights Division (<https://www.justice.gov/crt>)
- Department of Justice Hate Crimes Page (<https://www.justice.gov/hatecrimes>)
- Principles for Promoting Police Integrity (pdf) (<https://www.ncjrs.gov/pdffiles1/ojp/186189.pdf>)
- Addressing Police Misconduct (<https://www.justice.gov/crt/addressing-police-misconduct-laws-enforced-department-justice>)
- Conduct of Law Enforcement Agencies (<https://www.justice.gov/crt/addressing-police-misconduct-laws-enforced-department-justice>)
- Department of Justice Freedom of Access to Clinic Entrances website (<https://www.justice.gov/crt/freedom-access-clinics-act>)
- National Task Force on Violence Against Health Care Providers (<https://www.justice.gov/crt/national-task-force-violence-against-health-care-providers-0>)

Report a Violation

- Contact your local FBI office (<https://www.fbi.gov/contact-us>)
- Submit a tip (<https://tips.fbi.gov/>)



Adam Bereki <abereki@gmail.com>

eFOIA Request Received

1 message

efoia@subscriptions.fbi.gov <efoia@subscriptions.fbi.gov>
To: abereki@gmail.com

Wed, Aug 19, 2020 at 8:31 AM

Individual Information

Prefix

First Name

Adam

Middle Name

Last Name

Bereki

Suffix

Email

abereki@gmail.com

Phone

Location

United States

Domestic Address

Address Line 1 818 Spirit

Address Line 2

City Costa Mesa

State California

Postal 92626

Agreement to Pay

How you will pay I am limiting my request to the free two hours of searching and 100 duplicated pages. I am not willing to pay additional fees.

Privacy Act

US Citizen True

Prefix

First Name Adam

Middle Name

Last Name Bereki

Suffix

Date of Birth

1979/06/18

Place of Birth

Additional
Information

May 2, 2020

RE: Freedom of Information Act and Other Requests for Production

On January 31, 2020 at around 1315 hours, I telephoned your agency from the above telephone number to report criminal behavior by California judges that have deprived me of rights secured by the Constitution for the United States of America. The call-taker told me that the FBI does not investigate this type of criminal behavior and hung up on me.

Please provide all documents in your custody and control evidencing:

- (1) your agency's policy for the handling of complaints involving deprivations of Constitutional rights. Please include the policy for taking such complaints as well as investigating them and especially any requirements that complaints of this nature be mandatorily taken and investigated;
- (2) the law and any related policies, procedures, or regulations that empower or authorize your agency to investigate criminal and other offenses or violations of law against citizens of the United States or State Citizens;
- (3) any notes or other records made by the call taker or anyone else pertaining to the above referenced call, including a copy of the call log indicating the time, date, and duration and other information collected pertaining to the call;
- (4) a copy of the audio tape of the call;
- (5) the name, title, and badge number of the call taker;
- (6) the name, address, telephone number, and email of your agency's representative for serving deprivation of constitutional

representative for serving deprivation of constitutional rights claims against the FBI; and, (7) your agency's policy for the storage or safekeeping of recordings made by people making telephonic complaints.

Please take all of the necessary steps to preserve, as evidence, all of the original evidence resulting from the aforementioned phone call.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it.

Thank you for your time and help.

**

Please be advised that efoia@subscriptions.fbi.gov is a no-reply email address. Questions regarding your FOIA request may be directed to foipaquestions@fbi.gov. If you have received a FOIPA request number, please include this in all correspondence concerning your request. Please note eFOIPA requests are processed in the order that they are received. If you have not received a FOIPA request number, your request is in the process of being opened at which time it will be assigned a FOIPA request number and correspondence will be forthcoming.

**

Upon receipt of your FOIPA request number, you may check the status of your FOIPA request on the FBI's electronic FOIA Library (The Vault) on the FBI's public website, <http://vault.fbi.gov> by clicking on the "Check Status of Your FOI/PA Request" link. Status updates are performed on a weekly basis. If you receive a comment that your FOIPA request number was not located in the database, please check back at a later date.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

October 1, 2020

MR. ADAM BEREKI
818 SPIRIT
COSTA MESA, CA 92626

FOIPA Request No.: 1473773-000
Subject: BEREKI, ADAM

Dear Mr. Bereki:

This is in response to your Freedom of Information Act (FOIA) request.

The purpose of this letter is to advise you of the change in status of your FOIPA request submitted to the Federal Bureau of Investigation (FBI). You were previously advised that your request was being closed. Upon further inspection, it was determined that additional actions are required. Your request has been reopened under the FOIPA number listed above and we are currently in the process of searching, gathering, and processing any newly discovered material so that it may be reviewed for responsiveness.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. "Part 1" of the Addendum includes standard responses that apply to all requests. "Part 2" includes additional standard responses that apply to all requests for records on individuals. "Part 3" includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Alternatively, you may contact the FBI's FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,

Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division

Enclosures

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FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum includes information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes additional standard responses that apply to all requests for records on individuals. Part 3 includes general information about FBI records. For questions regarding Parts 1, 2, or 3, visit the www.fbi.gov/foia website under "Contact Us." Previously mentioned appeal and dispute resolution services are also available at the web address.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIA [5 U.S.C. § 552(c) (2006 & Supp. IV (2010))]. FBI responses are limited to those records subject to the requirements of the FOIA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **National Security/Intelligence Records.** The FBI can neither confirm nor deny the existence of national security and foreign intelligence records pursuant to FOIA exemptions (b)(1), (b)(3), and PA exemption (j)(2) as applicable to requests for records about individuals [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2); 50 U.S.C § 3024(i)(1)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that national security or foreign intelligence records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records for Incarcerated Individuals.** The FBI can neither confirm nor deny the existence of records which could reasonably be expected to endanger the life or physical safety of any incarcerated individual pursuant to FOIA exemptions (b)(7)(E), (b)(7)(F), and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (b)(7)(F), and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching those systems or locations where responsive records would reasonably be found. Most requests are satisfied by searching the Central Records System (CRS), an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled and maintained by the FBI in the course of fulfilling its dual law enforcement and intelligence mission as well as the performance of agency administrative and personnel functions. The CRS spans the entire FBI organization and encompasses the records of FBI Headquarters (FBIHQ), FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide. A CRS search includes Electronic Surveillance (ELSUR) records.
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheets. These criminal history records are not the same as material in an investigative "FBI file." An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.
- (iv) **The National Name Check Program (NNCP).** The mission of NNCP is to analyze and report information in response to name check requests received from federal agencies, for the purpose of protecting the United States from foreign and domestic threats to national security. Please be advised that this is a service provided to other federal agencies. Private citizens cannot request a name check.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FBI/DOJ



Federal Bureau of Investigation
Washington, D.C. 20535

October 8, 2020

MR. ADAM BEREKI
818 SPIRIT
COSTA MESA, CA 92626

Request No.: 1473981-000
Subject: Complaint Policies

Dear Mr. Bereki:

This is in response to your Freedom of Information Act (FOIA) request. Please see the selected paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

Records responsive to your request have been processed. We made these records available in the FBI's electronic FOIA Library (The Vault) on the FBI's public website, <http://vault.fbi.gov>. On the right-hand side of the home page, under the heading "Vault Links" you can search for your subject alphabetically (click on "A-Z Index"), by category (click on "Categories"), or by entering text into our search engine (click on "Search Vault"). For records responsive to this request, please enter "Public Access Line Policies and Procedures" as the search term see Administrative Policy/Procedures.

The available documents represent a final Vault posting of information responsive to your FOIPA request.

Please see the selected paragraphs below for relevant information specific to your request.

- Additional records potentially responsive to your subject may exist. Please inform us by emailing foipaquestions@fbi.gov, faxing 540-868-4391, or standard mail if you would like the FBI to conduct a search of the indices to our Central Records System.
- Additional records responsive to your request were processed but are not currently available on The Vault. Please inform us if you would like to receive these records.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. "Part 1" of the Addendum includes standard responses that apply to all requests. "Part 2" includes additional standard responses that apply to all requests for records about yourself or any third party individuals. "Part 3" includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Alternatively, you may contact the FBI's FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,



Michael G. Seidel
Section Chief,
Record/Information
Dissemination Section
Information Management Division

Enclosure(s)

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Records for Incarcerated Individuals.** The FBI can neither confirm nor deny the existence of records which could reasonably be expected to endanger the life or physical safety of any incarcerated individual pursuant to FOIA exemptions (b)(7)(E), (b)(7)(F), and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (b)(7)(F), and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems or locations where responsive records would reasonably be found. A standard search normally consists of a search for main files in the Central Records System (CRS), an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. Unless specifically requested, a standard search does not include references, administrative records of previous FOIPA requests, or civil litigation files. For additional information about our record searches, visit www.fbi.gov/services/information-management/foipa/requesting-fbi-records.
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.
- (iv) **National Name Check Program (NNCP).** The mission of NNCP is to analyze and report information in response to name check requests received from federal agencies, for the purpose of protecting the United States from foreign and domestic threats to national security. Please be advised that this is a service provided to other federal agencies. Private Citizens cannot request a name check.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Adam Bereki
818 Spirit
Costa Mesa, California 92626
Abereki@gmail.com | 949.241.6693

Commission on Peace Officer Standards and Training
(hereafter "POST")

Via email cptra@post.ca.gov

August 20, 2020

RE: Public Records Act Request

Please provide **all** records in your custody or control evidencing the following:

1. The training materials received in a basic police academy (or in any POST updates or additional training) pertaining to fraud, theft, and robbery investigations. (This should include a copy of the relevant learning domains or other support materials);
2. The training materials received in a basic police academy (or in any POST updates or additional training) pertaining to Constitutional law. (This should include a copy of the relevant learning domains or other support materials);
3. The duties of a police officer under the California Constitution, Constitution for the United States, California statutes, rules, regulations, government code, penal code, or any other authority;
4. The training materials received in a basic police academy pertaining to each of the duties of a police officer (see request 3).
5. All training received in a basic police academy (or in any POST updates or additional training) pertaining to the investigation of crimes committed by public officials acting without constitutional or statutory authority;
6. All training received in a basic police academy (or in any POST updates or additional training) pertaining to the investigation of crimes committed by State or Federal court judges acting without constitutional or statutory authority;
7. All training received in a basic police academy (or in any POST updates or additional training) pertaining to officers or police agencies performing basic legal research, including, most specifically, from sources such as State and Federal court cases;
8. All rules, regulations, or requirements that police agencies have access to online legal databases to perform the legal research mentioned in request 7;
9. The policies, procedures, and duties of POST when receiving a complaint about a police agency that is not complying with its duties under Constitutional or statutory law;
10. A complete copy of the curriculum for the Supervisory Leadership Institute;

11. The specific training and other requirements for basic, advanced, and intermediate POST certificates.
12. All of the the Constitutional, statutory, or other duties imposed upon POST; especially with regard to the training of police officers in law and the performance of their duties.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the number or address provided above.

Sincerely,

/s/ Adam Bereki, 8/20/20



Adam Bereki <abereki@gmail.com>

PRA Request

3 messages

Adam <abereki@gmail.com>
To: cpra@post.ca.gov

Thu, Aug 20, 2020 at 8:28 AM

Good day.

Please see the attached request. I have sent it in word format so you can quickly copy and paste the requests if needed for your response.

Sincerely,

Adam Bereki

 **POST PRA 082020.docx**
16K

POST CPRA Requests <cpra@post.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: POST CPRA Requests <cpra@post.ca.gov>

Thu, Aug 20, 2020 at 2:40 PM

Good afternoon,

The Commission on Peace Officer Standards and Training (POST) is in receipt of your California Public Records Act (CPRA) request.

Pursuant to Government Code § 6253(c), POST will need time to review your request. We will respond by August 28, 2020 to inform you if we will be able to fulfill your CPRA request.

Please contact us if you have any questions.

Sincerely,

J. Williams

Commission on Peace Officer Standards and Training

860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
CPRA@post.ca.gov



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[Quoted text hidden]

POST CPRA Requests <cpra@post.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: POST CPRA Requests <cpra@post.ca.gov>

Thu, Aug 20, 2020 at 4:01 PM

Good afternoon,

POST responds to your request as follows:

1. The training materials received in a basic police academy (or in any POST updates or additional training) pertaining to fraud, theft, and robbery investigations. (This should include a copy of the relevant learning domains or other support materials); see response below
2. The training materials received in a basic police academy (or in any POST updates or additional training) pertaining to Constitutional law. (This should include a copy of the relevant learning domains or other support materials); see response below
3. The duties of a police officer under the California Constitution, Constitution for the United States, California statutes, rules, regulations, government code, penal code, or any other authority;
 - This is not a request for a POST record. Please refer to State and Federal law, as well as the individual agency for their duties.
 - POST adheres to the statutes and regulations as described here: <https://post.ca.gov/POST-Regulations>
4. The training materials received in a basic police academy pertaining to each of the duties of a police officer (see request 3); see response below
5. All training received in a basic police academy (or in any POST updates or additional training) pertaining to the investigation of crimes committed by public officials acting without constitutional or statutory authority; see response below

6. All training received in a basic police academy (or in any POST updates or additional training) pertaining to the investigation of crimes committed by State or Federal court judges acting without constitutional or statutory authority; see response below
7. All training received in a basic police academy (or in any POST updates or additional training) pertaining to officers or police agencies performing basic legal research, including, most specifically, from sources such as State and Federal court cases; see response below
8. All rules, regulations, or requirements that police agencies have access to online legal databases to perform the legal research mentioned in request 7;
 - This is not a request for a POST record. Please refer to State and Federal law, as well as the individual agency for their policies.
 - POST adheres to the statutes and regulations as described here: <https://post.ca.gov/POST-Regulations>. ✓
9. The policies, procedures, and duties of POST when receiving a complaint about a police agency that is not complying with its duties under Constitutional or statutory law;
 - POST does not investigate complaints regarding agencies who may not be in compliance with their duties under law. Such complaints would likely be done by the State Attorney General's Office or local District Attorney's Office.
10. A complete copy of the curriculum for the Supervisory Leadership Institute [SLI];
 - Course Outlines (search for "SLI" under course name).
11. The specific training and other requirements for basic, advanced, and intermediate POST certificates.
 - POST Professional Certificates
 - 11 CCR § 1011
12. All of the Constitutional, statutory, or other duties imposed upon POST; especially with regard to the training of police officers in law and the performance of their duties.
 - POST adheres to the statutes and regulations as described here: <https://post.ca.gov/POST-Regulations>.

In response to items 1, 2, and 4 through 7 of your request, Basic Academy training materials are provided by the individual, basic or modular course presenters. With the exception of expanded course outlines, POST does not receive nor possess the instructional materials provided to students during individual academy courses. The basic academy is delivered in two formats, intensive/extended (all one course) and modular (I, II, and III), which is designed for full-time peace officers or reserves. Training material and information that POST does possess is detailed in the links below:

- Basic Course Requirements
- Individual Student Workbooks
 - Download all workbooks in one zip file
- All Training and Testing Specifications
- Course Catalog (search by key word)
- SB 978 POST Multimedia Products
- Course Outlines

Please contact us at CPRA@post.ca.gov if you have any further questions.

Thank you,

J. Williams

Commission on Peace Officer Standards and Training

860 Stillwater Road, Suite 100

West Sacramento, CA 95605-1630

CPRA@post.ca.gov



CONFIDENTIAL NOTICE: This communication and its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws, including the Electronic Communication Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Adam <abereki@gmail.com>
Sent: Thursday, August 20, 2020 8:28 AM
To: POST CPRA Requests <cpra@post.ca.gov>
Subject: PRA Request

Good day.

[Quoted text hidden]

POST Regulations

POST Regulations Page(s) Revisions Underway

At the October 2017 POST Commission Meeting the POST Commission approved a restructuring of the regulations contained on the POST Website, known as the POST Administration Manual (PAM).

The Commission on Peace Officer Standards and Training (POST) Program exists under the authority of, and in compliance with, California Penal Code Sections 13503, 13506, and 13510. The POST Program is voluntary. A jurisdiction or department that desires to participate in the POST Program may apply, and if accepted, must adhere to the regulations of California Code of Regulations (CCR) Title 11, Division 2.

Additional information regarding POST Regulations may be obtained by contacting Regulations Analyst at (916) 227-2802.

- ▶ Penal Codes (PC) and Government Code (GC) Sections Related to POST
- ▶ Commission Regulations (Title 11, Division 2)
- ▶ Training Procedures



- ▶ Bulletins
- ▶ Regulatory Act
- ▶ California Pub
- ▶ Copyright Info
- ▶ Learning Port
- ▶ Order Backgro
- ▶ POST Monthly
- ▶ Purchase Stud

California Penal Code (PC) and Government Code (GC)

Sections Related to POST

To provide you with the most current information visit the California Legislative Information Website. If you are interested in the code or Penal Code sections listed below, visit the California Legislative Information Website and type the specific code section number in the search box at the top right. This will show the exact section text in its entirety. Access to this website will also enable you to inquire about State Constitution, and Statutes. You may make a query by using a specific section number or keyword.

Local Law Enforcement Accreditation

- ▶ PC 13550 Definition
- ▶ PC 13551 Regulations and Professional Standards
- ▶ PC 13552 Participation in Program
- ▶ PC 13553 Standards May Exceed Minimum Accreditation Standards

POST Operations and Programs

- ▶ PC 13500 Existence of Commission; Membership; Qualifications; Appointment; Terms
- ▶ PC 13501 Chairperson and Vice-chairperson; Quorum
- ▶ PC 13502 Compensation; Reimbursement for Travel Expenses
- ▶ PC 13503 Powers
- ▶ PC 13504 Assistance in Execution of Duties
- ▶ PC 13505 Costs of Administration
- ▶ PC 13506 Regulations
- ▶ PC 13507 District Defined
- ▶ PC 13508 Learning Technology Laboratory; Pilot Projects, Implementation Plan; Report
- ▶ PC 13510.1 Certification Program; Purpose; Requirements; Application; Cancellation of Certificates
- ▶ PC 13510.2 Misuse of Certificates; Misdemeanor; Punishment
- ▶ PC 13510.3 Records Supervisors; Voluntary Professional Certification Program; Standards
- ▶ PC 13510.5 Rules of Minimum Standards; Certain Peace Officers
- ▶ PC 13511 Place of Training; Alternative Means of Satisfying Training Requirement

- ▶ PC 13511.3 Approval of Pertinent Training Completed by Any Jurisdiction's Officers
- ▶ PC 13511.5 Certification of No Criminal History from Department of Justice; Controlling Concealed Firearms
- ▶ PC 13513 Counseling Service
- ▶ PC 13540 Designation as Peace Officers; Study; Fee
- ▶ PC 13541 Scope of Study
- ▶ PC 13542 Agency Requirements; Study Results; Recommendations; Submission to Legislature

Peace Officers' Training Fund and Allocation

- ▶ PC 1464 State Penalties on Fines, Penalties and Forfeitures; Waiver; Deposit in Fund; Distribution to Peace Officers' Training Fund
- ▶ PC 13520 Creation; Appropriation
- ▶ PC 13522 Application for Aid; Contents
- ▶ PC 13523 Allocations to Cities and to Counties
- ▶ PC 13524 Application for Aid; Training of Inspectors and Investigators of District Attorney's Office
- ▶ PC 13525 Application for State Aid; Training of Certain Local Public Safety Dispatchers
- ▶ PC 13526 Agency Not Entitled to Allocation as of Dec. 31, 1989
- ▶ PC 13526.1 Port Wardens and Special Officers of the Harbor Department of Los Angeles; Entitlement to Funding from the Peace O
- ▶ PC 13526.2 Housing Authority, Los Angeles/Oakland Police Dept., Entitlement to Funding

Standards for Selection and Training

- ▶ GC 1029 Conviction of Felony as Disqualification for Peace Officer
- ▶ GC 1030 Fingerprinting of Peace Officers
- ✓▶ GC 1031 Public Officers or Employees Having Powers of Peace Officers; Minimum Standards
- ▶ GC 1031.5 Peace Officer Citizenship Requirements
- ▶ GC 24004.3 Sheriff; Eligibility Criteria; Grandfather Rights
- ✗▶ PC 832 Course of Training Prescribed by Commission on Peace Officer Standards and; Necessity to Exercise Powers; Exemptions
 - ▶ PC 832.1 Airport Security Personnel; Training Course
 - ▶ PC 832.15 Peace Officer Applicants; Restrictions on Firearm Possession; Notification to State or Local Agency
 - ▶ PC 832.16 Peace Officers Authorized to Carry Firearms; Restrictions on Firearm Possession, Notification to State or Local Agency

- ▶ PC 832.2 School Police Reserve Officers; Training
- ▶ PC 832.25 Welfare Fraud Investigations or Inspectors; Appointment as Peace Officers; Completion of Specialized Investigators Bas
- ▶ PC 832.3 Training as Prerequisite to Exercise of Peace Officer Powers; Training Proficiency Testing Program; School Police Officer
- ▶ PC 832.4 Standards and Training, Basic Certificate for Certain Peace Officers; Employment after January 1, 1974; Employment afte
- ▶ PC 832.6 Deputies or Appointees as Reserve or Auxiliary Officers; Powers of Peace Officer; Conditions
- ▶ PC 832.7 Personnel Records; Confidentiality; Discovery; Exceptions; Complaint Disposition Notification
- ▶ PC 832.8 Personnel Records
- ▶ PC 872 Order Holding Defendant to Answer; Probable Cause; Basis of Finding
- ▶ PC 13510 Rules of Minimum Standards; Adoption; Amendment
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- ▶ PC 13515 Elder and Dependent Adult Abuse Training Course; Required for Police Officers or Deputy Sheriffs; Contents; Conditions
- ▶ PC 13515.25 Developmentally Disabled and Mentally Ill Persons; Law Enforcement Interaction; Training Course
- ▶ PC 13515.55 High Technology Crimes and Computer-Seizure Training Requirement
- ▶ PC 13516 Sexual Assault Cases; Standard Investigative Procedures; Training; Legislative Intent
- ▶ PC 13517 Child Abuse or Neglect; Procedures for Detection, Investigation, Response and Interviewing Children; Training Courses;
- ▶ PC 13517.5 Minor Witnesses; Interview Procedures
- ▶ PC 13518 First Aid and Cardiopulmonary Resuscitation; Exclusion of Certain Personnel
- ▶ PC 13518.1 Cardiopulmonary Resuscitation; Manual Masks and Airway Assemblies
- ▶ PC 13519 Domestic Violence Complaints; Training Course and Guidelines for Handling; Requirements, Response to Terrorism
- ▶ PC 13519.05 Stalking; Training Course and Guidelines
- ▶ PC 13519.1 Missing Person and Runaway; Training Course and Guidelines
- ▶ PC 13519.2 Persons with Developmental Disabilities or Mental Illness; Training Course and Guidelines
- ▶ PC 13519.3 Sudden Infant Death Syndrome; Training; Investigation; Fee
- ▶ PC 13519.4 Racial and Cultural Diversity Training

- ▶ PC 13519.5 Gang and Drug Law Enforcement; Training
- ▶ PC 13519.6 Hate Crimes; Training Courses and Guidelines
- ▶ PC 13519.7 Sexual Harassment in the Workplace; Complaint Guidelines and Training
- ▶ PC 13519.8 High Speed Vehicle Pursuits; Training Courses and Guidelines
- ▶ PC 13519.12 Establishment of Training Standards/Course -- Includes Criteria for Curriculum Content Recommended by Emergenc Committee; Delivery of Training to Personnel; Persons to Receive Training
- ▶ PC 13519.14 Course or Courses of Instruction for Training of Law Enforcement Officers in the Handling of Human Trafficking Com
- ▶ PC 14304 Peace Officer Environmental Laws Training



Commission Regulations

Regulations are established and adopted in compliance with and by authority of Penal Code sections 13500 et seq., and are codified in the California Code of Regulations.

Article 1. General

- ▶ 1000. Objectives [Repealed]
- ▶ 1001. Definitions
- ▶ 1002. Minimum Standards for Peace Officer Employment [Repealed]
- ▶ 1003. Notification (*NOAT*)
- ▶ 1004. Field Training Program
- ▶ 1005. Minimum Standards for Training
- ▶ 1006. Extension of Time Limit for Course Completion
- ▶ 1007. Reserve Officer Minimum Training Standards
 - ▶ Reserve Officer Program Procedures
- ▶ 1008. Basic Course Waiver and Requalification Requirement
- ▶ 1009. Academy Instructor Certificate Program (AICP)
- ▶ 1010. Participation (*in the POST Program*)
- ▶ 1011. Certificates
 - ▶ Certificate Applications
- ▶ 1012. Conditions for Continuing Employment
- ▶ 1013. Code of Ethics
- ▶ 1014. Reimbursement for Training of Non-Sworn Personnel
- ▶ 1015. Reimbursements
 - ▶ Reimbursement Procedures
 - ▶ Training Reimbursement Request (TRR) POST form 2-273
- ▶ 1016. Services Provided by the Commission
- ▶ Management Counseling
- ▶ 1018. Public Safety Dispatcher Programs

- ▶ 1019. Feasibility Studies (Peace Officer Status/Designation Request)

Article 3. Regulatory Procedures

- ▶ 1051. Course Certification Program
- ▶ 1052. Requirements for Course Certification
- ▶ 1053. Requirements for Self-Paced Training Course Certification
- ▶ 1054. Requirements for Course Budget
- ▶ 1055. Requirements for Course Presentation
- ▶ 1056. Annual Recertification
- ▶ 1057. Decertification
- ▶ 1058. Appeals Process
- ▶ 1060. Requirements for Verifying Successful Completion of a Non-POST-Certified Course
- ▶ 1070. Minimum Training Standards for Instructors of POST-Certified Specialized Training
- ▶ 1071. Minimum Training Standards for Basic Academy Directors, Coordinators, and Recruit Training Officers
- ▶ 1080. PC 832 Arrest and Firearms Course Requalification
- ▶ 1081. Minimum Standards for Legislatively-Mandated Courses
- ▶ 1082. Minimum Content Requirements for Instructor Courses
- ▶ 1083. Minimum Content Requirements for Academy Staff Courses
- ▶ 1084. Standardized POST Training Curriculum
- ▶ 1950. Peace Officer Selection Requirements
- ▶ 1951. Peace Officer Reading and Writing Ability Assessment
- ▶ 1952. Peace Officer Oral Interview
- ▶ 1953. Peace Officer Background Investigation
- ▶ 1954. Peace Officer Medical Evaluation
- ▶ 1955. Peace Officer Psychological Evaluation
- ▶ 1956. Public Safety Dispatcher Selection Requirements
- ▶ 1957. Public Safety Dispatcher Verbal, Reasoning, Memory, and Perceptual Abilities Assessment
- ▶ 1958. Public Safety Dispatcher Oral Communication Assessment
- ▶ 1959. Public Safety Dispatcher Background Investigation
- ▶ 1960. Public Safety Dispatcher Medical Evaluation

Training Procedures

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POST Professional Peace Officer Certificates

The Commission on POST issues seven professional certificates to peace officers.

Basic Certificate

The Basic Certificate is awarded, as defined in Commission Regulation 1011 to currently full-time peace officers of a POST-participating agency who have satisfactorily completed the prerequisite Basic Course requirement and the employing agency's probationary period.

Intermediate Certificate

The Intermediate Certificate is awarded, as defined in Commission Regulation 1011 to currently employed full-time peace officers of a POST-participating agency who possess a Basic Certificate and who have acquired the specified training and education points and/or college degree and the prescribed years of law enforcement experience.

Advanced Certificate

The Advanced Certificate is awarded, as defined in Commission Regulation 1011 to currently employed full-time peace officers of a POST-participating agency who possess an Intermediate Certificate and who have acquired the specified training and education points and/or college degree and the prescribed years of law enforcement experience.

Supervisory Certificate

The Supervisory Certificate is awarded, as defined in Commission Regulation 1011 to currently employed full-time peace officers of a POST-participating agency who possess an Intermediate Certificate, have earned a minimum of sixty semester units at an accredited college, served for a period of two years as a first-level supervisor and who have completed the Supervisory Course.


Management Certificate

The Management Certificate is awarded, as defined in Commission Regulation 1011 to currently employed full-time peace officers of a POST-participating agency who possess an Advanced Certificate, have earned a minimum of sixty semester units at an accredited college, served for a period of two years as a middle manager and who have completed the Management Course.

Executive Certificate



- ▶ Apply Online a POST Professio
- ▶ Certificates FA
- ▶ Obtain POST F
- ▶ Obtain a Secur



How to receive a

- ▶ Certificate Dov



Certificates Unit
(916) 227-4253

The Executive Certificate is awarded, as defined in Commission Regulation 1011 to currently employed full-time peace officers of a POST-participating agency who possess an Advanced Certificate, have earned a minimum of sixty semester units at an accredited college, served for a period of two years as the department head and who have completed the Executive Development Course.

Reserve Officer Certificate

The Reserve (Peace) Officer Certificate is awarded, as defined in Commission Regulation 1011 to currently appointed Level 1 reserve officers of a POST-participating agency.

Specialized Certificate

The Specialized Series of Professional Certificates include the Basic through Executive Certificates and completion of the Specialized Investigators Academy.

Coroner Certificate

The Coroner Series of Professional Certificates include the Basic through Executive Certificates and completion of the P.C. 832 and the Coroner's Death Investigation Course.

Online POST Professional Certificate Application

- ▶ Apply online and check the status of your POST Professional Certificates

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Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339
Via email to staff@oal.ca.gov

August 28, 2020

RE: Public Records Act Request

Please provide all documents in your custody or control pertaining to 11 CCR §1013 including all history and previous amendments.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions, please don't hesitate to call or email.

Sincerely,

/s/ Adam Bereki



Adam Bereki <abereki@gmail.com>

PRA Request

1 message

Adam <abereki@gmail.com>

Fri, Aug 28, 2020 at 7:05 AM

To: staff@oal.ca.gov

Good day,

Please see the attached Public Records Act Request.

Thank you for your help.

Adam



OAL PRA 082820.docx

14K

§ 1013. Code of Ethics.
11 CA ADC § 1013
BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations Currentness
Title 11. Law
Division 2. Commission on Peace Officer Standards and Training
Article 1. General

11 CCR § 1013

§ 1013. Code of Ethics.

The Law Enforcement Code of Ethics shall be administered to all peace officer trainees during the basic course and to all other persons at the time of appointment.

Purpose

Code of Ethics: To insure that all peace officers are fully aware of their individual responsibilities to maintain their own integrity and that of their agency, every peace officer, during basic training, or at the time of appointment, shall be administered the Law Enforcement Code of Ethics.

Code of Ethics

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before god¹ to my chosen profession...law enforcement.

¹ Reference to religious affirmation may be omitted where objected to by the officer.

Note: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register, No. 7).
2. Amendment filed 8-27-90; operative 9-26-90 (Register 90, No. 42).
3. Change without regulatory effect amending section filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).
4. Amendment filed 4-22-2020; operative 7-1-2020 (Register 2020, No. 17).

This database is current through 8/14/20 Register 2020, No. 33

11 CCR § 1013, 11 CA ADC § 1013

END OF DOCUMENT

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[Documents In Sequence](#)

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WESTLAW California Code of Regulations[Home Table of Contents](#)**§ 1001. Definitions.**

11 CA ADC § 1001

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONSBarclays Official California Code of Regulations Currentness

Title 11. Law

Division 2. Commission on Peace Officer Standards and Training

Article 1. General

11 CCR § 1001

§ 1001. Definitions.

“Academy Coordinator” is an individual responsible for the coordination of instruction and the management of basic courses.

“Academy Director” is an individual responsible for the management of an academy which requires instructional planning, organization of training resources, selection and motivation of training personnel, and control and discipline of the training environment.

“Acceptable College Education” is:

(1) Courses or degrees provided by a community college, college, or university which have been accepted by a community college, college or university accredited by a recognized national or regional accrediting body.

(2) Courses or degrees provided by a community college, college, or university accredited by a recognized national or regional accrediting body.

“The Act” refers to Part 4, Title 4 of the Penal Code of California, commencing at Section 13500 and entitled, “Standards and Training of Local Law Enforcement Officers.”

“Actual Course Presentation Cost” is the total allowable direct and indirect expenses (see Regulation 1054) to conduct one presentation of a POST-certified course, less any subventions from outside sources. Subventions received from outside sources may include, but are not limited to, fees, grants, gifts, Full-Time Equivalent Student (FTES) shares from community college affiliations, and monetary equivalents of services, equipment or materials provided in support of the course.

“Agency Presenter” is a department, or departments working together under a joint powers or other agreement, eligible for POST reimbursement which presents POST-certified training course(s).

entitled to workers' compensation and retirement provisions as are other full-time employees of the same personnel classification in the department.

"General law enforcement duties" are duties which include the investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, and performing any enforcement action on the full range of law violations.

"Guest Speaker" is an individual who is invited to speak in a POST-certified course because of his/her expertise in a specialized subject area, and who is directly overseen by the primary instructor.

"High School" is either a United States public school that meets the high school standards set by the state in which it is located, an accredited United States Department of Defense high school, or an accredited nonpublic high school. Any accrediting association shall be recognized by the Secretary of the United States Department of Education.

"Jail Deputy" is a deputy sheriff, regularly employed and paid as such, of a county, to be a peace officer as described in Penal Code Section 830.1(c), and is employed to perform duties exclusively or initially related to custodial assignments.

"Lateral Entry" refers to a hiring practice which may exempt an individual from some of the department's hiring and training procedures, as the individual's prior experience, level of responsibility, and/or training are taken into consideration for appointment.

"Learning Activity" is a facilitated, performance-based component of instruction. Learning activities are student-focused and require the learner to be actively involved in structured work designed to enhance the acquisition of knowledge, skills, or competencies. The use of learning activities is consistent with principles of adult learning. Learning activities are integrated into the delivery of instruction as a means of reinforcing taught concepts, introducing relevant topics, or to enhance student retention necessary to achieve competence. Students participating in a learning activity may be coached or provided feedback. Unlike tests, learning activities are not graded.

"Learning Domain" is an instructional unit that covers related subject matter. Training specifications for each learning domain include learning needs, learning objectives, and hourly requirements. Training specifications for a domain also may include learning activities and testing requirements.

"Learning Need" is a general statement justifying the training for a specific learning domain.

"Learning Objective" is a statement that describes an expected training outcome related to a learning need.

"Legislatively mandated training" is training that may or may not be POST-certified, and shall consist of POST-specified curriculum as required by law. It may be presented as a stand-alone course, a telecourse, or as part of a POST-certified course. Minimum standards for legislatively mandated training are set forth in Regulation 1081.

"Limited Function Peace Officer" is a deputy sheriff, regularly employed and paid as such, of a county, a police officer of a city, a police officer of a district authorized by statute to maintain a police department, who is designated on or prior to June 30, 1985, to be a peace officer as described in Penal Code Section 830.1, and is employed to perform duties other than the prevention and detection of crime and the enforcement of the criminal laws of the state.

selection, and supervision of evaluators and role players, control and security of POST testing materials and safety of scenario testing participants.

"Specialized Law Enforcement Department" is a department or segment of a department which:

- (1) has policing or law enforcement authority imposed by law and whose employees are peace officers as defined by law; and
- (2) is engaged in the enforcement of regulations or laws limited in scope or nature; or
- (3) is engaged in investigative or other limited law enforcement activities in the enforcement of criminal law.

"Specialized Peace Officer" is a peace officer employee of a specialized law enforcement agency.

"Test" is an evaluation of the extent to which students have satisfied one or more learning objectives. The required tests are specified in the Training and Testing Specifications for Peace Officer Basic Courses. Two types of tests are used in the Requalification Course:

(A) POST-Constructed Comprehensive Test: A POST-constructed test that measures acquisition of knowledge on multiple learning objectives.

(B) Exercise Test: Any test other than a POST-constructed comprehensive test that measures the acquisition of knowledge and/or skills or the competencies required to achieve one or more learning objectives.

"Test-Use and Security Agreement" is an accepted agreement between a training presenter and POST that identifies the terms and conditions under which a presenter may acquire and use specific POST-constructed comprehensive and exercise tests. Failure to comply with the terms and conditions of such agreement is grounds for decertification in accordance with Commission regulation section 1057.

"Test Administration and Security Policy" is a written procedure established by each presenter as specified in the POST Basic Courses Test Management and Security Protocols. In accordance with regulation section 1057, the failure to establish written procedures consistent with and/or to comply with the requirements of these protocols is grounds for decertification.

"Three-year rule" is the rule that relates to the necessity to requalify basic training or arrest and firearms (PC 832) training. (Reference Regulations 1008 and 1080).

"Trainee" is an employee of a department who attends a POST-certified course.

Uniformed patrol duties" are general **law enforcement duties** which include the detection and investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, general enforcement of all state and local laws including physical arrests of suspects, and working with the community to reduce crime and address community concerns. These duties are performed by peace officers, wearing a department uniform, carrying a firearm, and utilizing a marked emergency vehicle.

"Variable Format" identifies a course that utilizes core curriculum as the foundation and provides for additional hours of expanded certified training. While the core curriculum does not change, additional hours will include supplemental related content presented as lecture, activities, exercises or facilitated discussion.

"Web-Based Training (WBT)" is any training that can be accessed via the World Wide Web (Internet) or a local or wide area network. For the purposes of certification, WBT will be divided into the following two components:

- (1) Instructor-led training
- (2) Self-paced training which includes self-paced WBT

Note: Authority cited: Sections 13506 and 13510.3, Penal Code. Reference: Sections 830.1, 13503, 13507, 13510, 13510.1, 13510.3, 13510.5 and 13523, Penal Code.

HISTORY

1. Amendment filed 12-3-80; effective thirtieth day thereafter (Register 80, No. 49).
2. Amendment of subsections (h), (i) and (y) filed 5-14-82; designated effective 7-1-82 (Register 82, No. 20).
3. Amendment of subsections (c), (d), (h), (k), (n), (t) and (x) filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
4. Amendment filed 1-9-86; effective thirtieth day thereafter (Register 86, No. 2).



Adam Bereki <abereki@gmail.com>

RE: California Public Records Act request

OAL Reference Attorney <OALReferenceAttorney@oal.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: OAL Reference Attorney <OALReferenceAttorney@oal.ca.gov>

Thu, Sep 3, 2020 at 2:47 PM

Hi Adam,

In response to your request for records and information regarding California Code of Regulations (CCR), title 11, section 1013 received on August 28, 2020, OAL is providing the attached PDF copies of the following CCR Supplements:

1. Register 1978, No. 52
2. Register 1979, No. 20
3. Register 1983, No. 7
4. Register 1990, No. 42
5. Register 2015, No. 50


Each PDF displays the full text of section 1013 as it existed at the time of that CCR Supplement's publication, beginning with its adoption in 1978. Please note that a PDF of Register 2020, No. 17 is not included because changes made in that most recent rulemaking action resulted in the current version of the text, which can be viewed online at any time using the "California Code of Regulations" link on our homepage at <https://oal.ca.gov/>.


As we discussed during our phone conversation earlier this afternoon, you'll need to contact the Commission on POST directly if you wish to view the contents of the rulemaking records for the initial adoption or any subsequent amendment of section 1013. Each State agency is required to keep all of their rulemaking records pursuant to Government Code section 11347.3, subsections (e) and (f).


Best regards,


OAL Reference Attorney


5 attachments

 **CCR_T11_S1013_R78_NO52.pdf**
361K

 **CCR_T11_S1013_R79_NO20.pdf**
3642K

 **CCR_T11_S1013_R83_NO7.pdf**
392K

 **CCR_T11_S1013_R90_NO42.pdf**
3656K

 **CCR_T11_S1013_R2015_NO50.pdf**
303K

(b) Professional certificates shall be considered to be awards for achievement and subject to denial or cancellation only if obtained through misrepresentation, fraud, or issuance due to administrative error.

(c) Regular Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, Management and Executive Certificates are provided for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the general police service duties performed by regular peace officers. Requirements for the Certificates are as prescribed in PAM, Section F-1, "Regular and Specialized Certification Programs."

(d) Specialized Law Enforcement Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, and Management Certificates are established for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the duties performed by specialized peace officers. Requirements for Specialized Law Enforcement Certificates are set forth in PAM, Section F-1, "Regular and Specialized Law Enforcement Certification Programs."

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1012. Certification of Courses.

(a) The Commission may certify courses. Criteria for certification include, but are not limited to, a demonstrated need and compliance with minimum standards for curriculum, facilities, instructors and instructional quality.

(b) Certification of courses may be revoked by action of the Commission when:

(1) There is no longer a demonstrated need for the course; or

(2) There is failure to comply with standards set forth in (a) above; or

(3) There are other causes warranting revocation as determined by the Commission.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1013. Code of Ethics.

The Law Enforcement Code of Ethics, as prescribed in PAM, Section C, "The Law Enforcement Code of Ethics," shall be administered as an oath to all peace officer trainees during the Basic Course or at the time of appointment.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1014. Training for Non-Sworn Personnel.

(a) Reimbursement shall be provided in the Regular Program for the training of non-sworn personnel performing police tasks as determined by the Commission.

(b) Request for Approval.

(1) Whenever it is necessary for the employing jurisdiction to obtain prior written approval of the Commission, it shall be obtained on an individual basis (See PAM, Section E-1-3-f). A request for approval must include:

(A) The trainee's name and job title.

(B) Job description.

(C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior the starting date of the course.

(c) Reimbursement. Reimbursement for non-sworn personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in PAM, Section E-1-3-f. Note: No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005, except as provided in PAM, Section E-1-3-f, "Training of Non-Sworn Personnel."

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1015. Reimbursements.

(a) Proportionate Reimbursement. In the Regular Program, reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with Section 13523, Penal Code, which is quoted as follows:

"The Commission shall annually allocate and the State Treasurer shall periodically pay from the Peace Officers' Training Fund, at intervals specified by the Commission, to each city, county, and district which has applied and qualified for aid pursuant to the chapter, an amount determined by the Commission pursuant to standards set forth in its regulations. The Commission shall grant aid only on a basis that is equally proportionate among cities, counties, and districts.

In no event shall any allocation be made to any city, county, or district which is not adhering to the standards established by the Commission as applicable to such city, county, or district."

(b) Claims for Reimbursement. Claims must be submitted on forms provided by the Commission and received no later than ninety days after the completion of a certified course.

Effective January 1, 1975, all claims for training expenditures eligible for reimbursement from the Peace Officer Training Fund are subject to the following provisions:

(1) Claims received more than 90 days, but less than 180 days, following the completion of a certified training course shall be reduced by 25% of the approved reimbursable amount.

(2) Claims received more than 180 days following the completion of a certified training course shall not be reimbursed.

(c) Training Expenses May Be Claimed Only Once. When a trainee has attended a course certified by the Commission for which reimbursement has been legally claimed and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance of the same course unless attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change.

(d) Reimbursement Limited to Actual Expenses. Reimbursement is provided only for expenses related to attendance of POST certified courses. Reimbursement is limited to expenses as authorized in PAM, Section E, or actually incurred expenses which are approved by the Commission, whichever is less.

(e) Reimbursement may be provided only for training acquired in an on-duty status. (See PAM, Section E-1-3-i.)

(f) A schedule of reimbursements allowed by the Commission is set forth in PAM, Section E, "Reimbursements."

(b) If it appears to the Commission that a jurisdiction or agency has failed to adhere to the minimum standards for recruitment, selection or training, the Commission shall notify the jurisdiction or agency of its concern and of the jurisdiction's or agency's probable ineligibility for participation. The Commission shall also request compliance. In the event that the jurisdiction or agency fails to comply, the Commission shall afford the concerned jurisdiction's or agency's official representatives the opportunity to appear before the Commission and present appropriate evidence or testimony. If the Commission finds that the standards have not been adhered to, it must, beginning with a date determined by the Commission, reject all of the jurisdiction's or agency's requests for services or benefits. A jurisdiction or agency may be reinstated in the program and again become eligible for participation when, in the opinion of the Commission, the jurisdiction or agency has demonstrated that it will adhere to the prescribed standards. The period during which the jurisdiction or agency shall remain ineligible for services or benefits shall be at the discretion of the Commission.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13510, Penal Code.

HISTORY:

1. Amendment of subsection (a) (3) filed 5-16-79 as procedural and organizational; effective upon filing (Register 79, No. 20).

1011. Certificates and Awards.

(a) Certificates and awards may be presented by the Commission for the purpose of raising the level of competence of law enforcement and to foster cooperation among the Commission, agencies, groups, organizations, jurisdictions and individuals.

(b) Professional certificates shall be considered to be awards for achievement and subject to denial or cancellation only if obtained through misrepresentation, fraud, or issuance due to administrative error.

(c) Regular Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, Management and Executive Certificates are provided for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the general police service duties performed by regular peace officers. Requirements for the Certificates are as prescribed in PAM, Section F-1, "Regular and Specialized Certification Programs."

(d) Specialized law Enforcement Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, and Management Certificates are established for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the duties performed by specialized peace officers. Requirements for Specialized Law Enforcement Certificates are set forth in PAM, Section F-1, "Regular and Specialized Law Enforcement Certification Programs."

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1012. Certification of Courses.

(a) The Commission may certify courses. Criteria for certification include, but are not limited to, a demonstrated need and compliance with minimum standards for curriculum, facilities, instructors and instructional quality.

(b) Certification of courses may be revoked by action of the Commission when:

- (1) There is no longer a demonstrated need for the course; or
- (2) There is failure to comply with standards set forth in (a) above; or
- (3) There are other causes warranting revocation as determined by the Commission.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1013. Code of Ethics.

The Law Enforcement Code of Ethics, as prescribed in PAM, Section C, "The Law Enforcement Code of Ethics," shall be administered as an oath to all peace officer trainees during the Basic Course or at the time of appointment.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1014. Training for Non-Sworn Personnel.

(a) Reimbursement shall be provided in the Regular Program for the training of non-sworn personnel performing police tasks as determined by the Commission.

- (b) Request for Approval.
 - (1) Whenever it is necessary for the employing jurisdiction to obtain prior written approval of the Commission, it shall be obtained on an individual basis (See PAM, Section E-1-3-f). A request for approval must include:
 - (A) The trainee's name and job title.
 - (B) Job description.
 - (C) Course title, location and dates of presentation.
 - (2) Request for approval must reach the Commission 30 days prior the starting date of the course.

1013. Code of Ethics.

The Law Enforcement Code of Ethics, as stated in PAM, Section C-3, shall be administered to all peace officer trainees during the Basic Course or at the time of appointment.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.
HISTORY:

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

1014. Training for Non-Sworn and Paraprofessional Personnel.

(a) Reimbursement shall be provided to Regular Program agencies for the training of non-sworn personnel performing police tasks and paraprofessional personnel, as provided for by Regulation 1015 and POST Administrative Manual Section E-1-3-f, (adopted effective April 15, 1982), herein incorporated by reference.

(b) Request for Approval.

(1) Non-Sworn or Paraprofessional Personnel. Whenever it is necessary for the employing jurisdiction to obtain prior written approval from the Commission for non-sworn or paraprofessional personnel to attend reimbursable training, the agency shall include in the approval request the following information regarding each individual. (See PAM, Section E-1-3-f.)

(A) The trainee's name and job title.

(B) Job description.

(C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior to the starting date of the course.

(c) Reimbursement. Reimbursement for non-sworn and paraprofessional personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in the POST Administrative Manual, Section E-1-3-f, (adopted effective April 15, 1982), herein incorporated by reference. Note: No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005(a) (b) (c) (d) (e), except as provided in PAM, Section E-1-3-f(3).

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.
HISTORY:

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

1015. Reimbursements.

(a) Proportionate Reimbursement. In the Regular Program, reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with Section 13523 Penal Code.

(1) Marshals' and district attorneys' departments are included in the Regular Program for reimbursement even though individual officers employed by the agencies have retained specialized peace officer classification.

(b) Claims for Reimbursement. Claims must be submitted on forms provided by the Commission and received no later than ninety days after the completion of a certified course.

All claims for training expenditures eligible for reimbursement from the Peace Officer Training Fund are subject to the following provisions:

(1) Claims received more than 90 days, but less than 180 days, following the completion of a certified training course shall be reduced by 25% of the approved reimbursable amount.

(2) Claims received more than 180 days following the completion of a certified training course shall not be reimbursed.

(c) Notwithstanding the provisions of sub-paragraph (b) of this Section, upon a regular officer's appointment and within one year from satisfactory completion of training enumerated in sub-paragraph (b) (3), (c) (3) or (e) (2) of Regulation 1005, the officer's jurisdiction may be reimbursed.

(d) Training Expenses May Be Claimed Only Once. When a Regular Program trainee has attended a course certified by the Commission for which reimbursement has been legally claimed and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance by the same trainee of the same course unless attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change. Exceptions or special circumstances must be approved by the Executive Director prior to beginning the training course.

(e) Reimbursement is provided only for expenses related to attendance of POST certified courses.

(f) Reimbursement may be provided only for satisfactorily completed training acquired by full-time employees in an on-duty status. See the POST Administrative Manual, Section E-1-3-i and k, (adopted effective April 15, 1982), herein incorporated by reference.

(g) Reimbursement may be made to a jurisdiction which terminates a Regular Program trainee or allows a trainee to resign prior to completion of a certified Basic Course, provided the requirements of Section 1002(a) (1) through (6) have been completed prior to the trainee's appointment date and the date the course began.

(h) Reimbursement may be paid to a jurisdiction when a Regular Program trainee fails a certified Basic Course only because of not passing a locally required training subject(s), but the trainee otherwise satisfactorily completes the course.

NOTE: Refer to PAM, Section E, Reimbursements, for detailed information on reimbursement procedures.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Sections 13510, 13520, 13522 and 13523, Penal Code.

HISTORY:

1. New subsection (a) (1) filed 5-14-82; designated effective 7-1-82 (Register 82, No. 20).

2. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

1016. Services Provided by the Commission.

Counseling services are provided only to sheriff and city police departments upon request. Aid may also be given to such agencies in implementing recommended procedures or practices. See PAM, Section G.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Sections 13503 and 13513, Penal Code.

HISTORY:

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

3. Amendment of PAM Section F-1 incorporated by reference and effective January 17, 1990 filed 12-18-89; operative 1-17-90 (Register 89, No. 51).

§ 1012. Certification of Courses.

(a) The Commission may certify courses. Criteria for certification include, but are not limited to, a demonstrated need and compliance with minimum standards for curriculum, facilities, instructors and instructional quality. Because of the variety of courses provided by the Commission (e.g., firearms, chemical agent, defensive driving) specific standards for course certification and presentation will reflect the specific needs for the type of course certified.

(b) Certification of courses may be revoked by action of the Commission when:

- (1) There is no longer a demonstrated need for the course; or
- (2) There is failure to comply with standards set forth in (a) above; or
- (3) There are other causes warranting revocation as determined by the Commission.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Sections 13503, 13510, 13510.5 and 13511, Penal Code.

HISTORY

1. Amendment of subsection (a) filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§ 1013. Code of Ethics.

The Law Enforcement Code of Ethics, as stated in PAM, section C-3, shall be administered to all peace officer trainees during the basic course and to all other persons at the time of appointment.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register, No. 7).

2. Amendment filed 8-27-90; operative 9-26-90 (Register 90, No. 42).

§ 1014. Training for Non-Sworn and Paraprofessional Personnel.

(a) Reimbursement shall be provided to Regular Program agencies for the training of non-sworn personnel performing police tasks and paraprofessional personnel, as provided for by Regulation 1015 and POST Administrative Manual Section E-1-4a.

(b) Request for Approval.

(1) Non-Sworn or Paraprofessional Personnel. Whenever it is necessary for the employing jurisdiction to obtain prior written approval from the Commission for non-sworn or paraprofessional personnel to attend reimbursable training, the agency shall include in the approval request the following information regarding each individual. (See PAM, section E-1-4a.)

- (A) The trainee's name and job title.
- (B) Job description.
- (C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior to the starting date of the course.

(c) Reimbursement. Reimbursement for non-sworn and paraprofessional personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in the POST Administrative Manual, Section E-1-4a. No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005(a)(b)(c)(d)(e), except as provided in PAM, section E-1-4a (3), (4), and (5). PAM section E-1-4a adopted effective April 15, 1982, and amended 5-1-87 is herein incorporated by reference.

PAM section E-1-4a adopted effective April 15, 1982 and amended May 31, 1987 and October 10, 1990, is herein incorporated by reference. NOTE: Authority cited: Sections 13503, 13506, and 13510 Penal Code. Reference: Sections 13503, 13506 and 13523, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

2. Amendment filed 6-15-83; effective thirtieth day thereafter (Register 83, No. 25).

3. Amendment filed 8-12-83; effective thirtieth day thereafter (Register 83, No. 33).

4. Amendment filed 5-1-87; operative 5-31-87 (Register 87, No. 19).

5. Change without regulatory effect amending of PAM section E-1-4 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 44).

§ 1015. Reimbursements.

(a) Proportionate Reimbursement. Reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with Section 13523 Penal Code.

(1) Marshals' and district attorneys' departments are included in the Regular Program for reimbursement even though individual officers employed by the agencies have retained specialized peace officer classification.

(2) A jurisdiction that employs limited function peace officers may be reimbursed for allowable expenses of these officers that are related to attendance of POST-certified courses.

(b) Requests for Reimbursement. Each request for reimbursement must be submitted on a form provided by the Commission and submitted to the training institution at the beginning of a POST-certified training course. No further action is required by the participating jurisdiction to receive reimbursement except for those courses requiring a report to POST as a condition of successful completion, such as Field Management Training and Team Building Workshops. Upon completion of the training, reimbursement will be automatically computed and paid to the jurisdiction.

(c) Training Expenses May Be Claimed Only Once. When a trainee has attended a course certified by the Commission for which reimbursement has been legally requested and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance by the same trainee of the same course except where attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change. Exceptions or special circumstances must be approved by the Executive Director prior to beginning the training course.

(d) Reimbursement is provided only for expenses related to attendance of POST certified courses.

(e) Reimbursement may be provided only for satisfactorily completed training acquired by full-time employees in an on-duty status. See the POST Administrative Manual, Section E-1-4c and e., (adopted effective April 15, 1982), herein incorporated by reference.

(f) Reimbursement may be made to a jurisdiction which terminates a basic course trainee, allows a trainee to resign prior to completion of a certified basic course, or if the trainee is unable to complete a certified basic course due to illness, injury, or other physical or academic deficiency, provided the background investigation requirements of Regulation 1002(a) or Regulation 1018(c), respectively, (based on the applicability of the regulation to the classification of the trainee) have been completed prior to the trainee's appointment date and the date the course began. The remaining reimbursement entitlement for a trainee eligible to be re-enrolled, may be applied to attendance of any certified basic course which is subsequently attended by the trainee.

(g) Reimbursement may be paid to a jurisdiction when a peace officer trainee fails a certified Basic Course only because of not passing a locally required training subject(s), but the trainee otherwise satisfactorily completes the course.

(h) When a peace officer trainee has attended a POST-certified basic course for which reimbursement has been provided, an employing jurisdiction may receive reimbursement for subsequent attendance of a POST-certified basic training course by the same trainee who has a three-year or longer break in service as a peace officer and must be re-trained (Section 1008(b)).

(i) Reimbursement for partial completion of a certified Motorcycle Training Course or instructor training courses may be provided if the

2. Amendment of section and NOTE and POST Forms 2-116, 2-117, 2-250 and 2-289 (incorporated by reference) filed 8-26-2015; operative 10-1-2015 (Register 2015, No. 35).
3. Change without regulatory effect amending section and NOTE filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).

§ 1012. Conditions for Continuing Employment.

(a) Every full-time peace officer employed by a participating department shall be required to serve in a probationary status for not less than 12 months from the date appointed to a full-time peace officer position.

(b) In order to continue to exercise peace officer powers, any individual appointed to a full-time peace officer position pursuant to Penal Code section 830.1(a) must obtain a basic certificate as set forth in Penal Code section 832.4.

NOTE: Authority cited: Section 11422, Government Code; and Section 832.4, Penal Code. Reference: Sections 832.4 and 13506, Penal Code.

HISTORY

1. Renumbering of former section 1004 to new section 1012, including amendment of section heading and NOTE, filed 10-7-2002; operative 7-1-2003 (Register 2002, No. 41). For prior history of section 1012, see Register 91, No. 16.
2. Change without regulatory effect amending subsection (b) filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).

§ 1013. Code of Ethics.

The Law Enforcement Code of Ethics, as stated in PAM Section C-3, shall be administered to all peace officer trainees during the basic course and to all other persons at the time of appointment.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register, No. 7).
2. Amendment filed 8-27-90; operative 9-26-90 (Register 90, No. 42).
3. Change without regulatory effect amending section filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).

§ 1014. Training for Non-Sworn and Paraprofessional Personnel.

(a) Reimbursement shall be provided to Regular Program agencies for the training of non-sworn personnel performing police tasks and paraprofessional personnel, as provided for by Regulation 1015 and POST Administrative Manual Section E-1-4a.

(b) Request for Approval

(1) Non-Sworn or Paraprofessional Personnel Whenever it is necessary for the employing jurisdiction to obtain prior written approval from the Commission for non-sworn or paraprofessional personnel to attend reimbursable training, the agency shall include in the approval request the following information regarding each individual. (See PAM, section E-1-4a.)

(A) The Trainee's Name and Job Title.

(B) Job Description.

(C) Course Title, Location and Dates of Presentation.

(2) Request for approval must reach the Commission 30 days prior to the starting date of the course.

(c) Reimbursement Reimbursement for non-sworn and paraprofessional personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in the POST Administrative Manual, Section E-1-4a. No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005(a)(b)(c)(d)(e), except as provided in PAM, section E-1-4a (3), (4), and (5). PAM section E-1-4a adopted effective April 15, 1982, and amended 5-1-87 is herein incorporated by reference.

PAM section E-1-4(a) adopted effective April 15, 1982 and amended May 31, 1987, October 10, 1990, January 21, 1994, August 1, 2005, and August 26, 2006 is herein incorporated by reference.

NOTE: Authority cited: Sections 13503, 13506 and 13510, Penal Code. Reference: Sections 13503, 13506 and 13523, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment filed 6-15-83; effective thirtieth day thereafter (Register 83, No. 25).
3. Amendment filed 8-12-83; effective thirtieth day thereafter (Register 83, No. 33).
4. Amendment filed 5-1-87; operative 5-31-87 (Register 87, No. 19).
5. Change without regulatory effect amending of PAM section E-1-4 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 44).
6. Amendment of last paragraph filed 12-22-93; operative 1-21-94 (Register 93, No. 52).
7. Amendment of last paragraph filed 8-1-2005; operative 8-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 31).
8. Amendment of PAM section E-1-4 (incorporated by reference) and amendment of subsection (c) filed 7-27-2006; operative 8-26-2006 (Register 2006, No. 30).
9. Change without regulatory effect amending subsections (b)(1)(A)-(C) and (c) filed 11-26-2012 pursuant to section 100, title 1, California Code of Regulations (Register 2012, No. 48).

§ 1015. Reimbursements.

(a) Proportionate Reimbursement Reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with section 13523 Penal Code.

(1) Marshals' and district attorneys' departments are included in the Regular Program for reimbursement even though individual officers employed by the agencies have retained specialized peace officer classification.

(2) A jurisdiction that employs limited function peace officers may be reimbursed for allowable expenses of these officers that are related to attendance of POST-certified courses.

(b) Reimbursement for Travel, Subsistence, Commuter Lunch, Tuition and Back-fill Salary

(1) Requests for Reimbursement

Each request for reimbursement must be submitted on a form provided by the Commission and submitted to the training institution at the beginning of a POST-certified training course. No further action is required by the participating jurisdiction to receive reimbursement except for those courses requiring a report to POST as a condition of successful completion, such as Field Management Training and Team Building Workshops. Upon completion of the training, reimbursement will be automatically computed and paid to the jurisdiction.

(2) Training Expenses May Be Claimed Only Once When a trainee has attended a course certified by the Commission for which reimbursement has been legally requested and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance by the same trainee of the same course except where attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change. Exceptions or special circumstances must be approved by the Executive Director prior to beginning the training course.

(3) Reimbursement is provided only for expenses related to attendance of POST certified courses.

(4) Reimbursement may be provided only for satisfactorily completed training acquired by full-time employees in an on-duty status. See the POST Administrative Manual, section E-1-4(c) and (e), (adopted effective April 15, 1982), herein incorporated by reference.

(5) Reimbursement may be made to a jurisdiction which terminates a basic course trainee, allows a trainee to resign prior to completion of a certified basic course, or if the trainee is unable to complete a certified basic course due to illness, injury, or other physical or academic deficiency, provided the background investigation requirements of Regulation 1953 and 1959 or Regulation 1018(c), respectively, (based on the applicability of the regulation to the classification of the trainee) have been



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TITLE 4. STANDARDS AND TRAINING OF LOCAL LAW ENFORCEMENT OFFICERS [13500 - 13553] (Title 4 added by Stats. 1959, Ch. 1823.)

CHAPTER 1. Commission on Peace Officer Standards and Training [13500 - 13553] (Chapter 1 added by Stats. 1959, Ch. 1823.)

ARTICLE 1. Administration [13500 - 13509] (Article 1 added by Stats. 1959, Ch. 1823.)

13506. The commission may adopt those regulations as are necessary to carry out the purposes of this chapter. The commission shall not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer pursuant to this chapter. Except as specifically provided by law, the commission shall not have the authority to adopt regulations providing for the cancellation of a certificate.

(Amended by Stats. 2003, Ch. 297, Sec. 3. Effective January 1, 2004.)



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CHAPTER 1. Commission on Peace Officer Standards and Training [13500 - 13553] (Chapter 1 added by Stats. 1959, Ch. 1823.)

ARTICLE 1. Administration [13500 - 13509] (Article 1 added by Stats. 1959, Ch. 1823.)

13503. In carrying out its duties and responsibilities, the commission shall have all of the following powers:

- (a) To meet at those times and places as it may deem proper.
- (b) To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.
- (c) To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.
- (d) To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.
- (e) To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.
- (f) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.
- (g) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.
- (h) The commission shall not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer pursuant to this chapter.
- (i) Except as specifically provided by law, the commission shall not have the authority to cancel a certificate previously issued to a peace officer pursuant to this chapter.

(Amended by Stats. 2003, Ch. 297, Sec. 2. Effective January 1, 2004.)



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Deering's California Codes Annotated **PENAL CODE (§§ 1 – 34370)** **Part 4 Prevention of Crimes and Apprehension of Criminals (Titles 1 – 13)** **Title 4 Standards and Training of Local Law Enforcement Officers (Ch. 1)** **Chapter 1 Commission on Peace Officer Standards and Training (Arts. 1 – 5)** **Article 1 Administration (§§ 13500 – 13509)**

§ 13503. Powers of commission

In carrying out its duties and responsibilities, the commission shall have all of the following powers:

- (a) To meet at those times and places as it may deem proper.
- (b) To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.
- (c) To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.
- (d) To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.
- (e) To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.
- (f) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.
- (g) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.
- (h) The commission shall not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer pursuant to this chapter.
- (i) Except as specifically provided by law, the commission shall not have the authority to cancel a certificate previously issued to a peace officer pursuant to this chapter.

History

Added Stats 1959 ch 1823 § 2. Amended Stats 1967 ch 1640 § 1; [Stats 2003 ch 297 § 2 \(SB 221\)](#).

▼ Annotations

Notes

Amendments:

⬇️ **1967 Amendment:**

📄 **1967 Amendment:**

(1) Added subd (e); and (2) redesignated former subds (e) and (f) to be subds (f) and (g).

2003 Amendment:

(1) Generally eliminated "such"; (2) substituted periods for the semicolons at the end of subds (a)-(f); and (3) added subds (h) and (i).

Research References & Practice Aids

Cross References:

Power to adopt regulations pertaining to standards and training: [Pen C §§ 13510](#) et seq.

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Deering's California Codes Annotated PENAL CODE (§§ 1 – 34370) Part 4 Prevention of Crimes and Apprehension of Criminals (Titles 1 – 13) Title 4 Standards and Training of Local Law Enforcement Officers (Ch. 1) Chapter 1 Commission on Peace Officer Standards and Training (Arts. 1 – 5) Article 2 Field Services and Standards for Recruitment and Training (§§ 13510 – 13519.15)

§ 13510. Rules establishing minimum standards

(a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

These rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of

Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.

History

Added Stats 1959 ch 1823 § 2. Amended Stats 1963 ch 372 § 8; Stats 1969 ch 1072 § 2; Stats 1973 ch 1075 § 2; Stats 1977 ch 987 § 4; Stats 1980 ch 654 § 1, ch 1180 § 1; Stats 1981 ch 710 § 1, ch 966 § 5; Stats 1987 ch 971 § 1; Stats 1990 ch 333 § 1 (AB 2306), ch 477 § 1 (SB 2457); Stats 1991 ch 910 § 7 (SB 249); Stats 1996 ch 950 § 4 (AB 574); Stats 1999 ch 301 § 1 (AB 1336); Stats 2000 ch 135 § 142 (AB 2539); Stats 2010 ch 212 § 12 (AB 2767), effective January 1, 2011.

▼ Annotations

Notes

1963 Amendment:

1963 Amendment:

Substituted "Chapter 4.5 (commencing with Section 11371)" for "the Administrative Procedure Act Chapter 4 (commencing at Section 11370) and Chapter 5 (commencing at Section 11500)".

1969 Amendment:

(1) Deleted "or" before "peace officer members"; (2) added "policemen of a district authorized by statute to maintain a police department, or peace officer members of a regional park district"; (3) deleted "or" after "city, county,"; (4) added "or district" after "city and county,"; (5) deleted "and" after "training of city police officers,"; (6) added "policemen of a district authorized by statute to maintain a police department, and peace officer members of a regional park district"; (7) deleted "and" after "cities, counties,"; and (8) added "and districts" after "cities and counties".

1973 Amendment:

Deleted "regional park" before "district, in" and "district which".

1977 Amendment:

Added (1) "(a)" at the beginning of the section; and (2) "reserve officers as defined in subdivision (a) of Section 830.6," wherever it appears.

1980 Amendment:

(1) Deleted the comma after "minimum standards" in the first sentence of subd (a); and (2) added subds (b) and (c). (As amended by Stats 1980, ch 1180, compared to the section as it read prior to 1980. This section was also amended by an earlier chapter, ch 654. See Gov C § 9605.)

1981 Amendment:

(1) Amended the first sentence of subd (a) by adding (a) "marshals or deputy marshals of a municipal court," wherever it appears; and (b) "regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1 who conduct criminal investigations," wherever it appears; and (2) substituted "Chapter 3.5 (commencing with Section 11340) of Part 1, of Division 3 of Title 2" for "Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2" in the second sentence of subd (a). (As amended by Stats 1981, ch 966, compared to the section as it read prior to 1981. This section was also amended by an earlier chapter, ch 710. See Gov C § 9605.)

1987 Amendment:

(1) Added subd (c); (2) redesignated former subd (c) to be subd (d); and (3) deleted "law enforcement" after "prohibit a local" in subd (d).

1990 Amendment:

In addition to making changes in punctuation, (1) amended subd (a) by (a) substituting "police officers" for "policemen" after "of Section 830.6," wherever it appears; and (b) adding "peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code," wherever it appears; and (2) amended subd (c) by (a) adding the second sentence; and (b) substituting "Those" for "All such" at the beginning of the third sentence. (As amended Stats 1990 ch 477, compared to the section as it read prior to 1990. This section was also amended by an earlier chapter, ch 333. See Gov C § 9605.)

1991 Amendment:

Added "peace officer members of a county coroner's office notwithstanding Section 13526," after "municipal court," wherever it appears in the first sentence of subd (a).

1996 Amendment:

In addition to making technical changes, (1) substituted "or safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31" for "in any city, county, city and county, or district receiving state aid pursuant to this chapter, and" at the end of the first paragraph of subd (a); (2) amended the second paragraph of subd (a) by (a) adding "The commission also" at the beginning; and (b) substituting ", and safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31" for "which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter" at the end; and (3) added "apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall" in the last paragraph of subd (a).

1999 Amendment:

Amended subd (a) by (1) deleting "or" after "of a district,,"; (2) adding ", or housing authority police department" at the end of the first paragraph; (3) deleting "and" after "of a district,,"; and (4) adding ", and housing authority police department" at the end of the second paragraph.

2000 Amendment:

Substituted (1) "Section 830.31" for "Section 830.1" after "subdivisions (a) and (b) of" in the second paragraph of subd (a); and (2) "that" for "which" after "Job-related standards" in the second sentence of subd (b), and after "and training standards" in subd (d).

2010 Amendment:

Deleted "of a municipal court" after "deputy marshals" in the first and second paragraphs of subd (a).

Commentary

Law Revision Commission Comments:

2010—

Section 13510 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

Notes to Decisions

1. Compensation for Training

2. Construction With Other Law

1. Compensation for Training

The court affirmed dismissal of police officers' complaint for back pay and damages. Considering whether federal labor law required the city to compensate the officers for time spent commuting from their homes to mandatory off-site training when that time exceeded their regular commuting time, the court affirmed a ruling that compensation was not required because federal law did not require it for travel time from home to a site where an employee is to perform essential parts of activities he or she was hired to perform. Also, federal law did not require the city to compensate the officers for time spent traveling overnight to a training activity in another city. Imada v. City of Hercules (9th Cir. Cal. Mar. 17, 1998), 138 F.3d 1294, 1998 U.S. App. LEXIS 4970.

2. Construction With Other Law

Although basic peace officer certification training is not employer-mandated training and thus is not an expense requiring indemnification of employees, a local police agency that mandates additional training must bear the costs. Accordingly, absent evidence that would permit apportionment of costs between basic training and employer-mandated training, a city could not require recruits to agree to reimburse the city for a portion of their training costs if they changed jobs within five years. In re Acknowledgment Cases (Cal. App. 4th Dist. Aug. 12, 2015), 239 Cal. App. 4th 1498, 192 Cal. Rptr. 3d 337, 2015 Cal. App. LEXIS 770.

Research References & Practice Aids

Cross References:

General authority to promulgate regulations: Pen C § 13506.

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Deering's California Codes Annotated **PENAL CODE (§§ 1 – 34370)** **Part 4 Prevention of Crimes and Apprehension of Criminals (Titles 1 – 13)** **Title 4 Standards and Training of Local Law Enforcement Officers (Ch. 1)** **Chapter 1 Commission on Peace Officer Standards and Training (Arts. 1 – 5)** **Article 1 Administration (§§ 13500 – 13509)**

§ 13506. Regulations

The commission may adopt those regulations as are necessary to carry out the purposes of this chapter. The commission shall not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer pursuant to this chapter. Except as specifically provided by law, the commission shall not have the authority to adopt regulations providing for the cancellation of a certificate.

History

Added Stats 1959 ch 1823 § 2. Amended [Stats 2003 ch 297 § 3 \(SB 221\)](#).

▼ Annotations

Notes

Amendments:

2003 Amendment:

(1) Substituted "those regulations" for "such regulations" in the first sentence; and (2) added the second

and third sentences.

Research References & Practice Aids

Cross References:

Authority to adopt rules pertaining to standards and training: [Pen C §§ 13510 et seq.](#)

Deering's California Codes Annotated
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Deering's California Codes are current through Chapters 1-10 and 12-32 of the 2020 Regular Session, including legislation effective August 20, 2020 or earlier except Chapter 11.

Deering's California Codes Annotated PENAL CODE (§§ 1 – 34370) Part 4 Prevention of Crimes and Apprehension of Criminals (Titles 1 – 13) Title 4.7. Law Enforcement Agency Regulations (§ 13650)

§ 13650. Posting of standards, policies, practices, operating procedures, and education and training on Internet

Commencing January 1, 2020, the Commission on Peace Officer Standards and Training and each local law enforcement agency shall conspicuously post on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

History

Added Stats 2018 ch 978 § 2 (SB 978), effective January 1, 2019.

Annotations

Notes

Note—

Stats 2018 ch 978 provides:

SECTION 1. The Legislature finds and declares all of the following:

(a) Law enforcement agencies, including the Commission on Peace Officer Standards and Training and local law enforcement agencies, establish standards of physical, mental, and moral fitness for peace officers, develop and implement programs to increase the effectiveness of law enforcement by peace officers, and provide ongoing education and training for peace officers.

(b) Law enforcement agencies have numerous sets of regulations, including, but not limited to, educational materials, manuals, policies, practices, and procedures, that guide employees in their duties. Regulations should be based on best policing policies and practices, current legal standards, and community safety needs.

(c) Currently, across California and the country, many local law enforcement agencies conspicuously post their training, policies, practices, and operating procedures on their Internet Web sites.

(d) Making regulations of law enforcement agencies easily accessible to the public helps educate the public about law enforcement policies, practices, and procedures, increases communication and community trust, and enhances transparency, while saving costs and labor associated with responding to individual requests for this information.

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| | | | |
|--|--|---|---|
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| Recent Actions Taken On Proposed Regulations | Recent Actions Taken On Proposed Emergency Regulations | Underground Regulation Petitions Under Review | Agency Links to Recently Approved Regulations |

GOVERNOR'S EXECUTIVE ORDER EXTENDING APA DEADLINES

Governor Newsom’s Executive Order N-40-20, issued March 30, 2020, extended by **60 calendar days** the following deadlines that affect state agency rulemaking actions under the Administrative Procedure Act (APA) during the state of emergency:

- The one year deadline for expiration of a Notice of Proposed Action (NOPA) and submission to OAL of proposed regulatory actions under a NOPA (Government Code, section 11346.4(b));
- The deadline for expiration of emergency regulations (Government Code, section 11346.1(e));
- The deadline to readopt emergency regulations (Government Code, section 11346.1(h));
- The 120 day deadline to resubmit disapproved rulemaking actions (Government Code, section 11349.4(a)); and,
- The 30 working day deadline for OAL to review proposed regular and non-substantive rulemaking actions submitted to OAL for review (Government Code, section 11349.4(a) and California Code of Regulations, title 1, section 100).

Governor Newsom's Executive Order N-66-20, issued May 29, 2020, extended by **60 additional days** the foregoing deadlines that affect state agency rulemaking actions under the Administrative Procedure Act (APA).

ANNOUNCEMENTS:

- **OAL Emergency Regulations.** On July 6, 2020, OAL adopted emergency regulations concerning the electronic submission of documents that are no larger than 25 MB and requirements for acceptance of digital signatures on the Form 400. Please click here to access the approved emergency text, as well as other documents associated with the emergency. Please be sure that if you submit a matter electronically, the submission:
 - is contained in one email that is *not* larger than 25 MB (including all attachments),

- includes an electronic Form 400 digitally signed by the head of agency (or their delegate)
 - includes a digital signature certification signed by the head of agency (unless one has previously been provided to OAL), and
 - is emailed to ElectronicSubmissions@oal.ca.gov
-
- **COVID-19.** In an effort to keep both you and the OAL staff healthy during these challenging times, everyone who comes to OAL must exercise appropriate social distancing practices, including the wearing of a face mask. Thank you for your consideration and please help us all to stay safe and healthy!
-
- **Request for Proposals** - On July 17, 2020, the California Office of Administrative Law issued a Request for Proposals For the Publication of the Official California Code of Regulations and the California Regulatory Notice Register (RFP-CCR-2020). For more information about RFP-CCR-2020 and OAL's contracting process, visit the [2020 California Code of Regulations and California Regulatory Notice Register Publication ContractPequest for Information](#) page.
-
- **2020 California Rulemaking Law Under the Administrative Procedure Act booklets** are now available. Please contact staff@oal.ca.gov or (916) 323-6225 if interested in purchasing a copy.

Rulemaking Process

OAL is responsible for ensuring that California state agencies comply with the rulemaking procedures and standards set forth in California's Administrative Procedure Act (APA). A "regulation" is any rule, regulation, order or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it. When adopting regulations, every department, division, office, officer, bureau, board or commission in the executive branch of the California state government must follow the rulemaking procedures in the Administrative Procedure Act (APA) (Government Code section 11340 et seq.) and regulations adopted by the Office of Administrative Law (OAL), unless expressly exempted by statute from some or all of these requirements. The APA requirements are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules that have the force of law by California state agencies and to ensure the creation of an adequate record for the OAL and judicial review.

Regulations subject to the APA are generally adopted through the "Regular" or "Emergency" rulemaking processes. The rulemaking process used by an agency to adopt regulations will dictate what procedural requirements must be followed, including but not limited to the contents of the rulemaking record, timeframes, opportunities for public participation, OAL's review and effective dates for the regulations.

For more information on the regular and emergency rulemaking processes, please follow the links below

[Regular Rulemaking Process](#)

[Emergency Rulemaking Process](#)

Underground Regulations – Information on underground regulations and the petition process is available on our website under ["Underground Regulations."](#)

California Code of Regulations (CCR)

The California Code of Regulations (CCR), is the official compilation and publication of the regulations adopted, amended or repealed by state agencies pursuant to the Administrative Procedure Act (APA). Properly adopted regulations that have been filed with the Secretary of State have the force of law.

The CCR is compiled into Titles and organized into Divisions containing the regulations of state agencies.

The CCR is available from a variety of sources:

- Online. OAL contracts with Barclays, a division of Thomson-Reuters to provide a free online version of the Official CCR. If you have difficulties accessing the CCR website, please e-mail OAL at staff@oal.ca.gov or contact Barclays at 1-800-888-3600. (See Browsing Tips below.)
- Most County Clerks and County Law Libraries have printed copies of the CCR.
- State depository libraries also have a copy of the CCR.
- To order a hard-copy version of the CCR or purchase individual Titles, please contact Barclays, publisher of the Official CCR, at 1-800-888-3600.

Historical information on Regulations

For information on how to find past versions of a regulation, please [click here](#).

CAUTION regarding Official Code of Regulations:

Government Code section 11344 requires OAL to provide for the official compilation, printing and publication of state regulations in the California Code of Regulations. The online CCR contains the full text of the California Code of Regulations. OAL updates the official hard-copy and online versions of the code once weekly to reflect newly adopted, amended or repealed regulations. OAL cannot verify the authenticity of regulations downloaded from websites other than <http://ccr.oal.ca.gov/>, or confirm whether those versions reflect the existing content of the code.

CCR Browsing Tips:

Pop-Up Blocker/Westlaw: If a yellow “pop-up blocker detected” screen appears, you may simply click on “continue to weblinks” to access the online CCR. If a window appears stating “Westlaw is unable to accept your password,” clear cookies and close your browser before trying again.

Documents in Sequence: The Documents in Sequence function at the bottom of each section will allow you to view CCR sections in sequence. For example, if you retrieve 1 CCR § 260, click **Docs in Sequence** to view 1 CCR § 270. Use the **Prev** and **Next** arrows located at the bottom of the document to view other consecutive documents.

Note ABOUT TITLE 24:

Title 24, the Building Standards Code, is maintained by the Building Standards Commission, not by OAL; and is not included in the on-line CCR or printed CCR. To locate a copy of Title 24, please contact the Building Standards Commission www.bsc.ca.gov/.

Adam Bereki
818 Spirit
Costa Mesa, California 92626
Abereki@gmail.com | 949.241.6693

Chief David Valentin
Santa Ana Police Department
(hereafter "SAPD")
60 Civic Center Plaza
Santa Ana, CA 92701
Via Online Submission

August 31, 2020

RE: Public Records Act ("PRA") Request

1. Over the recent month through correspondence with your agency pertaining to other PRA requests, it has become evident your entire command staff from the rank of Corporal through Deputy Chief appears to be out of compliance with the California Constitution, department policy, and Santa Ana Municipal Code pertaining to Oaths of Office:

Article XX, Section 3 requires that public officers and employees "**shall**¹, before they enter upon the duties of their respective offices, take **and** subscribe the following oath or affirmation."

Santa Ana Police Department Policy 102.3 declares "All department members, when appropriate, **shall take and** subscribe to the oaths or affirmations **applicable to their positions.**"

Santa Ana Municipal Code section 1105 declares "Each [...] officer and full-time employee **shall, before entering upon the duties of his office, take and** subscribe an oath or affirmation as prescribed by law and to be filed and kept in the office of the director of personnel."

On or about August 6, 2020, I received a PRA response from "Deputy Chief" Esparza, stating "All City employees take and subscribe an Oath at the time they are hired, and as such, **no records exist** with respect to their post/position, with the exception of the Chief of Police [...]."

¹ All bolded emphasis throughout this document added unless otherwise noted.

On August 19, 2020 I received another PRA response from “Deputy Chief” Esparza dated August 19, 2020 pertaining to the duties of the offices of Corporal, Sergeant, Commander, and Deputy Chief (amongst others) which entail duties in addition to, and in many cases exclusive of those of a police officer. As a result, it is my observation that each of these positions is a separate office from that of police officer requiring a different oath of office². Indeed, your own department policy states “All department members, when appropriate, shall take and subscribe to the oaths or affirmations **applicable to their positions.**”

Furthermore, your current form for an oath of office does not even have a location to enter the oath of office for the post/position subscribed to. See PRA response from Esparza dated August 6, 2020 for copies of the blank oath forms as compared to the oath of office of Gilbert Hernandez.

After repeatedly notifying your agency of this dereliction in duty, you have had reasonable time to obtain compliance. Please provide all documents in your custody and control evidencing the SAPD’s compliance with the Cal. Const. Article XX, Section 3, SAPD policy 102.3 and Santa Ana Muni. Code 1105.

2. Based on the foregoing, it seems that none of the PRA responses thus far by your purported command staff have been by people appointed to the respective office claimed. Please provide your verification of the responses by SAPD made thus far.
3. Provide all documents in your custody or control evidencing which official(s) in the SAPD and/or the City of Santa Ana have final policymaking authority for the rules, regulations, and policies of the SAPD for the following: (1) in general; (2) in relation to the policy that deprivations of State and Federal Constitutional rights by public officials will not be investigated by the City of Santa Ana; and, (3) in relation to the policy that the complaints made by Adam Bereki to Abel Alcantar, Gil Hernandez, and Michelle Macchiaroli pertaining to deprivations of his rights under the California Constitution and the Constitution for the United States will not be investigated by the SAPD.

Please email your responses to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received them. Thank you for your time and help. If you have any questions please don’t hesitate to call or email.

² A similar policy is followed by California Courts whereby when a judge is promoted to the Court of Appeal from the Superior Court, they take a different oath of office for the position of appellate justice even though they are still performing the act of judging.

Sincerely,

/s/ Adam Bereki



CITY OF SANTA ANA

Clerk of the Council Office

20 Civic Center Plaza, Room 809

P.O. Box 1988,

M-30 Santa Ana, CA 92702

PHONE: (714) 647-6520

FAX: (714) 647-6956

Request for Public Records

Your request will be processed in compliance with the Public Records Act California Government Code § 6253.

Public records are accessible at all times during regular office hours and can be inspected at no charge. The more specific you are with the information you are requesting, the more responsive we may be to your request.

Copies may be provided in most instances upon request, unless documents are archived or need to be gathered. Requestor will be notified in writing if additional time will be necessary pursuant to the Public Records Act. All document duplication fees are due and payable in full and are based on the City's current fee resolution.

Name:

Adam

First

Middle

Bereki

Last

Mailing Address:

818 Spirit

Street

Costa Mesa

City

92626

Zip Code

Phone:

Fax:

E-Mail: *

abereki@gmail.com

I would like to: *

OBTAIN A COPY OF

(\$0.20/page unless otherwise specified by the law)

Request Type:

Police Department

Note: Police audio recordings are not available on all telephone lines for calls received in the Police Department. Recordings, if available, are retained for 180 days.

Incident Date and Time

Incident Type

Incident or Case Number

Location or Address:

(?)

Date Range: (?)

**Description of
Records: * (?)**

Please see attached and provide response by email.

**Optional PDF
Attachment: (?)**

SAPD PRA Oath of Office 083120.pdf

63.42KB



Adam Bereki <abereki@gmail.com>

PRR

4 messages

Wharton, Matthew <MWharton@santa-ana.org>
To: Adam <abereki@gmail.com>

Wed, Sep 2, 2020 at 11:04 AM

Good morning Mr. Bereki,

The City is in receipt of your correspondence dated August 31, 2020. Please provide clarification as to what records you are requesting so that I can assist you and respond in a timely manner.

Regards,

Sergeant Matt Wharton

Human Resources Division

Santa Ana Police Department

Office: (714)245-8501 Email: mwharton@santa-ana.org



One Team - One Mission

#JoinSAPD

Adam <abereki@gmail.com>
To: "Wharton, Matthew" <MWharton@santa-ana.org>

Wed, Sep 2, 2020 at 12:14 PM

Good morning Matt,

Thanks for your email and for requesting clarification.

There are three document requests I made. I suspect your question is in response to request 1. Here's my clarification:

I am requesting the documents that exhibit that each current member of the SAPD above the rank/position of police officer has taken and subscribed an oath of office for their current position. (Mr. Esparza stated in a previous response that these records do not exist with the exception of the Chief). If these records still do not exist, your response can simply say that they do not exist.

If this still doesn't make sense or you meant item 2, or 3 of the request, let me know and I'll be happy to provide more clarification.

Sincerely,

Adam Bereki

[Quoted text hidden]

Wharton, Matthew <MWharton@santa-ana.org>
To: Adam <abereki@gmail.com>

Wed, Sep 2, 2020 at 12:23 PM

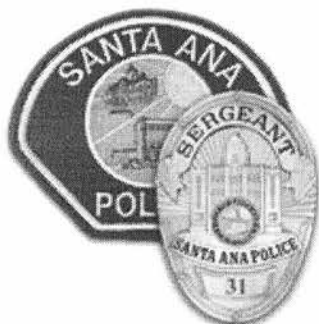
Yes, please clarify items 2 and 3 as well.

Sergeant Matt Wharton

Human Resources Division

Santa Ana Police Department

Office: (714)245-8501 Email: mwharton@santa-ana.org



One Team - One Mission

#JoinSAPD

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Wharton, Matthew" <MWharton@santa-ana.org>

Wed, Sep 2, 2020 at 12:47 PM

Matt,

It is my interpretation of the laws I quoted in the PRA request pertaining to Oaths of Office that all members of the SAPD above the rank of police officer are not in compliance. As a result, most of the records requests I have received have not been responded to by an official lawfully in office as the Oath is required and they don't have one for their position. As a result, I addressed this PRA request to Chief Valentin because he appears to be the only official in SAPD management that is in office as a result of his Oath taken for his office/position. This request was for him to certify that all of the responses made thus far by SAPD (by others not in lawfully office) are true and correct and in fact responses of the SAPD.

Request 3 is a request for the documents pertaining to who it is in the SAPD and/or the City of Santa Ana that is responsible for the final policy making authority of the SAPD. In other words, how do SAPD's policies, rules, regulations etc. take effect? Is there a committee decision? Is it just the Chief? Who is the authority within SAPD or the City that signs off on or approves policies. I am asking for these documents pertaining to general policy making authority as well as in the two instances I gave. It is my opinion that the SAPD has created and is actively enforcing a policy not to protect my liberty and property from deprivations of Constitutional rights by public officials. Who created this policy? Who is the final authority within SAPD or the City of Santa Ana that has essentially said "We are not going to investigate Bereki's claims and are not going to protect his liberty and property from deprivations of Constitutional rights by public officials".

Sincerely,

Adam

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Request #9281

10 messages

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam <abereki@gmail.com>

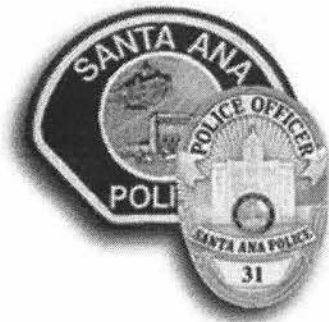
Thu, Sep 10, 2020 at 5:22 PM


Good Evening Mr. Bereki,

The City of Santa Ana ("City") has reviewed your request for records. Please see the attached document with the response to your request.

This response is meant to completely comply with your request. If you have any questions regarding this matter, kindly contact me at 714-245-8620

Rita J. Ramirez
Police Administrative Manager
Records/Evidence
Santa Ana Police Department
Office: 714-245-8620
#WEARESAPD



 **Bereki 09-10-20.pdf**
247K

Adam Bereki <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Thu, Sep 10, 2020 at 5:51 PM

Hi Rita,

Thanks for your help. It could be me, but the response to request 3 (policy 103) does not seem to exist. Could you please share which policy you're referring to?

Thank you.

Adam

On Sep 10, 2020, at 5:22 PM, Ramirez, Rita <RRamirez@santa-ana.org> wrote:

Good Evening Mr. Bereki,

The City of Santa Ana ("City") has reviewed your request for records. Please see the attached document with the response to your request.

This response is meant to completely comply with your request. If you have any questions regarding this matter, kindly contact me at 714-245-8620

Rita J. Ramirez

Police Administrative Manager

Records/Evidence

Santa Ana Police Department

Office: 714-245-8620

#WEARESAPD

<image001.png>

<Bereki 09-10-20.pdf>

Adam <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Fri, Sep 11, 2020 at 8:20 AM

Rita,

Also, if you would be so kind as to provide a digital version of the SAPD policy manual I would greatly appreciate it. By digital version I mean a downloadable, searchable complete copy of the policy manual.

Sincerely,

Adam Bereki

[Quoted text hidden]

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam <abereki@gmail.com>

Mon, Sep 14, 2020 at 8:46 AM

Hi Adam,

I apologize for the delay. I will check with our training commander and see if there is a digital version of the policy manual.

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Mon, Sep 14, 2020 at 9:00 AM

Thank you Rita, and just to be sure you received my other email pertaining to the fact that the policy referenced in the response – based on the link given – does not exist.

Thanks,

Adam

[Quoted text hidden]

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam <abereki@gmail.com>

Mon, Sep 14, 2020 at 9:22 AM

Yes ... I will double check the policy and get back to you asap.

[Quoted text hidden]

Adam Bereki <abereki@gmail.com>
To: "Ramirez, Rita" <RRamirez@santa-ana.org>

Mon, Sep 14, 2020 at 9:24 AM

Ok thank you.

Sent from my iPhone

On Sep 14, 2020, at 9:22 AM, Ramirez, Rita <RRamirez@santa-ana.org> wrote:

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

<image001.png>

Ramirez, Rita <RRamirez@santa-ana.org>

Mon, Sep 14, 2020 at 10:03 AM

To: Adam <abereki@gmail.com>

<https://www.santa-ana.org/sites/default/files/PD%20Dept%20Policies/103.pdf>

I looked at the manual on-line and policy #103 does exist. See above link.

[Quoted text hidden]

Adam Bereki <abereki@gmail.com>

Mon, Sep 14, 2020 at 10:49 AM

To: Rita Ramirez <RRamirez@santa-ana.org>

Rita,

I apologize. You are right. I opened your response on my phone and for some reason it doesn't format the policy page correctly and obscures policy 103 off the page. The policy is there when I use a computer though. I'm sorry for the trouble.

Adam.

Sent from my iPhone

On Sep 14, 2020, at 10:03 AM, Ramirez, Rita <RRamirez@santa-ana.org> wrote:

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

<image001.png>

Ramirez, Rita <RRamirez@santa-ana.org>
To: Adam Bereki <abereki@gmail.com>

Mon, Sep 14, 2020 at 11:23 AM

No worries!

[Quoted text hidden]

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

September 10, 2020

VIA E-MAIL ONLY

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Re: Public Records Act Request

Dear Mr. Bereki,

The Santa Ana Police Department has completed its review and evaluation of your request for public records, which was received by City staff on August 31, 2020 regarding the following information:

- 1) "Over the recent month through correspondence with your agency pertaining to other PRA requests, it has become evident your entire command staff from the rank of Corporal through Deputy Chief appears to be out of compliance with the California Constitution, department policy, and Santa Ana Municipal Code pertaining to Oaths of Office..."

On September 2, 2020, I requested clarification via email and received the following:

"I am requesting the documents that exhibit that each current member of the SAPD above the rank/position of police officer has taken and subscribed an oath of office for their current position."

City Response: No records exist.

- 2) Based on the foregoing, it seems that none of the PRA responses thus far by your purported command staff have been by people appointed to the respective office claimed. Please provide your verification of the responses by SAPD made thus far.

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

On September 2, 2020, I requested clarification via email and received the following:

"It is my interpretation of the laws I quoted in the PRA request pertaining to Oaths of Office that all members of the SAPD above the rank of police officer are not in compliance. As a result, most of the records requests I have received have not been responded to by an official lawfully in office as the Oath is required and they don't have one for their position. As a result, I addressed this PRA request to Chief Valentin because he appears to be the only official in SAPD management that is in office as a result of his Oath taken for his office/position. This request was for him to certify that all of the responses made thus far by SAPD (by others not in lawfully office) are true and correct and in fact responses of the SAPD."

City Response: Records deemed responsive to your previous requests have been provided by employees designated to do so.

- 3) Provide all documents in your custody or control evidencing which official(s) in the SAPD and/or the City of Santa Ana have final policymaking authority for the rules, regulations, and policies of the SAPD for the following: (1) in general; (2) in relation to the policy that deprivations of State and Federal Constitutional rights by public officials will not be investigated by the City of Santa Ana; and, (3) in relation to the policy that the complaints made by Adam Bereki to Abel Alcantar, Gil Hernandez, and Michelle Macchiaroli pertaining to deprivations of his rights under the California Constitution and the Constitution for the United States will not be investigated by the SAPD.

On September 2, 2020, I requested clarification via email and received the following:

"Request 3 is a request for the documents pertaining to who it is in the SAPD and/or the City of Santa Ana that is responsible for the final policy making authority of the SAPD. In other words, how do SAPD's policies, rules, regulations etc. take effect? Is there a committee decision? Is it just the Chief? Who is the authority within SAPD or the City that signs off on or approves policies. I am asking for these documents pertaining to general policy making authority as well as in the two instances I gave. It is my opinion that the SAPD has created and is actively enforcing a policy not to protect my liberty and property from deprivations of Constitutional rights by public officials. Who created this policy? Who is the final authority within SAPD or the City of Santa Ana that has essentially said "We are not going to investigate Bereki's claims and are not going to protect his liberty and property from deprivations of Constitutional rights by public officials"."

City Response: Department policies can be found on our website, using the link below. Please refer to Department Policy # 103.

<https://www.santa-ana.org/pd/training-division/police-department-policies>

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida M.
Ward 5
nmendoza@santa-ana.org

This response is meant to completely comply with your request. Should you have any questions, please contact Sergeant Matt Wharton at (714) 245-8501.

Sincerely,

DAVID VALENTIN
Chief of Police

Rita Ramirez
Police Administrative Manager

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
jvillegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
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dpenaloza@santa-ana.org

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Ward 3
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Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendonza
Ward 5
nmendoza@santa-ana.org

Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Santa Ana Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Santa Ana Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Santa Ana Police Department reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

103.4 DEFINITIONS

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older.

CCR - California Code of Regulations (Example: 15 CCR 1151).

Santa Ana Police Department

Santa Ana PD Policy Manual

Policy Manual

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Santa Ana.

Non-sworn - Employees and volunteers who are not sworn peace officers.

Department/SAPD - The Santa Ana Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile- Any person under the age of 18 years.

Manual - The Santa Ana Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Santa Ana Police Department, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Non-sworn employees
- Volunteers.

Officer - Those employees, regardless of rank, who are sworn peace officers of the Santa Ana Police Department.

On-duty - A member's status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

POST - The California Commission on Peace Officer Standards and Training.

Rank - The title of the classification held by an officer.

Shall or will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

Santa Ana Police Department

Santa Ana PD Policy Manual

Policy Manual

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.7 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Bureau Commander will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Bureau Commanders, who will consider the recommendations and forward them to the command staff as appropriate.

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

September 4, 2020

Orange County Sheriff's Department
(hereafter "OCSD")
Via Email: prarequests@ocsd.org

RE: Reply to deficiencies of OCSD response dated August 31, 2020 and additional Public Records Act requests

1. In request 2 of my request dated August 7, 2020, I requested:

"The signed Oaths of Office for Sgt. A. Salceda, Deputy S. Demaio, Deputy J. Fields and Lt. Alday. This request should also include all documents evidencing the date of hire, date of swear-in and oath for each post/position appointed to.

Your response did *not* provide the date of hire or date of each post/position each of these employees have been appointed to. Please provide these documents.

- ✓ 2. In request 11 of my request dated August 7, 2020, I requested:

"A signed copy of the Code of Professional Conduct and Law Enforcement Code of Ethics (if the OCSD requires such a signature) for deputies Alcantar, Demaio, Alday, and Fields."

I made a mistake and the request should have been for "A. Salceda" not Alcantar. Please provide the documents pertinent to A. Salceda.

- ✓ 3. In response to request 9 of my request dated August 7, 2020, you stated:

"OCSD has a policy on report preparation in the Department Manual, and a policy on report forms in the Department's Field Operations Manual. Both items are available publicly and may be accessed at the following links."

Neither of the documents you provided contain a policy establishing when a deputy is required to make report or not. Confirming the OCSD does not have a policy requiring the specific instances when a report is required?

✓ 4. In response to request 10 of my request dated August 7, 2020, you stated:

“[T]he Sheriff’s Department does not have a separate Internal Affairs Policy.”

Confirming the OCS D has no written policy or procedures whatsoever for the handling of citizen or other complaints against deputies that I referred to as an “internal affairs policy”?

✓ 5. In response to request 10 of my request dated August 7, 2020, requesting “a complete copy of the OCS D Standard Operating Procedure Manual” you stated:

“OCS D Department Manual

<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116496>”

However, when examining this online reference, the last section in the Table of Contents refers to “Attachments”, and specifically “Statutes and Legal Requirements.pdf.” This document is not attached to the manual. Please provide it.

New Requests For Records:

For all records in your custody and control evidencing:

6. The specific statutory and Constitutional duties for each of the following positions:

- a. Deputy Sheriff I and II ✓
- b. Sergeant ✓
- c. Lieutenant ✓
- d. Captain ✓
- e. Commander ✓
- f. Assistant Sheriff ✓
- g. Undersheriff
- h. Sheriff–Coroner

NOT AVAILABLE (EJECTED?)

This request should include any other duties for each of these positions also required by administrative law, the County of Orange Municipal Code, or OCS D Department Policy.

✓ 7. The Oaths of Office and first names for Deputies D. Foster #3340 and B. Milbery #9838.

8. The final policymaking authority for the OCSD. I am looking for all documents evidencing how policies, rules, and regulations are created and enacted within the OCSD; and which offices (such as Under Sheriff or Commander) hold the final policymaking authority. In other words, how are policies created and who has the final authority in their creation and enforcement.
9. The OCSD Deputy business card declares "The men and women of the Orange County Sheriff's Department are dedicated to the protection of all we serve." Please provide all documents evidencing what specific protection duties the OCSD provides under statutory law, Constitutional law, or any other legal source of duty.
10. In a recent News Release by the OCSD dated "June 9, 2020", the OCSD states that "Law enforcement must.... protect the constitutional rights of each person." Please provide all documents evidencing exactly how the OCSD protects "the constitutional rights of each person" and what the OCSD's specific duties are under statutory law, Constitutional law, or any other legal source of duty pertain to "protecting the constitutional rights of each person."
11. In a recent News Release by the OCSD dated "June 9, 2020", the OCSD states that "The Law Enforcement Code of Ethics and the oath to uphold the constitutional rights requires deputies to intervene [...]." Please provide all documents evidencing exactly how the OCSD intervenes to uphold constitutional rights when they are being violated and what the OCSD's specific duties are under statutory law, Constitutional law, or any other legal source of duty pertaining to intervention when a person's constitutional rights are being violated and the OCSD has direct knowledge of this violation.
12. All documents within the Constitutional Policing Advisor's custody and control pertaining to legal briefs, law review articles, case studies, court judgments, etc.. relating to the specific duties of law enforcement, including but not limited to: protecting the constitutional rights of people; a police officer/sheriff's deputy's duty to intervene when constitutional rights are being violated by public officials; the duties of a police officer within the executive branch of California government; and, the duty to investigate an allegation of deprivation of constitutional rights by public officials. I am not seeking documents that are attorney-client privileged but rather general public information on these topics the OCSD uses as legal reference materials and briefs the OCSD has filed in lawsuits (that are a matter of public record) pertaining to these issues. I am also not asking you to conduct legal research and the documents I am requesting have already produced. If there is a copyright issue, please just state the name of the document in your reply.
13. The OCSD Use of Force Policy in a digital searchable file form if possible.

14. The OCSD Rules of Conduct Policy in a digital searchable file form. (I already have access to the online version).
15. The OCSD Policy Manual if different from request 14 in digital searchable file form.
16. The May 28, 2020 Internal Memorandum from Sheriff Don Barnes.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, September 4, 2020



Adam Bereki <abereki@gmail.com>

PRA REQUEST-BEREKI 09/04/20

1 message

Adam <abereki@gmail.com>

Fri, Sep 4, 2020 at 2:06 PM

To: Prarequests <prarequests@ocsd.org>

Good day,

Please see the attached request.

Sincerely,

Adam Bereki



OCSD PRA REQUEST 090420.docx

20K



Adam Bereki <abereki@gmail.com>

PRA REQUEST-BEREKI 09/04/20

Prerequisites <Prerequisites@ocsd.org>
To: Adam <abereki@gmail.com>

Mon, Sep 14, 2020 at 1:20 PM

Hello Mr. Bereki,

Please see the attached letter regarding your request.

Sincerely,

Veronica Musico

Staff Specialist – CPRA Unit

Orange County Sheriff's Department

714-834-6449

[Quoted text hidden]

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links.
Forward suspicious messages to Helpdesk@ocsd.org.

 **Adam Bereki PRA.pdf**
189K



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

September 14, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Friday, September 4, 2020.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Records Division.

Because of the need for consultation with other division representatives having substantial interest in the determination of the request, the date for response to your request is extended, pursuant to Government Code § 6253 (c) (3). We expect to make a determination of your request on or before Monday, September 28, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Lee".

Edward Lee, Director
OCSD Records Division

EL: vm



ORANGE COUNTY
SHERIFF'S DEPARTMENT

NEWS RELEASE

SHERIFF-CORONER DON BARNES

NEWS FOR IMMEDIATE RELEASE

Public Affairs Director Carrie Braun

cbraun@ocsd.org | o: 714-647-7042

OC Sheriff's Department Use of Force Policies and Practices

SANTA ANA, Ca. (June 09, 2020) – The Orange County Sheriff's Department is committed to transparency about law enforcement budgets, policies and practices. The Department guards against bias, diligently governs how we use force, and holds accountable deputies who betray the public trust. Data demonstrates that the Orange County Sheriff's Department has a long-standing commitment to professionalism and integrity in our delivery of public safety services. Law enforcement must be free from racial discrimination and protect the constitutional rights of each person. I am confident the men and women of my department strive to do so each and every day.

OCSD USE OF FORCE POLICIES & PRACTICES

Chokeholds & Strangleholds

The Orange County Sheriff's Department does not use, train or authorize deputies to use a chokehold or stranglehold. Deputies are not trained, nor authorized, to place their knee or bodyweight on a subject's neck.

Carotid Control Hold

Effective immediately, the Department is suspending use of the carotid control hold and evaluating its use and effectiveness as a compliance tool.

De-Escalation

De-escalation is an important component of the Orange County Sheriff's Department's Use of Force Policy. Deputies are trained to de-escalate situations.

From Policy 300.3.2 "Voluntary compliance and de-escalation techniques are the preferred means of achieving resolution to potential use of force encounters. When practicable, Members should ask for and allow reasonable time for compliance." De-escalation is taught in the Academy and as a perishable skill in training every five years.

Warning Before Shooting

The Sheriff's Training Academy trains all Orange County Sheriff's deputies to warn before shooting, when feasible.

This is an important component of the academy and the required perishable skills training that takes place throughout a deputy's career. From Policy 300.4 "Members shall give some warning, if feasible, prior to the use of deadly force."

P: 06/22/20

OCSD.ORG/CIVICAX/blobfetch.aspx?

2253

Blob ID = 116026



ORANGE COUNTY SHERIFF'S DEPARTMENT

NEWS RELEASE

SHERIFF-CORONER DON BARNES

Exhaust All Alternatives Before Shooting

OCSD's Use of Force Policy states, "Law enforcement personnel shall use no more force than is objectively reasonable to accomplish lawful objectives."

Training and policy reinforce the ideal that shooting/deadly force will only be employed when required by the circumstances of the moment.

Duty to Intervene

The Law Enforcement Code of Ethics and the oath to uphold constitutional rights requires deputies to intervene and report excessive uses of force. In addition, OCSD Rules of Conduct Policy 1018.54 states, "A Member who observes serious misconduct shall take appropriate action to cause the misconduct to immediately cease.

"The reporting of misconduct and prevention of the escalation of misconduct are areas that demand a Member to exercise courage, integrity, and decisiveness. This policy requires that when a Member, at any level, becomes aware of possible misconduct by another Member of this Department, the Member shall immediately report the incident to a supervisor or directly to the Internal Affairs Bureau. This requirement applies to all Members, including supervisory personnel and managers who learn of possible misconduct through the review of a Member's work...Furthermore, a Member who observes serious misconduct shall take appropriate action to cause the misconduct to immediately cease."

Shooting at Moving Vehicles

Orange County Sheriff's Department policy allows shooting at moving vehicles in very limited circumstances when (Policy 300.4.1)

"The vehicle or suspect poses an imminent threat of death or serious bodily injury to the Member or another person, AND 2. The Member has no reasonable alternative course of action to prevent the death or serious bodily injury."

Use of Force Continuum

Many modern, professional law enforcement agencies and training institutions have moved away from the "force continuum" standard and instead utilize the force options method. A continuum is not required by OCSD policy.

The quick nature of incidents dictate the type of force that must be used. A methodical step-by-step approach is not always reasonable in a life or death situation. With a "continuum" officers are expected to use each method of force before moving on to the next force method. This is unreasonable in certain circumstances. For instance, if officers respond to an active shooter incident at a school, they should not be expected to use control holds or pepper spray on a suspect with a firearm who is actively shooting children.



ORANGE COUNTY SHERIFF'S DEPARTMENT

NEWS RELEASE

SHERIFF-CORONER DON BARNES

Comprehensive Reporting

All uses of forces by an Orange County Sheriff deputy are required to be reported. Once a use of force occurs, it is reviewed by a sergeant, lieutenant and division commander. This multi-layered review process ensures the opportunity to take corrective action or provide additional training in any instance where use of force was not properly applied.

Success of use of force practices at OCSD is demonstrated by results. For 2019, of our 356,598 public interactions only 421 (0.118%) resulted in a use of force. Of those 421, nine were referred to Internal Affairs for possible inappropriate use of force (2% of the uses of force, 0.002% of the total public interactions.)

OCSD REVIEW OF USE OF FORCE POLICY

The Department is currently reviewing its use of force policy. Effective immediately, the Department is suspending use of the carotid control hold and evaluating its use and effectiveness as a compliance tool.

MAY 28, 2020 INTERNAL MEMO FROM SHERIFF DON BARNES

To the men and women of the Orange County Sheriff's Department,

The death of George Floyd was wrong. Clearly what occurred goes beyond the scope of any tactic we are trained to use. Equally troubling was the fact that three officers stood by while their partner acted in a manner that contradicts his sworn commitment to protect and serve.

Each of you know how diligently we train to utilize de-escalation strategies and how strictly we adhere to use of force policies. However, training and policies are only as good as the people entrusted with carrying them out. My expectation of each member of this Department is that you conduct yourself with a high ethical standard and treat each life with value and respect. I have every confidence that each of you have the same expectation for your partners and yourself.

The badge is tarnished when a peace officer acts outside of their training, violates rights or lets bias cloud judgement. Law enforcement depends on the trust of the community. Incidents like this erode the trust of law enforcement across the nation.

In Orange County we will continue our efforts to work with our residents, listen to their concerns, and provide services rooted in a commitment to the safety of all we serve.

###

Low Graphics Version

Entire County

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Sheriff's Advisory Council

Six Points for Kids

OCSD Mobile App

Stay Safe OC

Citizen's Academy

CrimeMapping

Policies

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Information

Anti-bullying

Take Me Home Program

Senate Bill 1421

Training Courses

COVID-19

Medal Of Valor

Mission & Core Values

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Vision Statement

"Your Trust Is Our Legacy"

Mission Statement

The men and women of the Orange County Sheriff's Department are dedicated to the protection of all we serve. We provide exceptional law enforcement services free from prejudice or favor, with leadership, integrity, and respect.

Core Values

Integrity without compromise;
Service above self;
Professionalism in the performance of duty;
Vigilance in safeguarding our community.



MY OC

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Social Media and Applications

Making Orange County a safe, healthy, and fulfilling place to live, work, and play, today and for generations to come, by providing outstanding, cost-effective regional public services.



OFFICE OF THE SHERIFF

Office of The Sheriff Home

Chief of Staff

Constitutional Policing

Public Affairs and Community Engagement

Constitutional Policing



Mary Izadi
Constitutional Policing Advisor

MY OC [Login](#) | [Register](#) »

The Constitutional Policing Advisor will guide the Sheriff through, and make recommendations on, issues related to accountability, adherence to best practices, and policies and procedures; provide real-time monitoring, analysis, and advice to Department staff on personnel investigations and disciplinary matters; review investigations for objectivity and thoroughness; respond to, review, evaluate, and provide input regarding critical incidents including in-custody deaths, deputy-involved shootings and significant force incidents; and perform research and analysis with regard to precedents, case trends, rulings and laws affecting law enforcement and custody operations.



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

September 28, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Friday, September 4, 2020.

Dear Mr. Bereki:

On August 31, 2020, the Orange County Sheriff's Department responded to your initial request dated August 7, 2020. In regards to your additional request received on September 4, 2020, the following dates of hire are responsive to number 1 in your request:

- Lt. C. Alday – January 9, 1998
- Sergeant A. Salceda – January 3, 1995
- Deputy Sheriff I S. Demaio – April 17, 1999
- Sheriff's Special Officer II Freddie Fields – December 27, 2002

The attached records are responsive to numbers 2, 5, 7, 8, 12 and 16. Please note that Deputy Sheriff I Briana Milbery's former name was Briana Martinez. Regarding number 2 which requests "a signed copy of the Code of Professional Conduct and Law Enforcement Code of Ethics", employees are required to electronically acknowledge receipt and review of Department policies and there is not a signature accompanying this electronic acknowledgment. We have enclosed a copy of the Equipment Issue Inventory form which was located by our Professional Standards Division staff. The form was signed to acknowledge receipt of the Department's Rules and Regulations and other items. The policies are available publicly and may be accessed at the following links:

OCSD Department Manual

| | |
|---|--------------------------|
| https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116496 | |
| Law Enforcement Code of Ethics | Page 2 |
| Code of Professional Conduct | Policy 1001; p. 425 |
| Responsibilities | Policy 106; 106.2; p. 12 |
| Sheriff | Policy 106.2.1; p.13 |

Court and Custody Operations Manual

| | |
|---|---------------------|
| https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116990 | |
| Custody and Court Operations Responsibilities | Policy 1108.2; p.10 |

Regarding numbers 3 and 4, the links provided to you on August 31, 2020 are responsive to your request. You may access the OCSD Department Manual and the OCSD Field Operations Manual through the following links:

Report Preparation Policy 338; P. 250 and 251
<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116496>

Adam Bereki
September 28, 2020
Page 2

Personnel Complaint Procedure Policy 1020; p. 483
<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=117876>
OCSD Field Operations Manual 504 pages (available on OCSD website)
<https://www.ocsd.org/civicax/filebank/blobdload.aspx?BlobID=116489>

You may also access all OCSD policies on our Sheriff's website at www.ocsd.org, in the POLICIES link on the left side of the home page.

In regards to number 6, OCSD does not have a record outlining all duties under statutory, Constitutional or any other legal source of duty; however, a list of the class specifications for each referenced position are available publicly and may be accessed at the following link:

<https://www.ocgov.com/gov/hr/classification/specifications>

Please note, the County does not maintain class specifications for elected officials; therefore, the County does not have a record specifying the duties for the elected position of Sheriff-Coroner.

Regarding numbers 9 through 11, OCSD does not have a record evidencing the specific protection duties OCSD provides under statutory law, Constitutional law or any other legal source of duty. Additionally, OCSD does not have a record evidencing exactly how OCSD protects the Constitutional rights of each person or a record evidencing exactly what OCSD's specific duties are under statutory law, Constitutional law or any other legal source of duty pertaining to protecting the constitutional rights of each person. Finally, OCSD does not have a record evidencing exactly how OCSD intervenes to uphold constitutional rights when they are being violated and does not have a record evidencing OCSD's specific duties under statutory law, Constitutional law or any other legal source of duty pertaining to intervention when a person's constitutional rights are being violated and OCSD has direct knowledge of the violation.

Regarding numbers 13, 14, and 15, the links provided to you on August 31, 2020 are searchable when accessed. Depending on your personal computer's software, you can search OCSD policies by pressing Ctrl F, to find and initiate your search.

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,



Edward Lee, Director
OCSD Records Division

EL: vm
Attachments
cc: Media Relations

DEPUTY SHERIFF I

DEFINITION

Under supervision, to guard and supervise prisoners in County Jail facilities; to assist in law enforcement in the Patrol Division as a trainee; and to do other work as a trainee; and to do other work as required.

CLASS CHARACTERISTICS

A Deputy Sheriff I normally is assigned to perform the more routine duties in the County Jail facilities. However, an incumbent in this class may receive other assignments on a training basis or be assigned to other positions which include only routine or closely supervised law enforcement duties.

EXAMPLES OF DUTIES

1. Uncuffs, searches and collects personal property of prisoners; fingerprints, photographs and interviews prisoners; directs the movement of prisoners within a housing module and keeps appropriate records including prisoner county; patrols an assigned area and supervises prisoners during meals; escorts prisoners to various locations within the Jail; observes and directs activities during prisoner visits; supervises inmate workers in work assignments; enforces Jail rules and prepares written reports concerning violations; performs certain limited administrative tasks as directed.
2. As a trainee in the Patrol Division, rides in a patrol car and assists a Deputy Sheriff II in patrolling an assigned area and enforcing law and order.

MINIMUM QUALIFICATIONS

Special Requirements for Peace Officer Status: Applicant must:

Be a citizen of the United States or qualify for Peace Officer status under California Government Code Section 1031.5; be at least 20 years of age; not have been convicted of a felony.

Be free from any physical, emotional or mental condition which might adversely affect exercise of peace officer powers, as determined by a licensed examining authority in accordance with California Government Code Section 1031.

Have graduated from high school, attained a satisfactory score on a G.E.D. test or passed a California high school proficiency examination, or have attained a two-year or four-year degree from a college or university accredited by the Western Association of Colleges and Universities.

Pass a background investigation conducted in compliance with California Government Code Section 1031, to the satisfaction of the Sheriff-Coroner.

As of date of appointment: have successfully completed the Sheriff-Coroner Department's basic law enforcement training course at the Department's Training Academy, or equivalent, to the satisfaction of the Sheriff-Coroner, and/or possess a current and valid basic California Peace Officer Standards and Training (P.O.S.T.) Certificate or Basic Course Waiver.

License Required

Possession of a valid California Driver License by date of appointment.

Some knowledge of

Criminal law; police patrol procedures; legal requirements for incarceration; custody and control of prisoners in jail and during transportation; operations and maintenance of standard police firearms.

Ability to

Read, understand, interpret and apply departmental policies, rules, laws and ordinances pertaining to law enforcement work; write clear and comprehensive reports; accurately observe and remember names, faces, numbers and events; Establish and maintain effective relationships with others.

Skillfully and safely operate police vehicles and standard police firearms; pass a physical examination for peace officers whose typical duties demand top physical fitness and agility.

RM:lk

DEPUTY SHERIFF II

DEFINITION

Under general supervision, to patrol an assigned area and enforce law and order; to perform the more difficult and responsible work in guarding and directing prisoners in a county jail; to act as training or range officer; to transport and guard prisoners; to perform traffic law enforcement and accident investigation functions; and to do other work as required.

CLASS CHARACTERISTICS

The class of Deputy Sheriff II is distinguished from the class of Deputy Sheriff I by the assignment of more difficult, responsible and varied duties which require law enforcement knowledge and experience and greater exercise of independent judgement and initiative.

EXAMPLES OF DUTIES

1. Patrols assigned area in an automobile, checking for crime, suspicious circumstances, traffic violations, traffic accidents and hazardous conditions; operates two-way radio unit and responds to calls to preserve the peace; apprehends principals and renders assistance; makes preliminary investigations; prepares reports on all activities during shift; may act as pilot or observer in a patrol helicopter; may use specially trained dogs in certain search and apprehension activities.
2. As needed, may serve as desk officer in support of patrol activity; answers all calls coming to the complaint desk; operates two-way radio to dispatch units in emergencies based upon prescribed rules; notifies superior officers of emergency situations; receives calls from Sheriff's units requesting information and obtains required information; answers or refers questions from visitors to the Sheriff's station; keeps records of calls.
3. Books prisoners admitted to the men's or women's jail; operates security door consoles and controls the movement of prisoners and others within a specified area; keeps records, prepares reports, completes forms and verifies identity of prisoners during release activity; evaluates prisoner's records and recommends on work assignments; reviews prebooking forms and court documents for accuracy and completeness; assigns new prisoners to quarters; answers inquiries pertaining to jail policies and individual prisoners as allowed by jail regulations.
4. Transports prisoners to and from jail facilities, courts, the hospital and other counties in Sheriff's Department vehicles; guards and attempts to prevent the escape of prisoners transported.
5. Operates and navigates a Harbor Patrol boat in an assigned area, checking for safety or traffic violations, crime, navigational hazards, or any persons needing assistance; enforces State, district and other rules and marine fire fighting equipment.
6. Acts as a Range Officer at the Sheriff's Training Facility; directs the safe usage of range; supervises assigned inmate workers assisting in operation of the range.

7. Serves as a tactical officer at Sheriff's Training Facility; prepares training material and visual aids; serves as instructor on assigned subject matter.
8. Serves as recruiting deputy, coordinating recruitments for all positions of the Sheriff's Department with County Personnel recruiters; prepares for Oral Board examinations and administers Physical Agility tests for new recruits; sets up advertising through various media; attends Career Days with Public Relations Deputy.
9. Serves as Public Relations Deputy; coordinates all speaking assignments; handles Crime Prevention Program (Neighborhood Watch); maintains files on Block Parents; prepares commendations and monthly stats; sets up displays at Orange County Fair and shopping malls; participates in Career Days.

MINIMUM QUALIFICATIONS

Special Requirements for Peace Officer Status: Applicant must:

Be a citizen of the United States or qualify for Peace Officer status under California Government Code Section 1031.5; be at least 20 years of age; not have been convicted of a felony.

Be free from any physical, emotional or mental condition which might adversely affect exercise of peace officer powers, as determined by a licensed examining authority in accordance with California Government Code Section 1031.

Have graduated from high school, attained a satisfactory score on a G.E.D. test or passed a California high school proficiency examination, or have attained a two-year or four-year degree from a college or university accredited by the Western Association of Colleges and Universities.

Pass a background investigation conducted in compliance with California Government Code Section 1031, to the satisfaction of the Sheriff-Coroner.

Possess a current and valid basic California Peace Officer Standards and Training (P.O.S.T.) Certificate or Basic Course Waiver as of date of appointment.

License Required

Possession of a valid California Driver License by date of appointment.

Experience

One year of experience as a law enforcement officer in a civilian agency.

General Knowledge of

Criminal law; police patrol procedures; booking procedures; legal requirements for incarceration; proper methods of maintaining custody of prisoners in jail facilities and during transportation; the operations and maintenance of standard police firearms; operation and navigation of small boats and regulations governing use of Harbor facilities (may be required for some assignments).

Ability to

Read, understand, interpret and apply departmental policies, rules, laws and ordinances pertaining to

law enforcement work; write clear and comprehensive reports; accurately observe and remember names, faces, numbers and events.

Establish and maintain effective relationships with others; adopt quick, effective and reasonable courses of action under emergency conditions.

Operate police vehicles and equipment under a variety of adverse field conditions; use firearms safely and proficiently; operate small boats safely and effectively under all types of weather conditions (may be required for some assignments).

Pass a physical examination for peace officers whose typical duties demand top physical fitness and agility.

RM:lk

INVESTIGATOR

DEFINITION

Under general supervision, to conduct difficult investigative work involving the gathering of evidence for the apprehension and prosecution of persons suspected of committing felony and high misdemeanor crimes; and to do other work as required.

CLASS CHARACTERISTICS

Independent analysis of evidence, use of a broad scope of investigative techniques in a variety of assignments, ingenuity and necessity for independent action are characteristics of this class. Investigator positions are found in the Sheriff-Coroner Department. Incumbents may be assigned to the Hazardous Devices Squad, investigating and neutralizing dangerous materials.

EXAMPLES OF DUTIES

1. Searches crime scene for evidence; gathers, analyzes and preserves evidence concerning crimes and complaints; takes charge of investigations at the scene of a crime giving technical supervision to patrol officers; may use specially trained dogs for detection and location of narcotics.
2. Conducts stakeouts and performs basic intelligence work; operates technical investigative equipment such as tape recorders, cameras and electronic sound equipment.
3. Interrogates and obtains statements from victims, witnesses, informants and suspects; develops contacts so that information may be obtained concerning crime; requests subpoenas for witnesses; arrests persons suspected of crimes or infractions; assists in arrests or special investigations as requested by other law enforcement agencies.
4. Prepares reports of the actions taken and the findings of an investigation and/or prepares trial briefs; consults with District Attorney's deputies on cases assigned as to the sufficiency of evidence; assists in negotiating case disposition with attorneys; appears in court to testify as to the particulars of an investigation and the nature of the evidence; as required, acts as an investigator for the Grand Jury.
5. Prepares and processes extradition forms and appears before court regarding extradition matters where a specialized knowledge of laws pertaining to extradition and rendition is necessary; initiates actions against absent parents who fail to comply with court orders; investigates personal background of applicants for employment with the Department; conducts Internal Affairs investigations of employee misconduct; conducts investigations of qualifications of persons applying for various County licenses.
6. May neutralize hazardous devices and substances, investigate their origin and arrange for their storage and disposal; may use specially trained dogs for detection and location of explosive devices; may conduct or aid in public information presentations regarding hazardous materials.

MINIMUM QUALIFICATIONS

Special Requirements for Peace Officer Status: Applicant must:

Be a citizen of the United States or qualify for Peace Officer status under California Government Code Section 1031.5; be at least 20 years of age; not have been convicted of a felony.

Be free from any physical, emotional or mental condition which might adversely affect exercise of peace officer powers, as determined by a licensed examining authority in accordance with California Government Code Section 1031.

Have graduated from high school, attained a satisfactory score on a G.E.D. test or passed a California high school proficiency examination.

Pass a background investigation conducted in compliance with California Government Code Section 1031, to the satisfaction of the Sheriff-Coroner or District Attorney.

Possess a current and valid California Peace Officer Standards and Training (P.O.S.T.) Basic Certificate or Basic Course Waiver as of date of appointment

License Required

Possession of a valid California Driver License by date of appointment.

General Knowledge of

Methods and techniques of criminal investigation including the gathering and presentation of evidence; laws of arrest, rules of evidence and courtroom procedure; methods and use of technical investigative equipment; techniques of interviewing and interrogation.

Ability to

Gather, assemble, analyze and evaluate facts and evidence, draw logical conclusions and make sound recommendations; obtain information through interview and interrogation; prepare clear, concise, comprehensive reports; work effectively with a variety of law enforcement agencies; operate various technical investigative equipment.

Use firearms skillfully; operate police vehicles and other equipment under a variety of adverse field conditions; pass a medical examination for peace officers whose duties demand top physical fitness and agility and/or carry out a conditioning program to maintain good fitness; subdue and restrain a subject resisting arrest with due concern for safety of prisoner, bystanders and self.

Experience

Sheriff-Coroner

Two years of experience as a law enforcement officer in a civilian agency.

SERGEANT

DEFINITION

Under general supervision, to supervise work of law enforcement officers engaged in general or specialized law enforcement activities; to have charge of or assist in supervising an auxiliary law enforcement activity or function; and to do other work as required.

CLASS CHARACTERISTICS

This class is the first level of supervision in the law enforcement classes in the Sheriff-Coroner Department. An incumbent in this class has responsibility for exercising general and technical supervision over lower level law enforcement classes, including Deputy Sheriffs, Investigators and non-sworn personnel or has non-supervisory responsibility for an assigned function of limited scope or assists in supervising a function of broader scope.

EXAMPLES OF DUTIES

1. Supervises officers and/or investigators on an assigned shift in activities such as patrolling an assigned area to enforce laws, prevent crime and protect life and property; receiving and assigning of inmates and maintaining jail security; performing criminal investigation; serving and enforcing fugitive warrants; operating and navigating a harbor patrol boat in an assigned patrol area; transporting inmates to and from jail facilities and courts; operating and maintaining the firing range facility; coordinating and supervising units and members of the Sheriff's Reserve Force, Security Officers, or clerical employees performing support functions; training of recruits, reserves and in-service programs; conducting background investigations of applicants for Sheriff Department positions; conducting investigations of citizens' complaints concerning Department employees; coordinating activities of specialty groups such as the Mounted Unit, motorcycle units, SWAT and the rappelling and dive teams.
2. Assigns and reviews the work of subordinates; issues instructions at the scene of activities; observes officers in the performance of their duties and reviews reports submitted; reviews identification and background investigation reports; calls subordinates' attention to errors and assists them in improving their work performance.
3. Performs the more difficult work of the unit supervised; screens criminal complaints received from the public and determines appropriate action; takes charge of emergency operations until relieved by superiors.
4. Plans, organizes and coordinates work of the unit or activity supervised; writes or supervises the writing of procedure manuals; reviews and evaluates procedures and forms and recommends their revision; coordinates the data processing applications of departmental records; prepares budget requests and reports on unit activities.
5. Trains subordinates in their assigned duties; advises officers on law enforcement techniques including: patrolling assigned areas; maintaining security of prisoners; preparing reports; using and maintaining firearms; investigation including the gathering, preservation and representation of evidence, basic identification techniques and modus operandi; and boat handling and navigation of small boats.

6. Coordinates the work of the unit supervised with other Sheriff Department divisions, County agencies/departments and outside law enforcement agencies; contacts other officers and employees to discuss problems such as scheduling, interpreting and requesting adherence to departmental policy and procedure, and arranging for the use of facilities and the maintenance of vehicles and equipment; testifies in court as required.

MINIMUM QUALIFICATIONS

Special Requirement

Applicant must meet all requirements for peace officer status that are mandated by the California Government Code and Peace Officer Standards and Training (P.O.S.T.) regulations for lower classes in this series.

Possession of a valid California Driver License by date of appointment.

Experience

Three years of experience as a law enforcement officer in a civilian agency. (Completion of two years of education at an accredited college in police science or criminology may be substituted for one year of the required experience.)

General Knowledge of

The principles and techniques of supervision related to direction, control, evaluation and training of subordinates.

Principles and practices of law enforcement work including police administration and planning; the rules and regulations of a law enforcement department or agency.

The operation and maintenance of standard police firearms and equipment; criminal law, including the law of arrest and rules of evidence; first aid principles and techniques.

Ability to

Supervise and train officers engaged in law enforcement work and supervise clerical employees performing related duties; adopt quick and reasonable courses of action under emergency conditions; analyze and correct reports and write clear, comprehensive reports; establish and maintain effective relations with others.

Operate police vehicles under a variety of adverse conditions; care for and use firearms skillfully; operate small boats effectively under all weather conditions, as well as radar, radio direction finder and navigational aids (may be required in some assignments).

MHH:mm

9-16-99

LIEUTENANT

DEFINITION

Under general supervision, to have charge of and supervise the activities of a major subdivision, facility or function of the Sheriff-Coroner Department; and to do other work as required.

CLASS CHARACTERISTICS

Incumbents in this class have continuous administrative responsibilities for a complex major function or facility in the Sheriff-Coroner Department. The class of Lieutenant is distinguished from the class of Sergeant in that the Lieutenant is the lowest level normally concerned with the formation of operating policies which affect a major subdivision of the Department, and operates with considerable independence within broad policy guidelines.

EXAMPLES OF DUTIES

1. Plans, assigns and directs the activities of: the women's jail; a shift in the Men's Main Jail or a branch jail; a patrol or investigation bureau; the Sheriff's Training Academy and in-service training programs; all security staff assigned to the John Wayne Airport, Civic Center and other County facilities; the Harbor Patrol; the Transportation Bureau, including maintenance; and the Personnel Bureau; represents the Department in liaison with the press and other media and with community labor and management representatives; performs the more difficult work of the function under his/her direction; speaks before civic and other groups; prepares preliminary budget requests; prepares detailed, comprehensive reports.
2. Administers inspection programs for personnel, inmates, equipment, quarters and premises; establishes and supervises training programs; instructs command personnel in the performance of their assigned duties and in the proper methods and procedures of law enforcement work; makes assignments of personnel assigned to a shift or function and interprets new policies and procedures; recommends changes in operating policies; reads and evaluates reports submitted by subordinates and other agencies; conducts special studies; confers with superiors in coordinating programs with other divisions.
3. Recommends improved security measures; enforces rules and regulations pertaining to Department personnel and inmates; recommends disciplinary actions for subordinates and inmates; takes immediate charge in any emergency and notifies immediate supervisor as directed by departmental policies.

MINIMUM QUALIFICATIONS

Special Requirement

Applicant must meet all requirements for peace officer status that are mandated by the California Government Code and Peace Officer Standards and Training (P.O.S.T.) regulations for lower classes in this series.

License Required

Possession of a valid California Driver License by date of appointment.

Experience

Four years of experience as a law enforcement officer in a civilian agency including one year at the rank of Sergeant or higher. (Completion of two years of education at an accredited college in police science or criminology may be substituted for one year of the required experience below the level of Sergeant.)

General Knowledge of

Principles of organization, administration, and deployment of personnel and equipment for law enforcement work.

Criminal law including the law of arrest, rules of evidence and courtroom procedure, and laws governing jail procedures and facilities.

Principles and practices of modern penology, juvenile delinquency control, and criminal investigation, including techniques of interrogation and interviewing.

Marine fire hazards and fire prevention and control methods (may be required in some assignments).

Ability to

Coordinate and direct the work and training of law enforcement employees; devise methods, procedures and policies relevant to law enforcement work.

Gather, assemble, analyze and evaluate facts and evidence and make sound recommendations; prepare and review reports.

Speak effectively before large groups; perform difficult criminal investigation work; care for and use firearms skillfully; establish and maintain effective relationships with others.

MHH:rb

10-05-98

CAPTAIN

DEFINITION

Under general direction, to plan, organize, control and direct the work of a division of the Sheriff-Coroner Department; and to do other work as required.

CLASS CHARACTERISTICS

A Captain is in charge of a major division of the Sheriff-Coroner Department. A major division consists of a large geographic patrol operation, a complete correctional facility, or other designated major functional organizational unit. Incumbents operate within the general policies and goals established for the Department and formulate the operating policies of their assigned divisions with approval of their superiors.

EXAMPLES OF DUTIES

1. Plans, assigns and supervises the work of all personnel in a division of the Sheriff-Coroner Department; develops and implements the operating policies of the division, subject to the review of superiors; reviews the implementation of the policies of the division; takes immediate charge of the activities of his/her division at the scene of a major emergency or in the event of an unusually complex problem; coordinates the operations of his/her division with responsible officials in other divisions of the Sheriff-Coroner Department, with other County agencies/departments and with other law enforcement agencies.
2. Coordinates or directs the training of all division personnel and evaluates their performance; as required, institutes disciplinary actions; evaluates personnel and equipment requirements and submits annual budget for the operations of the division; coordinates the maintenance of assigned facilities and equipment; speaks to public groups, attends conferences and meetings and directs correspondence or reports pertaining to the activities of the assigned division or the Department in general; prepares and reviews reports; directs the maintenance of necessary records.

MINIMUM QUALIFICATIONS

Special Requirement

Applicant must meet all requirements for peace officer status that are mandated by the California Government Code and Peace Officer Standards and Training (P.O.S.T.) regulations for lower classes in this series.

License Required

Possession of a valid California Driver License by date of appointment.

Experience

Five years of experience as a law enforcement officer in a civilian agency, including one year of experience at the rank of Lieutenant. (Completion of two years of education at a recognized college in police science or criminology may be substituted for one year of the nonsupervisory experience. Graduation from a recognized college with a degree in police science or criminology may be substituted for two years of nonsupervisory experience.)

General Knowledge of

Principles and methods of modern law enforcement and police planning, both in general and specifically related to the work of a division of the Sheriff-Coroner Department.

Principles of public administration, including organization, budgeting and the selection, training and disciplining of personnel.

Criminal law including the law of arrest, rules of evidence and courtroom procedure, search and seizure, and laws governing jail procedures and facilities.

Ability to

Plan, organize, direct and evaluate the work of others; devise methods, procedures and regulations and evaluate their effects; analyze and interpret crime statistics and reports; speak effectively before a large group; write reports, manuals and guides; establish and maintain effective relationships with others.

MAH:rb

10-06-98



COMMANDER

Title Code: 6148EB

DEFINITION

Under general direction, to plan, direct, coordinate and evaluate an Area Command and its divisions and programs of the Sheriff-Coroner Department; acts in the absence of an Assistant Sheriff; may act on behalf of the Sheriff and Undersheriff; and performs other work as required.

CLASS CHARACTERISTICS

The class of Commander is the first-level of executive management, within the Sheriff-Coroner Department, and serves as a member of the Sheriff's executive management team. A Commander is assigned direct responsibility to formulate and implement policy direction for law enforcement operations, highly specialized programs and personnel management. Incumbents in this class report directly to an Assistant Sheriff, but also take direction from the Undersheriff and Sheriff. Appointments to this classification are made by the Sheriff and are "At-Will," meaning they serve at the pleasure of the Sheriff.

Commanders provide overall administration and strategic oversight of an Area Command and make independent high-level decisions. Incumbents operate within the general policies and strategic goals established for the Department and formulate the operating policies and direction for their Area Command with the concurrence from their superiors. Incumbents contribute to the development of department-wide policies on all matters concerning organizational management, financial resources and operations of the Department and may be required to present new programs and policy matters to the County Executive Officer, Board of Supervisors, local, State, and Federal organizations related to law enforcement or other department-wide matters. Incumbents must be able to work in the field directing and coordinating major incidents and be familiar with mutual aid, crisis management, etc.

Commanders have substantial responsibility for risk management and holding subordinates accountable for their performance; for representing the Sheriff at various high-level functions where critical decisions are required; for providing a high-level link between other commands and other agencies; for strategic planning with departmental and county resources; for auditing policies and procedures, training, equipment and overall performance of line staff; and for reviewing critical incidents and assisting in the development of Department policies, standards and long-range direction.

EXAMPLES OF DUTIES

Depending on the area of assignment duties may include, but are not limited to, the following essential functions:

1. Performs at the level of an executive manager working with the Assistant Sheriff and other high-level executives; assists in planning, organizing and directing the work of an Area Command and

its divisions. Acts for, and assumes the responsibility of, the Assistant Sheriff in his/her absence. May represent the Department before commissions, boards, committees and representatives from Federal, State and local agencies, organizations, community groups, civic and industry leaders, or media.

2. Commanders are responsible for providing executive direction to multiple divisions with highly specialized functions, each of which may involve major law enforcement and high-risk operations. As part of Executive Command, confers with and coordinates the activities of Captains and Division Directors on programs, organizational matters and major changes to ensure departmental functions are meeting the overall needs and goals of the Department. Evaluates law enforcement trends that affect operations. Considers and searches out opportunities to enhance services and methodologies to improve safety and efficiencies.
3. Plans, delegates, directs and oversees the work of subordinate Captains, Division Directors and other management personnel (both sworn and non-sworn) within their Area Command; provides guidance and direction in the interpretation, development and implementation of operating policies and procedures; may direct the coordination of operations of his/her divisions with responsible officials in other divisions of the Sheriff-Coroner Department, with other County agencies/departments and with other law enforcement agencies or governmental entities.
4. Through subordinate personnel, coordinates or directs the training and professional development of personnel within assigned Area Command, and/or department-wide, and evaluates effectiveness of training provided; evaluates personnel and equipment requirements; reviews and prioritizes annual budgets and augmentation requests; and participates in the five-year budget forecasting for the operation of assigned divisions; coordinates and/or directs the maintenance of assigned facilities and equipment; speaks to public groups, attends conferences and meetings and directs correspondence or reports pertaining to the activities of assigned divisions or the Department in general; prepares and reviews reports; and directs the maintenance of necessary records.
5. Evaluates public complaints pertaining to activities and individuals in the Sheriff-Coroner Department and directs the investigations and evaluation of complaints; acts as a Skelly Officer and represents the Sheriff in Skelly Hearings for the Department; makes final disciplinary decisions within their scope of authority and/or recommends major disciplinary actions to the Sheriff, Undersheriff or Assistant Sheriff.
6. Supervises and evaluates the work of subordinate Captains, Division Directors and other management personnel (both sworn and non-sworn), to ensure proper application of management techniques, departmental policies and ethical and legal considerations.
7. Manages financial responsibilities of an Area Command, including multiple divisions or major programs. Is responsible for identification and problem solving for emerging law enforcement and financial challenge; attains Area Command objectives while adhering to assigned budget. Provides responsive, high quality law enforcement services to internal/external customers, representatives of outside agencies, community stakeholders, and members of the public.
8. Provides leadership for an Area Command comprised of multiple divisions and specialized professional functions; develops and implements effective succession planning to promote growth in the Department; maintains the necessary situational awareness to anticipate organizational needs and work with subordinates to develop programs which improve delivery of services; and is responsible for the planning and development of Department-wide programs and initiatives to mitigate organizational risk and improve the working conditions of our employees.

MINIMUM QUALIFICATIONS

Thorough Knowledge of

- Principles, practices and procedures of modern law enforcement administration including: Human Resources Management (including labor relations), budget and fiscal management (including

budget analysis, effective utilization of fiscal resources, and contract administration), and principles of management and organizational analysis

- Federal, State and local laws, rules and procedures governing the activities of a law enforcement agency and related Criminal Justice members
- Current technology and trends in the field of law enforcement administration including recent court decisions and legislative developments, and mutual aid and crisis management

General Knowledge of

- Principles and methods of modern law enforcement and police planning, both in general and specifically related to the work of an Area Command and its divisions of the Sheriff-Coroner Department
- Principles of public administration, including budgeting and the selection, training and disciplining of personnel
- Criminal law including the law of arrest, rules of evidence and courtroom procedure, search and seizure, and laws governing jail procedures and facilities (State of California, Title 15, California Code of Regulations)

Ability to

- Plan, coordinate, direct, and supervise the work of an Area Command and its divisions of the Sheriff-Coroner Department; devise methods, policies and procedures and evaluate their effectiveness; analyze and interpret crime statistics and reports; speak effectively before a large group
- Coordinate departmental program objectives with the general goals of the total organization and its various operations. Define problem areas; interpret complex regulations, laws and guidelines; direct the collection, interpretation and evaluation of data and development of sound solutions to technical and administrative law enforcement problems; coordinate and initiate actions, implement decisions and recommendations.
- Establish and maintain effective working relationships with members of the Sheriff-Coroner Department, other agencies, County management and the public; develop and maintain effective communication with subordinates and superiors; establish and maintain effective relationships with others, especially sensitive relationships with representatives of other agencies or governmental units and citizen groups; and deal tactfully and persuasively with others in controversial situations.
- Communicate effectively in writing, in a clear, concise, logical, and understandable manner when preparing memorandums, letters, electronic mail messages, and comprehensive reports and recommendations. Speak before a large group and effectively explain policies, procedures or recommendations on a wide variety of law enforcement issues.
- Exercise appropriate judgment in answering questions and releasing information; and analyze and project consequences of decisions and/or recommendations.

Education and Experience

Three (3) years of law enforcement management experience, within a civilian governmental law enforcement agency, that is equivalent to the Sheriff-Coroner Department's rank of Lieutenant or above.

License/Certification

Possession of a valid California Driver's License by date of appointment.

Special Requirements

Applicant must meet or be eligible to meet all requirements for peace officer status that are mandated by the California Government Code and Commission on Peace Officer Standards and Training (P.O.S.T.) regulations for lower-level Deputy Sheriff classes by date of appointment.

Must not have been convicted of a felony. Must pass an extensive background investigation to the satisfaction of the Orange County Sheriff-Coroner.

PHYSICAL, MENTAL, ENVIRONMENTAL AND WORKING CONDITIONS

Positions in this classification are Peace Officers as defined in Section 830.1 of the California Penal Code. In addition to the typical physical and mental requirements contained below, an applicant must meet all physical and mental requirements for Peace Officers that are mandated by the California Government Code and Commission for Peace Officer Standards and Training (P.O.S.T.) regulations.

Physical and Mental Requirements

Possess vision sufficient to read standard text and computer monitor(s), to drive a vehicle, to distinguish colors, and to safely aim and discharge a firearm; speak and hear well enough to communicate clearly and understandably in person to individuals and groups and over the telephone. Possess body mobility to occasionally perform: bending at the waist, crouching, power grasping, precision grasping, pulling and pushing, reaching above and below shoulder level, squatting, standing, stooping, twisting at the waist, twisting at the neck, and walking. Some assignment may require occasional lifting and carrying files and boxes weighing up to twenty-five (25) pounds for short distances. Possess body mobility to frequently perform simple grasping and flexion of the neck; and perform prolonged sitting and fine manipulation. Possess manual dexterity sufficient to use hands, arms and shoulders repetitively to operate a keyboard, utilize office equipment and to write and drive; use a County approved means of transportation.

Possess the ability to independently reason logically to analyze data, reach conclusions and make recommendations; ability to direct others, plan and execute strategic initiatives, and influence stake holders and decision makers to undertake actions that meet organizational objectives. Possess the ability to remain calm and appropriately focused in rapidly changing and difficult situations involving conflict, civil unrest, complex issues, controversy and diverse stakeholder groups and interests; possess the ability to deal calmly and effectively with emotional interactions. May interact extensively with all levels within the organization, outside agencies and department heads, County Executive Officers, elected officials, executive boards, community stakeholders, or the public.

Environmental and Working Conditions

Work is primarily performed in an office environment at a workstation with computer screen(s) and primarily using a keyboard and mouse. Work involves occasional travel within and outside of the county region. Some assignments may require the incumbent to be deployed to the scene of high-profile incidences or crime scenes, or to visit adult correctional facilities or court holding cells in support of a 24/7 operational and/or emergency response unit. On an occasional basis, may be subject to intermittent high levels of noise during firearms qualifications or when attending field training events. May be required to carry and discharge a firearm. May be required to drive a County vehicle.

CLASS HISTORY

Established: 12/06/2011



ASSISTANT SHERIFF

Title Code: 6146EB

DEFINITION

Under general direction, to plan, direct, coordinate and guide an Area Command and its divisions and programs of the Sheriff-Coroner Department; to assist the Sheriff or the Undersheriff in the administration of the Department and to act in the absence of the Sheriff or the Undersheriff; and to do other work as required.

CLASS CHARACTERISTICS

The class of Assistant Sheriff is the second-level of executive management, within the Sheriff-Coroner Department, and serves as a member of the Sheriff's executive management team. An Assistant Sheriff is designated overall responsibility to formulate and implement policy direction for law enforcement operations, highly specialized programs, and personnel management. Incumbents in this class report directly to the Undersheriff, but also take direction from the Sheriff. Appointments to this classification are made by the Sheriff and the incumbents in this classification are "At-Will" and serve at the pleasure of the Sheriff.

Through the assistance of one or more subordinate Commanders, an Assistant Sheriff provides overall administration and strategic oversight of activities of an Area Command and make independent high-level decisions. Incumbents operate within the general policies and strategic goals established for the Department and formulate the operating policies and direction for their assigned Area Command with the concurrence of the Sheriff and/or Undersheriff. Incumbents develop department-wide policies on all matters concerning organizational management, financial resources, operations of the Department, and may be required to present new programs and policy matters to the County Executive Officer, Board of Supervisors, local, State, and Federal organizations related to law enforcement or other department-wide matters. Incumbents must be able to work in the field directing and coordinating major incidents and be familiar with mutual aid, crisis management, etc.

Assistant Sheriffs have substantial responsibility for risk management and holding subordinates accountable for their performance; for representing the Sheriff at various high-level functions where critical decisions are required; for providing a high-level link between other Area Commands and/or County of Orange agencies/departments; for strategic planning with departmental and county resources; for reviewing policies and procedures, training, equipment and overall performance of an Area Command and its assigned Divisions; and for reviewing critical incidents and developing department policies, standards and long-range direction.

EXAMPLES OF DUTIES

Depending on the area of assignment, duties may include, but are not limited to, the following essential functions:

1. Assists the Sheriff or the Undersheriff by planning, organizing, and directing the work of an Area Command and its divisions. Acts for and assumes the responsibility of the Sheriff or Undersheriff in his/her absence. May represent the Department before commissions, boards, committees and representatives from Federal, State and local agencies, organizations, community groups, civic and industry leaders, or media; and confers with the Sheriff-Coroner in developing policies and procedures and implementing goals of the Department.
2. Assistant Sheriffs are responsible for providing executive direction to an Area Command consisting of multiple divisions, with highly specialized functions, each of which may involve major law enforcement and high-risk operations. As part of Executive Command, confers with and coordinates the activities of Commanders, Captains and Division Directors on programs, organizational matters and major changes to ensure departmental functions are meeting the overall needs and goals of the Department. Evaluates law enforcement trends that affect operations. Considers and searches out opportunities to enhance services and methodologies to improve safety and efficiencies; prepares and reviews reports; and directs the maintenance of necessary records.
3. Plans, delegates, directs and oversees the work of subordinate Commanders, Captains, Division Directors and other management personnel (both sworn and non-sworn) within their Area Command; provides guidance and direction in the interpretation, development and implementation of operating policies and procedures.
4. Through subordinate personnel, coordinates or directs the training and professional development of personnel within assigned Area Command, and/or department-wide, and evaluates effectiveness of training provided; evaluates personnel and equipment requirements; speaks to public groups; attends conferences and meetings and directs correspondence or reports pertaining to the activities of assigned Area Command or the Department in general.
5. Evaluates public complaints pertaining to activities and individuals in the Sheriff-Coroner Department and directs the investigations and evaluation of complaints; acts as a Skelly Officer and represents the Sheriff in Skelly Hearings for the Department; and makes final disciplinary decisions within their scope of authority and/or recommends major disciplinary actions to the Sheriff or the Undersheriff.
6. Directs financial responsibilities of an Area Command, including multiple divisions or major programs. Is responsible for identification and problem solving for emerging law enforcement and financial challenges; attains Area Command objectives while adhering to assigned budget; reviews and prioritizes annual budgets and augmentation requests; participates in the five-year budget forecasting for the operation of assigned divisions; and coordinates and/or directs the maintenance of assigned facilities and equipment.
7. Coordinates the activities and operations of the Department with responsible officials in other County agencies/departments, with other law enforcement agencies, and/or other governmental entities; may meet with other agencies to discuss matters related to program goals, priorities, costs and reimbursement; meets with representatives of County agencies/departments and other agencies to discuss matters pertaining to procedure and areas of responsibility and jurisdictions; may give talks and interprets departmental policy to the public and interested agencies.
8. Acts for the Sheriff or the Undersheriff as directed.

MINIMUM QUALIFICATIONS

Thorough Knowledge of

- Principles and practices of modern law enforcement administration including: Human Resources Management (including labor relations), budget and fiscal management (including budget analysis, effective utilization of fiscal resources, and contract administration), and principles of management and organizational analysis

- Federal, State and local laws, rules and procedures governing the activities of a law enforcement agency and related Criminal Justice members
- Current technology and trends in the field of law enforcement administration including recent court decisions and legislative developments, and mutual aid and crisis management

General Knowledge of

- Principles and methods of modern law enforcement and police planning
- Principles of public administration, including budgeting and the selection, training and disciplining of personnel
- Criminal law including the law of arrest, rules of evidence and courtroom procedure, search and seizure, and laws governing jail procedures and facilities (State of CA, Title 15, California Code of Regulations)

Ability to

- Plan, coordinate, direct, and supervise the work of an Area Command and its divisions of the Sheriff-Coroner Department; devise methods, policies and procedures and evaluate their effectiveness; analyze and interpret crime statistics and reports; speak effectively before a large group.
- Coordinate departmental program objectives with the general goals of the total organization and its various operations. Define problem areas; interpret complex regulations, laws and guidelines; direct the collection, interpretation and evaluation of data and development of sound solutions to technical and administrative law enforcement problems; coordinate and initiate actions, implement decisions and recommendations.
- Establish and maintain effective working relationships with members of the Sheriff-Coroner Department, other agencies, County management and the public; develop and maintain effective communication with subordinates and superiors; establish and maintain effective relationships with others, especially in sensitive relationships with representatives of other agencies or governmental units and citizen groups; and deal tactfully and persuasively with others in controversial situations.
- Communicate effectively in writing, in a clear, concise, logical, and understandable manner when preparing memorandums, letters, electronic mail messages, and comprehensive reports and recommendations. Speak before a large group and effectively explain policies, procedures or recommendations on a wide variety of law enforcement issues.
- Exercise appropriate judgment in answering questions and releasing information; and analyze and project consequences of decisions and/or recommendations.

Education and Experience

Five (5) years of law enforcement management experience, within a civilian governmental law enforcement agency, that is equivalent to the Sheriff-Coroner Department's rank of Lieutenant or above.

License/Certification

Possession of a valid California Driver's License by date of appointment.

Special Requirements

Applicant must meet or be eligible to meet all requirements for peace officer status that are mandated by the California Government Code and Commission on Peace Officer Standards and Training (P.O.S.T.) regulations for lower-level Deputy Sheriff classes by date of appointment.

Must not have been convicted of a felony. Must pass an extensive background investigation to the satisfaction of the Orange County Sheriff-Coroner.

PHYSICAL, MENTAL, ENVIRONMENTAL AND WORKING CONDITIONS

Positions in this classification are Peace Officers as defined in Section 830.1 of the California Penal Code. In addition to the typical physical and mental requirements contained below, an applicant must meet all physical and mental requirements for Peace Officers that are mandated by the California Government Code and Commission for Peace Officer Standards and Training (P.O.S.T.) regulations.

Physical and Mental Requirements

Possess vision sufficient to read standard text and computer monitor(s), to drive a vehicle, to distinguish colors, and to safely aim and discharge a firearm; speak and hear well enough to communicate clearly and understandably in person to individuals and groups and over the telephone. Possess body mobility to occasionally perform: bending at the waist, crouching, power grasping, precision grasping, pulling and pushing, reaching above and below shoulder level, squatting, standing, stooping, twisting at the waist, twisting at the neck, and walking. Some assignment may require occasional lifting and carrying files and boxes weighing up to twenty-five (25) pounds for short distances. Possess body mobility to frequently perform simple grasping and flexion of the neck; and perform prolonged sitting and fine manipulation. Possess manual dexterity sufficient to use hands, arms and shoulders repetitively to operate a keyboard, utilize office equipment and to write and drive; use a County approved means of transportation.

Possess the ability to independently reason logically to analyze data, reach conclusions and make recommendations; ability to direct others, plan and execute strategic initiatives, and influence stake holders and decision makers to undertake actions that meet organizational objectives. Possess the ability to remain calm and appropriately focused in rapidly changing and difficult situations involving conflict, civil unrest, complex issues, controversy and diverse stakeholder groups and interests; possess the ability to deal calmly and effectively with emotional interactions. May interact extensively with all levels within the organization, outside agencies and department heads, County Executive Officers, elected officials, executive boards, community stakeholders, or the public.

Environmental and Working Conditions

Work is primarily performed in an office environment at a workstation with computer screen(s) and primarily using a keyboard and mouse. Work involves occasional travel within and outside of the county region. Some assignment may require the incumbent to be deployed to the scene of high-profile incidences or crime scenes, or to visit adult correctional facilities or court holding cells in support of a 24/7 operational and/or emergency response unit. On an occasional basis, may be subject to intermittent high levels of noise during firearms qualifications or when attending field training events. May be required to carry and discharge a firearm. May be required to drive a County vehicle.

CLASS HISTORY

Revised: 01/04/1999
Revised: 11/26/1985
Revised: 04/24/1984
Revised: 10/25/1977
Established: 01/21/1975

UNDERSHERIFF

DEFINITION

Under administrative direction, to assist the Sheriff-Coroner in planning, directing, and organizing the operations of the Department; to coordinate the functions of all divisions of the Department with the Assistant Sheriffs; to act for the Sheriff-Coroner in his absence; and to do other work as required.

CLASS CHARACTERISTICS

The Undersheriff is a single position class responsible for directing the day to day activities of the Sheriff-Coroner's Department through the Assistant Sheriffs. The incumbent is responsible for establishing and coordinating implementation of department policies and procedures and ensuring compliance with Federal, State and local laws, and may act for the Sheriff-Coroner in his absence.

EXAMPLES OF DUTIES

1. Assists the Sheriff-Coroner in planning, implementing and directing all phases of the operation of the Department; makes recommendations on reorganizing departmental activities, establishing new operating policies and determining future personnel and equipment needs of the Department.
2. Confers with and coordinates the activities of the Assistant Sheriffs in order that the functions of the divisions may best meet the overall needs of the Department; reviews recommended changes of rules and regulations, general and special orders, operating procedures and policy statements; based on preliminary estimates and discussions with Assistant Sheriffs, prepares the annual budget for the Sheriff-Coroner Department subject to the review of the Sheriff-Coroner.
3. Observes the operations of all divisions of the Department in order to ascertain the efficiency of operations, the morale and discipline of employees and the condition of physical facilities and equipment; recommends to the Sheriff-Coroner major disciplinary actions and reviews the disciplinary actions imposed by division commanders.
4. Coordinates the activities of the Department with other law enforcement agencies and other county departments; meets with other agencies as Department representative in all matters and issues; interprets Department policy to the public; reviews public complaints pertaining to activities or individuals in the Department and directs the investigations and evaluation of major complaints.
5. Assumes the duties of the Sheriff-Coroner during absences or as otherwise directed.

MINIMUM QUALIFICATIONS

Special Requirement

Applicant must meet all requirements for peace officer status that are mandated by the California Government Code and Peace Officer Standards and Training (P.O.S.T.) regulations for lower classes in the series.

Thorough Knowledge of

Principles and practices of management necessary to plan, analyze, develop, direct and evaluate programs, administrative policies, organizational structures and law enforcement problems.

Principles and modern methods of law enforcement administrative including organization, fiscal management, budgetary preparation and controls, program planning, implementation and administration.

Federal, State and local laws, rules and procedures governing the activities of a law enforcement agency and related Criminal Justice members; current trends in the field of law enforcement administration including recent court decisions and legislative developments.

Principles of employee supervision and personnel management including training, disciplining of personnel and modern information systems.

Ability to

Plan, organize, direct and coordinate operations of the Sheriff-Coroner Department; coordinate departmental program objectives with the general goals of the total organization and its various operations.

Define problem areas; interpret complex regulations, laws and guidelines; direct the collection, interpretation and evaluation of data and development of sound solutions to technical and administrative law enforcement problems; coordinate and initiate actions, implement decisions and recommendations.

Prepare and present concise, logical oral and written reports; explain policy, procedures or recommendations on a wide variety of law enforcement issues.

Establish and maintain effective working relationships with others, especially in sensitive relationships with representatives of other agencies or governmental units and citizen groups; deal tactfully and persuasively with others in controversial situations.

Experience

Four years of divisional command experience in a civilian law enforcement agency at the rank of Captain or equivalent.

License Required

Possession of a valid California Driver License by date of appointment. The County may waive this requirement if an alternative means of transportation is available which is acceptable to the County.

MHH:mm

9-16-99

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PERSONNEL DIVISION
EQUIPMENT ISSUE INVENTORY

NAME: Alejandro Sakeda

DATE APPOINTED: 01-03-95

| QUANTITY | ITEM | DATE OF ISSUANCE | DATE RETURNED |
|----------|------------------------------------|------------------|-------------------------------|
| | REVOLVER Type Serial # | | |
| | HANDCUFFS Type Serial # | | |
| 1 | BADGE Type PIN Number 2140 | 6-21-95 | DAB 12/17/08 - both Pin-08 |
| 1 | CAP BADGE | 12-21-94 | |
| 1 | SHERIFF'S DEPARTMENT I.D. CARD | 12-21-94 | DAB 12/17/08 |
| 1 | RULES & REG. MANUAL Number 3020 | 12-21-94 | |
| 1 | KEY NUMBER 1161 | 5-25-99 | |
| 1 | NAME TAG | 2-8-95 | |
| 1 | JACKET, Nylon Duty | 2-8-95 | |
| | JACKET, Regular Dress | | |
| 1 | TROUSERS | 2-8-95 | |
| | SHIRTS, Winter | | |
| 2 | SHIRTS, Summer | 2-8-95 | |
| 1 | CAP | 2-8-95 | |
| 1 | BATON RING STRAP | 2-8-95 | |
| 4 | BELT KEEPERS | 2-8-95 | |
| 1 | HANDCUFF CASE | 2-8-95 | |
| 1 | RELOADER Type | 2-8-95 | |
| 1 | HOLSTER | 2-8-95 | |
| 1 | GUN BELT | 2-8-95 | |
| 1 | TROUSER BELT | 2-8-95 | |
| 1 | KEY STRAP | 2-8-95 | |
| 1 | BATON | 2-8-95 | |
| | RADIO CODE BOOK | | |
| | RAIN GEAR | | |

I understand and agree that the above checked items of County property have been or will be issued to me and are to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final severance pay for any of the items not so returned.

DATE: X 12-21-94

SIGNATURE: X Alejandro Sakeda



Certificate of Appointment-Oath/Affirmation

STATE OF CALIFORNIA)
County of Orange } ss. _____
I, Michael S. Carona _____ Sheriff-Coroner _____ County of Orange, State
(Department Head's Name) (Title for Agency Name)

of California, do hereby appoint Daniel Foster _____
(Employee's Full Name)
Deputy Sheriff _____ in and for said County of Orange
(Employee's Title)

given under my hand this 17th day of July, 2007

[Signature] _____ Department Head's Signature (stamp ok.)
Michael S. Carona _____ Department Head's Printed Name

I, DANIEL FOSTER _____ do solemnly swear (or affirm) that I will support

And defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and I will well and faithfully discharge the duties upon which I am about to enter,

[Signature] _____
Signature of Employee

Clerk-Recorder
File Stamp
FILED
JUL 23 2007
TODDALY, CLERK-RECORDER
DEPUTY

STATE OF CALIFORNIA)
County of Orange } ss. _____
Subscribed and sworn to before me, this 17th day of July, 2007

[Signature] _____
Submitting Agency's Authorized Deputy Signature
Emma Noor
Printed Name of Agent-y" Authorized Deputy

The Clerk-Recorder Department is designated by statute to file the certificate of oath for elected and appointed County officers. The certificate of oath for "other" County employees may be filed in either the Clerk-Recorder Department or in the employee's official personnel file. The oath form is to be prepared by the submit



Certificate of Appointment-Oath/Affirmation


STATE OF CALIFORNIA }
County of Orange } ss.

I, Sandra Hutchens, Sheriff-Coroner County of Orange, State of
(Department Head's Name) (Title/or Agency Name)

California, do hereby appoint Briana Martinez
(Employee's Full Name)

Deputy Sheriff I in and for said *County of Orange*
(Employee's Title)

given under my hand this 26 day of August, 2016.


Department Head's Signature (stamp o.k.)

Sandra Hutchens
Department Head's Printed Name

I, Briana Martinez do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and I will well and faithfully discharge the duties upon which I am about to enter.

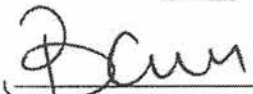

Signature of Employee

Clerk-Recorder
File Stamp

FILED
AUG 30 2016

ORANGE COUNTY CLERK-RECORDER DEPARTMENT
BY: NA DEPUTY

STATE OF CALIFORNIA }
County of Orange } ss.
Subscribed and sworn to before me, this 26 day of August, 2016.


Submitting Agency's Authorized Deputy Signature
Bridgette Cuevas
Printed Name of Agency's Authorized Deputy

***Please note: The Clerk-Recorder Department is designated by statute to file the certificate of oath for elected and appointed County officers. The certificate of oath for "other" County employees may be filed in either the Clerk-Recorder Department or in the employee's official personnel file. The oath form is to be prepared by the submitting agency.

ORANGE COUNTY SHERIFF'S DEPARTMENT

INTERNAL MEMO

To: Department Personnel
From: Sheriff Don Barnes
Date: May 28, 2020
RE: Incident in Minnesota



The death of George Floyd was wrong. Clearly what occurred goes beyond the scope of any tactic we are trained to use. Equally troubling was the fact that three officers stood by while their partner acted in a manner that contradicts his sworn commitment to protect and serve.

Each of you know how diligently we train to utilize de-escalation strategies and how strictly we adhere to use of force policies. However, training and policies are only as good as the people entrusted with carrying them out. My expectation of each member of this Department is that you conduct yourself with a high ethical standard and treat each life with value and respect. I have every confidence that each of you have the same expectation for your partners and yourself.

The badge is tarnished when a peace officer acts outside of their training, violates rights or lets bias cloud judgement. Law enforcement depends on the trust of the community. Incidents like this erode the trust of law enforcement across the nation.

In Orange County we will continue our efforts to work with our residents, listen to their concerns, and provide services rooted in a commitment to the safety of all we serve.

Statutes and Legal Requirements.pdf

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.



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PENAL CODE - PEN

PART 1. OF CRIMES AND PUNISHMENTS [25 - 680.4] (Part 1 enacted 1872.)

TITLE 11.6. CIVIL RIGHTS [422.55 - 422.93] (Title 11.6 added by Stats. 1987, Ch. 1277, Sec. 4.)

CHAPTER 3. General Provisions [422.88 - 422.93] (Chapter 3 added by Stats. 2004, Ch. 700, Sec. 15.)

422.89. It is the intent of the Legislature to encourage counties, cities, law enforcement agencies, and school districts to establish education and training programs to prevent violations of civil rights and hate crimes and to assist victims.

(Added by Stats. 2004, Ch. 700, Sec. 16. Effective January 1, 2005.)

Code of Professional Conduct and Responsibility for Peace Officers

1001.1 PREAMBLE

WHEREAS, peace officers are vested with a public trust which requires that they consistently demonstrate the highest degree of integrity and good moral character; and

WHEREAS, the need to maintain high standards of moral character, integrity, knowledge, and trust requires the establishment of a Code of Professional Conduct and Responsibility for Peace Officers as a matter of the highest significance to the health, welfare, and safety of the citizens of this state; and

WHEREAS, the establishment of a Code of Professional Conduct and Responsibility for Peace Officers, which includes Canons of Ethics and minimum standards, requires the granting of authority to enforce these standards of professional conduct through disciplinary action as necessary for the protection of the health, welfare, and safety of the public; therefore,

BE IT RESOLVED that the need to maintain high standards of moral character, integrity, knowledge, and trust require that peace officers establish and conform to a Code of Professional Conduct and Responsibility for Peace Officers.

1001.1.1 GENERAL STATEMENT

Peace Officers are granted a public trust, which requires that they consistently demonstrate the highest degree of integrity. To be worthy of this public trust, and to ensure that their professional conduct is above reproach, members of the peace officer profession must not only conform to a Code of Ethics but must also abide by these Canons of Ethics and Ethical Standards which constitute this Code of Professional Conduct and Responsibility as a means of internal regulation.

The essence of a profession requires that in addition to prescribing a desired level of performance, it must establish minimum standards of ethical conduct with prescribed rules for internal discipline to ensure compliance. Accordingly, this Code of Professional Conduct and Responsibility is established for the peace officer profession.

Nothing in the Code of Professional Conduct and Responsibility for Peace Officers is intended to limit or supersede any provision of law relating to the duties and obligations of peace officers or the consequences of a violation thereof. Whereas these rules specify certain conduct as unprofessional, this is not to be interpreted as approval of conduct not specifically mentioned.

Nothing in this Code is intended to limit the authority of an agency to adopt and enforce rules and regulations that are more stringent or comprehensive than those that are contained in this Code of Professional Conduct and Responsibility for Peace Officers.

Policy Manual

106.1 PURPOSE AND SCOPE

The manual of the Orange County Sheriff-Coroner Department is hereby established and shall be referred to as "The OCSO Policy Manual." The Policy Manual is a statement of the current policies, procedures, rules, and guidelines of this Department. All prior and existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that police work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to Members of this Department under the circumstances reasonably available at the time of any incident.

All Members are to conform to the provisions of this manual. Members assigned to a task force or multi-agency operation are to conform to the provisions of this manual as well as any Memorandum of Understanding and additional policies and procedures required by the task force or multi-agency operation. If any provision of a Memorandum of Understanding or policy or procedure of the task force or multi-agency operation conflicts with this policy manual, the Member will immediately notify his/her task force supervisor and his/her Department supervisor.

106.2 RESPONSIBILITIES

The ultimate responsibility for the contents of the manual rests with the Sheriff. Since it is not practical for the Sheriff to prepare and maintain the manual, the following delegations have been made:

106.2.1 SHERIFF

The Sheriff shall be considered the ultimate authority for the provisions of this manual and shall continue to issue Departmental Directives which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

106.2.2 EXECUTIVE STAFF

Staff shall consist of the following:

1. Sheriff
2. Undersheriff
3. The Assistant Sheriff or Executive Director from each Command
4. The Commander or Senior Director from each Command

The executive staff shall review all recommendations regarding proposed changes to the manual.

1108 - Custody and Court Operations Manual

1108.1 - Purpose and Scope

- a) The Manual of the Orange County Sheriff's Department hereby established and shall be referred to as "The Custody and Court Operations Manual." The Custody and Court Operations Manual is a statement of the current policies, procedures, rules, guidelines of this department. All employees are to conform to the provisions of this manual. All prior existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.
- b) Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that police work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

1108.2 – Responsibilities

The ultimate responsibility for the contents of this manual rest with the Sheriff. Since it is not practical for the Sheriff to prepare and maintain the manual, the following delegations have been made:

- a) Sheriff – The Sheriff shall be considered the ultimate authority for the provisions of this manual and shall continue to issue Departmental Directives which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.
- b) Staff shall consist of the following:
 1. Sheriff
 2. The Assistant Sheriff from each division
- c) Staff shall review all recommendations regarding proposed changes to the manual at staff meetings.
- d) Other personnel – All Department employees suggesting revision of the contents of the Custody and Court Operations Manual shall forward their suggestion, in writing, to their Division Commander who will consider the recommendation and forward to the Risk Management Bureau. The Risk Management Bureau will pass the proposed changes on to the Staff.
- e) Once a change has been approved by the Sheriff's Department Staff it will be incorporated into the online/intranet/internet version of the CCOM and become department policy.
- f) The online/intranet/internet version of the Custody and Court Operations Manual shall contain all revisions and updates and will supersede any previously existing hard copies or versions.

1108.3 – Distribution

- a) To comply with the California Public Records Act, the Custody and Court Operations Manual shall be posted online and be made readily available to the public.
- b) Policies and procedures relating to the security of the facility will not be distributed or shared with the public or inmates.
 1. The CCOM will be available online to all Jail Operations employees. A hard copy will be maintained at the Administrative Lieutenant's office at each facility.

Report Preparation

338.1 PURPOSE AND SCOPE

Report preparation is a major part of each deputy's job. The purpose of reports is to document sufficient information to refresh the deputy's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

338.1.1 SUBMISSION OF REPORT

To provide the best service to our stakeholders, contract partners, and the public through current data and statistical analysis, it is the policy of this Department to require all reports be complete, accurate, and submitted prior to or at the end of each shift. It shall be the responsibility of all Members assigned to Commands required to document criminal offenses and other reportable activities to submit all reports for approval prior to leaving their assigned work location at end of watch.

1. Exceptions to the above policy shall be determined by the immediate supervisor of involved personnel on a case by case basis only upon receiving proper justification.
2. Units providing extensive follow-up on cases previously reported are exempt from the end of shift requirement if it will not severely impact an on-going investigation with supervisory approval, i.e. Forensic Science Services, Homicide, Sex Crimes.

338.2 REPORT WRITERS RESPONSIBILITIES

1. Prepare all reports received during the assigned shift for supervisory approval prior to the end of such assigned shift.
2. Contact the immediate supervisor for all priority reports upon completion throughout the shift.
 - (a) Priority reports include all cases where a suspect is in custody and booked into any custodial facility such as jail, juvenile hall, or a mental hospital. This includes cases where the suspect will be cited and released at the facility. Also included are serious assaults, rape, child molest, any deaths, property crimes involving major loss, any case requiring immediate follow-up by Investigation, casualty reports, missing persons, or CHP 180.
3. Contact the immediate supervisor in all cases where an exception to the above policy stated is necessary.

338.2.1 SUPERVISOR RESPONSIBILITIES

1. Thoroughly review all submitted reports for completeness and accuracy prior to approval.
2. Require additional information or corrections when necessary on all reports prior to approval.
3. Reports containing grammatical errors shall be corrected.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Report Preparation

4. Ensure all reports were submitted or the necessary approval was obtained to defer.
5. Follow-up on all deferred reports and ensure their completion.
6. Carefully review all requests for exception to the policy stated above. Exceptions may be granted by the immediate supervisor under the following circumstances:
 - (a) Members are at the end of a 16 hour work period and the report is not a priority report.
 - (b) The tempo of the shift was such that it did not allow for report writing. The Member requesting an exception under this circumstance shall provide the supervisor with their completed Daily Activity Report and Statistical Sheet to verify consumed time during the shift prior to approving the exception.
 - (c) The report was received at the end of watch and it is not a priority report.
 - (d) The Members assigned a report ends their shift early due to a personal emergency or workers compensation incident.
7. When possible the shift supervisor shall contact Members assigned reports throughout the shift to review and approve completed reports prior to the end of watch.

338.2.2 MANAGEMENT RESPONSIBILITIES

1. Verify supervisors are granting exceptions to the policy stated in Section 344.2.1 only in applicable situations.
2. Verify overtime usage for report writing is utilized only in appropriate situations.
3. Review involved personnel's Daily Activity Report and Statistical Sheet for any time management issues related to report exceptions.
4. Verify reports granted an exception is submitted.

338.3 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to Support Services for filing and distribution, shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to Support Services may be corrected or modified by the authorizing deputy only with the knowledge and authorization of the reviewing supervisor.

Personnel Complaint Procedure

1020.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the Department to professionally and thoroughly give the appropriate supervisory attention to public feedback received regarding Departmental service or individual performance. This policy explains the required actions for the collection, processing and preservation of complaints to ensure the proper attention is given to the incident.

1020.1.1 PERSONNEL COMPLAINTS

Public complaints shall be used to help shape programs, priorities, training, and discipline in order to provide the best law enforcement service to the community.

Complaints shall be classified into one of the following categories:

Service complaint: Any allegation of dissatisfaction with Department service, procedure or practice, not involving a personnel complaint, i.e. response time, vehicle operation while responding code-3, waiting too long to visit an inmate.

Personnel complaint: Any allegation of misconduct or improper job performance against any Department Member that, if true, would constitute a violation of Department policy, federal, state, or local law, i.e. rudeness, profanity, excessive force, criminal act. All investigations of personnel complaints shall be considered confidential.

1020.2 DOCUMENTING COMPLAINTS

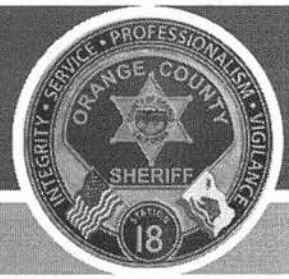
All Members not holding a managerial or supervisory title/rank or not currently assigned to the Internal Affairs Unit shall refer all complaints to a manager/supervisor even though it may appear to be minor in nature or easily and informally handled without involving a supervisor for proper documentation.

Managers and/or supervisors shall document all complaints, with the exception of inmate grievances, in the Commendation/Complaint Reporting System (CCRS) and submit the completed report to their Division Commander via the chain of command for appropriate action.

Sergeants assigned to the Internal Affairs Bureau may document all complaints, with the exception of inmate grievances, in the Commendation/Complaint Reporting System (CCRS) or forward the complaint to the relevant division, or consult with the appropriate Commander or Assistant Sheriff for necessary action.

1020.2.1 AVAILABILITY OF PERSONNEL COMPLAINT FORMS AND PUBLIC COMMENT NOTICE FORMS

The Personnel Complaint Form and Public Comment Notice Form are available on the Sheriff's website to document complaints or commendations of Department Members if members of the public choose not to convey their complaint or commendation in person.



Vehicle Marking for Parking Citations

Recently, there was an appellate court case finding that it is a 4th Amendment violation to place a chalk mark on the tire of a vehicle to gather evidence prior to enforcing parking regulations. The case, *Taylor v. City of Saginaw*, was out of the 6th Circuit that covers Kentucky, Michigan, Ohio and Tennessee. This case is not currently binding in California. However, this case has received quite a bit of publicity, and members of the public may mistakenly challenge your actions as you perform your duties.

Currently, FOM Section 47(C)(1) outlines the procedure for marking a vehicle abandoned for 72 or more consecutive hours. There is no formal procedure for CSO's, SSO's or deputies to follow when gathering evidence to support issuing general parking citations. The common practice has been to mark the tire and/or the ground, or leave a rock or a penny on the tire.

To avoid unnecessary litigation or misguided confrontation by members of the public, effective immediately for all department members who issue parking citations the procedure will change. We are now going to mark the location (front and back) of at least one tire with chalk ON THE ASPHALT OR GROUND. The vehicle itself is not to be marked in any way, including chalk, crayon, or placing a rock or penny on the tire.

The procedures outlined in FOM Section 47 for communicating with the vehicle owner and issuing warning notices have not changed.





Are Private Messages on Social Media Really Private?

Not according to a recent ruling by the California Supreme Court in *Facebook, Inc., et al., v. The Superior Court of the City and County of San Francisco*; and *Derrick Hunter et al.* (California Supreme Court Case #S256686, Ruling: July 17, 2019).

In this case, the Court was asked to review subpoenas duces tecum (“SDTs”) sent to Facebook, Instagram and Twitter requesting “[a]ny and all public and private content,” including deleted material “published by” witnesses in a murder trial involving a juvenile defendant. The trial court ordered compliance from the social media providers. They appealed, and the California Supreme Court ruled that Facebook, Instagram, and Twitter were all required to comply with trial court orders to provide private messages, including any deleted posts or messages from the social media providers.

What You Need To Know

Investigators can broaden their request in search warrants and SDT requests to include private and deleted information. Although not binding case law, highlighting this ruling may persuade the court reviewing your search warrant or SDT to authorize your request.

Additionally, this ruling is a reminder that *anyone* who is involved in civil litigation, a criminal case or family law matter could have their public, private or deleted social media posts brought into court to establish a fact or to evaluate credibility.

Case Background

The federal Stored Communications Act (18 U.S.C. § 2701 et seq., hereafter SCA) regulates the conduct of covered service providers, declaring that as a general matter they may not disclose stored electronic communications except under specified circumstances. Some of these circumstances include the consent of the social media user who posted the communication, or as compelled by law enforcement entities through search warrants or prosecutorial subpoenas.

When first reviewing the above case, in May of 2018, the California Supreme Court ruled that the SCA’s lawful consent exception included posts designated as “public” by the social media user. The California Supreme Court decided to focus on SCA’s § 2702(b)(3), and not rule on the constitutionality of the SCA.





The Court held the social media providers could not just choose to ignore a valid court order, nor just choose what portions they will adhere to. “A provider must disclose any such communication pursuant to a subpoena that is authorized under state law.” (California Supreme Court Case #S230051, Opinion Filed May 24, 2018, pg. 3). The Court sent the case back to the trial court to evaluate the SDT under Cal. Penal Code § 1326(b).

The social media providers continued to challenge whether they are required to comply. The SDTs requested “[a]ny and all public and private content” that “includes but is not limited to” (1) so-called record data, consisting of “user information [and] associated e-mail addresses,” “activity logs,” and “location data”; and (2) content information, such as “photographs, videos, private messages, . . . posts, status updates, . . . , and comments including information deleted by the account holder.” (California Supreme Court Case #S230051, May 24, 2018). Ultimately, the California Supreme Court held that the SDT was valid. (California Supreme Court Case #S256686, Ruling: July 17, 2019).

In the meantime, the juvenile defendant was found to be responsible for the murder and the attempted murder of a second victim, declared a ward of the court, and committed to the Department of Juvenile Justice for a term of 83 years four months to life.¹

¹ Under Welfare and Institutions Code section 607, subdivision (b), however, because of his age at the time of the crimes, he will not be confined beyond his 25th birthday.





Constitutional Policing Update

Fourth Amendment- “Your Home is Your Castle” Edition

Issue: 18-10

This update is a companion to the video briefing distributed in December 2018. Separate from the legal snapshots provided in the “Good to Know Series” these updates cover specific practical applications of constitutional law.

The 4th Amendment of the Constitution protects an individual’s right against unlawful government intrusion. Private residences have one of the highest thresholds of 4th Amendment protection. A warrantless entry into a home by police is presumed to be illegal unless it is justified by consent, specific search terms- such as probation, PRCS or parole status, exigent circumstances with probable cause or an emergency aid situation.¹

Test yourself on the scenarios below:

All the questions below assume you do not have consent and (unless specifically mentioned) there is no active arrest warrant or search warrant. In each of the questions below ask yourself: (1) Do you need a warrant? If yes, what type of warrant? (2) If you do not need a warrant, what justifies your warrantless entry into the person’s home?

Question: Undercover deputies arranged for a planned drug deal with a suspect. Meanwhile, other deputies are monitoring the suspect’s calls under a wiretap. Deputies on surveillance observe the target leave his home and complete a hand-to-hand drug transaction with an individual nearby. Afterward, undercover deputies arrive at the location for the drug transaction, but the target walked away. Immediately, deputies intercept another call where the target stated “I’m not gonna give them anything to put together on me” and mentioned he was “getting everything out and trashing my phone.” Can deputies enter the home to prevent the destruction (or removal) of the contraband without a warrant?

Answer: Yes. Deputies here have probable cause to show a “fair probability that contraband or evidence of a crime was inside the residence.”² Also, exigent circumstances are present because it is reasonable for the deputies to believe entry is necessary to prevent the destruction of relevant evidence.

Follow-Up Question: After lawfully entering the home, can the deputies immediately start searching and seizing the contraband?

Answer: No.³ The home and persons inside can be secured, and items in plain view can be noted, until a search warrant is obtained to examine the home fully. The probable cause and exigency allow the deputies to enter the home. The

Unless there is a valid warrant, entry into a home requires:

- 1) Active Search Terms (i.e., Probation, PRCS, Parole)
- 2) Consent
- 3) Exigent Circumstances WITH Probable Cause

or

- 4) An Emergency Aid Situation

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Constitutional Policing Update

Fourth Amendment- "Your Home is Your Castle" Edition

Issue: 18-10

subsequent search warrant allows the deputies to search for evidence and seize items. The search warrant should be obtained without delay because the persons in and around the home should not be subjected to a prolonged detention.

Question: A parent finds her infant unresponsive at home. The baby, taken via ambulance to the local hospital emergency room, passed away. The Deputy Coroner responds to the hospital for a body examination. Without any visible signs of trauma and before the autopsy, the Deputy Coroner intends to go to the decedent's residence to investigate the living/sleeping conditions and collect any relevant evidence such as blankets, formula, medication, bottles, etc. Assuming neither parent provides consent to enter the home, does the Deputy Coroner need a warrant?

Answer: Yes.⁴ The facts above do not reflect an exigency and do not establish probable cause. Carrying out the responsibilities of a Deputy Coroner constitute state actions and are subject to the limitations of the 4th Amendment. Although a Deputy Coroner can apply for an "inspection warrant" to conduct a limited administrative search under their authority in the Government Code, any limitations on searches or seizures applicable to other peace officers would otherwise still apply to a Deputy Coroner.⁵ Even if the Deputy Coroner obtains consent from the parents, they need to ensure that the consent was given freely and voluntarily. Merely giving in to the presence and authority of law enforcement is not consent, and without a warrant, any evidence seized would be inadmissible. If the circumstances raise suspicions of a possible crime, the law enforcement agency involved should consider obtaining a search warrant before entering the home.

Question: Reporting party calls dispatch and indicates that his neighbor, who lives alone, is outside her home and carrying a gun. The RP states that they have not had any contact with their neighbor. The RP has not had any arguments with her, and she does not appear agitated. However, he is concerned that she has a gun and standing out on the public sidewalk. When deputies arrived, they saw her on the sidewalk. The deputies could not see her hands and lost sight of her momentarily. Then she reappeared on her porch with the gun in her hand. She looked at the deputies and then entered her house. Deputies have probable cause to believe that she is in violation of California Penal Code § 25850(a). Deputies knocked on her door, asking her to come outside and "talk." She refused. Deputies then surround the house and order her to come out at gunpoint. She exits and is arrested on her porch. Is this permissible under the 4th Amendment?

Answer: No.⁶ "At [the 4th Amendment's] very core stands the right of a [person] to retreat into his own home and there be free from unreasonable governmental intrusion."⁷ Although the deputies had probable cause to believe that she was guilty of a misdemeanor, the facts here do not reflect exigent circumstances. The deputies knew this was her home. There was no indication she fled into a stranger's house.⁸ There was no indication that she was carrying the firearm in a threatening manner or that anyone inside the home was in danger. The Supreme Court and the Ninth Circuit are hesitant to find exigent circumstances when the underlying offense is a misdemeanor or relatively minor. The standard is narrow; deputies would need to show that the delay in getting a warrant would present an "immediate threat to the safety of officers or others to justify a disregard of the warrant requirement" or delays would otherwise improperly frustrate legitimate law enforcement efforts (i.e., destruction of evidence or escape).⁹ Although deputies did not enter the house to physically place her under arrest, surrounding a home and ordering the person to come out at gunpoint constitutes an "in-home arrest" under *Payton v. New York*.¹⁰ Since there was no substantial risk of harm to the persons involved or to

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law enforcement, and the evidence supported only misdemeanor conduct, without a warrant for her arrest, this is unconstitutional.

Follow-Up Question: Would deputies still need a warrant to enter and arrest the suspect if when deputies arrived, she stayed on the sidewalk with the gun in a low ready position. Deputies immediately said, “Stop, Police! Drop the gun!” and instead of complying, she runs into her home?

Answer: No, if a suspect attempts to flee a lawful detention or public arrest then a deputy may enter the home to complete the arrest to prevent escape. The home, in this case, does not provide an invisible force field preventing the lawful detention. The deputy has probable cause to arrest for carrying a loaded firearm in public, just because she flees from the deputy into her home does not prevent the officer from lawfully performing his or her duties—even for a misdemeanor violation.¹¹ The lawful warrantless arrest in a public place cannot be defeated by retreating into a private place.

Question: Deputies have obtained a Ramey arrest warrant for the defendant, allowing them to make an in-home arrest. After conducting surveillance at the defendant’s home, it becomes clear that he is not inside. Deputies then obtain verified information that the defendant is staying at his brother’s home in San Clemente. Can deputies serve the arrest warrant inside the brother’s house?

Answer: No.¹² To execute an arrest warrant inside the home of another person the 4th Amendment requires a search warrant for that address. Remember, warrantless searches of the home or the curtilage surrounding the home are presumptively unreasonable.¹³ If, however, deputies conduct surveillance, see the suspect exit the home, wait for him to get to a public area (i.e., sidewalk or street-- not on the curtilage of his brother’s home), then deputies may proceed with executing the arrest warrant.

Question: Deputies are dispatched to a residence where the 911 caller says her brother is suicidal. The caller says he has previously attempted suicide and has guns inside the home. When deputies arrived, they find the RP visibly frightened outside the home. She could not provide the deputies with any additional information. Can Deputies enter the home and conduct a cursory search to make sure no one was hurt?

Answer: Yes.¹⁴ To make a lawful entry into a home in the absence of a warrant, officers must have either probable cause and exigent circumstances or an emergency sufficient to justify the entry. The “emergency” exception stems from the police officers’ “community caretaking function” and allows them “to respond to emergency situations” that threaten life or limb; this exception does “not [derive from] police officers’ function as criminal investigators.”¹⁵ The entry here was a reasonable exercise of the deputy’s community caretaking duty. The entry and cursory search have nothing to do with the gathering of evidence to support a criminal prosecution. The “emergency aid exception” to the search warrant requirement requires only an objectively reasonable basis for believing that a person within the house is seriously injured or threatened with such injury. The entry and search in this circumstance would be limited to addressing the emergency, and not a complete search of the entire home.

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Constitutional Policing Update

Fourth Amendment- “Your Home is Your Castle” Edition

Issue: 18-10

Question: Deputies have probable cause to arrest a suspect, but do not have a Ramey warrant. At 3:00 am, deputies conduct a knock and talk at the suspect’s residence. After knocking, the deputies heard a crashing noise in the backyard. Do the deputies now have exigent circumstances to go to the back of the house to investigate that noise?

Answer: No.¹⁶ Deputies would need to show that they lawfully stood on the suspect’s front porch. As a deputy, if you are lawfully at a location and you observe something or hear something, then you can use that information to act accordingly. Deputies can conduct a knock and talk if they intend to talk—even if they have probable cause to arrest the suspect. However, that knock and talk must occur at a reasonable time—when an individual would expect to receive members of the public at their door. At the same time, the deputy must have the intent to gather information—not to arrest. The court will examine the deputy’s personal intent when he or she conducts a knock and talk. Remember, exigent circumstances cannot justify a warrantless search when the police “create the exigency by engaging ... in conduct that violates the Fourth Amendment.”¹⁷

Question: A deputy engaged in a lawful pursuit with an orange and black motorcycle loses sight of the suspect. After running the plates, the motorcycle is tracked to a residence. A short time later, deputies arrive at the residence. They find a tarp partially covering what appears to be the motorcycle involved in the pursuit parked in the driveway of the home. Can the deputies walk into the driveway and lift the tarp to confirm it was the same motorcycle involved in the pursuit?

Answer: No.¹⁸ The area “immediately surrounding and associated with the home”—the “curtilage”—is treated as “part of [the] home itself for Fourth Amendment purposes.”¹⁹ Like searches and seizures inside the home itself, “searches and seizures in the curtilage without a warrant are also presumptively unreasonable.”²⁰ The presumption against warrantless searches and seizures “would be of little practical value if the State’s agents could stand in a home’s porch or side garden and trawl for evidence with impunity.”²¹ Remember, entering a home or its curtilage without a lawful exception can expose the department and the deputy to potential civil liability under 42 U.S.C. § 1983.²²

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Issue: 18-10

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- ¹ Payton v. New York, 445 U.S. 573, 586-591 (1980)
² U.S. v. Fowlkes, 804 F.3d 954, 969-970 (9th Cir. 2015)
³ U.S. v. Fowlkes, 804 F.3d 954, 971 (9th Cir. 2015)
⁴ People v. Roehler, 167 Cal.App.3d 353, 372-379 (1985)
⁵ See Cal. Gov. Code § 27491.2 et. seq., Cal. Code of Civil Procedure 1822.50 et. seq.
⁶ U.S. v. Nora, 765 F.3d 1049, 1053-1055 (9th Cir. 2014)
⁷ Silverman v. United States, 365 U.S. 505, 511 (1961)
⁸ U.S. v. McGregor, 614 Fed.Appx. 921, 922 (9th Cir. 2015)
⁹ U.S. v. Nora, 765 F.3d 1049, 1054 (9th Cir. 2014); Sandoval v. Las Vegas Metro PD, 756 F. 3d 1154, 1162-1164 (9th Cir. 2014); U.S. v. Al-Azzawy 784 F.2d 890, 893-894 (9th Cir. 1985); Welch v. Wisconsin, 466 U.S. 740, 750; Hopkins v. Bonvicino, 573 F.3d 752, 769 (9th Cir. 2009).
¹⁰ Payton v. New York, 445 U.S. 573 (1980); See also, Fisher v. City of San Jose, 558 F.3d 1069 (9th Cir. 2009).
¹¹ U.S. v. Santana, 427 U.S. 38, 41-42 (1976)
¹² Steagald v. United States, 451 U.S. 204 (1981)
¹³ Payton v. New York, 445 U.S. 573, 586 (1980)
¹⁴ People v. Troyer, 51 Cal.4th 599, 606 (2011); People v. Ray, 21 Cal.4th 464 (1999)
¹⁵ U.S. v. Lundin, 817 F.3d 1151, 1158-1160 (2016)
¹⁶ U.S. v. Lundin, 817 F.3d 1151, 1158-1160 (2016)
¹⁷ Kentucky v. King, 563 U.S. 452, 462 (2011)
¹⁸ Collins v. Virginia, 138 S. Ct. 1663, 1666-1671;
¹⁹ Oliver v. United States, 466 U.S. 170, 180 (1984)
²⁰ U.S. v. Perea-Rey, 680 F.3d 1179, 1184 (2012)
²¹ Florida v. Jardines, 569 U.S. 1, 5-6 (2013)
²² Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971); Segura v. U.S., 468 U.S. 796, 812 (1984)

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Constitutional Policing Update

2019 Legislative Update – Laws Effective January 1, 2020

Issue: 18-12

Custody Operations Command

P.C. § 4002.5 (New): Requires sheriffs to develop and implement an infant and toddler breast milk feeding policy for lactating inmates detained in or sentenced to county jail, so that they can express breast milk and have it delivered to their infant or toddler. See statute for specific requirements. Requires that the breast milk feeding policy be posted in the jail and communicated to staff.

P.C. § 4001.2 (New): Requires a county jail, upon detaining a person, to ask if he or she has served in the U.S. military, and requires the response to be documented. Requires a county jail to make this information available to the detained person, his or her attorney, and the district attorney. The purpose of this bill is to help veterans take advantage of resources and programs for veterans within the criminal justice system, such as veteran treatment courts, military diversion (e.g., P.C. 1001.80), and 1170.9 (alternate commitment for veterans.)

Field Operations and Investigative Services Command

P.C. § 859.7 (New): Creates a statewide standard for eyewitness identification practices for conducting photo lineups and live lineups with eyewitnesses. This new section does not affect policies for field show up procedures. Among other things, the new standard requires (1) Eyewitnesses to provide a description of the perpetrator as close in time to the incident as possible, and before any identification (ID) procedure is conducted; (2) The investigator conducting the ID procedure must use “blind administration” or “blinded administration” during the ID procedure.

W&I § 8103(f) (Amended): Extends the previous five year firearm prohibition to life, if a person assessed as a danger to self or others and admitted to a facility for treatment, within one year of a prior 5150 admittance. Retains the five-year firearm ban for persons with W&I 5150 holds who do not have a previous hold within the preceding year.

Professional Services Command

P.C. § 13650 (New): “Law Enforcement Agency Regulations,” requires every local law enforcement agency to “conspicuously post” on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act (Gov’t Code 6250–6276.48).

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Constitutional Policing Update

2019 Legislative Update

Issue: 18-11

Custody Operations Command

Bail Reform Statutes Pursuant to SB 10: Not likely to go into effect.

Referendum proponents need 365,880 signatures and turned in over 500,000 signatures on November 20, 2018. Signatures are currently being checked. A duly qualified referendum challenging a statute stays the implementation of the statute until after the vote of the electorate. See Art. II, section 10(a) of the California Constitution and *Assembly of the State of California v. Deukmejian*, (1982) 30 Cal.3d 638, 654-657. If the referendum qualifies for the November 2020 ballot, SB 10 would go into effect only if SB 10 is approved by the voters. [Note: There are bail cases pending in the California Supreme Court, such as *In re Humphrey* (#S247278), *In re Webb* (#S247074), and *In re White* (#S248125) that may impact this as well.]

P.C. § 4019 (Amended): A defendant confined in or committed to a county jail treatment facility after having been found incompetent to stand trial pursuant to P.C. 1367–1376 is eligible to earn 50% conduct credits.

Field Operations and Investigative Services Command

P.C. § 629.52(a)(1) (Amended): Adds fentanyl to the list of controlled substances eligible for a wiretap order for the importation, possession for sale, transportation, manufacture, or sale of a specified controlled substance in violation of H&S 11351, 11351.5, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or 11379.6, where the substance exceeds 10 gallons by liquid volume or three pounds of solid substance by weight.

P.C. § 817 (Amended) and P.C. § 1526 (Amended): Eliminates the requirement of any telephone conversation between a magistrate and deputy/declarant during the obtaining of an arrest or search warrant, including the oral oath over the telephone, so long as the declaration in support of the warrant is signed under the penalty of perjury. Arrest and search warrants may be issued completely electronically by facsimile, email, or computer server. Oral oaths are still permitted.

P.C. § 853.6 (Amended): Expands the list of circumstances that permit a deputy who arrests a person for a misdemeanor to not cite and release the person: (1) more than one FTA on open misdemeanor cite; or (2) the person has been cited, arrested, or convicted for misdemeanor or felony theft from a store or from a vehicle in the previous six months; or (3) there is probable cause to believe that the person is guilty of committing organized retail theft, in violation of new P.C. 490.4. (See P.C. 490.4, below, for more information about organized retail theft.) Also, the statute adds that an arrest warrant or pending FTA gives the deputy reason to believe that the person would not appear in court, and therefore the person is eligible for booking.

P.C. § 1170.95 (New): Creates a procedure for a person convicted of murder on a felony murder theory or a natural and probable consequences theory, to file a petition to have the conviction vacated and to be re-sentenced. Applies to murder convictions of any age, and regardless of whether the defendant is in or out of custody or has completed the sentence. There is no specified deadline for filing such a petition. This bill also significantly limits the felony murder rule. (P.C. 188 and 189) A participant in the perpetration or attempted perpetration of a felony

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specified in P.C. 189 in which a death occurs, is liable for murder only if one of the three limited circumstances are proven: (1) the person was the actual killer; (2) the person was not the actual killer, but with the intent to kill, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer in the commission of murder in the first degree; or (3) the person was a major participant in the underlying felony and acted with reckless indifference to human life.

P.C. § 680.4 (New): Requires every law enforcement agency, medical facility, crime lab, or any other facility that receives, maintains, stores, or preserves sexual assault evidence kits (“rape kits”) to conduct an audit of all untested kits in their possession and by July 1, 2019, report to DOJ specified information for each kit. According to the legislative history, the purpose of this bill is to understand the extent of the rape kit backlog in California.

P.C. § 29805 (Amended): Provides that anyone convicted, on or after January 1, 2019, of a misdemeanor violation of P.C. 273.5 (domestic violence), is subject to a lifetime firearm prohibition instead of a 10-year prohibition, and makes a violation of the prohibition a felony wobblor. It is the conviction date that triggers the lifetime ban, not the commission date. Thus, a defendant who committed a misdemeanor violation of P.C. 273.5 in 2018 or years before, who is not convicted until 2019, may never own, purchase, receive, possess, or control, any firearm.

P.C. § 1417.9 (Amended): Expands retention of biological material related to a criminal case to apply to “any object or material that contains or includes biological material” instead of simply “biological material.” Also, requires the biological material to be retained while the person is incarcerated for the case, unless specific notice and timing requirements are met. Adds a specific notice requirement to the felon inmate at their current housing facility.

P.C. § 463 (Amended): Expands the crime of looting to include theft crimes committed while an area is under an evacuation order. Looting committed during a state of emergency or local emergency resulting from an earthquake, fire, flood, riot, or other natural or man-made disaster remains the same. Now looting also includes these crimes committed in an area that is under an evacuation order due to earthquake, fire, flood, riot, or other natural or man-made disaster.

P.C. § 490.4 (New): Creates the new felony/misdemeanor crime of Organized Retail Theft. Provides that organized retail theft can be committed in four different ways. See Penal Code for specifics. [Note: On the November 2020 ballot is an initiative measure, the “Reducing Crime and Keeping California Safe Act of 2018.” It does a number of things, including a different version of organized retail theft, addressing serial thieves, and limits the current reach Prop 47 and 57.]

P.C. § 25140 (Amended): Adds another option for where a handgun may legally be left in an unattended vehicle: locked in a locked toolbox or utility box. Defines “locked toolbox or utility box” to mean a fully enclosed container that is permanently affixed to the bed of a pickup truck or vehicle that does not contain a trunk, and is locked by a padlock, key lock, combination lock, or other similar lock device. The purpose of this amendment is

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to provide pickup drivers and drivers of vehicles without trunks a viable option for storing a handgun in a place that is not accessible from the passenger compartment.

W&I § 625.4 (New): Restricts the authority of a law enforcement officer to request that a voluntary DNA sample be collected directly from the person of a minor. See statute for all the specific requirements. Interestingly, it appears that even if minor consents to providing a voluntary DNA sample directly from his or her person, it cannot be taken if the minor's parent or attorney does not agree with the minor's decision to provide it. Note also that this section applies only to DNA samples collected "directly from the person of a minor." It would not apply to, for example, a DNA sample taken from a cup or bottle the minor drank from while in police custody or to DNA on an item the police seized when the minor was arrested. See statute for more, as the statute discusses retention of the DNA sample, as well as potential civil liability for the department for failure to comply.

V.C. § 21235 (Amended): Eliminates the requirement that an adult wear a bicycle helmet when operating a motorized scooter. Now only persons under age 18 are required to wear helmets. The statute also amends where a motorized scooter can be operated, i.e., bike lane vs. sidewalk.

V.C. §§ 23577, V.C. 23578, V.C. 23612 (Amended): Fixes DMV admonition pertaining to chemical tests in order to delete the criminal penalty for refusing to submit to a blood test and thereby bring them into conformity with the United States Supreme Court decision in *Birchfield v. North Dakota*, (2016) 136 S.Ct. 2160. Amends V.C. § 23577 to eliminate references to "chemical test" and replace them with "breath or urine test." Thus, the penalties in V.C. § 23577 apply to the willful refusal or failure to complete a breath or urine test, but do not apply to refusing to take or failing to complete a blood test.

Professional Services Command

P.C. § 368.5 (Amended): Requires local law enforcement agencies to include specifics language in their policy manuals related to elder abuse. According to the legislative history of this bill, proponents say that there have been a number of instances in which the false imprisonment or forced isolation of an elder or dependent adult has been treated as a civil matter instead of a criminal matter. One example cited is a conservator preventing family from visiting a conserved elder/dependent adult in an assisted living facility. This bill appears to be an attempt to educate law enforcement about the lesser known provisions of P.C. 368.

P.C. § 26165 (Amended): Makes changes to the required course of training in order for a person to be issued a license by a sheriff or a police chief to carry a concealed firearm. Adds that the course of training must be a minimum of eight hours and is not required to exceed 16 hours. Previously, there was no minimum number of training hours and the maximum permitted number of training hours was 16. Adds both firearm handling and shooting technique to the types of required instruction (firearm safety and firearm laws.) Applicants for a concealed carry permit must demonstrate safe handling of, and shooting proficiency with, each firearm for which the applicant is applying to be licensed to carry. Requires a licensing authority to make available to the public the standards it uses for the live-fire shooting exercises, including the minimum number of rounds to be fired and the

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Constitutional Policing Update

2019 Legislative Update

Issue: 18-11

minimum passing scores from specified firing distances. Adds the above new requirements for license renewal applicants as well, but keeps the minimum number of hours for license renewal training at four hours.

P.C. § 16690 (Amended): Statute now permits a retired peace officer to possess a large capacity magazine. This amendment makes the statute consistent with existing P.C. § 32406, which already permit honorably retired peace officers to possess large-capacity magazines. Also adds retired Level I reserve officers who meet the requirements of P.C. 26300(c)(2) (carried a firearm while on duty and served as a reserve officer for the time period specified in the particular agency's policy) so that a retired Level I reserve officer is permitted to possess a large-capacity magazine.

P.C. § 422.87 (New): Requires updates to hate crimes policy to include specific information. See statute for exact language.

Gov't C. § 6254 (AB 748) (Amended) (Effective July 1, 2019): Amends the California Public Records Act to expand public access to department video or audio recordings that relate to a critical incident. Provides that a recording relates to a critical incident if it depicts the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which the use of force by a peace officer or custodial officer against a person results in death or great bodily injury. Certain time periods and requirements apply if the information is to be withheld.

Administrative Services Command

P.C. § 29180 (Amended): Authorizes law enforcement to destroy a confiscated firearm that does not bear an engraved serial number or mark of identification obtained from DOJ.

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Constitutional Policing Update

Fifth Amendment- Miranda Part One

Issue: 17-02

This update is the first of a three part series on the 5th Amendment right against self-incrimination and to the assistance of counsel as recognized by *Miranda v. Arizona*¹ and the cases that followed. This update focuses on the invocation of Miranda rights, and when you have a duty to clarify an unclear attempt at invocation. The second update will focus on when the Miranda admonishment is required, and how it is waived. The third update will discuss the timing of questioning a suspect while protecting their 5th Amendment rights, and exceptions to Miranda.

A complete understanding of when/how a suspect invokes their 5th Amendment rights is necessary because a Deputy can 1) prematurely end the interrogation under the mistaken belief that the questioning must cease; or 2) fail to get clarification, when required, and incriminating statements made would be inadmissible, or 3) continue questioning when there was a valid invocation of the suspect's 5th Amendment rights, rendering the incriminating statement inadmissible.

Test yourself on the scenarios below:

All the questions below assume that the suspect is in custody, they were advised of their Miranda Rights, and being interrogated by an OCS D Deputy.

Question: Is the circumstance below a valid invocation of the right to remain silent?

After being advised of his Miranda Rights, the suspect just sits there, silently. There is complete silence for 2 hours and 45 minutes.

Answer: This is not an invocation of the right to remain silent. Silence alone is insufficient to constitute an invocation.² One needs to specifically invoke their right to remain silent.

Two rights are provided under the 5th Amendment:

- 1) Not to incriminate oneself
- 2) To the assistance of an attorney before and during questioning

Question: Is the circumstance below a valid invocation of the right to remain silent?

Suspect: "I don't know if I want to talk anymore since it's someone killed."

Answer: No. This is not a clear invocation of the right to remain silent.³ In order for an invocation to be "unambiguous" the statement made by the suspect needs to be sufficiently clear to a reasonable officer that they are invoking their 5th Amendment right.⁴ The 9th Circuit states that a statement open to more than one interpretation, or has a double meaning would be ambiguous⁵ and therefore would not be an invocation.

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Constitutional Policing Update

Fifth Amendment- Miranda Part One

Issue: 17-02

Question: Is the circumstance below a valid invocation of the right to remain silent?

After acknowledging he understands his Miranda rights, the Deputy asks "Can we talk about what happened?" The suspect replies, "I don't think so. At this point, I don't think I can talk," "I need to be able I think," "I don't want to discuss it right now."

Answer: Yes. This is a clear unwillingness to submit to the interview with Deputies. Body language and inflection in tone will play a role in the court's analysis. A Deputy can take this opportunity to clarify that the suspect does not want to talk. However, Deputies must be careful not to attempt to convince a suspect into talking after what was already a legally sufficient invocation.⁶ Up until the suspect says, "I don't want to discuss it right now," clarification is permissible. But afterwards, he has invoked, and all questions (clarifying or not) must end.⁷ (Note: Lawfully reinitiating questioning will be addressed in Miranda Part Three.)

Question: What if during the Miranda Advisement the suspect does not acknowledge that he understands his right? For example, Deputy reading from his Miranda Card says: "You have the right to remain silent. Do you understand?" The suspect does not audibly answer in the affirmative.

Answer: Without evidence that a suspect acknowledged that he understood the advisement, any subsequent statement is inadmissible under Miranda.⁸

Question: Are any of the following examples a valid invocation of the right to counsel?

Suspect: "I think I would like to talk to a lawyer." Or "Maybe I should talk to a lawyer." Or "I want to talk to my probation officer." Or "Should I be telling you or should I talk to a lawyer?"

Answer: None of these are valid invocations of the right to counsel. To invoke your right to counsel it needs to be clear, unambiguous, and unequivocal.⁹

Question: Are any of the following examples a valid invocation of the right to counsel?

Suspect: "If I'm under arrest, I wanna lawyer¹⁰." Or "I'd like an attorney because this is serious¹¹." Or "Am I going to be able to get an attorney?¹²" Or "I just thinkin', maybe I shouldn't say anything without a lawyer...¹³"

Answer: The first two are valid invocations and questioning must cease. The second two are either a question about a lawyer, or an expression of uncertainty about a lawyer. Neither of those are legally sufficient to invoke the right to counsel.

Question: What if the suspect says that he will not provide a written statement without first talking to a lawyer?

Answer: This is a limited invocation- meaning it is invoking the right to counsel only on that specific point. In this case, the Deputy could continue getting a verbal statement, but not a written one.¹⁴

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Constitutional Policing Update

Fifth Amendment- Miranda Part One

Issue: 17-02

Question: Deputy arrests a suspect for a parole violation. Suspect says, “Why are you revoking my parole?” Deputy responds, “You’ll find out later.” Suspect says, “Well I want a lawyer right now.” No questions are asked of the suspect at that time. The suspect is transported to the police station, read his Miranda rights and he confesses to a robbery (the underlying reason for the parole violation). Is the suspect’s statement taken at the police station admissible?

Answer: Yes. Although the suspect was very clear (“I want a lawyer right now”) he was not being interrogated at that time, a suspect cannot invoke in advance of questioning.¹⁵ That is called an “anticipatory invocation.” If, however, a suspect interrupts your reading of the Miranda Rights and says that he does not want to talk or he wants a lawyer, then you must stop questioning.¹⁶ This circumstance is not an “anticipatory invocation” because it is during the interrogation process.

Question: What if a Deputy is dispatched to a DV call and he approaches a woman in the driveway and asks her who she is? She responds with “I want a lawyer right now.” Can the Deputy continue to ask her questions?

Answer: Yes. Because Miranda cannot be invoked anticipatorily, she is not permitted to invoke when she is not the subject of a custodial interrogation. (Note: More on custodial interrogations in Miranda Part Two.) If she is later advised of her rights and waives, then the statement she provides will likely be admissible.¹⁷

When does a Deputy have to clarify a suspect’s ambiguous attempt at invocation?

Before beginning the interrogation, the Deputy must clarify an ambiguous attempt at invoking the right to silence or counsel.¹⁸ “Prior to obtaining an unambiguous and unequivocal waiver, a duty rests with the interrogating officer to clarify any ambiguity before beginning general interrogation.”¹⁹

If the invocation is clear and unambiguous, then the Deputy should be careful in getting clarification. The courts will look at the attempt to get “clarification” of a clear invocation as an attempt to convince the person to answer questions and violate their constitutional rights. In order to legally “clarify” whether a suspect understands or waives there first must be ambiguity. If the suspect clearly indicates his unwillingness to discuss his case freely with the police then all discussions must end.²⁰

If the suspect waives his rights, then in the middle of the interrogation starts to be indecisive and ambiguously attempts to invoke his right to silence or an attorney, the Deputy is not legally obligated to get clarification.²¹ After a valid waiver, a reasonable officer should not have to guess whether a suspect is trying to assert his right to silence or counsel. After a waiver, any attempt to invoke one’s 5th Amendment rights must be clear and unambiguous.²²

Question: Deputy reads the suspect his Miranda Advisement. The suspect responds “Maybe I should talk to a lawyer.” Is the Deputy legally obligated to get clarification?

Answer: Yes. Before beginning the interrogation, the Deputy must get clarification, without trying to change the suspect’s mind.²³

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Constitutional Policing Update

Fifth Amendment- Miranda Part One

Issue: 17-02

Question: Deputy reads the suspect his Miranda Advisement. The suspect acknowledges he understands his rights and begins to talk. An hour and a half into the interrogation, the suspect says “Maybe I should talk to a lawyer.” Is the Deputy legally obligated to get clarification?

Answer: No. A Deputy is not required to clarify the suspect’s wishes or to repeat the warnings or to interrupt the questioning.²⁴ Note: the same words are used by the suspect in both of the above examples, but the different facts change the answer. Writing a complete and accurate report about the suspect’s words or conduct will help the courts determine whether the statement was lawfully obtained from a suspect. This is a very fact specific area of the law, and the admissibility of the statement will be determined in light of all of the circumstances.²⁵

Remember, if at any time the suspect clearly and unambiguously invokes, then the questioning must stop on ALL cases.²⁶

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- ¹ 384 U.S. 436 (1966)
 - ² *Berghuis v. Thompkin*, 560 U.S. 370 (2010)
 - ³ *People v. Wash*, 6 Cal. 4th 215, 238-239 (1993)
 - ⁴ *Davis v. United States*, 512 U.S. 452, 459 (1994)
 - ⁵ *U.S. v. Rodriguez*, 518 F. 3d 1072 (9th Cir. 2008)
 - ⁶ *People v. Crittenden*, 9 Cal. 4th 83 (1994)
 - ⁷ *People v. Peracchi*, 86 Cal.App. 4th 353 (2001)
 - ⁸ *Tague v. Louisiana*, 444 U.S. 469 (1980)
 - ⁹ *Clark v. Murphy*, 317 F.3d 1038 (9th Cir, 2003); *Fare v. Michael C.* 442 U.S 707 (1979);
 - ¹⁰ *People v. Boyer*, 48 Cal.3d 247 (1989)
 - ¹¹ *People v. McClary*, 20 Cal. 3d 218 (1977)
 - ¹² *U.S. v. Shabaz*, 579 F.3d 815 (2009)
 - ¹³ *People v. Bestelmeyer*, 166 Cal.App. 3d 520 (1985)
 - ¹⁴ *Connecticut v. Barrett*, 479 U.S. 523 (1987)
 - ¹⁵ *People v. Buskirk*, 175 Cal.App.4th 1436 (2009)
 - ¹⁶ *People v. Wash*, 6 Cal. 4th 215 (1993)
 - ¹⁷ *Bobby v. Dixon*, 565 U.S. 23 (2011)
 - ¹⁸ *People v. Thompson*, 50 Cal.3d 134 (1990)
 - ¹⁹ *U.S. v. Rodriguez*, 518 F. 3d at 1080; *People v. Duff*, 58 Cal.4th 527 (2014)
 - ²⁰ *People v. Carey*, 183 Cal.App. 3d 99 (1986)
 - ²¹ *People v. Suff*, 58 Cal. 4th 1013 (2014)
 - ²² *Davis v. U.S.*, 512 U.S. 452 (1994)
 - ²³ *People v. Williams*, 49 Cal. 4th 405 (2010)
 - ²⁴ *Davis v. U.S.*, 512 U.S. 452 (1994)
 - ²⁵ *People v. Hayes*, 38 Cal.3d 780 (1985)
 - ²⁶ *Arizona v. Roberson*, 486 U.S. 675 (1988)

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Constitutional Policing Update

Fifth Amendment- Miranda Part Three

Issue: 18-01

This update is the third of a three part series on the 5th Amendment right against self-incrimination and to the assistance of counsel as recognized by *Miranda v. Arizona*¹ and the cases that followed. This update focuses on when a deputy can reinitiate an interrogation after a suspect has invoked, in what circumstances a delay in giving the Miranda admonishment is legally acceptable, and exceptions to Miranda.

A Miranda advisement is required when a suspect is both 1) in custody (meaning he or she is under arrest, or the functional equivalent of arrest), AND 2) he or she is about to be interrogated. If a suspect has invoked their constitutional rights under Miranda, then questioning must cease in all cases. Under certain circumstances an interrogation can be re-initiated after a suspect has invoked. Understanding when the law permits additional questioning is important in protecting the integrity of your investigation and preserving the constitutional rights of those you interrogate.

Who reinitiates questioning is a critical factor.

Re-initiation by the suspect

A suspect who has invoked his Miranda rights may reinitiate questioning if he chooses to do so.² If a suspect reinitiates questioning without any influence on the part of law enforcement, then that is his right. Just as a suspect has the right to invoke their constitutional rights, they also have a right to waive them.

Once the subject has invoked, his decision to reinitiate the conversation with police must be “clearly and unequivocally” indicated, with a heavy burden on the prosecution to show that no one pressured the suspect.³ When an in-custody suspect initiates further discussion with Deputies indicating that he now wants to talk with the police, the best practice is to fully document the interaction, give a new Miranda admonishment, and obtain an express waiver.⁴

Question: Suspect invokes his rights under Miranda. All questioning is terminated immediately. Later, the suspect asks the Deputy “What’s going to happen to me now?” Can the Deputy re-mirandize the suspect and ask questions likely to elicit an incriminating response?

Answer: Yes.⁵ The suspect invited renewed questioning by initiating questions of law enforcement. If the suspect waives his rights, then his statements will likely be admissible in trial.

Re-initiation by law enforcement

If law enforcement is re-initiating questioning, then the manner in which the suspect invoked his Miranda rights becomes relevant.

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Constitutional Policing Update

Fifth Amendment- Miranda Part Three

Issue: 18-01

Right to Remain Silent

If a suspect invoked his right to remain silent and questioning ended immediately then law enforcement may return and attempt to question a suspect at a later time. The question is whether the officer "scrupulously honored" the defendant's invocation.⁶

Question: How can the Deputy ensure that re-initiation of questioning will be valid?

Answer: First, when the initial invocation is made it is critical that all questioning ends immediately. Secondly, a fresh set of Miranda warnings are needed before beginning any additional questioning. Third, the re-initiation is valid so long as no coercion is used in obtaining the subsequent waiver.

Question: How long must an officer wait to reinitiate questioning of a suspect who has invoked their right to remain silent?

Answer: To interrogate about a different case, waiting two hours has been found to be sufficient.⁷ For questioning on the same case, four hours has been found to be sufficient.⁸

Question: What if the suspect's response when he is initially advised of his Miranda rights is "I don't want to talk now, but I'll make a statement in a couple of days." Does that count as an invocation, and if so, can the Deputy reinitiate questioning?

Answer: Yes, that is a clear invocation of the suspect's right to remain silent as to immediate questioning. But, if the Deputy returned two days later, as the suspect indicated, then re-read the Miranda admonishment, and the suspect chose to talk, then the statements obtained will likely be admissible. When a suspect offers to give a statement at a later time, so long as the condition is met, Deputies can act on the suspect's offer and reinitiate questioning with a new Miranda advisal.

Right to Counsel

If a suspect invoked his right to counsel and remains in custody, no questions can be asked by the original arresting agency or by any other law enforcement agency. This restriction is not forever. If a suspect is released from custody or there is a break in custody and 14 days have passed from the date the suspect invoked, then law enforcement can re-advise the suspect of their Miranda rights, and allow the suspect an opportunity to give a statement. It is important to note this rule applies to an unfiled criminal investigation. Once charges are filed, the 6th Amendment attaches, and all discussions with the suspect on the pending case must cease.

Question: Inmate Smith is a sentenced inmate housed at an OC Jail facility. He is a suspect in another unfiled investigation. On January 5, 2017, Deputies attempt to question about the new case. Inmate Smith invokes his right to counsel. No questions are asked and he is returned to his cell. He remains in continuous custody after invoking his right to counsel. Can law enforcement re-initiate questioning at a later time? If yes, when?

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Constitutional Policing Update

Fifth Amendment- Miranda Part Three

Issue: 18-01

Answer: Yes. In a custodial facility, returning an inmate to the general jail population is considered a break in custody when calculating the 14-day period.⁹ Therefore, if Inmate Smith invokes his right to counsel on January 5, 2017. He would be eligible for reinitiated questioning by law enforcement on January 19, 2017, even if he remained in continuous custody on his sentenced case.

Delayed Advisal and Pre-Admonishment Conversations

If a suspect is questioned while in custody prior to any Miranda warnings the statements made in that custodial interrogation will not be admissible in the prosecution’s case in chief. If the questioning was brief, it can be cured by Mirandizing the suspect and obtaining a valid waiver.¹⁰ Although, the pre-Miranda statements still will not be admissible, the post-waiver statements likely would be. The Court will view the Deputy’s actions carefully. If the Deputy conducts an extensive custodial interrogation prior to Mirandizing the suspect, then after obtaining incriminating statements, gives the Miranda warning and has the suspect repeat their statement, then the Court will likely find that to be an invalid waiver.¹¹ The logic behind this rule is that the suspect will feel that the bell has already been rung, the incriminating statements have been made, so when they subsequently waive their rights, it is not knowing, intelligent and voluntary. Therefore, the statement is inadmissible. Deputies should use caution when engaging in questioning prior to reading the suspect their Miranda rights.

A Deputy cannot try to soften up a suspect in order to obtain a valid waiver.

What about general conversations prior to giving the Miranda advisal?

If the Deputy tries to put the suspect in a more appropriate frame of mind before admonishment, then a “clever softening-up” issue arises.¹² The Deputy cannot try to purposely calm down a suspect, and ingratiate himself, in order to obtain a valid waiver.¹³ If the pre-admonishment conversations are not done for the purpose of softening him (or her) up, then that portion of the conversation might be admissible.¹⁴

If pre-admonishment questioning is limited and voluntary, and the waiver obtained was not the product of “softening up,” then the statements obtained post-Miranda waiver will likely be admissible.¹⁵ For example, telling a suspect that; “There are two sides to every story,” is not a comment designed to soften him up and induce a confession.¹⁶

On the other hand, the court determined that the defendant was “softened up” when, after he made an ambiguous reference to needing an attorney, and instead of addressing that ambiguity, the officer offered to tell him why they were there, and what information they had. After doing so, defendant waived. The waiver was held to be invalid because of the officer’s intentional attempt to avoid dealing with defendant’s request for an attorney.¹⁷

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Constitutional Policing Update

Fifth Amendment- Miranda Part Three

Issue: 18-01

Question: When a Deputy is advising a suspect about his Miranda rights, must she tell the suspect about all the crimes she wishes to question him about?

Answer: No.¹⁸ If a person in custody for purposes of Miranda does not invoke, then Deputies are permitted to ask questions about any uncharged crimes without any new warnings.

Exceptions to Miranda

Public Safety Exception

If a Deputy asks questions of an in-custody suspect legitimately for the purpose of resolving a threat to the public safety, then a Miranda admonishment or waiver is not required.¹⁹ The test is whether there was an "objectively reasonable need to protect the police or the public from any immediate danger."²⁰

For example:

To determine the location of a gun hidden by a suspected murderer²¹

To verify the possible presence of a gun in a crowded area²²

To determine whether a person may be armed after locating ammunition²³

The Public Safety Exception, however, does not allow for the admission of defendant's responses if they are deemed involuntary (e.g., coercion used), or there is no longer any exigency (e.g., crime scene is already secured).

Officer or Defendant's Safety

Being closely related to the above, the rule has been extended to allow officers to ask questions relative to officer or a defendant's safety.

For example:

Asking about firearms when serving a search warrant for large amounts of narcotics²⁴

To determine possible presence of a syringe before searching suspect incident to arrest²⁵

Asking about ingestion of drugs to help prevent an overdose²⁶

Question: What about asking about a suspect's gang affiliation when on the booking loop?

Answer: It is appropriate to ask about a suspect's gang affiliation for the safety and security of the jail and in order to properly classify the suspect. However, because the court considers these questions to be custodial interrogation, the suspect's answer about his or her gang affiliation is not admissible in a criminal case without a waiver of Miranda.²⁷

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Constitutional Policing Update

Fifth Amendment- Miranda Part Three

Issue: 18-01

¹ 384 U.S. 436 (1966).

² *Edwards v. Arizona*, 451 U.S. 477, 484-485 (1981); *People v. Gamache*, 48 Cal.4th 347, 384-385 (2010); *People v. Tully*, 54 Cal.4th 952, 985 (2012); *People v. Gonzalez*, 210 Cal.App.4th 875, 882 (2012); *People v. Warner*, 203 Cal.App.3rd 1122 (1988); *United States v. Oquendo-Rivas*, 750 F.3rd 12 (1st Cir. 2014); *United States v. Finch*, 557 F.2nd 1234, 1236 (8th Cir. 1977); *United States v. Udey*, 748 F.2nd 1231, 1241-1242 (8th Cir. 1984); *Grooms v. Keeney*, 826 F.2nd 883, 885-886 (9th Cir. 1987); *United States v. Hsu*, 852 F.2nd 407, 409-411 (9th Cir. 1988).

³ *Edwards v. Arizona*, 451 U.S. at 484-485; *People v. Gamache*, 48 Cal.4th 347, 384-385 (2010); *People v. Tully*, 54 Cal.4th 952, 985 (2012); *People v. Gonzalez*, 210 Cal.App.4th 875, 882 (2012).

⁴ *People v. Davis*, 46 Cal.4th 539, 596-597 (2009); *People v. Enraca*, 53 Cal.4th 735, 752 (2012).

⁵ *Oregon v. Bradshaw*, 462 U.S. 1039 (1983).

⁶ *Michigan v. Mosley*, 423 U.S. 96, 104 (1975) (emphasis added); *McNeil v. Wisconsin*, 501 U.S. 171 (1991); *People v. Warner*, 203 Cal.App.3rd 1122 (1988); *People v. DeLeon*, 22 Cal.App.4th 1265, 1269-1272 (1994).

⁷ *Michigan v. Mosley*, 423 U.S. 96 (1975).

⁸ *Grooms v. Keeney*, 826 F.2nd 883, 885-886 (9th Cir. 1987); *People v. Warner*, 203 Cal.App.3d 1122, 1129-1131 (1988); *U.S. vs. Hsu*, 852 F.2d 407, 410-411 (9th Cir. 1988).

⁹ *Maryland v. Shatzer*, 559 U.S. 98 (2010).

¹⁰ *Oregon v. Elstad*, 470 U.S. 298 (1985).

¹¹ *Missouri v. Seibert*, 542 U.S. 600 (2004).

¹² *People v. Honeycutt*, 20 Cal.3rd 150, 160 (1977).

¹³ *People v. Honeycutt*, 20 Cal.3rd 150, 160 (1977).

¹⁴ *People v. Patterson*, 88 Cal.App.3rd 742, 750-752 (1979); *People v. Kyllingstad*, 85 Cal.App.3rd 562, 566-567 (1978).

¹⁵ *People v. Scott*, 52 Cal.4th 452, 476-478 (2011); *People v. Mickey*, 54 Cal.3rd 612, 647 (1991).

¹⁶ *People v. Michaels*, 28 Cal.4th 486, 511 (2002).

¹⁷ *People v. Munoz*, 83 Cal.App.3rd 993, 996-997 (1978).

¹⁸ *Colorado v. Spring*, 479 U.S. 564, 577 (1987).

¹⁹ *New York v. Quarles*, 467 U.S. 639 (1984).

²⁰ *United States v. Brady*, 819 F.2nd 884, 888, fn. 3 (9th Cir. 1987); *Allen v. Roe*, 305 F.3rd 1046, 1050 (9th Cir. 2002).

²¹ *People v. Sims*, 5 Cal.4th 405, 450 (1993).

²² *United States v. Brady*, 819 F.2nd 884, 888 (9th Cir. 1987).

²³ *United States v. Knox*, 950 F.2nd 516, 519 (8th Cir. 1991).

²⁴ *People v. Simpson*, 65 Cal.App.4th 854 (1998).

²⁵ *People v. Cressy*, 47 Cal.App.4th 981 (1996); *United States v. Carrillo*, 16 F.3rd 1046 (9th Cir. 1994).

²⁶ *People v. Stevenson*, 51 Cal.App.4th 1234 (1996) (disapproved on other grounds).

²⁷ *People v. Elizalde et al.*, 61 Cal.4th 523, 533-540 (2015).

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Constitutional Policing Update

Fifth Amendment- Miranda Part Two

Issue: 17-03

This update is the second of a three part series on the 5th Amendment right against self-incrimination and to the assistance of counsel as recognized by *Miranda v. Arizona*¹ and the cases that followed. This update focuses on when the Miranda admonishment is required, and how it is waived.

Warning a suspect of their Miranda rights is not required merely because he or she is under arrest. The suspect needs to be 1) in custody (meaning he or she is under arrest, or the functional equivalent of arrest), AND 2) he or she is about to be interrogated. A Miranda advisement is required when a suspect is both in custody and subject to an interrogation by law enforcement.

Having a firm grasp on what is a custodial interrogation is important for a variety of reasons. First, constitutional rights need to be protected. Secondly, your actions will be reviewed by judges and possibly again by appellate courts who are conducting an independent review of the circumstances.² The best way to protect the integrity of your case is to understand the law and prepare a detailed written report, including audio or video recordings of a suspect’s statement whenever possible. Test your knowledge on custodial interrogations and waivers with the Q & A below.

What is “in custody”?

Courts will look at the totality of the circumstances, including:

- 1) Number of Deputies
- 2) Weapons
- 3) Words used by the Deputy
- 4) Handcuffs/Shackles
- 5) Location of questioning
- 6) Duration of questioning
- 7) Time the person is restrained
- 8) Restraints used, if any, during questioning
- 9) Control over terminating questioning
- 10) Release after questioning

In Custody

A suspect is in custody when they are under formal arrest or the functional equivalent of arrest.³ The test is not whether the deputy thought the person was a suspect, or if the suspect himself felt as though he was under arrest. The test is whether a reasonable person would believe that their freedom of action was restrained in any significant way.⁴ The overall circumstances will be evaluated by the court to determine if the person was in custody. If, in light of all the circumstances, a reasonable person would believe that he is not free to leave then he is in custody for purposes of the 5th Amendment.

Question: What if the person being questioned is housed in an OC jail facility?

Answer: A suspect who is already in jail or prison is not in custody for Miranda purposes without some restriction on his or her freedom beyond the suspect’s normal prison setting.⁵ Unless there are additional restrictions on his movement, then he is not facing the “coercive pressures Miranda was designed [to protect].”⁶ If the inmate is told that he can return to his cell anytime, and does not have to

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Fifth Amendment- Miranda Part Two

Issue: 17-03

answer any questions, and is not physically restrained during the interview, then Miranda will not apply.⁷ Deputies still need to be mindful of ALL other applicable Constitutional Rights that may prohibit questioning inmates in custody. The Custody Intelligence Unit will assist any Deputy who has concerns over whether to initiate questioning of an inmate housed in an OC jail facility.

Question: Are Miranda warnings needed when you are interrogating a suspect over the telephone?

Answer: No. The suspect is not in custody, there is no inherent coercion over the telephone, and he or she could terminate questioning anytime.⁸

Question: Deputy handcuffs a person and places him in the back of a patrol car. Deputy then tells the person that they are not under arrest and proceeds to ask him questions. Is he in custody for Miranda purposes?

Answer: Yes. Just telling a person that they are not under arrest will not change the court's analysis. The question is, looking at the totality of the circumstances would a reasonable person believe that they were free to leave.⁹ When trying to determine whether someone is in custody, consider whether an innocent person would find the circumstances coercive.¹⁰ A temporary detention, without other coercive factors, will not automatically turn into a custodial situation.¹¹ This is especially true if restraints are not used, and the person is told they are free to leave. A detention turns into a situation where Miranda warnings would be required if you used force during questioning, restrained the person's freedom amounting to a custodial arrest, or if the questioning is confrontational, accusatory, prolonged or coercive.¹²

Question: Deputies have evidence to support that the suspect was involved in a robbery/homicide. Wearing plain clothes and driving an unmarked car, two Deputies approached the suspect sitting on the porch outside his home. Deputies asked if he would accompany them to headquarters for an interview. The suspect agreed. The suspect was not handcuffed. Deputy #1 told the suspect that he was not under arrest, that the interview was voluntary, that he could stop the questioning at any time, and they would drive him back home at the end of the interview. No Miranda warnings were given. After giving incriminating statements, the suspect was taken home by the Deputies and arrested the next morning. Did the Deputies make a mistake in not Mirandizing the suspect?

Answer: No. The totality of the circumstances reflected that the suspect was not in custody and Miranda warnings were not needed. The suspect's incriminating statements will likely be admitted in his trial.¹³ Merely because the interview is taking place at headquarters will not make this an interrogation.¹⁴

Question: An Investigator questions an ice cream truck driver about a rape and murder of a 10-year-old girl whose body was dumped in the river by a driver of a turquoise car. During the course of questioning the witness randomly adds that he borrowed a friend's turquoise car on the night of the murder. Now the Investigator realizes that this person is not a

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witness, but that he is a suspect. The Investigator does not give Miranda warnings, but in her mind she knows that this guy is not free to leave the station. Will the statements from the suspect be admissible?

Answer: Yes. An Investigator’s unarticulated suspicions do not change the objective circumstances of an interrogation. In deciding whether a person is in custody for Miranda purposes, the court will not question the officer’s internal thoughts or suspicions.

Interrogation

An interrogation is when questions are posed with the intent to “elicit an incriminating response.”¹⁵ Sometimes, the Deputy will not be asking any questions of the suspect at all, but their actions are intended to elicit an incriminating response.¹⁶ If a reasonable person would believe the Deputy’s actions are intended to elicit an incriminating response, then the court will likely find that this is the functional equivalent of an interrogation.¹⁷ Confronting with evidence likely to elicit an incriminating response, even if not directly asking the suspect any questions could be considered an “interrogation” for Miranda purposes.¹⁸ Also, taking advantage of one’s fears or presenting evidence in a provocative manner could be the functional equivalent of an interrogation, requiring Miranda advisement.¹⁹

Question: Officer arrives on scene to a call of shots fired and asks “What happened?” Suspect says “I just shot my roommate.” Is that an interrogation in violation of Miranda?

Answer: No. Preliminary inquiries about identity or why you are on scene typically will not be deemed an interrogation.²⁰

Question: What if a suspect is in custody on Case A and she invokes her right to counsel. The suspect discusses Case A with her lawyer. After finding out that she spoke to her lawyer on Case A, can the Deputy Mirandize her on Case B and ask her questions?

Answer: Not until 14 days have passed if she has remained in continuous custody after her first invocation of her right to counsel. Deputies cannot discuss ANY case with someone who was in continuous custody and has invoked their right to counsel, until 14 days have passed.²¹ (Note: More on reinitiating questioning in Miranda Part Three.)

Waiver

A suspect’s waiver needs to be knowing, intelligent, and voluntary.²²

Question: What is knowing?

Answer: Knowing means that the suspect is aware of his Miranda rights at the time of his statement. Reading the suspect his or her Miranda rights from your card before beginning questioning will satisfy this requirement.²³

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Question: What is intelligent?

Answer: No one is expecting that the suspect be a legal scholar. Just that he or she understands their rights. It is very important to wait for the suspect's response as you are reciting from your Miranda card. Do not move on to another question on the card until the suspect expresses that they understood each right. If a suspect indicates that they do not understand, try repeating directly from the card. If there still is a challenge with understanding, do not attempt to clarify the law. Instead you can describe the right in less formal terms. For example, "You have a right to remain silent. You don't have to talk to us if you don't want to," "Anything you say may be used against you in court. When you are talking to us, anything you say can be used in court in a trial," "You have the right to an attorney before and during any questioning. When you are talking to us you have a right to have a lawyer with you," "If you cannot afford an attorney, one will be appointed for you before questioning. We will get you a lawyer before we ask any questions."²⁴

Question: What is voluntary?

Answer: A waiver that is not coerced, or the result of intimidating or threatening the suspect. The test is whether the suspect's will was overborne at the time he confessed.²⁵ Making promises to a suspect will make the statement involuntary.²⁶

A waiver of Miranda Rights can be "express," meaning the suspect says they are willing to speak with their rights in mind, or the waiver can be "implied," meaning the suspect's actions or words indicated that they wanted to speak to law enforcement.²⁷

Express waivers can be obtained verbally or in writing. Implied waivers are valid if it is clear that the suspect understood their rights and they were willing to answer questions. Courts will look at the surrounding circumstances to ensure that the suspect was not coerced into giving a statement.²⁸ Ultimately, in court the burden is on the government to show that the waiver by the suspect was in fact a knowing, intelligent and voluntary waiver.²⁹

We discussed "anticipatory invocations" in Miranda Part One. A suspect cannot invoke his right to silence or counsel in advance of the interrogation. Similarly, in order for a waiver to be valid, it must also be close in time to the beginning of the interrogation.³⁰

Remember, this three-part series is only addressing an adult's 5th Amendment Miranda rights. Your actions will need to also take into consideration other applicable constitutional rights, such as the 4th Amendment or 6th Amendment.

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- ¹ 384 U.S. 436 (1966)
- ² *Thompson v. Keohyane*, 516 U.S. 99, 105-107 (1995)
- ³ *Miranda v. Arizona*, 384 U.S. at 444; *California v. Beheler*, 463 U.S. 1121, 1125 (1983)
- ⁴ *Stansbury v. California*, 511 U.S. 318 (1994); *Berkemer v. McCarty*, 468 U.S. 420, 440 (1984); *Miranda v. Arizona*, 384 U.S. at 444.
- ⁵ *People v. Macklem*, 149 Cal.App.4th 674 (2007); *People v. Fradiue*, 80 Cal.App.4th 15, 19-20 (2000); *Cervantes v. Walker*, 589 F.2d 424, 427-428 (9th Cir. 1978)
- ⁶ *Howes v. Fields*, 565 U.S. 499, 506 (2012); *Maryland v. Shatzer*, 559 U.S. 98 (2010).
- ⁷ *Howes v. Fields*, 565 U.S. 499 (2012)
- ⁸ *People v. Anthony*, 185 Cal.App. 3d 1114 (1986)
- ⁹ *U.S. v. Henley*, 984 F.2d 1040 (9th Cir. 1993)
- ¹⁰ *Dyer v. Hornbeck*, 706 F.3d 1134, 1138 (9th Cir. 2013)
- ¹¹ *People v. Clair*, 2 Cal. 4th 629 (1992); *U.S. v. Gregory*, 891 F.2d 732, 735 (9th Cir. 1989)
- ¹² *People v. Taylor*, 178 Cal.App.3d 217, 228-229 (1986); *People v. Davidson*, 221 Cal.App.4th 966, 973 (2013).
- ¹³ *People v. Zaragoza*, 1 Cal.5th 21 (2016)
- ¹⁴ *Oregon v. Mathiason*, 429 U.S. 492, 495 (1977)
- ¹⁵ *Arizona v. Mauro*, 481 U.S. 520 (1986)
- ¹⁶ *Rhode Island v. Innis*, 446 U.S. 291 (1980)
- ¹⁷ *Rhode Island v. Innis*, 446 U.S. 291 (1980)
- ¹⁸ *People v. Sims*, 5 Cal.4th 405 (1993)
- ¹⁹ *People v. Boyer*, 48 Cal.3d 247, 274 (1989)
- ²⁰ *People v. Davidson*, 221 Cal.App.4th 966, 972-973 (2013).
- ²¹ *Minnick v. Mississippi*, 49 U.S. 146 (1990); *Maryland v. Shatzer*, 559 U.S. 98 (2010)
- ²² *Miranda v. Arizona*, 384 U.S. at 444 (1966)
- ²³ *Colorado v. Spring*, 479 U.S. 564, 574 (1987)
- ²⁴ *People v. Cruz*, 44 Cal.4th 636, 668 (2008)
- ²⁵ *People v. Cruz*, 44 Cal.4th at 669
- ²⁶ *People v. Neal*, 31 Cal.4th 63, 79 (2003)
- ²⁷ *North Carolina v. Butler*, 441 U.S. 369 (1979)
- ²⁸ *Berghuis v. Thompkins*, 560 U.S. 370, 385-386 (2010)
- ²⁹ *Miranda v. Arizona*, 384 U.S. 436 (1966)
- ³⁰ *People v. Mickle*, 54 Cal.3d 140, 170 (1991)

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Constitutional Policing Update

"Good to Know"

When one's presence in a place is wrongful they are not protected by the 4th Amendment

Issue: 18-08

A person who is prohibited from entering a residence by a court's no-contact order lacks a legitimate expectation of privacy in that residence and may not challenge its search on Fourth Amendment grounds.

Facts and Ruling:

Detectives investigating a robbery at a local bank had probable cause to believe that Gerald Schram committed the crime. The detectives were able to associate Schram with the home of his girlfriend, Zona Satterfield. However, Ms. Satterfield previously obtained a court order that Schram is to have no-contact with her. Without a warrant, detectives went to Ms. Satterfield's home, found Schram inside and arrested him. Schram filed a motion to suppress the warrantless seizure of his person. The lower court denied his motion because he could not challenge the entry into "a residence that he is legally barred from entering." The Ninth Circuit agreed, ruling that he lacked a legitimate expectation of privacy in the home and could not challenge the search. "An individual has a legitimate expectation of privacy if: (1) the individual demonstrates a subjective expectation of privacy in the place being searched, and (2) this subjective expectation is one that society accepts as objectively reasonable." The US Supreme Court in *Rakas v. Illinois*, 439 U.S. 128, 143 (1978), held that a privacy interest is not reasonable when one's presence in a place is wrongful. The defendant here argued that the consent of the girlfriend to allow him into the home, despite the no-contact order, gave him a reasonable expectation of privacy, like in the case of *Byrd v. United States* (See Constitutional Policing Update, Issue 18-04). The Ninth Circuit disagreed. While one does not lose their Fourth Amendment rights by engaging in illegal acts, he or she must still establish that they had a lawful right to be at the premises. The court discussed some examples where a defendant may not invoke the protections of the Fourth Amendment: a burglar inside a home; a car thief; a trespasser; a hotel room that was rented "by criminal fraud and deceit" and the hotel took affirmative steps to repossess the room; an escaped inmate's automobile, and a no-contact order from a particular location. In these examples, the person may subjectively believe that they have a reasonable expectation of privacy, but this expectation is not considered reasonable by society, therefore the protections of the Fourth Amendment are unavailable to them.

Key Factors:

In *Byrd vs. United States*, the defendant was engaging in criminal drug trafficking, but because he was lawfully in possession of the rented vehicle, he was entitled to the protections of the Fourth Amendment. This is clearly different from the defendant in this case, who had no lawful right to be at his girlfriend's house while a no-contact order was in effect. The pivotal factor for Fourth Amendment protections is not whether someone is committing a crime at a location, but whether the law prevents the person from being there in the first place.

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Constitutional Policing Update

"Good to Know"

When one's presence in a place is wrongful they are not protected by the 4th Amendment

Issue: 18-08

What You Need to Know

- If the law prevents a person from being at a location, they cannot challenge the search or seizure under the Fourth Amendment.
- Once a no-contact order is in effect, the later consent by the protected party will not give a reasonable expectation of privacy to the prohibited person at that location.
- If a property owner invites a person on a premises, barring a legal restriction to their presence, then he or she does have a legitimate expectation of privacy at that location, and a search or seizure would be protected by the Fourth Amendment.

United States v. Schram, No. 17-30055 (9th Cir. August 21, 2018)

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Constitutional Policing Update

"Good to Know"

Cell-Site Location Information and the Fourth Amendment

Issue: 18-06

Obtaining cell-site location information from a wireless carrier constitutes a search under the Fourth Amendment, requiring a warrant supported by probable cause or a valid exception to the warrant requirement.

Facts and Ruling:

Timothy Carpenter was one of over a dozen suspects who were suspected of a series of robberies in multiple states over a four-month period. Prosecutors obtained court orders for cell-site location information (CSLI) from the defendant's wireless carrier under federal law. The order required the government to show "reasonable grounds" for believing that the records were "relevant and material to an ongoing investigation," 18 U.S.C. 2703(d), rather than a showing of "probable cause." This is similar to the Subpoena Duces Tecum used under California Law. The lower courts denied Carpenter's motion to suppress the CSLI. They ruled that he lacked a reasonable expectation of privacy because he voluntarily shared his location information with the wireless carrier when he used his phone. The Supreme Court reversed, holding that acquiring CSLI was a search under the Fourth Amendment requiring a warrant supported by probable cause or a valid exception to the warrant requirement. The Court stated that the Fourth Amendment protects expectations of privacy "that society is prepared to recognize as reasonable," and an individual would have a reasonable expectation of privacy in the detailed historical location information maintained by their wireless carrier.

Key Factors:

Typically, information shared with third parties would not be protected under the Fourth Amendment. Here, the Court rejected the argument that the information was in the hands of a third-party and a "business record." The Court stated that the wireless device shared location information each time it connected to cell-site, not just when a call is made, and noted again that cell phones are "almost a feature of human anatomy." The Supreme Court presumed that the founders of the Constitution would have considered the near-perfect surveillance provided by the CSLI as the type of governmental intrusion that the Fourth Amendment was designed to protect against. The Court said that the specificity of the location information on a cell phone is almost like a GPS ankle monitor. This is not far from the analysis in *Riley v. California*, where the Court noted that police officers must generally obtain a warrant before searching the contents of a cell-phone. The Court in *Carpenter* was sensitive to the continuous tracking of one's location, and the high accuracy of the information maintained by the wireless carrier. As a result, they rejected the argument that the third-party doctrine governed these "business records" and held that a warrant (or a valid exception to the warrant requirement) would be required when obtaining an individual's past movements through CSLI.

What the *Carpenter* decision does NOT cover:

The Court noted that its decision is narrow. For example, security camera footage, bank records- such as cancelled checks and monthly statements, or records of dialed telephone numbers maintained by a phone

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Constitutional Policing Update

“Good to Know”

Cell-Site Location Information and the Fourth Amendment

Issue: 18-06

company are still not protected by the Fourth Amendment. The Court did not address real-time cell location data information or tower dumps- where all the data during a specific time period from a particular cell tower is obtained.

What You Need to Know

- ✓ Deputies will need a warrant for cell-site location information, unless a valid exception to the warrant requirement exists.
- ✓ The warrant and notice requirements of Penal Code §1546-1546.4 still apply.

Carpenter v. United States, 585 U.S. ___ (June 22, 2018); See also *Riley v. California*, 134 S.Ct. 2473 (2014); *United States v. Miller*, 425 U.S. 435 (1976); *Smith v. Maryland*, 442 U.S. 735 (1979)

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Constitutional Policing Update

“Good to Know”

Odor of Marijuana Can Establish Probable Cause to Search a Vehicle

Issue: 18-09

The possibility of an innocent explanation does not deprive the officer of the ability to entertain a reasonable suspicion of criminal conduct.

Facts:

While patrolling an area known for narcotics sales and related shootings, officers saw an SUV with two occupants speed up and then “abruptly” stop in a red zone. A record check revealed the SUV had expired registration. The officer activated his lights and the SUV’s driver, Mr. Mims, quickly got out of the car. Mr. Mims did not comply with the officer’s repeated commands to get back into the SUV. Instead, as the officer approached, Mr. Mims started “reaching back into the vehicle,” while Mr. Fewes was in the passenger seat making “furtive movements ... low on his body.” The officer smelled “recently burned marijuana.” Mr. Mims admitted there was marijuana in his cigar, then reached into the passenger compartment again despite the officer’s commands to stop. Mr. Fewes also continued his “furtive” movements. The officer believed that Mr. Fewes might be reaching for something, possibly a weapon. Mr. Fewes complied with a command to exit the vehicle. The officer performed a Terry pat-down search, thinking Mr. Fewes’ baggy clothing could conceal a weapon. Mr. Fewes’ pocket contained a loaded semiautomatic gun. The trial court denied Mr. Fewes’ motion to suppress, finding the officers had probable cause to search the SUV and concluded that the pat-down search was justified for officer safety.

Ruling:

Probable cause suggests “a fair probability that contraband or evidence of a crime will be found in a particular place.”¹ “It remains unlawful to possess, transport, or give away marijuana in excess of the statutorily permitted limits, to cultivate cannabis plants in excess of statutory limits and in violation of local ordinances, to engage in unlicensed “commercial cannabis activity,” and to possess, smoke or ingest cannabis in various designated places, including in a motor vehicle while driving.”² “Probable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity.”³ Similar arguments against the use of the odor of marijuana for probable cause were raised after the passing of the Compassionate Use Act in 1996 and failed. The court in *Fewes* continued to reject the argument that decriminalization of marijuana bars a deputy from conducting a reasonable search based on the odor of marijuana. “[T]he officer is entitled to continue to search and investigate, and determine whether the subject of the investigation is [possessing the marijuana legally].”⁴

What You Need to Know

Decriminalization of marijuana does not bar a deputy from conducting a reasonable search of a vehicle based on the odor of marijuana.

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Constitutional Policing Update

“Good to Know”

Odor of Marijuana Can Establish Probable Cause to Search a Vehicle

Issue: 18-09

Key Factors:

The Court’s ruling involved a totality of the circumstances analysis. The court stated that Proposition 64 still has limits and “the odor and presence of marijuana in a vehicle being driven in a high-crime area, combined with the evasive and unusual conduct displayed by ... [the suspects], were still reasonably suggestive of unlawful drug possession and transport.” These facts also provided additional support for the subsequent Terry frisk for officer safety reasons, where the vehicle search would have left one of the officers outnumbered, and the suspect wore baggy clothing that could conceal a weapon.

NOTE: This case holds that a search is proper under the Fourth Amendment where a deputy has probable cause to believe that the vehicle contains contraband or evidence of a crime. This rule is different from a search of a person, incident to arrest. If a deputy conducts a search incident to arrest, they need probable cause for the arrest. An odor of marijuana alone is not sufficient for probable cause to arrest.

People v. Fews, 27 Cal.App.5th 553 (September 24, 2018)

¹ *Illinois v. Gates*, 462 U.S. 213, 238 (1983)

² *People v. Fews*, 27 Cal.App.5th 553 (September 24, 2018), citing Bus. & Prof. Code, §§ 26001, subd. (k), 26037, 26038, subd. (c); see Health & Safety Code, §§ 11362.1, subd. (a), 11362.2, subd. (a), 11362.3, subd. (a), 11362.45, subd. (a)

³ *People v. Fews*, supra, quoting *Illinois v. Gates*, 462 U.S. at 243, fn. 13

⁴ *People v. Strasburg*, 148 Cal.App.4th 1052, 1060 (2007)

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Constitutional Policing Update

"Good to Know"

In California, openly carrying a loaded or unloaded firearm in public is prohibited, unless the individual meets statutory exceptions.

Issue: 18-07

Question: Are California Penal Code sections 25850 and 26350 currently enforceable criminal statutes?

Answer: Yes.

In general, a loaded or unloaded firearm may not be openly carried
1) in a public place or on a public street in an incorporated city, or
2) in any public place or on a public street in a prohibited area
of unincorporated Orange County.

Question: What is a prohibited area?

Answer: Any place where it is unlawful to discharge a weapon. Cal. Penal Code § 17030. In unincorporated Orange County, a prohibited area would include all Sheriff's Department jurisdictions. O.C.C.O. 3-2-1 et. seq.

Discussion:

Recent news articles have discussed the 9th Circuit opinion, *Young v. State of Hawaii*, and whether the Second Amendment permits an individual to openly carry a firearm in public. The *Young* case reviewed a Hawaii statute that precluded a citizen from openly carrying a firearm for self-defense by requiring the individual to obtain a permit. The permit required the person be actively engaged in security (i.e, a security guard) or show that they have "exceptional circumstances". The 9th Circuit held that the Hawaii regulation violated the Second Amendment because it limited an individual's ability to openly carry a firearm for self-defense by requiring "exceptional circumstances".

In California, there are limitations to when a person may carry a firearm in public. The decision in *Young* by the 9th Circuit has not impacted those restrictions because the court did not address California law. The U.S. Supreme Court, in *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008), held that the Second Amendment protects the "individual right to possess and carry weapons in case of confrontation." The right secured by the Second Amendment, however, is not unlimited. Regulations and limitations of this right are permissible. Under current California law, a person is not authorized to carry a firearm in public, whether loaded or unloaded, unless they meet one of the statutory exceptions.

Statutory Exceptions:

Persons who work in certain occupations are permitted to carry loaded firearms in public. They apply to those who are peace officers, military personnel and private security officers. Cal. Penal Code §§ 25450, 25620, 25630, 25900, 26030, 26405.

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Issue: 18-07

There are also exceptions for carrying firearms for certain specified purposes. These include: carrying a firearm in public for hunting (where it is permitted); keeping a loaded firearm in a person’s home or business; transporting unloaded handguns in the locked trunk of, or inside a locked container in a motor vehicle; and carrying a firearm in public when a person believes that any person or the property of any person is in immediate, grave danger, which can be addressed by the carrying of the weapon. Cal. Penal Code §§ 25605, 25610, 25640, 26035, 26045, 26389, 26405.

Deputies can continue to enforce California Penal Code sections 25850 and 26350. Deputies can examine the firearm to determine if it is loaded with an unexpended round in the chamber. Refusing to allow the deputy to inspect the firearm constitutes probable cause to arrest for a violation of Penal Code § 25850.

Young v. State of Hawaii, 2018 WL 3542985 (July 24, 2018); *District of Columbia v. Heller*, 554 U.S. 570 (2008); *People v. Flores*, 169 Cal.App.4th 568 (2008)

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Constitutional Policing Update

Qualified Immunity – What is “Clearly Established”?

17-01

On a daily basis law enforcement personnel expose themselves to risks. Among those risks is the possibility of being sued civilly for violating a person’s constitutional rights while performing law enforcement duties.¹ Qualified immunity is the primary defense to allegations of constitutional violations. This defense is used to end the civil liability lawsuit prior to trial, typically in a motion for summary judgment.

Qualified immunity is necessary to allow officials to perform their duties.² Without qualified immunity, officials would work in constant fear that their good faith actions might accidentally violate an individual's constitutional rights, and expose them to liability.³ Law enforcement personnel should not hesitate to perform their discretionary duties due to a fear of civil liability.⁴ It is because of this public policy, “important to society as a whole,” that law enforcement personnel are protected by the doctrine of qualified immunity.⁵

Over the past 15 years, the Supreme Court has issued opinions in 19 cases further defining and clarifying qualified immunity. More recently, the Supreme Court has reversed a number federal courts decisions where the lower courts did not grant qualified immunity.⁶ Under the current standard, qualified immunity shields law enforcement officers acting within the scope of their employment when their conduct “does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”⁷

A clearly established right is one that is “sufficiently clear that a reasonable official would understand that what he is doing violates that right.”⁸ Qualified immunity is granted to officers who have no “fair and clear warning of what the Constitution requires.”⁹ This means that reasonable mistakes in judgement will not result in civil liability.¹⁰

The qualified immunity defense set out above focused on what “a reasonable person” would have known about the constitutional status of the right in question.¹¹ Additionally, the “court considers only the facts that were knowable to the defendant officers.”¹²

Recently, in *White v. Pauly*, the Supreme Court found it “necessary to reiterate the longstanding principle that ‘clearly established law’ should not be defined ‘at a high level of generality.’”¹³ “[T]he clearly established law must be ‘particularized’ to the facts of the case.”¹⁴ Otherwise, “simply by alleging violation of extremely abstract rights” plaintiffs could bypass the protections of qualified immunity¹⁵

In *White v. Pauly*, Officer White arrived on scene a few minutes after his fellow officers.¹⁶ Within seconds he heard the suspects announce that they were armed, and within minutes Officer White was confronted with gunfire.¹⁷ The lower court did not originally grant qualified immunity to Officer White, because there was ambiguity regarding whether proper procedures, such as identifying your presence as a peace officer, occurred.¹⁸ The Supreme Court held that “[c]learly established federal law does not prohibit a reasonable officer who arrives late to an ongoing police action in circumstances like this from assuming that proper procedures, such as officer identification, have already been followed.”¹⁹ Also, there

Qualified immunity is granted to officers who have no “fair and clear warning of what the Constitution requires.”

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Constitutional Policing Update

Qualified Immunity – What is “Clearly Established”?

17-01

is no constitutional requirement for an “officer to second-guess the earlier steps already taken by his or her fellow officers.”²⁰

The Court does not require a case directly on point, but “existing precedent must have placed the statutory or constitutional question *beyond debate*.”²¹ The phrase “beyond debate,” has been used in nine of the twelve Supreme Court opinions since 2011 that have concluded government officials did not act in violation of clearly established law.²² For an officer to be denied qualified immunity for violating clearly established law “the unlawfulness must be apparent.”²³

The purpose of qualified immunity is to protect, but is not an absolute guarantee against being sued. In the last 15 years, the US Supreme Court has ruled in favor of granting qualified immunity to government officials in 17 of 19 cases. In the latest case, *White v. Pauly*, the Court restates its position on what constitutes a violation of clearly established law. It is reassuring to the officers who put themselves in harm’s way, to know that they do not need to hesitate to act reasonably in the scope of their duties to protect the public, for fear of being sued. The Supreme Court has consistently held that qualified immunity “protects all but the plainly incompetent or those who knowingly violate the law.”²⁴

¹ 42 U.S.C. §1983.

² See *Scheuer v. Rhodes*, 416 U.S. 232, 240 (1974) abrogated by *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

³ See *Scheuer*, 416 U.S. at 242.

⁴ See *Scheuer*, 416 U.S. at 240 (without immunity, a danger would exist that the threat of liability would render an official less willing to execute his office with the decisiveness necessary to serve the public good).

⁵ *White v. Pauly*, 137 S. Ct. 548, 551–52 (2017); See also *Pearson v. Callahan*, 555 U.S. 223, 231 (2009).

⁶ *White v. Pauly*, 137 S. Ct. at 551–52; See, e.g., *City and County of San Francisco v. Sheehan*, 135 S. Ct. 1765, 1774, n. 3 (2015); *Carroll v. Carman*, 135 S. Ct. 348 (2014); *Wood v. Moss*, 134 S. Ct. 2056 (2014); *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014); *Stanton v. Sims*, 134 S. Ct. 3 (2013); *Reichle v. Howards*, 566 U.S. 658 (2012).

⁷ *White v. Pauly*, 137 S. Ct. at 551–52 quoting *Mullenix v. Luna*, 136 S. Ct. 305, 308 (2015).

⁸ *Carroll v. Carman*, 135 S. Ct. at 350 quoting *Anderson v. Creighton*, 483 U.S. 635, 640 (1987).

⁹ *City & County of San Francisco, Calif. v. Sheehan*, 135 S. Ct. at 1778 quoting *Ashcroft v. al-Kidd*, 563 U.S. 731, 745-747 (2011).

¹⁰ *Carroll v. Carman*, 135 S. Ct. at 350.

¹¹ *Ashcroft v. al-Kidd*, 563 U.S. at 741.

¹² *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2474 (2015).

¹³ *White v. Pauly*, 137 S. Ct. at 551–52 quoting *Ashcroft v. al-Kidd*, 563 U.S. at 742.

¹⁴ *Anderson v. Creighton*, 483 U.S. at 640.

¹⁵ *White v. Pauly*, 137 S. Ct. at 551–52 quoting *Anderson v. Creighton*, 483 U.S. at 639.

¹⁶ *White v. Pauly*, 137 S. Ct. at 550.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *White v. Pauly*, 137 S. Ct. at 551–52.

²⁰ *Id.*

²¹ (emphasis added) *Ashcroft v. al-Kidd*, 563 U.S. at 739.

²² See *White v. Pauly*, 137 S. Ct. 548 (2017); *Mullenix*, 136 S. Ct. at 308; *Taylor v. Barks*, 135 S. Ct. 2042, 2044 (2015); *City and County of S.F. v. Sheehan*, 135 S. Ct. at 1774; *Carroll v. Carman*, 135 S. Ct. at 350; *Lane v. Franks*, 134 S. Ct. 2369, 2383 (2014); *Plumhoff v. Rickard*, 134 S. Ct. at 2023; *Stanton v. Sims*, 134 S. Ct. at 5; *Reichle v. Howards*, 132 S. Ct. at 2093. See also Kit Kinports, *The Supreme Court’s Quiet Expansion of Qualified Immunity*, 100 Minn. L. Rev. Headnotes 62, 66 (2016).

²³ *White v. Pauly*, 137 S. Ct. at 551–52 (2017) quoting *Anderson v. Creighton*, 483 U.S. at 640.

²⁴ *White v. Pauly*, 137 S. Ct. at 551 (2017) (citations omitted).

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Constitutional Policing Update

“Good to Know”

Unauthorized Driver of a Rented Vehicle Protected by the 4th Amendment

Issue: 18-04

Someone in lawful possession and control of a rental car has a reasonable expectation of privacy in it, even if they are not listed as an authorized driver in the rental agreement.

Facts and Ruling:

Terrence Byrd was the driver and sole occupant in a vehicle rented by Latasha Reed. Immediately after renting the vehicle, Reed gave the keys to Byrd. Officers initiated a traffic stop on Byrd for a vehicle code violation. During the traffic stop officers learned that Byrd was not listed on the rental agreement as an authorized driver. For this reason, the officers told Byrd they did not need his consent to search the car, including its trunk where he had personal items. A search of the trunk uncovered body armor and 49 bricks of heroin. Byrd moved to suppress the evidence as the fruit of an unlawful search. The lower courts concluded that, because Byrd was not listed on the rental agreement, he lacked a reasonable expectation of privacy in the car and could not challenge the search. The US Supreme Court disagreed and addressed the issue of when a person has a legitimate expectation of privacy. This expectation of privacy is not bound only by ownership of the property. The Court stated that “one of the main rights attaching to property is the right to exclude others” and “one who owns or lawfully possesses or controls property will in all likelihood have a legitimate expectation of privacy....” The Court recognized the diminished expectation of privacy when searching an automobile, but the issue of whether the officers had probable cause to search was not addressed by the lower courts. Instead, the lower courts denied the motion to suppress based on lack of standing. Here, Byrd was lawfully in possession of the vehicle and had the ability to exclude others from the vehicle. He had a reasonable expectation of privacy that is protected by the 4th Amendment.

Key Factors:

The Court’s ruling centered around the concept of lawful possession and control. A burglar inside a home does not have a legitimate expectation of privacy inside the home. Similarly, a car thief would not have a legitimate expectation of privacy in a stolen car. Here, the vehicle was not stolen; it was lawfully rented. The rental agreement is not voided when the vehicle is driven by a person not listed on the rental agreement as an authorized driver. Instead, if damage were to occur to the vehicle, when driven by a person not on the rental agreement, any damage or loss incurred would be the responsibility of the renter. In this context, the driver maintained the constitutional right to be free from an unreasonable search.

What You Need to Know

A deputy needs consent or probable cause to search a vehicle, even if the driver is not the registered owner, or is not listed as an authorized driver of a rental car. If the car is stolen, there is no reasonable expectation of privacy, and probable cause, while helpful, is not required.

Byrd v. United States, 584 U.S. ___ (May 14, 2018)

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First Amendment and the Right to Record

Issue: 19-1

A citizen has a First Amendment right to video record police performing their duty in a public place, provided they are not otherwise interfering with the police officer's performance of their duties or committing some clear violation of law unrelated to the videotaping.

When someone is exercising constitutionally protected First Amendment activity- to assemble, to record, express viewpoints, etc.- it can be an emotionally charged situation for those involved. They also may try to incite a deputy or professional staff employee in an attempt to establish or prove a point. Do not allow that to happen to you! Their words may be insulting or biting, but they are meant for the sole purpose of obtaining and documenting a reaction from you. On its face, this may sound unfair; citizens can say hurtful and rude comments while you are expected just to sit back and listen? To an extent, it is a double standard. As a department member, you are part of a government entity, you are a professional, and you cannot interfere with someone who is lawfully exercising their constitutional rights. However, if the person's actions are not lawful, then you should take action. Your decision to act must be based only on the lawfulness of their conduct and not the viewpoints that the individuals are expressing.

If you are a deputy assigned to a call for service involving an individual recording in public, ensure they do not need assistance, that they are safe- i.e., not at risk of running into traffic, and ensure that they are not blocking others from entering county property to conduct their business. Once you have assessed the situation, respectfully remove yourself.

Remember, deputies must enforce the laws regardless of the viewpoint expressed. Speech cannot be restricted based solely on the message of the speaker. The attached chart will assist you in determining whether the conduct you observe is constitutionally protected First Amendment activity.

Scenarios

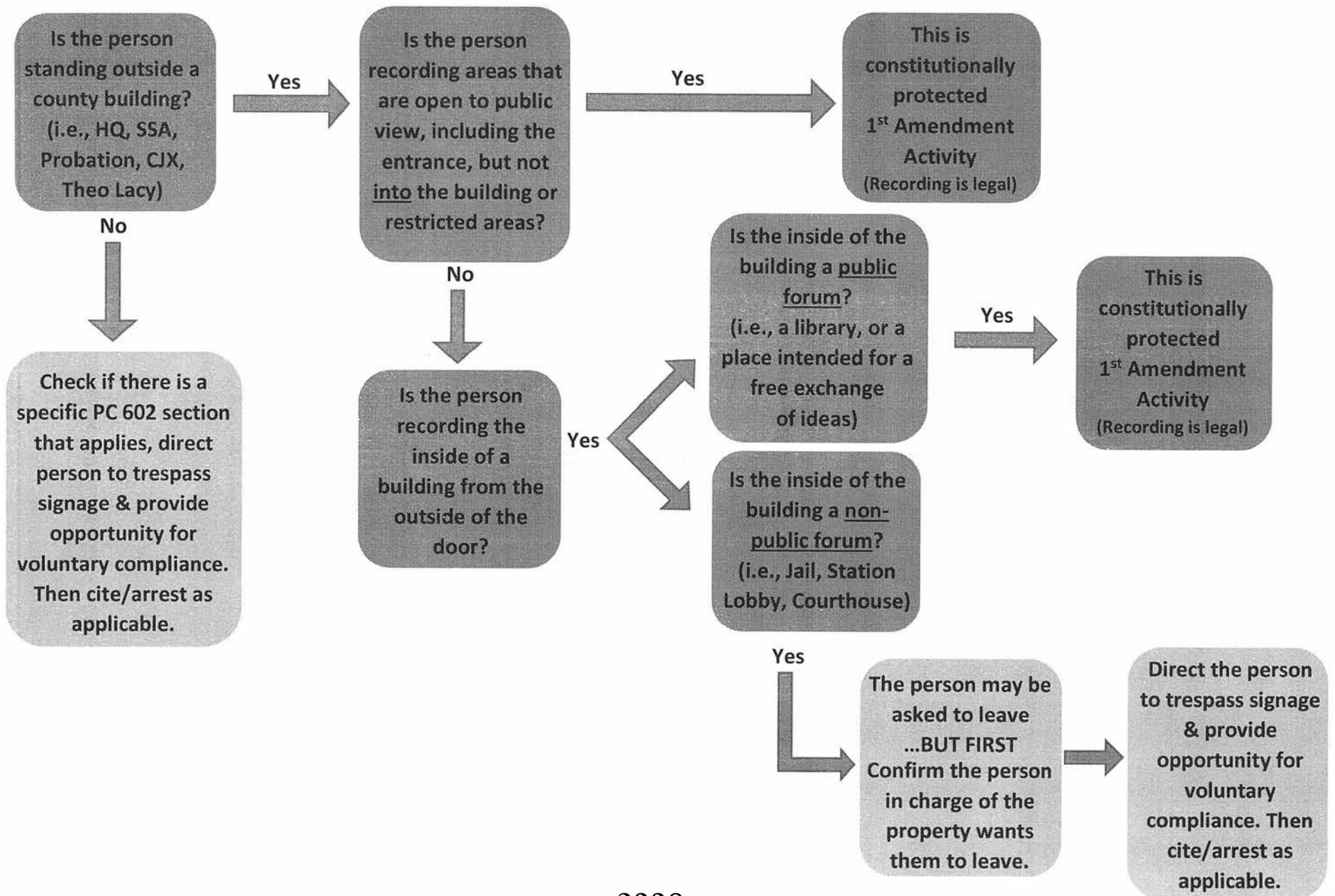
- ❖ A person decides to come to the area between HQ and CJX and video record the people outside the buildings and surrounding outside areas. A deputy walks by, and the person begins to be rude and insulting. Can the deputy stop the person from recording or speaking their mind? No. The person is outside in a "public forum" that is a place open for a free exchange of ideas. There have been protests held in these areas, and it is not restricted or prohibited by any law or ordinance.

Now, what if they were blocking the entry into the jail and not allowing members of the public to have access to the government building? That interference is not allowed under the law. You can attempt to obtain voluntary compliance, and if they do not respond, your subsequent action will not interfere with their First Amendment rights.

- ❖ If the person is standing outside a sub-station and recording the people coming and going, that is protected activity under the First Amendment. But if they record inside the station lobby (either while standing outside the building or from inside the building) that is not constitutionally protected because the lobby of a police station is not a "public forum." It is open to members of the public for purposes of those persons conducting business at the police station. It is not a place open for a free exchange of ideas. By contrast, the inside of a public library would be a public forum. Recording inside a library would be legally allowed.



First Amendment - Right to Record





Constitutional Policing Update

"Good to Know"

Senate Bill 54 (the California Values Act) Q&A

Issue: 18-05

OCSD continues to have jurisdiction over criminal law enforcement matters, i.e., engaging in an investigation, detention or arrest for criminal activities based upon California state law.

Question:

Deputy observes suspicious circumstances and conducts an investigation resulting in probable cause for a violation of the California Penal Code, does SB 54 limit the deputy's ability to act on the crime because the suspect is undocumented?

Answer: No. Consensual contacts, detentions based on reasonable suspicion, and arrests based on probable cause are not limited by SB 54, so long as the deputy did not initiate the investigation because of the person's immigration status.

Question:

When an undocumented person is housed in an Orange County Jail Facility do they have limited access to programming (educational or rehabilitative) because of their immigration status?

Answer: No. Citizenship and immigration status will not impact an individual's access to programming when housed in an Orange County Jail Facility.

Question:

Can OCSD continue to participate in joint law enforcement task forces with federal authorities?

Answer: Yes, so long as the primary purpose of the joint law enforcement task force is not immigration enforcement. Additionally, the primary purpose of the task force must be lawful, and related to a violation of state or federal law, unrelated to immigration enforcement. When on a task force with federal authorities, confidential information may be shared for the purpose of the investigation that the task force is conducting.

Question:

A deputy conducts a criminal investigation. During the course of her investigation, she does not develop probable cause to arrest, but she discovers that the suspect is undocumented. Can the deputy notify Department of Homeland Security or Immigration and Customs officials of this person's undocumented status and transfer them into federal custody to initiate immigration proceedings?

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Constitutional Policing Update

“Good to Know”

Senate Bill 54 (the California Values Act) Q&A

Issue: 18-05

Answer: No. Although maintaining, sending or receiving information between government entities regarding the citizenship or immigration status of an individual is permissible under Government Code § 7284.6(e); keeping the individual in custody without probable cause in order to transfer them into custody of immigration authorities is unlawful and violates the Fourth Amendment.

Question:

When can a deputy transfer a person in OCSD custody to immigration authorities?

Answer: If there is a judicial warrant for a violation of federal criminal immigration law or a judicial probable cause determination that the person has violated federal criminal immigration law, or if the individual has been convicted of specific crimes and if specific notification criteria have been met. These requirements are referred to as the TRUTH ACT and TRUST ACT, as amended by SB 54. See Government Code §§ 7282-7284 for more.

Question:

During the course of a criminal investigation, Deputy Smith has developed probable cause that a crime was committed and has taken a Vietnamese speaker into custody for a violation of the California Penal Code. The suspect is a lawful permanent resident. Before starting questioning of the suspect, Deputy Smith asks a federal immigration agent to be an interpreter. Is this legally permissible?

Answer: No. Deputies cannot use immigration authorities as interpreters for individuals in OCSD custody regardless of whether the suspect is documented or undocumented.

Question:

How does a victim or reporting party's status as an undocumented person impact my criminal investigation as a deputy or investigator? To what extent are U-Visa's or T-Visa's impacted by SB 54?

Answer: A victim's immigration status will have no impact on a deputy or investigator's criminal law investigation. The department's public safety mission relies on community members to be active participants in the safety of our communities. SB 54 does not limit inquiries into a victim's immigration status in order to determine whether they are a victim of a crime or trafficking victim in order to obtain a U or T Visa.

Question:

Can immigration authorities request to interview a person in OCSD custody?

Answer: Yes, so long as the department is in compliance with the requirements of the TRUTH ACT, starting with Government Code § 7283.

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Constitutional Policing Update

"Good to Know"

Senate Bill 54 (the California Values Act) Q&A

Issue: 18-05

Question:

What is an immigration hold request?

Answer: A request by Immigration and Customs Enforcement (ICE) for a local law enforcement agency to maintain custody of an individual beyond the time he or she would otherwise be eligible for release in order to facilitate transfer of that individual to ICE or Department of Homeland Security custody. Government Code § 7283(b).

Question:

Can immigration authorities request OCSD to detain an individual based on a hold request?

Answer: No. Detaining an individual on the basis of a hold request would violate Government Code § 7284.6. The courts have also held that detaining a person beyond the time he or she is eligible for release is an unlawful seizure and violates the Fourth Amendment.

Question:

Can OCSD assist federal authorities in arresting an individual based solely on a civil immigration warrant?

Answer: No. This is prohibited by Government Code § 7284.6.

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Constitutional Policing Update

Detentions During the Execution of Arrest or Search Warrants

Issue: 18-02

When can a Deputy lawfully detain a person during the execution of a search or arrest warrant? The factual circumstances surrounding a Deputy's ability to lawfully detain an individual is critical when evaluating the constitutionality of the detention. Unless a Deputy has advance knowledge that the individual is on searchable conditions of probation or parole,¹ any other detention, even if brief, requires reasonable articulable suspicion.²

Brief Review of Lawful Detentions

The Fourth Amendment protects against unreasonable searches and seizures.³ Detentions under the Fourth Amendment require reasonable suspicion that a particular person is engaged in or is about to be involved in criminal activity.⁴ This means that the Deputy can articulate specific facts and circumstances, which combined with objective and reasonable inferences would lead one to believe that person is involved in criminal activity.⁵ The legality of a detention will be determined based on the totality of the circumstances, and this includes reasonable inferences based on the Deputy's training and experience.⁶ The investigation should use "the least intrusive means reasonably available to verify or dispel the reasonable suspicion in a short amount of time."⁷

In general, detentions are typically based on multiple factors that combine to support the Deputy's reasonable suspicion. Some examples where detentions have been constitutionally upheld are: the suspect resembles a wanted person; the suspect's suspicious actions; a Deputy's prior knowledge of criminal activity by the suspect; evasive replies to questions; informant information; the suspect appears intoxicated or injured; suspect's nervousness; criminal history of the area--such as a high narcotics area; and the Deputy's expertise, training and/or experience for the type of crime suspected.

On the other hand, a Deputy's hunch is insufficient to support a decision to detain. Courts have repeatedly held that a hunch is not a substitute for the necessary specific, articulable facts required to justify a detention under the Fourth Amendment.⁸

Executing a Search Warrant

When executing a search warrant Deputies may detain occupants of a house during the search to 1) prevent flight (and perhaps take evidence of the crime with them), 2) minimize risk of harm to the Deputies, and 3) facilitate an orderly search through cooperation of the occupants while avoiding an unnecessary use of force.⁹ "Officers may categorically detain the occupant of a home while executing a search warrant in that home."¹⁰ When serving a search warrant, Deputies naturally are focused on the need to look through rooms, closets, drawers, cabinets and containers; therefore, an officer's safety is more at risk when individuals inside the home are unsecured. Additionally, since "a search warrant establishes there is probable cause to believe that criminal activity is being conducted at a given location, it adds additional credence to the need to detain an individual found there...."¹¹ Still, the existence of a search warrant by itself is not sufficient for detention, but it is one factor to consider in the totality of circumstances.¹²

Executing an Arrest Warrant

An arrest warrant, however, does not establish probable cause to believe that there is criminal activity at a location. Also, an arrest warrant does not imply that "dangerous third parties will be found in the arrestee's house."¹³ Instead, it

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Constitutional Policing Update

Detentions During the Execution of Arrest or Search Warrants

Issue: 18-02

establishes that a particular person is subject to arrest. As a result, a Deputy who is executing an arrest warrant cannot rely on the factors related to serving a search warrant to establish reasonable articulable suspicion to detain third parties. A Deputy's focus during execution of an arrest warrant is on the subject of the arrest warrant. Although executing arrest warrants can be dangerous, it varies significantly from serving a search warrant where an officer's attention is naturally diverted.

It is objectively reasonable for a Deputy who is serving an arrest warrant in a home to determine who is present. It is reasonable to believe that the people inside the home may know the location of the suspect or that they may be in a position to alert the suspect about the police presence and assist him or her in escaping. But, any detention to determine the identity of the persons inside the home must be for a short duration and use the least intrusive means necessary.

Things to Remember:

- Deputies may categorically detain occupants inside a home when executing a search warrant.
- Deputies cannot categorically detain occupants inside a home when executing an arrest warrant.
- A Deputy needs reasonable articulable suspicion to detain an individual during the execution of an arrest warrant.
- The Deputy's reasons for the detention need to be articulated in detail in his or her report, and later described during courtroom testimony.
- Once it is determined that a person present inside the home is not the suspect named in the arrest warrant, a continued detention without additional lawful justification is unconstitutional.
- There is no automatic "officer safety" exception to the 4th Amendment.
- A detention can become unlawful if it is prolonged beyond the time necessary to achieve the purpose of the stop.
- A person exercising their First Amendment rights- e.g. recording peace officers, being rude or argumentative to officers, or verbally objecting to the Deputy's actions- does not by itself support a detention.

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Constitutional Policing Update

Detentions During the Execution of Arrest or Search Warrants

Issue: 18-02

¹ People v. Douglas, 240 Cal.App.4th 855, 860 (2015).

² Terry v. Ohio, 392 U.S. 1, 30-31 (1968).

³ U.S. Const., 4th Amendment

⁴ Terry v. Ohio, 392 U.S. 1, 27 (1968); People v. Walker, 210 Cal.App.4th 1372, 1381 (2012).

⁵ People v. Nice, 247 Cal.App.4th 928, 937 (2016).

⁶ United States v. Arvizu, 534 U.S. 266, 273 (2002).

⁷ In re Antonio B., 166 Cal.App.4th 435, 440 (2008).

⁸ People v. Nice, 247 Cal.App.4th 928, 937 (2016).

⁹ Muehler v. Mena, 544 U.S. 93, 98 (2005).

¹⁰ Sharp v. County of Orange, 871 F.3d 901, 909 (2017) (citing Michigan v. Summers, 452 U.S. 692, 705 (1981)).

¹¹ People v. Hannah, 51 Cal.App.4th 1335, 1345 (1996).

¹² People v. Turner, 219 Cal.App.4th 151, 160-161 (2013).

¹³ Sharp v. County of Orange, 871 F.3d 901, 914 (2017) (quoting Maryland v. Buie, 494 U.S. 325, 334 n.2 (1990)).

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Constitutional Policing Update

"Good to Know"

Pointing a Gun, Potentially Excessive Force

Issue: 18-03

Routinely there are court decisions on a federal or state level that have a direct impact on a law enforcement officer's actions. These "Good to Know" updates will discuss a particular question, or a recent case or cases that are of interest to department members.

"[P]ointing guns at persons who are compliant and present no danger is a constitutional violation."

Facts:

A deputy witnessed a driver commit multiple traffic infractions and conducted a traffic stop. The driver apologized for the traffic violations, but was unable to provide a driver's license. Instead he provided some mail to establish his identity. The deputy determined that the driver was a felon who had been convicted of possession of a firearm in the past and had a suspended license. After the suspect exited the vehicle, the deputy searched him and no weapons were located. The suspect was calm and compliant. He was not handcuffed and was told to sit on the front bumper of the patrol car while back up arrived. The deputy then searched his vehicle and found a handgun on the rear passenger floorboard in a plastic bag. After the other deputy arrived, the primary deputy is alleged to have pointed his gun at the suspect's head, demanding that the suspect get down on the ground or he would shoot. No shots were ever fired. The deputy disputed that he pointed the gun at the suspect's head, and said that he took the gun out of his holster in a low ready position. At this stage of the appeal, the court must accept the suspect's version of the events. The deputy said that he was concerned that the convicted felon who is about to be placed under arrest, could access the weapon about 10-15 feet away in the car. The 9th Circuit didn't accept that argument, and held that this was an unreasonable use of force.

Key Factors:

The deputy in this case searched the suspect and knew that he was unarmed. The suspect was outnumbered, and he was compliant with the directions of law enforcement. The 9th Circuit stated, "We do not discount the concern for officer safety when facing a potentially volatile situation. But where the officers have an unarmed felony suspect under control, where they easily could have handcuffed the suspect while he was sitting on the squad car, and where the suspect is not in close proximity to an accessible weapon, a gun to the head constitutes excessive force."

What You Need to Know

Drawing your weapon and threatening to shoot a person who you know, or have reason to believe, is unarmed and not an imminent threat is a violation of that person's Fourth Amendment rights.

Case: *Thompson v. Copeland*, 2018 WL 1304899, Docket #16-35301, March 13, 2018

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- 1 -





Adam Bereki <abereki@gmail.com>

PRA REQUEST-BEREKI 09/04/20

Adam <abereki@gmail.com>

Tue, Sep 29, 2020 at 7:06 AM

To: Prarequests <Prarequests@ocsd.org>

Veronica,

Thank you for your reply. In reviewing the records provided, your response:

1) did not indicate the date of appointment to each post/position held by each of the listed employees. You only included the date of hire. For example, what was the date of appointment to Deputy Sheriff I, Deputy Sheriff II and Sergeant for Sgt. A Salceda (if he in fact held each of these positions). See item 1 of my reply/request dated September 4, 2020.

2. did not include the May 28, 2020 Internal Memorandum from Sheriff Don Barnes. I have repeatedly searched the documents you provided and cannot locate this memorandum. See item 16 of my reply/request dated September 4, 2020.

3. I object to the document response provided to request 12 of my reply/request dated September 4, 2020. While these may be one type of records maintained by the Constitutional Policing Advisor, I believe they are far from a complete response to my request which stated:

"All documents within the Constitutional Policing Advisor's custody and control pertaining to legal briefs, law review articles, case studies, court judgments, etc.. relating to the specific duties of law enforcement, including but not limited to: protecting the constitutional rights of people; a police officer/sheriff's deputy's duty to intervene when constitutional rights are being violated by public officials; the duties of a police officer within the executive branch of California government; and, the duty to investigate an allegation of deprivation of constitutional rights by public officials. I am not seeking documents that are attorney-client privileged but rather general public information on these topics the OCSD uses as legal reference materials and briefs the OCSD has filed in lawsuits (that are a matter of public record) pertaining to these issues. I am also not asking you to conduct legal research and the documents I am requesting have already produced. If there is a copyright issue, please just state the name of the document in your reply."

Please provide the complete records requested. If you need further clarity pertaining to a request, please contact me. I'm happy to help.

Sincerely,

Adam Bereki

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRA REQUEST-BEREKI 09/04/20

Prerequisites <Prerequisites@ocsd.org>
To: Adam <abereki@gmail.com>

Mon, Oct 5, 2020 at 11:09 AM

Hello Mr. Bereki,

Please see the attached regarding your request.

[Quoted text hidden]

2 attachments

 **Adam Bereki PRA 3.pdf**
294K

 **PRA Bereki_attachment.pdf**
238K



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

October 5, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) follow up request received Tuesday, September 29, 2020.

Dear Mr. Bereki:

In regards to number 1 in your request dated September 29, 2020, the following dates are responsive to your request:

- Lt. C. Alday –

| <u>Classification</u> | <u>Effective Date</u> |
|-----------------------|-----------------------|
| Deputy Sheriff I | 7/22/1998 |
| Deputy Sheriff II | 10/4/2002 |
| Investigator | 3/23/2012 |
| Sergeant | 9/30/2016 |
| Lieutenant | 2/14/2020 |
- Sergeant A. Salceda –

| <u>Classification</u> | <u>Effective Date</u> |
|------------------------|-----------------------|
| Deputy Sheriff Trainee | 1/3/1995 |
| Deputy Sheriff I | 6/22/1995 |
| Deputy Sheriff II | 11/5/1999 |
| Investigator | 12/19/2008 |
| Sergeant | 11/11/2016 |
- Deputy Sheriff I S. Demaio – **Effective Date:** April 17, 1999
- Sheriff's Special Officer II Freddie Fields – December 27, 2002

| <u>Classification</u> | <u>Effective Date</u> |
|------------------------------|-----------------------|
| Sheriff's Special Officer I | 12/27/2002 |
| Sheriff's Special Officer II | 1/21/2005 |

Regarding number 2, the memo you requested is page four (4) of the responsive records sent to you on September 29, 2020. We have attached another copy of the memo for your reference.

In regards to number 3, the documents sent to you on September 29, 2020 are responsive to your request. OCSD has no additional responsive records. Please note, the Sheriff's Constitutional Policing Advisor does not represent OCSD in court proceedings and does not have records pertaining to legal briefs, law review articles, case studies or court judgments.

Adam Bereki
October 5, 2020
Page 2

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,



Edward Lee, Director
OCSD Records Division

EL: vm
Attachment
cc: Media Relations

ORANGE COUNTY
SHERIFF'S DEPARTMENT

INTERNAL MEMO

To: Department Personnel
From: Sheriff Don Barnes
Date: May 28, 2020
RE: Incident in Minnesota



The death of George Floyd was wrong. Clearly what occurred goes beyond the scope of any tactic we are trained to use. Equally troubling was the fact that three officers stood by while their partner acted in a manner that contradicts his sworn commitment to protect and serve.

Each of you know how diligently we train to utilize de-escalation strategies and how strictly we adhere to use of force policies. However, training and policies are only as good as the people entrusted with carrying them out. My expectation of each member of this Department is that you conduct yourself with a high ethical standard and treat each life with value and respect. I have every confidence that each of you have the same expectation for your partners and yourself.

The badge is tarnished when a peace officer acts outside of their training, violates rights or lets bias cloud judgement. Law enforcement depends on the trust of the community. Incidents like this erode the trust of law enforcement across the nation.

In Orange County we will continue our efforts to work with our residents, listen to their concerns, and provide services rooted in a commitment to the safety of all we serve.



Adam Bereki <abereki@gmail.com>

PRA Request

3 messages

Adam <abereki@gmail.com>

Fri, Sep 4, 2020 at 8:29 AM

To: POST CPRA Requests <cpra@post.ca.gov>

Good day,

Please provide all records in your custody and control pertaining to:

1. California Code of Regulations (CCR), title 11, section 1013. According to the Office of Administrative Law, your office maintains records pertaining to this regulation and its enactment.
2. All other rules and regulations promulgated by POST pertaining to the duties under law of police officers.

Please respond to this request by replying to this email within the time allotted by law. I have included my phone number below if you have any questions.

Sincerely,

Adam Bereki
818 Spirit
Costa Mesa, CA
949 241 6693

POST CPRA Requests <cpra@post.ca.gov>

Fri, Sep 4, 2020 at 9:57 AM

To: Adam <abereki@gmail.com>

Cc: POST CPRA Requests <cpra@post.ca.gov>

Good morning,

The Commission on Peace Officer Standards and Training (POST) is in receipt of your California Public Records Act (CPRA) request.

Pursuant to Government Code § 6253(c), POST will need time to review your request. We will

respond by September 14, 2020 to inform you if we will be able to fulfill your CPRA request.

Please contact us if you have any questions.

Sincerely,

J. Williams

Commission on Peace Officer Standards and Training

860 Stillwater Road, Suite 100

West Sacramento, CA 95605-1630

CPRA@post.ca.gov



CONFIDENTIAL NOTICE: This communication and its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws, including the Electronic Communication Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

[Quoted text hidden]

POST CPRA Requests <cpra@post.ca.gov>
To: Adam <abereki@gmail.com>
Cc: POST CPRA Requests <cpra@post.ca.gov>

Mon, Sep 14, 2020 at 8:18 AM

Good morning,

The Commission on Peace Officer Standards and Training (POST) is still researching item 1 of your California Public Records Act (CPRA) request. Pursuant to Government Code § 6253 (c), POST will need additional time to review your request; therefore, we will respond by September 28, 2020 to inform you if we will be able to fulfill your CPRA request.

Regarding item 2 of your request, and as previously provided to you in August 2020, please find POST regulations at the following:

- <https://post.ca.gov/POST-Regulations>
 - <https://post.ca.gov/Commission-Regulations>

Please to contact us if you have any questions.

Sincerely,

J. Williams

Commission on Peace Officer Standards and Training

860 Stillwater Road, Suite 100

West Sacramento, CA 95605-1630

CPRA@post.ca.gov



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[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRA Request

POST CPRA Requests <cpra@post.ca.gov>
To: Adam <abereki@gmail.com>
Cc: POST CPRA Requests <cpra@post.ca.gov>

Wed, Sep 16, 2020 at 9:32 AM

Good morning,







Attached please find the records responsive to item 1 of your request, which are:

1. Register 1978, No. 52
2. Register 1979, No. 20
3. Register 1983, No. 7
4. Register 1990, No. 42
5. Register 2015, No. 50
6. Register 2020, No. 17 - NOTICE OF APPROVAL OF REGULATORY ACTION

Please see the email below for the response to item 2 of your request and contact us if you have any questions.

[Quoted text hidden]

6 attachments

-  **CCR_T11_S1013_R78_NO52.pdf**
364K
-  **CCR_T11_S1013_R79_NO20.pdf**
3645K
-  **CCR_T11_S1013_R83_NO7.pdf**
395K
-  **CCR_T11_S1013_R90_NO42.pdf**
3659K
-  **CCR_T11_S1013_R2015_NO50.pdf**
306K
-  **CCR_T11_S1013_Approval_Notice.pdf**
263K

**State of California
Office of Administrative Law**

In re:
**Commission on Peace Officer Standards and
Training**

Regulatory Action:

Title 11, California Code of Regulations

Adopt sections:

Amend sections: 1013

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

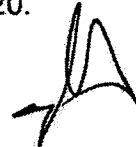
OAL Matter Number: 2020-0312-02

OAL Matter Type: Regular (S)

This action adopts an affirmation administered to peace officer trainees to adhere to certain standards of conduct.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2020.

Date: April 22, 2020



**Mark Storm
Senior Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Manuel Alvarez, Jr., Executive
Director**

Copy: Scott Loggins

APPROVED TEXT OF PROPOSED REGULATORY ACTION

Code of Ethics

Commission Regulation 1013

§ 1013. Code of Ethics

§ 1013. Code of Ethics.

The Law Enforcement Code of Ethics, ~~as stated in PAM Section C-3,~~ shall be administered to all peace officer trainees during the basic course and to all other persons at the time of appointment.

Purpose

Code of Ethics: To insure that all peace officers are fully aware of their individual responsibilities to maintain their own integrity and that of their agency, every peace officer, during basic training, or at the time of appointment, shall be administered the Law Enforcement Code of Ethics.

Code of Ethics

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God¹ to my chosen profession...law enforcement.

FOOTNOTE:

¹Reference to religious affirmation may be omitted where objected to by the officer.

Note: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.

(b) Professional certificates shall be considered to be awards for achievement and subject to denial or cancellation only if obtained through misrepresentation, fraud, or issuance due to administrative error.

(c) Regular Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, Management and Executive Certificates are provided for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the general police service duties performed by regular peace officers. Requirements for the Certificates are as prescribed in PAM, Section F-1, "Regular and Specialized Certification Programs."

(d) Specialized Law Enforcement Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, and Management Certificates are established for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the duties performed by specialized peace officers. Requirements for Specialized Law Enforcement Certificates are set forth in PAM, Section F-1, "Regular and Specialized Law Enforcement Certification Programs."

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1012. Certification of Courses.

(a) The Commission may certify courses. Criteria for certification include, but are not limited to, a demonstrated need and compliance with minimum standards for curriculum, facilities, instructors and instructional quality.

(b) Certification of courses may be revoked by action of the Commission when:

- (1) There is no longer a demonstrated need for the course; or
- (2) There is failure to comply with standards set forth in (a) above; or
- (3) There are other causes warranting revocation as determined by the Commission.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1013. Code of Ethics.

The Law Enforcement Code of Ethics, as prescribed in PAM, Section C, "The Law Enforcement Code of Ethics," shall be administered as an oath to all peace officer trainees during the Basic Course or at the time of appointment.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1014. Training for Non-Sworn Personnel.

(a) Reimbursement shall be provided in the Regular Program for the training of non-sworn personnel performing police tasks as determined by the Commission.

(b) Request for Approval.

(1) Whenever it is necessary for the employing jurisdiction to obtain prior written approval of the Commission, it shall be obtained on an individual basis (See PAM, Section E-1-3-f). A request for approval must include:

- (A) The trainee's name and job title.
- (B) Job description.
- (C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior the starting date of the course.

(c) Reimbursement. Reimbursement for non-sworn personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in PAM, Section E-1-3-f. Note: No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005, except as provided in PAM, Section E-1-3-f, "Training of Non-Sworn Personnel."

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1015. Reimbursements.

(a) Proportionate Reimbursement. In the Regular Program, reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with Section 13523, Penal Code, which is quoted as follows:

"The Commission shall annually allocate and the State Treasurer shall periodically pay from the Peace Officers' Training Fund, at intervals specified by the Commission, to each city, county, and district which has applied and qualified for aid pursuant to the chapter, an amount determined by the Commission pursuant to standards set forth in its regulations. The Commission shall grant aid only on a basis that is equally proportionate among cities, counties, and districts.

In no event shall any allocation be made to any city, county, or district which is not adhering to the standards established by the Commission as applicable to such city, county, or district."

(b) Claims for Reimbursement. Claims must be submitted on forms provided by the Commission and received no later than ninety days after the completion of a certified course.

Effective January 1, 1975, all claims for training expenditures eligible for reimbursement from the Peace Officer Training Fund are subject to the following provisions:

(1) Claims received more than 90 days, but less than 180 days, following the completion of a certified training course shall be reduced by 25% of the approved reimbursable amount.

(2) Claims received more than 180 days following the completion of a certified training course shall not be reimbursed.

(c) Training Expenses May Be Claimed Only Once. When a trainee has attended a course certified by the Commission for which reimbursement has been legally claimed and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance of the same course unless attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change.

(d) Reimbursement Limited to Actual Expenses. Reimbursement is provided only for expenses related to attendance of POST certified courses. Reimbursement is limited to expenses as authorized in PAM, Section E, or actually incurred expenses which are approved by the Commission, whichever is less.

(e) Reimbursement may be provided only for training acquired in an on-duty status. (See PAM, Section E-1-3-i.)

(f) A schedule of reimbursements allowed by the Commission is set forth in PAM, Section E, "Reimbursements."

(b) If it appears to the Commission that a jurisdiction or agency has failed to adhere to the minimum standards for recruitment, selection or training, the Commission shall notify the jurisdiction or agency of its concern and of the jurisdiction's or agency's probable ineligibility for participation. The Commission shall also request compliance. In the event that the jurisdiction or agency fails to comply, the Commission shall afford the concerned jurisdiction's or agency's official representatives the opportunity to appear before the Commission and present appropriate evidence or testimony. If the Commission finds that the standards have not been adhered to, it must, beginning with a date determined by the Commission, reject all of the jurisdiction's or agency's requests for services or benefits. A jurisdiction or agency may be reinstated in the program and again become eligible for participation when, in the opinion of the Commission, the jurisdiction or agency has demonstrated that it will adhere to the prescribed standards. The period during which the jurisdiction or agency shall remain ineligible for services or benefits shall be at the discretion of the Commission.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13510, Penal Code.

HISTORY:

1. Amendment of subsection (a) (3) filed 5-16-79 as procedural and organizational; effective upon filing (Register 79, No. 20).

1011. Certificates and Awards.

(a) Certificates and awards may be presented by the Commission for the purpose of raising the level of competence of law enforcement and to foster cooperation among the Commission, agencies, groups, organizations, jurisdictions and individuals.

(b) Professional certificates shall be considered to be awards for achievement and subject to denial or cancellation only if obtained through misrepresentation, fraud, or issuance due to administrative error.

(c) Regular Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, Management and Executive Certificates are provided for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the general police service duties performed by regular peace officers. Requirements for the Certificates are as prescribed in PAM, Section F-1, "Regular and Specialized Certification Programs."

(d) Specialized Law Enforcement Certificates, e.g., Basic, Intermediate, Advanced, Supervisory, and Management Certificates are established for the purpose of fostering professionalization, education and experience necessary to adequately accomplish the duties performed by specialized peace officers. Requirements for Specialized Law Enforcement Certificates are set forth in PAM, Section F-1, "Regular and Specialized Law Enforcement Certification Programs."

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1012. Certification of Courses.

(a) The Commission may certify courses. Criteria for certification include, but are not limited to, a demonstrated need and compliance with minimum standards for curriculum, facilities, instructors and instructional quality.

(b) Certification of courses may be revoked by action of the Commission when:

- (1) There is no longer a demonstrated need for the course; or
- (2) There is failure to comply with standards set forth in (a) above; or
- (3) There are other causes warranting revocation as determined by the Commission.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1013. Code of Ethics.

The Law Enforcement Code of Ethics, as prescribed in PAM, Section C, "The Law Enforcement Code of Ethics," shall be administered as an oath to all peace officer trainees during the Basic Course or at the time of appointment.

NOTE: Authority cited: Section 11422, Government Code. Reference: Section 13520, Penal Code.

1014. Training for Non-Sworn Personnel.

(a) Reimbursement shall be provided in the Regular Program for the training of non-sworn personnel performing police tasks as determined by the Commission.

(b) Request for Approval.

(1) Whenever it is necessary for the employing jurisdiction to obtain prior written approval of the Commission, it shall be obtained on an individual basis (See PAM, Section E-1-3-f). A request for approval must include:

(A) The trainee's name and job title.

(B) Job description.

(C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior the starting date of the course.

1013. Code of Ethics.

The Law Enforcement Code of Ethics, as stated in PAM, Section C-3, shall be administered to all peace officer trainees during the Basic Course or at the time of appointment.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.
HISTORY:

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

1014. Training for Non-Sworn and Paraprofessional Personnel.

(a) Reimbursement shall be provided to Regular Program agencies for the training of non-sworn personnel performing police tasks and paraprofessional personnel, as provided for by Regulation 1015 and POST Administrative Manual Section E-1-3-f, (adopted effective April 15, 1982), herein incorporated by reference.

(b) Request for Approval.

(1) Non-Sworn or Paraprofessional Personnel. Whenever it is necessary for the employing jurisdiction to obtain prior written approval from the Commission for non-sworn or paraprofessional personnel to attend reimbursable training, the agency shall include in the approval request the following information regarding each individual. (See PAM, Section E-1-3-f.)

(A) The trainee's name and job title.

(B) Job description.

(C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior to the starting date of the course.

(c) Reimbursement. Reimbursement for non-sworn and paraprofessional personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in the POST Administrative Manual, Section E-1-3-f, (adopted effective April 15, 1982), herein incorporated by reference. Note: No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005(a) (b) (c) (d) (e), except as provided in PAM, Section E-1-3-f(3).

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.
HISTORY:

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

1015. Reimbursements.

(a) Proportionate Reimbursement. In the Regular Program, reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with Section 13523 Penal Code.

(1) Marshals' and district attorneys' departments are included in the Regular Program for reimbursement even though individual officers employed by the agencies have retained specialized peace officer classification.

(b) Claims for Reimbursement. Claims must be submitted on forms provided by the Commission and received no later than ninety days after the completion of a certified course.

All claims for training expenditures eligible for reimbursement from the Peace Officer Training Fund are subject to the following provisions:

(1) Claims received more than 90 days, but less than 180 days, following the completion of a certified training course shall be reduced by 25% of the approved reimbursable amount.

(2) Claims received more than 180 days following the completion of a certified training course shall not be reimbursed.

(c) Notwithstanding the provisions of sub-paragraph (b) of this Section, upon a regular officer's appointment and within one year from satisfactory completion of training enumerated in sub-paragraph (b) (3), (c) (3) or (e) (2) of Regulation 1005, the officer's jurisdiction may be reimbursed.

(d) Training Expenses May Be Claimed Only Once. When a Regular Program trainee has attended a course certified by the Commission for which reimbursement has been legally claimed and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance by the same trainee of the same course unless attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change. Exceptions or special circumstances must be approved by the Executive Director prior to beginning the training course.

(e) Reimbursement is provided only for expenses related to attendance of POST certified courses.

(f) Reimbursement may be provided only for satisfactorily completed training acquired by full-time employees in an on-duty status. See the POST Administrative Manual, Section E-1-3-i and k, (adopted effective April 15, 1982), herein incorporated by reference.

(g) Reimbursement may be made to a jurisdiction which terminates a Regular Program trainee or allows a trainee to resign prior to completion of a certified Basic Course, provided the requirements of Section 1002(a) (1) through (6) have been completed prior to the trainee's appointment date and the date the course began.

(h) Reimbursement may be paid to a jurisdiction when a Regular Program trainee fails a certified Basic Course only because of not passing a locally required training subject(s), but the trainee otherwise satisfactorily completes the course.

NOTE: Refer to PAM, Section E, Reimbursements, for detailed information on reimbursement procedures.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Sections 13510, 13520, 13522 and 13523, Penal Code.

HISTORY:

1. New subsection (a) (1) filed 5-14-82; designated effective 7-1-82 (Register 82, No. 20).

2. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

1016. Services Provided by the Commission.

Counseling services are provided only to sheriff and city police departments upon request. Aid may also be given to such agencies in implementing recommended procedures or practices. See PAM, Section G.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Sections 13503 and 13513, Penal Code.

HISTORY:

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

3. Amendment of PAM Section F-1 incorporated by reference and effective January 17, 1990 filed 12-18-89; operative 1-17-90 (Register 89, No. 51).

§ 1012. Certification of Courses.

(a) The Commission may certify courses. Criteria for certification include, but are not limited to, a demonstrated need and compliance with minimum standards for curriculum, facilities, instructors and instructional quality. Because of the variety of courses provided by the Commission (e.g., firearms, chemical agent, defensive driving) specific standards for course certification and presentation will reflect the specific needs for the type of course certified.

(b) Certification of courses may be revoked by action of the Commission when:

- (1) There is no longer a demonstrated need for the course; or
- (2) There is failure to comply with standards set forth in (a) above; or
- (3) There are other causes warranting revocation as determined by the Commission.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Sections 13503, 13510, 13510.5 and 13511, Penal Code.

HISTORY

1. Amendment of subsection (a) filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§ 1013. Code of Ethics.

The Law Enforcement Code of Ethics, as stated in PAM, section C-3, shall be administered to all peace officer trainees during the basic course and to all other persons at the time of appointment.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register, No. 7).

2. Amendment filed 8-27-90; operative 9-26-90 (Register 90, No. 42).

§ 1014. Training for Non-Sworn and Paraprofessional Personnel.

(a) Reimbursement shall be provided to Regular Program agencies for the training of non-sworn personnel performing police tasks and paraprofessional personnel, as provided for by Regulation 1015 and POST Administrative Manual Section E-1-4a.

(b) Request for Approval.

(1) Non-Sworn or Paraprofessional Personnel. Whenever it is necessary for the employing jurisdiction to obtain prior written approval from the Commission for non-sworn or paraprofessional personnel to attend reimbursable training, the agency shall include in the approval request the following information regarding each individual. (See PAM, section E-1-4a.)

- (A) The trainee's name and job title.
- (B) Job description.
- (C) Course title, location and dates of presentation.

(2) Request for approval must reach the Commission 30 days prior to the starting date of the course.

(c) Reimbursement. Reimbursement for non-sworn and paraprofessional personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in the POST Administrative Manual, Section E-1-4a. No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005(a)(b)(c)(d)(e), except as provided in PAM, section E-1-4a (3), (4), and (5). PAM section E-1-4a adopted effective April 15, 1982, and amended 5-1-87 is herein incorporated by reference.

PAM section E-1-4a adopted effective April 15, 1982 and amended May 31, 1987 and October 10, 1990, is herein incorporated by reference.

NOTE: Authority cited: Sections 13503, 13506, and 13510 Penal Code. Reference: Sections 13503, 13506 and 13523, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

2. Amendment filed 6-15-83; effective thirtieth day thereafter (Register 83, No. 25).

3. Amendment filed 8-12-83; effective thirtieth day thereafter (Register 83, No. 33).

4. Amendment filed 5-1-87; operative 5-31-87 (Register 87, No. 19).

5. Change without regulatory effect amending of PAM section E-1-4 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 44).

§ 1015. Reimbursements.

(a) Proportionate Reimbursement. Reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with Section 13523 Penal Code.

(1) Marshals' and district attorneys' departments are included in the Regular Program for reimbursement even though individual officers employed by the agencies have retained specialized peace officer classification.

(2) A jurisdiction that employs limited function peace officers may be reimbursed for allowable expenses of these officers that are related to attendance of POST-certified courses.

(b) Requests for Reimbursement. Each request for reimbursement must be submitted on a form provided by the Commission and submitted to the training institution at the beginning of a POST-certified training course. No further action is required by the participating jurisdiction to receive reimbursement except for those courses requiring a report to POST as a condition of successful completion, such as Field Management Training and Team Building Workshops. Upon completion of the training, reimbursement will be automatically computed and paid to the jurisdiction.

(c) Training Expenses May Be Claimed Only Once. When a trainee has attended a course certified by the Commission for which reimbursement has been legally requested and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance by the same trainee of the same course except where attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change. Exceptions or special circumstances must be approved by the Executive Director prior to beginning the training course.

(d) Reimbursement is provided only for expenses related to attendance of POST certified courses.

(e) Reimbursement may be provided only for satisfactorily completed training acquired by full-time employees in an on-duty status. See the POST Administrative Manual, Section E-1-4c and e., (adopted effective April 15, 1982), herein incorporated by reference.

(f) Reimbursement may be made to a jurisdiction which terminates a basic course trainee, allows a trainee to resign prior to completion of a certified basic course, or if the trainee is unable to complete a certified basic course due to illness, injury, or other physical or academic deficiency, provided the background investigation requirements of Regulation 1002(a) or Regulation 1018(c), respectively, (based on the applicability of the regulation to the classification of the trainee) have been completed prior to the trainee's appointment date and the date the course began. The remaining reimbursement entitlement for a trainee eligible to be re-enrolled, may be applied to attendance of any certified basic course which is subsequently attended by the trainee.

(g) Reimbursement may be paid to a jurisdiction when a peace officer trainee fails a certified Basic Course only because of not passing a locally required training subject(s), but the trainee otherwise satisfactorily completes the course.

(h) When a peace officer trainee has attended a POST-certified basic course for which reimbursement has been provided, an employing jurisdiction may receive reimbursement for subsequent attendance of a POST-certified basic training course by the same trainee who has a three-year or longer break in service as a peace officer and must be re-trained (Section 1008(b)).

(i) Reimbursement for partial completion of a certified Motorcycle Training Course or instructor training courses may be provided if the

2. Amendment of section and NOTE and POST Forms 2-116, 2-117, 2-250 and 2-289 (incorporated by reference) filed 8-26-2015; operative 10-1-2015 (Register 2015, No. 35).
3. Change without regulatory effect amending section and NOTE filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).

§ 1012. Conditions for Continuing Employment.

(a) Every full-time peace officer employed by a participating department shall be required to serve in a probationary status for not less than 12 months from the date appointed to a full-time peace officer position.

(b) In order to continue to exercise peace officer powers, any individual appointed to a full-time peace officer position pursuant to Penal Code section 830.1(a) must obtain a basic certificate as set forth in Penal Code section 832.4.

NOTE: Authority cited: Section 11422, Government Code; and Section 832.4, Penal Code. Reference: Sections 832.4 and 13506, Penal Code.

HISTORY

1. Renumbering of former section 1004 to new section 1012, including amendment of section heading and NOTE, filed 10-7-2002; operative 7-1-2003 (Register 2002, No. 41). For prior history of section 1012, see Register 91, No. 16.
2. Change without regulatory effect amending subsection (b) filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).

§ 1013. Code of Ethics.

The Law Enforcement Code of Ethics, as stated in PAM Section C-3, shall be administered to all peace officer trainees during the basic course and to all other persons at the time of appointment.

NOTE: Authority cited: Section 13506, Penal Code. Reference: Section 13503, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register, No. 7).
2. Amendment filed 8-27-90; operative 9-26-90 (Register 90, No. 42).
3. Change without regulatory effect amending section filed 12-9-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 50).

§ 1014. Training for Non-Sworn and Paraprofessional Personnel.

(a) Reimbursement shall be provided to Regular Program agencies for the training of non-sworn personnel performing police tasks and paraprofessional personnel, as provided for by Regulation 1015 and POST Administrative Manual Section E-1-4a.

(b) Request for Approval

(1) Non-Sworn or Paraprofessional Personnel Whenever it is necessary for the employing jurisdiction to obtain prior written approval from the Commission for non-sworn or paraprofessional personnel to attend reimbursable training, the agency shall include in the approval request the following information regarding each individual. (See PAM, section E-1-4a.)

(A) The Trainee's Name and Job Title.

(B) Job Description.

(C) Course Title, Location and Dates of Presentation.

(2) Request for approval must reach the Commission 30 days prior to the starting date of the course.

(c) Reimbursement Reimbursement for non-sworn and paraprofessional personnel is computed in the same manner (except as noted below) as for sworn personnel according to the reimbursement plan for each course appropriate for the employee's classification as set forth in the POST Administrative Manual, Section E-1-4a. No reimbursement is provided for the training of non-sworn personnel for expenses associated with courses enumerated in Regulation 1005(a)(b)(c)(d)(e), except as provided in PAM, section E-1-4a (3), (4), and (5). PAM section E-1-4a adopted effective April 15, 1982, and amended 5-1-87 is herein incorporated by reference.

PAM section E-1-4(a) adopted effected April 15, 1982 and amended May 31, 1987, October 10, 1990, January 21, 1994, August 1, 2005, and August 26, 2006 is herein incorporated by reference.

NOTE: Authority cited: Sections 13503, 13506 and 13510, Penal Code. Reference: Sections 13503, 13506 and 13523, Penal Code.

HISTORY

1. Amendment filed 2-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment filed 6-15-83; effective thirtieth day thereafter (Register 83, No. 25).
3. Amendment filed 8-12-83; effective thirtieth day thereafter (Register 83, No. 33).
4. Amendment filed 5-1-87; operative 5-31-87 (Register 87, No. 19).
5. Change without regulatory effect amending of PAM section E-1-4 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 44).
6. Amendment of last paragraph filed 12-22-93; operative 1-21-94 (Register 93, No. 52).
7. Amendment of last paragraph filed 8-1-2005; operative 8-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 31).
8. Amendment of PAM section E-1-4 (incorporated by reference) and amendment of subsection (c) filed 7-27-2006; operative 8-26-2006 (Register 2006, No. 30).
9. Change without regulatory effect amending subsections (b)(1)(A)-(C) and (c) filed 11-26-2012 pursuant to section 100, title 1, California Code of Regulations (Register 2012, No. 48).

§ 1015. Reimbursements.

(a) Proportionate Reimbursement Reimbursements to cities, counties, and districts shall be granted by the Commission in accordance with section 13523 Penal Code.

(1) Marshals' and district attorneys' departments are included in the Regular Program for reimbursement even though individual officers employed by the agencies have retained specialized peace officer classification.

(2) A jurisdiction that employs limited function peace officers may be reimbursed for allowable expenses of these officers that are related to attendance of POST-certified courses.

(b) Reimbursement for Travel, Subsistence, Commuter Lunch, Tuition and Back-fill Salary

(1) Requests for Reimbursement

Each request for reimbursement must be submitted on a form provided by the Commission and submitted to the training institution at the beginning of a POST-certified training course. No further action is required by the participating jurisdiction to receive reimbursement except for those courses requiring a report to POST as a condition of successful completion, such as Field Management Training and Team Building Workshops. Upon completion of the training, reimbursement will be automatically computed and paid to the jurisdiction.

(2) Training Expenses May Be Claimed Only Once When a trainee has attended a course certified by the Commission for which reimbursement has been legally requested and paid, an employing jurisdiction may not receive reimbursement for subsequent attendance by the same trainee of the same course except where attendance of the course is authorized to be repeated periodically, such as for Seminars, Advanced Officer Courses, and selected Technical Courses which deal with laws, court decisions, procedures, techniques and equipment which are subject to rapid development or change. Exceptions or special circumstances must be approved by the Executive Director prior to beginning the training course.

(3) Reimbursement is provided only for expenses related to attendance of POST certified courses.

(4) Reimbursement may be provided only for satisfactorily completed training acquired by full-time employees in an on-duty status. See the POST Administrative Manual, section E-1-4(c) and (e), (adopted effective April 15, 1982), herein incorporated by reference.

(5) Reimbursement may be made to a jurisdiction which terminates a basic course trainee, allows a trainee to resign prior to completion of a certified basic course, or if the trainee is unable to complete a certified basic course due to illness, injury, or other physical or academic deficiency, provided the background investigation requirements of Regulation 1953 and 1959 or Regulation 1018(c), respectively, (based on the applicability of the regulation to the classification of the trainee) have been



Adam Bereki <abereki@gmail.com>

Records Request

1 message

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Mon, Sep 7, 2020 at 1:01 PM

Please provide the Oath(s) of Office for Fourth District Court of Appeal Justice Thomas Goethals for the period of January 2017 through January 2019.

Sincerely,

Adam Bereki



Adam Bereki <abereki@gmail.com>

Public Records Act Request

1 message

Adam <abereki@gmail.com>

Thu, May 7, 2020 at 11:30 AM

To: "Stinson, Kevin" <Kevin.Stinson@jud.ca.gov>

Kevin, please see the attached request.



Goethals Oath Request 050720.docx

13K

Adam Bereki
818 Spirit
Costa Mesa, California, USA
949.241.6693
abereki@gmail.com

May 7, 2020

Kevin Stinson
Administrator
California Court of Appeal
Fourth Appellate District, Division Three
(via email)
Kevin.stinson@jud.ca.gov

RE: Public Records Act Request

Please provide the oath(s) office for Thomas M. Goethals for the period of January 2017 through January 2019.

Thank you for your help.

/s/ Adam Bereki

No reply received



Adam Bereki <abereki@gmail.com>

Records Request

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Thu, Sep 17, 2020 at 3:30 PM

Good afternoon,

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court on behalf of the Court of Appeal, the Fourth Appellate District and the Judicial Council. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

In the email below, you requested a copy of any oath of office for Associate Justice Thomas Goethals, for the period from January 2017 through January 2019. The Court of Appeal, the Fourth Appellate District and the Judicial Council have both determined they have the same disclosable responsive record. A copy of that record is attached. Neither the court, nor the council, have any other records responsive to your request.

Sincerely,

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov

www.courts.ca.gov/publicrecords.htm

[Quoted text hidden]

 **Justice Goethals Responsive Record.pdf**
76K

JAN 29 2018

OATH

for the Office of *Associate Justice, Court of Appeal, Fourth Appellate
District, Division Three*

*I, Thomas M. Goethals, do solemnly swear (or affirm) that I will support and defend the
Constitution of the United States and the Constitution of the State of California against all enemies,
foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States
and the Constitution of the State of California; that I take this obligation freely, without any mental
reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which
I am about to enter.*

Signature Thomas Goethals

Term Expires December 2026 as prescribed by law

Subscribed and sworn to before me,

this 25 day of Jan A.D. 2018

T. Carl Sakay



Adam Bereki <abereki@gmail.com>

RE: Petition For Redress of Grievance

4 messages

Conlon, Claire <Claire.Conlon@asm.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, Sep 11, 2020 at 4:54 PM

Dear Mr. Bereki,

I am so sorry to hear about the issues you're facing with the state. Would you like to schedule a call with me next week?

When we looked into your case it seems the best course of action is for private legal action. Are you pursuing that?

All the best,

Claire

**CLAIRE CONLON**

Chief of Staff

Assemblywoman Cottie Petrie-Norris

State Capitol, Room 4144

t: (916) 319-2074

<https://a74.asmdc.org>

Adam <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Fri, Sep 11, 2020 at 5:09 PM

Hi Claire,

Thank you so much for your email. Yes, a call next week would be great. Please let me know what would be a good time for you, I have a pretty flexible schedule.

With regard to private legal action: yes I am pursuing that in federal court because there is no available recourse in California courts. But there is no promise or assurance the court will rule in my favor. My case has already been

tossed out of federal district court and is now barely hanging on in the 9th circuit.... not by appeal, but upon a statement of why an appeal should go forward because the district court said my appeal was taken on bad faith and frivolous which is simply not true.

Put differently, the California Legislature, Courts, and Executive branch, have in effect united to enforce this horrendous deprivation of constitutional rights and there is effectively no remedy whatsoever available in California unless either the Legislature does something, or the District Attorney is willing to start prosecuting judges for deprivations of rights.

Sincerely,

Adam Bereki
949 241 6693

[Quoted text hidden]

Conlon, Claire <Claire.Conlon@asm.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 1:40 PM

Hi Mr. Bereki,

I could give you a call today at 4pm or 4:30pm, or tomorrow at 11am or after 2pm.

Thank you,

Claire

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Thu, Sep 17, 2020 at 1:59 PM

4pm today is great. Thank you Claire, I'll be ready for your call.

Adam

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PETITION FOR REDRESS OF GRIEVANCE COMPLETE FILES

1 message

Adam <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Thu, Sep 17, 2020 at 4:54 PM

Claire,

Here are all the files referenced in my emails to Jess and also the letters I've sent to Cottie with no response.

| |
|--|
| California Legislature Complaint 013120.pdf |
| EXHIBIT A-H.pdf |
| EXHIBIT I REPORTERS TRANSCRIPT 032717.pdf |
| EXHIBIT J REPORTERS TRANSCRIPT 032817.pdf |
| EXHIBIT K CLERKS TRANSCRIPT PART 1 OF 3 8:19-... |
| EXHIBIT K CLERKS TRANSCRIPT PART 2 OF 3 8:19-... |
| EXHIBIT K CLERKS TRANSCRIPT PART 3 OF 3 8:19-... |
| EXHIBIT L TRIAL EXHIBITS 8:19-CV-02050.pdf |
| EXHIBIT N OCR 7031B LEGISLATIVE HISTORY OCR.pdf |
| EXHIBIT O AMENDED TRIAL COURT TRANSCRIPT.pdf |
| EXHIBIT P PUBLIC RECORDS REQUESTS W BATES.pdf |
| EXHIBIT M 8:19-CV-02050.pdf |

2 attachments

CA Legislature FU 041520.docx
14K

Amended Complaint 022120.pdf
3001K



Adam Bereki <abereki@gmail.com>

Emails w/ Jess Huang

1 message

Adam <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Thu, Sep 17, 2020 at 4:32 PM

Claire,

Here is the email chain between Jess Huang and I....

Adam

----- Forwarded message -----

From: **Adam** <abereki@gmail.com>
Date: Sat, Aug 15, 2020 at 7:15 PM
Subject: Re: Petition For Redress of Grievance– Adam Bereki
To: Huang, Jess <Jess.Huang@asm.ca.gov>

Hi Jess,

Could you please provide me any information about the Petition For Redress of Greivance I filed through you/Cottie's office in January. I still have not heard anything from anyone.

Sincerely,

Adam Bereki

On Fri, Jan 31, 2020 at 2:24 PM Huang, Jess <Jess.Huang@asm.ca.gov> wrote:

Hey Adam!

Thank you for taking the time to to talk this morning, I'm confirming receipt. Will get back to you shortly.

Sent from my iPhone

On Jan 31, 2020, at 1:18 PM, Adam <abereki@gmail.com> wrote:

Jess,

Thank you again for your help. I've included a brief letter along with extensive documentation pertaining to our conversation earlier and the supporting evidence and documentation you requested. Please keep in mind I have provided a preliminary complaint with what I know and understand up to this point as my investigation is ongoing. I ask that you expedite this complaint in whatever way you can as I continue to be harmed and suffer irreparable injury. I realize some of the relief I seek may be beyond the control of the legislature and I'll trust that you'll ensure this complaint makes it to the right people, including those who I've specifically asked you provide it to in my opening letter. You will not

need to read all the documents as there are literally hundreds of pages. The opening letter (the first 3 pages) should be enough, in addition to our earlier phone conversation to take the required action.

Again, please confirm your receipt of this email and the attachment.

Sincerely,

Adam Bereki

 **California Legislature Complaint 013120.pdf**



Adam Bereki <abereki@gmail.com>

Re: Petition For Redress of Grievance ** PRIMARY FILES *******

1 message

Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 4:31 PM

To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Claire,

I recommend the legislative counsel review the two attached documents first as they will provide a summary of all of the major issues. I recommend reading the Brief In Support first. I'm totally available to help in any way I can if anyone has any questions.

Sincerely,

Adam Bereki
949 241 6693

On Thu, Sep 17, 2020 at 1:59 PM Adam <abereki@gmail.com> wrote:

4pm today is great. Thank you Claire, I'll be ready for your call.

Adam

On Thu, Sep 17, 2020 at 1:40 PM Conlon, Claire <Claire.Conlon@asm.ca.gov> wrote:

Hi Mr. Bereki,

I could give you a call today at 4pm or 4:30pm, or tomorrow at 11am or after 2pm.

Thank you,

Claire

From: Adam <abereki@gmail.com>
Sent: Friday, September 11, 2020 5:10 PM
To: Conlon, Claire <Claire.Conlon@asm.ca.gov>
Subject: Re: Petition For Redress of Grievance

Hi Claire,

Thank you so much for your email. Yes, a call next week would be great. Please let me know what would be a good time for you, I have a pretty flexible schedule.

With regard to private legal action: yes I am pursuing that in federal court because there is no available recourse in California courts. But there is no promise or assurance the court will rule in my favor. My case has already been tossed out of federal district court and is now barely hanging on in the 9th circuit.... not by appeal, but upon a statement of why an appeal should go forward because the district court said my appeal was taken on bad faith and frivolous which is simply not true.

Put differently, the California Legislature, Courts, and Executive branch, have in effect united to enforce this horrendous deprivation of constitutional rights and there is effectively no remedy whatsoever available in California unless either the Legislature does something, or the District Attorney is willing to start prosecuting judges for deprivations of rights.

Sincerely,

Adam Bereki
949 241 6693

On Fri, Sep 11, 2020 at 4:54 PM Conlon, Claire <Claire.Conlon@asm.ca.gov> wrote:

Dear Mr. Bereki,

I am so sorry to hear about the issues you're facing with the state. Would you like to schedule a call with me next week?

When we looked into your case it seems the best course of action is for private legal action. Are you pursuing that?

All the best,

Claire



Claire Conlon
Chief of Staff
Assemblywoman Cottie Petrie-Norris
State Capitol, Room 4144

t: (916) 319-2074

<https://a74.asmdc.org>

2 attachments



NOTICE REQUEST FOR CONSIDERATION OF ADDITIONAL AUTHORITIES.pdf

237K



BRIEF IN SUPPORT OF REQUEST FOR ASSISTANCE OF COUNSEL AND INFORMA PAUPERIS.pdf

15403K



Adam Bereki <abereki@gmail.com>

Adam Bereki

1 message

Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 4:56 PM

To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Claire,

Thank you again for your help. I sent a total of three emails to you (not including this one) with all of the relevant documents. I'll look forward to hearing from you tomorrow.

Sincerely,

Adam Bereki



Adam Bereki <abereki@gmail.com>

Adam Bereki

3 messages

Adam <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Thu, Sep 17, 2020 at 4:56 PM

Claire,

Thank you again for your help. I sent a total of three emails to you (not including this one) with all of the relevant documents. I'll look forward to hearing from you tomorrow.

Sincerely,

Adam Bereki

Conlon, Claire <Claire.Conlon@asm.ca.gov>
To: Adam <abereki@gmail.com>

Sat, Sep 26, 2020 at 10:33 AM

Hi Adam,

A quick update to let you know I did submit this as a formal request for our Legislative Counsel to review and I will check back in with them next week about timing.

All the best,

Claire

**CLAIRE CONLON**

Chief of Staff

Assemblywoman Cottie Petrie-Norris

State Capitol, Room 4144

t: (916) 319-2074

<https://a74.asmdc.org>

[Quoted text hidden]

Adam Bereki <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Sat, Sep 26, 2020 at 12:06 PM

Thank you so much for the update Claire. I appreciate your help.

Sincerely,
Adam

Sent from my iPhone

On Sep 26, 2020, at 10:33 AM, Conlon, Claire <Claire.Conlon@asm.ca.gov> wrote:

Hi Adam,

A quick update to let you know I did submit this as a formal request for our Legislative Counsel to review and I will check back in with them next week about timing.

All the best,

Claire

<image001.png>

CLAIRE CONLON
Chief of Staff
Assemblywoman Cottie Petrie-Norris
State Capitol, Room 4144
t: (916) 319-2074
<https://a74.asmdc.org>

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Adam Bereki

Adam Bereki <abereki@gmail.com>
To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Thu, Oct 22, 2020 at 3:41 PM

Hi Claire,

It's been a few weeks since your message. Just checking in on progress.

Thanks,

Adam.

On Sep 26, 2020, at 12:06 PM, Adam Bereki <abereki@gmail.com> wrote:

Thank you so much for the update Claire. I appreciate your help.
[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Adam Bereki

1 message

Adam <abereki@gmail.com>

Thu, Nov 12, 2020 at 11:32 AM

To: "Conlon, Claire" <Claire.Conlon@asm.ca.gov>

Hi Claire,

It's been over a month since you shared that you'd get back to me. I've not received a reply. Could you please update me on the status of my complaint/petition for redress of grievance? I continue to experience harm as a result of the unlawful behavior by California's legislature, courts, and the governor.

Please respond at your earliest opportunity.

Sincerely,

Adam Bereki
949.241.6693



Adam Bereki <abereki@gmail.com>

Public Records Act Request

Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 8:30 AM

Bcc: webmaster@cba.ca.gov, acupuncture@dca.ca.gov, cab@dca.ca.gov, latc@dca.ca.gov, acp@dca.ca.gov, bareditor@dca.ca.gov, barbercosmo@dca.ca.gov, csac@dca.ca.gov, bcc@dca.ca.gov, chiro.info@dca.ca.gov, "RecCert@CSLB" <reccert1@cslb.ca.gov>, dentalboard@dca.ca.gov, dhccinfo@dca.ca.gov, fiduciary@dca.ca.gov, cfb@dca.ca.gov, speechandhearing@dca.ca.gov, homeproducts@dca.ca.gov, webmaster@mbc.ca.gov, naturopathic@dca.ca.gov, paccommittee@mbc.ca.gov, webmasterbrn@dca.ca.gov, bvnpt@dca.ca.gov, cbot@dca.ca.gov, optometry@dca.ca.gov, bpm@dca.ca.gov, bppe@dca.ca.gov, osar@dca.ca.gov, rcbinf@dca.ca.gov, bsis@dca.gov, pestboard@dca.ca.gov, vmb@dca.ca.gov

· Good day,

Please provide the documents in your custody or control evidencing the following:

- 1) The civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/ performing work without a license. Please include all of the penalties for each license and the relevant statutes/codes/regulations associated therewith.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 9/17/20
818 Spirit
Costa Mesa, CA 92626



Adam Bereki <abereki@gmail.com>

PRA request for documents

2 messages

Sganga, Michael@DCA <Michael.Sganga@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Mon, Sep 21, 2020 at 11:04 AM

Adam Bereki

818 Spirit

Costa Mesa, CA 92626

(by email only)

RE: Public Records Request for Documents and Information
Pertaining to penalties for unlicensed practice

Dear Mr. Bereki,

I have been asked to respond to your public records act request dated September 17, 2019 on behalf of the California Architects Board (Board) and the Department of Consumer Affairs (DCA). In your request, you asked for production of documents related to "penalties associated with each professional license regulated by your agency for failure to be licensed/ performing work without a license."

The Board has searched its records and has determined that:

The Board only regulates one type of professional license: architect.

The statute that applies to the unlicensed practice of architecture is Business and Professions Code section (BPC) 5536.

5536.

(a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture under this chapter to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, as provided in Section 5536.1, or to advertise or put out any sign, card, or other device that might indicate to the public that the person is an architect, is qualified to engage in the practice of

architecture, or is an architectural designer.

(b) It is a misdemeanor, punishable as specified in subdivision (a), for any person who is not licensed to practice architecture under this chapter to affix a stamp or seal that bears the legend "State of California" or words or symbols that represent or imply that the person is so licensed by the state to prepare plans, specifications, or instruments of service.

There are exemptions to the licensing requirement described in BPC 5537

5537.

(a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

- ✓ (1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
- ✓ (2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
- (3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- (4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Code of Regulations or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible control of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

The Board can impose administrative fines on persons who are found to be in violation of BPC 5536 as described in California Code of Regulations, title 16 section (CCR) 152:

§ 152. Citations.

(a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to sections 125.9 or 148 of the code against an architect or an unlicensed person who has committed any acts or omissions which are in violation of the Architects Practice Act or any regulation adopted pursuant thereto.

(b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(c) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(1) Class "A" violations are violations which the executive officer has determined involve an unlicensed person who has violated Business and Professions Code section 5536, including but not limited to, acting in the capacity of or engaged in the practice of architecture. A class "A" violation is subject to an administrative fine in an amount not less than seven hundred and fifty dollars (\$750) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

(2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has caused physical damage to a structure or building or to real property or monetary damage to a client or member of the public or a person who has committed a class "C" violation and has one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount not less than one thousand dollars (\$1,000) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

(3) Class "C" violations are violations which the executive officer has determined involve a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has not caused either the death or bodily injury to another person or physical damage to a structure or building or to real property or monetary damage to a client or a member of the public. A class "C" violation is subject to an administrative fine in an amount not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for each and every violation.

(d) In assessing the amount of an administrative fine, the executive officer shall consider the following criteria:

(1) The good or bad faith exhibited by the cited person.

(2) The nature and severity of the violation.

(3) Evidence that the violation was willful.

(4) History of violations of the same or similar nature.

(5) The extent to which the cited person has cooperated with the board's investigation.

(6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

(7) Such other matters as justice may require.

(e) Notwithstanding the administrative fine amounts specified in subsection (c), a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(2) The cited person has a history of two or more prior citations of the same or similar violations.

(3) The citation involves multiple violations that demonstrate a willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

(f) The sanction authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

Note: Authority cited: Sections 125.9 and 5526, Business and Professions Code. Reference: Sections 125.9, 148, 149, 5510.1 and 5560, Business and Professions Code.

All public records of citations, convictions, and other enforcement actions taken by the Board, including the amounts of the fines imposed in those cases, are listed on our website at: https://cab.ca.gov/consumers/enforcement_actions/

I hope this information was helpful to you. If you have any further questions regarding your request, please contact me at (916) 575-7203 or michael.sganga@dca.ca.gov.

Sincerely,

-Mike Sganga

Michael W. Sganga

Enforcement Analyst



California Architects Board

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

(916) 575-7203 (916) 575-7283 Fax cab.ca.gov



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From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

Good day,

Please provide the documents in your custody or control evidencing the following:

- 1) The civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/ performing work without a license. Please include all of the penalties for each license and the relevant statutes/codes/regulations associated therewith.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,

/s/ Adam Bereki, 9/17/20

818 Spirit

Costa Mesa, CA 92626

Adam <abereki@gmail.com>
To: Michael.Sganga@dca.ca.gov

Mon, Sep 21, 2020 at 11:31 AM

Michael,

Thank you so much for your prompt reply and hard work.

Sincerely,

Adam

[Quoted text hidden]



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5] (*Heading of Division 1 amended by Stats. 1973, Ch. 77.*)

CHAPTER 1. The Department [100 - 144.5] (*Chapter 1 enacted by Stats. 1937, Ch. 399.*)

125.9. (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000), for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a

violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

(Amended by Stats. 2019, Ch. 351, Sec. 29. (AB 496) Effective January 1, 2020.)



Adam Bereki <abereki@gmail.com>

PRA request for documents

Sganga, Michael@DCA <Michael.Sganga@dca.ca.gov>
To: Adam <abereki@gmail.com>

Mon, Sep 21, 2020 at 12:02 PM

Dear Mr. Bereki,

There is one other situation that dramatically affects the penalties for unlicensed practice, when it involves the repair of damage from a natural disaster, especially a wildfire: BPC 5536.5

5536.5.

Any person who violates subdivision (a) of Section 5536 in connection with the offer or performance of architectural services for the repair of damage to a residential or nonresidential structure caused by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, shall be punished by a fine up to ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or for two or three years, or by both the fine and imprisonment, or by a fine up to one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

-Mike Sganga

Michael W. Sganga

Enforcement Analyst



California Architects Board

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

(916) 575-7203 (916) 575-7283 Fax cab.ca.gov



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From: Adam <abereki@gmail.com>
Sent: Monday, September 21, 2020 11:32 AM
To: Sganga, Michael@DCA <Michael.Sganga@dca.ca.gov>
Subject: Re: PRA request for documents

[EXTERNAL]: abereki@gmail.com

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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5] (*Heading of Division 1 amended by Stats. 1973, Ch. 77.*)

CHAPTER 1.5. Unlicensed Activity Enforcement [145 - 149]

(*Chapter 1.5 added by Stats. 1992, Ch. 1135, Sec. 2.*)

148. Any board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

(*Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.*)



Adam Bereki <abereki@gmail.com>

CSAC: Response to Public Records Act Request (2020-09-17)

6 messages

Swenson, Kenneth@DCA <Kenneth.Swenson@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Swenson, Kenneth@DCA" <Kenneth.Swenson@dca.ca.gov>

Thu, Sep 17, 2020 at 1:03 PM

Dear Sir:

I am General Counsel for the California State Athletic Commission (CSAC). CSAC received your email request and forwarded it to me for response. I ask you to please direct any further communications about your request to me unless otherwise required by legal process. In your email, you seek records relating to "the civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/ performing work without a license" to "include all of the penalties for each license and the relevant statutes/codes/regulations associated therewith." You specifically requested a response by email.

In response to your request, I refer you to CSAC's internet website at <https://www.dca.ca.gov/csac/>. The public records maintained by CSAC with the information you seek may be found on the Laws and Regulations page at https://www.dca.ca.gov/csac/stats_regs/index.shtml. These records include CSAC's Laws and Regulations Manual dated September 2018. (Copy attached.) The code sections and regulations cited in the manual and listed on the webpage may have been revised or may be in the process of being revised since they were posted, so the information on the webpage is not a substitute for your own legal research. In addition, other laws not listed on CSAC's a webpage may be responsive to your request but are not maintained as public records of CSAC.

To the extent your email asks for identification of specific provisions of law relevant to your topic, I am unable to respond because I cannot provide you with legal advice about what may or may be relevant to your topic. You may consult with an attorney of your choice and at your expense if you require legal advice.

I trust this email provides an adequate response to your request and ask you to please let me know if you have any questions or concerns about this response.

Very Truly Yours,

/s/

Kenneth L. (Ken) Swenson

(Pronouns He/Him)

Board, Commission and Bureau Counsel, Attorney III

Legal Affairs Division, California Department of Consumer Affairs

1625 North Market Blvd., Suite S-309, Sacramento, CA 95834

Work: (916) 574-8228
Main Office: (916) 574-8220
Email address: kenneth.swenson@dca.ca.gov

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

Please provide the documents in your custody or control evidencing the following:

- 1) The civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/ performing work without a license. Please include all of the penalties for each license and the relevant statutes/codes/regulations associated therewith.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 9/17/20
818 Spirit
Costa Mesa, CA 92626

 lawreg_manual.pdf
1482K

Adam <abereki@gmail.com>
To: Kenneth.Swenson@dca.ca.gov

Thu, Sep 17, 2020 at 1:55 PM

Ken,

A simple response citing a few statutes relevant to the civil, admin, and/or criminal referral process was all I was looking for. It's a bit difficult for someone who isn't a lawyer to spend hours upon hours researching what someone like you likely knows off the top of their head. I'm baffled why you are hiding behind all of this legal mumbo jumbo instead of just kindly sharing a simple straightforward response. I understand you think can't provide legal advice/perform legal research, but it seems to me you are an agent of the People of California. Pointing to a few statutes relevant to

my request hardly qualifies as legal advice or research.

Sincerely,

Adam Bereki

[Quoted text hidden]

Adam <abereki@gmail.com>
To: G Cressend <gcressend@gmail.com>

Thu, Sep 17, 2020 at 1:56 PM

LOL... omg!

[Quoted text hidden]

Swenson, Kenneth@DCA <Kenneth.Swenson@dca.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 2:07 PM

Please let me me as clear as I possibly can. The Public Records Act allows you to request records. It does not allow you to ask questions. I provided you records. You will have to review the records yourself.

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 1:55 PM
To: Swenson, Kenneth@DCA <Kenneth.Swenson@dca.ca.gov>
Subject: Re: CSAC: Response to Public Records Act Request (2020-09-17)

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Swenson, Kenneth@DCA" <Kenneth.Swenson@dca.ca.gov>

Thu, Sep 17, 2020 at 2:13 PM

And with just a bit of compassion, kindness, and SERVICE, one could actually provide specific documents relevant to a request that also answer questions. Imagine that!

[Quoted text hidden]

Swenson, Kenneth@DCA <Kenneth.Swenson@dca.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 2:21 PM

Your inquiry is closed. Thank you for interest in the records.

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 2:13 PM

[Quoted text hidden]

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Act Request

27 messages

Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 8:30 AM

Bcc: webmaster@cba.ca.gov, acupuncture@dca.ca.gov, cab@dca.ca.gov, latc@dca.ca.gov, acp@dca.ca.gov, bareditor@dca.ca.gov, barbercosmo@dca.ca.gov, csac@dca.ca.gov, bcc@dca.ca.gov, chiro.info@dca.ca.gov, "RecCert@CSLB" <reccert1@cslb.ca.gov>, dentalboard@dca.ca.gov, dhccinfo@dca.ca.gov, fiduciary@dca.ca.gov, cfb@dca.ca.gov, speechandhearing@dca.ca.gov, homeproducts@dca.ca.gov, webmaster@mbc.ca.gov, naturopathic@dca.ca.gov, paccommittee@mbc.ca.gov, webmasterbrn@dca.ca.gov, bvnpt@dca.ca.gov, cbot@dca.ca.gov, optometry@dca.ca.gov, bpm@dca.ca.gov, bppe@dca.ca.gov, osar@dca.ca.gov, rcbinfo@dca.ca.gov, bsis@dca.gov, pestboard@dca.ca.gov, vmb@dca.ca.gov

Good day,

Please provide the documents in your custody or control evidencing the following:

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Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,

/s/ Adam Bereki, 9/17/20

818 Spirit

Costa Mesa, CA 92626

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Thu, Sep 17, 2020 at 8:30 AM

To: abereki@gmail.com



Address not found

Your message wasn't delivered to **bsis@dca.gov** because the domain **dca.gov** couldn't be found. Check for typos or unnecessary spaces and try again.

The response was:

DNS Error: 1998798 DNS type 'mx' lookup of dca.gov responded with code NXDOMAIN
Domain name not found: dca.gov

Final-Recipient: rfc822; bsis@dca.gov

Action: failed

Status: 4.0.0

Diagnostic-Code: smtp; DNS Error: 1998798 DNS type 'mx' lookup of dca.gov responded with code NXDOMAIN

Domain name not found: dca.gov

Last-Attempt-Date: Thu, 17 Sep 2020 08:30:28 -0700 (PDT)

----- Forwarded message -----

From: Adam <abereki@gmail.com>

To: undisclosed-recipients;;

Cc:

Bcc: bsis@dca.gov

Date: Thu, 17 Sep 2020 08:30:17 -0700

Subject: Public Records Act Request

----- Message truncated -----

Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 8:32 AM

To: bsis@dca.ca.gov

[Quoted text hidden]

Mail Delivery Subsystem <MAILER-DAEMON@mx0b-002cb501.pphosted.com>

Thu, Sep 17, 2020 at 8:30 AM

To: abereki@gmail.com

The original message was received at Thu, 17 Sep 2020 08:30:29 -0700

from m0129514.pops.net [127.0.0.1]

----- The following addresses had permanent fatal errors -----

<cfb@dca.ca.gov>

(reason: 550 5.4.1 Recipient address rejected: Access denied. AS(201806281) [BL0GCC02FT012.eop-gcc02.prod.protection.outlook.com])

----- Transcript of session follows -----

... while talking to dca-ca-gov.mail.protection.outlook.com.:

>>> DATA

<<< 550 5.4.1 Recipient address rejected: Access denied. AS(201806281) [BL0GCC02FT012.eop-gcc02.prod.protection.outlook.com]

550 5.1.1 <cfb@dca.ca.gov>... User unknown

<<< 503 5.5.2 Need rcpt command [BL0GCC02FT012.eop-gcc02.prod.protection.outlook.com]

Final-Recipient: RFC822; cfb@dca.ca.gov

Action: failed

Status: 5.4.1

Remote-MTA: DNS; dca-ca-gov.mail.protection.outlook.com
Diagnostic-Code: SMTP; 550 5.4.1 Recipient address rejected: Access denied. AS(201806281)
[BL0GCC02FT012.eop-gcc02.prod.protection.outlook.com]
Last-Attempt-Date: Thu, 17 Sep 2020 08:30:31 -0700

----- Forwarded message -----

From: Adam <abereki@gmail.com>
To: undisclosed-recipients; ;
Cc:
Bcc:
Date: Thu, 17 Sep 2020 08:30:17 -0700
Subject: Public Records Act Request
[EXTERNAL]: abereki@gmail.com

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Good day,

Please provide the documents in your custody or control evidencing the following:

- 1) The civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/ performing work without a license. Please include all of the penalties for each license and the relevant statutes/codes/regulations associated therewith.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received it. Thank you for your time and help. If you have any questions please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 9/17/20
818 Spirit
Costa Mesa, CA 92626

DCA, BCC@DCA <BCC@dca.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 8:54 AM

Greetings Adam,

Thank you for contacting the Bureau of Cannabis Control (Bureau). You may view the Bureau's disciplinary guidelines at the following location: https://bcc.ca.gov/law_regs/cannabis_reference.pdf.

You may also want to review the enforcement provisions of the Medicinal and Adult-Use Cannabis

Regulation and Safety Act (MAUCRSA): [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=3.&article=.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=3.&article=)

Best,



Bureau Staff

Bureau of Cannabis Control

(833) 768-5880

www.bcc.ca.gov

<https://cannabis.ca.gov>



We encourage you to check out our "Your Questions Answered" database page containing over 130 answers to the most commonly-asked questions: https://bcc.ca.gov/about_us/your_questions_answered.html.

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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[Quoted text hidden]

Acupuncture@DCA <Acupuncture@dca.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 9:07 AM

Hello Adam,

I have forwarded your request to the appropriate staff.

Have a good day.

Tammy Stadley

Licensing Coordinator

CA Acupuncture Board

From: Adam <abereki@gmail.com>

Sent: Thursday, September 17, 2020 8:30 AM

Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

[Quoted text hidden]

Naturopathic@DCA <Naturopathic@dca.ca.gov>

Thu, Sep 17, 2020 at 9:57 AM

To: Adam <abereki@gmail.com>

Dear Adam Bereki:

Good morning, hope you are well during COVID-19.

Thank you for your email. We have received your request and will start working on it.

Is there a specific unlicensed individual that you are trying to track down or is this a broad-reaching request? Your request was somewhat vague, and I want to know if there is something/someone in particular that you are trying to find, so that I can assist getting the correct information for you.

Thank you.

Stay safe and be well.

Kind regards,

Rebecca Mitchell

Executive Officer

Naturopathic Medicine Committee

1300 National Drive, Suite 150

Sacramento, CA 95834-1991

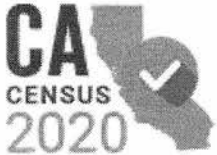
(916) 928-4785 [Main]

(916) 928-5862 [Direct]

(916) 928-4787 [Fax]

Web: www.naturopathic.ca.gov

Email: naturopathic@dca.ca.gov



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From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

[Quoted text hidden]

Judson, Kay@DCA <Kay.Judson@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Sep 17, 2020 at 11:12 AM

Good Morning,

Thank you for your request for records from the Board of Barbering and Cosmetology. I would like some clarification and did not see a phone number to call. Are you requesting records and information for a specific individual or business address?

Thank you,

Kay Judson
DRC Analyst
State of California Department of Consumer Affairs
Board of Barbering and Cosmetology
PO Box 944226
Sacramento, CA 94244-2260
Phone: (916) 575-7103
Fax: (916) 928-6810



From: Barbercosmo2@DCA <Barbercosmo2@dca.ca.gov>
Sent: Thursday, September 17, 2020 10:37 AM
To: Judson, Kay@DCA <Kay.Judson@dca.ca.gov>
Subject: FW: Public Records Act Request

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,
[Quoted text hidden]

Adam <abereki@gmail.com>
To: "DCA, BCC@DCA" <BCC@dca.ca.gov>

Thu, Sep 17, 2020 at 12:33 PM

Thank you for your prompt reply. Have a nice day.

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Acupuncture@DCA" <Acupuncture@dca.ca.gov>

Thu, Sep 17, 2020 at 12:33 PM

Thank you Tammy. I hope you have a good day too.

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Naturopathic@DCA" <Naturopathic@dca.ca.gov>

Thu, Sep 17, 2020 at 12:35 PM

Hi Rebecca,

Thank you for the kind message. I hope you are well too. I appreciate you asking for further clarification. No, I'm not interested in any business or someone operating without a license. I am conducting a brief study on the fines/penalties for each different class of license in the state of California. Please let me know if you have any further questions.

Sincerely,

Adam

[Quoted text hidden]

Adam <abereki@gmail.com>
To: Kay.Judson@dca.ca.gov

Thu, Sep 17, 2020 at 12:36 PM

Hi Kay,

Thank you for your message. No, I'm not looking for any records pertinent to a specific person or business. I am conducting a study about the fine/penalties imposed throughout the State of CA in various professions for failure to have a license.

Thank you for your help and please let me know if you have any further questions.

Sincerely,

Adam

[Quoted text hidden]

Townsend, Stacy@DCA <Stacy.Townsend@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Sep 17, 2020 at 12:58 PM

Mr. Bereki,

The LATC has received your request to provide the documents evidencing the civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/performing work without a license, including all penalties for each license and the relevant statutes/codes/regulations associated. At this time, LATC is seeking clarification of your request and what information you are requesting and if there is a timeframe attached to your request. Pursuant to Business and Professions Code section 5620(d), the California Architects Board (Board) has enforcement authority over the practice of landscape architecture and also enforces architecture practice. You may refer to the administrative and citation summaries of licensed and unlicensed individuals on the Board's website (https://cab.ca.gov/consumers/enforcement_actions/) and LATC's website (https://latc.ca.gov/consumers/enforcement_actions/). You are advised that should you want copies of any disclosable documents pertaining to your request, the Board/LATC charges \$0.10 per page and the fee must be received by the Board/LATC prior to the documents being sent.

If you have questions, please don't hesitate to contact me.

Thank you,

Stacy Townsend

Enforcement Analyst

Landscape Architects Technical Committee

2420 Del Paso Road, Suite 105

Sacramento, CA 95834

Direct: (916) 575-7235

Main: (916) 575-7230

Fax: (916) 575-7283

Web: latc.ca.gov



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From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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NEVER: provide credentials on websites via a clicked link in an Email.

Good day,

[Quoted text hidden]

Naturopathic@DCA <Naturopathic@dca.ca.gov>
To: Adam <abereki@gmail.com>, "Naturopathic@DCA" <Naturopathic@dca.ca.gov>

Thu, Sep 17, 2020 at 1:04 PM

Hi Adam:

Thanks so much for the kind words as well.

Do you think you can give me a quick call to make sure that I get you exactly what you are looking for? My cell number is 916-869-8117.

As there are only a few things that a licensee can actually get fined for, I want to make sure that I am understanding what it is that I need to collect for you. Anything that has to do with patient harm is not a citable offence, those are the types of cases that go to the Attorney General for Administrative filings and/or the District Attorney for criminal filings.

About 83% of our enforcement cases stem around unlicensed practice. We know that the laws surrounding Naturopathic Medicine can get a little hard to understand, so our agency always sends unlicensed practitioners an educational letter and advise them of the statutes that they may be violating. We allow a 30-day period for compliance before citing and issuing a fine to the party. Most comply and the enforcement action stops there.

For the other 17% that are actions against licensees, most of these are for advertisement violations. We really try to ensure that we are educating our licensees before "throwing the book" at them.

Thank you so much, I look forward to speaking with you to gather a bit more information and to provide you with some additional information about our Committee. We are a little different than all of the other licensing programs under the Department of Consumer Affairs when it comes to enforcement.

[Quoted text hidden]

Judson, Kay@DCA <Kay.Judson@dca.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Sep 17, 2020 at 1:33 PM

Good Afternoon Adam,

We have information regarding the Laws and Regulations that govern the Board of Barbering and Cosmetology available on the Board's website at this link:

https://www.barbercosmo.ca.gov/laws_regs/index.shtml

In the Barbering and Cosmetology Act you will find information about licensing requirements under Article 2 along with the information on what constitutes the practice of barbering and cosmetology. Under Article 6 you will find information as it pertains to Establishments and the need for an Establishment license and/or employing unlicensed individuals. Article 11 has information regarding Disciplinary Proceedings. Article 12 has the information regarding the Board's authority to administer fines and the process.

In the 2020 California Code of Regulations we have the current Schedule of Administrative Fines under Article 11.

Please let me know if there is any further information needed.

Thank you,

Kay Judson
DRC Analyst
State of California Department of Consumer Affairs
Board of Barbering and Cosmetology
PO Box 944226
Sacramento, CA 94244-2260
Phone: (916) 575-7103
Fax: (916) 928-6810



From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 12:36 PM
To: Judson, Kay@DCA <Kay.Judson@dca.ca.gov>
Subject: Re: Public Records Act Request

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "Judson, Kay@DCA" <Kay.Judson@dca.ca.gov>

Thu, Sep 17, 2020 at 1:35 PM

Thank you so much Kay. Have a great day! I appreciate your help and hard work.

Adam
[Quoted text hidden]

Watts, Donald@DCA <Donald.Watts@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Sep 17, 2020 at 2:14 PM

Mr. Bereki,

We have received your request and will begin processing it as soon as possible.

If I am reading your request correctly, you are wanting the maximum penalty for unlicensed activity for each license type and the relevant authority for us to impose that penalty. Is this correct?

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

[Quoted text hidden]

Adam <abereki@gmail.com>
To: Donald.Watts@dca.ca.gov

Thu, Sep 17, 2020 at 2:16 PM

Hi Don,

Thanks for your help. Yes, I'm simply asking for the statutory authorities and relevant fines for each license type—minimum to maximum. If all of this is included within the statute, no need to go any further. I'm doing research on the penalties for different licensing types in the State of CA.

Sincerely,

Adam

[Quoted text hidden]

Pejuhesh, Reza@DCA <Reza.Pejuhesh@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Sep 17, 2020 at 5:21 PM

Good afternoon Mr. Bereki,

I am legal counsel for the Board of Registered Nursing (Board). The Board is in receipt of your request below, which was forwarded to my attention for response.

Information about the penalties associated with unlicensed persons performing work for which a license issued by the Board is required can be found in the Board's statutes and regulations, which can be viewed online at, respectively,:

- http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=BPC&division=2.&title=&part=&chapter=6.&article=
- [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I8EF6B130D48E11DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I8EF6B130D48E11DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)&bhcp=1)

-

Additionally, you may find information about certain violations relating to unlicensed practice in the Board's disciplinary guidelines, which are attached.

The following is not an attempt to provide you with an exhaustive list of provisions governing penalties for unlicensed practice of nursing, therefore you are advised not to rely on it as such. There may be additional provisions, either in the Board's statutes and regulations, or elsewhere, that are pertinent.

However, in an effort to draw your attention to provisions that may be of interest to you, please see the following:

-

- California Code of Regulations, title 16, sections 1435.3, as well as sections 1435.2 and 1435.5
- Business and Professions Code section 148 (which incorporates provisions of section 125.9)
- Business and Professions Code section 2761 [note: the Board does not regulate the practice of medicine; however technically, this provision is responsive to your request regarding violations relating to working without a license, as it authorizes the board to discipline licensed RNs who are convicted of practicing medicine without a license to do so.]
- Business and Professions Code section 2795
- Business and Professions Code section 2796
- Business and Professions Code section 2799
- Business and Professions Code section 119

Once again, this may not be an exhaustive list. You are advised not to rely on this information as legal advice, and if necessary, to seek the advice of independent legal counsel.

Sincerely,

Reza Pejuhesh

(Pronouns he/him)

Attorney III

Legal Affairs Division, Department of Consumer Affairs

1625 N. Market Blvd., Suite S-309, Sacramento, CA 95834

Direct: (916) 574-8135

Main Office: (916) 574-8220

Reza.Pejuhesh@dca.ca.gov

(During this declaration of emergency, I am working remotely, and can be reached during normal business hours between 8 a.m. – 5 p.m.)

-
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From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

[Quoted text hidden]

 **Disciplinary Guidelines.pdf**
523K

Adam <abereki@gmail.com>
To: Reza.Pejuhesh@dca.ca.gov

Fri, Sep 18, 2020 at 12:04 PM

Reza,

I received your response. Thank you for your very thorough work and attention to detail. I appreciate the fact that you didn't just provide thousands of statutes and say 'go find it' as some others have done.

I hope you have a nice weekend.

Sincerely,

Adam Bereki

[Quoted text hidden]

Pejuhesh, Reza@DCA <Reza.Pejuhesh@dca.ca.gov>
To: Adam <abereki@gmail.com>

Fri, Sep 18, 2020 at 12:09 PM

Thank you, I'm glad that you found it helpful. Wishing you a nice weekend as well.

[Quoted text hidden]

AcuPolicy@DCA <AcuPolicy@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, Sep 18, 2020 at 12:27 PM

Dear Mr. Bereki,

The California Acupuncture Board (Board) has received your PRA request on September 17, 2020, regarding the documents under the Board's custody evidencing civil, criminal, and administrative penalties associated with each professional license regulated by the Board for failure to be licensed or performing work without a license. Your request has been forwarded to me for a response and, on behalf of the Board, this email shall serve as acknowledgment of your request.

The Board has reviewed your request and has determined that the Board's Laws and Regulations Relating to the Practice of Acupuncture and Disciplinary Guidelines will provide the pertinent information you are seeking.

The Board's Laws and Regulations, found here:

https://www.acupuncture.ca.gov/pubs_forms/laws_regs/laws_and_regs.pdf

has each section of law and regulations from the Acupuncture Licensure Act.

The Board's Disciplinary Guidelines, found here:

https://www.acupuncture.ca.gov/pubs_forms/laws_regs/laws_and_regs.pdf

is a document used by the Board, Deputy Attorney Generals, and Administrative Laws Judges as a guiding document when imposing discipline on an acupuncture license. It sets out the minimum and maximum penalties recommended by violation.

Please let me know if you have any further questions.

Thank you,

Kristine Brothers

Acupuncture Board

Policy Coordinator

1747 N. Market Blvd., Ste. 180

Sacramento, CA 95834

P (916) 515-5200

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

[Quoted text hidden]

Adam Bereki <abereki@gmail.com>
To: "AcuPolicy@DCA" <AcuPolicy@dca.ca.gov>

Fri, Sep 18, 2020 at 12:32 PM

Thank you Kristine. I appreciate your prompt and thorough reply. I hope you Have a nice weekend.

Sincerely,

Adam

On Sep 18, 2020, at 12:27 PM, AcuPolicy@DCA <AcuPolicy@dca.ca.gov> wrote:

[Quoted text hidden]

Fiduciary@DCA <Fiduciary@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Fiduciary@DCA" <Fiduciary@dca.ca.gov>

Fri, Sep 18, 2020 at 2:18 PM

Mr. Bereki,

The statutes and regulations governing the Professional Fiduciary Bureau and its enforcement functions (including any applicable penalties for statutory and/or regulatory violations) can be found on the Bureau's website here:

https://www.fiduciary.ca.gov/laws_regs/index.shtml

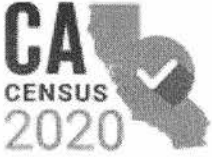
You can also find all disciplinary and administrative actions taken by the Bureau against licensees at the link below. All actions are grouped by year, and under each licensee you can find the associated documents detailing specific charges and penalties.

<https://www.fiduciary.ca.gov/enforcement/index.shtml>

Thank you for contacting the Bureau.

Sincerely,

Professional Fiduciaries Bureau



From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[EXTERNAL]: abereki@gmail.com

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Good day,

[Quoted text hidden]

PestBoard@DCA <PestBoard@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, Sep 18, 2020 at 2:31 PM

To Mr. Bereki,

In response to your emailed public record's request, see the information listed below with regards to the statutes, codes and regulations associated with performing work without a license.

Business and Profession Code Section 8550. (a) It is unlawful for any person to advertise, to engage in, or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.

(b) Notwithstanding subdivision (a), an unlicensed person may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.

(c) It is unlawful for an unlicensed person, soliciting pest control work on behalf of a registered

structural pest control company pursuant to subdivision (b), to perform or offer to perform any act for which an operator, field representative, or applicator license is required, including, but not limited to, performing or offering pest control evaluations or inspections, pest identification, making any claims of pest control safety or pest control efficacy, or to offer price quotes other than what is provided and printed on the company advertising or literature, or both.

(d) It is also unlawful for any unlicensed person to offer any opinion, or to make any recommendations, concerning the need for structural pest control work in general, or in connection with a particular structure.

(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

Business and Profession Code Section 8551. It is unlawful for any unlicensed person to perform fumigation with dangerous or lethal fumigating chemicals in any public structure, including rooming houses, or households when used as public structures, hotels, apartment houses, or any part thereof.

Business and Profession Code Section 8551.5. Except as provided in this chapter, an unlicensed individual in the employ of a registered company shall not apply any pesticides included in Branch 2 or Branch 3. However, an individual may, for 90 days from the date of employment, apply pesticides for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 90-day time period may not be extended.

Business and Profession Code Section 8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a registered company, except as otherwise provided in this chapter.

Business and Profession Code Section 8553. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars (\$50) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Business and Profession Code Section 8568. After a hearing the board may deny a license or a company registration unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not, or if the applicant is a company applying for a company registration, that its manager and each of its officers, directors, employees, members and partners have not:

(a) Committed any act or crime constituting grounds for denial of licensure under Section 480.

(b) While unlicensed or not registered, knowingly committed or aided and abetted the commission of any act for which a license or company registration is required under this chapter.

(c) While acting as a partner, officer, managing employee, or qualifying manager of a firm, partnership, or corporation, had knowledge of and participated in the commission of any act resulting in the suspension or revocation of a license

or company registration. When a hearing is held under this section it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

Business and Profession Code Section 8639. Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade the provisions of this chapter is a ground for disciplinary action.

Enclosed is a link to the Structural Pest Control Board's web site

<https://www.pestboard.ca.gov/>

Sincerely,

Structural Pest Control Board

Administratiton Unit

2005 Evergreen Street, Suite 1500

Sacramento, CA 95815

P. (916) 561-8700

F. (916) 263-2469

E. pestboard@dca.ca.gov

From: Adam <abereki@gmail.com>
Sent: Thursday, September 17, 2020 8:30 AM
Subject: Public Records Act Request

[Quoted text hidden]

Adam <abereki@gmail.com>
To: "PestBoard@DCA" <PestBoard@dca.ca.gov>

Fri, Sep 18, 2020 at 3:20 PM

Thank you kindly for your reply. I hope you have a nice weekend.

Sincerely,

Adam
[Quoted text hidden]

Townsend, Stacy@DCA <Stacy.Townsend@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, Sep 18, 2020 at 5:01 PM

Mr. Bereki,

This is a follow-up to the below email sent to you yesterday afternoon seeking clarification on your Public Records Act request submitted to LATC. Please respond accordingly so that we may properly address your request.

If you have questions, please don't hesitate to contact me.

Thank you,

Stacy Townsend
Enforcement Analyst

Landscape Architects Technical Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Direct: (916) 575-7235
Main: (916) 575-7230
Fax: (916) 575-7283
Web: latc.ca.gov



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The Landscape Architects Technical Committee is committed to providing quality customer service. To measure how we are doing, we would appreciate you taking a few minutes to share your thoughts about the service you received using our Customer Satisfaction Survey. Thank you.

From: Townsend, Stacy@DCA
Sent: Thursday, September 17, 2020 12:58 PM
To: abereki@gmail.com <abereki@gmail.com>
Subject: RE: Public Records Act Request

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Act Request

Adam <abereki@gmail.com>
To: Stacy.Townsend@dca.ca.gov

Mon, Sep 21, 2020 at 11:40 AM

Hi Stacy,

I'm sorry I missed your reply email. Thank you for sending a follow up– I appreciate your diligence. In your response you stated:

You may refer to the administrative and citation summaries of licensed and unlicensed individuals on the Board's website (https://cab.ca.gov/consumers/enforcement_actions/) and LATC's website (https://latc.ca.gov/consumers/enforcement_actions/).

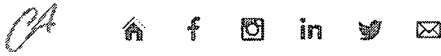
This appears to be all the information needed to satisfy my request.

Thank you for your help.

Adam

[Quoted text hidden]

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Enforcement Actions - C

- ▶ Citations
- ▶ Administrative Actions
- ▶ Convictions

Enforcement Pages

Using the first letter of the individual's last name, select the letter group below that corresponds. This will display enforcement actions for the corresponding letter group.

Enforcement Actions Form

Last Name Starts with a(n):

Each page of the Enforcement Actions section is divided into subsections for citations, administrative actions, and convictions. You should check each subsection to see if an enforcement action has been taken against the individual you are seeking.

Citations

Todd Alexander Calish

LAGUNA NIGUEL—The Board issued a one-count citation that included a \$500 administrative fine to Todd Alexander Calish, architect license number C-12773, for an alleged violation of BPC 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Calish certified false or misleading information on his 2013 License Renewal Application. Calish paid the fine, satisfying the citation. The citation became final on February 19, 2015.

Larry Lee Cannon

LARKSPUR—The Board issued a two-count administrative citation that included a \$2,000 fine to Larry Lee Cannon, architect license number C-5648, for alleged violations of Business and Professions Code section (BPC) 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that while Respondent's license was expired, Cannon executed an agreement with the Town of Los Gatos to provide "architectural" consulting services for evaluation of development proposals within the Town of Los Gatos and subsequently prepared a Peer Review Report for the Town of Los Gatos for a project located in Los Gatos, California. Cannon's company letterhead on the cover of the Peer Review Report contained the word "Architecture" as a description of the services he provides. Cannon's license expired on July 31, 2011 and was not renewed until December 27, 2013. Cannon paid the civil penalty, satisfying the citation. The citation became final on September 8, 2014.

Donald Edwin Carlson

SEATTLE, WASHINGTON—The Board issued a one-count citation that included a \$500 administrative fine to Donald Edwin Carlson, architect license number C-8011, for alleged violations of BPC 5600.05(a)(1) and (b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Carlson certified false or misleading information on his 2015 License

Renewal Application and failed to make records of completion of the required coursework available to the Board for auditing upon request. Carlson paid the fine, satisfying the citation. The citation became final on August 4, 2015.

Joseph Patrick Carrick

SAN MARCOS—The Board issued a one-count citation that included a \$500 administrative fine to Joseph Patrick Carrick, architect license number C-7166, for an alleged violation of BPC 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Carrick certified false or misleading information on his 2013 License Renewal Application. Carrick paid the fine, satisfying the citation. The citation became final on April 28, 2015.

Daniel Timothy Castor

MILL VALLEY—The Board issued a one-count citation that included a \$500 administrative fine to Daniel Timothy Castor, architect license number C-31089, for an alleged violation of BPC § 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Castor failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Castor paid the fine, satisfying the citation. The citation became final on November 2, 2017.

Jeanine G. Centuori

LOS ANGELES—The Board issued a one-count citation that included a \$500 administrative fine to Jeanine G. Centuori, architect license number C-28180, for an alleged violation of BPC § 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Centuori certified false or misleading information on her 2017 License Renewal Application. Centuori paid the fine, satisfying the citation. The citation became final on December 8, 2017.

Lawrence James Chalk

OAK VIEW—The Board issued a two-count citation that included a \$2,000 administrative fine to Lawrence James Chalk, architect license number C-21565, for alleged violations of BPC section 5584 (Willful Misconduct) and CCR, title 16, section 160(b)(2) (Willful Misconduct; Failure to Respond to Board Investigation). The action alleged that Chalk received a total of \$500 from his client as a down payment for architectural and engineering services and failed to either provide the client with the architectural and engineering services for which he was paid or refund the prepaid fees for those services to the client. Chalk also failed to respond to the Board's requests for information regarding an investigation within 30 days. Chalk paid the fine, satisfying the citation. The citation became final on June 7, 2019.

John K. Chang

EMERYVILLE—The Board issued a one-count citation that included a \$500 administrative fine to John K. Chang, architect license number C-32235, for an alleged violation of BPC 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Chang certified false or misleading information on his 2015 License Renewal Application. Chang paid the fine, satisfying the citation. The citation became final on January 26, 2016.

Brent Carl Chase

LAGUNA NIGUEL—The Board issued a one-count citation that included a \$750 administrative fine to Brent Carl Chase, architect license number C-24121, for alleged violations of BPC 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Chase failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Chase paid the fine, satisfying the citation. The citation became final on September 10, 2015.

Nathaniel Raymond Chiappa

LOS ANGELES—The Board issued a one-count citation that included a \$750 administrative fine to Nathaniel Raymond Chiappa, architect license number C-31889, for an alleged violation of BPC 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Chiappa failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Chiappa paid the fine, satisfying the citation. The citation became final on October 8, 2015.

Thomas Brian Chiaramonte

SAN ANSELMO—The Board issued a one-count citation that included a \$500 administrative fine to Thomas Brian Chiaramonte, architect license number C-29727, for an alleged violation of Business and Professions Code (BPC) section 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Chiaramonte failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Chiaramonte paid the fine, satisfying the citation. The citation became final on October 20, 2017.

Meng Lee Chin

LOS ANGELES—The Board issued a three-count citation that included a \$6,000 administrative fine to Meng Lee Chin, an unlicensed individual, for alleged violations of BPC 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that Chin has a website, "Mengdynasty.com," which advertises "Your One Stop for Architecture & Landscape Design." The website contains a page entitled "Creative Designs" and lists Meng Design International ""Architecture | Interior | Landscape." Another website for Chin located at "mengdesignintl.wix.com/la" advertises Interior | Architecture | Landscape." The website states that Chin is an "Interior Architect/(sic) Designer," and contains pages which offer "Architectural Design" and "Interior Architecture Design Services." Chin is a member of "The Artist Conglomerate" located on the Internet at meetup.com/TheArtistConglomerate. The listing under the heading "Introduction" states "Meng Dynasty" "Architecture Interior | Landscape..." The citation became final on January 21, 2015.

Min Kevin Chung

ROSEMead—The Board issued a one-count citation that included a \$500 administrative fine to Min Kevin Chung, architect license number C-33001 for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Chung certified false or misleading information on his 2019 License Renewal Application. Chung paid the fine, satisfying the citation. The citation became final on June 26, 2019.

Gerald Lamont Clark

LAKE HAVASU CITY, ARIZONA—The Board issued a one-count citation that included a \$500 administrative fine to Gerald Lamont Clark, architect license number C-5804, for an alleged violation of Business and Professions Code section (BPC) 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Clark certified false or misleading information on his 2015 License Renewal Application. The citation became final on March 15, 2016.

Joseph Eugene Clark

BAKERSFIELD—The Board issued a one-count citation that included a \$500 administrative fine to Joseph Eugene Clark, architect license number C-21195, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Clark certified false or misleading information on his 2019 License Renewal Application. Clark paid the fine, satisfying the citation. The citation became final on July 30, 2019.

Charles M. Clements

PLACENTIA—The Board issued a one-count citation that included a \$500 administrative fine to Charles M. Clements, architect license number C-26257, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Clements certified false or misleading information on his 2019 License Renewal Application. Clements paid the fine, satisfying the citation. The citation became final on July 30, 2019.

Disability Access Requirements). The action alleged that Clements failed to complete five hours of coursework within the two years prior to his license renewal and provided false or misleading information on his 2019 License Renewal Application as it related specifically to the coursework on disability access requirements. Clements paid the fine, satisfying the citation. The citation became final on July 19, 2019.

Barbara Jo Wilson Coffman

SANTA MONICA—The Board issued a one-count citation that included a \$500 administrative fine to Barbara Jo Wilson Coffman, architect license number C-12386, for an alleged violation of BPC 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Coffman certified false or misleading information on her 2013 License Renewal Application. Coffman paid the fine, satisfying the citation. The citation became final on August 21, 2015.

Jeffrey Scott Coffman

FULLERTON—The Board issued a one-count citation that included a \$750 administrative fine to Jeffrey Scott Coffman, architect license number C-25115, for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Coffman failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. The citation became final on October 2, 2018.

Eric Cole

SAN FRANCISCO—The Board issued a one-count citation that included a \$500 administrative fine to Eric Cole, architect license number C-34014, for an alleged violation of Business and Professions Code section (BPC) 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Cole certified false or misleading information on his 2015 License Renewal Application. The citation became final on May 31, 2016.

Cameron Crockett

LONG BEACH—The Board issued a one-count citation that included a \$1,000 administrative fine to Cameron Crockett, architect license number C-31503, for alleged violations of BPC 5536.22(a)(1), (3) and (4) (Written Contract). The action alleged that Crockett executed an AIA Standard Form of Agreement with his client to provide extensive interior and exterior remodel of a residence located in Rossmoor, California. The agreement did not include a description of services to be provided by the architect to the client, the license number of the architect, and a description of the procedure that the architect and the client would use to accommodate additional services. The agreement also included the incorrect first name and address of the client and the project site. Crockett paid the fine, satisfying the citation. The citation became final on November 25, 2014.

Robert York Crockett

BEVERLY HILLS—The Board issued a one-count citation that included a \$1,000 administrative fine to Robert York Crockett, architect license number C-19399, for an alleged violation of BPC 5536(a) (Practice Without License or Holding Self Out as Architect). The action alleged that while Crockett's license was expired, he executed an "AIA Document B155 Standard Form of Agreement Between Owner and Architect for a Small Project." The Agreement contained the words "Architect" and "Architectural" and Crockett was listed as the "Architect." He also signed his name on the signature line under the heading, "Architect." Crockett paid the fine, satisfying the citation. The citation became final on July 28, 2016.

Patrick Richard Crosgrove

NEW YORK, NEW YORK—The Board issued a one-count citation that included a \$500 administrative fine to Patrick Richard Crosgrove, architect license number C-19975, for an alleged violation of BPC 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Crosgrove certified false or misleading information on his 2013 License Renewal Application. Crosgrove paid the fine, satisfying the citation. The citation became final on February 19, 2015.

Evan R Cross

MILL VALLEY—The Board issued a one-count citation that included a \$500 administrative fine to Evan R. Cross, architect license number C-27319, for an alleged violation of BPC 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Cross certified false or misleading information on his 2015 License Renewal Application. Cross paid the fine, satisfying the citation. The citation became final on October 8, 2015.

Martin Thomas Crossman

CORONADO—The Board issued a one-count citation that included a \$500 administrative fine to Martin Thomas Crossman, architect license number C-22290, for an alleged violation of BPC § 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Crossman failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Crossman paid the fine, satisfying the citation. The citation became final on December 6, 2017.

John Robert Crowe

OCEANSIDE—The Board issued a one-count citation that included a \$500 administrative fine to John Robert Crowe, architect license number C-17811, for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Crowe certified false or misleading information on his 2017 License Renewal Application. Crowe paid the fine, satisfying the citation. The citation became final on January 26, 2018.

Nicole Michele Cuneo

LA QUINTA—The Board issued a one-count citation that included a \$750 administrative fine to Nicole Michele Cuneo, architect license number C-32690, for an alleged violation of BPC 5600.05(b) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Cuneo failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. Cuneo paid the fine, satisfying the citation. The citation became final on December 7, 2015.

Administrative Actions

Gordon Wayne Calhoon

ENCINO—Effective July 24, 1999, Gordon Wayne Calhoon's architect license number C-11576 was revoked after the Board adopted a Stipulation in Settlement ordering revocation. An Accusation was filed against Mr. Calhoon for violations of Business and Professions Code sections 5583 (Fraud in the Practice of Architecture), 5584 (Negligence or Willful Misconduct) and 5586 (Public Agency; Disciplinary Action). Mr. Calhoon was hired as an architect and contractor to demolish and rebuild residences that were damaged by the 1994 Northridge earthquake. Board action was taken based on evidence that Mr. Calhoon falsely represented that, as an architect, he could act as a contractor. After getting the projects, Mr. Calhoon acted as a contractor (without being appropriately licensed) and failed to adequately supervise the construction, resulting in a material injury to both homeowners. He used an unlicensed contractor to supervise construction, and approved work which he knew did not comply with relevant building codes. The Contractors State License Board issued a citation to Mr. Calhoon based on evidence that he provided contracting services prior to being issued a license.

Tien Hsi Chu

PASADENA—Effective November 14, 2016, Tien Hsi Chu's architect license number C-15558, was revoked. Chu was also ordered to reimburse the Board \$4,005 for its enforcement costs. The action came after a Proposed Decision was adopted by the Board.

An Accusation was filed against Chu for alleged violations of Business and Professions Code sections (BPC) 490 (Conviction of a Crime), 498 (License Secured by Fraud, Deceit, or Knowing Misrepresentation), 5577 (Conviction of Certain Crimes), and 5579 (Fraud in Obtaining License).

The Accusation alleged that on or about August 25, 2014, after pleading nolo contendere, Chu was convicted of one misdemeanor count of violating Penal Code section 472 (counterfeit seal) in the criminal proceeding entitled *The People of the State of California v. Tien Hsi Chu* (Super. Ct. Los Angeles County, 2014, No. 4AH01921). The Court placed Chu on 36 months probation, and ordered him to complete 25 hours of community service. The circumstances underlying the conviction are that on and between 2004 through 2013, Chu had a business relationship with E.G.L., a licensed civil engineer. E.G.L. provided consulting services for Chu on his projects with the express condition that E.G.L. would not stamp or sign on any drawings or calculations. Without E.G.L.'s knowledge or authorization, Chu obtained a civil engineer's seal using E.G.L.'s name and civil engineer license number C56706. Further, without E.G.L.'s approval or knowledge, Chu used the counterfeit engineer seal on structural drawings, plans, and specifications, and submitted the counterfeit engineer stamped documents to municipal building departments for reviews and approvals. Within the seal impression on all documents that Chu used the counterfeit seal, Chu made a forgery of E.G.L.'s initials. In addition, Chu obtained the renewal of his architect license by fraud or misrepresentation when represented and certified under penalty of perjury on his 2015 License Renewal Application that he had not been convicted of a crime during the preceding renewal period when in fact, on or about August 25, 2014, Chu sustained a criminal conviction.

Ethan Wilson Clifton

SANTA ROSA—Effective July 6, 2020, Ethan Wilson Clifton's architect license number C-11466 was revoked. The action came after a Default Decision was issued by the Board.

An Accusation filed against Clifton alleged six causes for discipline for violations of: (1) Business and Professions Code (BPC) section 5585 and California Code of Regulations (CCR), title 16, section 160(a)(2) (Incompetency); (2) BPC sections 5536.4(b), 5578, and 5584 (Willful Misconduct, Failure to Release Instruments of Service); (3) BPC sections 5584 and 5585 (Willful Misconduct and Recklessness); (4) BPC section 5584 (Willful Misconduct); (5) BPC sections 5536.22(a)(3) and (4) and 5578 (Failure to Comply with Contract Requirements); and (6) BPC section 5584 and CCR, title 16, section 160(b)(2) (Willful Misconduct, Failure to Respond to Request for Evidence).

The Accusation alleged that on or about April 15, 2015, Clifton executed a contract to design a new residence to replace his clients' existing home in Redwood City, California. The contract did not contain Clifton's architect license number or a description of the procedure to accommodate additional services.

Clifton initially told his clients that construction drawings would be completed by May 2015; however, after several delays and revised completion dates, Clifton indicated that his final drawings would be submitted to the building department on September 22, 2015. Based on this anticipated submission date, Clifton then recommended that the clients demolish their existing home in preparation for the construction of their new home. Acting on his advice, the clients demolished their home in September 2015. For over three years, the clients then rented another home awaiting completion of construction.

On or about January 14, 2016, Clifton suggested the clients obtain a partial permit for foundation and slab construction, but they were unable to do so because Clifton had not finished the construction drawings. The clients had paid all of Clifton's invoices to that date, approximately \$52,000, but never received completed construction drawings from him and had to engage another architect to complete the project.

Clifton then refused to release his drawings to the new architect unless the clients paid him an additional \$35,000. He later increased this amount to \$65,000. Additionally, Clifton told the clients' structural and mechanical engineers and Title 24 consultant, who were under contract with the clients, to cease work and destroy all their documents.

On July 1, 2016, the Board requested a written response to the allegations and supporting documents from Clifton. In response, he provided only a brief statement, copies of his correspondence to the Better Business Bureau, and the clients' draft lawsuit against him.

The Board's Default Decision and Order was issued on June 5, 2020, and became effective on July 6, 2020.

Convictions

There are no convictions to display.

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Adam Bereki <abereki@gmail.com>

Public Records Act Request

1 message

Rooke, Sandra@DCA <Sandra.Rooke@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>
Cc: "Rooke, Sandra@DCA" <Sandra.Rooke@dca.ca.gov>

Wed, Sep 23, 2020 at 1:58 PM

Good Afternoon Mr. Bereki,

Attached is the response to your September 17, 2020, Public Records Act request sent to the Dental Board of California.

If you have any further questions, please contact me directly.

Thank you,



Sandy Rooke

Investigative Analyst

Dental Board of California

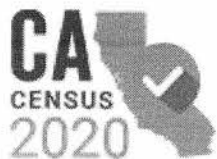
2005 Evergreen St., Ste. 1550

Sacramento, CA 95815

P (916) 263.2789

Sandra.Rooke@DCA.CA.GOV





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 **Response.pdf**
142K



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P (916) 263-2300 F (916) 263-2140 | www.dca.ca.gov



September 23, 2020

Adam Bereki
abereki@gmail.com

RE: Public Records Request

Dear Mr. Bereki:

This is regarding your request, received September 17, 2020, for civil, criminal, and administrative penalties associated with each professional license regulated by the Dental Board of California (Board), for failure to be licensed or perform work without a license. Additionally, you requested all penalties for each license and the relevant statutes/codes/regulations.

In response, and in accordance with Government Code Section 6235(f), we refer you to our website at: https://www.dbc.ca.gov/about_us/lawsregs/index.shtml, which contains links to the Dental Practice Act and the Board's regulations. In addition, the Board notes that the California Public Records Act only provides access to existing, identifiable public documents. It does not require, and the Board is not authorized to perform research or other services for members of the public.

Feel free to contact me directly should you have any questions regarding this information.

Sincerely,

Saundra Rooke

Saundra Rooke
Investigative Analysis Unit Analyst
916.263.2789



Adam Bereki <abereki@gmail.com>

Response to PRA Request

1 message

Chin, Joseph@DCA <Joseph.Chin@dca.ca.gov>
To: Adam Bereki <abereki@gmail.com>

Sun, Sep 27, 2020 at 11:35 PM

Mr. Bereki,

Enclosed, please find attached the response to your PRA request of 9-17-20.

Thank you.

Joseph Chin

(pronouns he/him)

Attorney

Legal Affairs Division, Department of Consumer Affairs

1625 N. Market Blvd., Suite S-309, Sacramento, CA 95834


Direct: (916) 574-7951

Main Office: (916) 574-8220

Email address: joseph.chin@dca.ca.gov

*(During this declaration of emergency, I am working remotely, and can be reached during normal business hours between 8 a.m. – 5 p.m.)***CONFIDENTIALITY NOTICE:**

INFORMATION IN THIS MESSAGE, INCLUDING ANY ATTACHMENTS, IS INTENDED ONLY FOR USE BY THE RECIPIENT(S) NAMED ABOVE. This message may be an attorney-client communication, and as such is privileged and confidential. If you are not an intended recipient of this message, or an agent responsible for delivering it to an intended recipient, you are hereby notified that you have received this message in error, and that any review, dissemination, distribution, or copying of this message is strictly prohibited. Staff are not authorized to forward this message to outside parties without the express written authorization from the appropriate person. If you received this message in error, please notify the sender immediately, delete the message, and destroy all copies of the original message.

 **Bereki - Response to PRA Request (B).pdf**
167K



LEGAL AFFAIRS DIVISION
1625 N. Market Blvd., Suite S 309, Sacramento, CA 95834
P (916) 574-8220 F (916) 574-8623 | www.dca.ca.gov



Sent via Electronic Mail Only

September 27, 2020

Adam Bereki
Email: abereki@gmail.com

RE: Public Records Act Request; Penalties for Unlicensed Activity

Dear Mr. Bereki:

The Podiatric Medical Board of California ("PMBC") received the above-referenced Public Records Act (PRA) request dated September 17, 2020, via email, and has forwarded your request to Legal Affairs for handling. The PRA (commencing with section 6250 of the Government Code) requires ACP to disclose non-exempted records in its possession upon request that reasonably describes an identifiable record or records.

For your convenience, your request(s) is restated below, followed by PMBC's response.

REQUEST 1: The civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/performing work without a license, including all penalties for each license and the relevant statutes/codes/regulations associated therewith.

- The PRA states that a person may obtain copies of an "identifiable record." (Gov. Code section 6253(b)). To the extent there may be such records, some could be exempt from disclosure, but it is difficult to determine that based upon this request.

For PMBC's laws and regulations, visit: <https://pmbc.ca.gov/lawsregs/index.shtml>. If you provide further clarification of which records you are seeking, PMBC can better identify records responsive to your request.

If you have further questions, you may contact me at: (916) 574-8220.

Sincerely,

RYAN MARCROFT
Deputy Director, Legal Affairs

By: 
Joseph Chin
Attorney, Legal Affairs



Adam Bereki <abereki@gmail.com>

Public Records Request

1 message

Villareal, Terri@DCA <Terri.Villareal@dca.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Fri, Sep 25, 2020 at 2:43 PM

Hello Mr. Bereki,

Attached please find the Board's response to your public records request.

Terri Villareal

Lead Enforcement Analyst

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Phone: (916) 575-7185
terri.villareal@dca.ca.gov



Bereki, Adam.docx

123K



Sent via Electronic Mail Only

September 25, 2020

Adam Bereki
Email: abereki@gmail.com

Re: Public Records Act Request; Penalties for Unlicensed Activity

Dear Mr. Bereki:

The California State Board of Optometry (Board) received the above-referenced Public Records Act (PRA) request dated September 17, 2020, via email. The PRA (commencing with section 6250 of the Government Code) requires the Board to disclose non-exempted records in its possession upon request that reasonably describes an identifiable record or records.

For your convenience, your request(s) is restated below, followed by the Board's response:

REQUEST 1: The civil, criminal, and administrative penalties associated with each professional license regulated by your agency for failure to be licensed/performing work without a license, including all penalties for each license and the relevant statutes/codes/regulations associated therewith.

- The PRA states that a person may obtain copies of an "identifiable record." (Gov. Code section 6253(b)). To the extent there may be such records, some could be exempt from disclosure, but it is difficult to determine that based upon this request.

Please see the Board's laws and regulations [here](#). If you provide further clarification of which records you are seeking, the Board can better identify records responsive to your request.

If you have any further questions, you may contact me at (916) 575-7185.

Sincerely,

Terri Villareal
Lead Enforcement Analyst



September 22, 2020

Adam Bereki
818 Spirit
Costa Mesa, CA 92626

RE: Request for documents relating to statutes and regulations governing unlicensed activity

Dear Mr. Bereki,

This letter responds to your request for documents relating to the statutes and regulations governing unlicensed activity.

The Bureau of Automotive Repair (BAR) has reviewed your request and has determined that BAR maintains copies of statutes and regulations governing failure of automotive repair facilities operating without a valid license. Attached are print outs of the following statutes and regulations, available online, that govern unlicensed activity in the industry:

- Business and Professions Code sections 145 to 149 – Applies to all Boards and Bureaus within the Department of Consumer Affairs
- Business and Professions Code section 9884.6 – requires licensure for Automotive Repair Dealers
- Business and Professions Code section 9888.3 – requires licensure for Brake and Lamp stations and adjusters
- Business and Professions Code section 9889.20 – specifies civil/criminal violations of the Brake and Lamp licensure requirements
- Health and Safety Code section 44014 – requires licensure of all Smog Check stations and Technicians
- California Code of Regulations sections 3394.40 to 3394.46 – specifies the process for administrative citations and fines for unlicensed activity

Actual penalties are determined or affirmed by judges in civil, criminal, administrative proceedings brought pursuant to these statutes and regulations.

As the costs of processing, invoicing, and charging you for this public record information exceed the costs of providing you these particular records, the bureau will waive its fees only for the records provided in this particular response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeeves Norombaba".

Jeeves Norombaba
Subpoena-PRA Unit



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5] (*Heading of Division 1 amended by Stats. 1973, Ch. 77.*

)

CHAPTER 1.5. Unlicensed Activity Enforcement [145 - 149] (*Chapter 1.5 added by Stats. 1992, Ch. 1135, Sec. 2.*)

145. The Legislature finds and declares that:

(a) Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California.

(b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.

(c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license.

(*Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.*)

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Section 2474.

(2) Sections 2052 and 2054.

(3) Section 2570.3.

(4) Section 2630.

(5) Section 2903.

(6) Section 3575.

(7) Section 3660.

(8) Sections 3760 and 3761.

(9) Section 4080.

(10) Section 4825.

(11) Section 4935.

(12) Section 4980.

(13) Section 4989.50.

- (14) Section 4996.
- (15) Section 4999.30.
- (16) Section 5536.
- (17) Section 6704.
- (18) Section 6980.10.
- (19) Section 7317.
- (20) Section 7502 or 7592.
- (21) Section 7520.
- (22) Section 7617 or 7641.
- (23) Subdivision (a) of Section 7872.
- (24) Section 8016.
- (25) Section 8505.
- (26) Section 8725.
- (27) Section 9681.
- (28) Section 9840.
- (29) Subdivision (c) of Section 9891.24.
- (30) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

(Amended by Stats. 2017, Ch. 775, Sec. 4.5. (SB 798) Effective January 1, 2018.)

147. (a) Any employee designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Employees so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of such designation. The employee's authority is limited to the issuance of written notices to appear for infraction violations of provisions of this code and only when the violation is committed in the presence of the employee.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the person, at the time of such arrest, had reasonable cause to believe was lawful.

(Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.)

148. Any board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

(Added by Stats. 1992, Ch. 1135, Sec. 2. Effective January 1, 1993.)

149. (a) If, upon investigation, an agency designated in Section 101 has probable cause to believe that a person is advertising with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

- (1) Cease the unlawful advertising.

6 (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(Amended by Stats. 2014, Ch. 395, Sec. 2. (SB 1243) Effective January 1, 2015.)



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 20.3. Automotive Repair [9880 - 9889.68] (*Chapter 20.3 added by Stats. 1971, Ch. 1578.*)

ARTICLE 3. Registration Procedure [9884 - 9884.22] (*Article 3 added by Stats. 1971, Ch. 1578.*)

9884. (a) An automotive repair dealer shall pay the fee required by this chapter for each place of business operated by the dealer in this state and shall register with the director upon forms prescribed by the director. The forms shall contain sufficient information to identify the automotive repair dealer, including name, address of each location, a statement by the dealer that each location is in an area that, pursuant to local zoning ordinances, permits the operation of a facility for the repair of motor vehicles, the dealer's retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001), Division 2, Revenue and Taxation Code), and other identifying data that are prescribed by the director. If the business is to be carried on under a fictitious name, the fictitious name shall be stated. To the extent prescribed by the director, an automotive repair dealer shall identify the owners, directors, officers, partners, members, trustees, managers, and any other persons who directly or indirectly control or conduct the business. The forms shall include a statement signed by the dealer under penalty of perjury that the information provided is true.

(b) A state agency is not authorized or required by this section to enforce a city, county, regional, air pollution control district, or air quality management district rule or regulation regarding the site or operation of a facility that repairs motor vehicles.

(*Amended by Stats. 1999, Ch. 983, Sec. 11. Effective January 1, 2000.*)

9884.1. Any business maintaining more than one automotive repair facility shall be permitted to file a single application annually, which along with the other information required by this article, clearly indicates the location of, and the individual in charge of, each facility. In that case, fees shall be paid for each location.

(*Amended by Stats. 1992, Ch. 674, Sec. 1. Effective January 1, 1993.*)

9884.2. Upon receipt of the form properly filled out and receipt of the required fee, the director shall issue the registration and send a proof of issuance to the automotive repair dealer. The director shall by regulation prescribe conditions that he or she determines are necessary to ensure future compliance with this chapter, upon which a person, whose registration has previously been revoked or has previously been denied or who has committed acts prohibited by Section 9884.7 while an automotive repair dealer or mechanic or while an employee, partner, officer or member of an automotive repair dealer, may have his or her registration issued.

(*Amended by Stats. 2009, Ch. 307, Sec. 95. (SB 821) Effective January 1, 2010.*)

9884.3. Every registration shall cease to be valid one year from the last day of the month in which registration was issued unless the automotive repair dealer has paid the renewal fee required by this chapter.

(*Amended by Stats. 1998, Ch. 970, Sec. 206. Effective January 1, 1999.*)

9884.4. A registration shall cease to be valid when the director finds that any of the information provided by the form specified in Section 9884, which the director by regulation deems material, ceases to be current.

(*Added by Stats. 1971, Ch. 1578.*)

9884.5. A registration that is not renewed within three years following its expiration shall not be renewed, restored, or reinstated thereafter, and the delinquent registration shall be canceled immediately upon expiration of the three-

year period.

An automotive repair dealer whose registration has been canceled by operation of this section shall obtain a new registration only if he or she again meets the requirements set forth in this chapter relating to registration, is not subject to denial under Section 480, and pays the applicable fees.

An expired registration may be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the bureau and the payment of all accrued renewal and delinquency fees. Renewal under this section shall be effective on the date on which the application is filed and all renewal and delinquency fees are paid. If so renewed, the registration shall continue in effect through the expiration date of the current registration year as provided in Section 9884.3, at which time the registration shall be subject to renewal.

(Added by Stats. 1998, Ch. 970, Sec. 206.5. Effective January 1, 1999.)

9884.6. (a) It is unlawful for any person to be an automotive repair dealer unless that person has registered in accordance with this chapter and unless that registration is currently valid.

(b) A person who, for compensation, adjusts, installs, or tests retrofit systems for purposes of Chapter 6 (commencing with Section 44200) of Part 5 of Division 26 of the Health and Safety Code is an automotive repair dealer for purposes of this chapter.

(Amended by Stats. 1985, Ch. 1138, Sec. 1.)

9884.7. (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Causing or allowing a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.

(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(4) Any other conduct that constitutes fraud.

(5) Conduct constituting gross negligence.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

(8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of automobiles.

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

(10) Conviction of a violation of Section 551 of the Penal Code.

Upon denying a registration, the director shall notify the applicant thereof, in writing, by personal service or mail addressed to the address of the applicant set forth in the application, and the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only suspend, revoke, or place on probation the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 20.3. Automotive Repair [9880 - 9889.68] (*Chapter 20.3 added by Stats. 1971, Ch. 1578.*)

ARTICLE 6. Lamp and Brake Adjusting Stations [9888.1 - 9888.4] (*Heading of Article 6 amended by Stats. 1990, Ch. 1433, Sec. 3.*)

9888.1. As used in this chapter:

- (a) "Station" means a lamp adjusting station or a brake adjusting station.
- (b) "Licensed station" means a station licensed by the bureau pursuant to this chapter.
- (c) "Licensed adjuster" means a person licensed by the bureau for adjusting lamps in licensed lamp adjusting stations or for adjusting brakes in licensed brake adjusting stations.

(*Amended by Stats. 1990, Ch. 1433, Sec. 4.*)

9888.2. The director shall adopt regulations which prescribe the equipment and other qualifications of any station as a condition to licensing the station as an official station for adjusting lamps or brakes and shall prescribe the qualifications of adjusters employed therein.

After consulting with the Department of the California Highway Patrol, the director may, by regulation, approve testing and calibrating equipment, which is capable of measuring or calibrating the standards imposed by statute and by rules and regulations, for use in official stations, and may approve the testing laboratories and the equipment they use to certify the performance of testing and calibrating equipment.

(*Amended by Stats. 1990, Ch. 1433, Sec. 5.*)

9888.3. No person shall operate an "official" lamp or brake adjusting station unless a license therefor has been issued by the director. No person shall issue, or cause or permit to be issued, any certificate purporting to be an official lamp adjustment certificate unless he or she is a licensed lamp adjuster or an official brake adjustment certificate unless he or she is a licensed brake adjuster.

(*Amended by Stats. 1990, Ch. 1433, Sec. 6.*)

9888.4. An owner of a fleet of three or more vehicles who is not an interstate carrier may be licensed by the director as a licensed station, if the owner complies with the rules and regulations of the bureau. Those fleet owner stations shall not certify the adjustment of lamps or brakes except on vehicles which constitute the owner's fleet.

(*Amended by Stats. 1990, Ch. 1433, Sec. 7.*)



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DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 20.3. Automotive Repair [9880 - 9889.68] (*Chapter 20.3 added by Stats. 1971, Ch. 1578.*)

ARTICLE 9. Penalties [9889.20 - 9889.22] (*Article 9 added by Stats. 1971, Ch. 1578.*)

9889.20. Except as otherwise provided in Section 9889.21, any person who fails to comply in any respect with the provisions of this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment not exceeding six months, or by both that fine and imprisonment.

(Amended by Stats. 2010, Ch. 328, Sec. 20. (SB 1330) Effective January 1, 2011.)

9889.21. Any person who violates any provision of Articles 5, 6, and 7 of this chapter is guilty of an infraction and punishable as specified in subdivision (a) of Section 42001 of the Vehicle Code.

(Added by Stats. 1971, Ch. 1578.)

9889.22. The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

(Added by Stats. 1986, Ch. 951, Sec. 5.)

(e) This section shall become inoperative five years from the date determined pursuant to Section 32 of the act adding this subdivision, and on the January 1 following that date is repealed.

(Amended by Stats. 1994, Ch. 1192, Sec. 22. Effective January 1, 1995. Operative on date prescribed by Sec. 32 of Ch. 1192. Inoperative five years from operative date. Repealed on January 1 after inoperative date, by its own provisions. See later operative version added by Sec. 22.5 of Ch. 1192.)

44013. (a) (1) The department, in cooperation with the state board, shall prescribe maximum emission standards to be applied in inspecting motor vehicles under this chapter.

(2) In prescribing the standards, the department shall undertake studies and experiments which are necessary and feasible, evaluate available data, and confer with automotive engineers.

(3) The standards shall be set at a level reasonably achievable for each class and model of motor vehicle when operating in a reasonably sound mechanical condition, allowing for the effects of installed motor vehicle pollution control devices and the motor vehicle's age and total mileage.

(4) The standards shall be designed so that motor vehicles failing the test specified in Section 44012 will be operated, as soon as possible, with a substantial reduction in emissions, and shall be revised from time to time as experience justifies.

(b) The department, in cooperation with the state board, shall research and prescribe test procedures to be applied in inspecting motor vehicles under this chapter, which procedures shall be simple, cost-effective, and consistent with Section 44012. The department may revise the test procedures from time to time as experience justifies. To the extent that any test procedure revision requires new equipment, or a change in equipment, at licensed smog check stations, the department shall provide a reasonable period of time for the acquisition and installation of that new or changed equipment.

(c) Notwithstanding any other provision of this chapter, the maximum emission standards and test procedures prescribed in subdivisions (a) and (b) for a motor vehicle class and model-year shall not be more stringent than the emission standards and test procedures under which that motor vehicle's class and model-year was certified. Emission standards and test procedures prescribed by the department shall ensure that not more than 5 percent of the vehicles or engines, which would otherwise meet the requirements of this part, will fail the inspection and maintenance test for that class of vehicle or engine.

(d) This section shall become operative five years from the date determined pursuant to Section 32 of the act adding this section.

(Repealed (in Sec. 22) and added by Stats. 1994, Ch. 1192, Sec. 22.5. Effective January 1, 1995. Section operative on date prescribed by its own provisions.)

44013.5. (a) If the department, in consultation with the state board, determines that substantial demand for emission retrofit devices exists, the department shall develop a program for the certification of emissions retrofit device installations by licensed installers. The department may require installers of emissions retrofit devices to be qualified pursuant to this chapter. The department may assess biennial license fees upon those installers in an amount not to exceed the reasonable cost of administering the emissions retrofit device certification program.

(b) The certification shall be performed at a referee or test-only station and shall be based on a visual inspection of the emissions retrofit device and its installation, and verification of the proper operation of any new or modified components that are a part of the emissions retrofit device, and not on the results of an emissions test.

(c) The department shall develop a program for the identification of retrofitted vehicles at smog check stations and for providing information required for the inspection of those systems to smog check stations.

(d) This section shall become inoperative pursuant to Section 33 of the act adding this section or, in any case, five years from the date determined pursuant to Section 32 of the act adding this section, and on the January 1 following the date upon which this section becomes inoperative, is repealed.

(Amended (as added by Stats. 1994, Ch. 1192) by Stats. 1996, Ch. 1154, Sec. 21. Effective September 30, 1996. Section operative on date prescribed by Stats. 1994, Ch. 1192, Sec. 32. Inoperative, as provided in subd. (d), under conditions in Sec. 33 of Ch. 1192, or five years from prescribed operative date. Repealed on January 1 after inoperative date, by its own provisions.)

44014. (a) Except as otherwise provided in this chapter, the testing and repair portion of the program shall be conducted by smog check stations licensed by the department, and by smog check technicians who have qualified pursuant to this chapter.

(b) A smog check station may be licensed by the department as a smog check test-only station and, when so licensed, need not comply with the requirement for onsite availability of current service and adjustment procedures

specified in paragraph (3) of subdivision (b) of Section 44030. A smog check technician employed by a smog check test-only station shall be qualified in accordance with this section.

(c) (1) The department shall supply a network of referees. A referee shall have no ownership interest in, or business or economic interest with, a smog check station. Referees may issue repair cost waivers, certificates of compliance or noncompliance, and hardship extensions, in accordance with regulations adopted by the department, and promote automotive training through community colleges and other training institutions certified by the department pursuant to Section 44030.5. Referees shall provide inspection services for specially constructed vehicles pursuant to Section 44017.4 and Section 9565 of the Vehicle Code and issue exhaust system certificates of compliance in accordance with Section 27150.2 of the Vehicle Code.

(2) The department may adopt regulations to establish qualification standards and any special administrative, operational, and licensure standards that the department determines to be necessary for the provision of referee services.

(3) The department may adopt, by regulation, a process by which vehicles that present prohibitive or unusual inspection circumstances are inspected by referees, including, but not limited to, the inspection of vehicles in which the manufacturer's physical or operational design presents inspection incompatibilities, vehicles equipped with emission control configurations that do not match United States Environmental Protection Agency or state board certified configurations, including direct import vehicles and vehicles with engine changes, and vehicles equipped with retrofit alternative fuel conversion kits.

(4) (A) A referee may charge a fee sufficient to cover the costs of providing referee services for inspections of specially constructed vehicles pursuant to Section 44017.4 and Section 9565 of the Vehicle Code, inspections pursuant to Section 27150.2 of the Vehicle Code, and other appropriate categories of referee services as determined by the department. Requirements applicable to the fee, including its amount, shall be established by the department by regulation and the amount may be adjusted to reflect changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics. The fee may be collected by either a contracted referee or by the department, if the department is providing the referee service.

(B) If the fee is imposed and collected by a contracted referee, the contracted referee shall deposit the fees collected from the vehicle owner into a separate trust account that the referee shall account for and manage in accordance with generally accepted accounting practices.

(C) If the fee is imposed and collected by the department, the fees shall be deposited into the Vehicle Inspection and Repair Fund.

(d) A smog check station may also be licensed as a repair-only station, and if so licensed, may perform repairs to reduce excessive emissions on vehicles which have failed the smog check test. Repair procedures and equipment requirements shall be established by the department. Technicians employed by a smog check repair-only station shall be qualified in accordance with this section.

(e) Smog check technicians are qualified to test and repair only those classes and categories of vehicles for which they have passed a qualification test administered by the department. The department shall provide for smog check technicians to be qualified for different categories of motor vehicle inspection based on vehicle classification and model-year.

(f) The consumer protection-oriented quality assurance portion of the program, including the provision of referee services, may be conducted by one or more private entities pursuant to contracts with the department.

(Amended by Stats. 2010, Ch. 258, Sec. 4. (AB 2289) Effective January 1, 2011.)

44014.2. (a) The department shall develop a program for the voluntary certification of licensed smog check stations, or the department may accept a smog check station certification program proposed by accredited industry representatives. The certification program, which may be called a "gold shield" program, shall be for the purpose of providing consumers, whose vehicles fail an emissions test at a test-only facility, an option of services at a single location to prevent the necessity for additional trips back to the test-only facility for vehicle certification. The department shall establish inspection-based performance standards consistent with Section 44014.6 for stations certified under this program that the stations would be required to meet to be eligible to issue certificates of compliance or noncompliance for vehicles selected pursuant to Sections 44010.5 and 44014.7, or vehicles identified by the department as gross polluters.

(b) The department shall adopt regulations that apply to all enhanced areas of the state, including those areas subject to the enhanced program pursuant to Section 44003.5, that permit both of the following:

(1) Any vehicle that fails a required smog test at a test-only facility may be repaired, retested, and certified at a facility licensed pursuant to Section 44014, and certified pursuant to subdivision (a).

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§ 3394.40. Authority to Issue Citations and Fines for Unlicensed Practice.

16 CA ADC § 3394.40

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16 CCR § 3394.40

§ 3394.40. Authority to Issue Citations and Fines for Unlicensed Practice.

The bureau chief or his/her designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by any unlicensed person who is acting in the capacity of a licensee or registrant.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code.

HISTORY

1. New article 11.2 (sections 3394.40-3394.46) and section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

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§ 3394.41. Citation Format.

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16 CCR § 3394.41

§ 3394.41. Citation Format.

A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of each violation, including a reference to the statute(s) and/or regulation(s) alleged to have been violated. The citation shall inform the cited person of the right to contest the citation. The citation shall be served upon the cited person personally or by registered mail pursuant to Section 11505(c) of the Government Code.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code; Section 11505(c), Government Code.

HISTORY

1. New section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

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§ 3394.42. Citations for Unlicensed Practice.

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16 CCR § 3394.42

§ 3394.42. Citations for Unlicensed Practice.

The bureau chief or his/her designee is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 302(d) of Business and Professions Code, who are performing or who have performed services for which a license or registration is required under the statutes and regulations enforced by the Bureau of Automotive Repair. Each citation shall contain an order of abatement. Where appropriate, the bureau chief or his/her designee shall levy a fine against any unlicensed person who is acting in the capacity of a licensee or registrant. Sanctions authorized under Article 11.2 Administrative Citations and Fines for Unlicensed Activity shall be separate from and in addition to any other civil or criminal actions.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code.

HISTORY

1. New section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

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§ 3394.43. Fine Amounts for Unlicensed Practice.

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16 CCR § 3394.43

§ 3394.43. Fine Amounts for Unlicensed Practice.

(a) The bureau may use the authority pursuant to Business and Professions Code section 148, to issue a citation to a person with an expired license or registration. The bureau shall first issue an order of abatement without a fine that shall contain, but is not limited to the following:

(1) Information that the licensee shall immediately cease all work and/or any work in progress that requires a valid license or registration.

(2) Information that license renewal fee and any delinquency or other fees must be fully paid within 30 calendar days, after which time the bureau may assess fines pursuant to Business and Professions Code section 148.

(3) Notice that continuing to operate without a valid license or registration may result in citation, fine, and/or other disciplinary action.

(b) The bureau may assess an administrative fine to an unlicensed person acting in the capacity of a licensee or registrant that has not applied for and obtained a valid license.

(c) The bureau may assess administrative fines of up to five thousand dollars (\$5,000) for each violation in addition to any criminal penalties. The bureau shall base its assessment and amount of the fine on the following circumstances:

(1) The nature, gravity, severity, and seriousness of the violation.

(2) The persistence of the violation.

(3) The good faith or willfulness of the violator to cooperate with the bureau.

(4) The history of previous violations by that violator, including the commission of numerous and repeated violations.

(5) The failure to perform work for which money was received.

(3) Notice that continuing to operate without a valid license or registration may result in citation, fine, and/or other disciplinary action.

(b) The bureau may assess an administrative fine to an unlicensed person acting in the capacity of a licensee or registrant that has not applied for and obtained a valid license.

(c) The bureau may assess administrative fines of up to five thousand dollars (\$5,000) for each violation in addition to any criminal penalties. The bureau shall base its assessment and amount of the fine on the following circumstances:

(1) The nature, gravity, severity, and seriousness of the violation.

(2) The persistence of the violation.

(3) The good faith or willfulness of the violator to cooperate with the bureau.

(4) The history of previous violations by that violator, including the commission of numerous and repeated violations.

(5) The failure to perform work for which money was received.

(6) The making of any false or misleading statement in order to induce a person to authorize repair work or pay money.

(7) The failure to make restitution to consumers affected by the violation.

(8) The extent to which the violator has mitigated or attempted to mitigate any damage or injury caused by the violation.

(9) The degree of incompetence or negligence in the performance of duties and responsibilities.

(10) The purposes and goals of this chapter and other matters as may be appropriate.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125, 125.9, 148, 149 and 302(d), Business and Professions Code.

HISTORY

1. New section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

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16 CCR § 3394.44

§ 3394.44. Compliance with Citation/Order of Abatement.

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the cited person may request an extension of time in which to complete the correction from the bureau chief. Such a request shall be in writing and made within the time set forth for abatement.

(b) If a citation is not contested, or if the citation is contested and the cited person does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the bureau or other appropriate judicial action being taken against the cited person.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and fine.

(e) Nothing in this section shall be construed as permission for any person to operate or continue to operate without a valid license or registration.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code.

HISTORY

1. New section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

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§ 3394.45. Contested Citations and Request for a Hearing or Informal Citation Conference.

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§ 3394.45. Contested Citations and Request for a Hearing or Informal Citation Conference.

(a) In addition to requesting an administrative hearing as provided for in subdivision (b)(4) of Section 125.9 of Business and Professions Code, the cited person may request an informal conference to review the acts charged in the citation. A request for an informal conference shall be made in writing, within ten (10) days after service of the citation, to the bureau chief or his/her designee.

(b) The bureau chief or his/her designee shall hold, within sixty (60) days from the receipt of the request, an informal conference with the cited person. At the conclusion of the informal conference, the bureau chief or his/her designee may affirm, modify or dismiss the citation, including any fine levied, order of abatement or order of correction issued. The bureau chief or his/her designee shall state in writing the reasons for his or her action and transmit within fifteen (15) days a copy of his or her findings and decision to the cited person. Unless an administrative hearing as provided for in subdivision (b)(4) of Section 125.9 of Business and Professions Code was requested in a timely manner, an informal conference decision which affirms the citation shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) If the citation, including any fine levied or order of abatement or correction, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If the cited person desires a hearing to contest the new citation, he or she shall make a request in writing, within ten (10) days of receipt of the informal conference decision, to the bureau chief or his/her designee. The hearing shall be conducted as provided for in subdivision (b)(4) of Section 125.9 of Business and Professions Code. A cited person may not request an informal conference for a citation which has been modified following an informal conference.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code.

HISTORY

1. New section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

This database is current through 9/4/20 Register 2020, No. 36

16 CCR § 3394.45, 16 CA ADC § 3394.45

END OF DOCUMENT

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§ 3394.46. Disconnection of Telephone Service.

16 CA ADC § 3394.46

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 16. Professional and Vocational Regulations

Division 33. Bureau of Automotive Repair

Chapter 1. Automotive Repair Dealers and Official Stations and Adjusters

Article 11.2. Administrative Citations and Fines for Unlicensed Activity

16 CCR § 3394.46

§ 3394.46. Disconnection of Telephone Service.

Nothing in this section shall preclude the bureau from using the provisions of Section 149 of Business and Professions Code in addition to any citation issued to any person.

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 125.9, 148, 149 and 302(d), Business and Professions Code.

HISTORY

1. New section filed 9-27-2011; operative 10-27-2011 (Register 2011, No. 39).

This database is current through 9/4/20 Register 2020, No. 36

16 CCR § 3394.46, 16 CA ADC § 3394.46

**END OF
DOCUMENT**

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CAB



Consumers



Candidates



Licenses

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Enforcement Actions

By Action Type:

[Citations](#)[Administrative Actions](#)

The rules and regulations relating to landscape architects, including the authority of the Landscape Architect Act (Act) and the LATC's implementing regulations.

The LATC has an active enforcement program designed to ensure that the laws governing the practice of landscape architecture and as part of its mission statement, the enforcement program attempts to address three main goal areas:

Informing the public and other entities about the profession and standards of practice

Establishing and enforcing the laws, regulations, codes, and standards governing the practice of landscape architecture

Requiring that any person practicing or offering landscape architectural services be licensed

The LATC is responsible for receiving and screening complaints against licensees and performing the investment decisions on all enforcement actions taken against its licensees.

Every effort is made to ensure that enforcement information is correct. Before making any decision based on disciplinary action prior to March 2011, or to obtain further information on specific violations for a person listed on this page, please contact the LATC.

Enforcement actions are listed alphabetically by last name:

Citations

Bishop, Tina

LOS ANGELES—The LATC issued a two-count administrative citation that included a \$3,000 fine to Tina Bishop for violations of Business and Professions Code (BPC) section 5640 (Unlicensed Person Engaging in Practice—Sanctions). The action alleged that Bishop provided treatment recommendations for a project in Los Angeles. The project is not an exempt project as described in BPC section 5641 (Chapter Exceptions, Exemptions). The citation became final on September 9, 2014.

Brock, Bonnie

PALO ALTO—The Board issued a citation that included a \$1,000 administrative fine to Bonnie Brock, an unlicensed person engaging in practice for violations of Business and Professions Code (BPC) section 5640 (Unlicensed Person Engaging in Practice—Sanctions). The action alleged that Brock provided services for a project in Menlo Park without a valid license. Brock paid the fine, satisfying the citation. The citation became final on October 10, 2016.

Cannistraci, Danny

STOCKTON—The Board issued a one-count citation that included a \$1,000 administrative fine to Danny Cannistraci for violations of Business and Professions Code (BPC) section 5640 (Unlicensed Person Engaging in Practice—Sanctions). The action alleged that Cannistraci, through his website, cannislands.com, is advertised as a “Landscape Architecture and Maintenance” company without a valid license. Cannistraci paid the fine, satisfying the citation. The citation became final on October 10, 2019.

Fenmore, Eric

CORONA DEL MAR—The Board issued a two-count citation that included a \$2,000 administrative fine to Eric Fenmore for violations of Business and Professions Code (BPC) section 5640 (Unlicensed Person Engaging in Practice—Sanctions). The citation alleged that Fenmore provided services for a project in Corona Del Mar without a valid, unrevoked license. The citation became final on February 16, 2016 and has been paid.

Garzon, Michele

WOODLAND HILLS - The Board issued a one-count citation that included a \$1,000 administrative fine to Michele Garzon for violations of Business and Professions Code (BPC) section 5640 (Unlicensed Person Engaging in Practice - Sanctions). The action alleged that Garzon provided services for a project in Woodland Hills without a valid license. Garzon paid the fine, satisfying the citation. The citation became final on February 16, 2016 and has been paid.

Martin, Baxter

OCEANSIDE- The California Architects Board, Landscape Architects Technical Committee issued a four-count landscape architect license number LA 4092, for multiple alleged violations of Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements). The action alleged that in 2013 and 2015, Martin prepared landscape design plans and/or landscape construction drawings and construction drawings contained stamps that represented or implied that Martin was licensed. The act services and represented to the public on his website that he was licensed to engage in the practice of landscape architecture.

Martin, Scott

VENICE- The Board issued a two-count citation that included a \$1,000 administrative fine to Scott Martin, license number LA 4092, for multiple alleged violations of Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements). The action alleged that Martin failed to execute a contract prior to commencing work. Martin paid the fine, satisfying the citation. The citation became final on December 23, 2016.

Montgomery, John

THOUSAND OAKS—The Board issued a two-count citation that included a \$2,000 administrative fine to John Montgomery, license number LA 4092, for multiple alleged violations of Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements). The citation alleged that Montgomery was advertising to provide landscape architecture services. The citation became final on January 29, 2016.

Morton, Brad

On June 2, 2014, the LATC issued a modified citation against Brad Morton that included a \$750 administrative fine to Brad Morton, license number LA 4092, for multiple alleged violations of Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements). The citation became final on July 2, 2014 and has been paid.

Niles, David

SANTA BARBARA—The Board issued a one-count citation that included a \$1,000 administrative fine to David Niles, license number LA 4092, for multiple alleged violations of Business and Professions Code section 5616(a) (Landscape Architecture Contract—Contents, Notice Requirements). The action alleged that Niles failed to execute a contract prior to commencing work. Niles paid the fine, satisfying the citation. The citation became final on January 12, 2016.

Pullman, Lori

On May 29, 2014, the LATC issued a citation against Lori Pullman that included a \$1,000 administrative fine to Lori Pullman, license number LA 4092, for multiple alleged violations of Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements) and California Business and Professions Code section 5616 (Landscape Architecture Contract-Contents, Notice Requirements). The citation became final on June 29, 2014 and has been paid.

Sturgeon, Joseph

STURGEON, JOSEPH

CRESTLINE – The Board issued a one-count citation that included a \$750 administrative fine to Joseph Sturgeon for violations of BPC section 5640 (Unlicensed Person Engaging in Practice – Sanctions). The action alleged that Sturgeon provided landscape architectural services to the Crestline Construction Company as a landscape architectural firm without Sturgeon being licensed as a landscape architect.

Te Selle, Mary

SAN RAFAEL—The LATC issued an administrative citation that included a \$1,250 fine to Mary Te Selle, an unlicensed person, for a violation of section 5640 (Unlicensed Person Engaging in Practice—Sanctions). The action alleged that Te Selle provided landscape architectural services to the Te Selle Construction Company as a landscape architectural firm without Te Selle being licensed as a landscape architect under BPC section 5641. The citation became final on August 25, 2016 and has been paid.

Ware, Charles

CORONA DEL MAR—The Board issued a two-count citation that included a \$2,500 administrative fine to Charles Ware for violations of section 5640 (Unlicensed Person Engaging in Practice—Sanctions) and CCR section 2670(b)(2) (Willful Misconduct) for providing landscape architectural services as an unlicensed person prior to being licensed as well as failed to respond to a request for information and/or evidence for a citation issued on June 6, 2016.

Administrative Actions

Annerl, Mark

NEWPORT BEACH—Effective July 20, 2015, Mark Annerl's landscape architect license number LA 3400, was suspended for 30 days. He was placed on probation for five years with specific terms and conditions, including reimbursement of costs. The suspension and probation came after a stipulated settlement was negotiated and adopted by the Board.

On October 23, 2014, a Second Amended Accusation (PDF, 1.4M) was filed against Mark Annerl for alleged violations of section 5640 (Unlicensed Person Engaging in Practice) and/or of the California Code of Regulations (CCR) Title 16, section 2670 (Rules of Professional Conduct) for the preparation of plans for a residential project. The Board adopted the Stipulated Settlement and the Discipline.

Crispin, Chad

LOS ANGELES—Effective July 13, 2016, Chad Crispin's landscape architect license number LA 4636 was surrendered to the State of California. The action was a result of a Stipulated Surrender of License and Order, which was adopted by the Board for violations of BPC sections 5640 (Unlicensed Person Engaging in Practice—Sanctions), 5657 (Filing of Mailings) and 5671 (Negligence, Willful Misconduct) in conjunction with CCR section 2670 (Rules of Professional Conduct).

negligence and/or willful misconduct by contracting to provide complete conceptual and construction drawing license, and after taking a deposit from the client, abandoned the project without completing it. The Accus architecture and failed to respond to the Board's numerous requests for complete information and documents.

Dean, Robert

SAN DIEGO– Effective July 17, 2018, Robert Dean's landscape architect license number LA 2322 was surrendered in California. The action was the result of a Stipulated Surrender of License and Order, which was adopted as a cause for license discipline under Business and Professions Code section 490, subdivision (a) (conviction of a crime following Dean's February 16, 2017 convictions for felony hit-and-run causing serious injury or death and negligent driving).

Doczi, Thomas

RANCHO MIRAGE– Effective January 17, 2019, Thomas Doczi's landscape architect license number LA 2370 was placed on probation for five years with specific terms and conditions, including requiring Doczi to notify current clients of the Decision and Order, and paying cost reimbursement to the Board in the amount of \$4,517.50 for its investigation and Disciplinary Order, which was adopted by the Board on December 13, 2018. An Accusation was filed against Doczi under Business and Professions Code section 490, subdivision (a) (conviction of crime substantially related to qualifications, fitness to practice, or ability to perform the duties of the profession) following Doczi's convictions for vehicular manslaughter while intoxicated, driving under the influence of alcohol causing injury to a person, and causing blood and causing injuries.

Gustard, Christopher Ian

SAN DIEGO—Effective August 8, 2016, Christopher Gustard's landscape architect license was revoked and his action was a result of a Proposed Decision (PDF, 582K), which was adopted by the Board on June 9, 2016. Gustard, who was found guilty to one felony count in United States District Court, was sentenced to 120 months in prison and required to pay a fine. Upon Gustard's conviction, the Board filed the Accusation pursuant to Business and Professions Code section 490, subdivision (a) (conviction of crime substantially related to qualifications, fitness to practice, or ability to perform the duties of the profession).

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California
Department of
**CONSUMER
AFFAIRS**

ANNUAL
2019
REPORT



Licenses and regulates contractors in 44 classifications.

www.cslb.ca.gov

STAFF:

408.6 civil servant positions
1 exempt

LICENSES, REGISTRATIONS, PERMITS, AND CERTIFICATES:

308,018

BOARD MEMBERSHIP:

9 public members
6 professional members

BOARD STAFF:

Registrar: David Fogt
david.fogt@cslb.ca.gov

Chief Deputy Registrar: Tonya D. Corcoran
tonyad.corcoran@cslb.ca.gov

LAWS AND REGULATIONS:

Business and Professions Code §§ 7000–7199.7;

California Code of Regulations, Division 8,
Title 16, §§ 810–890.

SUNSET REVIEW:

Last review: 2019 Next review: 2023

Board Highlights

RECIPROCITY

Pursuant to Business and Profession Code section 7065.4, the Board has reciprocity agreements in place with Arizona, Louisiana, Nevada, and Utah. Reciprocity requirements are the same for these states:

- The contractor must be applying for a license in a classification that appears on that state's Reciprocal Classifications List.
- The contractor must have held an active license in good standing in one of the reciprocal states for the previous five years.
- The contractor must submit to the Board the Request for Verification of License form that is completed by the licensing entity under which he or she is already licensed.
- The contractor must complete the Application for Original Contractor's License.
- The Certification of Work Experience form 13A-11 must be used to report and confirm the journey-level work experience for the previous five years.

If the Board grants reciprocity to a contractor, it can waive the trade portion of the examination (the contractor still must take the business law exam section); however, the Board retains the right to require the exam.

ACCOMPLISHMENTS

Sunset Hearing

In December 2018, CSLB submitted its *Sunset Review Report* to the state Legislature and on February 26, 2019, the Legislature held its joint oversight hearing on CSLB. Board Chair Marlo Richardson, past Board Chair Kevin Albanese, Registrar Dave Fogt, and Chief Deputy Registrar Tonya Corcoran represented CSLB. Legislators were particularly interested in CSLB's disaster response, reducing barriers to licensure, and the efficacy of the current contractor bond amount. SB 610 (Glazer) extends CSLB's sunset date to January 1, 2024.

Pathways to Licensure

CSLB entered into a license reciprocity agreement with Louisiana to allow general building contractor licensees in good standing for five years to become licensed in the other state without taking the trade portion of the exam. Applicants to CSLB would still need to take and pass the California law and business exam.

CONTRACTORS STATE LICENSE BOARD

CSLB assisted military veterans seeking licensure by referring such individuals to specially trained staff to review transferable military training and experience, and expedited processing for 1,029 applications.

CSLB continued monthly licensing workshops, conducted in both English and Spanish, at CSLB's Sacramento headquarters and in the Norwalk office.

In February 2019, CSLB distributed \$100,000 in Construction Management Education grants to Construction Management programs at three California universities.

Disaster Response

CSLB staff joined with other state and local agencies at 15 Local Assistance Centers in 10 different counties across California to offer recovery assistance and information to affected property owners in the aftermath of unprecedented drought-driven wildfires and flooding from winter rains.

CSLB collaborated with county and city offices to conduct six two-part informational workshops in affected areas for survivors as well as contractors working in the rebuild areas. It also conducted sweeps and undercover sting operations in the fire zones to enforce license requirements and warn-off unlicensed contractors.

Financial Restitution

In fiscal year 2018–19, CSLB helped recover \$49 million in ordered restitution for consumers.

Public Outreach

CSLB produced or coproduced 20 webcasts; distributed 37 press releases; responded to 119 media inquiries, and expanded CSLB's social media presence to include Facebook, Twitter, Instagram, YouTube, Periscope, LinkedIn, and Flickr; managed eight mass email lists utilizing DCA's Listserv; and the combined database for all email alerts grew to almost 176,000.

CSLB conducted 53 Senior Scam Stoppers throughout California. These seminars are coordinated with state and local elected officials and agencies, as well as law enforcement and community-based organizations. It conducted 61 Consumer Scam Stoppers and other outreach events geared toward the general public.

Enforcement

CSLB collaborated with the California Public Utilities Commission and the Department of Business Oversight to establish a Joint Agency Solar Consumer Protection Task Force to address the predatory sales tactics seen in various disadvantaged communities around the state. Accomplishments include successful consumer restitution; data sharing among agencies; and formation of workgroups to address preventative outreach, coordinated enforcement activity, and complaint tracking and reporting.

In July 2018, CSLB began to use the letter of admonishment, an intermediate form of corrective action between an advisory notice and a citation, designed to enhance public protection by addressing single, nonregreous violations by licensed contractors. The letter provides for one year of public disclosure after issuance and an option for corrective action. In fiscal year 2018–19, CSLB issued 116 letters of admonishment.

CSLB completed 26,006 investigations; settled 3,355 cases; and took 4,437 legal actions. The Statewide Investigative Fraud Team (SWIFT) responded to 1,349 leads, 15% of which led to legal actions. SWIFT also conducted 78 sting operations and 358 sweep days, which led to the issuance of 589 Notices to Appear in criminal court. In total, 545 cases resulted in administrative action and 911 cases were referred to district attorney offices for criminal prosecution. SWIFT also issued 581 stop orders to uninsured employers and 1,009 advisory notices.

NEW LEGISLATION

SB 610 (Glazer, Chapter 378, Statutes of 2019)

extends the Board's sunset from January 1, 2020, to January 1, 2024. The bill adopts recommendations from the Board's 2018 *Sunset Review Report* and makes technical clarifying changes. This bill requires the Board to conduct a study on whether the current amount of the contractor bond is sufficient and report the findings to the Legislature by January 1, 2021. The bill also requires, rather than authorizes, the Board to charge a \$20 fee to enforce electrician certification requirements. The bill requires the Board to maintain its existing contractor's license search function and to webcast its public meetings. Additionally, this bill authorizes the Board to automatically suspend a contractor's license for an unsatisfied construction related judgment entered against a personnel of record of a licensee.

License Requirements*

| License Requirements | Y/N? |
|---|------|
| DEGREE/PROFESSIONAL SCHOOLING | N |
| QUALIFYING EXPERIENCE (MAY INCLUDE EDUCATION) | Y |
| EXAMINATION | Y |
| CONTINUING EDUCATION/COMPETENCY | N |
| FINGERPRINT REQUIREMENT | Y |

*Applicable to specific license types—refer to laws and regulations for details.

Fees*

| License Type/Fee Type | Actual Fee | Statutory Limit |
|--|--------------|-----------------|
| APPLICATION FEE (INCLUDES EXAM FEE) | \$330 | \$375 |
| INITIAL LICENSURE FEE | \$200 | \$225 |
| TOTAL INITIAL LICENSE FEE | \$530 | \$600 |
| ADDITIONAL CLASSIFICATION FEE (ORIGINAL LICENSE) | \$75 | \$85 |
| ADDITIONAL CLASSIFICATION FEE (EXISTING LICENSE) | \$150 | \$175 |
| BIENNIAL RENEWAL FEE | \$400 | \$450 |

*Additional fees may be required. Refer to the laws and regulations for details.

Summary of Licensing Activity

| Initial Licenses/Certificates/Permits | | | |
|--|---------------|---------------|----------------|
| TYPE | APPS RECEIVED | ISSUED | RENEWED |
| HOME IMPROVEMENT SALESMAN REGISTRATION | 10,549 | 6,013 | 4,683 |
| ORIGINAL CONTRACTORS LICENSE | 24,648 | 16,818 | 116,348 |
| TOTAL | 35,197 | 22,831 | 121,031 |

| Licensing Population by Type | | | |
|--|-----------------------|-------------------------|-----------|
| TYPE | CERTIFICATES/ PERMITS | LICENSES/ REGISTRATIONS | APPROVALS |
| HOME IMPROVEMENT SALESMAN REGISTRATION | 0 | 19,213 | 0 |
| ORIGINAL CONTRACTORS LICENSE | 3,716 | 285,089 | 0 |
| TOTAL | 3,716 | 304,302 | 0 |

| Renewal and Continuing Education (CE) | | |
|--|----------------------|-------------------------------------|
| TYPE | FREQUENCY OF RENEWAL | NUMBER CE HOURS REQUIRED EACH CYCLE |
| ORIGINAL CONTRACTORS LICENSE | EVERY 2 YEARS | 0 |
| HOME IMPROVEMENT SALESMAN REGISTRATION | EVERY 2 YEARS | 0 |

| Exams Results | | | |
|---|--------|-------|--------|
| EXAM TITLE | PASS | FAIL | TOTAL |
| LAW AND BUSINESS | 10,682 | 9,689 | 20,371 |
| GENERAL ENGINEERING (A) | 424 | 237 | 661 |
| GENERAL CONTRACTOR (B) | 3,529 | 5,470 | 8,999 |
| ASBESTOS CERTIFICATION | 20 | 17 | 37 |
| HAZARDOUS CERTIFICATION | 69 | 50 | 119 |
| INSULATION AND ACOUSTICAL (C-2) | 57 | 144 | 201 |
| BOILER, HOT-WATER HEATING AND STEAM FITTING (C-4) | 24 | 10 | 34 |
| FRAMING AND ROUGH CARPENTRY (C-5) | 62 | 71 | 133 |
| CABINET, MILLWORK AND FINISH CARPENTRY (C-6) | 222 | 328 | 550 |
| LOW VOLTAGE SYSTEMS (C-7) | 252 | 252 | 504 |
| CONCRETE (C-8) | 323 | 442 | 765 |
| DRYWALL (C-9) | 141 | 327 | 468 |
| ELECTRICAL (C-10) | 1,050 | 912 | 1,962 |
| ELEVATORS (C-11) | 13 | 28 | 41 |
| EARTHWORK AND PAVING (C-12) | 91 | 144 | 235 |
| FENCING (C-13) | 87 | 117 | 204 |
| FLOORING (C-15) | 351 | 399 | 750 |
| FIRE PROTECTION (C-16) | 66 | 192 | 258 |
| GLAZING (C-17) | 150 | 262 | 412 |
| WARM-AIR HEATING, VENTILATING AND AIR CONDITIONING (C-20) | 613 | 758 | 1,371 |
| BUILDING MOVING/DEMOLITION (C-21) | 96 | 139 | 235 |
| ASBESTOS ABATEMENT (C-22) | 11 | 13 | 24 |
| ORNAMENTAL METAL (C-23) | 65 | 93 | 158 |
| LANDSCAPING (C-27) | 550 | 1,076 | 1,626 |
| LOCK AND SECURITY EQUIPMENT (C-28) | 14 | 29 | 43 |
| MASONRY (C-29) | 87 | 132 | 219 |

CONTRACTORS STATE LICENSE BOARD

| Exams Results | | | |
|--|------|-------|-------|
| EXAM TITLE | PASS | FAIL | TOTAL |
| CONSTRUCTION ZONE TRAFFIC CONTROL (C-31) | 24 | 19 | 43 |
| PARKING AND HIGHWAY IMPROVEMENT (C-32) | 12 | 45 | 57 |
| PAINTING AND DECORATING (C-33) | 766 | 1,238 | 2,004 |
| PIPELINE (C-34) | 28 | 16 | 44 |
| LATHING AND PLASTERING (C-35) | 78 | 159 | 237 |
| PLUMBING (C-36) | 688 | 558 | 1,246 |
| REFRIGERATION (C-38) | 65 | 36 | 101 |
| ROOFING (C-39) | 300 | 374 | 674 |
| SANITATION SYSTEM (C-42) | 37 | 38 | 75 |
| SHEETING METAL (C-43) | 34 | 36 | 70 |
| SIGN (C-45) | 43 | 32 | 75 |
| SOLAR (C-46) | 71 | 110 | 181 |
| MANUFACTURED HOUSING (C-47) | 19 | 19 | 38 |
| REINFORCING STEEL (C-50) | 12 | 30 | 42 |
| STRUCTURAL STEEL (C-51) | 72 | 60 | 132 |
| SWIMMING POOL (C-53) | 131 | 167 | 298 |
| TILE (C-54) | 332 | 401 | 733 |
| WATER CONDITIONING (C-55) | 11 | 14 | 25 |
| WELL DRILLING (C-57) | 18 | 14 | 32 |
| WELDING (C-60) | 53 | 46 | 99 |

Summary of Enforcement Activity

| Consumer Complaints—Intake | |
|----------------------------|---|
| 19,439 | RECEIVED |
| 637 | CLOSED WITHOUT REFERRAL FOR INVESTIGATION |
| 18,802 | REFERRED FOR INVESTIGATION |
| 1,517 | PENDING |

| Conviction/Arrest Notification Complaints | |
|---|-----------------------------------|
| 1,035 | RECEIVED |
| 1,040 | CLOSED/REFERRED FOR INVESTIGATION |
| 158 | PENDING |

| Inspections | |
|-------------|------------------|
| N/A | CONDUCTED |
| N/A | CITATIONS ISSUED |

| Investigations | |
|----------------|---------|
| 20,474 | OPENED |
| 21,644 | CLOSED |
| 3,132 | PENDING |

| Number of Days to Complete Intake and Investigations | |
|--|--|
| 15,759 | UP TO 90 DAYS |
| 2,464 | 91 TO 180 DAYS |
| 3,246 | 181 DAYS TO 1 YEAR |
| 169 | 1 TO 2 YEARS |
| 1 | 2 TO 3 YEARS |
| 5 | OVER 3 YEARS |
| 83 | AVERAGE NUMBER OF DAYS TO COMPLETE INTAKE AND INVESTIGATIONS |

| Citations and Fines | |
|---------------------|---|
| 1,852 | ISSUED |
| 1,852 | ISSUED WITH A FINE |
| 43 | WITHDRAWN |
| 7 | DISMISSED |
| 197 | AVERAGE NUMBER OF DAYS TO ISSUE A CITATION AND FINE |

| Total Amount of Fines | |
|-----------------------|-----------|
| \$4,517,152 | ASSESSED |
| \$783,400 | REDUCED |
| \$2,192,350 | COLLECTED |

| Criminal/Civil Actions | |
|------------------------|-------------------------------------|
| 1,674 | REFERRALS FOR CRIMINAL/CIVIL ACTION |
| NDA | CRIMINAL ACTIONS FILED |
| N/A | CIVIL ACTIONS FILED |

| Office of the Attorney General/Disciplinary Actions | |
|---|------------------------|
| 631 | CASES OPENED/INITIATED |
| 392 | CASES CLOSED |
| 631 | CASES PENDING |

| Number of Days to Complete AG Cases | |
|-------------------------------------|---|
| 173 | 1 YEAR |
| 177 | 1 TO 2 YEARS |
| 36 | 2 TO 3 YEARS |
| 6 | OVER 3 YEARS |
| 835 | AVERAGE NUMBER OF DAYS TO IMPOSE DISCIPLINE |

| Formal Actions Filed/Withdrawn/Dismissed | |
|--|---|
| 43 | STATEMENTS OF ISSUES FILED |
| 271 | ACCUSATIONS FILED |
| 0 | RESTRAINING/RESTRICTION/SUSPENSION ORDERS GRANTED |
| 16 | STATEMENTS OF ISSUES WITHDRAWN/DISMISSED |
| 13 | ACCUSATIONS WITHDRAWN/DISMISSED |

| Administrative Outcomes/Final Orders | |
|--------------------------------------|-----------------------------|
| 28 | LICENSE APPLICATIONS DENIED |
| 295 | REVOCAION |
| 0 | SURRENDER OF LICENSE |
| 2 | PROBATION WITH SUSPENSION |
| 0 | SUSPENSION ONLY |
| 97 | PROBATION ONLY |
| 0 | PUBLIC REPRIMAND |
| 90 | OTHER DECISIONS |

| Petition for Modification or Termination of Probation | |
|---|---------|
| 0 | GRANTED |
| 0 | DENIED |
| 0 | TOTAL |

| Petition for Reinstatement of Revoked License/Registration/Certification | |
|--|---------|
| N/A | GRANTED |
| N/A | DENIED |
| N/A | TOTAL |

| Cost Recovery to DCA | |
|----------------------|-----------|
| \$1,677,735 | ORDERED |
| \$519,054 | COLLECTED |

| Restitution to Consumers/Refunds/Savings | |
|--|--------------------------------------|
| \$6,330,863 | RESTITUTION ORDERED |
| \$41,429,182 | AMOUNT REFUNDED |
| \$1,441,411 | REWORK AT NO CHARGE |
| N/A | ADJUSTMENTS/RETURNS/EXCHANGES |
| \$49,201,456 | TOTAL SAVINGS ACHIEVED FOR CONSUMERS |

| Receipt of Complaint to Assignment to Investigator | |
|--|------------------------|
| 2 | AVERAGE NUMBER OF DAYS |

| Investigations: Opening to Closing of Case | |
|--|------------------------|
| 83 | AVERAGE NUMBER OF DAYS |

| Investigations: Closure of Investigation to Imposing Formal Discipline | |
|--|------------------------|
| 835 | AVERAGE NUMBER OF DAYS |

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

WHO **WE
ARE,**

DEPARTMENT OF CONSUMER AFFAIRS

WHAT **WE
DO**

About this book:

Who We Are, What We Do is a list of the Department of Consumer Affairs' licensing entities and the professions and establishments they regulate. Contact information for each entity, including phone numbers, physical and email addresses, and their social media presence are included.

Contact DCA:
(800) 952-5210
www.DCA.ca.gov



Facebook: [@CACConsumerConnection](https://www.facebook.com/CACConsumerConnection)



Twitter: [@DCAnews](https://twitter.com/DCAnews)



WordPress: [The DCA Page](#)



YouTube: [California Department of Consumer Affairs](#)

WHO **Who we are**

The Department of Consumer Affairs (DCA) is one of 12 entities overseen by the Business, Consumer Services and Housing Agency.

WHAT **What we do**

DCA protects and serves California consumers while ensuring a competent and fair marketplace. DCA accomplishes this by administering more than 3.9 million licenses in 280 license types including permits, certificates, and registrations through the licensing and regulatory entities under its jurisdiction. These licensing entities set and enforce minimum qualifications for the professionals, establishments, and businesses they regulate.

SUPPORTS **DCA supports and helps consumers**

DCA provides consumers with current license status information on the millions of professionals licensed or certified through its entities. Licensing ensures that professionals perform their duties to an acceptable standard and provides consumers with a remedy if a service is not delivered.

REGULATOR

DCA is a regulator

DCA works with professions throughout California to guard licensees against unfair competition and to protect consumers from unlicensed practitioners.

PROTECT

DCA enforces laws to protect consumers

Enforcement of consumer laws is one of DCA's primary responsibilities. DCA's enforcement staff works with the Office of the Attorney General and local district attorneys to fight fraud in the marketplace. If DCA determines wrongdoing, it can place licensees on probation, and suspend or revoke licenses. DCA also has the authority to fine businesses and individuals, and issue citations, letters of reprimand, and cease and desist orders. In less severe cases, enforcement staff work closely with licensees to correct, eliminate, and prevent performance problems.

MISSION

We protect California consumers by providing a safe and fair marketplace through oversight, enforcement, and licensure of professions.

VISION

Together, empowering California consumers.

VALUES

| | |
|----------------|--------------|
| Accountability | Integrity |
| Communication | Leadership |
| Diversity | Service |
| Employees | Transparency |

A

ACCOUNTANTS

CALIFORNIA BOARD OF ACCOUNTANCY

2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 263-3680
Email: webmaster@cba.ca.gov ✓
www.dca.ca.gov/cba



Licenses and regulates:

- Certified Public Accountants (CPAs)
- Public Accountants
- Accountancy Corporations
- Accountancy Partnerships
- Registered Out-of-State Accounting Firms
- Out-of-State CPAs Practicing in California Under a Practice Privilege

ACUPUNCTURISTS

CALIFORNIA ACUPUNCTURE BOARD

1747 North Market Blvd., Suite 180
Sacramento, CA 95834
(916) 515-5200
Email: acupuncture@dca.ca.gov ✓
www.acupuncture.ca.gov

Licenses and regulates:

- Acupuncturists

APPLIANCE REPAIR

See Household Goods and Services

APPRAISERS

See Real Estate

ARCHITECTS

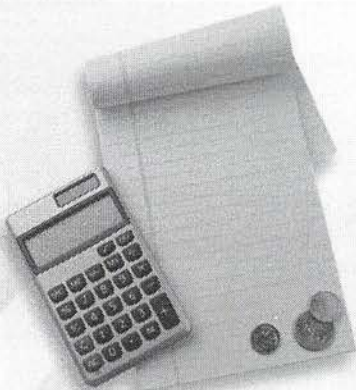
CALIFORNIA ARCHITECTS BOARD

2420 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 574-7220
Email: CAB@dca.ca.gov ✓
www.cab.ca.gov



Licenses and regulates:

- Architects





**LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE**

2420 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7230
Email: latc@dca.ca.gov
www.latc.ca.gov



Licenses and regulates:

- Landscape Architects

**AUTOMOBILE REPAIR,
WARRANTY DISPUTES**

**ARBITRATION CERTIFICATION
PROGRAM (ACP)**

1625 North Market Blvd.,
Suite N-112
Sacramento, CA 95834
Toll-free: (800) 952-5210
(916) 574-7350
Email: acp@dca.ca.gov
www.dca.ca.gov/acp



As state regulators, ACP ensures that all California-certified arbitration programs remain in substantial compliance with the statutes and regulations governing the arbitration process.

Certifies:

Third-party arbitration programs used by vehicle manufacturers to resolve California consumer warranty disputes in a fair and prompt process.

**BUREAU OF
AUTOMOTIVE REPAIR**

10949 North Mather Blvd.
Rancho Cordova, CA 95670
Toll-free: (800) 952-5210
Email:

Consumers: BAREditor@dca.ca.gov

Industry:

BARIndustryHelpDesk@dca.ca.gov

Webmaster: BARMaster@dca.ca.gov

www.bar.ca.gov



TIP

The Bureau of Automotive Repair's Auto Body Inspection Program offers no-cost inspections of collision-related repairs and salvage vehicles to help ensure the safety of California motorists and their vehicles. Contact the Bureau of Automotive Repair to schedule an inspection at a location convenient for you.

A·B

Registers, licenses, and regulates:

- Automotive Repair Dealers
- Brake and Lamp Stations and Adjusters
- Smog Check Stations, Inspectors, and Repair Technicians

Certifies:

- STAR Stations

BARBERS, COSMETOLOGISTS

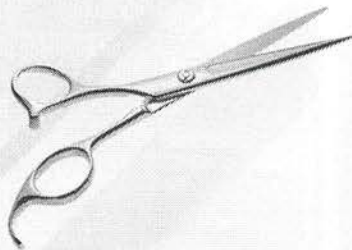
BOARD OF BARBERING AND COSMETOLOGY

2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Toll-free: (800) 952-5210
Email: barbercosmo@dca.ca.gov
www.barbercosmo.ca.gov



Licenses and regulates:

- Apprentices
- Barbers
- Cosmetologists



8

- Establishments
- Electrologists
- Estheticians
- Manicurists

BEDDING MANUFACTURERS

See Household Goods and Services

BOXERS, FIGHTERS, REFEREES, TRAINERS

(R) no specific statutes cited

CALIFORNIA STATE ATHLETIC COMMISSION

2005 Evergreen St., Suite 2010
Sacramento, CA 95815
(916) 263-2195
TTY: (800) 326-2297
Email: csac@dca.ca.gov
www.dca.ca.gov/csac



Licenses and regulates:

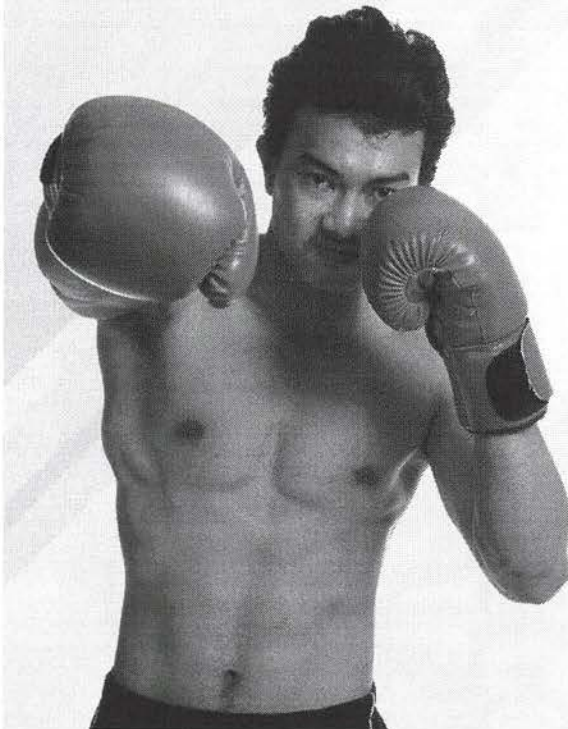
- Boxers
- Mixed Martial Arts Fighters
- Kickboxers
- Promoters
- Professional Trainers
- Matchmakers
- Seconds (Corner Men, Corner Women)

B·C

- Managers
- Judges
- Referees
- Timekeepers
- Ringside Physicians

TIP

Retired boxers who fought in California may be entitled to a share of the \$4.9 million in the California Professional Boxer's Pension Fund. California is the only state in the nation that has a pension fund for boxers; a portion of the money for each ticket sold at a boxing event goes into the fund.



CANNABIS

BUREAU OF CANNABIS CONTROL

Mailing Address: P.O. Box 419106
Rancho Cordova, CA 95741-9106
Toll-free: (833) 768-5880
Email: bcc@dca.ca.gov
www.bcc.ca.gov



Licenses and regulates:

- Distributors
- Event Organizers
- Retailers
- Microbusinesses
- Testing Laboratories

TIP

The **California Cannabis Portal** is the best place to find information and updates on all things cannabis in California. This site gathers news from all three state cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Public Health, and the California Department of Food and Agriculture.

C

CEMETERIES

See Funeral

CHIROPRACTORS

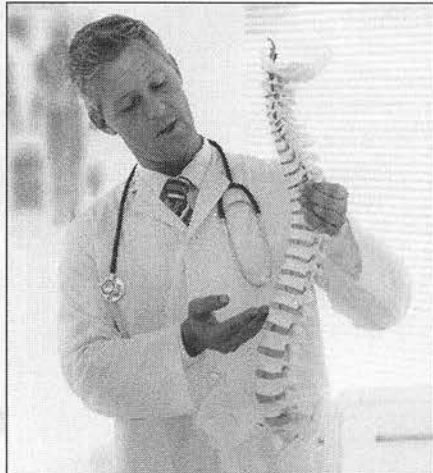
CALIFORNIA BOARD OF CHIROPRACTIC EXAMINERS

901 P St., Suite 142A
Sacramento, CA 95814
(916) 263-5355
Toll-free: (866) 543-1311
Email: chiro.info@dca.ca.gov
www.chiro.ca.gov



Licenses and certifies:

- Chiropractors
- Corporations
- Referral Services
- Satellite Offices



10

CONTRACTORS

CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive
Sacramento, CA 95827
(916) 255-3900
Toll-free: (800) 321-2752
www.cslb.ca.gov



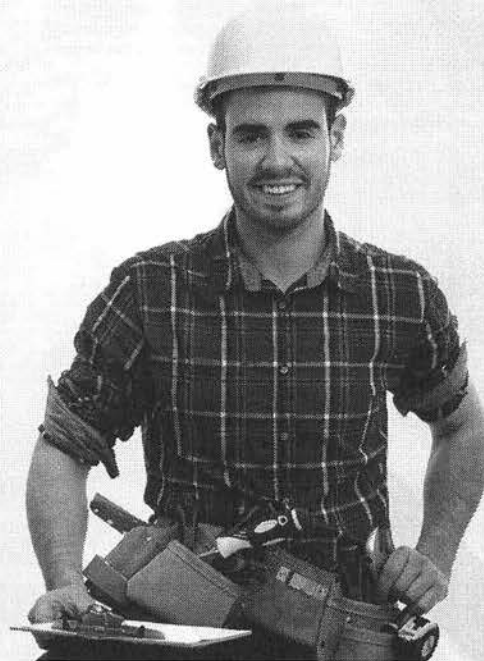
*verify @
cslb.ca.gov*

Licenses and regulates:

- General Engineering Contractors—
Class A
- General Building Contractors—
Class B
- Specialty Contractors—Class C
- C-2: Insulation and Acoustical
- C-4: Boiler, Hot-Water Heating,
and Steam Fitting
- C-5: Framing and Rough
Carpentry
- C-6: Cabinet, Millwork, and
Finish Carpentry
- C-7: Low-Voltage Systems
- C-8: Concrete
- C-9: Drywall
- C-10: Electrical
- C-11: Elevator

C

- C-12: Earthwork and Paving
- C-13: Fencing
- C-15: Flooring and Floor Covering
- C-16: Fire Protection
- C-17: Glazing
- C-20: Warm-Air Heating, Ventilating, and Air-Conditioning
- C-21: Building Moving and Demolition
- C-22: Asbestos Abatement
- C-23: Ornamental Metal
- C-27: Landscaping
- C-28: Lock and Security Equipment
- C-29: Masonry
- C-31: Construction Zone Traffic Control
- C-32: Parking and Highway Improvement
- C-33: Painting and Decorating
- C-34: Pipeline
- C-35: Lathing and Plastering
- C-36: Plumbing
- C-38: Refrigeration
- C-39: Roofing
- C-42: Sanitation System
- C-43: Sheet Metal
- C-45: Sign
- C-46: Solar
- C-47: General Manufactured Housing
- C-50: Reinforcing Steel
- C-51: Structural Steel
- C-53: Swimming Pool
- C-54: Tile (Ceramic and Mosaic)
- C-55: Water Conditioning
- C-57: Well Drilling (Water)
- C-60: Welding
- C-61: Limited Specialty (Subspecialties)
 - » D-3: Awnings
 - » D-4: Central Vacuum Systems
 - » D-6: Concrete-Related Services



C

- » D-9: Drilling, Blasting, and Oil Field Work
- » D-10: Elevated Floors
- » D-12: Synthetic Products
- » D-16: Hardware, Locks, and Safes
- » D-21: Machinery and Pumps
- » D-24: Metal Products
- » D-28: Doors, Gates, and Activating Devices
- » D-29: Paperhanging
- » D-30: Pile Driving and Pressure Foundation Jacking
- » D-31: Pole Installation and Maintenance
- » D-34: Prefabricated Equipment
- » D-35: Pool and Spa Maintenance
- » D-38: Sand and Water Blasting
- » D-39: Scaffolding
- » D-40: Service Station Equipment and Maintenance
- » D-41: Siding and Decking
- » D-42: Non-Electrical Sign Installation
- » D-49: Tree Service
- » D-50: Suspended Ceilings
- » D-52: Window Coverings
- » D-53: Wood Tanks
- » D-56: Trenching Only
- » D-59: Hydroseed Spraying
- » D-62: Air and Water Balancing
- » D-63: Construction Cleanup
- » D-64: Non-Specialized
- » D-65: Weatherization and Energy Conservation
- ASB: Asbestos Certification
- HAZ: Hazardous Substance Removal Certification

COSMETOLOGISTS

See Barbers

COUNSELORS

See Mental Health Professionals

COURT REPORTERS

COURT REPORTERS BOARD OF CALIFORNIA

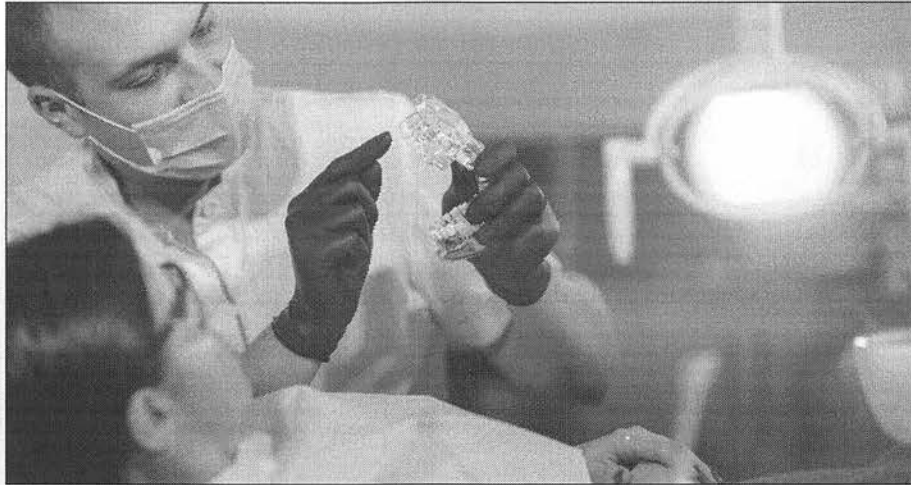
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833
(916) 263-3660
Toll-free: (877) 327-5272
(877-3ASKCRB)

www.courtreportersboard.ca.gov

Licenses and regulates:

- Court Reporters

D



DENTAL

DENTAL BOARD OF CALIFORNIA ✓

2005 Evergreen St., Suite 1550
Sacramento, CA 95815
(916) 263-2300
Toll-free: (877) 729-7789
Email: dentalboard@dca.ca.gov
www.dbc.ca.gov



Licenses and regulates:

- Dentists
- Registered Dental Assistants
- Registered Dental Assistants in Extended Functions

DENTAL HYGIENE BOARD OF CALIFORNIA

2005 Evergreen St., Suite 2050
Sacramento, CA 95815
(916) 263-1978
Email: dhccinfo@dca.ca.gov ✓
www.dhcc.ca.gov

Licenses and regulates:

- Registered Dental Hygienists
- Registered Dental Hygienists in Alternative Practice
- Registered Dental Hygienists in Extended Functions
- Dental Hygiene Educational Programs

DOCTORS

See Medical

BPESB. Enforcement, Information@
dca.ca.gov



ELECTRONICS REPAIR

See Household Goods and Services

ENGINEERS

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300

Sacramento, CA 95833

(916) 263-2222

Toll-free: (866) 780-5370

Fax: (916) 263-2246

www.bpelsg.ca.gov



Registers and regulates:

- Agricultural Engineers
- Chemical Engineers
- Civil Engineers
- Control System Engineers
- Corrosion Engineers
- Electrical Engineers
- Engineering Geologists
- Fire Protection Engineers
- Geologists
- Geophysicists
- Hydrogeologists
- Land Surveyors
- Manufacturing Engineers
- Mechanical Engineers
- Metallurgical Engineers

- Nuclear Engineers
- Petroleum Engineers
- Photogrammetric Surveyors
- Quality Engineers
- Safety Engineers
- Structural Engineers
- Traffic Engineers

Certifies:

- Engineers-in-Training
- Geologists-in-Training
- Land Surveyors-in-Training

EYE DOCTORS

See Optometrists

FIDUCIARIES

PROFESSIONAL FIDUCIARIES BUREAU

1625 North Market Blvd.,
Suite S-209

Sacramento, CA 95834

(916) 574-7340

Email: fiduciary@dca.ca.gov

www.fiduciary.ca.gov

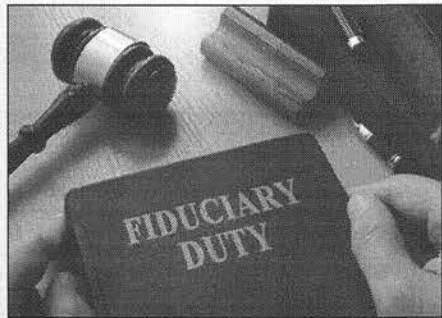


Licenses and regulates:

- Conservators
- Guardians
- Personal Representative of a Decedent's Estate

F·G·H

- Trustees
- Agents Under Durable Power of Attorney for Health Care or Finances



FUNERAL

CEMETERY AND FUNERAL BUREAU

1625 North Market Blvd.,
Suite S-208
Sacramento, CA 95834
(916) 574-7870
Toll-free: (800) 952-5210
Email: cfb@dca.ca.gov
www.cfb.ca.gov

Licenses and regulates:

- Funeral Establishments
- Funeral Directors
- Embalmers and Apprentice Embalmers
- Funeral Preneed Trusts
- Private Cemeteries

- Cemetery Managers
- Cemetery Brokers and Cemetery Salespersons
- Endowment Care and Cemetery Preneed Trust Funds
- Crematories
- Crematory Managers
- Cremated Remains Disposers

GEOLOGISTS

See Engineers

HEARING/SPEECH

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

2005 Evergreen St., Suite 2100
Sacramento, CA 95815
(916) 263-2666
Email: speechandhearing@dca.ca.gov
www.speechandhearing.ca.gov

Licenses and regulates:

- Audiologists
- Hearing Aid Dispensers
- Speech-Language Pathologists

H

HOUSEHOLD GOODS

BUREAU OF HOUSEHOLD GOODS AND SERVICES

4244 South Market Court, Suite D
Sacramento, CA 95834
(916) 999-2041
Email: homeproducts@dca.ca.gov
www.bhgs.dca.ca.gov



Registers and Regulates:

- Major Appliance Repair
- Electronics Repair
- Installation of:
 - » Satellite Dishes
 - » Antennas
 - » Auto Stereos and Alarms
 - » Ignition Interlock Devices
- Sellers and Administrators of Service Contracts for the Following Products:
 - » Furniture
 - » Lawn and Garden Equipment
 - » Home Health Care Products
- Electronic Equipment:
 - » Phone Equipment
 - » Fitness Equipment
 - » Jewelry
 - » Power Tools

- » Optical Products
- » Small Kitchen Appliances
- » Major Home Appliances
- Upholstered Furniture and Bedding:
 - » Importers
 - » Manufacturers
 - » Wholesalers
 - » Retailers
 - » Sanitizers
 - » Supply Dealers
- Custom Upholsterers
- Manufacturers of Thermal Insulation
- Household Movers

TIP

The Song-Beverly Consumer Warranty Act requires that service contracts sold in California allow consumers a “free look” period of 30 days (for electronics and major appliances) or 60 days (for all other covered products). You may request to cancel the contract and receive a full refund of the purchase price if canceled within this time period.

HOUSING

See Real Estate



LANDSCAPING

See Architects

LAND SURVEYORS

See Engineers

LOCKSMITHS

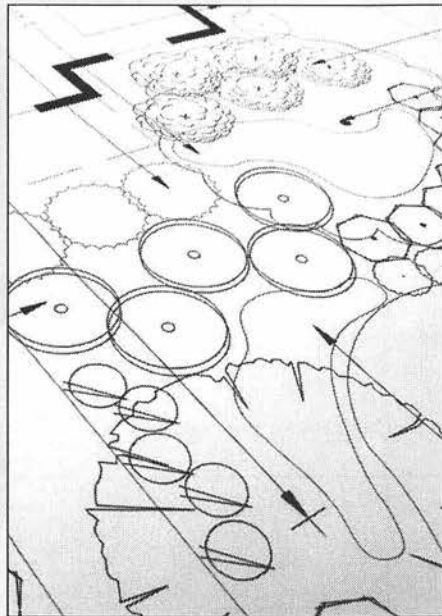
See Security

MARIJUANA

See Cannabis

MATTRESSES

See Household Goods and Services



MEDICAL

MEDICAL BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1200
Sacramento, CA 95815
Executive Office: (916) 263-2389
Local: (916) 263-2382
Toll-free: (800) 633-2322
Email: webmaster@mbc.ca.gov
www.mbc.ca.gov ✓



Licenses and regulates:

- Licensed Midwives
- Medical Assistants
- Physicians and Surgeons
- Polysomnographic Technicians, Trainees, and Technologists
- Research Psychoanalysts

TIP

Make sure your health care professional is licensed and in good standing by downloading the **Medical Board of California's (Board) free app for Apple mobile devices**. The app allows users to follow the licenses of up to 16 physicians and receive notifications whenever there has been an update to their license(s). You can also check up on your doctor by visiting the Board's **online license search**.

M

NATUROPATHIC MEDICINE COMMITTEE

1300 National Drive, Suite 150
Sacramento, CA 95834
(916) 928-4785
Fax: (916) 928-4787
Email: naturopathic@dca.ca.gov
www.naturopathic.ca.gov

Licenses and regulates:

- Naturopathic Doctors

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

1300 National Drive, Suite 150
Sacramento, CA 95834
(916) 928-8390
Email: osteopathic@dca.ca.gov
www.ombc.ca.gov

Licenses and regulates:

- Osteopathic Physicians and Surgeons

PHYSICIAN ASSISTANT BOARD

2005 Evergreen St., Suite 1100
Sacramento, CA 95815
(916) 561-8780
Email: paccommittee@mbc.ca.gov
www.pac.ca.gov

Licenses and regulates:

- Physician Assistants

MENTAL HEALTH PROFESSIONALS

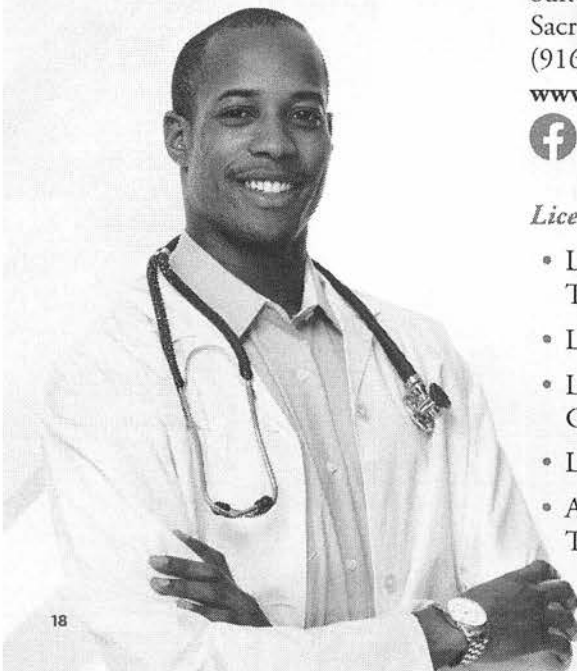
BOARD OF BEHAVIORAL SCIENCES

1625 North Market Blvd.,
Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov



Licenses and regulates:

- Licensed Marriage and Family Therapists
- Licensed Clinical Social Workers
- Licensed Professional Clinical Counselors
- Licensed Educational Psychologists
- Associate Marriage and Family Therapists



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M·N·O

- Associate Social Workers
- Associate Professional Clinical Counselors

MIDWIVES

See Medical, Nursing

NURSING

BOARD OF REGISTERED NURSING

1747 North Market Blvd., Suite 150
Sacramento, CA 95834
(916) 322-3350
TTY: (800) 326-2297
Email: webmasterbrn@dca.ca.gov
www.rn.ca.gov



Licenses and regulates:

- Clinical Nurse Specialists
- Continuing Education Providers
- Nurse Anesthetists
- Nurse Midwives
- Nurse Practitioners
- Psychiatric Mental Health Nurses
- Public Health Nurses
- Registered Nurses

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
(916) 263-7800
Email: bvnpt@dca.ca.gov
www.bvnpt.ca.gov



Licenses and regulates:

- Psychiatric Technicians
- Vocational Nurses

OCCUPATIONAL THERAPISTS

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

2005 Evergreen St., Suite 2250
Sacramento, CA 95815
(916) 263-2294
Email: cbot@dca.ca.gov
www.bot.ca.gov

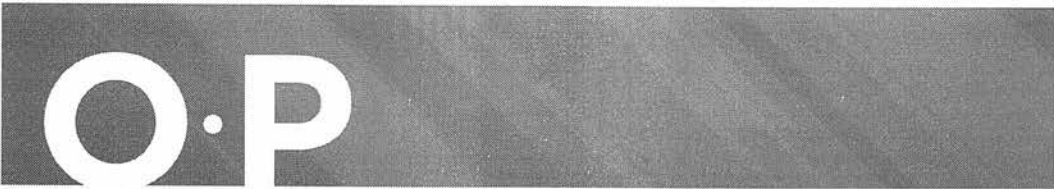


Licenses and regulates:

- Occupational Therapists
- Occupational Therapy Assistants

OPTICIANS

See Optometrists



OPTOMETRISTS

CALIFORNIA STATE BOARD OF OPTOMETRY

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170
Toll-free: (866) 585-2666
Email: optometry@dca.ca.gov
www.optometry.ca.gov

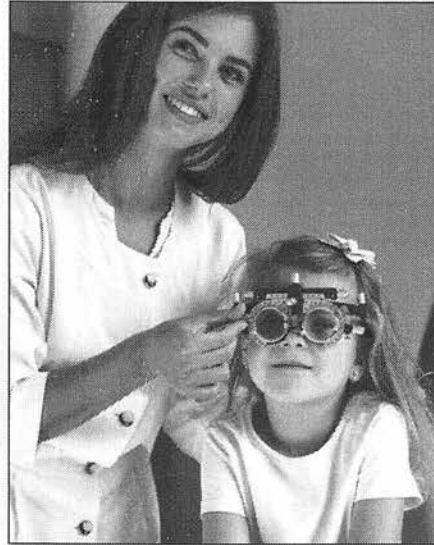


Licenses and regulates:

- Optometrists
- Spectacle Lens Dispensers
- Contact Lens Dispensers
- Optometric Corporations
- Fictitious Name Permits
- Registered Dispensing Opticians
- Non-Resident Contact Lens Seller

TIP

One in five school-age children has vision difficulties that are undetected in routine vision tests given at school. Impaired vision can cut learning, reduce self-esteem, and produce negative social behavior. It's important to take your child to a licensed optometrist for a comprehensive eye exam.



OSTEOPATHIC MEDICINE

See Medical

PEST CONTROL

See Structural Pest Control

PHARMACISTS

CALIFORNIA STATE BOARD OF PHARMACY

2720 Gateway Oaks Drive
Suite 100
Sacramento, CA 95833
(916) 574-7900
www.pharmacy.ca.gov



P

Licenses and regulates:

Individual License:

- Designated Representatives
- Designated Representatives Vet
- Designated Representative-3PL
- Designated Representative-Reverse Distributor
- Intern Pharmacists
- Pharmacists
- Advanced Practice Pharmacists
- Pharmacy Technicians
- Designated Paramedics

Site Licenses:

- Centralized Hospital Packaging
- Centralized Hospital Packaging Exempt
- Clinics
- Clinics Exempt
- Clinic Co-Location
- Correctional Pharmacy
- Drug Room
- Drug Room Exempt
- Hospitals
- Hospitals Exempt
- Hypodermic Needle and Syringes

- Hypodermic Needle and Syringes Exempt
- Outsourcing Facility
- Outsourcing Facility Nonresident
- Pharmacy
- Pharmacy Exempt
- Remote Dispensing Site Pharmacy
- Pharmacy Nonresident
- Sterile Compounding
- Sterile Compounding Exempt
- Sterile Compounding Nonresident
- Satellite Compounding Pharmacy
- Satellite Compounding Pharmacy Exempt
- Surplus Medication Collection Distribution Intermediary
- Third-Party Logistics Providers
- Third-Party Logistics Providers Nonresident
- Veterinary Food-Animal Drug Retailer
- Wholesaler
- Wholesaler Nonresident
- Wholesaler Exempt

P

PHYSICAL THERAPISTS

PHYSICAL THERAPY BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1350
Sacramento, CA 95815
(916) 561-8200

www.ptbc.ca.gov



Licenses and regulates:

- Physical Therapists
- Physical Therapist Assistants
- Physical Therapists' Electroneuromyography Certification
- Physical Therapists' Kinesiological Electromyography Certification

PHYSICIANS

See Medical

PODIATRIC MEDICINE

PODIATRIC MEDICAL BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1300
Sacramento, CA 95815
(916) 263-2647

Email: bpm@dca.ca.gov ✓

www.bpm.ca.gov



Licenses and regulates:

- Doctors of Podiatric Medicine

PRIVATE INVESTIGATORS

See Security



PRIVATE POSTSECONDARY SCHOOLS

BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

Mailing address: P.O. Box 980818
West Sacramento, CA 95798-0818
(916) 431-6959
Toll-free: (888) 370-7589
Email: bppe@dca.ca.gov ✓
www.bppe.ca.gov



Licenses and regulates:

- Private Postsecondary Schools
- Vocational Schools

OFFICE OF STUDENT ASSISTANCE AND RELIEF

Mailing address: P.O. Box 980818
West Sacramento, CA 95798-0818
(916) 431-6959
Physical Address: 1625 North Market
Blvd., Suite N-327
Sacramento, CA 95834
Toll-Free: (888) 370-7589 ✓
Email: osar@dca.ca.gov
www.osar.bppe.ca.gov



TIP

If your private postsecondary school closes, you have rights; you may also be able to recover the tuition you paid to the school through the Student Tuition Recovery Fund.

PSYCHIATRIC TECHNICIANS

See Nursing

PSYCHOLOGISTS

CALIFORNIA BOARD OF PSYCHOLOGY

1625 North Market Blvd.,
Suite N-215
Sacramento, CA 95834
(916) 574-7720
Toll-free: (866) 503-3221
www.psychology.ca.gov



Licenses and regulates:

- Psychologists
- Psychological Assistants
- Registered Psychologists

R·S

REAL ESTATE

BUREAU OF REAL ESTATE APPRAISERS

3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670
(916) 552-9000
www.brea.ca.gov



Licenses and regulates:

- Real Estate Appraisers
- Registered Appraisal Management Companies

REPOSSESSORS

See Security

RESPIRATORY CARE PRACTITIONERS

RESPIRATORY CARE BOARD OF CALIFORNIA

3750 Rosin Court, Suite 100
Sacramento, CA 95834
(916) 999-2190
Toll-free: (866) 375-0386
Email: rcbinfo@dca.ca.gov
www.rcb.ca.gov

Licenses and regulates:

- Respiratory Care Practitioners



SECURITY

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

2420 Del Paso Road, Suite 270
Sacramento, CA 95834
(916) 322-4000
Toll-free: (800) 952-5210
Email: bsis@dca.ca.gov
www.bsis.ca.gov



Licenses and regulates:

- Alarm Company Operators
- Alarm Company Qualified Managers
- Alarm Company Agents
- Locksmith Companies
- Locksmith Company Employees
- Private Investigators
- Private Patrol Operators

S

- Security Guards
- Proprietary Private Security Employers
- Proprietary Private Security Officers
- Repossession Agencies
- Repossession Agency Qualified Managers
- Repossession Agency Employees
- Firearms Permits
- Baton Permits
- Firearms/Baton Training Facilities
- Firearms/Baton Training Instructors

SMOG CHECK

See Automobile Repair, Warranty Disputes

SOCIAL WORKERS

See Mental Health Professionals

SPEECH THERAPISTS

See Hearing/Speech

STRUCTURAL PEST CONTROL

STRUCTURAL PEST CONTROL BOARD

2005 Evergreen St., Suite 1500
Sacramento, CA 95815

(916) 561-8708

Toll-free: (800) 737-8188

Email: pestboard@dca.ca.gov

www.pestboard.ca.gov

Licenses and regulates:

- Pest Control Companies
- Pest Management Professionals
- Fumigators
- Structural Pesticide Applicators



T.V

THERAPISTS

See Mental Health Professionals

TRUSTEES

See Fiduciaries

VETERINARY MEDICINE

VETERINARY MEDICAL BOARD

1747 North Market Blvd., Suite 230

Sacramento, CA 95834-2987

(916) 515-5520

Toll-Free: (866) 229-6849

Email: vmb@dca.ca.gov

www.vmb.ca.gov



Licenses and regulates:

- Registered Veterinary Technicians
- Veterinarians

- Veterinary Hospitals
- Veterinary Assistant Controlled Substance Permits
- University Faculty Veterinary Licenses



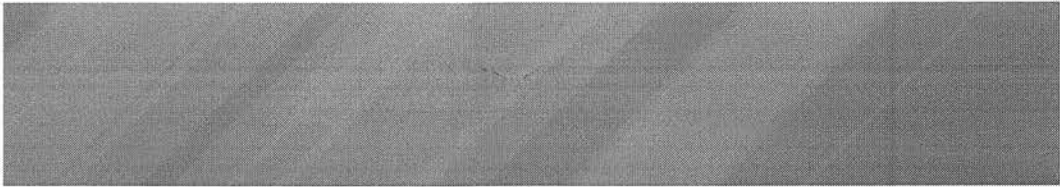
VOCATIONAL NURSING

See Nursing

VOCATIONAL SCHOOLS

See Private Postsecondary





Printed and electronic copies of this and other consumer and licensee publications are available from the Department of Consumer Affairs (DCA) on subjects from accountancy to vocational nursing. View the entire list of available publications on DCA's website at www.dca.ca.gov under the "Publications" tab.

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DEPARTMENT OF CONSUMER AFFAIRS

1625 North Market Blvd.
Sacramento, CA 95834

www.dca.ca.gov

STATE OF CALIFORNIA

dca

DEPARTMENT OF CONSUMER AFFAIRS

Revised: June 2019

PDE_19-052 

WE DO
&
WE ARE
WHAT
WE
DO

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

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DEPARTMENT OF CONSUMER AFFAIRS



STATE OF CALIFORNIA

WHO
& WHAT
WE DO
WE ARE



A list of DCA's bureaus, programs, boards, committees, and commissions with addresses, phone numbers, and Web sites.

(800) 952-5210 / www.DCA.ca.gov



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CACConsumerConnection](https://www.facebook.com/CACConsumerConnection)**

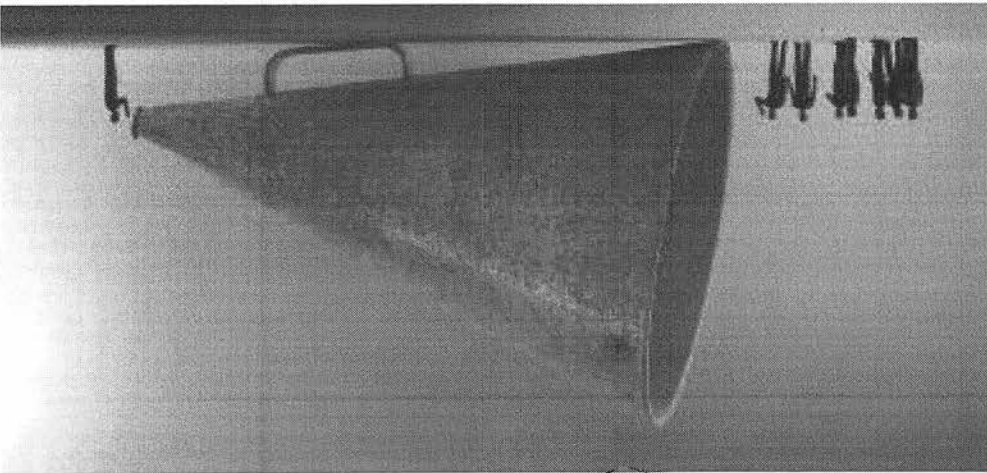
WHO WE ARE

The Department of Consumer Affairs (DCA) is one of eight entities under the State of California's Business, Consumer Services, and Housing Agency.

DCA educates consumers by giving them the information they need to avoid unscrupulous or unqualified people who promote deceptive or unsafe services.

DCA informs the public through consumer-oriented publications available online or by mail. In addition, the Consumer Information Center is DCA's resource center for consumers and licensees. Through its Call Center and Correspondence Unit, the CIC provides consumers and licensees with user-friendly information and identifies for them the government agency or community organization that can best address their needs. The Call Center offers assistance in more than 170 languages.

WHAT WE DO



DCA SUPPORTS AND HELPS CONSUMERS

DCA advocates consumer interests before lawmakers. We also provide consumers with current license status information on the more than 2.8 million professionals licensed or certified through our boards and bureaus. **(Simply click on “License Verification” at DCA’s Web site at www.dca.ca.gov.)** Licensing ensures that practitioners perform their duties to an acceptable standard and provides consumers with a remedy if a service is not delivered.

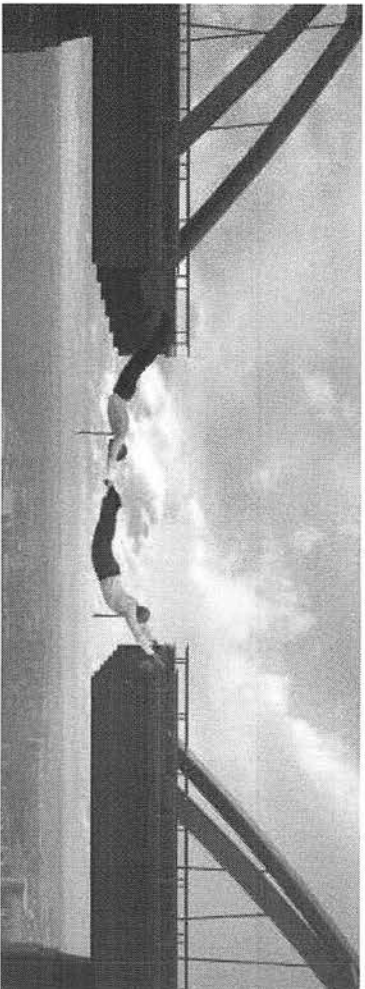


DCA IS A REGULATOR

DCA works with professions throughout California to guard our licensees against unfair competition and to protect consumers from unlicensed practitioners.

DCA ENFORCES LAWS TO PROTECT CONSUMERS

Enforcement of consumer laws is one of DCA's primary responsibilities. The Department's enforcement staff works with the Attorney General's Office and local district attorneys to fight fraud in the marketplace. Many investigations are initiated as the result of complaints from consumers. If DCA determines wrongdoing, it can place licensees on probation, or suspend or revoke licenses. DCA also has the authority to fine businesses and individuals and issue citations, letters of reprimand, and cease and desist orders. In less severe cases, our enforcement staff work closely with licensees to correct, eliminate, and prevent performance problems.



DCA RESOLVES DISPUTES

When a dispute arises between a business and a customer, or a consumer and a licensee, many people think they have to go to court to remedy the situation. DCA has developed a program that offers a time-saving, less expensive solution. DCA's Complaint Resolution Program provides an alternative method of resolving complaints without going to court. Through this process, the parties involved in a dispute can work out their own solution with the help of a Departmental negotiator. Information on DCA's Complaint Resolution Program and local mediation programs is available on the DCA Web site at **www.dca.ca.gov** or by calling (800) 952-5210.

OUR MISSION

To be the premier consumer protection agency..

OUR VISION

To protect consumers through effective enforcement activities and oversight of California's licensed professionals.

OUR VALUES

ACCOUNTABILITY — We operate transparently and encourage public participation in our decision-making when appropriate..

CONSUMER PROTECTION — We make effective and informed decisions to protect the health and safety of Californians.

CUSTOMER SERVICE — We acknowledge our stakeholders as customers, listen to them, and take their needs into account.

INNOVATION — We value creative problem-solving, responsible risk-taking, and enthusiastic pursuit of new ideas.

INTEGRITY — We are committed to honesty, ethical conduct, and responsibility.

DIVERSITY — We foster a welcoming environment of openness and appreciation for all.

EMPLOYEES — We recognize and value employee contributions and talent, and foster leadership development and professional growth of our workforce.

LEADERSHIP — We set the standard for leadership in government by holding ourselves accountable to our employees and stakeholders.

A BRIEF HISTORY

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

California's commitment to protecting consumers began with the passage of the Medical Practice Act of 1876. The Act was designed to regulate the State's medical professionals, had operated virtually unchecked. Additional professions and vocations were brought under State authority over the following 30 years.

By the late 1920s, the Department of Vocational and Professional Standards was responsible for licensing or certifying accountants, architects, barbers, cosmetologists, dentists, embalmers, optometrists, pharmacists, physicians, and veterinarians. The Consumer Affairs Act was passed in 1970, giving the Department its current name.

Today, DCA issues more than 2.8 million licenses, certificates, and approvals to individuals and businesses in 250 categories. This involves setting the qualifications and levels of competency for the professionals regulated by the Department's boards and bureaus. These programs license, register, or certify practitioners; investigate complaints; and discipline violators. Boards, committees, and one commission operate independently, but rely on DCA for administrative support. Fees paid by our licensees fund DCA operations almost exclusively. Bureaus, programs, divisions, and offices are under the full control of DCA.

CONTRACTORS STATE LICENSE BOARD

SUNSET REVIEW

DECEMBER 2018





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SECTION 1: BACKGROUND AND DESCRIPTION OF THE BOARD AND REGULATED PROFESSION

Provide a short explanation of the history and function of the board. Describe the occupations/professions that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

HISTORY AND FUNCTION

The California Contractors State License Board (CSLB) was established in 1929, by the Legislature as the Contractors' License Bureau, under the Department of Professional and Vocational Standards. It was formed to regulate the state's construction industry and protect the public from irresponsible contractors. In 1935, the agency's mission and duties were placed under the auspices of a seven-member board.

In 1938, the Legislature mandated that contractor license applicants be examined for competence in their designated field. By 1947, the board had been given authority to establish experience standards and to adopt rules and regulations for the classification of contractors in a manner consistent with established practice and procedure in the construction business.

Now classified as a board within the California Department of Consumer Affairs (DCA), CSLB operates with a 15-member board and upholds its mission to protect consumers by regulating the construction industry through licensure, enforcement, and education.

CSLB regulates contractors in 44 license classifications and two certifications under which members of the construction industry practice their trades. CSLB issues three license types: 1) general engineering; 2) general building; and 3) specialty contractor. The latter designation contains 42 different classifications, ranging from painting and well drilling to blasting. As of July 2018, there were approximately 285,000 licensed contracting entities in California.

CSLB's responsibility to enforce California state contractors' license law includes investigating complaints against licensed and unlicensed contractors, issuing citations and suspending or revoking licenses, seeking administrative, criminal, and civil sanctions against violators, and informing consumers, contractors, and the industry about CSLB actions.

To support its consumer protection and education objectives, CSLB provides 24/7 access to licensee information, construction guides and pamphlets, forms and applications, and a host of pertinent information about contracting and construction-related topics through

its website (www.cslb.ca.gov) and its automated toll-free phone number (800-321-CSLB). CSLB's call center staff are available Monday-Friday from 8:00 a.m. to 5:00 p.m. A toll-free number for disaster survivors also operates during these times.

BOARD COMPOSITION

The Governor appoints 11 board members that require Senate confirmation and the Assembly Speaker and Senate Rules Committee each appoint two public members. The board is comprised of:

- One "A" General Engineering contractor
- Two "B" General Building contractors
- Two "C" Specialty contractors
- One labor organization representative
- One local building official
- Eight public members, one of whom must represent a statewide senior citizen organization

1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).

CSLB currently has five standing committees: Enforcement, Executive, Legislative, Licensing, and Public Affairs. (Current committee membership is shown in the attachments.)

The Enforcement Committee helps reduce, eliminate, or prevent unlicensed activity and unprofessional conduct that pose a threat to public health, safety, and welfare. The Executive Committee, comprised of the board chair, vice chair, secretary, and most recent past chair, helps enhance organizational effectiveness and improves the quality of service in all programs. The Legislative Committee helps ensure that statutes, regulations, policies, and procedures strengthen and support CSLB operations. The Licensing Committee helps ensure that all applicants and licensees meet minimum qualifications to provide construction services. The Public Affairs Committee educates consumers about making informed choices related to construction services and provides information to licensed contractors so they can improve their technical, management, and service skills.

Committees discuss various policy matters and formulate recommendations for consideration by the full board. The board reviews and takes formal action at publicly noticed board and committee meetings, where the public has an opportunity to comment. These meetings are routinely webcast.



SECTION 5: ENFORCEMENT PROGRAM

ENFORCEMENT PROGRAM OVERVIEW

CSLB's mission is to protect consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction. Two of the ways in which CSLB accomplishes this are:

- Enforcing the laws, regulations, and standards governing construction in a fair and uniform manner; and
- Providing resolution for disputes that arise from construction activities.

Enforcement staff are authorized to investigate complaints against licensees, non-licensees acting as contractors, and unregistered home improvement salespeople. CSLB administrative enforcement actions against licensees are prosecuted pursuant to the Administrative Procedure Act. In addition, CSLB may refer cases involving criminal activity to district attorneys who may prosecute these cases under the Business and Professions Code and other applicable state codes.

Most Enforcement division staff work directly on consumer complaints. In fiscal year 2017-18, CSLB conducted 19,687 investigations, of which 16,937 were in response to consumer-filed complaints.

The majority of complaints CSLB receives are filed by residential property owners who contracted for home improvement and repair projects. CSLB also receives complaints from other members of the public, licensees, industry groups, governmental agencies, and others. These complaints cover all aspects of the construction industry.

CSLB's complaint process involves several steps through which cases may pass and CSLB uses several corrective and disciplinary tools to compel compliance with contractors' state license law.

COMPLAINT PROCESS

Complaint Intake and Mediation Center

CSLB’s two Intake and Mediation Centers (Sacramento and Norwalk) review all incoming complaints, focus on the settlement of most consumer complaints against licensed contractors, and prepare unlicensed complaints for field investigation. If a resolution is reached and complied with, CSLB closes the complaint. If there is a technical violation, CSLB can issue an advisory notice.

The board’s goal is to settle 30 percent of complaints against licensees that do not involve a serious violation of law. As shown in the table below, over the last four fiscal years, more than 40 percent of licensee complaints have been settled at this level, with more than \$47 million in ordered restitution to financially injured parties.

| LICENSEE COMPLAINTS | FY 2014–15 | FY 2015–16 | FY 2016–17 | FY 2017–18 |
|-------------------------------|--------------|-------------|--------------|--------------|
| Percent of Complaints Settled | 41% | 44% | 45% | 46% |
| Financial Restitution Awarded | \$11,059,999 | \$7,908,136 | \$12,179,462 | \$17,956,514 |

If a settlement cannot be reached, if a case is complex, or if the contractor is a repeat or egregious offender who may pose a threat to the public, CSLB investigates the case further.

Investigation

CSLB maintains eight Investigative Centers (Fresno, Norwalk, Sacramento, San Bernardino, San Diego, San Francisco, Valencia, and West Covina) and four satellite offices (Bakersfield, Oxnard, Redding, and Santa Rosa). See tables 9a and 9b (page 77) for statistics related to referrals for investigation.

During investigations, CSLB receives help from licensees who participate in an “Industry Expert Program.” Licensees use their expertise to assess and report workmanship issues, including departures from trade standards and/or project specifications. They also quantify the value of work and financial damages. These reports are used in disciplinary actions or to promote dispute resolution.

Arbitration

CSLB administers two arbitration programs to encourage the settlement of consumer-contractor and contractor-contractor disputes without disciplinary action. Disputes about contracts worth \$15,000 or less, and which meet arbitration criteria, are referred to CSLB’s Mandatory Arbitration Program. Disputes involving contracts greater than \$15,000 but less than \$50,000, may be referred to CSLB’s Voluntary Arbitration Program with the concurrence of both the complainant and the contractor.



Pursuant to BPC §7085, complaints referred to arbitration must meet several criteria, including:

- The licensee does not have a history of repeated or similar violations;
- The license was in good standing at the time of the alleged violation;
- The licensee has no outstanding disciplinary actions filed against him or her; and
- There are reasonable grounds to believe that the public interest would be better served by arbitration than by disciplinary action.

• *NO contract w/ arbitration? See pamphlet*
 CSLB maintains a contract with an outside company, Arbitration Mediation Conciliation Center (AMCC), to administer the arbitration program. AMCC has administered CSLB's arbitration program for the past 12 years and has heard more than 8,800 CSLB arbitration proceedings. If CSLB refers a case to arbitration, AMCC gathers information about the dispute, sets a hearing date, and assigns an arbitrator to hear the case at a hearing (which is frequently conducted by the parties themselves without the assistance of counsel). CSLB will pay for the services of one expert witness per case, who will provide both parties a copy of the prepared report. The parties may pay for additional experts to testify. Following submission of the case, the arbitrator has 30 days to issue his or her decision. The entire arbitration process averages 49 days.

CSLB arbitrations are binding and the parties have only a limited ability to challenge the arbitrator's decision in court. Arbitration decisions are also confidential and, thus, not disclosed on CSLB's website or elsewhere, unless a contractor against whom a monetary award is entered fails to pay that award within 90 days (at which time CSLB suspends the contractor license and posts that action on its website).

AMCC has consistently received a nearly 97 percent satisfaction rating in a survey of participants.

| ARBITRATION 2014 – 2017 (BY CALENDAR YEAR) | 2014 | 2015 | 2016 | 2017 |
|---|-------------|-------------|-------------|-------------|
| Cases Initiated | 401 | 455 | 784 | 759 |
| Decisions Received | 307 | 343 | 585 | 567 |
| Revoked/Non-Compliant | 22 | 26 | 42 | 105 |
| Mandatory Cases Heard | 312 | 345 | 592 | 506 |
| Voluntary Cases Heard | 59 | 56 | 93 | 77 |
| Monetary Awards | \$1,317,812 | \$1,523,348 | \$2,585,827 | \$3,150,804 |

ENFORCEMENT TOOLS

Advisory Notice

As part of its effort to resolve minor and isolated violations of contractors' state license law expeditiously, CSLB issues advisory notices to licensees. The notice, which is not publicly disclosed, informs the licensee that CSLB is aware of the violation, reviews how to comply with the particular provisions of law at issue, and notes that a future occurrence of the same violation may result in more stringent actions by the board.

Letters of Admonishment

The letter of admonishment (LOA) is a new, intermediate level of corrective action between an advisory notice and a citation that CSLB began issuing July 1, 2018, with licensed contractors who have engaged in less egregious violations. LOAs were authorized by Senate Bill 486 (Monning, Statutes of 2017) and added enabling language to BPC §7099.2 and §7124.6. Recipients may appeal a letter of admonishment, which are handled internally by CSLB without a formal hearing. Letters of admonishment are intended to enhance public protection by requiring both prompt corrective action by the recipient and public disclosure of the violation for one year (compared to five years for a citation).

Citation

When an investigation determines that a licensee has committed any act or omission that does not justify denial, suspension, or revocation of the license, CSLB has the authority to issue a citation (BPC §7099). CSLB also has the authority to issue a citation when an investigation determines that a person is acting in the capacity of a contractor or home improvement salesperson without being licensed or registered.

Although a citation is not considered formal discipline, it can include a civil penalty assessment of up to \$5,000, and may include an order of restitution to the financially injured party. If a licensee does not comply with the terms and conditions of a citation, his or her license will be automatically suspended for 90 days. If the terms and conditions are not met within 90 days of the automatic suspension, the cited license and any other contractor licenses issued to the licensee will automatically be revoked.

The licensee can appeal a citation. Appeals are heard before an administrative law judge, where CSLB is represented by the Office of the Attorney General (AG). Citations are disclosed to the public from the date of issuance and for five years after compliance. Disclosure can be longer if the licensee is subject to any other disciplinary action during that five-year period.

Informal Citation Conferences

In the past, those who received administrative citations could attend an informal mandatory settlement conference (MSC) before an administrative law judge, where they could informally plead their case prior to a formal hearing. This successful program resulted in the resolution of 603 licensee and non-licensee citations from 2014-2017, which saved CSLB an estimated \$5.7 million in legal fees. However, in December 2017, the AG's office assumed responsibility for the program while CSLB pursued statutory authority to conduct these settlement conferences in-house.

Per SB 1042 (Monning, Statutes of 2018), effective January 1, 2019, CSLB will conduct in-house informal citation conferences. In accordance with the legislation, settlement conferences will be conducted by CSLB staff and are intended to serve the same function as the MSCs. After the citation conference, CSLB may affirm, modify, or dismiss the respondent's citation.

In accordance with the Administrative Procedure Act, an appealed citation not resolved by an informal settlement conference is heard before an administrative law judge.

Accusations

For the most egregious violations of contractors' state license law, CSLB may recommend an accusation, which can result in the suspension or revocation of a license. Accusation recommendations are sent to the Office of the Attorney General. If the AG's office determines there is sufficient evidence to substantiate a disciplinary action the case proceeds. The licensee can appeal the administrative disciplinary action.

Appeals are heard before an administrative law judge (ALJ). The Office of the Attorney General represents CSLB and licensees may represent themselves or hire an attorney. The ALJ forwards his or her "proposed decision" to CSLB's registrar, who makes the final agency decision to adopt, non-adopt, or modify the decision. If an accusation is filed and upheld, the license may be suspended or revoked, both of which are publicly disclosable.

Often the AG's office negotiates a stipulated agreement before the case is heard by an administrative law judge. In these instances, the licensee may stipulate to revocation or a negotiated settlement may be reached, whereby the license is revoked and stayed with conditions that include posting a disciplinary bond and, often, restitution to financially injured parties. A stipulated settlement allows the licensee to continue to operate under probationary status from two to five years. A "probation monitor" checks for compliance with the terms and conditions of the probation. If those terms are not met, CSLB reimposes license revocation.

Referrals to Local Prosecutors

CSLB has close working relationships with city and district attorneys throughout California who have shown a willingness to partner on criminal investigations and to prosecute consumer protection cases. A handful of cities around the state have a city attorney's office that prosecutes misdemeanor cases. County district attorney offices prosecute both misdemeanor and felony cases.

Many criminal investigations involve unlicensed operators, including those caught in undercover stings, who have financially injured consumers and/or continued to operate illegally despite receiving administrative citations. However, other criminal investigations target egregious offenders, both licensed and unlicensed.

To maximize the efficiency of its efforts, CSLB enforcement staff have identified prosecutors across the state who:

1. Specialize in elder abuse cases;
2. Received special funding from the California Department of Insurance to prosecute workers' compensation insurance fraud cases; and/or
3. Prosecute complex criminal cases that involve predatory contractors who often operate their businesses throughout the state targeting vulnerable consumers, including the elderly and those who do not speak English.

Pursuant to BPC §7123, a criminal conviction of a construction-related crime or a crime substantially related to the qualifications, functions, and duties of a contractor is cause for disciplinary action against a licensee. Therefore, when a licensee faces pending criminal prosecution CSLB can petition the court to suspend the license or, immediately following conviction of a substantially-related crime, CSLB may take administrative disciplinary action to revoke the license.

INCREASED ENFORCEMENT OF WORKERS' COMPENSATION INSURANCE VIOLATIONS

To maintain an active CSLB license, licensees with employees must either file a Certificate of Workers' Compensation Insurance or a Certificate of Self-Insurance (issued by the Department of Industrial Relations) with CSLB. If the licensee does not have employees, a workers' compensation (WC) exemption must be filed.

Licensees who file a false WC exemption are subject to disciplinary action and cancellation of that false exemption, which can lead to license suspension. False exemptions are also cancelled when a stop order is issued by investigators in the field, or by staff who obtain evidence from investigating a complaint that a licensee has employees.

Fifty-five percent of all licensees have an exemption from WC on file with CSLB. Moreover, the results of a CSLB study conducted in Fall 2017, determined that 59 percent of randomly-selected contractors in four classifications that perform employee-intensive construction (Concrete, Earthwork/Paving, Landscaping, and Tree Trimming) had false workers' compensation exemptions on file with CSLB.

In late 2017, CSLB's Enforcement Committee created a two-person Advisory Sub-Committee comprised of two board members to develop strategies to address workers' compensation insurance avoidance. CSLB staff are working closely with multiple state agencies to enhance WC enforcement, including the Employment Development Department, Department of Industrial Relations Division of Occupational Safety and Health, Division of Labor Standards Enforcement, California Department of Insurance, and State Compensation Insurance Fund. CSLB is also preparing a legislative proposal to add a mandatory workers' compensation insurance requirement, as is now in place for the C-39 Roofing classification, for specified license classifications likely to employ workers (see also new issue #1, in section 11, New Issues.)

BUILDING PERMIT ENFORCEMENT

Failure to obtain proper building permits can be among the most serious violations CSLB investigates. Buildings that are not inspected and that do not meet building code requirements can jeopardize the safety of both workers and occupants. These violations also put contractors who do comply with code requirements at a competitive disadvantage. Over the last four years, CSLB investigated 4,400 building permit violations, and took legal action in approximately 1,200 of those cases.

In November 2017, the board established a two-member Building Permit Advisory Sub-Committee, comprised of two board members, to explore strategies intended to increase contractor compliance with local building permit requirements. Actions taken so far include:

- Enhancements to CSLB's website that allow direct reporting of suspected permit violations;
- Development of a model operational agreement for use between CSLB and participating building departments to actively report and properly document permit violations; and
- Production of a video training course on permit compliance, which is being developed in cooperation with building department officials. Through use of the newly-implemented letter of admonishment and its associated "corrective action plan," CSLB will require contractors who violate permit requirements to successfully complete this training course.

34. What are the board’s performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

Statutory Performance Goals

BPC §7011.7 sets CSLB’s statutory mandate regarding the length of time in which to complete a complaint investigation. The statutory goal for routine investigations is 180 days (six months) from receipt of the complaint to completion of the investigation. For complaints that involve complex fraud issues or contractual arrangements the statutory goal for completing the review and investigation is one year.

As shown in table 9b (in response to question 35), CSLB’s Enforcement division consistently meets this mandate, averaging 83.7 days from receipt of a complaint to completed investigation. This is less than half the statutory goal of 180 days.

Board-Adopted Performance Goals

In February 2006, the board adopted more rigorous complaint-handling performance targets than the statutory mandate.

The Intake and Mediation Center has a board-adopted goal to close licensee complaints that do not require further investigation within 60 days through mediation and negotiation. In addition, CSLB has consistently met the goal to settle (with restitution ordered) 30 percent of licensee complaints without the need for a comprehensive investigation.

The board also set a goal to have no more than 100 aged complaints (those that have been open more than 270 days, or nine months) at any given time.

For the past four fiscal years, CSLB averaged 90 aged cases out of more than 3,000 open investigations at any given time. The number of aged cases grew to 119 in FY 2017-18, in part, because of an 11 percent increase in complaints filed, as well as the redirection of staff from complaint processing and investigations to post-disaster work, as noted in more depth below.

| ENFORCEMENT CASES EXCEEDING 270 DAYS IN AGE | | | | |
|---|------------|------------|------------|---------------|
| FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | Total Average |
| 67 | 97 | 78 | 119 | 90 |

35. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

As shown in table 9a (at the end of this narrative response), the number of complaints CSLB received rose from 17,815 in FY 2016-17 to 19,687 in FY 2017-18—an increase of 11 percent. This equates to more than 150 additional complaints each month.

During that same period, both the number of accusations CSLB filed, as well as the number of citations CSLB issued increased 13 percent. As noted below, CSLB has regularly redirected enforcement staff to assist wildfire survivors with disaster recovery. CSLB has also undertaken several proactive enforcement programs, as described below.

Despite these demands, as noted in the response to question 34, CSLB has consistently met the consumer complaint-handling goals established in BPC §7011.7. However, if workloads continue to increase, the board will consider submission of a budget change proposal to obtain additional staffing.

Increased Complaint Handling

Complaint-handling statistics show that CSLB Enforcement division staff are operating at higher-than-optimum caseloads. The target maximum number of complaints per Enforcement Representative is 35. As of July 2018, staff averaged 39 cases per Enforcement Representative.

CSLB Enforcement management continues to work closely with both CSLB and DCA human resources to fill job vacancies as quickly as possible. In addition, CSLB's 2019-21 strategic plan includes an objective to attend job fairs to promote employment opportunities at CSLB.

Disaster Response

As part of its consumer protection mandate, CSLB is responsible for quickly responding to natural disasters to help those whose homes, businesses, and/or property were damaged or destroyed.

From fall 2017 through summer 2018, at least 50 different wildfires and resulting mudslides led to the deaths of 69 people, the destruction of approximately 11,000 structures, and damage to more than 1,750 structures. The frequency, severity, and sometimes, remoteness of these disasters tested the ability of all government agencies to respond, including CSLB.

The wildfires and mudslides prompted one of the largest coordinated disaster responses in CSLB’s almost 90-year history. This commitment has included staffing more than two dozen local assistance centers established by the Governor’s Office of Emergency Services, or disaster relief centers established by the Federal Emergency Management Agency, in 20 counties. The centers, which were open from one day to one month, provided a single location for disaster survivors to receive services and information.

Responding to this unprecedented number of disasters has placed a significant workload strain on CSLB. From Fall 2017 through June 2018, CSLB employees, mostly drawn from the Enforcement division, worked almost 3,600 hours at the relief centers—the equivalent of 90 work weeks. This total does not include enforcement sweeps and sting operations in the various fire zones, or the time involved in investigating leads provided by survivors, industry groups, local building departments, and others.

The increased workload has led to a decrease in the number of complaints an investigator can close each month, and the length of time it takes to investigate complaints. (This is also discussed in CSLB’s response to prior issue #1 in section 10, Board Action and Response to Prior Sunset Issues, and new issue #4 in section 11, New Issues.)

Solar Task Force

In recent years, alongside an explosive growth in solar, has been an increase in the number of complaints to CSLB regarding residential solar systems. Solar complaints often involve unique issues related to financing and system performance.

In fiscal year 2017-18, CSLB received 948 solar-related complaints—a 47 percent increase over fiscal year 2016-17, and a 187 percent increase over fiscal year 2015-16. While some of these allege common violations, such as departure from accepted trade standards, the absence of required home improvement contract elements,

and abandonment of a contract, most solar-related complaints involve issues with the sales/lease process, alleged misrepresentation of contract terms, inaccurate predictions of solar system power production, overstated promises of cost savings, or promoting financing that may not be in a consumer's best interest. In many cases, unscrupulous business practices lock consumers into unfavorable, long-term contracts, or with systems that perform below promised expectations.

In 2015, CSLB redirected Enforcement staff to establish a Solar Task Force. The Task Force, along with CSLB's Public Affairs staff, works with industry, allied government agencies, and other stakeholders to reduce the number of consumer solar complaints. Their efforts include working with solar industry practitioners willing to adopt better business practices, taking legal action against others, and identifying strategies to reduce exploitive or predatory business practices in the solar industry.

A "Solar Smart" page (www.cslb.ca.gov/Consumers/Solar_Smart/) for CSLB's website was developed and promoted to provide consumers with easy-to-understand information on solar power. Between its launch on March 30, 2017 and August 27, 2018, the Solar Smart page was viewed more than 5,400 times.

Table 9a – Enforcement Statistics

| Enforcement Statistics | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|--|------------|------------|------------|------------|
| COMPLAINT | | | | |
| Intake | | | | |
| Received | 18,692 | 17,437 | 17,815 | 19,687 |
| Closed | 149 | 122 | 158 | 419 |
| Average Time to Close (# of Days) | 1.0 | 1.1 | 2.7 | 1.3 |
| Pending (close of FY) | 1,570 | 1,326 | 1,694 | 1,656 |
| Referred to Mediation and/or Investigation | 18,543 | 17,315 | 17,657 | 19,268 |
| Source of Complaint | | | | |
| Public | 13,254 | 13,803 | 14,672 | 16,937 |
| Licensee/Professional Groups | 1,221 | 1,002 | 861 | 788 |
| Governmental Agencies | 294 | 237 | 133 | 236 |
| Other | 3,923 | 2,395 | 2,149 | 1,726 |
| Conviction / Arrest | | | | |
| Convictions Received | 1,030 | 1,253 | 1,060 | 987 |
| Convictions Closed | 989 | 1,223 | 1,139 | 970 |
| Average Time to Close | 49.7 | 53.7 | 59.6 | 61.7 |
| Convictions Pending (close of FY) | 115 | 187 | 133 | 158 |
| LICENSE DENIAL | | | | |

Table 9a – Enforcement Statistics *(continued)*

| Enforcement Statistics | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|--|-------------------|-------------------|-------------------|-------------------|
| License Applications Denied | 75 | 59 | 73 | 33 |
| Statements of Issues Filed | 73 | 108 | 43 | 63 |
| SOIs Withdrawn | 17 | 15 | 5 | 5 |
| SOIs Dismissed | 1 | 0 | 1 | 0 |
| SOIs Declined | N/A | N/A | N/A | N/A |
| Average Days SOI | 511.4 | 344.5 | 280.6 | 256.7 |
| ACCUSATION | | | | |
| Accusations Filed | 229 | 275 | 304 | 342 |
| Accusations Withdrawn | 17 | 16 | 14 | 18 |
| Accusations Dismissed | 1 | 2 | 2 | 1 |
| Accusations Declined | N/A | N/A | N/A | N/A |
| Average Days Accusations | 489.5 | 500.0 | 468.0 | 459.4 |
| Pending (close of FY) | NDA | NDA | NDA | NDA |
| DISCIPLINE | | | | |
| Disciplinary Actions | | | | |
| Proposed/Default Decisions | 244 | 215 | 172 | 226 |
| Stipulations | 102 | 76 | 74 | 117 |
| AG Cases Opened/Initiated | 415 | 652 | 571 | 524 |
| AG Cases Closed | 403 | 350 | 417 | 411 |
| Average Days to Complete | 831.0 | 832.0 | 765.0 | 764.0 |
| AG Cases Pending (close of FY) | 513 | 646 | 646 | 590 |
| Disciplinary Outcomes | | | | |
| Revocation | 317 | 251 | 258 | 305 |
| Voluntary Surrender | 0 | 0 | 0 | 0 |
| Suspension | 17 | 14 | 30 | 10 |
| Probation with Suspension ¹ | 1 | 0 | 0 | 0 |
| Probation ² | 96 | 87 | 91 | 110 |
| Probationary License Issued | 97 | 75 | 100 | 64 |
| Other | 79 | 62 | 78 | 110 |

Table 9b – Enforcement Statistics *(continued)*

| Enforcement Statistics | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|-----------------------------------|-------------------|-------------------|-------------------|-------------------|
| INVESTIGATION | | | | |
| All Investigations | | | | |
| First Assigned | 19,722 | 18,690 | 18,875 | 20,674 |
| Closed | 20,016 | 19,745 | 19,390 | 21,584 |
| Average days to close | 77.2 | 88.2 | 81.5 | 83.7 |
| Pending (close of FY) | 4,343 | 4,071 | 4,601 | 4,638 |
| Desk Investigations | | | | |
| Closed | 7,326 | 7,078 | 6,832 | 8,948 |
| Average days to close | 47.0 | 51.1 | 42.0 | 40.6 |
| Pending (close of FY) | 1,570 | 1,326 | 1,694 | 1,656 |
| Non-Sworn Investigation | | | | |
| Closed | 12,120 | 12,101 | 12,006 | 12,028 |
| Average days to close | 94.7 | 108.9 | 103.1 | 114.2 |
| Pending (close of FY) | 2,571 | 2,620 | 2,662 | 2,763 |
| Sworn Investigation | | | | |
| Closed | 570 | 566 | 552 | 608 |
| Average days to close | 149.5 | 185.5 | 186.8 | 213.9 |
| Pending (close of FY) | 202 | 125 | 245 | 219 |
| COMPLIANCE ACTION | | | | |
| ISO & TRO Issued | NDA | NDA | NDA | NDA |
| PC 23 Orders Requested | 42 | 55 | 76 | 23 |
| Other Suspension Orders | NDA | NDA | NDA | NDA |
| Public Letter of Reprimand | 0 | 0 | 3 | 1 |
| Cease & Desist/Warning* | 1,741 | 1,823 | 1,625 | 2,822 |
| Referred for Diversion | NDA | NDA | NDA | NDA |
| Compel Examination | NDA | NDA | NDA | NDA |
| CITATION AND FINE | | | | |
| Citations Issued | 2,260 | 2,191 | 2,005 | 2,271 |
| Average Days to Complete | 159.8 | 172.8 | 168.8 | 157.4 |
| Amount of Fines Assessed | \$4,295,210 | \$3,957,801 | \$4,286,600 | \$5,440,922 |
| Reduced, Withdrawn, Dismissed | 643 | 794 | 546 | 506 |
| Amount Collected | \$1,868,104 | \$2,067,344 | \$2,167,110 | \$2,061,985 |
| CRIMINAL ACTION | | | | |
| Referred for Criminal Prosecution | 1,365 | 1,394 | 1,688 | 1,686 |

*Stop Orders issued by CSLB

Table 10. Enforcement Aging

| Enforcement Aging | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | Cases Closed | Average % |
|---|------------|------------|------------|------------|--------------|-----------|
| ATTORNEY GENERAL CASES (AVERAGE %) | | | | | | |
| Closed Within: | | | | | | |
| 0 - 1 Year | 172 | 167 | 185 | 235 | 759 | 48% |
| 1 - 2 Years | 160 | 124 | 176 | 134 | 594 | 38% |
| 2 - 3 Years | 54 | 43 | 42 | 35 | 174 | 11% |
| 3 - 4 Years | 10 | 9 | 10 | 6 | 35 | 2% |
| Over 4 Years | 7 | 7 | 4 | 1 | 19 | 1% |
| Total Attorney General Cases Closed | 403 | 350 | 417 | 411 | 1,581 | |
| INVESTIGATIONS (AVERAGE %) | | | | | | |
| Closed Within: | | | | | | |
| 90 Days | 14,591 | 13,174 | 13,723 | 15,593 | 57,081 | 71% |
| 91 - 180 Days | 2,721 | 3,296 | 2,829 | 2,455 | 11,301 | 14% |
| 181 - 1 Year | 2,587 | 3,128 | 2,687 | 3,368 | 11,770 | 15% |
| 1 - 2 Years | 116 | 145 | 142 | 161 | 564 | 1% |
| 2 - 3 Years | 1 | 0 | 5 | 2 | 8 | 0% |
| Over 3 Years | 0 | 2 | 4 | 5 | 11 | 0% |
| Total Investigation Cases Closed | 20,016 | 19,745 | 19,390 | 21,584 | 80,735 | |

36. What do overall statistics show as to increases or decreases in disciplinary action since last review?

In FY 2017-18, 681 license revocations and 366 license suspensions resulted from CSLB accusations, citations, and arbitration. These totals include cases where the license was revoked by accusation or where the licensee did not comply with an arbitration award or citation. By law, these licenses are suspended and, if the licensee fails to comply with the order within 90 days, revoked.

The number of administrative legal disciplinary actions has remained relatively stable since the last Sunset Review, and the 1,047 disciplinary actions in FY 2017-18, is almost identical to the number taken in FY 2013-14 (which was 1,042).

37. How are cases prioritized? What is the board's complaint prioritization policy? Is it different from DCA's Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009)? If so, explain why.

CSLB's Enforcement division has carefully established its priorities and programs to best fulfill its mandate to protect consumers and to meet board objectives. Cases involving an immediate threat to public safety, criminal activity, or widespread victimization of vulnerable consumers receive the highest priority for investigation.

Since its adoption in 2013, a multi-variable matrix of case type and information source has helped guide Enforcement management and field supervisors in their case prioritization (see below).

| | Elder Abuse | Predatory Criminal Acts | Health & Safety Code Violations | Unlicensed Practice | Workmanship Complaints | Workers' Compensation Violations | Misuse of a License | Failure to Obtain Classification | Working Out of Classification | Electrician Certification | Advertising Violations |
|----------------------------|-------------|-------------------------|---------------------------------|---------------------|------------------------|----------------------------------|---------------------|----------------------------------|-------------------------------|---------------------------|------------------------|
| Elected Officials | | | | | | | | | | | |
| District Attorneys | | | | | | | | | | | |
| Consumers | | | | | | | | | | | |
| State and Local Government | | | | | | | | | | | |
| Industry Associations | | | | | | | | | | | |
| Media Referrals | | | | | | | | | | | |
| Employees | | | | | | | | | | | |
| Building Officials | | | | | | | | | | | |
| Local Volunteer Groups | | | | | | | | | | | |
| Proactive Enforcement | | | | | | | | | | | |
| Anonymous Tips | | | | | | | | | | | |

HIGHER PRIORITY

LOWER PRIORITY

CSLB's complaint prioritization procedures are consistent with DCA's *Complaint Prioritization & Referral Guidelines* of December 2017 (which are similar to, but postdate, the *Complaint Prioritization Guidelines for Health Care Agencies*).

38. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?

There are no mandatory reporting requirements at present. However, legislation was chaptered (SB 1465, Hill, Statutes of 2018) that adds a mandatory reporting requirement for licensees.

SB 1465 requires that effective January 1, 2019, licensees report to CSLB within 90 days civil action judgments, executed settlement agreements, arbitration awards, or administrative actions that result in a judgment, settlement, or arbitration award over \$1,000,000 for construction defects in multi-family residential structures that meet certain specified criteria. SB 1465 was drafted in cooperation with CSLB in response to the 2015 collapse of an apartment building balcony in Berkeley that killed six people and injured seven others.

a. What is the dollar threshold for settlement reports received by the board?

Not applicable

b. What is the average dollar amount of settlements reported by the board?

Not applicable.

39. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.

The Office of the Attorney General will often seek a stipulated settlement of CSLB's administrative cases. In many cases, settlement terms include a stipulated revocation of a contractor license and/or home improvement salesperson registration. When appropriate, and if consumer protection can be achieved, CSLB will stipulate to a stayed revocation and place the registration and/or license on probation for a period, with specific terms and conditions.

As discussed earlier in this report, most incoming complaints are first processed by one of CSLB's two Intake and Mediation Centers (IMC). If appropriate, IMC staff attempt to mediate a mutually-agreeable settlement between the complainant and the respondent. Over the last four fiscal years, more than 40 percent of licensee complaints have been settled at this level, with significant restitution ordered to injured parties.

In 2001, CSLB began conducting informal mandatory settlement conferences (MSCs) for cases where a licensee was issued a citation. During these conferences, license history and the gravity of the violation were considered. In most cases, the respondent's civil penalty assessment was reduced. As noted above, in December 2017, the Office of the Attorney General assumed responsibility for the program while CSLB pursued statutory authority to conduct these settlement conferences in-house. Conducting mandatory settlement conferences saved CSLB \$5.7 million in legal fees between 2014 and 2017.

Per SB 1042 (Monning, Statutes of 2018), effective January 1, 2019, CSLB will conduct in-house informal citation conferences. In accordance with the legislation, citation conferences will be conducted by CSLB staff, and are intended to serve the same function as the MSCs. After the citation conference, CSLB may affirm, modify, or dismiss the respondent's citation. The licensee may appeal the registrar's decision.

a. What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

None. If a violation is serious enough to warrant license suspension or revocation, CSLB will not settle the case prior to the issuance of an accusation.

b. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

| | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|-------------------------|------------|------------|------------|------------|
| Accusations Filed* | 229 | 275 | 304 | 342 |
| Stipulated Settlements | 117 | 96 | 102 | 127 |
| Administrative Hearings | 105 | 77 | 95 | 78 |

**Accusations filed in a given fiscal year may not be dispositioned until a later fiscal year.*

c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?

During the past four fiscal years, 55 percent of accusation cases have been settled prior to hearing.

40. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?

BPC §7091 contains the statute of limitations provisions applicable to CSLB. Complaints alleging any patent actions or omissions must be filed within four years after the alleged act or omission. A disciplinary action resulting from such a complaint must be filed or referred to arbitration within four years of the act or omission, or within 18 months from the date the complaint is filed, whichever is later.

Complaints alleging any latent act or omission regarding structural defects must be filed within 10 years after the latent act or omission. A disciplinary action resulting from such a complaint must be filed within 10 years of the act or within 18 months from when the complaint is filed, whichever is later.

For fiscal year 2017-18, 558 cases were closed because the applicable statute of limitations had expired. In almost all of these cases, the statute of limitations had expired before the complaint was filed with CSLB.

41. Describe the board's efforts to address unlicensed activity and the underground economy.

Unlicensed activity and the underground economy continue to present challenges for CSLB, its partners, and the construction industry. Unlicensed and unscrupulous contractors who skirt legal requirements unfairly compete against those who comply with licensing, permit, payroll tax, and workers' compensation laws and regulations.

Education

As part of its effort to address unlicensed contracting and to assist people in the licensing process, CSLB began to conduct educational and informational workshops to review the benefits of getting a contractor license, provide an overview of licensing requirements, explain the steps involved in obtaining a license, and to answer questions from participants.

In August 2016, CSLB staff presented information about licensing in Spanish to approximately 150 people at the Consulate General of Mexico in Los Angeles and again in March 2018, for an estimated audience of 300. In February, May, September, and October 2017, CSLB conducted Spanish-language licensing workshops at day labor centers in Pasadena, Concord, Santa Cruz, and Mountain View to an average audience of 30 people.

In November 2017, CSLB launched monthly licensing workshops, conducted in English and Spanish, at CSLB offices in Sacramento and Norwalk to an average audience of 30-50 people.

57. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

CSLB provides licensee information to the public through its "Instant License Check" website feature and toll-free automated phone system:

- Name/address of record
- Entity type
- License issue date
- License expiration date
- Current license status
- Additional information, including complaint disclosure, letter of admonishment, possible future suspension, etc.
- License classifications
- Bond information
- Workers' compensation insurance information, with either information on claimed exemption or insurance company, policy number, effective and expiration dates, and workers' compensation history
- Personnel list
- Registered salesperson list
- Information about other CSLB licenses held by personnel (current and/or disassociated)

To meet the mandate of AB 2486 (Baker, Statutes 2016), in January 2018, CSLB launched a new "Find My Licensed Contractor" online tool. This feature allows users to search for licensed contractors by classification within a specific geographic area using either a city or zip code. Randomly displayed results, which include a link to the licensee information page, are based on a licensee's address of record. All or part of the results can be downloaded to either a PDF or Excel file. The tool helps consumers search for a licensed contractor, contractors search for possible subcontractors, and awarding agencies look for licensed bidders for public works contracts.

ISSUE #13: (ENFORCEMENT PRIORITIES)

Historically, the board has focused much of its enforcement on unlicensed activities as compared to licensed activities. How does the board balance its enforcement efforts between licensed contractors and unlicensed contractors and ensure both groups are complying with the law?

Background: Taking enforcement actions against licensed contractors who violate the law and against unlicensed contractors who disregard the licensing law requires a balancing of priorities and resources. It would be helpful for the Committees for CSLB to discuss its enforcement priorities, how it balances enforcement actions against licensed and unlicensed contractors, and what preemptive measures are being taken to prevent common violations.

Committee Staff Recommendation: CSLB should discuss with the Committees its priorities in enforcement, and how in protecting the public, it balances enforcement action against licensed contractors and unlicensed contractors. CSLB should also explain why it seems proactive on unlicensed contractors and reactive toward existing licensees.

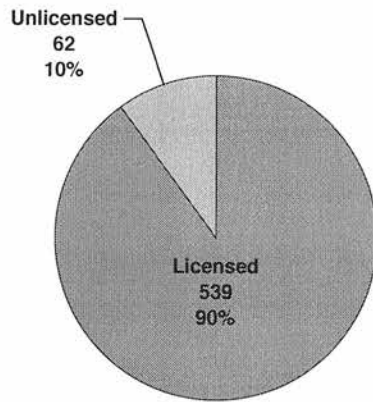
CSLB Response:

CSLB's primary enforcement activities center on consumer-initiated, or reactive, complaints to help consumers and contractors resolve their construction-related disputes and to take disciplinary action, when appropriate. The majority of enforcement staff across the state (approximately 120) focus on consumer filed complaints—approximately 70 percent of which are against licensed contractors and 30 percent against unlicensed contractors.

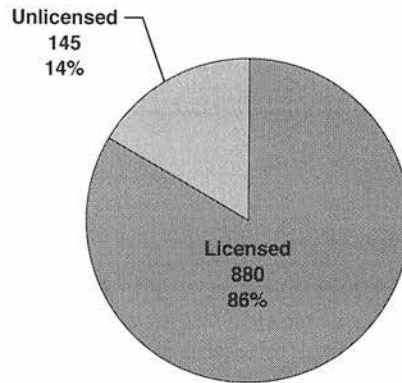
In addition to reactive complaint investigation, CSLB has 28 Enforcement Representatives (ER) assigned to a Statewide Investigative Fraud Team (SWIFT). SWIFT ERs are dedicated to performing proactive investigation of licensed and unlicensed contractors by conducting sting operations and investigating active construction sites.

Sweeps of active job sites have evolved in the past two years to increase investigation not only of unlicensed contractors, but to confirm licensed contractor compliance with contractors' state license and workers' compensation laws. In 2017, 86 percent of citations issued at sweeps were against licensed contractors.

2016 Sweep Totals

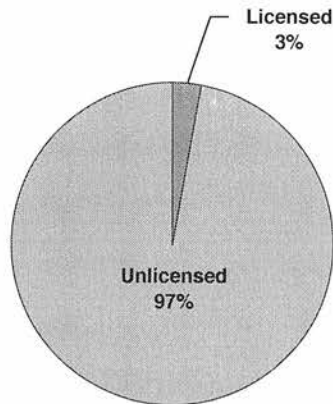


2017 Sweep Totals

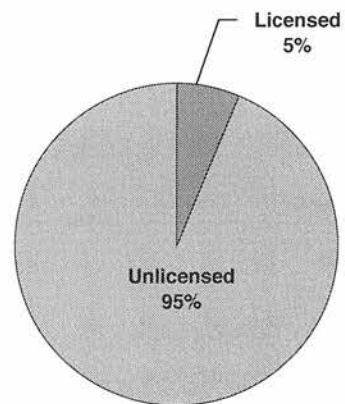


SWIFT continues to target unlicensed contractors at sting operations, resulting in more than 500 unlicensed criminal referrals per year.

2016 Sting Totals



2017 Sting Totals



ISSUE #15: (ARBITRATION)

The practice in CSLB’s arbitration program is, and always has been, to not award attorney fees. However, CSLB has learned that, increasingly, when a contractor prevails in arbitration and receives a monetary award, the contractor will use that award as a basis to pursue a civil action to recover attorney fees associated with his/her arbitration defense. This negatively affects the arbitration program, as CSLB staff now must warn consumers that if they do not prevail in arbitration, they could lose a significant amount of money in attorney fees if the contractor takes them to court. What are some recommendations that the board believes would best mitigate this issue?

Background: CSLB was made aware of difficulties in the program related to attorney’s fees, which require statutory modification to remedy. The practice in CSLB’s arbitration program is, and always has been, to not award attorney fees. However, CSLB has learned that, increasingly, when a contractor prevails in arbitration and receives a monetary award, he or she will use that award as a basis to pursue a civil action to recover attorney fees associated with the arbitration defense.

Committee Staff Recommendation: CSLB should discuss with the Committees the potential impact that the current approaches to BPC §§7085-7085.9 have upon consumers. CSLB should also advise the Committees of past efforts to resolve these issues and suggest possible solutions to this issue.

CSLB Response:

A statutory change was not made, however, CSLB no longer believes this is an issue because new language on the arbitration submission forms notifies both the consumer and the contractor that they cannot collect attorney fees as part of the CSLB arbitration program. Both parties must initial this section, which states:

I understand that attorney fees will not be awarded in this CSLB arbitration. Further, pursuant to Business and Professions Code §7085.3 and the intent of CSLB’s arbitration program, each party shall bear their own attorney fees, which may not be recovered in civil proceedings.

historical averages and continue to adversely affect CSLB's routine operations.

Additionally, in fiscal year 2012-13, CSLB was required to eliminate 21.5 positions, pursuant to Budget Letter 12-03. Recognizing the significant impact on board operations, the Department of Consumer Affairs authorized the board to re-establish eliminated positions in the temporary help fund. CSLB has re-established all 21.5 positions, with 12 positions in Enforcement, 8.5 positions in Licensing and Testing, and one position in Administration. Re-authorizing the board's 999 positions would help ensure that CSLB continues to meet its consumer protection mandate.

The board will also continue to pursue staff augmentations through the budget change proposal process to address workload demands.

NEW ISSUE #5

License Suspension for Unsatisfied Judgments

CSLB has authority to suspend a license if it learns of an unsatisfied construction-related judgment imposed on the licensee, pursuant to BPC section 7071.17. When the license is suspended for this reason, any qualifying individual or member of personnel on the license record is automatically prohibited from serving in those capacities on another license until the judgment is satisfied. This prohibition also causes suspension of the license of any other license entity with any of these same members of personnel as the license subject to the judgment (until those members disassociate from the license or the judgment is satisfied). Therefore, when a judgment is imposed on a license, the suspension extends to the individuals via their association with the judgment debtor license and other licenses.

However, the reverse is not true: If a judgment is entered against an individual without naming the licensed entity, the statutory language does not authorize CSLB to suspend the license on which the individual appears. As a result, an individual named on a construction-related judgment can remain on a license. The proposed clarifying change to BPC section 7071.17 would preclude license applicants, if they are subject to an unsatisfied final judgment, from becoming licensed until that judgment is satisfied. Additionally, it would preclude an individual named in an unsatisfied judgment from appearing on an active license until the judgment is satisfied.

Enforcement

No single state agency has the resources or information to tackle the underground economy alone. Therefore, CSLB partners with other state agencies with overlapping jurisdictions to more effectively enforce contracting, tax, labor, and insurance laws and requirements.

As part of this combined enforcement effort, investigators with CSLB's Statewide Investigative Fraud Team (SWIFT) participate in two specialized task forces established to address the underground economy:

- The Joint Enforcement Strike Force (JESF), established in 1995, includes CSLB, the Employment Development Department, the Franchise Tax Board, and the Department of Industrial Relations Division of Labor Standards Enforcement and Division of Occupational Safety and Health. JESF's primary focus is to pursue criminal charges for license, tax withholding, and workers' compensation insurance violations.

Over the last four fiscal years, JESF enforcement activities resulted in the suspension of 2,672 contractor licenses for more than \$425,639,477 in outstanding tax and civil penalty liabilities (includes \$2,648,810 attributed to one licensee for FTB liability). During this four-year period, CSLB helped to recover \$99 million in outstanding tax liability for EDD, FTB, and DIR.

- The Labor Enforcement Task Force (LETF), which was established in 2012, includes CSLB, DIR, EDD, the California Department of Insurance, the Office of the Attorney General, Board of Equalization, and the Department of Consumer Affairs/Bureau of Automotive Repair. LETF members conduct sweeps at active job sites to verify employee wages and compliance with licensing, insurance, tax, and job safety requirements.

LETF inspections conducted at construction sites in fiscal year 2017-18 found 86 percent of contractors out of compliance with one or more contractors' state license law requirements.

In addition, investigators with CSLB's SWIFT unit proactively enforce construction-related laws and requirements through sweeps and stings, often working with other task force members. In sting operations, investigators borrow a simulated construction site for one or more days and invite suspected unlicensed contractors to provide bids for a hypothetical construction job. Violators are issued a notice to appear or are referred for criminal prosecution.

During fiscal year 2017-18, CSLB conducted 67 enforcement stings and conducted 395 proactive enforcement "sweeps." With sweeps, SWIFT staff visit active construction

sites to ensure compliance. During fiscal year 2017-18, CSLB also conducted enforcement sweeps concentrated in wildfire disaster zones around the state.

CSLB also addresses the underground economy through the investigation of leads submitted by consumers, public agencies, other contractors, subcontractors, and employees. A "lead referral" form is available on CSLB's website.

Workers' Compensation Insurance Enforcement

As noted in the Enforcement Program Overview, CSLB has determined that 55 percent of all licensed contractors have a workers' compensation exemption on file with CSLB. A review of randomly selected contractors in license classifications that perform employee-intensive work revealed that 59 percent had a WC exemption on file.

In late 2017, the CSLB Enforcement Committee established a two-member Advisory Sub-Committee, comprised of two board members to develop strategies to address workers' compensation insurance avoidance. CSLB is preparing a legislative proposal to add a mandatory workers' compensation insurance requirement, as is now the case for C-39 Roofing contractors, for specified high-labor license classifications (see also new issue #1 in section 11, New Issues.)

Building Permit Enforcement

As described in the Enforcement Program Overview, CSLB recently augmented its permit enforcement efforts, recognizing that these violations can jeopardize public safety and contribute to the underground economy. In November 2017, the Enforcement Committee established an Advisory Sub-Committee, comprised of two board members to explore strategies to increase contractor compliance with local building permit requirements. These efforts include: 1) website enhancements to facilitate reporting permit violations; 2) issuance of a draft operational agreement between CSLB and individual building departments to enhance information sharing and clarify responsibilities; and 3) development of a permit compliance course for use as part of a corrective action plan when violators are issued a letter of admonishment for permit violations.

CITE AND FINE

- 42. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?**

CSLB has the authority to issue citations for violations of the Business and Professions Code. The minimum and maximum civil penalty assessments for contracting violations are set forth in the California Code of Regulations, Title 16, section 884. The specified penalties directly reflect the severity of the respective violation. There are 62 violations itemized in section 884, and 24 currently have a specified maximum penalty of \$5,000. In addition, CSLB has the authority to assess civil penalties up to \$15,000 to licensees and/or non-licensees involved or engaged in unlicensed activity.

A typical citation imposes a civil penalty for the violation(s) and may contain a correction order, which order may include that the contractor pay financial restitution to the project owner, perform corrective work, or acquire a building permit.

Per the board-adopted 2016-18 Enforcement strategic plan objectives, staff reviewed the civil penalty guidelines in CCR 884 to determine if the range of penalties and assessment criteria used by CSLB provided the most effective consumer protection. The review resulted in a reassessment of the criteria CSLB used related to "the nature and serverity of the acts" and an increase in civil penalties for "repeated acts." In fiscal year 2017-18, CSLB saw a 58 percent increase in the average licensee penalty amount and a 32 percent increase for non-licensees. The 2,271 citations issued by CSLB in that fiscal year resulted in \$5,440,922 in assessed civil penalties.

The citation program continues to serve as an effective consumer protection tool to achieve compliance with contractors' state license law, consumer restitution when appropriate, and complaint disclosure.

- 43. How is cite and fine used? What types of violations are the basis for citation and fine?**

Pursuant to current law (BPC §7099) the registrar may issue a citation for serious violations of law that do not warrant license suspension or revocation. This can include an order to correct a project, make restitution to an injured party, and/or pay a civil penalty of up to \$5,000 for violations by licensees and \$15,000 for unlicensed contractors. Citations are generally issued for serious violations that do not include significant financial injury, repeated acts, or criminal violations. Citations have proven effective to achieve compliance with trade standards, permit requirements, and contracting requirements.

44. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?

CSLB does not have disciplinary review committees.

As noted in the Enforcement Program Overview, violators who received administrative citations were able to attend an informal mandatory settlement conference (MSC) before an administrative law judge, where they could informally plead their case prior to a formal hearing. This successful program resulted in the resolution of 211 citations in 2017, which saved CSLB an estimated \$1.1 million in fees to the Office of the Attorney General. However, in December 2017, the AG’s office assumed responsibility for the program while CSLB pursued statutory authority to conduct these settlement conferences in-house.

Per SB 1042 (Monning, Statutes of 2018), effective January 1, 2019, CSLB will conduct in-house informal citation conferences. In accordance with the legislation, citation conferences will be conducted by CSLB staff, and are intended to serve the same function as the MSCs. After the citation conference, CSLB may affirm, modify, or dismiss the respondent’s citation. Licensees may appeal the registrar’s decision, which would result in a formal hearing.

Over the last four fiscal years, there have been 2,356 appeals filed as a result of 5,285 licensee citations; and 1,463 appeals of CSLB’s 3,425 non-licensee citations.

45. What are the 5 most common violations for which citations are issued?

The five most common violations for which CSLB issues citations are:

Licensees:

| | |
|-------------|---|
| BPC §7107 | Abandonment |
| BPC §7109 | Poor Workmanship |
| BPC §7110 | Violation of Building Laws |
| BPC §7125.4 | Workers’ Compensation—Filing of a False Workers’ Compensation Exemption |
| BPC §7159 | Requirements for Home Improvement Contracts |

Non-Licensees:

| | |
|-------------------|---|
| BPC §7027 | Advertising Violations |
| BPC §7028 | Contracting Without a License |
| BPC §7153 | Unregistered Home Improvement Salesperson |
| BPC §7159.5(a)(3) | Acceptance of Excessive Down Payment |
| LC §3700.5 | Failure to Secure Workers’ Compensation |

46. What is average fine pre- and post- appeal?

During fiscal year 2017-18, the average pre-appeal fine was \$2,382; the average post-appeal fine was \$2,281.

COST RECOVERY AND RESTITUTION

47. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

CSLB has utilized the Franchise Tax Board's (FTB) intercept program to collect outstanding civil penalties, but stopped making referrals because FTB required a Social Security number (SSN) to identify taxpayers and CSLB does not have authority to collect SSNs from unlicensed individuals. Consequently, CSLB began contracting with a private collection agency to recover unpaid civil penalties. However, FTB will now permit referrals without a SSN if the referring agency pays FTB a fee to research the Social Security number.

In October 2018, CSLB enrolled in the FTB intercept program for the collection of outstanding fines. CSLB will utilize this program for both licensees and non-licensees.

48. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.

Pursuant to BPC §125.3, CSLB may request that an administrative law judge (ALJ) direct a licensee found in violation of contractors' state license law as part of an administrative disciplinary action to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

In fiscal year 2017-18, ALJs ordered \$1,623,148 in cost recovery to CSLB for disciplinary actions.

49. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

Cost recovery includes the cost of hours worked on the case by staff in CSLB's Intake and Mediation Centers and Investigative Centers, the cost of any services provided by an industry expert, and all costs for services provided by the Office of the Attorney General for the case.

Over the past four fiscal years, approximately \$5.9 million in accusation cost recovery to CSLB has been ordered, and approximately \$1.4 million has been collected. Generally, if a license is revoked, CSLB does not collect any outstanding ordered cost recovery. However, if a revoked licensee applies for a new license, 100 percent of the costs incurred to revoke the previously-held license is pursued, and

a new license will not be issued until these costs are paid in full. In addition, the applicant must provide proof of restitution to an injured party associated with the previously-revoked license before CSLB will issue a new license.

As noted in the response to question 47, in October 2018, CSLB enrolled in the FTB intercept program for the collection of outstanding fines and will utilize this program to collect cost recovery as well.

50. Are there cases for which the board does not seek cost recovery? Why?

Citations are not considered disciplinary actions, therefore, CSLB is not authorized to seek cost recovery for administrative citations. Also, California law bars CSLB from seeking cost recovery in Statement of Issue cases—those that involve the denial of a license application.

51. Describe the board’s use of Franchise Tax Board intercepts to collect cost recovery.

CSLB has not used the FTB Intercept program for cost recovery and, instead, contracted with a private collection agency to collect civil penalties from unlicensed contractors. However, CSLB recently enrolled in the FTB intercept program for the collection of outstanding fines from non-licensees and licensees.

Table 11 – Cost Recovery (list dollars in thousands)

| COST RECOVERY | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|---------------------------------|------------|------------|------------|------------|
| Total Enforcement Expenditures | \$32,636 | \$33,792 | \$33,902 | \$34,777 |
| Potential Cases for Recovery* | 1,049 | 1,340 | 1,187 | 1,326 |
| Cases Recovery Ordered | 893 | 860 | 1,016 | 1,238 |
| Amount of Cost Recovery Ordered | \$1,337 | \$1,563 | \$1,417 | \$1,623 |
| Amount Collected | \$289 | \$267 | \$382 | \$507 |

*Those in which an accusation has been filed.

52. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

There are several circumstances under which restitution may be made to a consumer:

- **Mediation Process:** Through mediation, the licensee and complainant may agree to finish the job, correct poor workmanship, or have the contractor pay the complainant the cost to complete and/or correct the job.
- **Arbitration:** If arbitration is ordered or agreed to, restitution may be ordered.
- **Citation:** If a citation is issued, the licensee may be ordered to correct the work or pay the consumer the cost to complete and/or correct the job.
- **Unlicensed Contractor Who Applies for License:** If an unlicensed contractor causes a financial injury, his or her name is entered into CSLB's computer records. Any attempt by that person to become a licensed contractor will first require resolution of the financial injury.
- **Civil Judgment:** If there is a construction-related civil judgment against the license, the licensee must pay or post a bond in the amount of the judgment.
- **Accusation:** If an accusation is filed, the administrative law judge's decision usually includes restitution to the consumer.

As shown in tables 12a and 12b, in fiscal year 2017-18, consumers received a combined \$44,647,812 in restitution.

CSLB's Licensing division, through enforcement of BPC §7071.17, can help a consumer receive civil judgment restitution. This law allows for automatic license suspension for any unpaid civil judgments. The suspension can be lifted only if the judgment is satisfied, a judgment bond posted, the judgment discharged in bankruptcy, or if the judgment expires in accordance with the applicable statutes. Also, BPC §7071.11 requires surety companies to report to CSLB any bond payouts made; however CSLB does not track how often or the amounts that the surety companies pay out.

Table 12 – Restitution (Formal Accusations) *(list dollars in thousands)*

| Restitution | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|------------------|------------|------------|------------|------------|
| Amount Ordered | \$3,417 | \$2,609 | \$1,889 | \$5,968 |
| Amount Collected | \$325 | \$208 | \$593 | \$603 |

Table 12b. Other Consumer Restitution Collected/Refunded *(list dollars in thousands)*

| Other Consumer Restitution Collected/Refunded | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 |
|---|-----------------|-----------------|-----------------|-----------------|
| Arbitrations | \$1,488 | \$1,976 | \$3,193 | \$3,267 |
| Citations | \$1,139 | \$1,149 | \$1,011 | \$1,049 |
| Complaints | \$15,480 | \$13,292 | \$19,578 | \$23,035 |
| Judgments | \$46,040 | \$21,464 | \$21,109 | \$16,694 |
| Total* | \$64,147 | \$37,881 | \$44,891 | \$44,045 |

*Also includes corrections with rework.

DCA licensed professionals are being targeted by a new scam. Read the fraud alert here.

Have Questions About the Coronavirus? Click Here.

Executive Order N-39-20 DCA Waiver Information



Search Disc



Consumer



Licensees



Med

Major DCA Functions

Consumer Assistance Our toll-free telephone line, (800) 952-5210, is staffed Monday through Friday from 9 a.m. to 5 p.m. a week. Consumer service representatives can answer consumer and licensee questions in 140 different languages. Callers can be referred to the appropriate government or private agency for more assistance. Hearing-impaired persons may use the California Relay Service. The hotline receives nearly one million calls each year.

To reach a specific board or bureau, please call the board or bureau directly.

Education The Department helps consumers make wise purchasing decisions by informing them about products and services and letting them know what their responsibilities are to protect themselves. Knowledgeable consumers discourage licensees to be more competitive (i.e., to raise the quality of their goods and services and/or lower prices). Consumer guides are distributed to help inform and educate the public and licensees. To order publications, call the Publications Unit, call the Department at (916) 574-7370 or write: Publications Unit, Department of Consumer Affairs, P.O. Box 942897, Sacramento, CA 95894-2897.

Licensing Licensing only those professionals who pass specialized examinations and meet experience and education requirements are permitted to provide services. Licensing also ensures that practitioners perform their duties to a certain standard and are delivered fairly or competently. Note: Certain occupations are registered or certified, rather than being licensed. Licensing also helps licensees maintain high standards of competence, quality, service, and ethical behavior through ongoing education. Licensing enforcement is the most effective approach to making the marketplace safe for consumers.

Enforcement Enforcement of consumer laws is one of DCA's primary responsibilities. The Department's attorneys and enforcement staff work to reduce fraud in the marketplace. Resulting disciplinary actions may include Temporary Restraining Orders, suspensions, revocations. The Department also has the authority to assess fines and issue Citations, Notices of Violation. Enforcement staff works with licensees to eliminate or prevent performance problems.

For additional information

Call the Consumer Information Center at
E-mail

Or write:

**Department of Consumer Affairs
Consumer Information Division
1625 North Market Blvd., Suite 100
Sacramento, CA 95834**

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Adam Bereki
818 Spirit
Costa Mesa, California 92626
Abereki@gmail.com | 949.241.6693

Todd Spitzer
Orange County District Attorney
401 W. Civic Center Dr. Santa Ana, CA 92701

August 16, 2020

RE: Public Records Act Request

Please provide all documents in your custody or control evidencing the following:

1. The ten most recent prosecutions by your office for violation of Business and Professions Code §7028. I am only interested in: (1) the case name, case number and date of entry of judgement; (2) the amount of the fine or penalty awarded; and, (3) whether there was claim for restitution for damages and what that amount was (1) claimed to be and (2) the amount awarded.
2. The ten most recent plea deals by your office for violation of Business and Professions Code §7028. I am only interested in: (1) the case name, case number if there is one; if not, the case or citation number and the issuing agency; (2) the fine or penalty agreed to and date of agreement; and, (3) whether there was a claim for restitution for damages and what that amount was (a) claimed to be, and (b) the amount awarded.
3. All constitutional and statutory authorities that give your office power to prosecute penal cases involving public regulatory laws.
4. All constitutional and statutory authorities that empower the People of California on behalf of the California Constitution, Governor of California, or your office to prosecute penal cases involving public regulatory laws in a civil case.

Please email your response to this request within the time allotted by law to abereki@gmail.com. I will respond that I have received your reply. Thank you for your time and help. If you have any questions, please don't hesitate to call or email at the phone number or email address provided above.

Sincerely,
/s/ Adam Bereki, 08/16/20

2ND REQ. MAILED
9/16/20



Adam Bereki <abereki@gmail.com>

FW: OCDA FORMAL PRA RESPONSE -BERECKI B&P 7028.pdf

Hernandez, Denise <Denise.Hernandez@da.ocgov.com>
To: "abereki@gmail.com" <abereki@gmail.com>

Wed, Sep 23, 2020 at 11:36 AM

Mr. Bereki,

Please find attached our formal response and responsive record to your PRA request.

Denise Hernandez
Sr. Deputy District Attorney

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 **OCDA FORMAL PRA RESPONSE -BERECKI B&P 7028.pdf**
705K



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

Via Email Transmission: aberecki@gmail.com

August 31, 2020

Mr. Adam Berecki
818 Spirit
Costa Mesa, CA

Dear Mr. Berecki:

In compliance with Government Code section 6253, this letter constitutes our formal response, made within the statutorily required time, to your California Public Records Act (Gov't. Code § 6250 et seq) request date August 16, 2020. This letter constitutes our formal response made within that statutorily required time to your public record demand.

Please find below your requests and our responses to those requests:

Request No. 1: The ten most recent prosecutions by your office for violation of Business and Professions Code §7028. I am only interested in: (1) the case name, case number and date of entry of judgement; (2) the amount of the fine or penalty awarded; and, (3) whether there was claim for restitution for damages and what that amount was (1) claimed to be and (2) the amount awarded.

Response: We have a responsive record that is disclosed with this response. Our Case Management System that we use to track our cases does not track the amount of fines or the punishment or whether there was a claim for damages or if any such claim was awarded. Your request calls for a compilation of information not existing within the Orange County District Attorney's Office. The Public Records Act applies to existing records and does not require a public agency to create a record that does not exist. (Gov. Code § 6252 (e) and (f); Sander v. State Bar of California (2013) 58 Cal.4th 300.)

Request No. 2: The ten most recent plea deals by your office for violation of Business and Professions Code §7028. I am only interested in: (1) the case name, case number if there is one; if not, the case or citation number and the issuing agency; (2) the fine or penalty agreed to and date of agreement; and, (3) whether there was a claim for restitution for damages and what that amount was (a) claimed to be, and (b) the amount awarded.

Response: We are interpreting your request to be for cases where there was a conviction for a violation of Business and Professions Code section 7028. We have a responsive record that is disclosed with this response. Our Case Management System that we use to track our cases does not track the amount of fines or the punishment or whether there was a claim for damages or if any such claim was awarded. Your request calls for a compilation of information not existing within the

Orange County District Attorney's Office. The Public Records Act applies to existing records and does not require a public agency to create a record that does not exist. (Gov. Code § 6252 (e) and (f); Sander v. State Bar of California (2013) 58 Cal.4th 300.)

Request No. 3: All constitutional and statutory authorities that give your office power to prosecute penal cases involving public regulatory laws.

Response: We have responsive records to your request in the form of publicly available statutory authorities. You are requesting a record of authorities; the Public Records Act applies to existing records and does not require a public agency to create a record that does not exist. (Gov. Code § 6252 (e) and (f); Sander v. State Bar of California (2013) 58 Cal.4th 300.) You

Request No. 4: All constitutional and statutory authorities that empower the People of California on behalf of the California Constitution, Governor of California, or your office to prosecute penal cases involving public regulatory laws in a civil case.

Response: We have responsive records to your request in the form of publicly available statutory authorities. You are requesting a record of authorities; the Public Records Act applies to existing records and does not require a public agency to create a record that does not exist.

In conclusion, OCDA claims for its records, such as might exist, all applicable exemptions from the California Public Records Act disclosure. In maintaining the lawful confidentiality of these records, the OCDA, claims, enforces, and applies any and all applicable exemptions, privileges, and proscriptions against public disclosure of records, including but not limited to, those listed in Article 2 of Government Code, Title 1, Division 7, Chapter 3.5, the California Evidence and Penal Codes, and the Federal Rules of Evidence.

While we have set forth our reasons for our denials, we reserve the right to present additional theories and authority for non-disclosure in the future.

Sincerely,

Denise Hernandez

Denise Hernandez
Senior Deputy District Attorney
Special Prosecutions Unit

Last 10 Filed

| status_cd | filing_dt | case_nbr | court_case_nbr | court_cd | Unit | last_name | first_name | Finish Date | label | 7028 Charge |
|-----------|-----------|----------|----------------|----------|------|-------------------|-------------|-------------|------------------|-------------|
| A | 2/3/2020 | 20C00410 | 20CM01815 | COC | CP | SAMIMI | RAMIN | | | |
| A | 2/3/2020 | 20C00409 | 20CM01812 | COC | CE | GARCIA | GALDINO | | | |
| A | 2/3/2020 | 20C00408 | 20CM01735 | COC | CE | ZEPEDA-FLORES | MIGUEL | | | |
| A | 1/31/2020 | 20C00407 | 20CM01736 | COC | CE | HERNANDEZ-GODINEZ | VICTOR | | | |
| A | 1/31/2020 | 20C00406 | 20CM01737 | COC | CE | CASTELLANI | HORACIO | | | |
| A | 1/31/2020 | 20C00405 | 20CM01809 | COC | CE | HERNANDEZ | DAVID | | | |
| C | 1/31/2020 | 20C00404 | 20CM01827 | COC | CE | RODRIGUEZ | URIEL | 2/27/2020 | Guilty Plea Misd | Guilty |
| A | 1/30/2020 | 20C00403 | 20CM01738 | COC | CE | BARELA | CHRISTOPHER | | | |
| A | 1/29/2020 | 20C00401 | 20CM01542 | COC | CE | REYES | JUAN | | | |
| A | 1/29/2020 | 20C00402 | 20CM01554 | COC | CE | VALENCIA | JOSE | | | |

Last 10 Completed

| status_cd | filing_dt | case_nbr | court_case_nbr | court_cd | Unit | last_name | first_name | Finish Date | label | 7028 Charge |
|-----------|-----------|----------|----------------|----------|------|----------------|------------|-------------|------------------|-------------|
| C | 1/16/2019 | 19C00290 | 19CM00522 | COC | CE | BAEZ | LEONARDO | 3/12/2020 | Guilty Plea Misd | Guilty |
| C | 1/31/2020 | 20C00404 | 20CM01827 | COC | CE | RODRIGUEZ | URIEL | 2/27/2020 | Guilty Plea Misd | Guilty |
| C | 5/10/2019 | 19C03254 | 19CM04299 | COC | CE | CABANASCORONA | FELIPE | 12/19/2019 | Guilty Plea Misd | Guilty |
| C | 7/23/2019 | 19C03286 | 19CM07319 | COC | CE | JACOBSEN | ERIC | 12/12/2019 | Guilty Plea Misd | Guilty |
| C | 3/21/2019 | 19H02730 | 19HM03565 | OCH | CE | MARTIN | RYAN | 11/20/2019 | Guilty Plea Misd | Guilty |
| C | 1/16/2019 | 19C00289 | 19CM00521 | COC | CE | ARVIZU | MIGUEL | 11/15/2019 | Guilty Plea Misd | Guilty |
| C | 7/23/2019 | 19C03283 | 19CM06590 | COC | CE | ARTEAGA | ARISTEO | 11/14/2019 | Guilty Plea Misd | Guilty |
| C | 5/14/2019 | 19C03259 | 19CM04311 | COC | CE | ROMERO-VAZQUEZ | JAIME | 11/7/2019 | Guilty Plea Misd | Guilty |

| | | | | | | | | | | |
|---|-----------|----------|-----------|-----|----|--------------|----------|-----------|------------------|--------|
| C | 5/9/2019 | 19C03251 | 19CM04294 | COC | CE | MATA SANCHEZ | CALISTRO | 10/3/2019 | Guilty Plea Misd | Guilty |
| C | 7/23/2019 | 19C03285 | 19CM06592 | COC | CE | ROMERO | MIGUEL | 9/5/2019 | Guilty Plea Misd | Guilty |



Adam Bereki <abereki@gmail.com>

FW: OCDA FORMAL PRA RESPONSE -BERECKI B&P 7028.pdf

Adam <abereki@gmail.com>

Wed, Sep 23, 2020 at 4:51 PM

To: "Hernandez, Denise" <Denise.Hernandez@da.ocgov.com>

Denise,

Thank you for your reply.

On the file you sent me, there is a field labeled "court-cd". can you please tell me if this the court where where the case was filed and if so, what the abbreviations mean?

Also, while your office may not maintain the database for the disposition records (ie fines, specific judgements) for these cases, I believe you have access to these databases and could therefore easily provide the relevant records to my request as they are part of the case handled by your office. I would really appreciate you sharing this information.

Sincerely,

Adam Bereki

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

FW: OCDA FORMAL PRA RESPONSE -BERECKI B&P 7028.pdf

Adam <abereki@gmail.com>

Thu, Sep 24, 2020 at 7:05 AM

To: "Hernandez, Denise" <Denise.Hernandez@da.ocgov.com>

Denise,

Additionally, with respect to your responses to requests 3 and 4, you state that your agency does have records but then cite that the public records act does not require you to create records that do not exist. This seems contradictory to me. Please provide the records that your agency possesses in response to my lawful requests even if they are publicly available. I have lawfully asked your agency to provide its documents under the Public Records Act for a specific reason and this request does not require you to create records you already possess.

If you have any questions, please don't hesitate to call.

Sincerely,

Adam
949 241 6693

On Wed, Sep 23, 2020 at 11:36 AM Hernandez, Denise <Denise.Hernandez@da.ocgov.com> wrote:

[Quoted text hidden]

OCSD # 20-029161

Dispatch = ^{off} 9, 1

1) 647-7000

~~INDIV. ET AL
CRIMES~~

~~714 647-7486~~

Gen Inv. #

(714) 647-7083

OFFICE
(714) 935-6672

Judiciary protection unit

Shane

11/25/20 LM for "SGT. Shane"

North Investigators

Mike Leeb # 8787

2 1310 hrs

11/25/20

declined prosecution
DOS & DA declined

no protection



Adam Bereki <abereki@gmail.com>

PRA Request 20-029161

1 message

Adam <abereki@gmail.com>

Wed, Nov 25, 2020 at 1:17 PM

To: Prarequests <prarequests@ocsd.org>

Good day,

Please provide all documents in your custody or control pertaining to case number 20-029161.

Please provide your response in the form of an email reply to this address.

Sincerely,

Adam Bereki



Adam Bereki <abereki@gmail.com>

Request 20-029161

1 message

Report Request <ReportRequest@ocsd.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Wed, Nov 25, 2020 at 4:09 PM

Hello,

We have received your request; it will take us approximately 10 days to process. While our team strives to fulfill requests in a timely manner, we do not accept rush or expedited requests.

Please contact us if you have any questions.

Thank you,

Robert Reyna

OCSD Records Division

714/834-6465

RReyna@ocsd.org



*N INV.
714 647-7083*

From: Adam <abereki@gmail.com>
Sent: Wednesday, November 25, 2020 1:17 PM
To: Prarequests <Prarequests@ocsd.org>
Subject: [EXTERNAL] PRA Request 20-029161

Good day,

Please provide all documents in your custody or control pertaining to case number 20-029161.

Please provide your response in the form of an email reply to this address.

Sincerely,

Adam Bereki

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links.
Forward suspicious messages to Helpdesk@ocsd.org.



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

REQUEST AUTHORIZATION FORM RELEASE OF CASE INFORMATION

NAME ADAM BEREKI DATE 11/25/2020
 ADDRESS _____ CASE # 20-029161
 CITY _____ STATE CA ZIP _____

CONTACT PHONE _____
 YOUR INVOLVEMENT supplemental
 (ex: victim, witness, suspect, attorney for , insurance for)
 REQUESTOR'S SIGNATURE See attachment

BELOW SECTION TO BE COMPLETED BY ORANGE COUNTY SHERIFF PERSONNEL

RECORDS SIGNATURE reynarg

FEE \$ 0.00 CHECK # _____ RECEIPT # _____

REQUEST Approved Approved / Redacted Denied

Document(s) released:

- Initial Crime Report
- Initial Crime Rpt Supplemental
- Deputy Follow Up
- Initial Follow Up
- Traffic Accident
- CHP180
- TC Property Damage
- Property Report
- Casualty Report
- Supplemental DV Report
- CAD Report ID Theft
- Other Information Report; Two (2) Sup
- Fees returned 0.00
- Released pursuant to Family Code Section 6228
- Released pursuant to Welfare and Institutions Code section 827 and Juvenile Court Administrative Order No. 12/003-903 "Exchange of Information".
- Released pursuant to Vehicle Code section 20012
- Released pursuant to Court Authorization and Penal Code Section 1203.097(a)(7)(B)

Authorized Signature Jeffrey Deutsch

Mailed Pick Up Date 12/01/2020 By jd

Emailed 320 N. FLOWER STREET, SANTA ANA, CA 92703

INFORMATION REPORT

ORIGINAL

Reporting Area: North Uninc

EVENT SUMMARY

Date Occurred: Wednesday, 9/2/2020 08:17

Date Reported: Wednesday, 9/2/2020 08:17

Incident Location: 550 N Flower St, Santa Ana CA 000000000

Naloxone Deployed?

Use of Force

Brief Description of Incident: INFORMATION REPORT

OTHER

Name: CHAFFEE, DAVID

Age:

Position/Title: JUDGE

Sex Race
M

REPORTEE

Name: BEREKI, ADAM ALAN

DOB: 6/18/1979

Age: 41

Address: 818 Spirit , Costa Mesa CA 92626

Email: ABEREKI@GMAIL.COM

Cell Phone: (949)241-6693

Home Phone:

Other Phone:

Sex Race
M White

OTHER

Name: HUMPHREYS, GARY

Age:

Sex Race
M

OTHER

Name: HUMPHREYS, KAREN

Age:

Sex Race
F

PROPERTY/EVIDENCE

Related Offense: INFO REPORT

Property Description: PAPERWORK

NARRATIVE

On Wednesday, September 2, 2020, Deputy D. Foster #3340 and I were dispatched to Orange County Sheriff's Department Headquarters, located at 550 N. Flower Street in the City of Santa Ana, reference a report.

Upon arrival, we spoke to Adam Alan Bereki (06/18/1979). Adam told us the following: Adam is a former police officer with the Huntington Beach Police Department and was medically retired about 10 years ago. After retiring, Adam started a construction company, Spartan Associates. Adam obtained a contractor's license under Spartan Associates and not under his own name.

From April 2012 to August 2013, Spartan Associates was contracted by Gary and Karen Humphreys

INFORMATION REPORT

ORIGINAL

Reporting Area: North Uninc

(NFD) to remodel a condominium in Newport Beach. In August of 2013, Gary and Karen terminated Spartan Associates. At that time, Gary and Karen had paid Spartan Associates \$848,000.00 and still had a pending balance of \$82,000.00 that they refused to pay Spartan Associates. Spartan Associates attempted to negotiate the price owed with Gary and Karen but they rejected all negotiations. In August of 2015, Spartan Associates filed a lawsuit [Case#2015-00805807] against Gary and Karen, for the time and materials owed, which amounted to \$82,000.00.

On February 16, 2016, Gary and Karen filed a motion for summary judgement. Gary and Karen initially asserted they entered an agreement with Spartan Associates for construction on their condominium. In early 2017, Gary and Karen filed a 1st amended cross complaint with new info. Gary and Karen amended that they contracted with Adam and not Spartan Associates.

On April 20, 2017, the court found that Adam did not have a contracting license in his name, therefore he violated B&P 7031(b). Judge David R. Chaffee ruled that Adam was to pay Gary and Karen \$848,000 in Disgorgement. Adam disagreed with the judgement based on the fact that Adam felt they had contracted with his company. Neither Adam nor Spartan Associates ever had a formal contract with Gary and Karen and all agreed to items were in an email chain which Adam did not provide. Adam provided me a statement with a list of checks written by Gary and Karen for all work completed. In this list there are 7 checks written to Adam and 10 checks written to Spartan Associates.

Due to the \$848,000.00 owed by Adam, a lien was placed on 818 Sprint, Costa Mesa, CA. 92626. Adam stated in November 2010, his mother Roseanne Bereki (09/25/1953) took over as legal owner of the residence and Adam's name is on the legal title. Adam also lost his business' contractors license.

On March 18, 2017, Adam filed a Writ of Error with the Orange County Superior Court and challenged the jurisdiction of the court. Shortly after, Adam received an email stating they denied the request to vacate judgement.

On June 6, 2017, Adam again went to the Orange County Superior Court and challenged the jurisdiction of the court. Shortly after the court responded and fined Adam approximately \$1,500.00, for abuse of discovery. Adam's motion was again denied.

On January 10, 2018, Adam filed an appeal with the Fourth Appellate District Court of Appeal. On October 31, 2018, Adam received the Appeal Court judgement, stating all arguments had no merit.

On October 28, 2019, Adam filed a complaint with the US Supreme Court. On February 27, 2020, the court denied Adam's case, due to the appeal being frivolous.

Adam believes that B&P 7031(b) is unconstitutional and the \$848,000.00 disgorgement was given to him as a fine and a fine can only be levied if he is charged with a crime. Adam cited MW Erectors, Inc. v. Niederhauser Ornamental & Metal Works Co., Inc., 36 Cal. 4th 412 and Rambeau v. Barker, 2010 Cal. App. Unpub. Lexis S610 to prove that the violation of B&P 7031(b) and subsequent penalties were imposed illegally and unjustly. Adam stated the fine levied under B&P 7031(b) is actually criminal forfeiture. Adam provided a definition of criminal forfeiture under US v. Seifuddin, 820 F.2d 1074, "If the statute under which the forfeiture alleged is penal, it will be treated as criminal

INFORMATION REPORT

ORIGINAL

Reporting Area: North Uninc

forfeiture.” Under People V. Cowan, 47 Cal. App. 5th 32, Adam believes his forfeiture was an excessive fine and his ability to pay was not taken into consideration. The courts rejected these claims stating his amount owed is Disgorgement and not a fine.

Adam also believes the amount was excessive because it did not take into consideration the amount of materials and work completed on the construction project. Adam asserted that his company completed \$848,000.00 worth of work therefore he should only have to pay back any profit he made on the project. Adam cited, US Supreme Court Case Liu V. SEC, 2020 Lexis 3374. This case states: “the profit-based measure of unjust enrichment reflects a foundational principle: It would be inequitable that a wrongdoer should make a profit out of his own wrong. At the same time courts recognize that the wrongdoer should not profit by his own wrong, they also recognized the countervailing equitable principle that the wrongdoer should not be punished by paying more than a fair compensation to the person wronged.”

Adam stated his rights have been violated under Title 18, U.S.C., Section 242 –Deprivation of Rights under the Color of Law. Adam believes he has been given an excessive fine by the courts that is cruel and unusual punishment. Adam believes his 5th, 6th, 7th, 8th and 14th Amendment Rights have been violated. Adam believes that Judge Chaffee is in violation of CPC 211- Robbery and CPC 484g Theft by False Pretense, by imposing the \$848,000.00 fine. At the conclusion of the initial judgment, Adam has subsequently represented himself in every court with self-taught legal knowledge. Adam has met with attorneys regarding his case but does not have the funds necessary to retain them as council. Adam has exhausted all legal avenues in the courts to rectify his perceived constitutional violations.

Adam came to the Sheriff’s Department as a last resort in an attempt to prove his Constitutional rights have been violated. As the Sheriff’s Department is an agent of the Executive Branch of the State Government, Adam would like to use our agency as Checks and Balances with the Legislative and Judicial Branches of the State Government. Adam stated he would hold the Sheriff’s Department responsible if we failed to adequately investigate his claims.

| INVOLVEMENT TYPE | OFFICER NAME | BODY WORN CAMERA | DATE |
|-------------------|-------------------|--------------------------|----------|
| Reporting Officer | Milbery, B. 09838 | <input type="checkbox"/> | 9/6/2020 |
| Assisting Officer | Foster, D. 03340 | <input type="checkbox"/> | 9/6/2020 |
| Approving Officer | Castro, M. 05307 | <input type="checkbox"/> | 9/6/2020 |

SUPPLEMENT

ORIGINAL

Reporting Area: North Investigations

NARRATIVE

Phone Call from Adam Bereki, 09/15/2020:

On Tuesday, 09/15/2020, at approximately 1105 hours, I received a telephone call from a male subject verbally identifying himself as Adam Bereki wanting to check on the status of his report and to provide additional details. I recorded the conversation on my department issued digital audio recorder and later placed a copy of the audio recording onto a compact disc which I booked into Sheriff's Evidence in Santa Ana, Sheriff's Evidence Item# OS20-029161.3. I referred to the digital audio recording when preparing the following summary of my phone conversation with Mr. Bereki:

Bereki was advised I had been assigned this case and wanted to know if I was familiar with it. I summarized for Bereki that he was alleging several of his Constitutional Rights had been violated by a judicial officer and that there were additional criminal allegations against the same Judiciary based on judgements occurring in Civil Court. Bereki emphasised that in addition to the specific judicial officer he feels violated his constitutional rights, the "Whole State" of California's "Judicial Branch" has perpetuated a "Policy" in violation of persons constitutional rights. Bereki further stated that this policy, enacted into law by the California Legislature and "Upheld" by the Judicial Branch is supporting an unconstitutional "Policy" or law and one of the only remedies is for the Executive Branch of the government to perform its "Duty to enforce the law". Bereki has reached out to the following:

- California Commission on Judicial Performance
 - Bereki "Filed a complaint" which was returned to him stating he was "Complaining about legal errors by the judge". Bereki told me that in addition to the legal errors, he was also filing the complaint to address his "Deprivation of Rights".
- Federal Bureau of Investigation
 - Bereki has contacted the FBI three times within the last two to three months; however, the first time he called the "Crime Tip Line" and was told "We don't investigate that" and the second time he was told a "Complaint" was taken but no case number was provided to Bereki and the person taking the "Complaint" did not provide their name to Bereki. Bereki called the FBI again approximately two to three weeks after the second call to inquire about the status of his complaint, obtain the case number, and obtain the Agents name and he said, "They refused to give me all of those". Bereki believes he contacted the FBI office in Orange the second time.
 - Bereki served a Public Records Act Request on the FBI to try to obtain a copy of his phone call and was told they did not have a copy of the call.
- California State Assemblywoman Cottie Petrie-Norris
- California State Senator John Moorlach
- California Attorney General's Office
 - Approximately one week ago, Bereki emailed the California Attorney General's Office Public Information Unit. Bereki'sl requested information about how to file a complaint regarding a deprivation of rights complaint regarding a public official and has not yet received a response.

Bereki also wanted to clarify the following information from the initial report taken by deputies on 09/02/2020:

- Where the Initial Information Report reads, "Adam filed a complaint with the US Supreme Court". Bereki clarified that he went to the Federal District Court for The Central District Court of California to attempt to have the Federal District Court "Vacate" the "Void Judgement" from the California Court.
 - Bereki stated the Federal District Court Judge "Dismissed" his case, advising Bereki that the



SUPPLEMENT

ORIGINAL

Reporting Area: North Investigations

Federal Court did not have the authority to "Hear and determine the case".

- When Bereki attempted to file an Appeal, the same Federal District Court Judge advised the Federal Appeals Court that Bereki's Appeal was "Of bad faith and frivolous".
 - In Response to this, In March of 2020, Bereki filed a "Statement" regarding why the Appeal should move forward and he has not yet heard a response.
- Bereki also wanted to note that in the Initial Report's closing sentence where it states "...he would hold the Sheriff's Department responsible if we failed to adequately investigate his claims", that in addition to the Sheriff's Department's "Duty to investigate" it is also the Sheriff's Department's duty to "Protect" him and "Intervene" when his "Rights and property are being violated and unlawfully taken".

I advised Bereki that his initial report was being reviewed and I would be working on attempting to identify the appropriate Executive Branch agency to investigate the matter or defer the matter back for further review through the Judicial Branch in the appeal process.

| INVOLVEMENT TYPE | OFFICER NAME | BODY WORN CAMERA | DATE |
|-----------------------|------------------------|--------------------------|-----------|
| Supplementing Officer | Anderson, M. 07279 | <input type="checkbox"/> | 9/15/2020 |
| Approving Officer | Weidenkeller, E. 04050 | <input type="checkbox"/> | 9/23/2020 |



SUPPLEMENT

ORIGINAL

Reporting Area: North Investigations

NARRATIVE

On Wednesday, November 25, 2020, at approximately 1240 hours, I received a phone call from Sgt. S. Millhollon that he had inadvertently been forwarded a call reference this case from Bereki. Sgt. Millhollon gave me the number Bereki called him from (949-241-6693) and asked that I call him back.

At approximately 1300 hours, I contacted Bereki and asked him how I could help. He told me he was looking for a status update on his case. I advised him that the case had been reviewed by the California Department of Justice and that both they and the Orange County District Attorney's Office would not prosecute the case, or investigate it any further. I provided him with my full name and pin number and we ended the call.

At approximately 1305 hours, Bereki called my office line back, and asked if the Orange County Sheriff's Department was refusing to protect him from, "Lawless actions by government officials acting without authority." I advised him that our investigation into his allegations had ended. Bereki thanked me for my time and the conversation ended.

Both phone calls were recorded. The recordings were placed onto a compact disc and booked into Sheriff's Evidence under this case number.

| INVOLVEMENT TYPE | OFFICER NAME | BODY WORN CAMERA | DATE |
|-----------------------|------------------------|--------------------------|------------|
| Supplementing Officer | Leeb, M. 08787 | <input type="checkbox"/> | 11/25/2020 |
| Approving Officer | Weidenkeller, E. 04050 | <input type="checkbox"/> | 11/26/2020 |



Adam Bereki <abereki@gmail.com>

PRA Request 11/26/20- Bereki

7 messages

Adam <abereki@gmail.com>

Thu, Nov 26, 2020 at 6:53 AM

To: Prarequests <prarequests@ocsd.org>

Good day,

Please provide all documents in your custody or control evidencing:

- 1) All notes, emails, audio recordings, memorandums, or any other documents pertaining to case number 20-029161. This request should be submitted to each investigator that handled this case, including Mike Leeb #8787 (North Investigations). (I already made a separate PRA request on 11/25/20 for the actual reports associated with this case number. There is no need to include them again with this request).
- 2) The signed oath of office and acknowledgement of department policies and procedures including the law enforcement code of ethics by Mike Leeb.
- 3) The date of assignment to each post/position with the Orange County Sheriff's Department for Mike Leeb.
- 3) The department training record for Mike Leeb.

Sincerely,

Adam Bereki

Prarequests <Prarequests@ocsd.org>

Mon, Dec 7, 2020 at 4:49 PM

To: Adam <abereki@gmail.com>

Hello Mr. Bereki,

The attached records are responsive to your request.

Sincerely,

Veronica Musico



Staff Specialist – CPRA Unit

Orange County Sheriff's Department

714-834-6449

[View original text message](#)

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Forward suspicious messages to Helpdesk@ocsd.org.

4 attachments **8242.Bereki PRA.pdf**
181K **DR 20-029161_Redacted.pdf**
2249K **201125_001.Bereki.MP3**
5004K **201125_002.Berkeki.2.MP3**
2819K

Adam <abereki@gmail.com>
To: Prarequests <Prarequests@ocsd.org>

Mon, Dec 7, 2020 at 5:28 PM

Hi Veronica,

This email is in response to the Public Records Act Request Answer I received on December 7, 2020. In the letter from Mr. Lee, he notes that "We have also redacted information pertaining to other cases that are not responsive to your request, and we have withheld three emails that are attorney-client privileged communications pursuant to Government Code section 6254(k), Evidence Code section 950 et seq. and Code of Civil Procedure section 2018.010."

While I understand certain aspects of attorney-client communications are privileged, I don't believe the privilege covers the names and official titles of the communicating parties, their contact information, or the dates and times of communication, contained within the documents. Please provide the documents containing this and any other non-privileged information contained therein.

Sincerely,

Adam Bereki

adam.bereki@ocsd.org

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Wed, Dec 9, 2020 at 11:37 AM


Hello Mr. Bereki,

The attached records are responsive to your request.

Veronica Musico

[Quoted text hidden]

2 attachments

 **8242(2).Bereki.pdf**
178K

 **Attorney-Client Emails_Redacted.pdf**
299K

Adam <abereki@gmail.com>
To: Prarequests <Prarequests@ocsd.org>

Mon, Dec 14, 2020 at 4:14 PM

Thank you Veronica. I noticed attached to one of the emails you included is a document titled "Court of Appeal Opinion (Humphreys v. Berecki)". That document, if it is in fact the Court's opinion is also not privileged communication as it is a public record. Please provide it.

Sincerely,

Adam Bereki
[Quoted text hidden]

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Tue, Dec 15, 2020 at 6:53 AM


Hello Mr. Bereki,

Attached is the record responsive to your request. I assumed that you already had a copy of it since it is a Court record.

Sincerely,

Veronica Musico

[Quoted text hidden]

 **Court of Appeal Opinion (Humphreys v. Berecki).PDF**
267K

Adam <abereki@gmail.com>
To: Prarequests <Prarequests@ocsd.org>

Tue, Dec 15, 2020 at 7:26 AM

Veronica, you were correct in assuming that, however I just wanted to ensure that this file was the same that I had.

Thanks for your prompt attention

[Quoted text hidden]



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

December 7, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Thursday, November 26, 2020.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Department (OCSD) Records Division.

The attached records are responsive to your request. Please be advised that we redacted non-public cell phone numbers from the records pursuant to Government Code sections 6254(k) and 6255. We have also redacted information pertaining to other cases that are not responsive to your request, and we have withheld three emails that are attorney-client privileged communications pursuant to Government Code section 6254(k), Evidence Code section 950 et seq. and Code of Civil Procedure section 2018.010.

In regards to number 2 which requests "...acknowledgement of department policies and procedures including the law enforcement code of ethics...", employees are required to electronically acknowledge receipt and review of Department policies. There is not a signature accompanying this electronic acknowledgment. We have enclosed the Policy Manual Verification Acknowledgement form signed by the employee from 2011. The following are the dates of assignments to each post/position with OCSD in regards to number 3 of your request.

Table with 2 columns: Employee, Effective Date. Rows include Michael Leeb, Deputy Sheriff Trainee, Deputy Sheriff I, Deputy Sheriff II, and Investigator with their respective effective dates.

Please note that we decline to disclose peace officer training records because this information is contained within peace officer personnel records. The Sheriff's Department is prohibited by California Penal Code sections 832.7 and 832.8 from publicly disclosing peace officer personnel records or information contained therein.

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,

[Handwritten signature of Edward Lee]

Edward Lee, Director
OCSD Records Division

EL: vm
Attachments
cc: Media Relations



Certificate of Appointment-Oath/Affirmation

STATE OF CALIFORNIA }
County of Orange } ss.

I, Sandra Hutchens
(Department Head's Name)

Sheriff-Coroner County of Orange, State
(Title/or Agency Name)

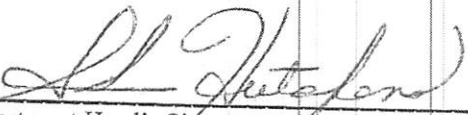
of California, do hereby appoint

Michael Leeb
(Employee's Full Name)

Deputy Sheriff
(Employee's Title)

in and for said *County of Orange*

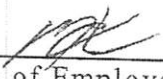
given under my hand this 31st day of May, 2012.


Department Head's Signature (stamp ok.)

Sandra Hutchens
Department Head's Printed Name

I, MICHAEL C. LEEB
(Employee's Full Name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and I will well and faithfully discharge the duties upon which I am about to enter.

Clerk-Recorder
File Stamp


Signature of Employee

STATE OF CALIFORNIA }
County of Orange } ss.

Subscribed and sworn to before me, this 31st day of May, 2012.


Submitting Agency's Authorized Deputy Signature

Jeanette Munsey
Printed Name of Agency's Authorized Deputy

***Please note: The Clerk-Recorder Department is designated by statute to file the certificate of oath for elected and appointed County officers. The certificate of oath for "other" County employees may be filed in either the Clerk-Recorder Department or in the employee's official personnel file. The oath form is to be prepared by the submitting agency.

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PROFESSIONAL STANDARDS DIVISION

Policy Manual Verification Acknowledgement

The Orange County Sheriff's Department Policy Manual is available on-line at the OCSD *Intranet* in the "Employee Center". This manual is designed to provide all sworn and professional staff members of this department with a readily applicable, clear concept of departmental policies, rules and regulations. All personnel are expected to read and study this material in its entirety. This manual is not intended to specifically cover all of the many situations that constantly confront the members of a law enforcement organization. Your chain of command should be consulted for clarity in such circumstances.

This manual is confidential in nature and as such, the information contained herein is not to be divulged to those for whom it is not intended.



Employee Acknowledgement:

I have read the above and acknowledge the expectations to read the Policy Manual for the Orange County Sheriff's Department. I understand it is my responsibility to access this Manual on the Sheriff's Intranet at my place of work.

Employee's Printed Name Michael Leeb

Rank DST

Signature [Handwritten Signature]

Date 11/22/2011

File Copy

Musico, Veronica S

From: Kennedy, Michael A
Sent: Tuesday, September 15, 2020 12:07 PM
To: Kennedy, Michael A; Anderson, Matthew R
Subject: Conversation with Kennedy, Michael A

Follow Up Flag: Follow up
Flag Status: Flagged

Kennedy, Michael A 11:52 AM:

I finally figured out how to log into Skype

Anderson, Matthew R 11:53 AM:

I thought you were one of the pioneers

Kennedy, Michael A 11:53 AM:

Yeah new computer

I've been all over Microsoft Teams

Anderson, Matthew R 11:53 AM:

20-029161, reporting party is Adam Bereki (06-18-1979)

Kennedy, Michael A 11:54 AM:

Copy...

Musico, Veronica S

From: Anderson, Matthew R
Sent: Tuesday, September 15, 2020 12:43 PM
To: Duff, Christopher [DA]
Cc: Weidenkeller, Ehren J
Subject: 20-029161
Attachments: 20_029161_Information_Report.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon sir,

The Reporting Party in the attached report is alleging criminal misconduct and violation of constitutional rights by a local judiciary in relation to a Civil case. Any feedback on whether your office would consider a criminal complaint based on the facts would be appreciated.

Respectfully,

Investigator Matt Anderson
Orange County Sheriff's Department
714-647-1884

This information should be considered Unclassified // For Official Use Only // Law Enforcement Sensitive (U//FOUO//LES) unless otherwise noted and contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with U.S. Department of Homeland Security policy relating to FOUO information and is not to be released to the media, public or other personnel who do not have a valid "need-to-know" and shall not be distributed beyond the original addressees without prior authorization of the originator. Receipt acknowledges a commitment to comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing and disclosure of information.

Musico, Veronica S

From: Anderson, Matthew R
Sent: Monday, October 5, 2020 11:44 AM
To: Leeb, Michael C
Subject: Cases
Attachments: Close_List.xlsx; Anderson_North_General_Case_Log_2020.xlsx

Follow Up Flag: Follow up
Flag Status: Flagged

Here are the three pending cases and attached is a spreadsheet with some next-steps ideas.

| | | |
|------------|-----------------------|--|
| [REDACTED] | [REDACTED] [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| 20-029161 | Info/Judicial Officer | Reporting party insisting investigation concerning Civil Judgement |

Matt

Musico, Veronica S

From: Anderson, Matthew R
Sent: Thursday, October 8, 2020 10:15 AM
To: Duff, Christopher [DA]
Cc: Leeb, Michael C
Subject: Case transfers OCSD [REDACTED], 20-029161

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning sir,

Just wanted to connect with you and introduce OCSD Inv. Mike Leeb, [REDACTED], who will be taking over the following cases:

[REDACTED] [REDACTED]
20-029161 Civil Judgement

I spent sometime going over what we had and possible next steps and may reach out to you as well to follow up.

Respectfully,

Matt Anderson #7279
Orange County Sheriff's Department
Sergeant | Central Mens Jail

Musico, Veronica S

From: Leeb, Michael C
Sent: Tuesday, October 13, 2020 11:02 AM
To: Duff, Christopher [DA]; Anderson, Matthew R
Subject: RE: Case transfers OCSD [REDACTED], 20-029161

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning Sir,

I left you a voicemail earlier this am. Please give me a call at your earliest convenience to discuss the two cases which Sgt. Anderson passed along to me. You can reach me 24/7 at [REDACTED]. Thank you very much for your time and effort. It is greatly appreciated.

Best,

Mike
Investigator M. Leeb
North Operations Division
North Investigations
P. [REDACTED]
E. mleeb@ocsd.org

From: Duff, Christopher <Christopher.Duff@da.ocgov.com>
Sent: Thursday, October 8, 2020 11:02 AM
To: Anderson, Matthew R <manderson@ocsd.org>
Cc: Leeb, Michael C <MLEEB@ocsd.org>
Subject: RE: Case transfers OCSD [REDACTED], 20-029161

Great!

Call anytime.

Chris

Christopher R. Duff

Orange County District Attorney's Office
Assistant District Attorney
Supervising Head of Court – Special Prosecutions Unit
714-347-8601



EXHIBIT-C 2580

From: Anderson, Matthew R <mranderson@ocsd.org>
Sent: Thursday, October 8, 2020 10:15 AM
To: Duff, Christopher <Christopher.Duff@da.ocgov.com>
Cc: Leeb, Michael C [OCSD] <MLEEB@ocsd.org>
Subject: Case transfers OCSD [REDACTED], 20-029161

Good morning sir,

Just wanted to connect with you and introduce OCSD Inv. Mike Leeb, [REDACTED], who will be taking over the following cases:

[REDACTED] [REDACTED]
20-029161 Civil Judgement

I spent sometime going over what we had and possible next steps and may reach out to you as well to follow up.

Respectfully,

Matt Anderson #7279
Orange County Sheriff's Department
Sergeant | Central Mens Jail

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Leeb, Michael C

From: Leeb, Michael C
Sent: Monday, November 2, 2020 3:00 PM
To: Bill.Wagner@doj.ca.gov
Subject: OCSD Case Review: 20-029161
Attachments: 20.029161.Anderson.FWUP.pdf, 20.029161.Initial.Report.pdf

Sir,

Please take a look at the initial report and follow up attached to this email. Please let me know if CAL DOJ has any interest in this case. If you have any questions or concerns please do not hesitate to contact me. Thank you very much for your help. It is greatly appreciated!

Best,

Mike

Investigator M. Leeb
North Operations Division
North Investigations
P. [REDACTED]
E. mleeb@ocsd.org

Leeb, Michael C

From: Bill Wagner <Bill.Wagner@doj.ca.gov>
Sent: Tuesday, November 3, 2020 11:42 AM
To: Leeb, Michael C
Subject: [EXTERNAL] Re: OCSD Case Review: 20-029161

Mike,

The report states that he filed a complaint with the California Attorney General's Office, Public Rights Division. If that is the case, then

Sent from my iPhone

On Nov 2, 2020, at 3:00 PM, Leeb, Michael C <MLEEB@ocsd.org> wrote:

Sir,

Please take a look at the initial report and follow up attached to this email. Please let me know if CAL DOJ has any interest in this case. If you have any questions or concerns please do not hesitate to contact me. Thank you very much for your help. It is greatly appreciated!

Best,

Mike

Investigator M. Leeb
North Operations Division
North Investigations
P. [REDACTED]
E. mleeb@ocsd.org

<20.029161.Anderson.FWUP.pdf>
<20.029161.Initial.Report.pdf>

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Attention: This email originated from an external source. Use caution when opening attachments or clicking on links. Forward suspicious messages to Helpdesk@ocsd.org.

CLOSE CASE REQUEST

ORIGINAL

COPY

REASON FOR CASE CLOSURE

OTHER - ENTER REASON BELOW

Other Reason for Case Clearance: Case does not appear to have any criminal activity

ADDITIONAL DETAILS FOR CLOSING/INACTIVATING CASE

On Monday, November 2, 2020 I contacted Bill Wagner (619-719-8470) who works at the California Department of Justice's, Special Investigations Team. I asked Wagner to take a look at this case to assess whether or not it is something that his team would investigate. He agreed, and I emailed him the initial crime report and Investigator Anderson's supplemental report.

On Tuesday, November 3, 2020, Wagner contacted me and told me the following. After reviewing the reports he noted that Bereki had contacted the California Attorney General's Office and communicated with their Public Information Unit in early September of 2020. He went on to relay that the Public Information Unit would have directed the case to his team had they thought anything criminal in nature had occurred. Therefore his team does not have any further interest in this case at this time.

Given that there is no criminal activity able to be discovered from what has been reported, this case will be closed pending any additional information.

| OFFICER INVOLVEMENT | OFFICER NAME | DATE |
|-----------------------|------------------------|-----------|
| Investigating Officer | Leeb, M. 08787 | 11/4/2020 |
| Approving Officer | Weidenkeller, E. 04050 | 11/4/2020 |



Adam Bereki <abereki@gmail.com>

PRA Request 11/26/20- Bereki

Adam <abereki@gmail.com>

Mon, Dec 7, 2020 at 5:28 PM

To: Prarequests <Prarequests@ocsd.org>

Hi Veronica,

This email is in response to the Public Records Act Request Answer I received on December 7, 2020. In the letter from Mr. Lee, he notes that "We have also redacted information pertaining to other cases that are not responsive to your request, and we have withheld three emails that are attorney-client privileged communications pursuant to Government Code section 6254(k), Evidence Code section 950 et seq. and Code of Civil Procedure section 2018.010."

While I understand certain aspects of attorney-client communications are privileged, I don't believe the privilege covers the names and official titles of the communicating parties, their contact information, or the dates and times of communication, contained within the documents. Please provide the documents containing this and any other non-privileged information contained therein.

Sincerely,

Adam Bereki

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRA Request 11/26/20- Bereki

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Wed, Dec 9, 2020 at 11:37 AM


Hello Mr. Bereki,

The attached records are responsive to your request.

Veronica Musico

[Quoted text hidden]

2 attachments

 **8242(2).Bereki.pdf**
178K

 **Attorney-Client Emails_Redacted.pdf**
299K



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

December 9, 2020

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request for the names and official titles of the communicating parties, contact information and dates and times of communication related to the three emails that were withheld in response to your CPRA request received on Thursday, November 26, 2020.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Sheriff's Records Division on Monday, December 7, 2020.

The attached records are responsive to your request. Please be advised that we redacted attorney-client privileged information from the emails pursuant to Government Code section 6254(k), Evidence Code section 950 et seq. and Code of Civil Procedure section 2018.010.

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Lee".

Edward Lee, Director
OCSD Records Division

EL: vm
Attachments
cc: Media Relations

Musico, Veronica S

From: Anderson, Matthew R
Sent: Tuesday, September 8, 2020 9:59 AM
To: Sims, Nicole [COCO]
Cc: Weidenkeller, Ehren J
Subject: 20-029161
Attachments: 20_029161_Information_Report.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,



Respectfully,

Investigator Matt Anderson
Orange County Sheriff's Department
714-949-0011

This information should be considered Unclassified // For Official Use Only // Law Enforcement Sensitive (U//FOUO//LES) unless otherwise noted and contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with U.S. Department of Homeland Security policy relating to FOUO information and is not to be released to the media, public or other personnel who do not have a valid "need-to-know" and shall not be distributed beyond the original addressees without prior authorization of the originator. Receipt acknowledges a commitment to comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing and disclosure of information.

Anderson, Matthew R

From: Sims, Nicole <nicole.sims@coco.ocgov.com>
Sent: Thursday, September 10, 2020 5:56 PM
To: Anderson, Matthew R
Cc: Weidenkeller, Ehren J
Subject: RE: 20-029161
Attachments: Court of Appeal Opinion (Humphreys v. Berecki).PDF

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Investigator Anderson,

Nicole

Nicole A. Sims, Supervising Deputy County Counsel
Office of the County Counsel, County of Orange
P.O. Box 1379
Santa Ana, CA 92702
Phone: (714) 834-3319
Fax: (714) 834-2359

(714) 834 2305

The information contained in this electronic mail transmission is confidential and intended to be sent to the stated recipient of the transmission. It may therefore be protected from unauthorized use or dissemination by the attorney-client and/or attorney work-product privileges. If you are not the intended recipient or the intended recipient's agent, you are hereby notified that any review, use, dissemination, distribution or copying of this communication is strictly prohibited. You are also asked to notify us immediately by telephone and to delete this transmission with any attachments and destroy all copies in any form.

From: Anderson, Matthew R <mranderson@ocsd.org>
Sent: Tuesday, September 8, 2020 9:59 AM
To: Sims, Nicole <nicole.sims@coco.ocgov.com>
Cc: Weidenkeller, Ehren <eweidenkeller@ocsd.org>
Subject: 20-029161

Good morning,

Respectfully,

Investigator Matt Anderson
Orange County Sheriff's Department
714-949-0011

EXHIBIT-C 2590

Musico, Veronica S

From: Anderson, Matthew R
Sent: Thursday, September 10, 2020 5:58 PM
To: Sims, Nicole [COCO]
Subject: Re: 20-029161
Attachments: Court of Appeal Opinion (Humphreys v. Berecki).PDF; ATT00001.htm

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you for reviewing this.

Investigator Matt Anderson
Orange County Sheriff's Department
714-949-0011

This information should be considered Unclassified // For Official Use Only // Law Enforcement Sensitive (U//FOUO//LES) unless otherwise noted and contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with U.S. Department of Homeland Security policy relating to FOUO information and is not to be released to the media, public or other personnel who do not have a valid "need-to-know" and shall not be distributed beyond the original addressees without prior authorization of the originator. Receipt acknowledges a commitment to comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing and disclosure of information.

On Sep 10, 2020, at 17:56, Sims, Nicole <nicole.sims@coco.ocgov.com> wrote:

Investigator Anderson,

Nicole

Nicole A. Sims, Supervising Deputy County Counsel
Office of the County Counsel, County of Orange
P.O. Box 1379
Santa Ana, CA 92702
Phone: (714) 834-3319
Fax: (714) 834-2359

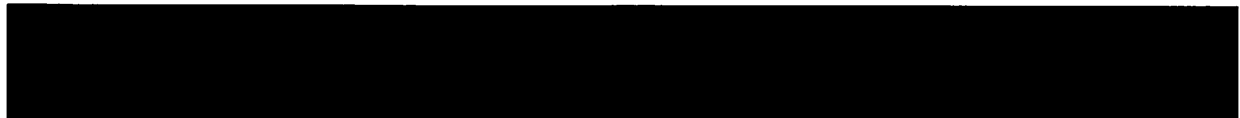
The information contained in this electronic mail transmission is confidential and intended to be sent to the stated recipient of the transmission. It may therefore be protected from unauthorized use or dissemination by the attorney-

EXHIBIT-C 2591

client and/or attorney work-product privileges. If you are not the intended recipient or the intended recipient's agent, you are hereby notified that any review, use, dissemination, distribution or copying of this communication is strictly prohibited. You are also asked to notify us immediately by telephone and to delete this transmission with any attachments and destroy all copies in any form.

From: Anderson, Matthew R <mranderson@ocsd.org>
Sent: Tuesday, September 8, 2020 9:59 AM
To: Sims, Nicole <nicole.sims@coco.ocgov.com>
Cc: Weidenkeller, Ehren <eweidenkeller@ocsd.org>
Subject: 20-029161

Good morning,



Respectfully,

Investigator Matt Anderson
Orange County Sheriff's Department
714-949-0011

This information should be considered Unclassified // For Official Use Only // Law Enforcement Sensitive (U//FOUO//LES) unless otherwise noted and contains information that may be exempt from public release under the Freedom of Information Act (5 USC 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with U.S. Department of Homeland Security policy relating to FOUO information and is not to be released to the media, public or other personnel who do not have a valid "need-to-know" and shall not be distributed beyond the original addressees without prior authorization of the originator. Receipt acknowledges a commitment to comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing and disclosure of information.



Adam Bereki <abereki@gmail.com>

PRA Request 11/26/20- Bereki

Adam <abereki@gmail.com>

Mon, Dec 14, 2020 at 4:14 PM

To: Prarequests <Prarequests@ocsd.org>

Thank you Veronica. I noticed attached to one of the emails you included is a document titled "Court of Appeal Opinion (Humphreys v. Berecki)". That document, if it is in fact the Court's opinion is also not privileged communication as it is a public record. Please provide it.

Sincerely,

Adam Bereki

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRA Request 11/26/20- Bereki

Prerequisites <Prerequisites@ocsd.org>
To: Adam <abereki@gmail.com>

Tue, Dec 15, 2020 at 6:53 AM


Hello Mr. Bereki,

Attached is the record responsive to your request. I assumed that you already had a copy of it since it is a Court record.

Sincerely,

Veronica Musico

[Quoted text hidden]

 **Court of Appeal Opinion (Humphreys v. Berecki).PDF**
267K

Adam Bereki
818 Spirit
Costa Mesa, California
949.241.6693

via us mail

November 29, 2020

Supreme Court of California
350 McAllister St.
San Francisco, CA 94102-4797

RE: Public Records Act Request

Please provide all documents in your custody and control evidencing the following:

1. The names of the Justices serving on the Supreme Court of California at the time of the denial of the Petition for Review in case# S252954 on January 30, 2019.
2. The Oaths of Office for each of the Justices on the Supreme Court of California at the time of the denial of the Petition for Review in case# S252954 on January 30, 2019.
3. The Oath of Office for attorney John Scott Russo.

Please provide your response by email to abereki@gmail.com.

Sincerely,


Adam Bereki



Adam Bereki <abereki@gmail.com>

PRA REQUEST- BEREKI 010321

2 messages

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Sun, Jan 3, 2021 at 8:45 AM

Good day. Happy new year.

Please see the attached request.

Sincerely,

Adam Bereki

 **PRA REQUEST BEREKI 010321.pdf**
263K

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Wed, Jan 13, 2021 at 11:04 AM

Good morning,

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

We have reviewed your request for records related to Supreme Court case number S252954 and determined that we have responsive records to part of your request. Please see below.

1. You requested the names of the justices who were on the Supreme Court of California on January 30, 2019.
 - We have determined that we have disclosable responsive records. The names and dates of service of the justices of the California Supreme Court can be found at <https://www.courts.ca.gov/3014.htm> and <https://www.courts.ca.gov/5762.htm>.
2. You requested the names of the justices who voted to deny the petition for Supreme Court case number S252954.

- We have determined that we have no responsive records.
3. You requested the oaths of office for each California Supreme Court justice involved in the petition for Supreme Court case number S252954.
 - We have determined that we have disclosable responsive records. It is attached to this email.
 4. You requested the oath of office for attorney J. Scott Russo.
 - We have determined that we have disclosable responsive records. It is attached to this email.

Sincerely,

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov

www.courts.ca.gov/publicrecords.htm

[public record center]

3 attachments

 **PRA REQUEST BEREKI 010321.pdf**
263K

 **Oaths Supreme Court Justices.pdf**
567K

 **Oath - Russo John Scott - 155631.pdf**
86K

Russo

Surname

John

Given Name

Scott

Middle Name

ROLL OF ATTORNEYS OF CALIFORNIA

I hereby enroll myself as an attorney and counselor at law, promising faithfully to perform all legal duties and comply with the obligations prescribed by the laws of the State of California, and declare the following information to be correct.

Full Name John Scott Russo Age 26



Office Address 233 Wilshire Blvd, 4th Fl. Santa Monica CA 90401

Prior Admissions in Other Jurisdictions Graduate of what University, if any University of California, Davis Graduate of what Law School, if any Loyola Law School

90 54782

I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of an attorney and counselor at law to the best of my knowledge and ability.

Dated: This 17th day of December 19 91

[Signature]



that the foregoing oath, taken by the attorney above named, was formally administered by and subscribed to before me

December 19 91
[Signature]

SUPREME COURT
FILED

JAN 03 2011

Frederick K. Orlin, Clerk

OATH

for the Office of Chief Justice of California, California
Supreme Court.

I, Tani G. Cantil-Sakauye, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature Tani Cantil-Sakauye

Term Expires As prescribed by law January 2, 2023

Subscribed and sworn to before me,
this third day of January
A.D. 2011

Joe Roman
Associate Justice

SUPREME COURT
FILED

DEC 20 2010

Frederick K. Chirich Clerk

OATH

for the Office of Supreme Court Associate Justice -- Seat 4

I, Ming W. Chin, do solemnly swear
(or affirm) that I will support and defend the Constitution of the
United States and the Constitution of the State of California
against all enemies, foreign and domestic; that I will bear true
faith and allegiance to the Constitution of the United States and
the Constitution of the State of California; that I take this
obligation freely, without any mental reservation or purpose of
evasion; and that I will well and faithfully discharge the duties
upon which I am about to enter.

Signature

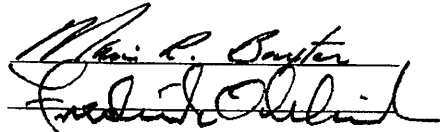


Term Expires January 2, 2023

Subscribed and sworn to before me,

this 20th day of December

A. D. 2010



OATH

In the office of the Secretary of State
of the State of California

SEP - 2 2011

By [Signature]
Deputy Secretary of State

for the office of Associate Justice of the Supreme Court of the State of California

I, Goodwin Liu, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature [Signature]

Term Expires as prescribed by law

State of California

County of Sacramento

Subscribed and sworn to (or affirmed) before me on,
this 1st day of September, 2011

by Goodwin Liu

proved to me on the basis of satisfactory evidence to be the person who
appeared before me.

Signature [Signature]
EDMUND G. BROWN JR.
Governor of California

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

JAN 29 2015

OATH

for the Office of Associate Justice
California Supreme Court

I, Mariano-Florentino Cuéllar, do solemnly swear
(or affirm) that I will support and defend the Constitution of the
United States and the Constitution of the State of California
against all enemies, foreign and domestic; that I will bear true
faith and allegiance to the Constitution of the United States and
the Constitution of the State of California; that I take this
obligation freely, without any mental reservation or purpose of
evasion; and that I will well and faithfully discharge the duties
upon which I am about to enter.

Signature

Term Expires

JANUARY 3, 2027

Subscribed and sworn to before me,

this 5TH day of JANUARY

A. D. 2015

Ed R. Brown

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

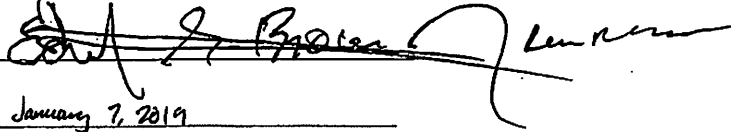
JAN 29 2015

OATH

for the office of Associate Justice
California Supreme Court

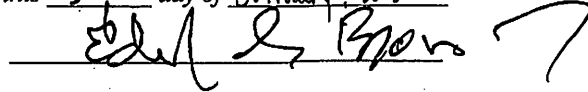
I, Leondra R. Kruger, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature



Term Expires January 7, 2019

Subscribed and sworn to before me on,
this 5th day of January, 2015



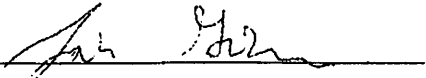
OATH

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

JAN 04 2019

for the office of the Associate Justice of the Supreme Court of the State of California

I, Joshua Paul Groban, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature 

Term Expires on January 4, 2027

State of California

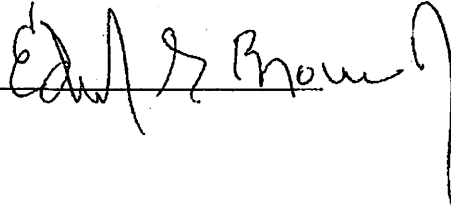
County of Sacramento

Subscribed and sworn to (or affirmed) before me on,

this Third day of January, 2019

by Joshua Paul Groban

proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature 

e.o.

T. Court-Strakos
Chief Justice of CA

Subscribed and sworn to before me,
this 7th day of January
A.D. 2019

Term Expires January 3, 2021
Signature

I, Carol A. Corrigan, do solemnly swear
(or affirm) that I will support and defend the Constitution of the
United States and the Constitution of the State of California
against all enemies, foreign and domestic; that I will bear true
faith and allegiance to the Constitution of the United States and
the Constitution of the State of California; that I take this
obligation freely, without any mental reservation or purpose of
evasion; and that I will well and faithfully discharge the duties
upon which I am about to enter.

California Supreme Court

for the Office of Associate Justice

OATH

ENDORSED - FILED
in the office of the Secretary of State
of the State of California
JAN 10 2019

CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

[Courts](#) > [Supreme Court](#) > [Justices](#)

Supreme Court

Case Information

Representation of
Death Penalty
Inmates

Electronic Filing /
Submissions

Oral Argument
Webcasts

Calendars

Practices &
Procedures

Justices

Past & Present
Justices

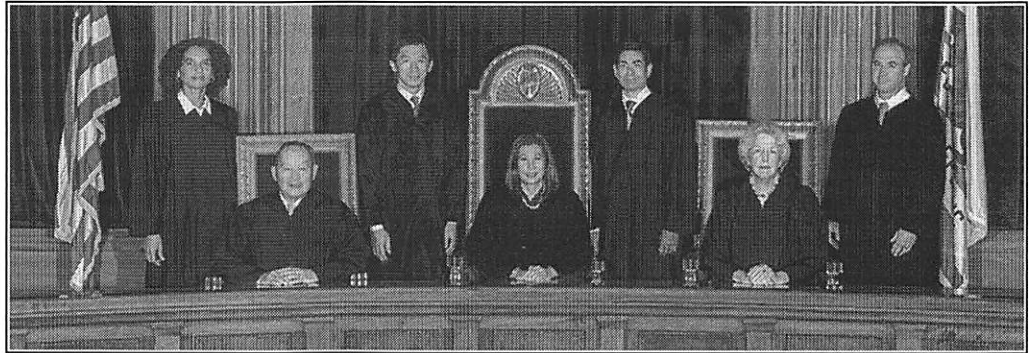
Committees

Contact Us

About the
Supreme Court


Justices

[Print](#)



Left to right, standing: Justice Leondra R. Kruger, Justice Goodwin H. Liu, Justice Mariano-Florentino Cuéllar, and Justice Joshua P. Groban

Left to right, seated: Justice Ming W. Chin*, Chief Justice Tani G. Cantil-Sakauye, and Justice Carol A. Corrigan

The Supreme Court of California consists of the Chief Justice of California and six Associate Justices, each appointed or nominated by the Governor. To learn more about the history of the court and its policies and procedures, download [The Supreme Court of California](#)  booklet.

Current California Supreme Court Justices:

**[Justice Ming W. Chin retired effective August 31, 2020.]*

Chief Justice Tani Gorre Cantil-Sakauye is the 28th chief justice of the State of California. She was sworn into office on January 3, 2011, and is the first Asian-Filipina American and the second woman to serve as the state's chief justice. [More >>](#)

The Honorable Carol A. Corrigan was appointed to the California Supreme Court in December 2005; confirmed January 4, 2006. [More >>](#)

The Honorable Goodwin H. Liu was appointed to the California Supreme Court in August 2011. He was confirmed on August 31 and sworn in by the Governor on Sept. 1, 2011. [More >>](#)

The Honorable Mariano-Florentino Cuéllar was nominated to the California Supreme Court in July 2014, confirmed by the Commission on Judicial Appointments on August 28, 2014, and retained by the electorate in the November 2014 general election. He was sworn in by the Governor on January 5, 2015. [More >>](#)

The Honorable Leondra R. Kruger was appointed to the California Supreme Court in November 2014, confirmed by the Commission on Judicial Appointments on December 22, 2014, and sworn in by the Governor on January 5, 2015. [More >>](#)

The Honorable Joshua P. Groban was appointed to the California Supreme Court in November 2018, confirmed by the Commission on Judicial Appointments on December 21, 2018, and sworn in by the Governor on January 3, 2019. [More >>](#)

Adam Bereki
818 Spirit
Costa Mesa, California
949.241.6693

November 29, 2020

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

RE: Freedom of Information Act Request

Please provide all documents in your custody and control evidencing the following:

1. The Oaths of Office for Justices Thomas, Tashima, and W.Fletcher.

Please provide your response by email to abereki@gmail.com.

Sincerely,



Adam Bereki

Adam Bereki
818 Spirit
Costa Mesa, California
949.241.6693

VIA usmail

November 29, 2020

Clerk
United States District Court
Central District of California
First St. Courthouse
350 W 1st Street, Suite 4311
Los Angeles, CA 90012-4565

RE: Freedom of Information Act Request

Please provide all documents in your custody and control evidencing the following:

1. The Oath of Office for Judge Consuelo B. Marshall.

Please provide your response by email to abereki@gmail.com.

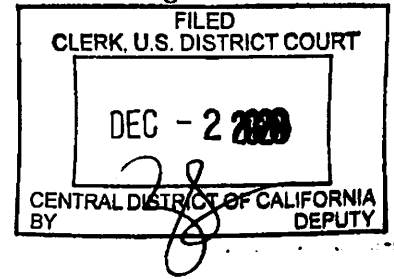
Sincerely,



Adam Bereki

EXHIBIT-C 2610

Adam Bereki
818 Spirit
Costa Mesa, California
949.241.6693



Clerk
United States District Court
Central District of California
First St. Courthouse
350 W 1st Street, Suite 4311
Los Angeles, CA 90012-4565

November 29, 2020

CV
SA 19-2050 CBM-
ADS

RE: Freedom of Information Act Request

Please provide all documents in your custody and control evidencing the following:

1. The Oath of Office for Judge Consuelo B. Marshall.

Please provide your response by email to abereki@gmail.com.

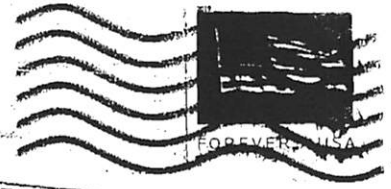
Sincerely,

Adam Bereki

818 SPIRIT
92626

SANTA ANA CA 926

30 NOV 2020 PM 2 L

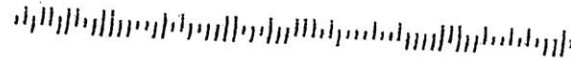


CLERK
FIRST ST. COURTHOUSE
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CENTRAL DISTRICT OF CALIF. BY DEPUTY

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90012-456586





Adam Bereki <abereki@gmail.com>

FW: Correspondence Request

2 messages


Renico Smith <Renico_Smith@cacd.uscourts.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Dec 17, 2020 at 10:48 AM

Renico A Smith

Civil Intake

213 894 3535

 **ECOPY-CRINTAKE1_SSMTP_via_LDAP_12-17-2020_10-46-49.pdf**
403K

Adam <abereki@gmail.com>
To: Renico Smith <Renico_Smith@cacd.uscourts.gov>

Thu, Dec 17, 2020 at 11:04 AM

Renico,

Thank you for you reply, however the Oath of Office for Judge Marshall is something required to be sworn by every District Court judge by the Constitution. If the Court is not in possession of this document, do you have any idea who would?

Sincerely,

Adam Bereki

[Quoted text hidden]



United States District Court
Central District of California
Office of the Clerk

Cristina M. Squieri Bullock
Chief Deputy of Administration
350 West 1st Street, Suite 4311
Los Angeles, CA 90012

Kiry K. Gray
District Court Executive / Clerk of Court
350 West 1st Street, Suite 4311
Los Angeles, CA 90012

Sara Tse Soo Hoo
Chief Deputy of Operations
255 East Temple Street, Suite TS-134
Los Angeles, CA 90012

December 17, 2020

Adam Bereki

Re: Research Request Received on 12/02/2020
and/or regarding _____

Dear Sir/Madam:

We have received your request for records. However, for the reasons indicated below, we are unable to process your request at this time.

- You have not provided sufficient information for us to determine whether the requested records are in the Court's possession or which records you want copied. You must provide a case number or enough information about the parties to the case so that the case can be identified, as well as a detailed description of the records or information you are seeking.
- The information you have requested is either not in the Court's possession or cannot be provided in response to your request:
 - The case file you requested has been archived and transferred to the National Archives & Records Administration. To view the file, please visit www.archives.gov for further instructions.
 - The Court posts annual information regarding its caseload statistics on its website. (Refer to the links in the "Court Statistics" box on the main page of the Court's website at www.cacd.uscourts.gov.) Additional statistical information about this and other federal courts is available at the website of the United States Courts, www.uscourts.gov/statistics-reports. No other compilations of data or statistical information will be provided.
 - You have requested information pursuant to the Freedom of Information Act ("FOIA"). Please be advised that the Freedom of Information Act does not apply to the judicial branch of the federal government. 5 U.S.C. § 551(1)(B).
 - You have requested a transcript of one or more proceedings conducted in this Court. Please be advised that transcripts are not automatically prepared for every court hearing, and must be ordered from the court reporter who was present at the hearing. For information about ordering transcripts, please refer to the Court's website at www.cacd.uscourts.gov/court-reporting-services.
- Payment must be received in advance before any copies of records will be provided, and we have not yet received your payment. Please see page 2 of this letter for details about the cost of your request and information about providing payment. Note that payment is required **even if you are a party who has been granted in forma pauperis (or "IFP") status in a case before this Court.** IFP status does not mean that you are entitled to free copies of court records or the docket.

We are in receipt of your check. Unfortunately, however, we are unable to accept it, and are returning it to you with this letter. We will accept business or corporate checks, checks drawn on business or client trust accounts, federal, state, and local government-issued checks, bank-certified or cashier's checks, or a money order drawn on a major American bank or the United States Postal Service (made out to "Clerk, U.S. District Court"). **No personal checks or checks drawn on non-business accounts will be accepted.** You may also pay for your order in person at any Clerk's Office window with cash or a credit or debit card.

Other: _____

PAYMENT:

We have been able to determine the total cost of your order from the information you provided. To complete processing of your order, we must receive a total of \$ _____. This amount includes:

- Photocopies numbering _____ pages at a cost of \$0.50 per page.
- Certification of _____ document(s) at a cost of \$11.00 per document.
- Exemplification of _____ document(s) at a cost of \$23.00 per document.

To obtain your records, please submit payment, a self-addressed, stamped envelope of sufficient size to hold the records, a copy of this letter, and a copy of your original request to the attention of:
_____ at

- Western Division, 255 East Temple Street, Suite TS-134, Los Angeles, CA 90012
- Southern Division, 411 W. Fourth St., Ste. 1053, Santa Ana, CA 92701-4516
- Eastern Division, 3470 Twelfth Street, Room 134, Riverside, CA 92501-3000

We have not yet been able to determine the total cost of your order. You have identified ____ cases, names, or items for which a preliminary search of the Court's records is required. Please be advised that a non-refundable search fee of \$32.00 for each such item is required before we can complete your request. If you wish to proceed with your request, please confirm the items you want us to research, and return payment in the amount \$32.00 for each such item.

All fees quoted above are set nationally pursuant to 28 U.S.C. § 1914, Judicial Conference Schedule of Fees, District Court Miscellaneous Fee Schedule. We will accept business or corporate checks, checks drawn on business or client trust accounts, federal, state, and local government-issued checks, bank-certified or cashier's checks, or a money order drawn on a major American bank or the United States Postal Service (made out to "Clerk, U.S. District Court"). **No personal checks or checks drawn on non-business accounts will be accepted.** You may also pay for your order in person at any Clerk's Office window with cash or a credit or debit card.

Questions and requests may be directed to the Records Section by e-mail at Records_CACD@cacd.uscourts.gov.

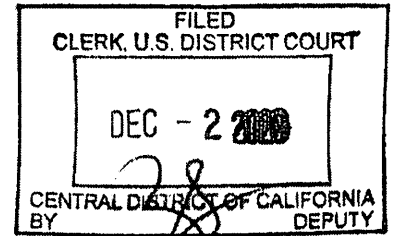
Please note that criminal and civil docket information, as well as copies of many documents, is available online through the Public Access to Court Electronic Records (PACER) system. For PACER information, please contact 800-676-6856 or www.pacer.gov.

Information regarding Schedule of Fees, forms, local rules, and other procedures may be obtained from the Court's website at: www.cacd.uscourts.gov.

Clerk, U. S. District Court

By R. Smith (213) 894 3535
Deputy Clerk

Adam Bereki
818 Spirit
Costa Mesa, California
949.241.6693



November 29, 2020

CV
SA 19-2050 CBM-
ADS

Clerk
United States District Court
Central District of California
First St. Courthouse
350 W 1st Street, Suite 4311
Los Angeles, CA 90012-4565

RE: Freedom of Information Act Request

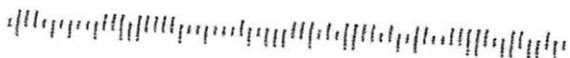
Please provide all documents in your custody and control evidencing the following:

1. The Oath of Office for Judge Consuelo B. Marshall.

Please provide your response by email to abereki@gmail.com.

Sincerely,

Adam Bereki



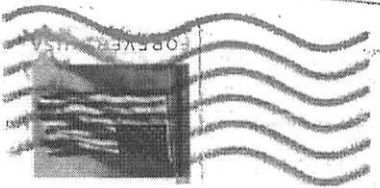
90012-456565

CPM

Los Angeles, CA 90012-4565

RECEIVED
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BY
CENTRAL DISTRICT OF CALIF. JERMA
DEPUTY

CLERK
FIRST ST. COURTHOUSE
350 W. 1st St.
STE 4311



30 NOV 2020 PM 2 L

SANTA ANA CA 926

818 SPRT
92626

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No. SA CV 19-02050-CBM(ADSx) Date DECEMBER 8, 2020

Title Adam Berekı v. Gary Humphreys et al.,

Present: The Honorable CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE

YOLANDA SKIPPER
Deputy Clerk

NOT REPORTED
Court Reporter

Attorneys Present for Plaintiffs:
None Present

Attorneys Present for Defendants:
None Present

Proceedings: IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES

Counsel are hereby notified that pursuant to the Judge's directive, the Letter [40] filed in this case on December 2, 2020, was incorrectly filed by the Clerk and is hereby stricken from this case.

Document No. 40 is now directed to the Clerk of Court for processing.

IT IS SO ORDERED.

cc: all parties

CV-90

CIVIL MINUTES - GENERAL

Initials of Deputy Clerk ys

EXHIBIT-C 2618

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No. SA CV 19-02050-CBM(ADSx)

Date DECEMBER 8, 2020

Title Adam Bereki v. Gary Humphreys et al.,

Present: The Honorable CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE

YOLANDA SKIPPER

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiffs:

None Present

Attorneys Present for Defendants:

None Present

Proceedings: IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES

Counsel are hereby notified that pursuant to the Judge's directive, the Letter [40] filed in this case on December 2, 2020, was incorrectly filed by the Clerk and is hereby stricken from this case.

Document No. 40 is now directed to the Clerk of Court for processing.

IT IS SO ORDERED.

cc: all parties

CV-90

CIVIL MINUTES - GENERAL

Initials of Deputy Clerk ys

EXHIBIT-C 2619

Adam Bereki
818 Spirit
Costa Mesa, California
949.241.6693

Via us mail

November 29, 2020

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

RE: Public Records Act Request

Please provide all documents in your custody and control evidencing the following:

1. The Oath of Office for Governor Gavin Newsom;
2. The duties of the office of Governor of California.

Please provide your response by email to abereki@gmail.com.

Sincerely,

Adam Bereki



Adam Bereki <abereki@gmail.com>

Public Records Act Request

1 message

Gov Legal Unit <govlegalunit@gov.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Mon, Dec 7, 2020 at 4:43 PM


Dear Mr. Bereki,

Please find attached the response to your correspondence to the Governor's Office received on December 3, 2020.

Thank you,

Legal Affairs Unit

Office of Governor Gavin Newsom

 **Bereki Response Letter & Records 12.07.2020.pdf**
428K



OFFICE OF THE GOVERNOR

December 7, 2020

Via Electronic Mail

Adam Bereki
abereki@gmail.com

RE: Public Records Act Request

Dear Mr. Bereki:

This letter is in response to your correspondence received December 3, 2020, requesting

- “1. The Oath of Office for Governor Gavin Newsom;
2. The duties of the office of Governor Gavin Newsom.”

Enclosed is a record responsive to your first request. As to the second request, the Governor’s duties are specified in the California Constitution and the California Government Code. Links to provisions of the Constitution and Government Code that may be of interest are available at the links below:

California Constitution:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&division=&title=&part=&chapter=&article=V

California Government Code:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.&chapter=1.&article=2.

Thank you for contacting Governor Newsom’s office.

Sincerely,

DAVID SAPP
Deputy Legal Affairs Secretary



OFFICE OF THE GOVERNOR

OATH

for the office of Governor of California

I, Gavin Newsom, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Signature

Term Expires with term expiring on January 1, 2023

State of California

County of Sacramento

Subscribed and sworn to (or affirmed) before me on,

this 7th day of January, 2019

by Gavin Newsom, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature T. Carol D. Sorken, Chief Justice of CA

EXHIBIT-C 2623



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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15986] (Division 3 added by Stats. 1945, Ch. 111.)

PART 2. CONSTITUTIONAL OFFICERS [12001 - 12790] (Part 2 added by Stats. 1945, Ch. 111.)

CHAPTER 1. Governor [12001 - 12091] (Chapter 1 added by Stats. 1945, Ch. 111.)

ARTICLE 2. Powers and Duties [12010 - 12019] (Article 2 added by Stats. 1945, Ch. 111.)

12010. The Governor shall supervise the official conduct of all executive and ministerial officers.

(Added by Stats. 1945, Ch. 111.)

12010.5. Notwithstanding any other provision of statutory law, the Governor shall determine the distribution in the executive agencies of deputies or employees selected pursuant to subdivision (g) of Section 4 of Article VII of the California Constitution by civil-service-exempt officers appointed by the Governor pursuant to subdivision (f) of Section 4 of Article VII of the California Constitution, except deputies or employees subject to the consent or confirmation of the Senate.

(Added by Stats. 1982, Ch. 1216, Sec. 1.)

12010.6. (a) The purpose of this section is to increase the Governor's managerial flexibility without increasing costs. It is the intent of the Legislature that positions designated as exempt from civil service by this section shall be filled by a Governor's appointment only after they are vacated by civil service employees.

(b) The Governor may designate as exempt from civil service positions in the executive agencies over which he has line responsibility and which have civil-service-exempt officers and employees appointed pursuant to subdivision (f) or (g) of Section 4 of Article VII of the California Constitution; provided that the designations shall be limited to positions covered by these subdivisions and shall not cause the total number of positions exempted under these subdivisions to exceed one-half of 1 percent of the number of full-time equivalent positions in these agencies collectively.

(c) The Governor may appoint a person to a position designated as exempt from civil service pursuant to this section only after the position is no longer held by a civil service employee.

(d) Positions designated by the Governor as exempt from civil service pursuant to this section shall be limited to those designated as managerial positions under Section 3513 by the Department of Human Resources.

(e) The authority to designate positions as exempt from civil service shall not result in the displacement of civil service employees and shall not result in hiring additional employees into positions not authorized in the Budget Act.

(f) The Department of Human Resources shall report to the Joint Legislative Audit Committee by January 31 of each year the current percentage of civil-service-exempt officers and employees in state service.

(Amended by Stats. 2012, Ch. 665, Sec. 48. (SB 1308) Effective January 1, 2013.)

12011. The Governor shall see that all offices are filled and their duties performed. If default occurs, he shall



Adam Bereki <abereki@gmail.com>

PRA Request

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Mon, Dec 14, 2020 at 11:35 AM

Dear Mr. Bereki,

You have reached the “Public Access to Judicial Administrative Records” (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect “judicial administrative records” pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

In the form, attached, you requested all documents related to the consideration of revisions to Judicial Council of California Civil Jury Instructions (CACI) No. 4560, *Recovery of Payments to Unlicensed Contractors* (Bus. & Prof. Code, § 7031(b)), in the Judicial Council’s Rules Committee meeting held October 6, 2020, and the Judicial Council meeting held November 2, 2020.

We have determined that we have disclosable responsive records for those two meetings. The meeting records can be found on the California Courts website using the links provided, below.

- Judicial Council Rules Committee, Notice and Agenda, Meeting on October 6, 2020: <https://www.courts.ca.gov/documents/rules-20201006-notice-agenda.pdf>.
- Judicial Council Rules Committee, Materials, Meeting on October 6, 2020: <https://www.courts.ca.gov/documents/rules-20201006-materials.pdf>.
- Judicial Council, Agenda, Meeting on November 13, 2020: <https://jcc.legistar.com/View.ashx?M=A&ID=711586&GUID=202319A8-C886-47D4-803A-87BD60455D6D>.
- *Judicial Council, Report for Item No. 20–201, Meeting on November 13, 2020:* <https://jcc.legistar.com/View.ashx?M=F&ID=8870322&GUID=29DD7FEA-180E-471E-A248-3E421EC59A0F>.
- Judicial Council, Video, Meeting on November 13, 2020: http://jcc.granicus.com/player/clip/1818?view_id=1&redirect=true.

We are withholding other records as exempt. (See Cal. Rules of Court, rule 10.500(f)(5); Evid. Code, § 954.) If you have questions regarding this matter, you may direct them to Laura Brown using the contact information provided in the signature block below.

Sincerely

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov

[Content has been hidden]

 **4560 REQUEST 2 BEREKI.pdf**
139K



Adam Bereki <abereki@gmail.com>

PRA Request

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>
Cc: PAJAR <PAJAR@jud.ca.gov>

Mon, Dec 14, 2020 at 11:34 AM

Dear Mr. Bereki,

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

In the form, attached, you requested copies of all versions of *Judicial Council of California Civil Jury Instructions* (CACI) No. 4560, *Recovery of Payments to Unlicensed Contractors* (Bus. & Prof. Code, § 7031(b)), including the current version.

We have determined that we have disclosable responsive records. Those records are available on the California Courts website and can be found using the links provided, below.

- CACI, as approved at the Judicial Council November 2020 meeting: https://www.courts.ca.gov/partners/documents/Judicial_Council_of_California_Civil_Jury_Instructions.pdf.
- *Report to the Judicial Council for business meeting on November 13, 2020*, proposing revision to CACI No. 4560: <https://jcc.legistar.com/View.ashx?M=F&ID=8870322&GUID=29DD7FEA-180E-471E-A248-3E421EC59A0F>.
- *Report to the Judicial Council for business meeting on June 24, 2016*, proposing addition of CACI No. 4560: <https://jcc.legistar.com/View.ashx?M=F&ID=4494496&GUID=9FEDB786-87CC-42AD-8129-96E438B5B2B5>.

Sincerely,

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov

[Download folder]



4560 REQUEST BEREKI.pdf

138K



REQUEST FOR JUDICIAL ADMINISTRATIVE RECORDS

Under California Rules of Court, rule 10.500

Requester Information

Name Adam Bereki

Organization n/a

Address 818 Spirit Costa Mesa, California
(include city and state)

Zip Code 92626

Telephone Number & Email Address (949) 241-6693 abereki@gmail.com

Description of Information Requested

Please be as specific as possible. Attach additional sheets of paper as necessary.

Please provide all versions of CACI §4560- Recovery of payments to Unlicensed Contractors. By all versions, I mean the current revised version as recently approved by the Council in October/ November 2020 and any versions that existed prior to this revision.

Please email me these documents to me at abereki@gmail.com

Will the requested records be used to further your or someone else's commercial, trade, or profit interest?

If so, fees may be reasonably calculated to cover direct costs of duplication or production of records.

YES

NO

Have you recently requested these materials from someone at the Judicial Council of California or a court? This information will help us more quickly answer your request.

YES Judicial Council Courts

Name of person & Date of request:

NO

SUBMIT THIS FORM

1) *By Mail:*

Public Access to Judicial Administrative Records
Legal Services
455 Golden Gate Avenue
San Francisco, California 94102

2) *By E-mail:* PAJAR@jud.ca.gov

EXHIBIT C 2629



REQUEST FOR JUDICIAL ADMINISTRATIVE RECORDS

Under California Rules of Court, rule 10.500

Requester Information

Name Adam Bereki

Organization _____

Address 818 Spirit Costa Mesa, California
(include city and state) _____

Zip Code 92626

Telephone Number & Email Address (949) 241-6693; abereki@gmail.com

Description of Information Requested

Please be as specific as possible. Attach additional sheets of paper as necessary.

Please provide all notes, meeting minutes, approval forms, submissions for public comments, public comments, or any other documents pertaining to the revision of CACI §4560 pursuant to or in connection with the Judicial Council's Rules Committee October 2020 Meeting and the Judicial Council November 2020 Meeting.

Will the requested records be used to further your or someone else's commercial, trade, or profit interest?

If so, fees may be reasonably calculated to cover direct costs of duplication or production of records.

YES

NO

Have you recently requested these materials from someone at the Judicial Council of California or a court? This information will help us more quickly answer your request.

YES Judicial Council Courts

Name of person & Date of request: _____

NO

SUBMIT THIS FORM

1) *By Mail:*
Public Access to Judicial Administrative Records
Legal Services
455 Golden Gate Avenue
San Francisco, California 94102

2) *By E-mail:* PAJAR@jud.ca.gov

EXHIBIT - C 2630

3906. Lost Earnings and Lost Earning Capacity—Jurors Not to Reduce Damages
on Basis of Race, Ethnicity, or Gender (Economic Damages) (*New*) 56

UNLAWFUL DETAINER

4308. Termination for Nuisance or Unlawful Use—Essential Factual Elements (*Revise*) 57

4320. Affirmative Defense—Implied Warranty of Habitability (*Revise DforU*) 61

CONSTRUCTION LAW

4560. Recovery of Payments to Unlicensed Contractor
(Bus. & Prof. Code, § 7031(b)) (*Revise*) 66

Draft—Not Approved by Judicial Council

4560. Recovery of Payments to Unlicensed Contractor (Bus. & Prof. Code, § 7031(b))

[Name of plaintiff] claims that [name of defendant] did not have a valid contractor's license during all times when [name of defendant] was [performing services/supervising construction] for [name of plaintiff] under their contract. To establish this claim and recover all compensation paid for these services, [name of plaintiff] must prove all of the following:

- 1. That there was a contract between [name of plaintiff] and [engaged/hired] [or] [contracted with] [name of defendant] under which [name of defendant] was required to perform services for [name of plaintiff];**
- 2. That a valid contractor's license was required to perform these services; and**
- 3. That [name of plaintiff] paid [name of defendant] for contractor services that [name of defendant] performed as required by the contract;**

[[Name of plaintiff] is not entitled to recover all compensation paid if [Name of defendant] must then prove that at all times while [performing/supervising] these services, [he/she/nonbinary pronoun/it] had a valid contractor's license as required by law.]

New June 2016; Revised November 2020

Directions for Use

Give this instruction in a case in which the plaintiff seeks to recover money paid to an unlicensed contractor for service performed for which a license is required. (Bus. & Prof. Code, § 7031(b).) Modify the instruction if the plaintiff claims the defendant did not perform services or supervise construction, but instead agreed to be solely responsible for completion of construction services. (See *Vallejo Development Co. v. Beck Development Co.* (1994) 24 Cal.App.4th 929, 940 [29 Cal.Rptr.2d 669].) It may also be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

The burden of proof to establish licensure or proper licensure is on the licensee. Proof must be made by producing a verified certificate of licensure from the Contractors' State License Board. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure is on the contractor. (Bus. & Prof. Code, § 7031(d).) Modification to the optional paragraph may be required if substantial compliance with the licensing laws is alleged. (See Bus. & Prof. Code, § 7031(e).) Omit the final bracketed paragraph if the issue of licensure is not contested.

A corporation qualifies for a contractor's license through a responsible managing officer (RMO) or responsible managing employee (RME) who is qualified for the same license classification as the classification being applied for. (Bus & Prof. Code § 7068(b)(3).) The plaintiff may attack a contractor's license by going behind the face of the license and proving that a required RMO or RME is a sham. The burden of proof remains with the contractor to prove a bona fide RMO or RME. (*Buzgheia v. Leasco*

Draft—Not Approved by Judicial Council

Sierra Grove (1997) 60 Cal.App.4th 374, 385–387 [70 Cal.Rptr.2d 427].) Whether an RMO or RME is a sham can be a question of fact. (*Jeff Tracy, Inc. v. City of Pico Rivera* (2015) 240 Cal.App.4th 510, 518 [192 Cal.Rptr.3d 600].)

Sources and Authority

- Action to Recover Compensation Paid to Unlicensed Contractor. Business and Professions Code section 7031(b).
- Proof of Licensure. Business and Professions Code section 7031(d).
- “Contractor” Defined. Business and Professions Code section 7026.
- “The purpose of the licensing law is to protect the public from incompetence and dishonesty in those who provide building and construction services. The licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business.” (*Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal.Rptr. 517, 803 P.2d 370], internal citations omitted.)
- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . .’ ” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “The current legislative requirement that a contractor plaintiff must, in addition to proving the traditional elements of a contract claim, also prove that it was duly licensed at all times during the performance of the contract does not change this historical right to a jury trial.” (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518, fn. 2.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “In 2001, the Legislature complemented the shield created by subdivision (a) of section 7031 by adding a sword that allows persons who utilize unlicensed contractors to recover compensation paid to the contractor for performing unlicensed work. Section 7031(b) provides that ‘a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract’ unless the substantial compliance doctrine applies.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 519 [100 Cal.Rptr.3d 434], internal citation omitted.)
- “It appears section 7031(b) was designed to treat persons who have utilized unlicensed contractors consistently, regardless of whether they have paid the contractor for the unlicensed work. In short,

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those who have not paid are protected from being sued for payment and those who have paid may recover all compensation delivered. Thus, unlicensed contractors are not able to avoid the full measure of the CSLB's civil penalties by (1) requiring prepayment before undertaking the next increment of unlicensed work or (2) retaining progress payments relating to completed phases of the construction." (*White, supra*, 178 Cal.App.4th at p. 520.)

- "In most cases, a contractor can establish valid licensure by simply producing 'a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action.' [Contractor] concedes that if this was the only evidence at issue, 'then—perhaps—the issue could be decided by the court without a jury.' But as [contractor] points out, the City was challenging [contractor]'s license by going behind the face of the license to prove that [license holder] was a sham RME or RMO. (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518.)
- "[T]he determination of whether [contractor] held a valid class A license involved questions of fact. '[W]here there is a conflict in the evidence from which either conclusion could be reached as to the status of the parties, the question must be submitted to the jury. [Citations.] This rule is clearly applicable to cases revolving around the disputed right of a party to bring suit under the provisions of Business and Professions Code section 7031.'" (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518.)
- "We conclude the authorization of recovery of 'all compensation paid to the unlicensed contractor for performance of any act or contract' means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided." (*White, supra*, 178 Cal.App.4th at pp. 520–521, original italics, internal citation omitted.)
- "[A]n unlicensed contractor is subject to forfeiture even if the other contracting party was aware of the contractor's lack of a license, and the other party's bad faith or unjust enrichment cannot be asserted by the contractor as a defense to forfeiture." (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)
- "Nothing in section 7031 either limits its application to a particular class of homeowners or excludes protection of 'sophisticated' persons. Reading that limitation into the statute would be inconsistent with its purpose of 'deterring unlicensed persons from engaging in the contracting business.'" (*Phoenix Mechanical Pipeline, Inc. v. Space Exploration Technologies Corp.* (2017) 12 Cal.App.5th 842, 849 [219 Cal.Rptr.3d 775].)
- "By entering into the agreements to 'improve the Property' and to be 'solely responsible for completion of' infrastructure improvements—including graded building pads, storm drains, sanitary systems, streets, sidewalks, curbs, gutters, utilities, street lighting, and traffic signals—[the plaintiff] was clearly contracting to provide construction services in exchange for cash payments by [the defendants]. The mere execution of such a contract is an act 'in the capacity of a contractor,' and an unlicensed person is barred by section 7031, subdivision (a), from bringing

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claims based on the contract.” (*Vallejo Development Co., supra*, 24 Cal.App.4th at p. 940.)

- “[Contractor] has not alleged one contract, but rather a series of agreements for each separate task that it was asked to perform. It may therefore seek compensation under those alleged agreements that apply to tasks for which no license was required.” (*Phoenix Mechanical Pipeline, Inc., supra*, 12 Cal.App.5th at p. 853.)

Secondary Sources

1 Witkin, Summary of California Law (11th ed. 2017) Contracts, § 491

12 California Real Estate Law and Practice, Ch. 430, *Licensing of Contractors*, § 430.70 (Matthew Bender)

10 California Forms of Pleading and Practice, Ch. 104, *Building Contracts*, § 104.83 (Matthew Bender)

5 California Points and Authorities, Ch. 50A, *Contracts: Performance, Breach, and Defenses*, § 50A.52 et seq. (Matthew Bender)

29 California Legal Forms, Ch. 88, *Licensing of Contractors*, § 88.18 (Matthew Bender)

4560.Recovery of Payments to Unlicensed Contractor (Bus. & Prof. Code, § 7031(b))

[Name of plaintiff] claims that [name of defendant] did not have a valid contractor's license during all times when [name of defendant] was performing services for [name of plaintiff] under their contract. To establish this claim, [name of plaintiff] must prove all of the following:

- 1. That there was a contract between [name of plaintiff] and [name of defendant] under which [name of defendant] was required to perform services for [name of plaintiff];**
- 2. That a valid contractor's license was required to perform these services; and**
- 3. That [name of plaintiff] paid [name of defendant] for contractor services that [name of defendant] performed as required by the contract;**

[Name of defendant] must then prove that at all times while performing these services, [he/she/it] had a valid contractor's license as required by law.

New June 2016

Directions for Use

Give this instruction in a case in which the plaintiff seeks to recover money paid to an unlicensed contractor for service performed for which a license is required. (Bus. & Prof. Code, § 7031(b).) It may be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

The burden of proof to establish licensure or proper licensure is on the licensee. Proof must be made by producing a verified certificate of licensure from the Contractors' State License Board. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure is on the contractor. (Bus. & Prof. Code, § 7031(d).)

A corporation qualifies for a contractor's license through a responsible managing officer (RMO) or responsible managing employee (RME) who is qualified for the same license classification as the classification being applied for. (Bus. & Prof. Code § 7068(b)(3).) The plaintiff may attack a contractor's license by going behind the face of the license and proving that a required RMO or RME is a sham. The burden of proof remains with the contractor to prove a bona fide RMO or RME. (*Buzgheia v. Leasco Sierra Grove* (1997) 60 Cal.App.4th 374, 385–387 [70 Cal.Rptr.2d 427].) Whether an RMO or RME is a sham can be a question of fact.

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(*Jeff Tracy, Inc. v. City of Pico Rivera* (2015) 240 Cal.App.4th 510, 518 [192 Cal.Rptr.3d 600].)

Sources and Authority

- Action to Recover Compensation Paid to Unlicensed Contractor. Business and Professions Code section 7031(b).
- Proof of Licensure. Business and Professions Code section 7031(d).
- “Contractor” Defined. Business and Professions Code section 7026.
- “The purpose of the licensing law is to protect the public from incompetence and dishonesty in those who provide building and construction services. The licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business.” (*Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal.Rptr. 517, 803 P.2d 370], internal citations omitted.)
- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . . ’” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “The current legislative requirement that a contractor plaintiff must, in addition to proving the traditional elements of a contract claim, also prove that it was duly licensed at all times during the performance of the contract does not change this historical right to a jury trial.” (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518, fn. 2.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 141, 152].)
- “In 2001, the Legislature complemented the shield created by subdivision (a) of section 7031 by adding a sword that allows persons who utilize unlicensed contractors to recover compensation paid to the contractor for performing unlicensed work. Section 7031(b) provides that ‘a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract’ unless the substantial compliance doctrine applies.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 519 [100 Cal.Rptr.3d 434], internal citation omitted.)
- “It appears section 7031(b) was designed to treat persons who have utilized unlicensed contractors consistently, regardless of whether they have paid the contractor for the unlicensed work. In short, those who have not paid are

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protected from being sued for payment and those who have paid may recover all compensation delivered. Thus, unlicensed contractors are not able to avoid the full measure of the CSLB's civil penalties by (1) requiring prepayment before undertaking the next increment of unlicensed work or (2) retaining progress payments relating to completed phases of the construction." (*White, supra*, 178 Cal.App.4th at p. 520.)

- "In most cases, a contractor can establish valid licensure by simply producing 'a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action.' [Contractor] concedes that if this was the only evidence at issue, 'then—perhaps—the issue could be decided by the court without a jury.' But as [contractor] points out, the City was challenging [contractor]'s license by going behind the face of the license to prove that [license holder] was a sham RME or RMO. (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518.)
- "[T]he determination of whether [contractor] held a valid class A license involved questions of fact. '[W]here there is a conflict in the evidence from which either conclusion could be reached as to the status of the parties, the question must be submitted to the jury. [Citations.] This rule is clearly applicable to cases revolving around the disputed right of a party to bring suit under the provisions of Business and Professions Code section 7031.' " (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518.)
- "We conclude the authorization of recovery of 'all compensation paid to the unlicensed contractor for performance of any act or contract' means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided." (*White, supra*, 178 Cal.App.4th at pp. 520–521, original italics, internal citation omitted.)
- "[A]n unlicensed contractor is subject to forfeiture even if the other contracting party was aware of the contractor's lack of a license, and the other party's bad faith or unjust enrichment cannot be asserted by the contractor as a defense to forfeiture." (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)

Secondary Sources

1 Witkin, Summary of California Law (10th ed. 2010) Contracts, § 489 et seq.

12 California Real Estate Law and Practice, Ch. 430, *Licensing of Contractors*, § 430.70 (Matthew Bender)

10 California Forms of Pleading and Practice, Ch. 104, *Building Contracts*, § 104.83 (Matthew Bender)

5 California Points and Authorities, Ch. 50A, *Contracts: Performance, Breach, and Defenses*, § 50A.52 et seq. (Matthew Bender)

4561.Damages—All Payments Made to Unlicensed Contractor

A person who pays money under a contract to an unlicensed contractor may recover all compensation paid to the unlicensed contractor under the contract.

If you decide that [name of plaintiff] has proved that [he/she/it] paid money to [name of defendant] for services under the contract and that [name of defendant] has failed to prove that [he/she/it] was licensed at all times during performance, then [name of plaintiff] is entitled to the return of all amounts paid, not just the amounts paid while [name of defendant] was unlicensed. The fact that [name of plaintiff] may have received some or all of the benefits of [name of defendant]’s performance does not affect [his/her/its] right to the return of all amounts paid.

New June 2016

Directions for Use

Give this instruction to clarify that the plaintiff is entitled to recover all compensation paid to the unlicensed defendant regardless of any seeming injustice to the contractor. (See *Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal.Rptr. 517, 803 P.2d 370].) It may be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

Sources and Authority

- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . . ’ ” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “[I]f a contractor is unlicensed for any period of time while delivering construction services, the contractor forfeits all compensation for the work, not merely compensation for the period when the contractor was unlicensed.” (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)
- “We conclude the authorization of recovery of ‘all compensation paid to the

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unlicensed contractor for performance of any act or contract' means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided." (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 520–521 [100 Cal.Rptr.3d 434], original italics, internal citation omitted.)

Secondary Sources

1 Witkin, *Summary of California Law* (10th ed. 2010) Contracts, § 489 et seq.

12 *California Real Estate Law and Practice*, Ch. 430, *Licensing of Contractors*, § 430.70 (Matthew Bender)

10 *California Forms of Pleading and Practice*, Ch. 104, *Building Contracts*, § 104.83 (Matthew Bender)

5 *California Points and Authorities*, Ch. 50A, *Contracts: Performance, Breach, and Defenses*, § 50A.52 et seq. (Matthew Bender)

29 *California Legal Forms*, Ch. 88, *Licensing of Contractors*, § 88.18 (Matthew Bender)

4562–4599. Reserved for Future Use



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JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-201

For business meeting on November 13, 2020

Title

Jury Instructions: Civil Jury Instructions
(Release 38)

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Judicial Council of California Civil Jury
Instructions (CACI)

Effective Date

November 13, 2020

Date of Report

October 7, 2020

Recommended by

Advisory Committee on Civil Jury
Instructions
Hon. Martin J. Tangeman, Chair

Contact

Eric Long, 415-865-7691
eric.long@jud.ca.gov

Executive Summary

The Advisory Committee on Civil Jury Instructions recommends approving for publication new and revised civil jury instructions prepared by the committee. These revisions bring the instructions up to date with developments in the law over the previous six months. On Judicial Council approval, the instructions will be published in the official 2021 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

Recommendation

The Advisory Committee on Civil Jury Instructions recommends that the Judicial Council, effective November 13, 2020, approve for publication the following civil jury instructions prepared by the committee:

1. Revisions to 16 instructions: CACI Nos. 418, 430, 435, 440, 1305, 1814, 2204, 2210, 2511, 3020, 3801, 3903C, 3903D, 4308, 4320, and 4560; and
2. The addition of 2 new instructions: CACI Nos. 441 and 3906.

involved in the employment decision. The committee did not further revise the proposal because courts will determine, before the issue goes to a jury, whether the “other person” had a role in the employment decision sufficient to raise a triable dispute.

CACI No. 4308, *Termination for Nuisance or Unlawful Use—Essential Factual Elements* (Code Civ. Proc., § 1161(4)). A trial judge pointed out that the unlawful detainer instruction for nuisance did not define the term “nuisance,” and proposed including a definition of the term. The committee agreed and recommends adding to the instruction an optional definition. Based on two comments in favor of the proposed language, the committee has further revised the definition to provide that “indecent or offensive to the senses” is assessed from the perspective “of an ordinary person with normal sensibilities.”

CACI No. 4560, *Recovery of Payments to Unlicensed Contractor* (Bus. & Prof. Code, § 7031(b)). An attorney who practices construction law observed that under Business and Professions Code section 7031, consumers do not have to prove that they had a contract with an unlicensed contractor. The committee agreed with the suggestion and proposes clarifying revisions that eliminate a contract as an element of the claim, and that broaden the concept of “contractor services” based on case law.

Policy implications

Jury instructions express the law; there are no policy implications.

Comments

The proposed additions and revisions to *CACI* circulated for comment from July 21 through September 2, 2020. The committee received 21 different comments (two of which were submitted jointly). Some commenters submitted comments on multiple instructions, and some commented on only a single instruction. Ten comments (not counting two bar associations who agreed without substantive comment) were received on asbestos causation, all but one of which was from the asbestos defense bar. Other than the comments concerning asbestos causation, discussed above, the instructions concerning use of force by law enforcement and peace officers (CACI Nos. 440, 441, and 1305) generated several comments, and the negligence instructions were refined, as discussed above.

The committee evaluated all comments and revised some of the instructions in light of the comments received. A chart summarizing the comments received on all instructions and the committee’s responses is attached at pages 76–156.

Alternatives considered

Rules 2.1050(d) and 10.58(a) of the California Rules of Court require the committee to update, revise, and add topics to *CACI* on a regular basis and to submit its recommendations to the council for approval. There are no alternative actions for the committee to consider.

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4560. Recovery of Payments to Unlicensed Contractor (Bus. & Prof. Code, § 7031(b))

[Name of plaintiff] claims that [name of defendant] did not have a valid contractor's license during all times when [name of defendant] was [performing services/supervising construction] for [name of plaintiff] under their contract. To establish this claim and recover all compensation paid for these services, [name of plaintiff] must prove all of the following:

1. That there was a contract between [name of plaintiff] and [engaged/hired]/ [or] contracted with [name of defendant] under which [name of defendant] was required to perform services for [name of plaintiff];
2. **That a valid contractor's license was required to perform these services; and**
3. **That [name of plaintiff] paid [name of defendant] for contractor services that [name of defendant] performed as required by the contract;**

[[Name of plaintiff] is not entitled to recover all compensation paid if [Name of defendant] must then prove that at all times while [performing/supervising] these services, [he/she/nonbinary pronoun/it] had a valid contractor's license as required by law.]

New June 2016; Revised November 2020

Directions for Use

Give this instruction in a case in which the plaintiff seeks to recover money paid to an unlicensed contractor for service performed for which a license is required. (Bus. & Prof. Code, § 7031(b).) Modify the instruction if the plaintiff claims the defendant did not perform services or supervise construction, but instead agreed to be solely responsible for completion of construction services. (See *Vallejo Development Co. v. Beck Development Co.* (1994) 24 Cal.App.4th 929, 940 [29 Cal.Rptr.2d 669].) It may also be modified for use if an allegedly unlicensed contractor brings a claim for payment for services performed. (See Bus. & Prof. Code, § 7031(a).)

The burden of proof to establish licensure or proper licensure is on the licensee. Proof must be made by producing a verified certificate of licensure from the Contractors' State License Board. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure is on the contractor. (Bus. & Prof. Code, § 7031(d).) Modification to the optional paragraph may be required if substantial compliance with the licensing laws is alleged. (See Bus. & Prof. Code, § 7031(e).) Omit the final bracketed paragraph if the issue of licensure is not contested.

A corporation qualifies for a contractor's license through a responsible managing officer (RMO) or responsible managing employee (RME) who is qualified for the same license classification as the classification being applied for. (Bus & Prof. Code § 7068(b)(3).) The plaintiff may attack a contractor's license by going behind the face of the license and proving that a required RMO or RME is a sham. The burden of proof remains with the contractor to prove a bona fide RMO or RME. (*Buzgheia v. Leasco*



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Sierra Grove (1997) 60 Cal.App.4th 374, 385–387 [70 Cal.Rptr.2d 427].) Whether an RMO or RME is a sham can be a question of fact. (*Jeff Tracy, Inc. v. City of Pico Rivera* (2015) 240 Cal.App.4th 510, 518 [192 Cal.Rptr.3d 600].)

Sources and Authority

- Action to Recover Compensation Paid to Unlicensed Contractor. Business and Professions Code section 7031(b).
- Proof of Licensure. Business and Professions Code section 7031(d).
- “Contractor” Defined. Business and Professions Code section 7026.
- “The purpose of the licensing law is to protect the public from incompetence and dishonesty in those who provide building and construction services. The licensing requirements provide minimal assurance that all persons offering such services in California have the requisite skill and character, understand applicable local laws and codes, and know the rudiments of administering a contracting business.” (*Hydrotech Systems, Ltd. v. Oasis Waterpark* (1991) 52 Cal.3d 988, 995 [277 Cal.Rptr. 517, 803 P.2d 370], internal citations omitted.)
- “Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state. [Citation.] . . . ’” (*Hydrotech Systems, Ltd., supra*, 52 Cal.3d at p. 995, original italics.)
- “The current legislative requirement that a contractor plaintiff must, in addition to proving the traditional elements of a contract claim, also prove that it was duly licensed at all times during the performance of the contract does not change this historical right to a jury trial.” (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518, fn. 2.)
- “[T]he courts may not resort to equitable considerations in defiance of section 7031.” (*Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal.2d 141, 152 [308 P.2d 713].)
- “In 2001, the Legislature complemented the shield created by subdivision (a) of section 7031 by adding a sword that allows persons who utilize unlicensed contractors to recover compensation paid to the contractor for performing unlicensed work. Section 7031(b) provides that ‘a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract’ unless the substantial compliance doctrine applies.” (*White v. Cridlebaugh* (2009) 178 Cal.App.4th 506, 519 [100 Cal.Rptr.3d 434], internal citation omitted.)
- “It appears section 7031(b) was designed to treat persons who have utilized unlicensed contractors consistently, regardless of whether they have paid the contractor for the unlicensed work. In short,

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those who have not paid are protected from being sued for payment and those who have paid may recover all compensation delivered. Thus, unlicensed contractors are not able to avoid the full measure of the CSLB's civil penalties by (1) requiring prepayment before undertaking the next increment of unlicensed work or (2) retaining progress payments relating to completed phases of the construction." (*White, supra*, 178 Cal.App.4th at p. 520.)

- "In most cases, a contractor can establish valid licensure by simply producing 'a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action.' [Contractor] concedes that if this was the only evidence at issue, 'then—perhaps—the issue could be decided by the court without a jury.' But as [contractor] points out, the City was challenging [contractor]'s license by going behind the face of the license to prove that [license holder] was a sham RME or RMO.'" (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518.)
- "[T]he determination of whether [contractor] held a valid class A license involved questions of fact. '[W]here there is a conflict in the evidence from which either conclusion could be reached as to the status of the parties, the question must be submitted to the jury. [Citations.] This rule is clearly applicable to cases revolving around the disputed right of a party to bring suit under the provisions of Business and Professions Code section 7031.'" (*Jeff Tracy, Inc., supra*, 240 Cal.App.4th at p. 518.)
- "We conclude the authorization of recovery of 'all compensation paid to the unlicensed contractor for performance of any act or contract' means that unlicensed contractors are required to return all compensation received without reductions or offsets for the value of material or services provided." (*White, supra*, 178 Cal.App.4th at pp. 520–521, original italics, internal citation omitted.)
- "[A]n unlicensed contractor is subject to forfeiture even if the other contracting party was aware of the contractor's lack of a license, and the other party's bad faith or unjust enrichment cannot be asserted by the contractor as a defense to forfeiture." (*Judicial Council of California v. Jacobs Facilities, Inc.* (2015) 239 Cal.App.4th 882, 896 [191 Cal.Rptr.3d 714].)
- "Nothing in section 7031 either limits its application to a particular class of homeowners or excludes protection of 'sophisticated' persons. Reading that limitation into the statute would be inconsistent with its purpose of "detering unlicensed persons from engaging in the contracting business." ' (*Phoenix Mechanical Pipeline, Inc. v. Space Exploration Technologies Corp.* (2017) 12 Cal.App.5th 842, 849 [219 Cal.Rptr.3d 775].)
- "By entering into the agreements to 'improve the Property' and to be 'solely responsible for completion of' infrastructure improvements -- including graded building pads, storm drains, sanitary systems, streets, sidewalks, curbs, gutters, utilities, street lighting, and traffic signals-- [the plaintiff] was clearly contracting to provide construction services in exchange for cash payments by [the defendants]. The mere execution of such a contract is an act 'in the capacity of a contractor,' and an unlicensed person is barred by section 7031, subdivision (a), from bringing

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claims based on the contract. [¶...¶] ... Section 7026 plainly states that both the person who provides construction services himself and one who does so 'through others' qualifies as a 'contractor.' The California courts have also long held that those who enter into construction contracts must be licensed, even when they themselves do not do the actual work under the contract." (Vallejo Development Co., supra, 24 Cal.App.4th at p. 940–941, original italics.)

- “[Contractor] has not alleged one contract, but rather a series of agreements for each separate task that it was asked to perform. It may therefore seek compensation under those alleged agreements that apply to tasks for which no license was required.” (*Phoenix Mechanical Pipeline, Inc.*, supra, 12 Cal.App.5th at p. 853.)

Secondary Sources

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29 California Legal Forms, Ch. 88, *Licensing of Contractors*, § 88.18 (Matthew Bender)

ITC CACI 20-02

Civil Jury Instructions (CACI)

All comments are paraphrased unless indicated by quotation marks.

| Instruction(s) | Commenter | Comment | Committee Response |
|---|---|---|---|
| | | (1962) 209 Cal.App.2d 589; <i>Fendley v. City of Anaheim</i> (1931) 110 Cal.App. 731; <i>Arcadia, California, Ltd. v. Herbert</i> (1960) 54 Cal.2d 328, 337. | committee has added language to the optional definition. |
| 4320. <i>Affirmative Defense—Implied Warranty of Habitability</i> | California Lawyers Association, Litigation Section, Jury Instructions Committee By Reuben A. Ginsburg, Chair, Sacramento | “We recommend adding a citation after the second sentence in the final paragraph of the Directions for Use to support the statement that the law remains unsettled, and a citation to Civil Code section 1941.3, subdivision (b), which qualifies that statement. Section 1941.3, subdivision (b) states that actual notice is required in the specified circumstances: ‘The law on a landlord’s notice in the unlawful detainer context, however, remains unsettled. (<i>Knight, supra</i> , 29 Cal.3d at p. 55, fn. 6; see Civ. Code, § 1941.3, subd. (b).)’ ” | The committee agrees in part and has added a citation to <i>Knight</i> . The committee declines to add a citation to Civil Code section 1941.3 to the Direction for Use. |
| | Bruce Greenlee, Attorney Richmond | “I would move the first sentence of the new text in the DforU, that the law is unsettled, to the beginning of the last paragraph, but without ‘however.’ ” | The committee declines to make this nonsubstantive change. |
| | Richard L. Spix, Attorney Lake Forest | “ADD at end of instruction the following: Where the landlord has notice of alleged uninhabitable conditions not caused by the resident[’]s neglect, the landlord’s breach of the implied warranty of habitability exists whether or not the landlord has had a reasonable time to make repairs. AUTHORITY: <i>Knight v. Hallsthammar</i> (1981) 29 Cal.3d 46.” | The committee declines to add the suggested language to the instruction. The Sources and Authority already include a direct quote from <i>Knight v. Hallsthammar</i> on this point. |
| 4560. <i>Recovery of Payments to Unlicensed Contractor</i> | California Lawyers Association, Litigation | “ <i>Vallejo Development Co. v. Beck Development Co.</i> (1994) 24 Cal.App.4th 929, cited in the Sources and Authorities, <u>indicates that supervising construction is simply a form of contractor services</u> . Accordingly, we believe “performing services” in the first paragraph of the instruction is | The committee agrees that supervising construction is one kind of service that can be performed, but because |

ITC CACI 20-02

Civil Jury Instructions (CACI)

All comments are paraphrased unless indicated by quotation marks.

| Instruction(s) | Commenter | Comment | Committee Response |
|--|--|---|--|
| <p><i>(Bus. & Prof. Code, § 7031(b))</i></p> | <p>Section, Jury Instructions Committee By Reuben A. Ginsburg, Chair, Sacramento</p> | <p>sufficient, and we would not add “supervising construction” as an alternative.”</p> | <p><u>supervising differs meaningfully from performing work</u>, the committee concludes that including it as a bracketed option is preferable to omitting it from the text of the instruction.</p> |
| | | <p>“In the new bullet quoting <i>Vallejo Development</i>, we recommend also adding the following quote from page 941 of the opinion: ‘Section 7026 plainly states that both the person who provides construction services <u>himself and one who does so “through others”</u> qualifies as a “contractor.” The California courts have also long held that those who enter into construction contracts must be licensed, <u>even when they themselves do not do the actual work under the contract.</u>’ ”</p> | <p>The committee agrees that the additional language would be of interest to users and has added to the quoted language.</p> |
| | <p>Bruce Greenlee, Attorney Richmond</p> | <p>“1. I agree with the changes that remove reference to a contract. Technically, a hire without a written contract is still a contract, but that’s more than the jury needs to have to think about.”</p> | <p>No response required.</p> |
| | | <p>“2. I see no need to add ‘supervising construction’ to ‘performing services’ in the opening paragraph. And you have not made this change to the elements, all of which refer to performing services. Supervising construction is one kind of service that can be performed. There are probably several hundred more specific services that could be added.”</p> | <p>The committee agrees that supervising construction is one kind of service that can be performed, but because <u>supervising differs meaningfully from performing work</u>, the committee concludes that including it as a bracketed option is preferable to omitting it from the text of the instruction. For consistency, however,</p> |



ITC CACI 20-02

Civil Jury Instructions (CACI)

All comments are paraphrased unless indicated by quotation marks.

| Instruction(s) | Commenter | Comment | Committee Response |
|----------------|-----------|---|---|
| | | | the committee has added supervising to the instruction's elements. |
| | | "3. Element 1: How is 'engaged' different from 'hired?' It's a fuzzy word with no clear meaning understandable to jurors. I would remove. But if there is something different about 'engaged,' it needs to be explained in the DforU." | The committee concludes that engaged is sufficiently clear. Generally, hiring is a more specific form of engagement. Element 1 offers users a bracketed choice: [engaged/hired]. The committee trusts that users will choose the appropriate term depending on the facts of the case. |
| | | 4. Last paragraph of instruction and second paragraph of the Directions for Use: In the DforU, one sentence refers to "the optional paragraph" and the other to "the final bracket paragraph." It's the same paragraph, no? If it is conceded that the defendant was unlicensed and there is no claim of substantial compliance, then it's game over; plaintiff wins. So I would not make this paragraph optional (the other changes are ok), and I would not include the "omit" sentence in the DforU. And my recollection is that substantial compliance is not a jury issue, so I would not include any of the proposed new text for this DforU paragraph. | The committee has revised the new sentence in the Directions for Use to make it clear that the material referenced is the same paragraph. The committee declines to make the other changes suggested, and notes that Directions for Use may address issues that must be decided by the court, not the jury. |
| | | 5. Directions for Use: first paragraph: At a minimum, I would put the new sentence last; the need to flip the instruction if the contractor is the plaintiff is much more likely to come up. And again, agreeing to be solely | The committee declines to make the suggested nonsubstantive changes. |

ITC CACI 20-02

Civil Jury Instructions (CACI)

All comments are paraphrased unless indicated by quotation marks.

| Instruction(s) | Commenter | Comment | Committee Response |
|----------------------------------|---|--|---|
| | | <p>responsible for completion of construction is just another way to “perform services,” so I don’t see any need to modify the instruction on the <i>Vallejo</i> facts.</p> <p>Fine to add <i>Vallejo</i> to the SandA.</p> | <p>No response required.</p> |
| | <p>Orange County Bar Association (OCBA) By Scott B. Garner, President</p> | <p>“The OCBA recommends that this instruction be modified both in its new ‘optional’ language at the last paragraph and in its ‘Sources and Authority’ to more clearly reference the holdings that an unlicensed contractor may be found to have ‘substantially complied’ with the licensing requirements by acting reasonably and in good faith. An evidentiary hearing is required to make those determinations as set forth at Bus.& Prof. Code §7031(e) and <i>C.W. Johnson & Sons vs Carpenter</i> (August 7, 2020) 2020 Cal.App. LEXIS 742, 2020 DJDAR 8462, notwithstanding Bus.& Prof. Code §143(b). The optional language at the last paragraph of the instruction should have added at its ending the proposed new language: ‘or proved substantial compliance with the licensing requirements.’ ”</p> | <p>The committee declines to expand the optional language because substantial compliance under subdivision (e) is a judicial doctrine and not a jury issue. With respect to the new case, the committee will consider adding <i>C.W. Johnson & Sons</i> to the Sources and Authority in the next release cycle.</p> |
| <p>All except as noted above</p> | <p>California Lawyers Association, Litigation Section, Jury Instructions Committee By Reuben A. Ginsburg, Chair, Sacramento</p> | <p>Agree (418, 430, 435, 2210, 2511, 3801, 3903C, 3903D, 3906)</p> | <p>No response required.</p> |
| <p>All except as noted above</p> | <p>Orange County Bar Association (OCBA)</p> | <p>Agree (418, 430, 435, 1814, 2210, 3801, 3903C, 3903D, 3906, 4320)</p> | <p>No response required.</p> |

ITC CACI 20-02

Civil Jury Instructions (CACI)

All comments are paraphrased unless indicated by quotation marks.

| Instruction(s) | Commenter | Comment | Committee Response |
|----------------|----------------------------------|---------|--------------------|
| | By Scott B. Garner, President | | |



Adam Bereki <abereki@gmail.com>

Public Records Act Request

1 message

Adam <abereki@gmail.com>

Mon, Dec 14, 2020 at 10:57 AM

To: "RecCert@CSLB" <reccert1@cslb.ca.gov>

To Whom it May Concern:

Please provide all documents in your custody or control pertaining to the complaint filed by Tamberly Homeowners Association against Blackrock General Inc DBA Handyman Connection San Diego LIC#944018. Specifically, I am looking for all notes, recordings, internal memorandums, call logs, or other documents pertaining to the CSLB's investigation of this complaint and all notes that were made by the CSLB's investigators pertaining to calls made in pursuance thereof. Additionally, please provide a copy of the complaint made by Tamberly and any evidence or additional complaints submitted therewith or at the mandatory arbitration proceeding. I do not need a copy of the arbitration file unless the aforementioned documents I requested have been added to the file since August 2017 when you provided me a certified copy thereof. Please call me with any questions.

Please provide your response in digital fashion as a reply to this email.

Sincerely,

Adam Bereki
949.241.6693



Adam Bereki <abereki@gmail.com>

Public Records Act Request

RecCert@CSLB <RecCert1@cslb.ca.gov>
To: Adam <abereki@gmail.com>

Thu, Dec 24, 2020 at 10:57 AM

Good morning,

Please see the attached Public Records Act response. Thank you.

Have a wonderful day,

Katrina Galbraith

*Please Note: Due to the COVID-19 health emergency, many CSLB employees are teleworking. This could delay some of our services or response times.

Learn more about the effects of the pandemic on CSLB services at www.cslb.ca.gov.

From: Adam <abereki@gmail.com>
Sent: Monday, December 14, 2020 10:58 AM
To: RecCert@CSLB <RecCert1@cslb.ca.gov>
Subject: Public Records Act Request

CAUTION: This email originated from outside of CSLB. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]

 **Adam Bereki Public Records Request 12-14-2020.pdf**
34K



CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, CA 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95826
800.321.CSLB (2752) | www.cslb.ca.gov | CheckTheLicenseFirst.com

STATE OF CALIFORNIA
Governor Gavin Newsom

December 24, 2020

Adam Bereki
mailto:abereki@gmail.com

Dear Mr. Bereki,

The Contractor State License Board (Board) is in receipt of your Public Records Act (PRA) request of December 14, 2020. Your request asks for the production of the following records:

"Please provide all documents in your custody or control pertaining to the complaint filed by Tamberly Homeowners Association against Blackrock General Inc DBA Handyman Connection San Diego LIC#944018. Specifically, I am looking for all notes, recordings, internal memorandums, call logs, or other documents pertaining to the CSLB's investigation of this complaint and all notes that were made by the CSLB's investigators pertaining to calls made in pursuance thereof. Additionally, please provide a copy of the complaint made by Tamberly and any evidence or additional complaints submitted therewith or at the mandatory arbitration proceeding. I do not need a copy of the arbitration file unless the aforementioned documents I requested have been added to the file since August 2017 when you provided me a certified copy thereof."

The Board performed a search and has found responsive records. However, those records are exempt from production under Government Code section 6254, subdivision (f). Records of complaints and investigations are exempt from production under that section. As such, the Board declines to produce the requested records.

If you have any questions or need further assistance, please contact me at the address above or via telephone at (916) 255-2509.

Sincerely,

Katrina Galbraith

Katrina Galbraith
Staff Services Analyst
Record Certification Unit



Adam Bereki <abereki@gmail.com>

Public Records Act Request 12/17/20

1 message

Adam <abereki@gmail.com>
To: DGSOAHFeedback@dgs.ca.gov

Thu, Dec 17, 2020 at 11:07 AM

Please provide all documents in your custody or control pertaining to Mandatory Binding Arbitration administered by the Office of Administrative Hearings or pursuant to any agency regulation whom the OAH administers arbitration or dispute resolution for.

Please reply to this email with your response in the time allotted by law.

Sincerely,

Adam Bereki
949.241.6693



Adam Bereki <abereki@gmail.com>

Public Records Act Request 12/17/20

OAHPRA@DGS <OAHPRA@dgs.ca.gov>
To: Adam <abereki@gmail.com>

Mon, Jan 25, 2021 at 9:55 AM

Hi Adam – yes, both are correct. I’m sorry I wasn’t able to provide you more information. Thanks, Asa

Asa Marie Standfeldt

Attorney III

Office of Administrative Hearings

2349 Gateway Oaks Drive, Suite 200

Sacramento, CA 95833

(916) 263-0550

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From: Adam <abereki@gmail.com>
Sent: Friday, January 22, 2021 2:15 PM
To: OAHPRA@DGS <OAHPRA@dgs.ca.gov>
Subject: Re: Public Records Act Request 12/17/20

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[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

Public Records Act Request 12/17/20

OAH PRA@DGS <OAH PRA@dgs.ca.gov>

Tue, Jan 19, 2021 at 4:30 PM

To: Adam Bereki <abereki@gmail.com>, "OAH PRA@DGS" <OAH PRA@dgs.ca.gov>

Hi Adam – my apologies for the delay. Our PRA coordinator has been out for a while and we are all trying to chip in to cover these requests.

With respect to your request for information, OAH contracts with a number of state and local agencies to provide dispute resolution. Whether any of those services cover arbitration is determined by the state laws, regulations or local laws/ordinances that cover those specific agency rules and policies.

We do not have separate procedures or policies for arbitration other than those set out in the law. While arbitration may be available to an agency, we are not aware of any such arbitration conducted by OAH in years (and Bob Varma has been with OAH for more than 10 years).

OAH also administers the Public Works Contract Administration (PWCA) program. That program uses arbitration as part of its process. However, the parties themselves select a private arbitrator. OAH acts as the scheduler for the arbitration and collects the arbitrator's fees from the party responsible for such fees. As such, OAH does not have substantive role in the arbitration.

OAH has internal staff instructions on how to run the PWCA program. We can provide those instructions to you if you would like. Please let me know if that is the type of information you are seeking.

Thank you,

Asa Marie Standfeldt

Attorney III

Office of Administrative Hearings

2349 Gateway Oaks Drive, Suite 200

Sacramento, CA 95833

(916) 263-0550

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From: Adam Bereki <abereki@gmail.com>
Sent: Friday, January 15, 2021 1:39 PM
To: OAHPR@DGS <OAHPR@dgs.ca.gov>
Subject: Fwd: Public Records Act Request 12/17/20

CAUTION: This email originated from a NON-State email address. Do not click links or open attachments unless you are certain of the sender's authenticity.

[redacted]



Adam Bereki <abereki@gmail.com>

Public Records Act Request 12/17/20

Adam <abereki@gmail.com>

Fri, Jan 22, 2021 at 2:14 PM

To: "OAH PRA@DGS" <OAH PRA@dgs.ca.gov>

Hi Asa. Thanks for your reply.

1) Just to confirm the OAH does not have any documents pertaining to any rules, regulations, or procedures for administering mandatory arbitration on behalf of any state agency that it serves?

2) In your reply you stated "*While arbitration may be available to an agency, we are not aware of any such arbitration conducted by OAH in years (and Bob Varma has been with OAH for more than 10 years).*" By "any such arbitration", do you mean mandatory arbitration? Confirming you have no knowledge of any mandatory arbitration administered by or in connection with the OAH?

Thank you for your help.

Sincerely,

Adam Bereki

[Quoted text hidden]



CITY OF SANTA ANA

Clerk of the Council Office

20 Civic Center Plaza, Room 809

P.O. Box 1988,

M-30 Santa Ana, CA 92702

PHONE: (714) 647-6520

FAX: (714) 647-6956

Request for Public Records

Your request will be processed in compliance with the Public Records Act California Government Code § 6253.

Public records are accessible at all times during regular office hours and can be inspected at no charge. The more specific you are with the information you are requesting, the more responsive we may be to your request.

Copies may be provided in most instances upon request, unless documents are archived or need to be gathered. Requestor will be notified in writing if additional time will be necessary pursuant to the Public Records Act. All document duplication fees are due and payable in full and are based on the City's current fee resolution.

Name:

Adam

First

Middle

Bereki

Last

Mailing Address:

Street

City

Zip Code

Phone:

Fax:

E-Mail: *

abereki@gmail.com

I would like to: *

OBTAIN A COPY OF

(\$0.20/page unless otherwise specified by the law)

Request Type:

Police Department

Note: Police audio recordings are not available on all telephone lines for calls received in the Police Department. Recordings, if available, are retained for 180 days.

Incident Date and Time

Incident Type

Incident or Case Number

Location or Address:

(?)

Date Range: (?)**Description of
Records: * (?)**

Please provide all records in your custody and control allowable to be released under statute pertaining to Citizen Complaint PSU2020-0035. This includes all audio tapes and written reports of interviews, a report of findings of fact by Sgt. Macchiaroli, a report of findings and conclusions by the SAPD personnel who determined that the complaint "did not rise to the level of misconduct", and any research materials obtained by Macchiaroli or the SAPD pursuant to its investigation or findings. Also, provide the names of all SAPD personnel (first and last names) who were involved in the investigation in any way, what their role was, their signed oath of office, and date of appointment to their current office.

Please email these documents to me at abereki@gmail.com.

Sincerely,

Adam Bereki

**Optional PDF
Attachment: (?)**



Adam Bereki <abereki@gmail.com>

Public Records Request ID #9861

1 message

Morishima, Karen <kmorishima@santa-ana.org>
To: "abereki@gmail.com" <abereki@gmail.com>

Wed, Jan 13, 2021 at 12:49 PM

Mr. Bereki,

This email serves as notification that your public records request has been processed and completed. I have attached a copy of your original request

Regards,

Karen Morishima

Senior Office Assistant | Internal Affairs Division

Santa Ana Police Department

714- 245-8011 / kmorishima@santa-ana.org

***CAUTION-CONFIDENTIAL:** The information contained in this email message and any attachments are intended solely for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution of copy of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply email and destroy all copies of the original message.*

 **PRA ID 9861.pdf**
3307K



CITY OF SANTA ANA

Clerk of the Council Office

20 Civic Center Plaza, Room 809

P.O. Box 1988,

M-30 Santa Ana, CA 92702

PHONE: (714) 647-6520

FAX: (714) 647-6956

Request for Public Records

Your request will be processed in compliance with the Public Records Act California Government Code § 6253.

Public records are accessible at all times during regular office hours and can be inspected at no charge. The more specific you are with the information you are requesting, the more responsive we may be to your request.

Copies may be provided in most instances upon request, unless documents are archived or need to be gathered. Requestor will be notified in writing if additional time will be necessary pursuant to the Public Records Act. All document duplication fees are due and payable in full and are based on the City's current fee resolution.

Name:

Adam

Boreki

First

Middle

Last

Mailing Address:

Street

City

Zip Code

Phone:

Fax:

E-Mail:*

abereki@gmail.com

I would like to:*

OBTAIN A COPY OF

(\$0.20/page unless otherwise specified by the law)

Request Type:

Police Department

Note: Police audio recordings are not available on all telephone lines for calls received in the Police Department. Recordings, if available, are retained for 180 days.

Incident Date and Time

Incident Type

Incident or Case Number

Location or Address:

(?)

Date Range: (?)

**Description of
Records:** * (?)

Please provide all records in your custody and control allowable to be released under statute pertaining to Citizen Complaint PSU2020-0035. This includes all audio tapes and written reports of interviews, a report of findings of fact by Sgt. Macchiaroli, a report of findings and conclusions by the SAPD personnel who determined that the complaint "did not rise to the level of misconduct", and any research materials obtained by Macchiaroli or the SAPD pursuant to its investigation or findings. Also, provide the names of all SAPD personnel (first and last names) who were involved in the investigation in any way, what their role was, their signed oath of office, and date of appointment to their current office.

Please email these documents to me at abereki@gmail.com.

Sincerely,

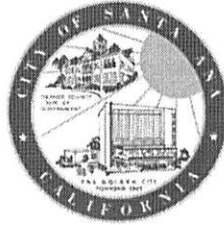
Adam Bereki

**Optional PDF
Attachment:** (?)

PRR ID: 9861

Submitted: 12/27/2020 10:33:36 AM

MAYOR
Vicente Sarmiento
MAYOR PRO TEM
David Penaloza
COUNCILMEMBERS
Phil Bacerra
Johnathan Ryan Hernandez
Jessie Lopez
Nelida Mendoza
Thai Viet Phan



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA
SANTA ANA POLICE DEPARTMENT
20 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org

January 13, 2021

SENT VIA EMAIL
abereki@gmail.com

Re: Response to Public Records Act Request - Denial

Dear Mr. Bereki,

The City is in receipt of your Request for Public Records dated December 27, 2020 wherein you requested the following:

1. All records in our custody and control allowable to be released under statute pertaining to Citizen Complaint PSU2020-035. All audio tapes, written reports of interviews, the report of findings of fact by Sgt. Macchiaroli, the report of findings and conclusions by the SAPD personnel who determined that the complaint did not rise to the level of misconduct, and any research materials obtained by Sgt. Macchiaroli or the SAPD pursuant to its findings. Provide the names of all SAPD personnel (first and last names) who were involved in the investigation in any way and what their role was.

Since the City is not providing the exempt information described above, the CPRA requires the City to provide a written response when a records request is denied, either in whole or in part. (Gov. Code § 6255, subd.(b)). The records you have requested will not be disclosed and are exempt from disclosure. Specifically, internal affairs investigative files involving personnel of an agency that employs peace officers are confidential and exempt from disclosure pursuant to Government Code §6254(k) (*Penal Code* §§ 832.5, 832.7, 832.8; *Evidence Code* §§ 1043, 1045.) The records are also exempt from disclosure pursuant to Government Code §6255(a) in that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure records that are the subject of an active administrative investigation. Furthermore, the records requested do not fall under the categories set forth in Penal Code § 832.7(b)(1).

The discovery and disclosure of the personnel records of peace officers are governed exclusively by the Pitchess motion statute contained in the Evidence Code and Penal Code. If a requestor does not utilize specific procedures in Evidence Code § 1043, and absent a court order, an agency is under no obligation to respond to a request for production of personnel file records.

2. Officer(s) signed Oaths of Office and date of appointment to their current office.

Your request is vague, overbroad and does not specify which "Officers" Oaths of Office you are seeking. If you are seeking the Oaths of Office of Commander Rodriguez, Sergeant Hernandez, and Sergeant Alcantar,

SANTA ANA CITY COUNCIL

Vicente Sarmiento
Mayor
sarmiento@santa-ana.org

David Penaloza
Mayor Pro Tem, Ward 2
dpenaloza@santa-ana.org

Thai Viet Phan
Ward 1
tphan@santa-ana.org

Jessie Lopez
Ward 3
jessielopez@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Johnathan Ryan Hernandez
Ward 5
jryanhernandez@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

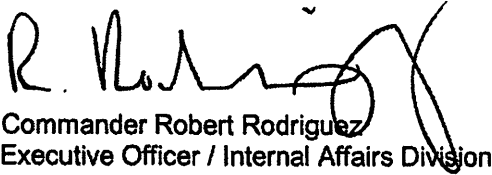
EXHIBIT-C 2665

the City previously produced redacted records to you on August 17, 2020. As a courtesy, we are providing the City's (August 17, 2020) response and records to you again.

Pursuant to Government Code §6253(d)(3), the person responsible for the denial is Chief of Police David Valentin. This response is meant to completely comply with your request. Should you have any questions, please contact (714) 245-8016.

Sincerely,

DAVID VALENTIN
Chief of Police



Commander Robert Rodriguez
Executive Officer / Internal Affairs Division

SANTA ANA CITY COUNCIL

Vicente Sarmiento
Mayor
vsarmiento@santa-ana.org

David Penaloza
Mayor Pro Tem, Ward 2
dpenaloza@santa-ana.org

Thai Viet Phan
Ward 1
thphan@santa-ana.org

Jessie Lopez
Ward 3
jessielopez@santa-ana.org

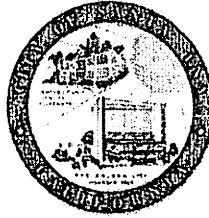
Phil Bacarra
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Johnathan Ryan Hernandez
Ward 5
jrvanhernandez@santa-ana.org

Naldia Mendoza
Ward 6
nmendoza@santa-ana.org

EXHIBIT-C 2666

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Nelida Mendoza
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA
POLICE DEPARTMENT
60 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pd

August 17, 2020

VIA E-MAIL ONLY

Adam Bereki
abereki@gmail.com

SENT VIA EMAIL ONLY

Re: Public Records Act Request

Dear Mr. Bereki,

The Santa Ana Police Department has completed its review and evaluation of your request for public records, which was received by City staff on August 6, 2020 regarding the following information:

- A) Provide all documents evidencing the date of creation for the record you provided entitled "Oath of Office.pdf".

There are no records that reflect the date the Oath of Office record was "created". Notwithstanding, the Oath of Office record was last revised on March 27, 2019 at 08:49:42 a.m. - refer to the attached document. As you can see, the Oath of Office records provided for Commander Rodriguez, Sergeant Hernandez, Sergeant Alcantar (pursuant to their consent) indicates they were previously revised on January 5, 1996.

- B) Provide the all of the documents requested including each officer's date of hire, oath of office, each position occupied within the department throughout their course and scope of employment, and the date of appointment to said position.

Pursuant to your agreement on August 13, 2020, wherein you limited your request for the Oaths of Office for Commander Rodriguez, Sergeant Hernandez, Sergeant Alcantar and Sergeant Macchiaroli.

See attached the Oath of Office records, with redactions, for Commander Rodriguez, Sergeant Hernandez and Sergeant Alcantar pursuant to each officer's verbal consent to release this record only. Redactions have been made pursuant Government Code §6255(a), as the public interest served by not disclosing the record clearly outweighs the

SANTA ANA CITY COUNCIL

Miguel A. Pulido
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mpulido@santa-ana.org

Juan Villegas
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Vicente Sarmiento
Ward 1
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Phi Bacerra
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Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

EXHIBIT-C 2667

public interest served by disclosure of portions of the record (PERS enrollment, previous employment and signature).

Sergeant Macchiaroli did not give consent to release her Oath of Office record, and as such, it will not be disclosed pursuant to Government Code §6254(c) which exempts, "personnel, medical or similar files the disclosure of which would constitute an unwarranted invasion of personal privacy." Specifically, personnel files of an agency that employs peace officers are confidential and exempt from disclosure pursuant to Government Code §6254(k) [Penal Code §§ 832.7; Evidence Code §§ 1043]. Additionally, the records are exempt from disclosure pursuant to Government Code §6255(a), as the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of personnel records.

See attached record that provides each of the requested officers' date of hire, position and dates of appointment to each position.

Pursuant to Government Code §6253(d)(3), the person responsible for the denial and redactions is Chief of Police David Valentin. This response is meant to completely comply with your request. Should you have any questions, please contact Sergeant Matt Wharton at (714) 245-8501.

Sincerely,

DAVID VALENTIN
Chief of Police



ENRIQUE ESPARZA
Deputy Chief, Administration Bureau

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
juvillgas@santa-ana.org

Vicente Sarmiento
Ward 1
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David Penaloza
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Jose Solorio
Ward 3
jsolorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida M.
Ward
nmendocia@santa-ana.org

EXHIBIT-C 2668



OATH OF OFFICE

State of California)
County of Orange) SS
City of Santa Ana)

I, Abel Adcantar, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: NO EXCEPTIONS (if no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of Police Officer Lateral (name of office) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

03-19-98 Date Signature

Note: As an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee, C.C.P. SS 2015.6

Are you an active member of the Public Employee's Retirement System (PERS)?

[Redacted signature line]

Have you had any other public employment in California, not covered by PERS?

[Redacted signature line]



OATH OF OFFICE

State of California)
County of Orange) SS
City of Santa Ana)

I, Gilbert Hernandez, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: NO EXCEPTIONS (if no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of Police Officer (name of office) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

09-22-03 Date Signature

Note: As an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee. C.C.P. SS 2015.6

Are you an active member of the Public Employee's Retirement System (PERS)?

[Redacted answer]

Have you had any other public employment in California, not covered by PERS?

[Redacted answer]



OATH OF OFFICE

State of California)
County of Orange) SS
City of Santa Ana)

I, Robert P. Rodriguez, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: NO EXCEPTIONS (if no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of Police Officer (name of office) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

9-29-00 Date [Redacted] Signature

Note: As an affirmation in lieu of an oath, this form is sufficient if dated and subscribed by the employee. C.C.P. SS 2015.6

Are you an active member of the Public Employee's Retirement System (PERS)?

[Redacted]

Have you had any other public employment in California, not covered by PERS?

[Redacted]

| Timestamp | Action Type | Performed By | Performed By Employee # | Description |
|------------------------|--------------------------|----------------|-------------------------|---|
| 05/10/2019 08:47:06 AM | Form settings changed. | Angela Maynard | 107131 | Print Only Font Size changed from "26" t |
| 03/29/2019 01:00:11 AM | Form settings changed. | System | System | Status changed from "Pending" to "Active" |
| 03/27/2019 08:53:53 AM | Form settings changed. | Angela Maynard | 107131 | Multiple properties changed |
| 03/27/2019 08:49:42 AM | New form version created | Angela Maynard | 107131 | New version of "Date of Office" created |

Alcantar, Abel

Date of hire: 04/01/1998

Corporal: 05/31/2012

Corporal Lead: 07/27/2014

Sergeant: 08/01/2017

Hernandez, Gilbert

Date of hire: 10/13/2003

Corporal: 02/02/2011

Detective Sergeant: 07/01/2014

Sergeant: 07/01/2019

Macchiaroli, Michelle

Date of hire: 02/14/2000

Corporal: 08/01/2005

Detective: 10/15/2008

Corporal: 06/04/2012

Corporal lead: 03/09/2014

Corporal: 02/07/2016

Corporal lead: 06/01/2016

Acting Sergeant: 06/21/2016

Sergeant: 03/05/2017

Rodriguez, Robert

Date of hire: 11/01/2000

Detective: 05/01/2006

Corporal: 02/15/2009

Sergeant: 03/07/2014

Commander: 04/01/2018



Adam Bereki <abereki@gmail.com>

PRA REQUEST- BEREKI 010321

1 message

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Sun, Jan 3, 2021 at 8:45 AM

Good day. Happy new year.

Please see the attached request.

Sincerely,

Adam Bereki

 **PRA REQUEST BEREKI 010321.pdf**
263K



REQUEST FOR JUDICIAL ADMINISTRATIVE RECORDS

Under California Rules of Court, rule 10.500

Requester Information

Name Adam Bereki

Organization N/A

Address 818 Spirit, Costa Mesa, CA 92626
(include city and state)

Zip Code _____

Telephone Number & Email Address () abereki@gmail.com

Description of Information Requested

Please be as specific as possible. Attach additional sheets of paper as necessary.

Please provide all documents in your custody and control evidencing:
(1) the names of the justices of the Supreme Court of California who served on the Court at the time of the denial of the Petition in case#S252954 on January 30, 2019; (2) which justices voted to deny the Petition in S252954; (3) the Oath of for each of the Justices involved in S252954; (4) the Oath of Office for Attorney J Scott Russo. This information was requested to the Supreme Court of California on November 29, 2020 and no reply has been received.

Please reply via email to: abereki@gmail.com

Will the requested records be used to further your or someone else's commercial, trade, or profit interest?

If so, fees may be reasonably calculated to cover direct costs of duplication or production of records.

YES

NO

Have you recently requested these materials from someone at the Judicial Council of California or a court? This information will help us more quickly answer your request.

YES Judicial Council Courts

Name of person & Date of request:
See above.

NO

SUBMIT THIS FORM

1) *By Mail:*
Public Access to Judicial Administrative Records
Legal Services
455 Golden Gate Avenue
San Francisco, California 94102

2) *By E-mail:* PAJAR@jud.ca.gov

EXHIBIT-C 2675



Adam Bereki <abereki@gmail.com>

PRA Request 02/11/21

2 messages

Adam <abereki@gmail.com>
To: Prarequests <prarequests@ocsd.org>

Thu, Feb 11, 2021 at 11:53 AM

Good day,

Please provide all documents in your custody or control: (1) evidencing the oath of office for sheriff Don Barnes; (2) evidencing any and all agreements signed by the following personnel to abide by the law enforcement code of ethics and department policies and procedures: Don Barnes, Ehren Weidenkeller, Gary Knutson, Jeff Hallock, Ross Caouette,

Sincerely,

Adam Bereki

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Mon, Feb 22, 2021 at 1:10 PM

Hello Mr. Bereki,

Attached are the records responsive to your request. Regarding number two (2) of your request, employees are required to electronically acknowledge receipt and review of Department policies and there is not a signature accompanying this electronic acknowledgment. We have enclosed a copy of the Equipment Issue Inventory form which was located by our Professional Standards Division staff. The form was signed to acknowledge receipt of the Department's Rules and Regulations and other items. The policies are available publicly and may be accessed through the Sheriff's website at the following link:

<https://ocsheriff.gov/about-ocsd/policies>.

Sincerely,

Veronica Musico

Staff Specialist – CPRA Unit

Orange County Sheriff's Department

714-834-6449

[Quoted text hidden]

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links.
Forward suspicious messages to Helpdesk@ocsd.org.

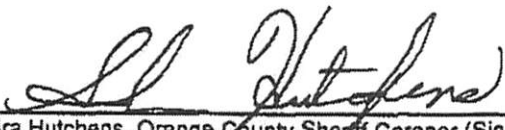
 **Bereki.8455.pdf**
1924K



Certificate of Appointment-Oath/Affirmation

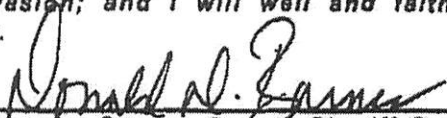
STATE OF CALIFORNIA }
County of Orange } ss.

I, **Don Barnes, Sheriff-Coroner, County of Orange, State of California**, do hereby appoint in and for said County of Orange given under my hand this 7th day of January 2019.


Sandra Hutchens, Orange County Sheriff-Coroner (Signature)

Sandra Hutchens
Sandra Hutchens, Orange County Sheriff-Coroner
(Printed Name)

I, Don Barnes, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and I will well and faithfully discharge the duties upon which I am about to enter.


Don Barnes, Orange County Sheriff-Coroner

Area reserved for
Clerk-Recorder use only

FILED

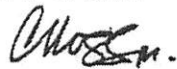
JAN 07 2019

ORANGE COUNTY CLERK-RECORDER DEPARTMENT

BY: NA DEPUTY

STATE OF CALIFORNIA }
County of Orange } ss.

Subscribed and sworn to before me, JANUARY 7, 2019.


Submitting Agency's Authorized Deputy Signature

Michelle Cross, Clerk of the Board
Printed Name of Agency's Authorized Deputy

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
 PERSONNEL-TRAINING DIVISION
 EQUIPMENT ISSUE INVENTORY

NAME *Bacors, Donald*

DATE APPOINTED *3-16-89*

| QUANTITY | ITEM | DATE OF ISSUE | DATE RETURNED |
|----------|-----------------------------------|----------------|---------------|
| | REVOLVER Type Serial# | | |
| | HANDCUFFS Type Serial# | | |
| | BADGE Type Number | | |
| 1 | CAP BADGE | | |
| 1 | SHERIFF'S DEPARTMENT ID CARD | | |
| | COUNTY ID CARD | | |
| 1 | RULES & REG. MANUAL #56 Number | | |
| | KEY NUMBER | | |
| 1 | NAME TAG | | |
| 1 | JACKET, Nylon Duty | | |
| | JACKET, Regular Dress | | |
| 2 | TROUSERS | | |
| | SHIRTS, Winter | | |
| 2 | SHIRTS, Summer | | |
| 1 | CAP | | |
| 1 | BATON RING STRAP | | |
| 4 | BELT KEEPERS | | |
| | HANDCUFF CASE | | |
| 2 | RELOADER / Type <i>Dad</i> | | |
| 1 | WALLET | | |
| 1 | GUN BELT | | |
| 1 | TROUSER BELT | | |
| 1 | KEY STRAP | | |
| 1 | BATON <i>16mm</i> | | |
| | RADIO CODE BOOK | | |
| 1 | RAIN GEAR | <i>10-3-97</i> | |

I understand and agree that the above checked items of County property have been or will be issued to me and are to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final severance pay for any of the items not so returned.

X Donald Wade Bacors

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
 PROFESSIONAL STANDARDS DIVISION
 EQUIPMENT ISSUE INVENTORY

NAME: JEFFREY A. HALLOCK

DATE APPOINTED: 8-26-96

| QUANTITY | ITEM | DATE OF ISSUANCE | | INITIALS | DATE RETURNED |
|----------|--|------------------|----------------|----------|---------------|
| | | Item | Purch. Order | | |
| 1 | BADGE Deputy Sheriff Type PIN Number [redacted] | 8-21-96 | | JH | |
| 1 | CAP BADGE | 8-21-96 | | JH | |
| 1 | SHERIFF'S DEPARTMENT I.D. CARD | 8-21-96 | | JH | |
| 1 | RULES & REG. Manual Book # <u>3331</u> | 8-21-96 | | JH | |
| 1 | KEY # <u>1151</u> | 8-21-96 | | | |
| 1 | NAME BAR | 8-21-96 | <u>A97-239</u> | JH | |
| 1 | JACKET New Generation (Patrol) | 8-21-96 | | JH | |
| | JACKET (CST/Dispatcher) | | | | |
| 2 | TROUSERS | 8-21-96 | | JH | |
| 2 | SHIRTS, Long Sleeve | | | | |
| 2 | SHIRTS, Short Sleeve | 8-21-96 | | JH | |
| 1 | CAP | 8-21-96 | | JH | |
| 1 | BATON RING STRAP | 8-21-96 | | JH | |
| 4 | BELT KEEPERS | 8-21-96 | | JH | |
| 1 | HANDCUFF CASE | 8-21-96 | | JH | |
| 1 | GUN BELT | 8-21-96 | | JH | |
| 1 | TROUSER BELT | 8-21-96 | | JH | |
| 1 | KEY STRAP | 8-21-96 | | JH | |
| 1 | BATON issued at training | 8-21-96 | | JH | |
| | RAIN GEAR | | | | |

I understand and agree that the above checked items of County property (or a purchase order for the items) have been issued to me. All County issued property is to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final paycheck for any of the items not so returned.

DATE: 8-21-96

SIGNATURE: Jeffrey A. Hallock

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PERSONNEL DIVISION
EQUIPMENT ISSUE INVENTORY

NAME: Knutson, Gary Lee

DATE APPOINTED: 8-25-95

| QUANTITY | ITEM | Serial # | DATE OF ISSUANCE | DATE RETURNED |
|----------|--------------------------------|-------------------|----------------------|---------------|
| | REVOLVER | | | |
| | Type | Serial # | | |
| | HANDCUFFS | | | |
| | Type | Serial # | | |
| 1 | BADGE | | | |
| 1 | Type PIN | Number [REDACTED] | 8-8-95 | |
| | CAP BADGE | | 8-8-95 | |
| 1 | SHERIFF'S DEPARTMENT I.D. CARD | | 8-8-95 | |
| 1 | RULES & REG. MANUAL | | | |
| | Number 0290 | | 8-8-95 | |
| 1 | KEY NUMBER 1151 | | 5-2-00 | |
| 1 | NAME TAG | | 5-5-99 | |
| | | | 8-8-95 | |
| 1 | JACKET, Nylon Duty | | 8-8-95 | |
| | JACKET, Regular Dress | | | |
| 2 | TROUSERS | | 8-8-95 | |
| | SHIRTS, Winter | | | |
| 2 | SHIRTS, Summer | | 8-8-95 | |
| 1 | CAP | | 8-8-95 | |
| 1 | BATON RING STRAP | | 8-8-95 | |
| 4 | BELT KEEPERS | | 8-8-95 | |
| 1 | HANDCUFF CASE | | 8-8-95 | |
| 1 | RELOADER | Type | issued from training | |
| 1 | HOLSTER | | issued from training | |
| 1 | GUN BELT | | 8-8-95 | |
| 1 | TROUSER BELT | | 8-8-95 | |
| 1 | KEY STRAP | | 8-8-95 | |
| 1 | BATON | | issued from training | |
| | RADIO CODE BOOK | | | |
| | RAIN GEAR | | | |

I understand and agree that the above checked items of County property have been or will be issued to me and are to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final severance pay for any of the items not so returned.

DATE: 8-8-95

SIGNATURE: [Signature]

**ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
PROFESSIONAL STANDARDS DIVISION
EQUIPMENT ISSUE INVENTORY**

NAME: Ross Wilfred Caouette

DATE APPOINTED: 10/12/01

| QUANTITY | ITEM | DATE OF ISSUANCE | | INITIALS | DATE RETURNED |
|----------|--|------------------|----------------|----------|---------------|
| | | Item | Purchase Order | | |
| 1 | BADGE: Deputy Sheriff Type: Pin-on # [REDACTED] | 09-21-01 | | * RWC | |
| 1 | CAP BADGE | " | | * RWC | |
| 1 | SHERIFF'S DEPT. ID CARD | " | | * RWC | |
| 1 | RULES & REGS. MANUAL Book # | " | | * RWC | |
| | KEY # 1151 [initials] | | | * RWC | |
| 1 | NAME BAR | 09-21-01 | D02-1088 | * RWC | |
| 1 | JACKET New Generation (Patrol) | " | " | * RWC | |
| | JACKET (CST/Dispatcher) | | | * RWC | |
| | CARDIGAN SWEATER | | | | |
| 2 | TROUSERS | 09-21-01 | D02-1088 | * RWC | |
| 1 | SHIRTS, Long Sleeve | | | * RWC | |
| 2 | SHIRTS, Short Sleeve | | | * RWC | |
| 1 each | TIE & TIE BAR | | | * RWC | |
| 1 | CAP | | | * RWC | |
| 1 | BATON RING STRAP | | | * RWC | |
| 4 | BELT KEEPERS | | | * RWC | |
| 1 | HANDCUFF CASE | | | * RWC | |
| 1 | GUN BELT | | | * RWC | |
| 1 | TROUSER BELT | | | * RWC | |
| 1 | KEY STRAP | | | * RWC | |
| 1 | BATON | | | * RWC | |
| | RAINGEAR | | | * RWC | |
| 1 | PEPPER SPRAY HOLDER | 09-21-01 | D02-1088 | * RWC | |

I understand and agree that the above checked items of County property (or a purchase order for the items) have been issued to me. All County issued property is to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final paycheck for any of the items not so returned.

DATE: 9-21-01

SIGNATURE: [Signature]

ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
 PERSONNEL DIVISION
 EQUIPMENT ISSUE INVENTORY

NAME: WEIDENKELLER, EHREN

DATE APPOINTED: 01-03-95

| QUANTITY | ITEM | Serial # | DATE OF ISSUANCE | DATE RETURNED |
|----------|---|----------|------------------|---------------|
| | REVOLVER Type | Serial # | | |
| | HANDCUFFS Type | Serial # | | |
| 1 | BADGE Type <u>PIN</u> | Number | | |
| 1 | CAP BADGE | | <u>6-21-95</u> | |
| 1 | SHERIFF'S DEPARTMENT I.D. CARD | | <u>12-21-94</u> | |
| 1 | RULES & REG. MANUAL Number <u>3014</u> | | <u>12-21-94</u> | |
| 1 | KEY NUMBER <u>1151</u> | | <u>12-21-94</u> | |
| 1 | NAME TAG | | <u>7-7-95</u> | |
| 1 | JACKET, Nylon Duty | | <u>2-8-95</u> | |
| | JACKET, Regular Dress | | <u>2-8-95</u> | |
| 2 | TROUSERS | | <u>2-8-95</u> | |
| | SHIRTS, Winter | | | |
| 2 | SHIRTS, Summer | | | |
| 1 | CAP | | <u>2-8-95</u> | |
| 1 | BATON RING STRAP | | <u>2-8-95</u> | |
| 4 | BELT KEEPERS | | <u>2-8-95</u> | |
| 1 | HANDCUFF CASE | | | |
| 1 | RELOADER Type | | | |
| 1 | HOLSTER | | | |
| 1 | GUN BELT | | | |
| 1 | TROUSER BELT | | | |
| 1 | KEY STRAP | | | |
| 1 | BATON | | | |
| | RADIO CODE BOOK | | | |
| | RAIN GEAR | | | |

I understand and agree that the above checked items of County property have been or will be issued to me and are to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final severance pay for any of the items not so returned.

DATE: 12-21-94

SIGNATURE: [Signature]



Adam Bereki <abereki@gmail.com>

PRA Request 2/5/21

4 messages

Adam <abereki@gmail.com>

Fri, Feb 5, 2021 at 10:55 AM

To: Prarequests <prarequests@ocsd.org>

Good day,

On 12/17/20 and 12/20/20, I made a complaint via email to Lt. Gary Knutson, Commander Ross Caouette, Undersheriff Jeff Hallock, and Inv. Mike Leeb regarding the handling of case number 20-029161.

On 12/18/20, Lt. Knutson responded and told me he would look into the matter and get back to me.

As this complaint pertains to the abuse of authority/derelection of duty by members of all three branches of California's government and includes the taking of my liberty and property without due process, it is of paramount importance that immediate remedial action be taken. After more than a month, I have not received a response from Lt. Knutson.

To follow up, I sent Knutson an email on 1/22/21. My email requested that he share the status of his investigation. He did not respond. I sent another follow up email on 2/3/21 and have not received a response.

Please provide all documents in your custody or control evidencing the following:

All notes, emails, audio recordings, reports, supplemental reports, memorandums, or any other documents pertaining to my email complaints on 12/17/20 and 12/20/20 involving case number 20-029161 and the investigation thereof. This request should include copies of each of the emails I've sent that were received by Leeb, Knutson, Weidenkeller, Hallock, Caouette (or others) and any documents these (or any other) people created pursuant to the investigation of my email complaint. To be clearer, please include every email from abereki@gmail.com received by each of the aforementioned individuals as part of this request is to verify their receipt of my complaints.

2) The date of assignment to each post/position/office within the Orange County Sheriff's Department for Gary Knutson, Ehren Weidenkeller, Jeff Hallock, and Ross Caouette. (For example, the date of appointment to Deputy, Sergeant, and Lieutenant for Gary Knutson).

This request should also include the signed oath of office for each appointment to each post/position/office for each of the aforementioned individuals as required by Article XX, Sec 3

of the California Constitution whereby: "Members of the Legislature, and all **public officers** and employees, **executive**, legislative, and judicial, except such inferior officers and employees as may be by law exempted, **shall, before they enter upon the duties of their respective offices**, take and subscribe the following oath or affirmation..."

Sincerely,

Adam Bereki

Adam <abereki@gmail.com>
To: "Knutson, Gary L" <gknutson@ocsd.org>

Fri, Feb 5, 2021 at 10:55 AM

[Quoted text hidden]

Adam <abereki@gmail.com>
To: jhallock@ocsd.org, rcaouette@ocsd.org

Fri, Feb 5, 2021 at 10:57 AM

----- Forwarded message -----
From: Adam <abereki@gmail.com>
Date: Fri, Feb 5, 2021 at 10:55 AM
Subject: PRA Request 2/5/21
To: Prarequests <prarequests@ocsd.org>

[Quoted text hidden]

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Tue, Feb 16, 2021 at 9:51 AM

Mr. Bereki,

Please see the attached letter regarding your request.

Thank you,

Helen Vasquez

OCSD | Records Division | CPRA

[Quoted text hidden]

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 **A. Bereki.pdf**
195K

EXHIBIT-C 2686



Adam Bereki <abereki@gmail.com>

PRA Request 2/5/21

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Tue, Feb 16, 2021 at 9:51 AM

Mr. Bereki,

Please see the attached letter regarding your request.

Thank you,

Helen Vasquez

OCSD | Records Division | CPRA

[Quoted text hidden]

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 **A. Bereki.pdf**
195K



Adam Bereki <abereki@gmail.com>

PRA Request 2/5/21

2 messages

Adam <abereki@gmail.com>

Fri, Feb 5, 2021 at 10:55 AM

To: Prarequests <prarequests@ocsd.org>

Good day,

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To follow up, I sent Knutson an email on 1/22/21. My email requested that he share the status of his investigation. He did not respond. I sent another follow up email on 2/3/21 and have not received a response.

Please provide all documents in your custody or control evidencing the following:

All notes, emails, audio recordings, reports, supplemental reports, memorandums, or any other documents pertaining to my email complaints on 12/17/20 and 12/20/20 involving case number 20-029161 and the investigation thereof. This request should include copies of each of the emails I've sent that were received by Leeb, Knutson, Weidenkeller, Hallock, Caouette (or others) and any documents these (or any other) people created pursuant to the investigation of my email complaint. To be clearer, please include every email from abereki@gmail.com received by each of the aforementioned individuals as part of this request is to verify their receipt of my complaints.

2) The date of assignment to each post/position/office within the Orange County Sheriff's Department for Gary Knutson, Ehren Weidenkeller, Jeff Hallock, and Ross Caouette. (For example, the date of appointment to Deputy, Sergeant, and Lieutenant for Gary Knutson).

This request should also include the signed oath of office for each appointment to each post/position/office for each of the aforementioned individuals as required by Article XX, Sec 3

of the California Constitution whereby: “Members of the Legislature, and all **public officers** and employees, **executive**, legislative, and judicial, except such inferior officers and employees as may be by law exempted, **shall, before they enter upon the duties of their respective offices**, take and subscribe the following oath or affirmation...”

Sincerely,

Adam Bereki

Adam <abereki@gmail.com>
To: "Knutson, Gary L" <gknutson@ocsd.org>

Fri, Feb 5, 2021 at 10:55 AM

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRA Request 2/5/21

Adam <abereki@gmail.com>
To: jhallock@ocsd.org, rcaouette@ocsd.org

Fri, Feb 5, 2021 at 10:57 AM

----- Forwarded message -----
From: **Adam** <abereki@gmail.com>
Date: Fri, Feb 5, 2021 at 10:55 AM
Subject: PRA Request 2/5/21
To: Prarequests <prarequests@ocsd.org>

[Quoted text hidden]



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

February 16, 2021

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Friday, February 5, 2021.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Records Division.

Because of the need for consultation with other division representatives having substantial interest in the determination of the request, the date for response to your request is extended, pursuant to Government Code § 6253 (c) (3). We expect to make a determination of your request on or before Tuesday, March 2, 2021.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Lee".

Edward Lee, Director
OCSD Records Division

EL: hv

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com | 949.241.6693

DGSORIM
Public Records Officer
707 3rd St., West Sacramento, CA 95605
916.376.5300

RE: Copy Request, 02/24/21

Good day,

I've filed numerous claims under my name, Adam Bereki, with your office and have not received a response.

Please provide all of the information you have pertaining to each of the claims you've received and your investigation thereof. Please include a copy of each claim, the date you received the claim, any claim numbers you assigned, and the dispositions (findings) for each claim (if any). If necessary and applicable, this request can be treated as having been made under the California Public Records Act.

Please scan and email these documents to me at: abereki@gmail.com

Sincerely,



Adam Bereki



Adam Bereki <abereki@gmail.com>

Adam Bereki

1 message

Adam <abereki@gmail.com>

Sun, Feb 7, 2021 at 10:41 AM

To: gcinfo@dgs.ca.gov

Good day,

I've filed numerous claims under my name, Adam Bereki, and have not received a response from your agency.

Please provide all of the information you have pertaining to each of the claims you've received and your investigation thereof. Please include a copy of each claim, the date you received the claim, any claim numbers you assigned, and the dispositions (findings) for each claim (if any). If necessary and applicable, this request can be treated as having been made under the California Public Records Act.

Sincerely,

Adam Bereki

*no reply
received
2nd req 2/24/21*



Adam Bereki <abereki@gmail.com>

PRA Request 2/5/21

Prerequisites <Prerequisites@ocsd.org>
To: Adam <abereki@gmail.com>

Thu, Feb 25, 2021 at 12:36 PM

Hello Mr. Bereki,

Attached are the records responsive to your request.

[Quoted text hidden]

2 attachments

 **A. Bereki.pdf**
607K

 **Work History Request.pdf**
433K

From: Caouette, Ross W
Sent: Thursday, December 17, 2020 1:30 PM
To: Hallock, Jeffrey A
Subject: RE: [EXTERNAL] Bereki Dr 20-029161

I know what it is about.

From: Hallock, Jeffrey A <JHallock@ocsd.org>
Sent: Thursday, December 17, 2020 1:17 PM
To: Caouette, Ross W <rcaouette@ocsd.org>
Subject: Fwd: [EXTERNAL] Bereki Dr 20-029161

Not sure what this is but including you.

Jeff Hallock | Assistant Sheriff
Orange County Sheriff's Department
714-647-1804

From: Adam <abereki@gmail.com>
Sent: Thursday, December 17, 2020 12:59
To: Weidenkeller, Ehren J; Leeb, Michael C; Knutson, Gary L; Hallock, Jeffrey A
Subject: [EXTERNAL] Bereki Dr 20-029161

Lt. Knutson,

Pursuant to a recent public records act request on your agency, I received a copy of the information report I filed as well as the supplemental investigation reports by Sgt. Andersen and Inv. Leeb pertaining to my allegations of fraud and deprivation of constitutional rights by judges and other public officials that I recently spoke with you and Commander Hallock about.

After receiving the supplemental reports made by Inv. Leeb, I called and left a message to speak with him on 12/2/20 . He has not returned my call. On 12/14/20, I also sent him an email and have not received a reply.

The essence of Inv. Leeb's findings in his supplemental report dated 11/4/20 states: "given that there is no criminal activity able to be discovered from what has been reported, this case will be closed pending any additional information." The report was approved by whom I suspect is Leeb's supervisor, E.Weidenkeller.

My phone message and email specifically asked Inv. Leeb to share the factual findings and legal basis of his conclusions that "there [was] no criminal activity able to be discovered." This information should very reasonably be part of his investigation report but is nowhere to be found. Inv. Leeb needs to explain exactly how he resolved each issue presented in my complaint. This includes but is not limited to how he determined there was constitutional authority for the judge/State of California to fine me \$930,000 without any of the heightened protections of the excessive fine clause and in direct violation of the separation of powers declared in Article V of the California Constitution. A person, whether a civilian or public official who takes property

without Constitutionally prescribed due process commits theft and/or fraud and potentially robbery if done under the full force of the State as in this case.

The fact that Inv. Leeb contacted the OCDA and CA DOJ who allegedly were not interested in prosecuting the case does not absolve him or the OCSD of their duty to fully and impartially investigate my valid claims and take remedial action including action to protect my liberty and property from unlawful taking.

If the OCSD or Inv. Leeb do not understand the law surrounding the claims I have made, I remain totally willing and available to help. I provided a significant amount of case law to the reporting officer who told me it would be booked into evidence so it could be reviewed by the investigator. Despite this, there no indication in Inv. Leeb's reports that he read any of the cases or how he determined them to be incorrect or not relevant in relation to my claims. This is also information that should reasonably be included in his investigation report.

While I cannot be sure, it feels to me like Leeb spoke with County Counsel and perhaps the other aforementioned agencies and concluded, with little to no research of the actual law pertaining to the issues in my complaint, that what the judge/Court did was lawful based on the Opinion of the appellate Court that was also involved and then subsequently closed the case. This is not acceptable. How under any rational basis could a \$930,000 fine for a simple licensing law violation could be lawful without any of the Constitutional protections of the excessive fines clause that specifically prohibit this behavior?

In another public records act request to your agency, I received copies of police academy training manuals from POST known as Learning Domains ("LD"). LD2 specifically reviews Constitutionally protected rights and Law Enforcement's duties to enforce the law and protect the public against the arbitrary deprivation thereof by government. I have enclosed it for reference. On page 1-5 it says "To be effective leaders, peace officers must be aware of the constitutional rights of all individuals [...] and the role the criminal justice system has in protecting those rights." Investigator Leeb has clearly not performed an adequate and full investigation before arbitrarily closing my case and told me the OCSD is not going to protect me or my property in this situation. Please inform me if this is in fact the official position of the OCSD or order Inv. Leeb to fully perform his sworn duties.

Please feel free to contact me with any questions.

Sincerely,

Adam Bereki
949.241.6693

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links. Forward suspicious messages to Helpdesk@ocsd.org.

From: Caouette, Ross W
Sent: Thursday, December 17, 2020 1:30 PM
To: Kurimay, Jarrett C
Subject: FW: [EXTERNAL] Bereki Dr 20-029161
Attachments: LD_02_V-6.4.pdf

Making sure you are in the loop.

From: Adam <abereki@gmail.com>
Sent: Thursday, December 17, 2020 12:59
To: Weidenkeller, Ehren J; Leeb, Michael C; Knutson, Gary L; Hallock, Jeffrey A
Subject: [EXTERNAL] Bereki Dr 20-029161

Lt. Knutson,

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EXHIBIT¹-C 2697

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Please feel free to contact me with any questions.

Sincerely,

Adam Bereki
949.241.6693

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Basic Course Workbook Series Student Materials

**Learning Domain 2
Criminal Justice System
Version 6.4**

**Basic Course Workbook Series
Student Materials
Learning Domain 2
Criminal Justice System
Version 6.4**

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From POST's Web Site:
www.post.ca.gov
Go to Ordering Student Workbooks

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

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THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

LD 2: Criminal Justice System

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Preface

Introduction

Student workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course training requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points,
 - supplementary material, and
 - a glossary of terms used in this workbook.
-

How to Use the Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning prior to classroom attendance, for test preparation, and for remedial training.

Workbook format

To use the workbook most effectively, follow the steps listed below.

| Step | Action |
|------|---|
| 1 | Begin by reading the: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST Instructional System and how it should be used. |
| 2 | Refer to the Chapter Synopsis at the end of each chapter to review the key points that support the chapter objectives. |
| 3 | Read the text. |
| 4 | Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter. |
| 5 | Refer to the Glossary for a definition of important terms. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g., <u>term</u>). |

Chapter 1

Introduction to the Criminal Justice System

Overview

Learning need To be effective leaders, peace officers must be aware of the constitutional rights of all individuals within the United States, regardless of citizenship status, and the role the criminal justice system has in protecting those rights.

Learning objectives The following table identifies the learning objectives for this chapter

| After completing study of this chapter, the student will be able to: | Objective ID |
|--|--|
| <ul style="list-style-type: none">• Identify the freedoms and rights afforded to individuals under the U.S. Constitution, the Bill of Rights, and later amendments | 2.01.1 |
| <ul style="list-style-type: none">• Identify how the U.S. Constitution amendments apply to the actions and conduct of peace officers<ul style="list-style-type: none">- First Amendment- Fourth Amendment- Fifth Amendment- Sixth Amendment- Eighth Amendment- Fourteenth Amendment | 2.01.2 2.01.3 2.01.4 2.01.5 2.01.6 2.01.7 |
| <ul style="list-style-type: none">• Discuss the components and primary goals of the criminal justice system | 2.01.8 |

Continued on next page

Overview, Continued

In this chapter This chapter focuses on the constitutionally protected rights of individuals and how those rights apply to the criminal justice system. Refer to the table below for a specific topic.

| Topic | See Page |
|-----------------------------------|-----------------|
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| Criminal Justice System | 1-13 |
| Chapter Synopsis | 1-15 |
| Workbook Learning Activities | 1-16 |

Constitutionally Protected Rights

Introduction

A **constitution** is a written document that embodies the basic laws of a nation or state. The U.S. Constitution as well as the California Constitution identifies the powers and duties of the government and the rights that are afforded to all individuals in our country or state.

U.S. constitution

The U.S. Constitution sets forth the highest law of the land which all public officials are bound by oath to enforce. It became effective in 1789 upon ratification by nine of the thirteen states (all remaining states ratified it by May 1790). Today the U.S. Constitution remains the longest lasting written constitution in the world.

The authors of the U.S. Constitution established this document “in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty.”

Framework of government

The U.S. Constitution establishes the basic framework of government, dividing the lawmaking power among three branches of government. Each branch is separate and has the power to restrain the other branches.

The branches of government include the:

- executive branch
 - legislative branch
 - judicial branch
-

Continued on next page

Constitutionally Protected Rights, Continued

Bill of rights

Along with establishing the powers of government, the U.S. Constitution places limits on those powers. The original U.S. Constitution contained only a few provisions guaranteeing individual rights.

The first session of the U.S. Congress proposed ten **amendments** or changes to the constitution to further clarify the rights of individuals under the U.S. Constitution. These amendments, commonly referred to as the **Bill of Rights** were sent to the states and were ratified in December 1791.

Since that time additional amendments have been added to the U.S. Constitution. Today there are 27 amendments. The Bill of Rights and the later amendments limit the power of state and local governments as well as the federal government.

Ethics

The criminal justice system gives law enforcement two extraordinary powers:

- the power of arrest
- the power to use deadly force

The authority to do so does not come from the rule of an authoritarian dictator. Rather it comes from the will and consent of the people who put their trust in law enforcement to use that power with the utmost of care and restraint. This is why it is important to emphasize that peace officers do not confer “police powers” on themselves. These powers come to the criminal justice system from the people they serve.

Basic rights and freedoms

The basic rights and freedoms protected by the U.S. Constitution and its amendments apply to all individuals in the United States *regardless of citizenship*. The following table identifies a number of the freedoms and rights which cannot be taken away by the government.

Continued on next page

Constitutionally Protected Rights, Continued

Law enforcement and basic rights

Law enforcement officers are bound to protect the rights and freedoms of *all* individuals as guaranteed in the U.S. Constitution, Bill of Rights, and later amendments. By abiding by the principles of procedural justice, peace officers will ensure agreement with all Constitutional Amendments.

Six amendments have direct impact on peace officers' actions and conduct.

| Amendment | Basic Rights and Freedoms |
|-------------------|---|
| First | <ul style="list-style-type: none">• Freedom of religion• Freedom of speech• Freedom of the press• Freedom of assembly• Right to petition the government for a redress of grievances |
| Fourth | <ul style="list-style-type: none">• Freedom from unreasonable searches and seizures |
| Fifth | <ul style="list-style-type: none">• Freedom from being tried twice for the same crime• Freedom from self-incrimination |
| Sixth | <ul style="list-style-type: none">• Right to be told of charges when arrested• Right to a speedy trial• Right to a public trial by an impartial jury• Right to confront witnesses• Right to counsel |
| Eighth | <ul style="list-style-type: none">• Freedom from excessive bail• Freedom from cruel and unusual punishments |
| Fourteenth | <ul style="list-style-type: none">• Basic right of a defendant in a judicial proceeding• The requisites for trial (due process)• Right to equal protection of the laws |

Continued on next page

Constitutionally Protected Rights, Continued

First amendment

Peace officers are required to ensure that a person’s First Amendment rights are protected and enforced, by allowing individuals to speak freely, exercise their religious beliefs, and peaceably assemble. It is also the responsibility of peace officers to protect these individual rights against infringement by others.

| Amendment I : Restrictions on Powers of Congress | |
|---|---|
| Text | “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the individual’s Government for a redress of grievances.” |
| Elements | <ul style="list-style-type: none"> • Separation of church and state • Government cannot endorse any religion • All individuals must be allowed to worship, or not worship, as they choose • All individuals have the right to freedom of expression of their ideas (i.e., freedom of speech, press, and assembly) • Individuals who feel they have been wronged have the right to petition the government to rectify the circumstances |
| Provisions | <ul style="list-style-type: none"> • The rights of free speech must be exercised reasonably. Individuals do not have the right to: <ul style="list-style-type: none"> - shout “fire!” in a crowded auditorium - scream or shout to the point of disturbing the peace - disturb an orderly assembly, a church service, or a session of the court - incite a riot - urge others to commit a crime - accost others in a public place with language likely to produce a violent response - falsely report the presence of an explosive device (bomb) |

Continued on next page

Constitutionally Protected Rights, Continued

Fourth amendment

All peace officers must respect each individual’s right to be secure in his or her home, papers, and belongings against unreasonable search and seizure. To protect those rights, officers must be aware of and abide by warrant requirements and related procedures which must be followed when obtaining a warrant.

| Amendment IV - Searches, Seizures, and Warrants | |
|--|--|
| Text | “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.” |
| Elements | <ul style="list-style-type: none"> • <i>Unreasonable</i> searches and seizures are not allowed • Search and arrest warrants must show <i>probable cause</i> and must specifically identify items or individuals to be searched or seized |
| Provisions | <ul style="list-style-type: none"> • The Fourth Amendment does <i>not</i> give individuals an <i>absolute right</i> to privacy; neither does it prohibit all searches • When performing a legal arrest, officers may thoroughly search a person along with that person’s effects for any weapons and/or contraband without a warrant. Officers may also properly seize such items for use as evidence • An individual’s home may not be used as a place of refuge for criminals • On fresh and immediate pursuit, officers may follow a criminal who has taken refuge in a house or building, and may force their way into the building without a warrant to make the arrest |

NOTE: The provisions of the Fourth Amendment are discussed in greater detail in Learning Domain 16: *Search and Seizure*.

Continued on next page

Constitutionally Protected Rights, Continued

Fifth amendment

Peace officers need to understand the relationship between a person’s right against self-incrimination and their responsibility to advise individuals of their right to remain silent when applicable.

| Amendment V - Criminal Proceedings, Condemnation of Property | |
|---|---|
| Text | “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.” |
| Elements | <ul style="list-style-type: none"> • Protection against a second prosecution after acquittal or conviction (double jeopardy) • Protection against self-incrimination • Due process before legal actions |
| Provisions | <ul style="list-style-type: none"> • Individuals may not be tried for the same offense twice • Individuals cannot be compelled to testify against themselves at a criminal case • Individuals must be afforded due process of law before they can be deprived of life, liberty, or property |

Continued on next page

Constitutionally Protected Rights, Continued

Sixth amendment

Officers must be aware of and respect the constitutional rights of all individuals concerning criminal procedure. The Sixth Amendment entitles a suspect to the assistance of counsel once adversary judicial proceedings have commenced. This right also affects an officer's ability to question a suspect and obtain admissible statements.

| Amendment VI - Mode of Trial in Criminal Proceedings | |
|---|--|
| Text | “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.” |
| Elements | <ul style="list-style-type: none"> • Individuals who have been accused of a crime have the right to: <ul style="list-style-type: none"> - a speedy and public trial by a jury - be informed of the accusations against them - confront their accusers - subpoena witnesses for their defense - have legal counsel |
| Provisions | <ul style="list-style-type: none"> • Any violation of the rights noted in this amendment may result in: <ul style="list-style-type: none"> - exclusion of evidence - dismissal of the case and/or - criminal liability to the officer or the officer's agency |

NOTE: Peace officers should take care not to refer a defendant to any particular attorney, as this would be a conflict of interest.

Continued on next page

Constitutionally Protected Rights, Continued

Eighth amendment

The purpose of bail is to ensure the return of the suspect at subsequent proceedings. Unless the right to bail before trial is preserved, the presumption of innocence would lose its meaning.

When an assignment involves the supervision of prisoners, it becomes the officer's responsibility to safeguard all prisoners' rights to be protected from cruel and unusual punishment.

| Amendment VIII - Bails, Fines, Punishments | |
|---|---|
| Text | “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” |
| Elements | <ul style="list-style-type: none"> • Excessive bails and fines are not allowed • Punishment must be reasonable based on the crime |
| Provisions | <ul style="list-style-type: none"> • Defendants have a right to bail before conviction to permit the unhampered preparation of a defense • Bail serves to prevent the infliction of punishment prior to conviction • The courts have established limitations on what is acceptable punishment, thereby defining “cruel and unusual” punishment • Punishments of torture (such as drawing and quartering, disemboweling alive, beheading, public dissecting, and burning alive) and all others in the same line of unnecessary cruelty are forbidden by this amendment |

NOTE: Prisoners can be informed of their rights but officers are not allowed to refer any prisoner to a particular bail agent.

Continued on next page

Constitutionally Protected Rights, Continued

Fourteenth amendment

The Fourteenth Amendment was added to the Bill of Rights in 1868 after the Civil War. It has led the way to ensuring that peace officers apply the law equally to all people regardless of race, creed, nationality, religious preference, national origin, wealth, or status.

| Amendment XIV - Citizenship, Due Process, and Equal Protection | |
|---|---|
| Text | “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” |
| Elements | <ul style="list-style-type: none"> • No state may: <ul style="list-style-type: none"> - limit privileges or immunities of U.S. citizens - deny due process of the law to any person - deny equal protection of the law to any person |
| Provisions | <ul style="list-style-type: none"> • Persons protected under the U.S. Constitution cannot be denied life, freedom, or their property without a course of legal proceedings by the government justifying the action • Due process of the law begins at the point of the initial investigation • States may provide further rights not defined by the U.S Constitution |

Criminal Justice System

Introduction

The criminal justice system is a complex structure through which individuals suspected of a crime are apprehended by a law enforcement component, accused and tried by a judicial component, and if convicted, punished by a corrections component.

Leadership

The criminal justice system can be frightening and frustrating to law-abiding community members. Court delays, testifying, cross-examination, and legal fees can all be viewed as indignities over and above the original victimization. Peace officers must act as leaders by helping others to understand and respect the processes designed to protect an individual's rights.

Components and primary goals

The criminal justice system is made up of three components:

- law enforcement
- judicial
- corrections

Each component has its own unique function, departments, and goals. For the criminal justice system as a whole to meet its major goals, each component must function together with the others as a *total system*, rather than as a collection of independent agencies and organizations.

Continued on next page

Criminal Justice System, Continued

Components and primary goals
(continued)

There are seven primary goals of the criminal justice system. Ideally, each should be considered equal; yet in reality, a particular goal may be considered more important by one component or individual within the criminal justice system.

The following table identifies the primary goals of the criminal justice system.

| Goal | Additional Information |
|-----------------------------------|---|
| Guarantee Due Process | <ul style="list-style-type: none">• Due process of the law is guaranteed by the U.S. and California Constitutions, overseen by the courts, and practiced daily by peace officers |
| Prevent Crime | <ul style="list-style-type: none">• Crime prevention is more than the apprehension of offenders• Peace officer presence in the community and interactions with citizens also serves to prevent crime |
| Protect Life and Property | <ul style="list-style-type: none">• Peace officers must be dedicated to protect and defend the members of their communities as well as those individuals' property |
| Uphold and Enforce the Law | <ul style="list-style-type: none">• The law enforcement component of the justice system has the <i>primary</i> responsibility to uphold the law• The judiciary system, through rulings of the court, and the corrections component also play a role in enforcement |

Continued on next page

Criminal Justice System, Continued

**Components
and primary
goals**
(continued)

| Goal | Additional Information |
|---------------------------------------|---|
| Dispense Equal Justice | <ul style="list-style-type: none">• The Fourteenth Amendment of the U.S. Constitution guarantees equal justice under the law to all persons• Individuals from each component of the criminal justice system must treat all persons equally, fairly, and with justice |
| Apprehend Offenders | <ul style="list-style-type: none">• Apprehending offenders deprives them of their liberty and requires them to answer the criminal charges brought against them |
| Assure Victim's Rights | <ul style="list-style-type: none">• In the effort to apprehend and deal with the criminal, the criminal justice system cannot overlook the victim• Victims must be made aware of their rights and of the services that are available to them |

Chapter Synopsis

Learning need To be effective leaders, peace officers must be aware of the constitutional rights of all individuals within the United States, regardless of citizenship status, and the role the criminal justice system has in protecting those rights.

Constitutionally protected rights [2.01.1] The basic rights and freedoms protected by the U.S. Constitution and its amendments apply to all individuals in the United States *regardless of citizenship status*

Components and primary goals [2.01.8] Procedural Justice (Voice, Neutrality, Respect, and Trustworthiness)

An approach to policing based on giving people the opportunity to tell their story, remaining neutral in the decision-making and behavior, treating people with respect, and explaining actions in a way that communicates caring for people's concerns to demonstrate trustworthiness.

The criminal justice system is made up of three components:

- law enforcement
- judicial
- corrections

There are seven primary goals of the criminal justice system:

- guarantee due process of the law
 - prevent crime
 - protect life and property
 - uphold and enforce the law
 - dispense equal justice
 - apprehend offenders
 - assure victims' rights
-

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Specifically, whose rights are protected by the U.S. Constitution and its amendments? Would an illegal alien enjoy these protections? How about a person traveling in the country as a tourist?

2. List the three primary components of the criminal justice system. In your own words, describe how you think each component complements the others.

Continued on next page

Workbook Learning Activities, Continued

Activity questions
(continued)

5. Match the rights and privileges in the left column with the appropriate Amendment in the right column.

| Right/Freedom | Amendment |
|--|----------------------------|
| a. Freedom from self-incrimination | _____ First Amendment |
| b. Freedom from excessive bail | _____ |
| c. Freedom of the press | _____ Fourth Amendment |
| d. Right to equal protection of the law | _____ Fifth Amendment |
| e. Freedom from unreasonable searches and seizures | _____ Sixth Amendment |
| f. Right to a public trial by an impartial jury | _____ Eighth Amendment |
| g. Freedom of speech | _____ Fourteenth Amendment |
| h. Right to due process | _____ |
| i. Right to be told of charges when arrested | _____ |
| j. Right to counsel | _____ |
| k. Freedom from cruel and unusual punishment | _____ |

Chapter 2

Law Enforcement

Overview

Learning need Peace officers must realize that law enforcement is not solely the function of police and sheriff agencies. There are many other federal, state, and local law enforcement agencies that are part of the criminal justice system.

Learning objectives The chart below identifies the student learning objectives for this chapter

| After completing study of this chapter, the student will be able to: | Objective ID |
|--|---------------------|
| <ul style="list-style-type: none">List the primary federal, state, and local law enforcement agencies within the criminal justice system | 2.02.14 |

In this chapter This chapter focuses on law enforcement agencies that comprise the law enforcement component of the criminal justice system. Refer to the chart below for a specific topic.

| Topic | See Page |
|------------------------------|-----------------|
| Law Enforcement Agencies | 2-2 |
| Chapter Synopsis | 2-4 |
| Workbook Learning Activities | 2-5 |

Law Enforcement Agencies

Introduction

There are many federal, state and local law enforcement agencies that are part of the criminal justice system.

Agencies with law enforcement responsibilities in California

Federal, state and local agencies have law enforcement responsibilities in California. Specific law enforcement authority (e.g., arrest/firearm authority) for each is determined by law. Some examples of such agencies are noted in the following table:

| Federal Agencies |
|---|
| U. S. Department of Homeland Security Federal Bureau of Investigation (FBI) Drug Enforcement Administration (DEA) U. S. Marshal Service Immigration and Customs Enforcement (ICE) Alcohol, Tobacco, and Firearms Division (ATF) Secret Service (SS) U.S. Postal Inspectors (USPS) Armed Forces Police |

Continued on next page

Law Enforcement Agencies, Continued

**Agencies with
law enforcement
responsibilities
in California**
(continued)

| State Agencies |
|---|
| Youth and Adult Correctional Agency California Highway Patrol (CHP) Department of Alcoholic Beverage Control (ABC) Department of Fish and Game (F&G) Department of Forestry and Fire Protection (DOF) Department of Justice (DOJ) Department of Insurance (DOI) Department of Motor Vehicles (DMV) Department of Parks and Recreation (DPR) Franchise Tax Board (FTB) Office of State Fire Marshal (SFM) University/College Police Departments Department of Health Services (CDHS) |

| Local Agencies |
|--|
| Airport Police County Marshals Housing Police Municipal Police School District Police Sheriffs' Departments Transportation Police Port Authority Police |

Chapter Synopsis

Learning need Peace officers must realize that law enforcement is not solely the function of police and sheriff agencies. There are many other federal, state, and local law enforcement agencies that are part of the criminal justice system.

Law enforcement agencies with responsibilities in California [2.02.14] Federal, state, and local agencies have law enforcement responsibilities in California. Specific law enforcement authority (e.g., arrest/firearm authority) for each is determined by law

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. List agencies with law enforcement responsibilities in California:
 - a) Federal agencies (list four):

 - b) State agencies (list six):

 - c) Local Agencies (list five):

2. Describe a situation where Federal and State agencies might work together to resolve a law enforcement problem.

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. Give an example of an incident in which two or more local law enforcement agencies might combine efforts.

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

Continued on next page

Workbook Corrections, Continued

Student notes

Chapter 3

Judicial System

Overview

Learning need Peace officers must understand the judicial component of the criminal justice system because much of their work results in cases that go to court.

Learning objectives The chart below identifies the student learning objectives for this chapter

| After completing study of this chapter, the student will be able to... | Objective ID |
|---|--------------|
| <ul style="list-style-type: none">• Discuss the objectives of the Judicial component of the criminal justice system | 2.03.10 |
| <ul style="list-style-type: none">• Discuss the organization of the California court system, including positions commonly recognized as part of the judicial system | 2.03.11 |
| <ul style="list-style-type: none">• Discuss the judicial process in criminal cases | 2.03.12 |

In this chapter This chapter focuses on the judicial system. Refer to the chart below for a specific topic.

| Topic | See Page |
|-------------------------------------|----------|
| California Court System | 3-2 |
| Judicial Process for Criminal Cases | 3-4 |
| Chapter Synopsis | 3-7 |
| Workbook Learning Activities | 3-8 |

California Court System

Introduction

According to the U.S. Constitution, the judicial power of the United States shall be vested in one Supreme Court “and such inferior courts as Congress may deem necessary.” This system of higher and lower courts makes up the judicial component of the criminal justice system.

Judicial system objectives

The objectives of the judicial component of the criminal justice system include:

- providing due process of the law
 - rendering fair judgments
 - dispensing just punishment
 - assuring victim’s rights
-

California court system organization and positions

The California court system is based upon the federal system. It is comprised of one State Supreme Court, lower **trial courts**, and higher courts called **appellate courts** to listen to **appeals** from the lower courts. The following table identifies the primary functions of the two levels of courts.

| Level | Court | Primary Function |
|--------|------------------|---|
| Lower | Trial Courts | <ul style="list-style-type: none">• Receive evidence and consider cases involving criminal activity or civil disputes |
| Higher | Appellate Courts | <ul style="list-style-type: none">• Referred to as the <i>higher courts</i> of the judicial system• Hear appeals from lower trial courts |

Continued on next page

California Court System, Continued

**California
court system
organization
and positions**
(continued)

Several positions are commonly recognized as part of the judicial component of the criminal justice system. The following table identifies the primary positions within the judicial system.

| | Responsibilities |
|------------------------------|--|
| Judges | <ul style="list-style-type: none">• Administering justice in a fair and impartial manner by applying the facts of the law |
| Prosecuting Attorneys | <ul style="list-style-type: none">• Prosecuting individuals accused of criminal activities• Protecting public rights and privileges |
| Defense Attorneys | <ul style="list-style-type: none">• Defending the accused• Defending the rights and privileges of citizens |

Judicial Process for Criminal Cases

Introduction

In criminal cases the judicial process begins once an offender has been arrested or indicted for a crime. The function of the judicial process in criminal cases is to determine a defendant's guilt or innocence.

Judicial process

Before a criminal case reaches trial, several preliminary proceedings must occur. The basic steps in a felony prosecution are shown below.

| Steps | Description |
|-----------------------------|--|
| <u>Arrest</u> | Taking a person into custody <ul style="list-style-type: none">• in a case• in the manner authorized by law |
| <u>Arraignment</u> | The legal procedure where the court informs defendants of <ul style="list-style-type: none">• the nature of the charges against them• their eligibility for bail• their constitutional rights to<ul style="list-style-type: none">- counsel at all stages of the judicial process- plead guilty or not guilty to the charges, and- a trial by court or by a jury |
| <u>Right to Bail</u> | A defendant's constitutional right to <ul style="list-style-type: none">• reasonable bail<ul style="list-style-type: none">- to permit the unhampered preparation of a defense before trial |

Continued on next page

Judicial Process for Criminal Cases, Continued

Judicial
process
(continued)

| Proceeding | Description |
|-----------------------------------|---|
| <u>Bail</u> | <ul style="list-style-type: none"> • <u>Right to Bail</u> - A defendant's constitutional right to reasonable bail <ul style="list-style-type: none"> - to permit the unhampered preparation of a defense before trial • A security deposited with a competent court or magistrate <ul style="list-style-type: none"> - to ensure that the accused person will appear for trial when summoned |
| <u>Preliminary hearing</u> | <p>A screening procedure used in felony cases to determine</p> <ul style="list-style-type: none"> • if there is enough evidence <ul style="list-style-type: none"> - to hold a defendant for trial |
| <u>Indictment</u> | <ul style="list-style-type: none"> • An indictment is an accusation in writing formally charging a person with a crime or public offense • Many states, including California, also use the grand jury indictment process to bring serious felony criminal cases to trial • It is the grand jury's responsibility to determine if there is sufficient cause to believe that a person has committed a crime and should be made to stand trial • A grand jury indictment is filed with the superior court by the district attorney. The court then issues a warrant and the offender is arrested. The defendant is then held for arraignment in superior court |

Continued on next page

Judicial Process for Criminal Cases, Continued

**Judicial
process**
(continued)

| Proceeding | Description |
|--------------------------|--|
| <u>Trial</u> | <ul style="list-style-type: none">• A formal, judicial examination and determination• of issues (law or fact) between parties |
| <u>Sentencing</u> | A judgment that is formally pronounced by the court <ul style="list-style-type: none">• upon the defendant<ul style="list-style-type: none">- after conviction- in a criminal prosecution |
| <u>Grand Jury</u> | A body of a set number of citizens from within a county <ul style="list-style-type: none">• sworn to receive<ul style="list-style-type: none">- complaints and- accusations in criminal cases• responsible for determining if there is sufficient cause to believe that an individual<ul style="list-style-type: none">- has committed a crime and- should be made to stand trial |

Chapter Synopsis

Learning need Peace officers must understand the judicial component of the criminal justice system because much of their work results in cases that go to court.

Judicial system objectives [2.03.10] The objectives of the judicial component of the criminal justice system include providing due process of the law, rendering fair judgments, dispensing just punishment, and assuring victim's rights

California court system organization and positions [2.03.11] The California court system is based upon the federal system. It is comprised of:

- one State Supreme Court
- lower trial courts
- higher courts, called appellate courts
 - to listen to appeals from the lower courts

There are several positions commonly recognized as part of the judicial component of the criminal justice system. The primary positions are judges, magistrates, prosecuting attorneys, and defense attorneys

Judicial process [2.03.12] In criminal cases the judicial process begins once an offender has been arrested or indicted for a crime

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. A 23-year-old male is arrested in California for possession of cocaine base for sale, a felony. Outline the step-by-step judicial process that must take place to bring the suspect to trial.

2. List the primary positions commonly recognized as part of the judicial system, and describe their responsibilities.

Continued on next page

Workbook Learning Activity, Continued

Activity questions
(continued)

3. List the different levels of courts in the California court system, and their primary functions.

4. What are the differences between an arraignment and a preliminary hearing? What takes place during each procedure?

| Arraignment | Preliminary Hearing |
|--------------------|----------------------------|
| | |

Continued on next page

Workbook Learning Activity, Continued

Student notes

Chapter 4

Corrections, Parole and Probation

Overview

Learning need Peace officers should recognize that the California Department of Corrections and Rehabilitation (CDCR) is a component of the criminal justice system. Officers must also be familiar with the differences between parole and probation conditions, and their role in the enforcement of those conditions.

Learning objectives The chart below identifies the student learning objectives for this chapter

| After completing study of this chapter, the student will be able to: | Objective ID |
|---|---------------------|
| • Discuss the objectives and responsibilities of the correction's component of the criminal justice system | 2.04.1 |
| • Recall the definitions of parole and probation | 2.04.3 2.04.4 |
| • Identify the differences between <ul style="list-style-type: none">- parole- probation | 2.04.5 2.04.6 |

Continued on next page

Overview, Continued

In this chapter This chapter focuses on the corrections system. Refer to the chart below for a specific topic.

| Topic | See Page |
|------------------------------|-----------------|
| Corrections | 4-3 |
| Parole and Probation | 4-5 |
| Chapter Synopsis | 4-9 |
| Workbook Learning Activities | 4-10 |

Corrections

Introduction

When an offender is arrested by law enforcement and found guilty by the judicial process, the government has the right to punish the offender. A wide range of punishment and treatment options are available to the government.

Corrections objectives

The objectives of the corrections component of the criminal justice system include:

- confining prisoners
 - rehabilitating prisoners
 - supervising parolees and probationers in the community
 - assuring victim's rights
-

Corrections agencies' responsibilities

The State of California and local agencies have distinct responsibilities in the corrections component of the criminal justice system.

The California Department of Corrections and Rehabilitation (CDCR) of the State of California is responsible for the oversight of both major components of the state's correctional system for convicted felons:

- CDCR is responsible for the incarceration of convicted adults (generally 18 years or older)
 - The Board of Prison Terms (BOPT) is responsible for the administration of parole conditions of prisoners (18 years or older) released from CDC institutions
 - The CDCR is responsible for the incarceration of convicted youthful offenders (generally ages 13 years to 25 years of age)
 - The Youthful Offender Parole Board (YOPB) is responsible for the administration of parole conditions of wards (13 years to 25 years of age) released from the custody of CDCR - Juvenile Division
-

Continued on next page

Corrections, Continued

Corrections agencies' responsibilities (continued)

The following table identifies these responsibilities.

| Department | Responsibility |
|--|--|
| California Department of Corrections (CDC) | <ul style="list-style-type: none">• operates the State's adult prison system• confines felons who have been sentenced to state prison |
| California Board of Prison Terms | <ul style="list-style-type: none">• supervises inmates who have been released on parole from CDCR |
| California Department of Corrections and Rehabilitation – Juvenile Division | <ul style="list-style-type: none">• operates the State's youthful offender detention system• confines offenders (wards) between the ages of 13 and 25 |
| Youthful Offender Parole Board (YOPB) | <ul style="list-style-type: none">• supervises wards who have been released on parole from CDCR – Juvenile Division |
| Local Government Agencies | <ul style="list-style-type: none">• oversees the operation of detention facilities that confine people<ul style="list-style-type: none">- awaiting trial- sentenced to less than one year |

Parole and Probation

Introduction

The primary role of both parole and probation is to protect the community from future criminal acts of individuals who have been convicted of a crime, imprisoned and subsequently released back into the community.

Parole vs. probation

The following table provides definitions and descriptions of **parole** and **probation**.

| | <i>Parole is...</i> | <i>Probation is...</i> |
|------------------------|---|--|
| Administered by | <ul style="list-style-type: none"> • Parole and Community Services of the CDCR, or • CDCR – Juvenile Division | <ul style="list-style-type: none"> • county probation departments |
| Definition | <ul style="list-style-type: none"> • a conditional release from a state prison which allows an individual to serve the remainder of a sentence | <ul style="list-style-type: none"> • the suspension of the imposition or execution of a sentence and the order (by the court) of conditional and revocable release in(to) the community (<i>Penal Code Section 1203</i>) • a sentencing option for an individual convicted of a criminal offense |

Continued on next page

Parole and Probation, Continued

**Parole vs.
probation**
(continued)

| | <i>Parole is...</i> | <i>Probation is...</i> |
|---------------------|---|--|
| Imposition | <ul style="list-style-type: none"> • imposed by an administrative board at a parole hearing • dependent upon: <ul style="list-style-type: none"> - statutory requirements - the type of sentence being served - institutional recommendations | <ul style="list-style-type: none"> • imposed at the court's discretion in the county where the offense occurred |
| Revocable by | <ul style="list-style-type: none"> • parole agent • administrative board review | <ul style="list-style-type: none"> • probation officer recommendation • court enactment |

Continued on next page

Parole and Probation, Continued

Conditions

Several general conditions of parole and probation may be imposed on a convicted person. The following table identifies these conditions.

| Conditions of <i>Parole</i> | Conditions of <i>Probation</i> |
|--|--|
| <p>Parolees must:</p> <ul style="list-style-type: none"> • comply with all instructions of their parole officers • not travel more than 50 miles from their residence without prior approval from their parole officers • not be absent from their county of residence for more than 48 hours or leave the State of California without prior written approval from their parole officers • inform their parole officers within 72 hours of any change of employment, employment location, or termination of employment | <p>Probationers are commonly required to:</p> <ul style="list-style-type: none"> • comply with all instructions of and maintain contact with their probation officer • not use alcohol or other intoxicants • not associate with certain specified individuals • not possess firearms or other weapons |

Continued on next page

Parole and Probation, Continued

| Conditions (continued) | Conditions of <i>Parole</i> | Conditions of <i>Probation</i> |
|---------------------------|---|--|
| | <ul style="list-style-type: none"> • not engage in conduct prohibited by law; must inform their parole officers if they are arrested for a felony or misdemeanor crime • not own, use, have access to, or have under their control any: <ul style="list-style-type: none"> - firearm, ammunition, or weapon listed in <i>Penal Code Section 12020</i> - knife with a blade longer than two inches • the officer must know about the parole conditions before the search. An officer may conduct a parole search without reasonable suspicion but cannot conduct a parole search for arbitrary, capricious or harassment reasons | Probationers <i>may</i> be required to: <ul style="list-style-type: none"> • serve time in jail as an alternative to prison • pay a fine • make restitution • secure a bond • participate on work projects • submit to drug testing • submit to warrantless searches at any time without reasonable suspicion of criminal activity on the part of the probationer |

Summary probation

Probationary conditions ordered by the court, following a conviction. A probation officer does not formally supervise a person on summary probation. Only the court can sanction a summary probationer for violations of the conditions of summary probation (*Penal Code Section 1203(b)*).

Generally, officers cannot arrest a person for violation of summary probation. Officers must submit a report to the court notifying the court of the violation of the terms of the subject's summary probation.

Chapter Synopsis

Learning need Peace officers should recognize that the California Department of Corrections and Rehabilitation (CDCR) is a component of the criminal justice system. Officers must also be familiar with the differences between parole and probation conditions, and their role in the enforcement of those conditions.

Corrections objectives and responsibilities [2.04.1] The objectives of the corrections component of the criminal justice system include:

- confining prisoners
- rehabilitating prisoners
- supervising parolees and probationers in the community
- assuring victim's rights

Parole and probation [2.04.3, 2.04.4] The primary role of both parole and probation is to protect the community from future criminal acts of individuals who have been convicted of a crime, imprisoned and subsequently released back into the community

Differences between parole and probation [2.04.5, 2.04.6] Parole is a conditional release from a state prison which allows an individual to serve the remainder of a sentence

Probation is the suspension of the imposition or execution of a sentence and the order (by the court) of conditional and revocable release in(to) the community. *Penal Code Section 1203*), a sentencing option for an individual convicted of a criminal offense

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity question

1. Consider the stated objectives of the corrections component of the justice system. How do these objectives serve to aid in attaining the major goals of the entire criminal justice system?

2. In your own words, describe the differences between parole and probation.

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. John Wilson is on parole and would like to attend his niece's wedding in another state. What conditions must he meet in order to make the trip? How long can he remain? What must he do if he wishes to stay longer than the allotted time period? How would your answers differ if he were on probation rather than parole?

Continued on next page

Workbook Learning Activities, Continued

Student notes

Glossary

| | |
|-------------------------|--|
| Introduction | The key vocabulary terms for LD 2: Criminal Justice System are listed below with the definitions as they apply to this workbook. |
| amendments | Modifications or changes made for the better, such as amendments to the U.S. Constitution |
| appeals | Requests to a higher court to review or revise decisions made by lower court |
| appellate courts | Referred to as the higher courts of the judicial system; hear appeals from lower trial courts |
| arrest | Taking a person into custody in a case, and in the manner authorized by the law |
| arraignment | Legal procedure where the court informs defendants of the nature of the charges against them and of their constitutional rights to have counsel, to plead guilty or not guilty, and to have a jury trial |
| bail | A security deposited with a competent court or magistrate to ensure that the accused person will appear for trial when summoned |
| Bill of Rights | The first ten amendments to the U.S. Constitution |
| competent court | Any court, civil or criminal, having authority to handle a particular case |
| constitution | A written document that embodies the basic laws of a nation or state |

Continued on next page

Glossary, Continued

due process A course of legal proceedings according to the rules and principles which have been established by the government; basic rights of a defendant in judicial proceedings and the requisites for a fair trial

grand jury A body of a set number of citizens from within the county who are sworn to receive complaints and accusation in criminal cases; responsible for determining if there is sufficient cause to believe a person has committed a crime and should be made to stand trial

indictment An accusation in writing formally charging a person with a crime or public offense

magistrate An officer of the court having power to issue a warrant for the arrest of a person charged with a public offense

parole A conditional release from confinement which allows an individual to serve the remainder of a sentence outside of prison

preliminary hearing A screening procedure used in felony cases to determine if there is enough evidence to hold a defendant for trial

probation A sentencing option for an individual convicted of a criminal offense

right to bail A defendant's constitutional right to reasonable bail to permit the unhampered preparation of a defense before trial

sentencing A judgment that is formally pronounced by the court upon a defendant after conviction in a criminal trial

Continued on next page

Glossary, Continued

trial A formal judicial examination and determination of issues (law or fact) between parties

trial courts Referred to as the lower courts; receive evidence and consider cases involving criminal activity or civil disputes

From: Adam <abereki@gmail.com>
Sent: Thursday, December 17, 2020 12:59 PM
To: Weidenkeller, Ehren J; Leeb, Michael C; Knutson, Gary L; Hallock, Jeffrey A
Subject: [EXTERNAL] Bereki Dr 20-029161
Attachments: LD_02_V-6.4.pdf

Lt. Knutson,

Pursuant to a recent public records act request on your agency, I received a copy of the information report I filed as well as the supplemental investigation reports by Sgt. Andersen and Inv. Leeb pertaining to my allegations of fraud and deprivation of constitutional rights by judges and other public officials that I recently spoke with you and Commander Hallock about.

After receiving the supplemental reports made by Inv. Leeb, I called and left a message to speak with him on 12/2/20 . He has not returned my call. On 12/14/20, I also sent him an email and have not received a reply.

The essence of Inv. Leeb's findings in his supplemental report dated 11/4/20 states: "given that there is no criminal activity able to be discovered from what has been reported, this case will be closed pending any additional information." The report was approved by whom I suspect is Leeb's supervisor, E.Weidenkeller.

My phone message and email specifically asked Inv. Leeb to share the factual findings and legal basis of his conclusions that "there [was] no criminal activity able to be discovered." This information should very reasonably be part of his investigation report but is nowhere to be found. Inv. Leeb needs to explain exactly how he resolved each issue presented in my complaint. This includes but is not limited to how he determined there was constitutional authority for the judge/State of California to fine me \$930,000 without any of the heightened protections of the excessive fine clause and in direct violation of the separation of powers declared in Article V of the California Constitution. A person, whether a civilian or public official who takes property without Constitutionally prescribed due process commits theft and/or fraud and potentially robbery if done under the full force of the State as in this case.

The fact that Inv. Leeb contacted the OCDA and CA DOJ who allegedly were not interested in prosecuting the case does not absolve him or the OCSD of their duty to fully and impartially investigate my valid claims and take remedial action including action to protect my liberty and property from unlawful taking.

If the OCSD or Inv. Leeb do not understand the law surrounding the claims I have made, I remain totally willing and available to help. I provided a significant amount of case law to the reporting officer who told me it would be booked into evidence so ti could be reviewed by the investigator. Despite this, there no indication in Inv. Leeb's reports that he read any of the cases or how he determined them to be incorrect or not relevant in relation to my claims. This is also information that should reasonably be included in his investigation report.

While I cannot be sure, it feels to me like Leeb spoke with County Counsel and perhaps the other aforementioned agencies and concluded, with little to no research of the actual law pertaining to the issues in my complaint, that what the judge/Court did was lawful based on the Opinion of the appellate Court that was also involved and then subsequently closed the case. This is not acceptable. How under any rational basis could a \$930,000 fine for a simple licensing law violation could be lawful without any of the Constitutional protections of the excessive fines clause that specifically prohibit this behavior?

EXHIBIT¹-C 2763

In another public records act request to your agency, I received copies of police academy training manuals from POST known as Learning Domains ("LD"). LD2 specifically reviews Constitutionally protected rights and Law Enforcement's duties to enforce the law and protect the public against the arbitrary deprivation thereof by government. I have enclosed it for reference. On page 1-5 it says "To be effective leaders, peace officers must be aware of the constitutional rights of all individuals [...] and the role the criminal justice system has in protecting those rights." Investigator Leeb has clearly not performed an adequate and full investigation before arbitrarily closing my case and told me the OCSD is not going to protect me or my property in this situation. Please inform me if this is in fact the official position of the OCSD or order Inv. Leeb to fully perform his sworn duties.

Please feel free to contact me with any questions.

Sincerely,

Adam Bereki
949.241.6693

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links. Forward suspicious messages to Helpdesk@ocsd.org.

From: Adam <abereki@gmail.com>
Sent: Friday, December 18, 2020 8:55 AM
To: Weidenkeller, Ehren J; Leeb, Michael C; Knutson, Gary L; Hallock, Jeffrey A;
Rcauoette@ocsd.org
Subject: [EXTERNAL] Fwd: Bereki Dr 20-029161
Attachments: LD_02_V-6.4.pdf

Correction, after reviewing my records, I spoke with Commander Caouette not Assist. Sheriff* Hallock before speaking with you, Lt. Knutson. I have therefore included him in this communication.

Sincerely,

Adam Bereki

----- Forwarded message -----

From: **Adam** <abereki@gmail.com>
Date: Thu, Dec 17, 2020 at 12:59 PM
Subject: Bereki Dr 20-029161
To: <eweidenkeller@ocsd.org>, <mleeb@ocsd.org>, Knutson, Gary L <gknutson@ocsd.org>, <jhallock@ocsd.org>

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Sincerely,

Adam Bereki
949.241.6693

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From: Knutson, Gary L
Sent: Friday, December 18, 2020 9:00 AM
To: Adam
Subject: RE: [EXTERNAL] Fwd: Bereki Dr 20-029161

Adam,

Thank you for contacting me with this matter. I will look into it and get back to you.

Lieutenant Gary Knutson

Orange County Sheriff's Department
North Patrol Bureau Commander
Chief of Villa Park Police Services

Ofc. (714) 647-4094

From: Adam <abereki@gmail.com>
Sent: Friday, December 18, 2020 8:55 AM
To: Weidenkeller, Ehren J <eweidenkeller@ocsd.org>; Leeb, Michael C <MLEEB@ocsd.org>; Knutson, Gary L <gknutson@ocsd.org>; Hallock, Jeffrey A <JHallock@ocsd.org>; Rcauoette@ocsd.org
Subject: [EXTERNAL] Fwd: Bereki Dr 20-029161

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Subject: Bereki Dr 20-029161
To: <eweidenkeller@ocsd.org>, <mleeb@ocsd.org>, Knutson, Gary L <gknutson@ocsd.org>, <jhallock@ocsd.org>

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EXHIBIT¹-C 2767

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Sincerely,

Adam Bereki
949.241.6693

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links. Forward suspicious messages to Helpdesk@ocsd.org.

From: Adam <abereki@gmail.com>
Sent: Sunday, December 20, 2020 8:33 AM
To: Weidenkeller, Ehren J; Leeb, Michael C; Knutson, Gary L; Hallock, Jeffrey A; Caouette, Ross W
Subject: [EXTERNAL] Bereki 20-029161 /2 Additional Info
Attachments: EXHIBIT 1.pdf; EXHIBIT 2.pdf

Lt. Knutson,

Here are two very profound sets of documents that I feel are critical to your enquiry. The first is a public records act request I served on the OCDA. It asks for the ten most recent filings and prosecutions for violation of Business and Professions Code §7028 –the criminal statute for contracting without a license. Upon receipt of the documents from the DA, I picked the top seven cases listed amongst the two categories and researched the penalties on the Court's website. The highest monetary penalty was a fine for \$700. I was fined \$930,000.

The excessive fines clauses of the California Constitution and the Constitution for the United States are **mandatory** upon judges. They both require the penalty to be proportional to offense. California's excessive fine clause requires an additional test– that the defendant be able to pay the fine. The judges in my case refused to apply the excessive fines clause provisions. A \$930,000 fine is more than 46 times my qualifying net worth and 186 times the comparable maximum criminal monetary fine of \$5,000.

Additionally, according to Article V of the California Constitution, a violation of the public regulatory law, a public offense, such as contracting without a license, must be prosecuted by the executive power of the State– ie the District Attorney. I was 'prosecuted' by a private party and not given any of the heightened protections of criminal or quasi-criminal proceedings, all of which are also **mandatory** upon judges. None of the judges involved in this case have recognized these Constitutional protections either.

Despite all of the foregoing, Leeb closed the case on the grounds that it "does not appear to have any criminal activity."

I've included the records request to the DA and the chart I made as Exhibit 1.

The second set of documents pertains to the communication I had with the California Attorney General referred to in Inv. Leeb's supplemental report dated 11/4/20. Leeb's report reads to me as if I made a complaint to the Attorney General and that because the AG did not find anything substantive in the complaint, it was never forwarded to the AG's special investigations unit for further research. This is not true. In September 2020, I sent the AG a request to find out their procedures for filing a complaint against public officials. I received a letter in reply that said to contact my local district attorney or the grand jury. No report on this subject matter was made to the AG in September 2020. So the apparent conclusion that there was no substance to my claim is false because I never made a claim to the AG. My claim was made to the OCSD. (The AG's website also directs people to contact their local agency). Leeb did not ask the DOJ officer for a copy of the alleged complaint, or even what the substance was for his investigation. As a result, it appears the AG has never seen my complaint to make the determination that Leeb's report seems to imply.

I am very troubled by Leeb's investigative tactics (and Weidenkellers approval thereof) that resulted in closing my case without actually performing an investigation. "Shopping around" to see who may want to take over and investigate the case so it could be handed off is not an investigation. Neither is shopping for a prosecutor before

EXHIBIT¹-C 2770

a complete investigation has been performed. All of the information I've provided you herein was at Leeb's fingertips but apparently dismissed as the quickest way to closing the case.

I realize this is a sensitive matter but am VERY confident with the OCSD's ability to handle it. I suspect that when this happens, it may open up to be one of the most profound cases of criminal judicial misconduct in California if not US History. As I've mentioned before, there are other victims of this sham legal process and the law applies to judges –especially those acting without any authority and in direct violation of the Constitution – as much as it does to each of us.

I've included my letter to the AG and his response as Exhibit 2.

If I may also make a recommendation as strange as it may sound – please look into the facts and law of my case and see what I'm saying first hand without the opinions of others no matter what their apparent qualifications. It seems to me that Leeb got some – or perhaps all of his legal opinion – from County Counsel. Based on the information I have – which is of course subject to change – there is no legal basis for County Counsel's wholly absurd opinion. No one in their right mind would agree that a \$930,000 fine is lawful, fair, and within constitutional parameters.

Thank you again for your attention, service, and willingness to be involved.

Adam Bereki
949.241.6693

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links. Forward suspicious messages to Helpdesk@ocsd.org.

Sgt. Ehren Weidenkeller

| | |
|----------------------------|--------------------|
| Name: | Ehren Weidenkeller |
| Date of Hire: | 1/3/1995 |
| Current Assignment: | Sergeant |

Assignment History:

| Effective Date | Transaction | Classification | Pay Location |
|-----------------------|--------------------|------------------------|-------------------------------|
| 1/3/1995 | Hired | Deputy Sheriff Trainee | Academy |
| 6/22/1995 | Promotion | Deputy Sheriff I | IRC / Transportation |
| 2/23/2001 | Promotion | Deputy Sheriff II | Central Jails |
| 8/22/2014 | Promotion | Investigator | Regional Narcotics Suppresion |
| 9/30/2016 | Promotion | Sergeant | Central Jails |
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STATE OF CALIFORNIA
COUNTY OF ORANGE

} ss

Ehren John Weidenkeller
FIRST NAME MIDDLE NAME LAST NAME

SHERIFF-CORONER

DEPARTMENT

I, EHREN J WEIDENKELLER do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California, that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter


SIGNATURE


Subscribed and sworn to before me this 21st day

of December, 19 94

GARY GRANVILLE County Clerk

By Lilo Al Davis

Deputy County Clerk

F0402 38 2 (R11/85) 

STATE OF CALIFORNIA
COUNTY OF ORANGE

} s.s

GARY
FIRST NAME

LEE
MIDDLE NAME

KNUTSON
LAST NAME

SHERIFF-CORONER

DEPARTMENT

I, Gary Lee Knutson do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California, that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter

Gary Knutson

SIGNATURE

Subscribed and sworn to before me this 8th day

of August, 19 95

GARY GRANVILLE, County Clerk

By *Shelly Ransom*
Deputy County Clerk

F0402 38 2 (R11/85) (S)

A/S Ross Caouette

| | |
|----------------------------|----------------------|
| Name: | Ross Caouette |
| Date of Hire: | 12/15/1989 |
| Current Assignment: | Assistant Sheriff |

Assignment History:

| Effective Date | Transaction | Classification | Pay Location |
|-----------------------|--------------------|-----------------------|-------------------------------|
| 10/12/2001 | Rehired | Deputy Sheriff I | Theo Lacy |
| 8/29/2008 | Promotion | Deputy Sheriff II | Laguna Niguel Police Services |
| 3/23/2012 | Promotion | Sergeant | IRC / Transportation |
| 1/22/2016 | Promotion | Lieutenant | Theo Lacy |
| 10/27/2017 | Promotion | Captain | Airport Police |
| 1/17/2020 | Promotion | Commander | Administration |
| 1/1/2021 | Promotion | Assistant Sheriff | Administration |

STATE OF CALIFORNIA
COUNTY OF ORANGE

} s.s.

Ross
FIRST NAME

Wilfred
MIDDLE NAME

Caouette
LAST NAME

O.C. Sheriff-Coroner

DEPARTMENT

I, Ross Wilfred Caouette

do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

[Handwritten Signature]

SIGNATURE

Subscribed and sworn to before me this 21st day


of September, ~~XX~~ 2001

GARY GRANVILLE, County Clerk

By

[Handwritten Signature]

Deputy County Clerk

F0402-38.2 (R11/85) 

U/S Jeffrey Hallock

| | |
|----------------------------|------------------------|
| Name: | Jeffrey Hallock |
| Date of Hire: | 8/26/1996 |
| Current Assignment: | Undersheriff |

Assignment History:

| Effective Date | Transaction | Classification | Pay Location |
|-----------------------|--------------------|------------------------|----------------------|
| 8/26/1996 | Hired | Deputy Sheriff Trainee | Academy |
| 3/13/1997 | Promotion | Deputy Sheriff I | Theo Lacy |
| 12/14/2001 | Promotion | Deputy Sheriff II | Theo Lacy |
| 11/5/2010 | Promotion | Sergeant | Theo Lacy |
| 2/24/2012 | Promotion | Lieutenant | PSD - Administrative |
| 2/5/2016 | Promotion | Captain | North Operations |
| 3/16/2018 | Promotion | Assistant Sheriff | Administration |
| 1/1/2021 | Promotion | Undersheriff | Administration |
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STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss

JEFFREY ALLEN HALLOCK
FIRST NAME MIDDLE NAME LAST NAME

SHERIFF-CORONER

DEPARTMENT


I Jeffrey Allen Hallock do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter

x Jeffrey A Hallock
SIGNATURE

Subscribed and sworn to before me this 21st day
of August, 19 96

GARY GRANVILLE County Clerk

By Shelly Ranson
Deputy County Clerk

FD4C2 33 2 (R: 1/85) 

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com | 949.241.6693

Todd Spitzer
Orange County District Attorney
401 W. Civic Center Dr. Santa Ana, CA 92701

February 27, 2021


RE: Public Records Act Request

To Whom It May Concern:

Please email all documents evidencing the Oath of Office to Deputy District Attorney for Christopher Duff to me at the above email address within the time prescribed by law.

Sincerely,

Adam Bereki

*no response
4/5/21*




Adam Bereki <abereki@gmail.com>

PRA Request 02/27/21

2 messages

Adam <abereki@gmail.com>
To: Prarequests <prarequests@ocsd.org>

Sat, Feb 27, 2021 at 1:53 PM

Good day,

Please provide all documents in your custody or control: (1) evidencing the oath of office for Jarrett Kurimay (2) all agreements signed by Kurimay agreeing to abide by the law enforcement code of ethics and department policies and procedures; (3) the date of appointment and each appointment for each position/office held by Kurimay within the OCSD; and, (4) the chain of custody of evidence for each item of evidence booked under case 20-029161. This request should include the description of each item booked as well as the name(s), date(s), and time(s) pertaining to each official who has had custody of it.

Sincerely,

Adam Bereki

Prarequests <Prarequests@ocsd.org>
To: Adam <abereki@gmail.com>

Wed, Mar 10, 2021 at 10:03 AM

Hello Mr. Bereki,

Attached are the records responsive to your request.

Sincerely,

Susan Imai

OCSD | Records Division | CPRA

714.834.6781

[Quoted text hidden]

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Forward suspicious messages to Helpdesk@ocsd.org.

4 attachments **Bereki Ltr.pdf**
214K **Kurimay Oath.pdf**
102K

 **Kurimay Equip Issue Inventory Sigtnture.pdf**
693K

 **20-029161-Chain of Custody.pdf**
142K



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

March 10, 2021

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Saturday, February 27, 2021.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Department (OCSD) Records Division.

The attached records are responsive to your request. Regarding number two (2) of your request, employees are required to electronically acknowledge receipt and review of Department policies. There is not a signature accompanying this electronic acknowledgment. We have enclosed a copy of the Equipment Issue Inventory form which was located by our Professional Standards Division staff. The form was signed to acknowledge receipt of the Department's Rules and Regulations and other items. The policies are available publicly and may be accessed through the Sheriff's website at the following link:

<https://ocsheriff.gov/about-ocsd/policies>.

The following are the dates of assignments to each post/position with OCSD in regards to number three (3) of your request.

Jarrett Kurimay:
08/18/1995 – Deputy Sheriff Trainee
04/09/1996 - Deputy Sheriff I
04/20/2001 – Deputy Sheriff II
11/30/2012 – Sergeant
07/10/2015 – Lieutenant
08/16/2019 – Captain
01/01/2021 – Commander

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Lee".

Edward Lee, Director
OCSD Records Division

EL: si
Attachments
cc: Media Relations

STATE OF CALIFORNIA
COUNTY OF ORANGE

} s.s.

JARRETT
FIRST NAME

COLE
MIDDLE NAME

KURIMAY
LAST NAME

SHERIFF-CORONER

DEPARTMENT

I, Jarrett Cole Kurimay do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.


SIGNATURE

Subscribed and sworn to before me this 28th day

of July, 19 95.

GARY GRANVILLE, County Clerk

By


Deputy County Clerk

F0402-38.2 (R11/85)

DATE: * 7-28-95

SIGNATURE: *[Signature]*

I understand and agree that the above checked items of County property have been or will be issued to me and are to be returned to the Orange County Sheriff's Department in good condition (except for normal wear) upon termination of my employment. I hereby authorize deduction from my final severance pay for any of the items not so returned.

| REVOLVER | TYPE | SERIAL # | DATE OF ISSUANCE | DATE RETURNED |
|--------------------------------|------|----------|------------------|---------------|
| HANDCUFFS | TYPE | SERIAL # | | |
| BADGE DST | TYPE | SERIAL # | | |
| TYPE PIN | TYPE | Number | 7-28-95 | 10/13/95 |
| CAP BADGE | TYPE | Number | | |
| SHERIFF'S DEPARTMENT I.D. CARD | | | | |
| RULES & REG. MANUAL | | | | |
| Number 0490 | | | | |
| KEY NUMBER 1151 | | | 4/5/91 | |
| NAME TAG | | | | |
| JACKET, Nylon duty | | | | |
| JACKET, Regular dress | | | | |
| TROUSERS | | | | |
| SHIRTS, winter | | | | |
| SHIRTS, summer | | | | |
| CAP | | | | |
| BATON RING STRAP | | | | |
| BELT KEEPERS | | | | |
| HANDCUFF CASE | | | | |
| RELOADER | | Type | | |
| HOLSTER | | | | |
| GUN BELT | | | | |
| TROUSER BELT | | | | |
| KEY STRAP | | | | |
| BATON | | | | |
| RADIO CODE BOOK | | | | |
| RAIN GEAR | | | | |

NAME: *Kueman, JARETT* DATE APPOINTED: 8-18-95



Property Tracking System (PTS) Audit Trail Report

For Item No.: OS20-029161.1

Audit Trail

9/2/2020 6:20:20 PM milberbj

Property Description: PAPERWORK

Item collected by: 9838, MILBERY, BRIANA J, Date: 9/2/2020 12:00:00 AM.

Status = Booked, Consolidated DR # = OS20-029161.1.

Current Location = Santa Ana. Previous Location = . Officer = milberbj. Booking Station Name = BGPRPG6V2F42

. Officer Collected = 9838, MILBERY, BRIANA J

9/3/2020 7:45:30 AM rodriguez2

Status = Received, Consolidated DR # = OS20-029161.1.

Current Location = BOX24. Previous Location = Santa Ana. Officer = rodriguez2.

9/3/2020 9:42:13 AM rodriguez2

Status = Filed, Consolidated DR # = OS20-029161.1.

Current Location = AC55B0. Previous Location = BOX24. Officer = rodriguez2.



Property Tracking System (PTS) Audit Trail Report

For Item No.: OS20-029161.2

Audit Trail

9/14/2020 8:37:22 AM andersonmr
Property Description: (1) CD WITH EMAIL AND ATTACHMENT

Item collected by: 7279, Date: 9/14/2020 8:30:00 AM.

Status = Booked, Consolidated DR # = OS20-029161.2.

Current Location = Santa Ana. Previous Location = . Officer = andersonmr. Booking Station Name = BGPRPF4NHPY2
. Officer Collected = 7279

9/14/2020 8:42:51 AM rodriguez2
Status = Received, Consolidated DR # = OS20-029161.2.

Current Location = BOX25. Previous Location = Santa Ana. Officer = rodriguez2.

9/14/2020 9:04:28 AM rodriguez
PER INV. ANDERSON, THE ITEM IS EVIDENCE PENDING THE INVESTIGATION AND NOT SAFEKEEPING.

Property Type has been changed to:Evidence, by rodriguez, on 9/14/2020 9:04:28 AM.

Collector has been changed to 7279, ANDERSON, MATTHEW R, by rodriguez.

9/14/2020 12:19:55 PM rodriguez2
Status = Filed, Consolidated DR # = OS20-029161.2.

Current Location = AE53A0. Previous Location = BOX25. Officer = rodriguez2.



Property Tracking System (PTS) Audit Trail Report

For Item No.: OS20-029161.3

Audit Trail

9/15/2020 11:31:24 AM

andersonmr

Property Description: (1) CD WITH DIGITAL AUDIO RECORDING OF PHONE CONVERSATION WITH A. BEREKI ON 09/15/2020

Item collected by: 7279, Date: 9/15/2020 11:20:00 AM.

Status = Booked, Consolidated DR # = OS20-029161.3.

Current Location = Santa Ana. Previous Location = . Officer = andersonmr. Booking Station Name = BGPRPF4NHPY2

Officer Collected = 7279

9/16/2020 5:08:56 AM

medinaaj

Status = Received, Consolidated DR # = OS20-029161.3.

Current Location = BOX02. Previous Location = Santa Ana. Officer = medinaaj.

9/16/2020 5:51:56 AM

medinaaj

Status = Filed, Consolidated DR # = OS20-029161.3.

Current Location = BOX02. Previous Location = BOX02. Officer = medinaaj.

9/16/2020 8:31:46 AM

rodriguez2

Current Location = AE53C0. Previous Location = BOX02. Officer = rodriguez2.



Property Tracking System (PTS) Audit Trail Report

For Item No.: OS20-029161.4

Audit Trail

11/25/2020 1:44:42 PM leebmc
Property Description: 2 RECORDED PHONE CALLS

Item collected by: 8787, LEEB, MICHAEL C, Date: 11/25/2020 1:00:00 PM.

Status = Booked, Consolidated DR # = OS20-029161.4.

Current Location = Santa Ana. Previous Location = . Officer = leebmc. Booking Station Name = BGPRPG6V2F42
. Officer Collected = 8787, LEEB, MICHAEL C

11/30/2020 10:08:12 AM rodriguez2
Status = Received, Consolidated DR # = OS20-029161.4.

Current Location = BOX23. Previous Location = Santa Ana. Officer = rodriguez2.

11/30/2020 1:14:20 PM rodriguez2
Status = Filed, Consolidated DR # = OS20-029161.4.

Current Location = AF43A2. Previous Location = BOX23. Officer = rodriguez2.

12/2/2020 2:20:37 PM meredithzs
ITEM RELEASED TO VERONICA MUSICO AS A DUEBACK

Status = Released, Consolidated DR # = OS20-029161.4.

Current Location = DUEBAK. Previous Location = AF43A2. Officer = 04369, MEREDITH, ZACHARY S.

Status changed to Released. Item requested by MUSICO, VERONICA S at Santa Ana.

12/2/2020 3:06:17 PM rodriguez2
Status = Received, Consolidated DR # = OS20-029161.4.

Current Location = BOX02. Previous Location = DUEBAK. Officer = rodriguez2.

12/3/2020 10:48:47 AM rodriguez2
Status = Filed, Consolidated DR # = OS20-029161.4.

Current Location = AD53C0. Previous Location = BOX02. Officer = rodriguez2.



Adam Bereki <abereki@gmail.com>

Public Records Act Request

1 message

Adam <abereki@gmail.com>
To: piu@doj.ca.gov

Sat, Feb 27, 2021 at 1:26 PM

Good day,

Please provide all documents in your custody and control evidencing the signed Oath of Office for Bill Wagner. Please send the documents by email to abereki@gmail.com within the time allowed by law.

Sincerely,

Adam Bereki



Adam Bereki <abereki@gmail.com>

Public Records Act Request

1 message

Adam <abereki@gmail.com>

Mon, Mar 1, 2021 at 10:37 AM

To: bill.wagner@doj.ca.gov, piu@doj.ca.gov

Hi Bill,

My name is Adam Bereki. I learned about your involvement in the investigation of a complaint/Petition for redress of Grievance I filed with the Orange County Sheriff's Department ("OCSD") for deprivation of my Constitutional rights by public officials in late 2020. I have included a copy of the complaint (attached) that was sent to you by Inv. Leeb via email on November 2, 2020 (attached). In Leeb's supplemental report pursuant to his investigation, he stated that my case "had been reviewed by the California Department of Justice and that both they and the Orange County District Attorney's Office would not prosecute the case or investigate it any further." He also stated that you told him that I had contacted the California Attorney General's Office Public Inquiry Unit in September 2020 and that the Unit would have directed the case to [your] team had they thought anything criminal in nature had occurred. (See attached screen shot).

I'm writing to make two requests pursuant to the California Public Records Act. Please provide all documents in your custody or control evidencing:

1. The complaint I made to the California Attorney General's Office Public Inquiry Unit on or about September 2020 and that this complaint was investigated or reviewed by them. Include all documents pertaining to the Public Inquiry Unit's (or any other unit's) investigation into this complaint, including a copy of the complaint and the findings of fact and conclusions of law made pursuant to the investigation.
2. any emails, notes, memorandums, reports, audio or video recordings or other documents pertaining to your investigation into the complaint forwarded to you by Inv. Leeb on or about November 2, 2020.

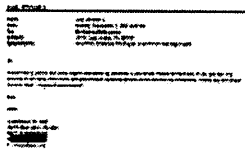
I have included the Public Inquiry Unit in this email so that they too, can provide any and all documents in their custody or control pertaining to this request.

Thanks for your help and feel free to call or email with any questions.

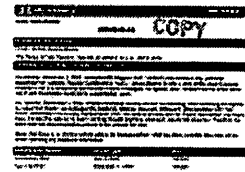
Sincerely,

Adam Bereki
949.241.6693


3 attachments



Screen Shot 2021-03-01 at 10.33.44 AM.png
340K



Screen Shot 2021-03-01 at 10.33.52 AM.png
1945K

 20-029161.pdf
973K



Adam Bereki <abereki@gmail.com>

Updated Report Attached

1 message

Adam <abereki@gmail.com>

Mon, Mar 1, 2021 at 11:06 AM

Bcc: bill.wagner@doj.ca.gov, Christopher.duff@da.ocgov.com, nicole.sims@coco.ocgov.com

Good day,

It appears in my earlier email I attached only a copy of the supplemental report and not a copy of the main complaint. Please find the correct file attached. I'm sorry for the trouble.

Sincerely,

Adam Bereki

 **20-029161.pdf**
834K



Adam Bereki <abereki@gmail.com>

Bereki, Adam-2021-00484-PRA Response

2 messages

DLEPRA@doj.ca.gov <DLEPRA@doj.ca.gov>
To: "abereki@gmail.com" <abereki@gmail.com>

Thu, Mar 11, 2021 at 9:24 AM

Dear Adam Bereki:

Attached please find a response to the Public Records Act request that you submitted to the California Attorney General's Office.

Regards,

Aubain Camperi

California Department of Justice

Division of Law Enforcement

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

 **Bereki, Adam PRA Response 2021-00484.pdf**
117K

Adam <abereki@gmail.com>
To: "DLEPRA@doj.ca.gov" <DLEPRA@doj.ca.gov>

Thu, Mar 11, 2021 at 10:56 AM

March 11, 2021

Aubain,

Thank you for your reply. I object on the following grounds:

With regard to your reply of my first request, the Oath of Office for Bill Wagner: The People have a right to verify whether the public officials who serve them are properly in office and that they have taken the

oath required by Article XX, Sec 3 of the Cal Const. This document is separate from private and confidential personnel file information and contains no confidential information about the official. Please also note that the oaths of office for other public officials are readily available from the Secretary of the State.

With regard to your reply of my second and third requests: There is nothing in the Public Records Act I'm aware of that forbids you from providing all of the records that I have provided you. For example, in this instance, your investigator Bill Wagner told the Orange County Sheriff's Department that I had made a complaint to the DOJ's Public Information Office in September 2020. A document that I provided you can't possibly be confidential and is not covered by Gov. Code §6254(f). Moreover, §6254 states in relevant part that:

"state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951 [...]."

Please provide all of the documents evidencing all of the information allowed under the Public Records Act that I have lawfully requested. If you don't have any documents pursuant to this request, you are also required to say so.

Sincerely,

Adam Bereki

[Quoted text hidden]

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



DIVISION OF LAW ENFORCEMENT
P.O. BOX 161089
SACRAMENTO, CA 95815-1089
Telephone: (916) 210-6300
Fax: (916) 731-2100

March 11, 2021

Adam Bereki
818 Spirit
Costa Mesa, California 92626-3089
Responded via email to: abereki@gmail.com

Re: California Public Records Act Request

Dear Adam Bereki:

This letter is in response to your correspondence received by the California Department of Justice (Department) on March 1, 2021. Your request is being handled pursuant to the California Public Records Act as set forth in Government Code section 6250, et seq. Specifically, you requested:

- 1. Please provide all documents in your custody and control evidencing the signed Oath of Office for Bill Wagner.*
- 2. The complaint I made to the California Attorney General's Office Public Inquiry Unit on or about September 2020 and that this complaint was investigated or reviewed by them. Include all documents pertaining to the Public Inquiry Unit's (or any other unit's) investigation into this complaint, including a copy of the complaint and the findings of fact and conclusions of law made pursuant to the investigation.*
- 3. Any emails, notes, memorandums, reports, audio or video recordings or other documents pertaining to your investigation into the complaint forwarded to you by Inv. Leeb on or about November 2, 2020.*

In response to your first request, the Department must decline your request. We withhold this identifying information because the public interest served by not disclosing such records clearly outweighs the public interest in disclosing such records. (Gov. Code §§ 6255, 6254, subd. (k), incorporating Pen. Code §§ 832.7, 832.8 [peace officer personnel records are confidential].) The Department has applied a balancing approach to the public's right to open government and the Department's obligation to ensure officer safety. (See *Commission on Peace Officer Standards and Training v. Superior Court* (2007) 42 Cal.4th 278.)

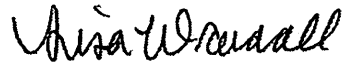
In response to your second and third request, the Department must decline your request. You have requested information relating to investigations and the records that you seek are confidential records of the Attorney General. Section 6254, subdivision (f) expressly exempts investigatory and security files of the Attorney General including complaints about unlawful practices. In the case of *Dick Williams v. Superior Court* (1993) 5 Cal.4th 337, 354 the California Supreme Court held that investigative records in the possession of law enforcement

EXHIBIT C- 2796

agencies are exempt from disclosure. The Court also ruled that investigation documents did not lose their exempt status due to a failure to prosecute, or the close of an investigation. (*Id.* at p. 355.)

This concludes our response to your request.

Sincerely,



LISA WARDALL
Staff Services Manager III
Office of the Chief
Division of Law Enforcement

For XAVIER BECERRA
Attorney General

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com | 949.241.6693

Orange County Sheriff-Coroner Department
Via prarequests@ocsd.org

March 14, 2021

RE: Public Records Act Request

Please provide all documents in your custody or control evidencing:

(1) inmate complaints or grievances made to your agency in each and every county correction facility and jail pertaining to: denial of access to the law library; law library computers not functioning; denial of pens, pencils or other necessary instruments or tools to conduct legal research; printers not working; unsanitary conditions in cells and/or law library restrooms; and lights not working in inmate cells to be able read;

(2) the number of computers, printers, and telephones in the law library in each and every county correction facility and jail;

(3) that each of the computers and printers in the law library in each and every county correction facility and jail are functioning in a reasonable capacity to conduct legal research and produce court filings; Please include all documents evidencing the dates/times of inspections and repairs made;

(4) a list of the legal research titles available in print in the law library for legal research in each and every county correction facility and jail;

(5) a list of the online legal research tools and utilities available for legal research in each and every county correction facility and jail;

Please separate your responses to each of these questions according to each facility and provide your response to me via email at this email address: abereki@gmail.com.

Sincerely,

/s/ Adam Bereki

EXHIBIT C- 2798



Adam Bereki <abereki@gmail.com>

OCSD Investigation 20-029161/Bereki

1 message

Adam <abereki@gmail.com>
To: christopher.duff@ocgov.com

Sun, Feb 28, 2021 at 10:39 AM

Hi Chris,

My name is Adam Bereki. I was informed by reports from the Orange County Sheriff Department (OCSD) that Investigator Leeb spoke to you pertaining to my deprivation of rights/Petition for Redress of Grievance complaint and that you performed an investigation and made findings to the OCSD. I'm writing to obtain the findings of fact and conclusions of law you made pertaining to your investigation that you shared with the OCSD. The OCSD ultimately made a determination that there was no criminal activity able to be discovered from what had been reported. However, the report does not substantiate your findings specifically. I've included a copy of the investigation report that was sent to you to refresh your recollection if needed. This request should also be considered under the public records act for any and all documents in your custody or control pertaining to this case.

Thanks for your help.

Sincerely,

Adam Bereki

 **20-029161.pdf**
973K



Adam Bereki <abereki@gmail.com>

OCSD 20-029161/ Bereki

1 message

Adam <abereki@gmail.com>
To: nicole.sims@coco.ocgov.com

Sun, Feb 28, 2021 at 11:47 AM

Hi Nicole,

As I'm sure you'll recall, we spoke on the phone recently about your involvement with the OC Sheriff Dept in my complaint for deprivation of rights and Petition for Redress of Grievance. During our call, you shared with me that you were the counsel for the OCSD and that you were not going to release any records of your communication and investigation pursuant to the attorney-client privilege.

I feel your findings and conclusions of law are pertinent to the findings ultimately made by the OCSD that "there was no criminal activity able to be discovered" and that I am entitled to have them pursuant to my right to file a redress of grievance. To be clear, I am not asking for your confidential communication. I'm asking for your findings of fact and conclusions of law that the OCSD relied upon to make its determinations and close my case. It appears to me you were an integral part of the investigation of this case and performed an investigation of your own and I believe I have a right to your findings and conclusions. Could you please provide this information?

Second, I wanted to ask if you would take another look at the Court of Appeal Opinion.

My concerns are how I was able to be prosecuted for a public offense (contracting without a license) by a private party. Article V of the Cal. Constitution vests the full authority that the law be faithfully executed in the governor and private parties are not allowed to prosecute other private parties for public offenses. Additionally, the appellate Court found that the "equitable remedy" imposed by the trial Court was "disgorgement" yet there is no such action for "disgorgement" under California law and "disgorgement" is not statutorily defined. The US Supreme Court recently defined disgorgement in Liu v. SEC (attached) and it basically ONLY applies to illegal profits- not a full refund without offsets for benefits conferred as held by the Court of Appeal. There is no evidence on the record of my case that I profited even \$1. Therefore, the "disgorgement" judgment was not disgorgement at all, but a fine subject to the excessive fines clause. Despite this neither the trial nor appellate Court performed any analysis under the State or Federal Excessive fines clauses. These are serious Constitutional issues resulting in major jurisdictional errors that could subject your clients to serious liability. While there may or may not be any criminal activity afoot, my complaint was also a petition for redress of grievance and grievances can be resolved in many other ways than filing criminal charges.


Thank you for your support and service.

Sincerely,

Adam Bereki

3 attachments **Humphreys v Bereki.pdf**
5205K**Liu v. SEC, 2020 U.S. LEXIS 3374.pdf**

 624K

 **20-029161.pdf**
973K



Adam Bereki <abereki@gmail.com>

OCDA FORMAL RESPONSE BEREKI OCSD PRA.pdf

2 messages

Hernandez, Denise <Denise.Hernandez@da.ocgov.com>
To: "abereki@gmail.com" <abereki@gmail.com>

Wed, Mar 10, 2021 at 11:25 AM

Mr. Bereki,

Please find attached our formal response to your records request of February 28, 2021.

Denise Hernandez

Sr. Deputy District Attorney



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 **OCDA FORMAL RESPONSE BEREKI OCSD PRA.pdf**
48K

Adam <abereki@gmail.com>
To: "Hernandez, Denise" <Denise.Hernandez@da.ocgov.com>

Wed, Mar 10, 2021 at 12:33 PM

Thank you Denise. I received your reply. However, I'm curious how there are no documents when I have records of email communication between Chris Duff and the OCSD that I recently received from the OCSD. Could you please provide these documents?

Sincerely,

Adam Bereki

[Quoted text hidden]



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

Via Email Transmission: abereki@gmail.com

March 5, 2021

Mr. Adam Bereki
abereki@gmail.com

Dear Mr. Bereki,

In compliance with Government Code § 6253, this letter addresses your California Public Records Act (Gov. Code § 6250 et seq) request dated February 28, 2021. This letter constitutes our formal response to your public record demand.

You have requested records of "any and all documents in [our] custody or control" and findings of fact and conclusions of law" this office made pertaining to Orange County Sheriff Department DR No. 20-029161.

We do not have any responsive records to your request.

Sincerely,

Denise Hernandez
Senior Deputy District Attorney
Special Prosecutions Unit

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

MAIN OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
PO. BOX 808 (92702)
(714) 834-3800

NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92632
(714) 773-4480

WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 896-7281

HARBOR OFFICE
4801 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 476-4650

JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7824

CENTRAL OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
PO. BOX 908 (92702)
(714) 854-3852

EXHIBIT C- 2803



Adam Bereki <abereki@gmail.com>

PRA Request 03/14/21

2 messages

Adam <abereki@gmail.com>

Sun, Mar 14, 2021 at 1:10 PM

To: Prerequisites <prerequisites@ocsd.org>

Good day Orange County Sheriff-Coroner Department,

Please see the attached request.

Sincerely,

Adam Bereki

 **OCSD PRA JAIL 031421.pdf**
33K

Adam <abereki@gmail.com>

Sun, Mar 14, 2021 at 1:11 PM

Bcc: James Allard <jim@strongarmpi.com>

And this one to orange county sheriff's department.... I will forward you the replies I receive from both agencies

[Quoted text hidden]

 **OCSD PRA JAIL 031421.pdf**
33K



Adam Bereki <abereki@gmail.com>

PRA Request 03/14/21

Prerequisites <Prerequisites@ocsd.org>
To: Adam <abereki@gmail.com>

Tue, Mar 16, 2021 at 9:03 AM

Good morning Mr. Bereki;

Please specify the timeframe(s) or date range for the records you are requesting in regards to number one, inmate complaints or grievances.

Sincerely,

Veronica Musico

Staff Specialist – CPRA Unit

Orange County Sheriff's Department

714-834-6449

[Quoted text hidden]

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links.
Forward suspicious messages to Helpdesk@ocsd.org.



Adam Bereki <abereki@gmail.com>

PRA Request 03/14/21

Adam <abereki@gmail.com>

Tue, Mar 16, 2021 at 9:10 AM

To: Prarequests <Prarequests@ocsd.org>

Good morning Veronica,

Please provide all records from 2011-2021.

Sincerely,

Adam Bereki

[Quoted text hidden]



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

March 24, 2021

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Sunday, March 14, 2021.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Department (OCSD) Records Division.

The attached records are responsive to your request. Please note that Sheriff's records regarding grievances only date back to 2013. We made redactions to inmates' personal and identifying information listed on the Excel spreadsheet based on their right to privacy (Gov't Code §§ 6254(k); Cal. Const. art. 1, § 1; Pen. Code § 13300). Regarding item two (2) about office equipment in the law library, there is three (3) desktop computers, two (2) desktop printers, and two (2) Konica Minolta Bizhub 958 digital multifunctional printer/scanners. Inmates do not have access to office equipment. Inmate requests for law library materials are processed and fulfilled by the Inmate Services Division, Correctional Programs Unit.

The Orange County Sheriff's Department has no records regarding item three (3) for documents evidencing the dates/times of inspections and repairs made to office equipment. In regards to item five (5) for a list of online legal research tools, these include Westlaw, CALBar, Prison Law Office, and online search engines.

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Lee".

Edward Lee, Director
OCSD Records Division

EL: vm
Attachments
cc: Media Relations



INMATE LAW LIBRARY PROCEDURES AND BOOKLIST



REQUEST PROCEDURES

1. Inmates may request to view the Inmate Law Library booklist from the Mod Deputy/Watch SSO (Musick) or from one of the Correctional Programs Technician.
2. Inmates must fill out a properly formatted Inmate Message Slip issued by the facility for each individual request. Only one request per slip. Law library does not provide inmate message slips contact Mod Deputy/Watch SSO (Musick) and CST's.
3. NO HANDMADE SLIPS
4. Non-Pro Per inmates will no longer receive lined or blank pleading paper per Inmate Services Management.
5. Inmates may submit up to five (5) requests per day. Requests exceeding 5 per day and/or not properly completed will not be processed and returned to inmate.
6. Inmates may check out books/pamphlets for forty-eight (48) hours and should return books to the housing Deputy for pick up. Only Pro Pers may renew up to three (3) times, books, book title and bar code number should be written on inmate message slip.
7. No more than five (5) books may be checked out at a time.
8. Inmates are responsible for books issued to them and will not receive future books if they have overdue or damaged books. Inmates may not share books. Inmates should note the date and to whom the books were returned for tracking by the Inmate Law Library.
9. Inmates may keep copies. Inmate Law Library does not provide copies of personal legal documents or other personal documentation.
10. Inmates receiving a Table of Contents (TOC) from a book may request a copy of one chapter or subsection of the book at a time. Chapters over 100 pages, a TOC will be sent and request by section only.
11. Inmates who request multiple chapters/sections of books that check out will receive the book instead of copies.
12. Inmates must not make verbal requests during delivery of legal materials. All requests and inquiries should be made on the appropriate Inmate Message Slip.
13. Inmates who use another inmates name and booking number or inmates who let other inmates use their information or Pro Per status to request law library will have their slips returned to them unfilled and information will go to Pro Per Sgt.

It is important to know how to get the materials you want.

1. Check the OCSD Inmate Law Library Book List first.
2. Requests for a specific case, statute, or related information (added by stats. or updated by stats.) use the correct citation and include all information possible. Some examples are as follows:
 - People v Axell, 235 Cal. App. 3d 836; 1 Cal. Rptr. 2d 411 [Oct. 1991].
 - CA Penal Code 647
 - CA Health and Safety Code 11210
 - Code/Assembly Bill/Senate Bill/Act Etc. followed by added by stats/amended by stats. Etc. and information including the year if available. Some examples are:
 - CA Evidence Code Ss1290 (d) (Stats.1965, c.299, Ss2 operative Jan. 1, 1967)
 - CA Vehicle Code Ss21467 (Stats.1959, c.3, p. 1678, Ss21467. Amended by Stats. 1974, c. 545, p. 1319, Ss188.)
 - See infra, See supra, See generally should follow the information it refers to such as Author, Title, and Date (the full authority should be cited).
3. Requests of Law reviews, Journals Etc. should include the author, full title, and citation as follows: Jeffries & Stephan, *Defenses, Presumptions, and the Burden of Proof in the Criminal Law*, 88 Yale L.J. 1325 (1979).
4. Requests for books should be by title, author and copyright date (if available) or edition (if available). If the book is on the Inmate Law Library Book List. You may use the title as given on the list.
5. Requests for copy, table of contents, forms, etc. should give the exact title of the book, page numbers, or form number and name.
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 - Drugs + (sale of) or (possession of) or (manufacture of)
 - Murder + (definition of) or (conspiracy to commit)
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I. Case Law and Law California

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Appellate Reports: Available through Westlaw/Next (Give Citation)

CA Reporter: Available through Westlaw/Next (Give Citation)

CA Reports: Available through Westlaw/Next (Give Citation)

Larmac: Consolidated Index to the Constitution and Laws of California

Substantive Criminal Law: Available through Westlaw/Next (Give Citation)

Wharton's Criminal Law: Available through Westlaw/Next (Give Citation)

II. Case Law Federal

Federal Appendix: Available through Westlaw/Next (Give Citation)

Federal Custody: Remedies on motion attaching sentence (28 USCA Section 2255)

Federal Reporter: Available through Westlaw/Next (Give Citation)

Federal Supplement: Available through Westlaw/Next (Give Citation)

Rutherford vs Pitchess: 457 F. Supp. 104

Stewart vs Gates: 450 F. Supp. 583

Supreme Court Reporter: Available through Westlaw/Next (Give Citation)

U.S. Supreme Court Reports (Led 2d): Available through Westlaw/Next (Give Citation)

III. Civil Procedures

2021 Books/Supplements not on shelf: LEXIS NEXIS

BAJI- CA Civil Jury Instructions

CACI- CA Civil Jury Instructions

CA Civil Discovery Vol 1 & 2

CA Civil Discovery Act

CA Civil Litigation: TOC request by chapter (for copy only)

CA Tort Damages: TOC request by chapter

CA Trial Objections: TOC request by chapter

Federal Civil Rules Handbook

Federal Habeas Manual: A Guide to Federal Corpus Litigation

Habeas Corpus Checklists

State Habeas Corpus Procedures

Title 42 USCA 1983 Civil Action for Deprivation of Rights: Specify forms or text

IV. Codes

2021 Books/Supplements not on shelf: LEXIS NEXIS

AB 109 & 117: Public Safety Realignment of 2011- Overview

CA Codes (Deerings):

Family Code: 2014-2009

Penal Code: 2016, 2014-2006

Probate Code: 2016, 2014-2009

Standard 4-in-1 Civil, Civil Procedure, Evidence, & Rules of Court: 2016

Standard 6-in-2 Volume 1 Civil: 2016

Standard 6-in-2 Volume 2 Rules of Court: 2016

CA Codes (Thompson/West):

CA Civil Practice Statutes & Rules (ThompsonWest): 2020, 2019, 2018-2010; 2006-2009 for copy only request by code

CA Juvenile Laws & Rules: 2020, 2019, 2018-2009; 2007-2004 for copy only request by code

Evidence Codes: 2020, 2019, 2018-2007

Family Code: 2020, 2019, 2018-2006

Family Laws & Rules: 2013 & 2012 for copy only request by code

Penal Code: 2020, 2019, 2018-2006; (2005-2003 for copy only request by code)

Penal and Evidence Code: 2020, 2019, 2018-2017

Vehicle Code: 2020, 2019, 2018-2007

CA Criminal Sentencing Enhancements

CA Three Strikes Sentencing: TOC for copy only request by chapter or section

Federal Civil Rules Handbook

Federal Habeas Corpus: request by chapter

Federal Habeas Manual: A Guide to Federal Habeas Corpus Litigation

Federal Immigration Laws & Regulations

Law of Probation & Parole

Law of Sentencing

Proposition 47: Felony Reduction-Packet

Standard CA Codes 4-in-1: 2016

Standard CA Codes 6-in-2:

March 2021

Vol I: Civil, Civil Procedure, Evidence, Family, Probate & Selected government code provisions- 2016
Vol II: Rules of Court and Index- 2016

Title 15- 2005 Minimum Standards for Local Adult Detention Facilities-Medical, Mental Health, Nutrition & Sanitation Standards

Title 15- 2010 Minimum Standards for Local Adult Detention Facilities-Div. 1 Subchapter 4 Crime Prevention & Corrections

Title 15 Div 1- County/Local Facilities (TOC request by chapter & article)

Title 15 Div 2- Board of Parole Hearings (TOC request by chapter & article)

Title 15 Div 3- State Prisons/Programs/Parole (TOC request by chapter & article)

Title 15 Div 4- Division of Juvenile Justice (TOC request by chapter & article)

Title 15 Div 4.5- Youthful Parole Board (TOC request by chapter & article)

Title 15 Div 5- Narcotic Addict Evaluation Authority (TOC request by chapter & article)

Title 15 Div 6- Commission on Correctional Peace Officer Standards & Training (TOC request by chapter & article)

Title 15 Div 7- Youth & Adult Correctional Agency (TOC request by chapter & article)

Title 15 Div 8- Prison Industry Authority (TOC request by chapter & article)

Title 24- 2016 Minimum Standards for Local Adult Detention Facilities (TOC request by chapter & article)

Vehicle Search Law Deskbook

V. Constitution

2021 Books/Supplements not on shelf: LEXIS NEXIS

March 2021

CA Judges Benchbook Search & Seizure: CEB

Criminal Procedure Checklists 5th Amendment Vol 1

Criminal Procedure Checklists 6th Amendment Vol 2

Constitution of CA: TOC request by article

Constitution of US

Constitutional Rights of the Accused Vol 1-4: TOC for copy only request by chapter or section

Criminal Constitutional Law Vol 1-3: TOC for copy only request by chapter or section

Larmac: Consolidated Index of the Constitution & Laws of CA

Search & Seizures 5th ed- A Treatise on the 4th Amendment-LaFave Vol 1-6: Request book by volume number; copies by section

VI. Criminal Procedures & Self Help

2021 Books/Supplements not on shelf: LEXIS NEXIS

602 CDCR Administrative Appeals Process: Information & forms

AB 109 & 107 Public Safety Realignment

ABA Guide to Consumer Law (Online): TOC for copy only request by chapter or section

ABA Family Legal Guide (Online): TOC for copy only request by chapter or section

ACLU 2012 Prisoner's Directory

Addresses: Request by number & title

1. CA Board of Corrections
2. CA Law Offices of the Family Law Facilitator
3. CA State Prisons
4. CA District Attorneys
5. Credit Bureau
6. LA County Bar Association
7. Zip Codes
8. Orange County Domestic Violence Program
9. Orange County Sheriff & Court Addresses
10. Law Enforcement-Orange County
11. Orange County Approved Drug Alcohol Treatment Programs
12. Mexican Counsel
13. Parole Headquarters
14. CA Superior Courts
15. Paralegal
16. Orange County Legal Resources
17. CA State Courts & Prisons in those Court Districts
18. CA Agencies

Appeals & Writs in Criminal Cases: TOC for copy only request by chapter or section

Art of Selecting a Jury: Copy only

Attorney Misconduct Generally

Bail: Felony Bail Schedule, Los Angeles Superior Court

Bail: Uniform Bail Schedule Felony & Misdemeanor, Orange County Superior Court

March 2021

BAJI-CA Civil Jury Instructions

Bankruptcy Basics: Online

Black's Law Dictionary 9th and 10th ed

Brady Obligations, Criminal Sanctions & Solutions in a New Era of Scrutiny: Due Process & the Disclosure of Evidence: 61 Vand. L. Rev. 1935

CA Civil Discovery Vol 1 & 2

CA Civil Litigation: TOC for copy request by chapter or section (Out of Print)

CA Codes (Deerings):

Family Code: 2014-2009

Penal Code: 2016, 2014-2006

Probate Code: 2016, 2014-2009

Standard 4-in-1 Civil, Civil Procedure, Evidence, & Rules of Court: 2016

Standard 6-in-2 Volume 1 Civil: 2016

Standard 6-in-2 Volume 2 Rules of Court: 2016

CA Codes (Thompson/West):

CA Civil Practice Statutes & Rules (ThompsonWest): 2019, 2018-2010; (2006-2009 for copy only request by code)

CA Juvenile Laws & Rules: 2019, 2018-2009; (2007-2004 for copy only request by code)

Evidence Codes: 2020, 2019-2007

Family Code: 2020, 2019, 2018-2014, 2012-2006

Penal Code: 2020, 2019-2006; (2005-2003 for copy only request by code)

Penal and Evidence Code: 2020, 2019, 2018-2017

Probate Code: 2015

Vehicle Code: 2020-2007

CA Courtroom Evidence

CA Criminal Defense of Immigrants: TOC for copy only request by chapter or section

CA Criminal Discovery 5th ed

CA Criminal Law Case Finder: TOC for copy only request by chapter or section (Out of Print)

CA Criminal Law Forms Manual: TOC for copy only request by chapter or section

CA Criminal Law -Witkin Vol 1-7

CA Criminal Law-Levenson: TOC for copy only request by chapter or section

CA Criminal Law Observer: The Three Strikes & Your Out Law

March 2021

- CA Criminal Law Procedure & Practice: TOC for copy only request by chapter
- CA Criminal Law Procedure-Levenson: TOC for copy only request by chapter or section
- CA Criminal Motions-Levenson
- CA Criminal Motions Forms-Levenson: TOC for copy only request by chapter or section
- CA Criminal Practice: Motions, Jury Instructions & Sentencing Vol 1-5
- CA Criminal Procedures-Levenson: TOC for copy request by chapter or section
- CA Criminal Sentencing Enhancements
- CA Driving Under the Influence Defense
- CA Drunk Driving Defense 5th ed
- CA Evidence-Witkin Vol 1-4
- CA Evidentiary Foundations 3rd ed
- CA Foul Strike: A Single Act Punished with Two Strikes
- CA Guideline Child Support Calculator User Guide
- CA Judges Benchbooks:
 - Domestic Violence Case in Criminal Court: TOC for copy only request by chapter or section
 - Search & Seizures-CEB: TOC for copy only request by chapter or section
- CA Judges Benchguides:
 - Benchguide # 2: Disqualification of Judge
 - Benchguide # 34: Small Claims Court
 - Benchguide # 52: Misdemeanor Arraignment
 - Benchguide # 54: Right to Counsel Issues
 - Benchguide # 55: Bail & Own-Recognizance Release
 - Benchguide # 58: Motions to Suppress & Related Motions: Checklist
 - Benchguide # 63: Competence to Stand Trial
 - Benchguide # 74: Sentencing Guidelines Common Misdemeanors & Infractions
 - Benchguide # 81: DUI Proceedings
 - Benchguide # 83: Restitution
 - Benchguide # 84: Probation Revocation
 - Benchguide # 91: Felony Arraignment & Pleas
 - Benchguide # 92: Preliminary Hearings
- CA Judicial Council Forms: Request by number & name of form (Index available upon request)

March 2021

CALJIC Criminal Jury Instructions: Parts 1-9 and Parts 10-18

CALCRIM Criminal Jury Instructions: Vol 1 & 2

CA State Bar Pamphlets: Online

How Can I Find & Hire the Right Lawyer

How Can I Resolve My Dispute Without a Trial

What Can I Do if I Have a Problem With My Lawyer

What Should I Know about Divorce & Custody

What Should I Know if I Am Arrested

CA State Prisoners Handbook: TOC for copy only request by chapter or section

CA Style Manual (Out of Print): TOC for copy only request by chapter

CA Three Strikes Sentencing: TOC for copy request by chapter or section

CA Tort Damages: TOC for copy only request by chapter or section

CA Trial Objection: TOC for copy only request by chapter or section

Case Analysis & Fundamental of Legal Writing: TOC for copy only request by chapter or section (Out of Print)

Challenge to Eyewitness Identification: 35 AMJUR POF 3d 1

Chapter 13 Bankruptcy online only

Competent Counsel: TOC for copy only request by chapter or section (Out of Print)

Conflicts of Interest-Office of Attorney General

Constitutional Rights of Accused Vol 1-4: TOC for copy request by chapter or section

Courtroom Criminal Evidence 6th ed Vol 1 & 2

Credit for Time in Custody: 49 Cal. Jur. 3d Penal, etc, Institutions 222

Crimes of Violence: Rape and other Sex Crimes

Criminal Constitutional Law Vol 1-3: TOC for copy request by chapter or section

Criminal Evidentiary Foundations

Criminal Investigation Handbook: TOC for copy request by chapter or section

Criminal Law Defenses Vol 1 & 2

Criminal Law Principles & Cases 5th ed: TOC for copy request by chapter or section (Out of Print)

March 2021

Criminal Practice Handbook

Criminal Procedure Checklists 5th Amendment Vol 1

Criminal Procedure Checklists 6th Amendment Vol 2

Criminal Procedure Handbook

Criminal Process in California

Crime Scene Investigation-A Guide for Law Enforcement, 2013

Criminal Trial Error and Misconduct

Criminal Trial Techniques: TOC for copy request by chapter or sections

Cross Examination in Criminal Trials: TOC for copy request by chapter or sections (Out of Print)

Cross Examination: Science & Techniques

Dancing with Lawyers: Copy only

Defense of Narcotics Cases: Dogget v US: 8 AMJUR TRIALS 573

Deportation 101

DSM IV-TR: TOC for copy only request by chapter or section

Dissolution of Marriage Packet

Drinking/Driving Litigation Criminal & Civil Trial Notebook

Driver's License Suspension in Child Support Cases

Drugs/Speedy Trial: 112 SCT 2686

Effective Defense Counsel-Strickland v Washington: 104 SCT 2052

Effective Direct and Cross-Examination: TOC for copy only request by chapter

Effective Introduction of Evidence in CA: TOC for copy only request by chapter or section

Entrapment Defense

Establishing Paternity for You and Your Child

Everytrial Criminal Defense Resource Book

March 2021

Excluding Illegally Obtained Evidence: 5 AMJUR TRIALS 331

Exclusion of Evidence in State Criminal Action for Failure of Prosecution to comply with Discover Requirements as to physical or documentary Evidence or the like-Modern Cases: 27 ALR 4th 105

Expert Testimony at Sentencing: 103 AMJUR PROOF OF FACTS 3D 81

Eyewitness Identification Legal & Practical Problems

Eyewitness Testimony Civil & Criminal

Federal Civil Rules Handbook

Federal Habeas Corpus-Sokol: TOC for copy request by chapter or sections (Out of print)

Federal Habeas Manual: A Guide to Federal Corpus Litigation

Federal Immigration Laws & Regulations

Forensic DNA Evidence Science & the Law: TOC for copy request by chapter or section

Fruit of "The Poisonous Tree" Doctrine: 43 ALR 3d 385

Gang-Related Legislation CA 2010

Habeas Corpus Checklist

Handling Criminal Appeals

Handling Criminal Appeals Supplement

Handling Narcotic & Drug Cases

Handling Narcotic & Drug Cases Supplement

Hearsay Rule: 25 UWLA Law Review 59, 1994 (Lexis Nexis)

Henke's California Law Guide: TOC for copy only request by chapter or section (Out of Print)

How & When to be Your Own Lawyer: TOC for copy only by chapter (Out of Print)

How to Find the Law: TOC for copy only request by chapter or section (Out of Print)

How to Get & Clean Up Your California Rap Sheet

Ineffective Assistance of Counsel 2003: 184 AMJUR POF 3d 267

March 2021

Intelligence Reforms & Terrorism Prevention Act-2004

Interest Charges on Child Support Accounts

Introduction to Paralegal Studies: TOC for copy only request by chapter or section (Out of Print)

Jailhouse Lawyers Handbook

Jailhouse Lawyer's Manual: TOC for copy only request by chapter

Jefferson's California Evidence Benchbook: TOC for copy only request by chapter or section

Jury-Contaminating the Verdict: The Problem of Juror Misconduct 2005-Bennett Gershman: 50 S.D.L. REV. 322

Jury Instructions from A to B by George Schraer & Charles Sevilla, Oct 27, 2012

LARMAC Consolidated Index

Law of Probation & Parole

Law of Sentencing

Laying Foundation to Introduce Evidence: copy only

Legal Research & Writing: Some Starting Points: TOC for copy only request by chapter or section (Out of Print)

Legal Services for Prisoners with Children: Online

Bill of Rights for Incarcerated Parents

Child Custody & Visiting Rights Manual for Incarcerated Parents

Fighting for our Rights: A Toolbox for Family Advocated of California Prisoners

Incarcerated Parents Manual

Lifer Parole Packet

Manual on Divorce Issues for People of California Prisons & Jails

Manual on SSI & SSDI for Prisoners & Their Advocates

Pregnant Women in California Prisons & Jails: A Guide for Prisoners & Legal Advocates

Suing a Local Public Entity

Mandatory Criminal Jury Instructions Handbook-CJER

Manual for Paralegals & Legal Assistants: TOC for copy only request by chapter or section

Methods of Attacking Scientific Evidence

Modification of Child Support

Motion Writing 101

March 2021

No Easy Answers: Sex Offender Laws in US-Human Rights Watch 2007

Orange County Superior Court Forms: Request by form number & name (Index available upon request)

Pardon-How to Apply for a Pardon in California

People v Joe Rodriguez

Persuasive Opening Statements & Closing Arguments: TOC for copy only request by chapter

Photographic Identification-Suggestiveness: 39 ALR 3d 1000

Pitchess v Superior Court of Los Angeles: 11 Cal 3d 531

Postconviction Remedies Vol 1 & 2

Presentence Custody Credits: A Step-By-Step Guide

Pretrial Motions in Criminal Prosecution

Prisoner-Search & Seizure: 14 ALR 5th 913

Prison Law Office: Online

- California's Two and Three Strikes Law

- California State Court Petitions for Writ of Habeas Corpus

- Cannabis (Marijuana) Legalization; Petitions for Resentencing or Dismissal (Prop 64)

- Collateral Challenges to California Criminal Convictions: State & Federal Habeas Corpus

- Credit for People in County Jails Whose Transfers to CDCR are Delayed due to Covid-19

- Direct Appeals of Criminal Convictions

- Elder Parole

- How to file a CDCR Administrative Appeal-Administrative Grievance & Appeals

- Information About the ADA (Americans with Disabilities Act)

- Medical Parole & Compassionate Release

- New Laws on Felony Murder (SB 1437)

- New Laws on Sentence Enhancements

- Nonviolent Offenders Parole (Prop 57)

- Parolee Rights Handbook

- Petitioning for Resentencing or Record Change to a Misdemeanor (Prop 47)

- Resentencing Based on CDCR or District Attorney Recommendations (PC 1170d)

- State Habeas Corpus Procedure: Manual for California Prisoners

- State Habeas Corpus Form

- Time Credits for Good Conduct and Programming (Prop 57)

- Veterans/Military Members Resentencing Law (AB 865; PC 1170.91)

- Youth Offender Parole Hearings

Prisoner's Self-Help Litigation Manual 4th edition: TOC for copy only by chapter or section

March 2021

Prison Writ Writing- Three Essays

Probation-Submission to Warrantless Search: 99 ALR 5th 557

Process of Legal Research: TOC for copy only request by chapter or section (Out of Print)

Proof of Unconstitutional Prison Conditions, 2003: 24 AMJUR POF 3d 467

Pro Se Representation in the US-Wikipedia

Prosecution & Defense of Criminal Conspiracy Cases

Prosecution & Defense of Sex Crimes

Prosecutorial Misconduct 2nd -Gersham

Prosecutorial Misconduct 4th -Lawless

Prosecutor's Manual for Arrest, Search & Seizure

Psychological & Scientific Evidence in Criminal Trials

Reference Manual on Scientific Evidence: TOC for copy request by chapter or section

Rights of Prisoners Vol 1-4

Roadmap to Reentry: A California Legal Guide: TOC for copy request by chapter or section

Rutherford v Pitchess: 457 F Supp 104

Scientific Evidence Vol 1 & 2: Request by Volume Number

Scientific Evidence & Expert Testimony in California: TOC for copy only request by chapter (CEB)

Search & Seizure Vol 1-6 -La Fave: Request by volume number for book or section for copy

Sentencing California Crimes: TOC for copy request by chapter or section

Sex Crimes: California Law & Procedure: TOC for copy request by chapter or section

Simons on California Evidence Manual

State of California Child Support Handbook

State Rethinks Three Strikes Law-Christian Science Monitor by Daniel B. Wood

Three Strikes-Violent & Serious Felonies (per CA Statutes 2010)

March 2021

Title 15- 2005 Minimum Standards for Local Adult Detention Facilities-Medical, Mental Health, Nutrition & Sanitation Standards

Title 15- 2010 Minimum Standards for Local Adult Detention Facilities-Div. 1 Subchapter 4 Crime Prevention & Corrections

Title 15 Div 1- County/Local Facilities (TOC request by chapter & article)

Title 15 Div 2- Board of Parole Hearings (TOC request by chapter & article)

Title 15 Div 3- State Prisons/Programs/Parole (TOC request by chapter & article)

Title 15 Div 4- Division of Juvenile Justice (TOC request by chapter & article)

Title 15 Div 4.5- Youthful Parole Board (TOC request by chapter & article)

Title 15 Div 5- Narcotic Addict Evaluation Authority (TOC request by chapter & article)

Title 15 Div 6- Commission on Correctional Peace Officer Standards & Training (TOC request by chapter & article)

Title 15 Div 7- Youth & Adult Correctional Agency (TOC request by chapter & article)

Title 15 Div 8- Prison Industry Authority (TOC request by chapter & article)

Title 24- 2008 Minimum Standards for Local Adult Detention Facilities

Title 42 USCA 1983: Civil Action for Deprivation of Rights: Specify forms or text

Understanding Capital Punishment

Understanding Criminal Law

Understanding Criminal Procedure Vol. 1: Investigations

Understanding Criminal Procedure Vol. 2: Adjudication

Vehicle Search Law Deskbook

Win Your Lawsuit: TOC for copy only request by chapter

Withdrawal of Guilty Plea, 2003: 42 AMJUR TRIALS 519

Younger on California Motions

Your Rights as a Pro Se Inmate Litigant-Out of Jail Litigant

March 2021

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VII. Dictionaries

Black's Law Dictionary 9th and 10th ed

VIII. Digests/Indexes

2021 Books/Supplements not on shelf: LEXIS NEXIS

American Jurisprudence (AMJUR): Available through Westlaw/Next (Give Citation)

CA Criminal Law Case Finder: TOC request by chapter (Out of print)

CA Jurisprudence 3d (CAL JUR 3d): Available through Westlaw/Next (Give Citation)

Gilbert Law Summaries-Criminal Law 17th Ed (Out of Print): TOC request by chapter

Larmac: Consolidated Index to the Constitution & Laws of CA

US Supreme Court Digest (Lawyers' Ed/Led): Available through Westlaw/Next (Give Citation)

West Key Number Digest: Available through Westlaw/Next (Provide subject and key number or citation)

IX. Forms, Motions, Writs

Appeals & Writs in Criminal Cases: TOC request by chapter or section

Briefs 101-How to Write a Memorandum of Law

CA Criminal Law Forms Manual: TOC request by chapter or section

CA Criminal Motions-Levenson

CA Criminal Motions Forms-Levenson: TOC request by chapter or section

CA Criminal Practice, Motions, Jury Instructions and Sentencing: TOC request by chapter or section

CA Judicial Council Forms: Request by form number & description (may request an index if you do not know which forms are available)

County of Orange Superior Court Forms: Request by form number & description (may request an index if you do not know which forms are available)

Marsden Motion- Substitution of Counsel

Motion Writing 101

Motion for Continuance OC court forms-L-2761

Motion for Dismissal Traffic Citation/Warrant- 41500

Motion to Dismiss a Trial- 1382

Motion to Suppress Evidence CPC 1538.5

Motion to Withdrawal Guilty Plea CPC 1018

Prison Writ-Writing: 3 Essays

Pretrial Motions in Criminal Prosecution

Writ of Certiorari

Writ of Mandate & Prohibition

Younger on CA Motions

X. Prisoner's Rights

Bail: Felony Bail Schedule, Los Angeles Superior Court

Bail: Uniform Bail Schedule Felony & Misdemeanor, Orange County Superior Court

CA State Prisoner's Rights Handbook: TOC request by chapter

Constitution of CA: TOC request by article

Constitution of US

Parolee Rights Handbook-Prison Law Office, San Quentin

Prisoners' Self Help Litigation Manual: TOC for copy only by chapter or section

Rights of Prisoners Vol 1-4

Title 15- 2005 Minimum Standards for Local Adult Detention Facilities-Medical, Mental Health, Nutrition & Sanitation Standards

Title 15- 2010 Minimum Standards for Local Adult Detention Facilities-Div. 1 Subchapter 4 Crime Prevention & Corrections

Title 15 Div 1- County/Local Facilities (TOC request by chapter & article)

Title 15 Div 2- Board of Parole Hearings (TOC request by chapter & article)

Title 15 Div 3- State Prisons/Programs/Parole (TOC request by chapter & article)

Title 15 Div 4- Division of Juvenile Justice (TOC request by chapter & article)

Title 15 Div 4.5- Youthful Parole Board (TOC request by chapter & article)

Title 15 Div 5- Narcotic Addict Evaluation Authority (TOC request by chapter & article)

Title 15 Div 6- Commission on Correctional Peace Officer Standards & Training (TOC request by chapter & article)

Title 15 Div 7- Youth & Adult Correctional Agency (TOC request by chapter & article)

Title 15 Div 8- Prison Industry Authority (TOC request by chapter & article)

Title 24- 2008 Minimum Standards for Local Adult Detention Facilities

Title 42 USCA 1983 Civil Action for Deprivation of Rights: Specify forms or text

XI. Realignment & Sentencing Information

AB 109 & 117 Overview Public Safety Realignment

Awarding Custody Credits-Richard Couzens & Tricia Bigelow

Felony Sentencing After Realignment-Richard Couzens & Tricia Bigelow

Presentence Custody Credits: A Step-By-Step Guide-Central California Appellate Program

Proposition 47 Packet Includes: Prison Law Office Proposition 47; Proposition 47 Text; Information & Instructions; Form L-097 CPC 1170.18 Petition to have Felony Violations Designated as Misdemeanors and for Resentencing; Form L-0928 Order Designating Felony Violations as Misdemeanors and/or Resentencing

Sentencing California Crimes: TOC for copy only request by chapter

Statewide Ban the Box-Reducing unfair barriers to employment of people with criminal records

The Amendment of the Three Strikes Sentencing Law-Richard Couzens & Tricia Bigelow

XII. Forms List

**WRITE FORM NAME AND NUMBER WHEN REQUESTING FORMS
(2 FORMS PER REQUEST)**

602 Administrative Appeals State Prison- forms & information

ADA forms & information

Alternative Dispute- ADR-101

Appeal Felony- CR-120

Appeal Misdemeanor- CR-132

Appeal Misdemeanor Information- CR-131

Application for Electronic Confinement

Application for Parole, Orange County

Application for CDCR Board of Appeals- BPT 1040

Application Wavier for Court Fees & Cost, Civil- FW-001

Application Wavier for Court Fees & Cost, Criminal- FW-003

Attorney Complaint

CA Innocence Project

CA Statutory Will

Change of Venue

Child Custody forms & information

Child Declaration of Paternity

Child Support for Incarcerated Parents

Child Support & Modification

Civil Case Coversheet- CM-010

Civil Rights Complaint- 42 USCA 1983

Civil Rights Complaint for Non-Prisoners- 42 USCA 1983

Claim for Money or Damages Against the County of Orange

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Claim forms Erroneously Convicted Felon
Complaint-Personal Injury, Property Damage, Wrongful Death- 982.1(1)
Corum Nobis/Vobis forms & information
Demand for Trial- 1381
Demand for Trial Agreement on Detainers- 1389
Deposit of Real Property as Bail, Orange County
Direct Appeals of Criminal Convictions
Domestic Partnership forms & information
Driver's License Record Correction Request-Traffic Violations/Convictions Only
Establishing Paternity for You & Your Child
Ex Parte Application to Dismiss Non-Felony Traffic Citations/Warrants- 41500
Expunging Criminal Records
Faretta Waiver & information
Federal Habeas Corpus Petition
Forma Pauperis
Guardianship forms & information
How to File Complaint against a Judge
Marsden Motion- Substitution of Counsel
Motion for Continuance OC court forms-L-2761
Motion for Dismissal Traffic Citation/Warrant- 41500
Motion to Dismiss a Trial- 1382
Motion to Suppress Evidence CPC 1538.5
Motion to Withdrawal Guilty Plea CPC 1018
Notice Conditions of Post-Release Community Supervision- CDC 1515-CS
Notice of Motion & Motion to be Relieved as Counsel, Civil- MC-051
Orange County Appeals: A Detailed Guide

March 2021

Pardon forms & information

Petition/Application to have felony violation designated as misdemeanors & resentencing CPC 1170.18

Petition & order for relief under CPC 1203.4 & 1203.4a & 1203.41

Petition & order to return property used as exhibit CPC 1417.5

Petition for certificate of rehabilitation & pardon CPC 4852.01

Petition for modification/termination of probation CPC 1203.3

Petition for relief under CPC 1203.4 & 1203.4a

Petition to Seal & Destroy Arrest Records

Petition for Writ of Habeas Corpus, CA- MC-275

Pitchess Motion

Plaintiff's claim & order to go to small claims court- SC-100

Power of Attorney

Prisoner's Rights Union-Inside/Outside Press forms & pricing for inmates

Proof of Service by Mail- FL-335

Proof of Service Civil- POS-040

Proof of Service Small Claims- SC-104

Proof of Service Summons- POS-010

Proof of Service Criminal Notice of Appeals- APP-009

Request for Court Appointed Lawyer in Misdemeanor Appeal- CR-133

Request for disposition of probation, waiver of appearance & right to attorney CPC 1203.2a

Sentence Modification

Small Claims forms & information

State Habeas Corpus Manual

Temporary Restraining Order forms & information

Withdrawal of Guilty Plea (CR-180)

Writ of Certiorari

March 2021

Writ of Mandate & Prohibition

Writing Motions: a short course in the reality of being Pro Se by the lawyer dude

| Date of Receipt | Synopsis | Final Narrative |
|-----------------|--|--|
| 9/18/13 | Inmate is complaining about access to Law Library. Note: Sgt. Hilliard spoke to inmate REDACTED who says he puts in messages slips to Law Library but "never" receives any books or legal material. Inmate also says that deputies are prejudiced towards him and don't give him Inmate Message Slips or they refuse to pick them up. Inmate is concerned about messages slips but more concerned about not receiving legal material he has put in for. | This matter was researched. It was verified that over 300 law library requests were made by inmate NAME REDACTED, and that these requests were fulfilled and delivered by Inmate Services personnel. Inmate NAME REDACTED grievance is unfounded. |
| 12/1/13 | Inmate is grieving the fact she has sent 3 message slips to the Law Library and not received any type of response. | Due to the high volume of requests received by the Law Library, all requests are filled on a first in first out basis. This request will be delivered within the next few days. |
| 12/14/13 | Inmate is grieving a lack of service by the law library over the last 7-8 months. | Law Library has filled your request for a paralegal book. Table of contents for NALA manual, which is a paralegal book, was sent out on December 10, 2013, with instructions to request by chapter. NALA Manual does not check out. Your request for books cannot be filled until you return the overdue Black's Law Dictionary that was checked out to you. Table of contents for books requested will be sent for copies. Request to borrow 5 law books is vague. You need to follow Law Library procedures and request by book title; one request per slip. Please see attached "Resource Tracking" and "Law Library Procedures". The Law Library was notified you were Pro Per on December 19, 2013. |
| 12/17/13 | Inmate is grieving not getting any response or service from the Law Library. | Orange County Sheriff's Department Inmate Message Slips have printed on them "Use only ONE SLIP per request." Inmate NAME REDACTED makes two requests on his inmate message slips in question. His first request is for copy of the case; second request is keycite results. Law Library has been sending his first request for copy of case and the keycites are not run due to being a second request. Please see attached copy of inmate message slip. Law Library does understand how to run keycites but because inmate NAME REDACTED is not following procedures the keycites are not sent, it needs to be requested on a separate inmate message slip. Inmate NAME REDACTED is also grieving his access to inmate message slips. It is the responsibility of the facility CST's, not the law library's, to provide inmate message slips to all inmates. Inmate NAME REDACTED needs to submit a message slip to the CST Sergeant for denial of the necessary amount of inmate message slips he is receiving. |
| 12/25/13 | Inmate wants access to certain key sites from the law library and he also needs more blank slips for submissions. | Small Claims Info & Forms was delivered on January 24, 2014. |
| 1/19/14 | Inmate NAME REDACTED submitted 3 requests for the law library in obtaining judicial council forms for a small claims case, but has not received any responses or the materials he requested. | Inmate Law Library is a service provided to all inmates and is overseen by the professional staff. It is your right to grieve the law library and since law library is here to work with you, law library does not intentionally mishandle slips to punish you for grieving law library as you accuse. Law library is a service provided to all inmates. Key Cites for both cases in question were sent to you on Feb 14, 2014. |
| 2/6/14 | Inmate is grieving he has requested keycite results from the law library but they either give him the whole case or never send the correct documents. | Inmate Law Library is a service provided to all inmates and is not overseen by the sworn staff but professional staff. Law library fills inmate requests as long as they are legal request regardless of the information being requested. Law library can only fill inmate message slips that we receive. Law library looked through the unfilled slips and can't locate the inmate message slip in question about abuse of power assaults and misconduct under the color of authority. Law library is not responsible for the dispersion or collection of inmate message slips, that is the responsibility of Deputies and CST's. Please address any issues to the appropriate Sergeant. Please resubmit your request. |
| 2/9/14 | Inmate states he has made law library requests for information concerning "information and penal codes" on abuse of "power assault and misconduct under color of authority" but has had no response nor has he received materials. | You are not on the Pro Per list provided by the Pro Per Sergeant; if you have a court order for Pro Per status contact Sgt. Stichter. Law Library does not consider anyone Pro Per unless there is a court order. Law Library serves over 7,000 inmates. Books are distributed by date received and book availability. Law library fills slips that we receive. Attached are the resources that have been filled and delivered to you. Since you are not on the Pro Per list, you do not have priority to delivery. Forms were sent on April 2, 2014. |
| 2/14/14 | Inmate NAME REDACTED believes his due process rights protected under the US and State constitution are being violated because he is not receiving law books in a timely manner. | 2 Power of Attorney sent (4/1/14 & 4/23/14). Contact Deputy to see what happened to your forms. Signed, Inmate Programs |
| 3/29/14 | Inmate claims he put in slips to law library for Family Law forms FL-220 and FL-270 but has got no response and he claims the Family Law matter is time sensitive. | Sgt. Hibbs wrote on Grievance that 20 legal items were delivered to inmate on 4-27-14; all of the mentioned items were delivered to Module B on 4-22-14 and should have been given to inmate on that day. Inmate NAME REDACTED has had over 250 legal research requests filled and sent to him (see attachment). Law Library can only fill requests that we receive. Law Library is not responsible for collection or delivery of law library inmate message slips. Inmate NAME REDACTED can compare the items filled with the ones he is claiming not to have been filled with the resource tracking list. Those that have not been filled need to be submitted on an inmate message slip, only one request per slip. |
| 4/5/14 | Inmate NAME REDACTED claims he has not yet received legal paperwork from the law library after 2 requests. | Law Library fills slips that are receive and Law Library is not responsible for the collection and dissemination of Inmate Message slips addressed to Law Library coming from the facilities. The Resource Tracking Report shows that 2 items were sent on 6-3-14 and 3 items sent on 6-10-14. These items were delivered to the Mod L Deputy in the afternoon on those dates. Attached are the resources that have been filled and delivered. The issue date on the resource tracking sheet is the date the items were delivered to the facility. Sgt. Hilliard: On 6-12-14, I spoke to inmate NAME REDACTED about his law library issues. He says he has received all items but one was wrong. I told him to resubmit a message slip to law library being more specific what he wants. |
| 4/27/14 | Inmate NAME REDACTED BKN NUMBER REDACTED is claiming to have submitted law library requests for over a month with no response. On 4-27-2014 at about 0950 hours I spoke with inmate NAME REDACTED. NAME REDACTED told me that on 4-27-2014, he received 20 photocopied items from the law library. NAME REDACTED claimed there were still over one hundred items which he had requested from the law library which had not been received. See attached list. | The Law Library provides service to over 7,000 inmates. Materials are distributed by date received and book availability. Law library can only provide material for slips that are received. Attached are the resources that have been filled and delivered to you. Since you are currently on the Pro Per list, the Law Library makes every attempt to give priority to your requests. |
| 6/10/14 | Inmate is grieving that he has submitted 5 inmate message slips to the law library but has only received one request. Inmates states it has been over three weeks since he has submitted requests. | |
| 8/22/14 | Inmate NAME REDACTED is stating he is not receiving his law library requests in a timely manner | |

9/10/14 I/M NAME REDACTED claims that he has not received requested materials from the inmate Law Library.

10/20/14 Inmate is not satisfied with the Law Library services provided in jail.

11/8/14 Inmate claims he has been submitting message slips for Prop 47 Bill Text, Forms and Procedure for 176, Witkin Ca. Crim Law Books Vol. 1-6. He claims he has been making requests for over 7 weeks.

11/10/14 Inmate is not satisfied with the Law Library services.

11/22/14 Inmate NAME REDACTED is requesting a copy of the police report regarding his felony case. He states he has made several attempts to acquire it through law library, but has been unsuccessful. Case Number#REDACTED.

12/18/14 Inmate states he hasn't received his law library book

1/1/15 Inmate NAME REDACTED states he has submitted several slips for Law Library materials but has not received the requested information.

1/10/15 Inmate NAME REDACTED claims he submitted requests to the law library on 12-23, 12-26 and 12-27 with no response.

1/15/15 I/M NAME REDACTED is grieving the fact that he has not received his Law Library requests that were submitted 3 weeks ago.

1/28/15 Inmate states he has not received requested material.

2/21/15 Inmate is grieving she is not receiving her law library materials.

3/4/15 Inmate NAME REDACTED is complaining about the way we handle Law Library requests. He believes requesting law material via message slip (given to deputies) is not "private" or "confidential" enough.

3/5/15 Inmate claims he is not receiving the law book material he has been requesting.

3/22/15 Inmate is claiming he did not receive requested materials from the law library.

CPT Jim Ross of Programs/Law Library was contacted and stated that they are a couple of weeks behind in processing requests. He checked the pending requests and could not find any from I/M NAME REDACTED. He stated that when he locates NAME REDACTED Request he will process it as quickly as possible. I/M NAME REDACTED was informed of this by the Module deputies on 09-11-14.

Law library sends a new monthly booklist to all module and barracks every month. A deputy requesting new booklists or inmates stating the booklist in their housing are missing, law library sends a new booklist to the module or barracks deputy. Only pro per inmates are given a monthly booklist. Law library has sent you numerous TOC (table of contents) so you can order copies of chapters when the books are unavailable. Unfortunately, you do not follow the law library procedures. Law library is not required to give you a physical book as you have demanded numerous times. Book chapter copies fulfill our obligation for providing legal access. Pro per inmates are given priority when ordering books. You have books that are currently overdue. Since you were not a pro per when you requested to renew the books, you can not renew them. The books should have been turned in to the Correctional Programs Technician. You again failed to follow law library procedures. There is no need for you to demean law library personnel. Law library is here to service all inmates with their legal research. Pro per inmates take priority. Law library was not informed that you were pro per until October 27th. Any questions prior to the notification of your status have been treated as a normal inmate request. Law library will be sending you inmate message slips and a booklist. Law library is here to serve your legal research needs but you do need to follow procedures. If you have any questions, please submit a message slip and law library will address them.

The information you are requesting will be delivered to the Mod Deputy for distribution on Friday, November 21, 2014.

The "Propria Persona" Law Library book list was refused by you on November 3, 2014 (see attachment 1). You will need to contact the Pro Per Sergeant for use of a Xerox machine. This can be done by submitting a "Message Slip" to the Pro Per Sergeant, not the Law Library (see attachment 2).

This is not a Grievance. Get your copy of the police report via your attorney, public defender or call our Records Department 714-834-6454. We do NOT provide police reports via Law Library. You need to go through the same process that everyone else does to obtain a copy of your police Report. We do NOT have the time or resources to obtain every inmates police report.

The Law Library only has a limited amount of books and they are distributed on a first come first serve basis. You may request individual codes or sections and copies will be sent in place of the book. Per the Inmate Law Library Request Procedures: Inmates receiving a Table of Contents (TOC) from a book may request a copy of one chapter or subsection of the book at a time. Chapters over 100 pgs., a TOC will be sent and request by section only. Inmates may request a copy of an entire book if the law library owns the book, request one chapter at a time.

The Law Library was notified of your Pro Per status on December 18, 2014. All of your requests to date have been filled and sent to you as of January 14, 2015. Please follow Law Library procedures of one request per slip and only five requests per day.

The Law Library provides service to over 5,000 inmates. Materials are distributed by date received and book availability. Law library can only provide material for slips that are received. Since you are not currently on the Pro Per list, you do not have priority to delivery.

Law Library did not receive message slips for the requests listed on this Grievance. Law Library also did not receive any inquiries from you regarding these requests. Law Library will run the requests noted on this Grievance and send them out to you.

Law Library records indicate that the materials you requested were sent to you. Included in this response is a copy of your most recent requests that were received and sent. If you are not receiving the materials you requested, please contact the mod Deputies. Policy allows for you to submit up to 5 message slips per day, not per week. Requests are limited to one per slip.

The Law Library has only received one request from you. This request was for a 1040ez form and it was sent out already. Law Library has not received any requests from you for 1381 form. If you are submitting these requests, Law Library is not receiving them. Please take this matter up with the mod Deputy or Sergeant.

Requesting law library books via message slip is not required to be confidential. Slips are turned in daily from all modules and picked up by the Law Library CST daily. Pro Per inmates have priority and receive their law material within a few days. Your appeal has been assigned to the Captain.

I personally emailed Jim Ross (law library services) all of inmate NAME REDACTED law library requests so there is no confusion on whether they received it or not. Law Library services is aware of NAME REDACTED complaint and will make sure they fill all his requests promptly.

Law Library serves over 5,000 inmates. Books are distributed by date received and book availability. Law library fills requests that we receive. Since you are not on the Pro Per list, you do not have priority to delivery.

4/20/15 Inmate NAME REDACTED claims the OCSJ policies in regards to the Law Library are illegal.

5/4/15 Inmate states it takes over a month for Law Library access.

5/4/15 Inmate is grieving the timeliness in which his law library requests are being filled.

5/5/15 Inmate claims that he has not received the Law Library materials that he has requested on four (4) different occasions.

5/7/15 Inmate claims his law library books were taken from him even though he filed a renewal.

5/13/15 Inmate NAME REDACTED is complaining that since he is on disciplinary isolation he is only being given (2) inmate message slips a week when he gets his weekly care package. He said he needs at least (3) inmate message slips per day so he can request all of the information possible from the law library to help him better prepare himself for his upcoming court cases even though he is not Pro-Per at this time.

7/27/15 Inmate claims deputies are not allowing him to turn in more than 1 message slip at a time for Law Library.

8/4/15 NAME REDACTED is requesting the ability to make copies of legal documents.

8/5/15 Inmate NAME/BKG # REDACTED submitted a grievance reference being required to sign for his law library material before he has the chance to make sure that it was what he ordered.

11/13/15 Inmate states he has put in multiple Law Library requests and has not received the item he has requested.

12/3/15 Inmate is unhappy with his access to the Law Library.

12/20/15 Inmate NAME REDACTED states he is not getting his law library requests in a timely manner.

1/15/16 Inmate NAME REDACTED would like to Appeal the response given to him reference his last grievance (#REDACTED) This grievance is reference the Law Library and response provided by Admin Manager D. Mejico. Inmate NAME REDACTED has not had adequate access and responses to his law library requests.

2/14/16 Inmate is claiming he does not have access to the Law Library.

3/27/16 Detainee NAME REDACTED states he did not receive his Law Library request on the same day submitted.

4/1/16 Inmate states he has not received a requested law book from the library.

The California Code of Regulations (Title 15) mandate that jail facilities provide access to legal reference materials through the use of a Library Service. CCR allows the Facility Administrator to develop written policies and procedures for library service. Additionally, CCR states the facility administrator will also determine the scope of the service. The OCSJ has law library services in place and are within the regulations of the CCR therefore, they are not illegal.

Law Library provides a service to over 5,000 inmates. Books are distributed by date received and book availability. Law Library fills requests that we receive. Since you are not on the Pro Per list, you do not have priority to delivery. A copy of your Resource Tracking has been included with this response. The Resource Tracking shows that responses to your request have been timely. The Admin Sergeant has also been notified to ensure distribution from the Guard Station.

As a Pro Per inmate you must follow the same procedures as all inmates when requesting law library materials. In answer to your Grievance: 1) No special privileges are given as a Pro Per inmate other than your requests are treated as priority and will be processed in a timelier manner than requests from other inmates. 2) A copy of your request can not be included with your filled requests. However, you can fill out an Inmate Message Slip addressed to "Law Library" requesting a printout of your Resource Tracking. This will list all requests received by Law Library to date. (Attached is the most current printout of your Resource Tracking Report). 3) Written response to this Grievance has been provided.

The Law Library can only fill the requests they receive. There were three requests sent to you on May 8, 2015. Please fill out and submit a message slip for any additional information still pending and Law Library will fill your request.

According to the Law Library your last renewal was received on April 20, 2015. Pro-Per inmates are allowed to renew books but for only 48 hours at a time. After 16 days of not renewing the books, the Law Library took the books back which was appropriate for them to do.

I spoke to Lt Morris regarding this matter. She told me that as long as he is not requesting an unrealistic amount then we should be able to give him a few extra message slips when time permits.

Spoke to the deputies and confirmed message slips are available for inmates and their process for turning the message slips in for Law Library. Inmates are allowed to turn in 5 message slips per day. I spoke to Dianne at Law Library and confirmed the inmate has turned in 13 message slips (6/10/15 to 7/24/15). Deputies confirmed message slips are being delivered and passed along appropriately.

Inmate NAME REDACTED advised to contact outside service reference making copies of legal documents because this is not a service provided by the Orange County Sheriff's Department.

After speaking with CPT Wilson who delivered the law material it was determined that Mr. NAME REDACTED was given the option to review the message slips he sent in to ensure the material was correct. Mr. NAME REDACTED wanted to actually review the five bundles of law material before he signed for it. Per the Law Library policy every inmate must sign for their law material or they cannot receive it. If the material is incorrect they need to submit a new request to the Law Library not the CPT delivering the material. Mr. NAME REDACTED was given three opportunities to sign for the material and refused which forced CPT Wilson to keep the material. Correctional Programs Supervisor II Del Rio and a Mod Deputy where present when Mr. NAME REDACTED refused to sign. The Law Library will continue to fill Mr. NAME REDACTED orders but he will have to sign in order to receive the material.

Inmate Programs will have a team member speak with Mr. NAME REDACTED today (12-2-15) and determine what his exact request from the Law Library is. If is something they can assist with they will deliver his request within three days. Correctional Programs staff will speak with Mr. NAME REDACTED to determine his exact issue with the Law Library. All inmates must complete an inmate message slip to receive material from the Law Library.

Correctional Programs will have a staff member speak with Mr. NAME REDACTED to determine if he is in fact receiving his material in a timely manner. Because the Law Library services inmates in all five jail facilities they have to ensure that they are filling all requests and depending on the type of request it may take up to two weeks for the inmate to receive it.

Manager Mejico reviewed the documents provided by the Law Library team. The Law Library documents when every message slip is received, filled and delivered. Since being booked into custody the Law Library has recorded over 1,600 message slips that they have filled and delivered to Mr. NAME REDACTED. Mr. NAME REDACTED has had adequate access to the Law Library and we will continue to assist him as needed.

Inmate was given a copy of the OCSJ Law Library Policies and Procedures. Inmate was also advised inmates do not have access to the OCSJ Law Library. No further action will be taken

After reviewing his detainee request log, it was determined the last 69 detainee requests were fulfilled, the last being on 03-26-16.

Inmate Programs staff will meet with Mr. NAME REDACTED this week to determine which law book he requested. If the book is available provide it to him this week.

4/2/16 Inmate NAME REDACTED is grieving the law library process.

4/3/16 Inmate is claiming he has put in multiple requests to the law library that have gone unanswered.
4/18/16 Inmate complaining that he is not receiving requested legal materials from law library.

4/19/16 Inmate is grieving the law library has been nonresponsive after repeated requests.

4/26/16 Inmate is grieving his repeated requests to the law library have gone unanswered.
4/29/16 Inmate is claiming the law library is not being responsive to his repeated requests.

5/5/16 Inmate NAME REDACTED claims he is not receiving his law library material. He states he has submitted prior message slips/grievances regarding this matter.
5/11/16 Inmate filed this grievance claiming the Law Library is slow and their service is inadequate.

5/24/16 Inmate states he has not received a response from the law library after requesting material multiple times.

5/29/16 Inmate NAME REDACTED states he has requested several IRS forms through the Law Library and has not received the forms.
6/3/16 Inmate NAME REDACTED stated he has submitted two inmate message slips requesting information from the Law Library. The first slip was placed in the beginning of April, the 2nd the beginning of May. Inmate NAME REDACTED states he has still not received any material or a response as to why he is not receiving his requested paperwork needed for court.

6/3/16 Pro Per Inmate NAME REDACTED states he has not been receiving his requested books from the law library between the dates of 5-10-16 and 6-1-2016. Inmate NAME REDACTED insisted the matter be entered into the grievance system when I spoke to him in Module J.
6/16/16 Inmate is complaining about the law library. He states his requests are not being given the proper attention and because of this, his due process rights are being violated.

6/22/16 Inmate NAME/BKG # REDACTED (M-25-7) submitted a grievance complaining about the delay he is experiencing in getting legal material from the law library. NAME REDACTED thinks part of the problem is his message slips getting lost or misplaced before the reach the law library personnel.
6/29/16 Detainee states he has not been getting Law Library for two weeks.

7/6/16 Inmate is complaining about law library not providing him with requested forms.

7/7/16 I/M NAME REDACTED is requesting assistance in getting law books.

8/3/16 Inmate claims the law library is slow with his requests.

8/24/16 Inmate is grieving access to the "rainbow directory" listing contact information for government offices/buildings.

8/31/16 Inmate NAME REDACTED does not feel he is receiving "legal resources" from the law library in a timely manner.

9/26/16 On Monday, September 26, 2016, inmate NAME/BKG# REDACTED submitted a grievance complaining about the delay in receiving material from the Law Library for his Family Court (Civil case #CASE REDACTED). NAME REDACTED submitted a request to the Law Library for the following items: CA Penal Code, Family Code Book (annotated), 3 copies of forms: FL-120, FL-311, FL-312, FL341(D), FL-341(E), and approximately 50 copies of form MC-025.
9/29/16 Inmate NAME REDACTED requested information from Law Library on Attorney NAME REDACTED

Correctional Programs will meet with Mr. NAME REDACTED this week to determine exactly which part of the law library process he is having issues with. After meeting with Mr. NAME REDACTED the law library staff will determine how they may be able to assist Mr. NAME REDACTED with the law library process.

Inmate was released 4/7/16 before grievance was resolved.
Correctional Programs staff will meet with Mr. NAME REDACTED and determine what law material he is requesting that he has not yet received. Once this is determined we will work to deliver that material if it is available.

4-25-16 Correctional Programs law library continues to answer the inmate message slip request in a timely manner. Some message slips are delayed if the material the inmate is requesting is not available.
Correctional Programs will have a staff member meet with Mr. NAME REDACTED this week to determine exactly what his concern is.

4-29-16 / Two 1381 forms (Demand For Trial) were given to the inmate.
Correctional Programs staff will meet with Mr. NAME REDACTED to determine which requests he perceives the Law Library is not being responsive to. If the material he is requesting is available in the Law Library we will have it delivered as soon as possible.

This grievance is related to your previous grievance J1# REDACTED. Refer to the "staff response to grievance filed" receipt (J1# REDACTED), written by the Law Library staff, for further details.
The Law Library is a two person team that services up to 6000 inmates on any given day. They fill orders as quickly as they can.

Correctional Programs will be sending a staff member to talk to you to determine what material you requested.

5-31-16 Correctional Programs staff meet with Mr. NAME REDACTED today and will be delivering his requested IRS forms tomorrow June 1st.

Correctional programs staff meet with Mr. NAME REDACTED and explained to him that the Law Library is currently about one month behind on processing the message slips for the entire jail system. They will process his request as quickly as possible.

Correctional programs met with Mr. NAME REDACTED to address his complaint.

There is no due process violation in this incident since you do have law library access. The law library handles the requests of up to 6000 inmates on any given day. They fill the orders as quickly as possible. As per your Faretta Waiver. "If you are custody you will receive no more library privileges than those available to other persons representing themselves." I read your Faretta Waiver and you checked the "yes" box and initialed next to it indicating you understood what you read.

6-27-16 Correctional Programs reviewed their files and noticed that Mr. NAME REDACTED received law library material on 6-1-6-20 and 6-21. The Law Library will continue to process all message slips we receive in a timely manner.

Detainee NAME REDACTED has numerous Law Library offers and completions since 03-10-16. Today, Detainee NAME REDACTED was given Law Library which he accepted. Deputies stated Law Library is given as soon as there is an opening and on a first come first serve basis. There is no record of Law Library request from Detainee NAME REDACTED since 06-07-16. Detainee NAME REDACTED did not wish to make an issue of this and was satisfied with having Law Library today. I advised Detainee NAME REDACTED to fill out a message slip if he wants daily Law Library time. Detainee NAME REDACTED stated he did not want to burden the deputies.

7-12-16 Correctional Programs staff met with Mr. NAME REDACTED on 7-11-16 and determined which forms he was missing. Mr. NAME REDACTED should now receive the forms on Friday of this week.
Correctional Programs is taking care of this problem and will be speaking to inmate NAME REDACTED to determine which law books he needs.

8-3-16 The Inmate Law Library continues to process all message slips to the Law Library in a timely manner. Slips are usually processed in the order they are received. The average wait to for a request is about two weeks.

Rainbow Resource directories were discontinued about 5 years ago and are no longer available. However, depending on the material he is requesting he can submit an inmate message slip addressed to the "Life Coach" and we can try to find the information for him

The Inmate Law Library is currently processing message slips for all five facilities as quickly as possible. Because of the volume of message slips coming in, the Law Library is about one month behind on filing message slip orders.

Inmate Law Library continues to answer all inmate message slips in a timely manner. Message slips are processed in the order that they are received and the Inmate Law Library is currently about six weeks behind on answering the message slips.

The inmate Law Library is currently two months behind on answering message slips due to the high volume of request. Mr. REDACTED request will be processed in the order it is received.

10/11/16 Inmate stated he has made numerous requests to get a copy of the Title 15 document from the law library to no avail.

10/14/16 Inmate claims he has been requesting blank legal paper since July and has not received any.

10/14/16 Inmate claims he is not receiving responses to his law library inquires. Inmate has specifically requested info on pitches motions and the A.C.L.U.

10/21/16 Inmate claims he is not getting assistance from the inmate Law Library after several requests.

11/3/16 IM is stating he is not receiving his requests from the law library.

11/14/16 Inmate NAME REDACTED has not received his Law Library that he has requested.

12/5/16 Inmate complaining that the response from law library is too slow for his liking.

12/8/16 Inmate claims he can not receive new books from the law library because he has one outstanding which he is unable to return.

12/10/16 Inmate complains that Law library takes too long to get information to him. Inmate states that he needs the FBI California field office and ACLU address. Inmate makes reference to Grievance # REDACTED that was answered by Sgt. Jewellyn and gives the requested information.

1/13/17 Inmate NAME REDACTED claims he is being denied adequate access to the law library.

1/15/17 Inmate NAME REDACTED states he has made several requests through Inmate Programs and the Law Library for an OC Resource Guide and has still not received it.

1/15/17 Inmate NAME REDACTED states he has made several requests for books pertaining to his case. Inmate requests this issue be resolved immediately.

1/19/17 IM states he has not received books as requested from the law library and has concerns over timeliness.

1/19/17 IM states he has not received books as requested from the law library and has concerns over timeliness.

2/8/17 IM is stating he is not receiving his law library requests.

2/25/17 Inmate feels he is not being granted timely access to legal material he needs for his civil case.

3/22/17 Inmate states he has sent several inmate message slips to the law library and has not received the books / forms he has requested or a response.

3/26/17 Inmate NAME REDACTED stated he has submitted two previous inmate message slips to obtain court forms and has not received them.

3/26/17 Inmates' previous requests for sentence modification petition have gone unanswered

3/28/17 Inmate NAME REDACTED has not been receiving requested items from Law Library

4/4/17 IM is grieving the speed of law library and its process.

4/5/17 IM NAME REDACTED is concerned the law library does not know he is pro-per

4/5/17 IM NAME REDACTED would like to grieve the time it takes to receive requested items from the law library.

Correctional Programs Law Library is currently two months behind on answering message slips due to the high volume of requests. The Law Library will complete Mr. NAME REDACTED request in the order it is received.

According to the Law Library, they are 2 months behind on answering message slips due to the high volume of requests. Mr. NAME REDACTED request will be completed in the order it was received.

10-16-17 Correctional Programs Law Library is currently two months behind on answering message slips due to the high volume of requests. The Law Library will complete Mr. NAME REDACTED request in the order it is received.

Currently the law library is about two months behind on answering inmate message slips. This is due to the large volume of inmates requesting law material. We will have a Correctional Programs staff member meet with Mr. NAME REDACTED today, determine what his request his and if the law material is available we will fill his request by Friday October 28th.

I checked with the law library reference your grievance. I was informed your Pro-Per date was 11-2-16 and any previous requests to that date would need to be resubmitted. - Sgt. Rupley

Correctional Programs Law Library is currently about 6 weeks behind on filling law library request. This is due to the high volume of message slips being received on a daily basis. However, Correctional Programs will have a staff member meet with Mr. NAME REDACTED and determine what material he is missing. Once the material is identified we will deliver it to him as soon as possible.

FBI Office 255 East Temple Street Los Angeles, California ACLU Office 1313 W. 8th St. Los Angeles, CA 90017

Correctional Programs team will speak with Mr. NAME REDACTED and determine if he has any books outstanding. Inmate Law Library policy does not allow an inmate to receive new law books until the old ones are returned. However, we will speak with Mr. NAME REDACTED and determine what the issue is.

I reprinted the response from prior grievance and gathered additional information from the Inmate law Library about his request and gave those documents to the inmate.

Regarding your Pro Per Status - Our records indicate that your Pro Per status was removed on 09-12-16 when you were provided with legal counsel. If you have a case number or court order newer than 09-12-16 that states you are a Pro Per inmate than please provide us with that information so we can update your record and you can receive all that goes with being a Pro Per inmate. Correctional Programs staff will meet with Mr. NAME REDACTED this week and determine his exact issue with the law library.

Correctional Programs staff will meet with Mr. NAME REDACTED this week and determine what books he has requested. The inmate law library has a limited number of books but if the books Mr. NAME REDACTED is requesting are available they will be delivered later this week.

Correctional Programs staff will speak with Mr. NAME REDACTED and determine what law material he is missing. If the material is available it will be delivered to Mr. NAME REDACTED later this week.

Currently due to the high volume of message slips being received the law library is about two months behind with sending requested material out.

Correctional Programs will follow up with Mr. NAME REDACTED to determine what material he is in need of. If the material is available in the law library we will delivery it to Mr. NAME REDACTED this week.

3-23-17- Correctional Programs staff met with you and determined what material you are requesting. Due to the high number of inmates requesting books, the material you are requesting may not be available for several weeks.

Correctional Programs staff will speak with Mr. NAME REDACTED to determine which forms he is missing. Once this is determined we should be able to deliver the forms within one week

Correctional Programs inmate law library will supply Mr. NAME REDACTED with a copy of the sentence modification form by Friday March 31st.

Correctional Programs shall meet with Mr. NAME REDACTED and provide missing material.

Your grievance states you've received no response from your prior grievance dated "3-22-17." We talked on both 3-17-17 and 3-27-17 about your law library concerns/status. In addition, you have talked to the programs supervisor directly on this an other program issues. I have talked inmate programs and found due to the overwhelming amount of law library requests it can take up to four weeks to have some law library requests filled and delivered. The law library has said they will do their best to get you your requested materials in a timely manner.

Your name has been added to the pro-per inmate list. I updated the law library and you should be receiving your requested materials as per usual.

Because of the overwhelming amount of law library request it can take up to four weeks to have some law library request filled and delivered. The law library will continue to do its best to get Mr. NAME REDACTED his law library material in a timely manner.

4/5/17 IM NAME REDACTED is grieving the amount of time he was allowed to keep law library materials.

4/12/17 Inmate NAME REDACTED is grieving that he is not receiving resources from the law library in a timely manner.

4/13/17 Inmate claimed repeated requests for law library book list.

4/13/17 Issues with the Law Library resources.

4/15/17 IM states he is unable to get law library materials as requested.

4/19/17 IM states it takes over 20 days to receive law library requests.

5/3/17 IM NAME REDACTED is complaining about the length of time it takes for the Law Library to fill his requests. IM states that it can take 1 1/2 to 2 months to have his requests filled.

5/10/17 NAME REDACTED submitted an inmate grievance because he submitted 3-4 request to the Law Library for legal material (forms, case law info) and hasn't received the material.

5/16/17 IM NAME REDACTED was not receiving materials from the Law Library in a timely manner

5/17/17 IM NAME REDACTED states he would like the law library to updated as to his pro-per status.

5/17/17 IM states he made a requests from the law library and has not received his items as requested.

5/18/17 Inmate NAME REDACTED submitted a grievance because he hasn't received any of his requested legal material from the Law Library.

5/27/17 IM is requesting info from Law Library

5/30/17 Inmate is dissatisfied with Law Library. He told me the Law Library has not replied to his written requests for over one month.

6/5/17 Inmate NAME REDACTED claims he has submitted 3 request forms for law books and has had no response.

7/1/17 IM NAME REDACTED states he is not able to make law library requests due to an inability to get inmate message slips.

8/1/17 IM NAME REDACTED states his law library requests have taken 4-6 weeks to be filled.

8/3/17 Inmate says he filed a grievance 2 weeks ago regarding not receiving law library in a timely manner and he did not receive an answer, J# or receipt. He says he is not receiving his law library requests.

8/6/17 Inmate requested law library book approximately four times without success.

8/29/17 Inmate NAME REDACTED is grieving he has not received any of his Law Library request.

9/12/17 Inmate NAME REDACTED claims for the past 2 months, she has not received her law library book she requested.

12/27/17 Inmate NAME REDACTED is "pro per" and does not feel his access to the law library is sufficient.

1/8/18 IM NAME REDACTED states he has not received all of his law library requests in a timely fashion.

Because of the amount of inmates requesting law books the law library policy is that inmates can only check a book out for 48 hours and then in must be returned to law library staff. Mr. NAME REDACTED can put in a new message slip requesting to check the book out again but it must be returned in 48 hours. This allows other inmates with the opportunity to use the material as well.

Inmate released prior to disposition
 Inmate given law library book list
 Inmate released prior to disposition.

I have talked inmate programs and found due to the overwhelming amount of law library requests it can take up to four weeks to have some law library requests filled and delivered. The law library has said they will do their best to get you your requested materials in a timely manner. I also talked to the law library regarding new requests. Law library requests must be made on new Inmate Message Slip forms. Requests submitted on reused slips will be denied. If you run out of slips, ask the module deputies and they will get you new slips.

I have talked inmate programs and found due to the overwhelming amount of law library requests it can take up to four weeks to have some law library requests filled and delivered. The law library has said they will do their best to get you your requested materials in a timely manner.

Correctional Programs staff will meet with Mr. NAME REDACTED and determine what material he is still waiting on. If the material is available he will receive it next week. Due to the volume of inmate request it can take the Inmate Law Library up to two months to answer some inmate message slips.

Correctional Programs staff will meet with Mr. NAME REDACTED and determine what material he is missing. If the material he is requesting is available it will be delivered to him next week. Due to the number of message slips the law library receives on a daily basis it can take up to 6 weeks to complete a request.

I have talked inmate programs and found due to the overwhelming amount of law library requests it can take up to four weeks to have some law library requests filled and delivered. The law library has said they will do their best to get you your requested materials in a timely manner.

You are considered a pro-per inmate per department policy. The law library has been updated.

I have talked inmate programs and found due to the overwhelming amount of law library requests it can take up to four weeks to have some law library requests filled and delivered. The law library has said they will do their best to get you your requested materials in a timely manner.

Correctional Programs staff will meet with Mr. NAME REDACTED to determine what material he is missing. If the material is available the law library will deliver it to him next week. Due to large amount of law library inmate message slips the law library is about two months behind with answering message slips for non Pro Pers.

Handled by Sgt. Rupley.

Correctional Programs will have one of are law library staff meet with Mr. NAME REDACTED to determine what material he is requesting from the law library. If the material is available we will deliver it to him in a timely manner. Due to the number of total inmate requests, the law library is approximately two months behind on filling some requests.

Correctional Programs will have one of our law library staff meet with Mr. NAME REDACTED to determine what material he is requesting from the law library. If the material is available we will deliver it to him in a timely manner. Due to the number of total inmate requests, the law library is approximately two months behind on filling some requests.

I have talked to module staff and briefed deputies throughout the facility. Staff will provide you with inmate message slips.

I called the law library to inquire as to your requests. Per the law library, your orders are being filled and you will start to receive items next week.

Correctional Programs will have one of our law library staff speak with Mr. NAME REDACTED to determine what items he requested that he is still missing. If the items are available they will be delivered at the end of this week.

Correctional Programs staff will meet with Mr. NAME REDACTED and determine which law book he is requesting. The law library has a limited number of law books to check out to inmates so the delivery of this request will be determined by availability.

Correctional Programs will have one of there team members meet with Mr. NAME REDACTED to see what items he is missing. If the items are available he should receive them next week

Correctional Programs will have a staff member speak with Ms. NAME REDACTED and determine which law book she is requesting. If the law book is available it will be delivered to her within a week.

This grievance has been inputted into the database and will be forwarded to the Law Library for further review and/or investigation. -Sgt. J. Ivins #5372 1-3-18 Correctional Programs staff spoke with both Security staff and Mr. NAME REDACTED. Correctional Programs was informed by Security staff that currently Mr. NAME REDACTED has too many law library items in his property and cannot receive anymore until he removes some of those items. As soon as Correctional Programs staff is allowed to deliver additional material we will.

On 1-16-18, I talked to the law library and was advised they had just received your latest requests. Your requests will be filled and delivered by the end of the week.

1/8/18 I/M NAME REDACTED states law library materials are still taking 4 to 6 weeks to be delivered.

1/19/18 I/M NAME REDACTED states he has filled out 35-40 requests to the law library since 12-15-17 and none of them have been filled.

4/12/18 Inmate NAME REDACTED is claiming the Law Library and the jail do not provide adequate resources for his defense of his court cases. NAME REDACTED would like better legal resources available to him.

4/13/18 NAME REDACTED is complaining the law library does not have enough legal information or access to West Law. NAME REDACTED is seeking motions, writs, briefs and dockets.

5/5/18 NAME REDACTED is complaining that the law library is not providing him literature that he is requesting. He is getting returned message slips from the law library stating they do not have the materials he is looking for. NAME REDACTED contends that they are failing to provide him with adequate responses and materials.

5/15/18 NAME REDACTED is upset over his access to the law library and legal materials he has requested. NAME REDACTED is claiming that the law library has not responded to his previous requests.

6/21/18 Inmate said he has put in requests for Law Library and no one has answered him.

8/30/18 Inmate NAME REDACTED requested legal material from the Law Library that they are unable to access. Inmate NAME REDACTED received a response from the Law Library stating this and he believes his rights are being violated because he cannot receive this material.

9/5/18 Inmate NAME REDACTED is complaining that none of his Law Library requests are being received or sent out by the housing deputies in Module P.

12/2/18 Inmate NAME REDACTED is grieving that he submitted a request for Law Library material on November 15, 2018, and he has yet to receive the requested material.

1/8/19 Inmate's Law Library request are not being filled in a reasonable amount of time, or at all.

1/8/19 Inmate's Law Library requests are not being filled.

1/30/19 Pro Per Inmate NAME/BKG# REDACTED is making a complaint that he did not receive all requested information from the law library. "Specifically" on January 13, 2019.

2/3/19 Inmate states he did not receive what he ordered from Law Library. Material sent to inmate on 1/31/19, 2/7/19, and 2/8/19.

2/14/19 Inmate claims several requests for law library have not been granted. Subject placed in contact with Coach Eric Godeke for Law Library needs.

On 1-16-18, I talked to the law library and was advised they had just received your latest requests. Your requests will be filled and delivered by the end of the week.

I called the law library and they reported they are up to date with all requests. I have attached a printout of your requests. According to our records, the law library received a total of 29 requests between 1-2-18 and 1-18-18. All of these requests have been filled.

I have explained to NAME REDACTED mail correspondence and the law library are all the tools available for inmates in custody. Inmates can request legal material as needed from the law library. Because NAME REDACTED is in custody I've explained to him that these are the resources available to him. There is no violation of policy and he has not been denied any legal literature from the law library. NAME REDACTED has written numerous grievances regarding this single issue.

After speaking to the law library personnel, inmates can get any specific dockets, briefs or writs as requested. The requestor must be specific on what he is requesting. Inmates do not have access to West Law for the Orange County Jail facilities. Certain detainees have access but not inmates. NAME REDACTED is not being denied any literature from the law library and can make any specific request for case information the law library has.

I forwarded a copy of the grievance to the law library.

Inmate release from custody, unable to follow up 07/31/19 Sgt. Johnson

7/2/18 - Inmate Services reviewed their request log and found that Mr. NAME REDACTED has received several documents from the law library that he requested through inmate message slip. Mr. NAME REDACTED first request was delivered to him on April 2nd and he has continued to receive documents since that time. The inmate law library will continue to process Mr. NAME REDACTED message slips when received in a timely manner.

I spoke with inmate NAME REDACTED in person and clarified my response to his original request for material the Law Library could not access. Additionally, I pointed out to inmate NAME REDACTED that his court order granting him "Pro-Per" privileges explains the protocol for obtaining material the Law Library cannot provide. Section 2, Subsection (B) states: Reference and some materials provided in the jail and county libraries are deemed adequate. Any additional reference or source material will require a specific order of the Court.

I emailed the Law Library Supervisor. Inmate NAME REDACTED has filled out six requests for the Law Library and all have been filled as of 9/6/2018. There has been no evidence of anyone withholding Law Library requests.

I contacted Correctional Programs to find out the status of NAME REDACTED Law Library requests. The last request they received from NAME REDACTED was on November 1, 2018, and that request was delivered to NAME REDACTED on November 5, 2018. I contacted staff at Module K, where NAME REDACTED is currently housed, on December 3, 2018, and had staff deliver an inmate message slip to NAME REDACTED to fill out his Law Library request. Module K staff collected the completed inmate message slip and put it in the outgoing mail for Module K.

Per Inmate Services records you have been receiving your law library requests, approximately 33 so far. The last one you should have received was issued on 1/18/19 for OR release understanding. Please continue sending your requests on the proper forms.

No requests have been received by the law library. Please resubmit your request.

After checking the law library records I do not know what/if any information requested was not furnished to NAME REDACTED. According to the law library four requests were made and four requests were issued. If NAME REDACTED did not receive a request I recommend he submit another request. For the month of January the Law Library records show that NAME REDACTED has submitted twenty one requests and they have all been fulfilled. I see no violation by the law library of the sheriff's department that NAME REDACTED is not receiving legal information requested.

Material sent to inmate on 1/31/19, 2/7/19, and 2/8/19.

- 4/5/19 Inmate NAME REDACTED in grieving that he is not receiving his legal material (From the law library) in a timely manner. He states that the deputies are interfering with this process. After NAME REDACTED brought to light the issue with how Module F has not been handling the inmate message slips in regards to law library reference materials, I asked the module Deputies what their process was. I was directed to a clip board that contained all of the message slips that pertain to the law library. I was told that when the law library staff comes to deliver material to their module, he retrieves all of the message slips. I asked them when the last time law library staff responded to their module, and they both did not know. I checked on the clip board and saw that there were slips dating back approximately 30 days. This procedure was not an effective way to handle inmate message slips regarding law library reference material requests. I instructed to discard the clipboard and place ALL message slips regarding the law library in the inmate mail boxes to be sorted and sent to the law library distribution center within a timely manner. This will eliminate the need to "Stockpile" requests until a law library staff member responds to the module. Reference the inmate signing upon receiving the law library material. I spoke with the main distribution center regarding the inmate signature. She stated they do not currently "Enforce" the inmate signature box. She stated her staff members currently do not require inmate signatures all of the time. She stated in some cases the module deputy will sign as receiving the material and then hand them out. She acknowledged that this is not the best practice. She stated she will speak with her boss and other staff members to come up with a better solution to handle the inmate signature box. I have spoken with the module deputies and advised them to always have the inmates sign after they have received the law library material. This will eliminate future accusations of not delivering law library material within a timely manner.
- 5/1/19 On 4-29-19, Inmate NAME REDACTED stated he is not receiving the proper Law Library material he is requesting. Inmate NAME REDACTED has submitted several request, and received the same results. Inmate NAME REDACTED now wishes to speak with a supervisor at the Law Library. Attached is the list of items the inmate has received.
- 5/9/19 Inmate NAME REDACTED does not want a list of documents that he has received. His request is unclear. Inmate NAME REDACTED request is unclear. Instead of using the grievance system it is suggested that he put his law library requests on an inmate message slip addressed to the "Law Library" in a neat and orderly request so that the law library is able to assist him in the materials/documents that he is requesting. Submitting a grievance at this time is an egregious use of the grievance system. Until Inmate NAME REDACTED articulates to the "Law Library" what he is requesting on an inmate message slip the law library is unable to assist him appropriately
- 5/16/19 Pro-Per inmate alleges law library not responding to requests for legal documentation in a timely fashion. After further review and speaking to the law library, Inmate NAME REDACTED BGK#REDACTED requests have been received and processed. I spoke to NAME REDACTED on Wednesday 05-22-19, at about 1135 hours, who stated that his requests had been received by the law library and stated that he understood it could take up to 6 to 8 days before a request is completed by the law library.
- 5/17/19 Inmate states he has entered several requests for Law Library material but has not received anything. Attached is the list of items the inmate requested and received. A list was provided to Inmate Hall of information he has requested. Inmate Hall needs to submit an inmate message slip addressed to "Law Library" in a neat, readable and orderly manner requesting the books/documents that he is interested in reviewing.
- Inmate NAME REDACTED wanted to know the disposition of his request to the law library. Please be specific to what information you are requesting from the law library. Your grievance gives me no information to follow-up with.
- 5/20/19 Inmate NAME REDACTED states he has not been able to get in touch with the Law Library. No request have been received for this inmate as of 4/12/19.
- 5/29/19 Inmate NAME/BKG# REDACTED claims he has been waiting for over two weeks for law library forms and information regarding motions. He is also requesting the addresses to several Federal entities. Material sent to inmate on 6/11/19 and 6/19/19.
- 6/20/19 Inmate NAME/BKG# REDACTED claims he has been waiting for over two weeks for law library forms and information regarding motions. He is also requesting the addresses to several Federal entities. No request have been received for this inmate.
- 7/5/19 Inmate stating he has not received his law library. No request have been received from this inmate. We will process them as soon as we receive them.
- 8/7/19 Inmate NAME REDACTED claims he has not received information he requested from the law library. Inmate NAME REDACTED is alleging the Law Library is preventing him from meeting judicial deadlines by not providing him access to a computer terminal. I spoke with the Law Library Supervisor regarding your request that they provide you access to a "Westlaw" computer terminal. The Law Library is unable to accommodate your request for access to a "Westlaw" computer terminal. The Law Library will continue to attempt to fulfill requests you make on an Inmate Message Slip.
- 8/21/19 No book request have been received for this inmate.
- 9/18/19 Inmate has not received several of the books he requested. The three Law Library books were removed from your cell and returned to the Law Library at their request.
- 10/7/19 Inmate NAME REDACTED is unhappy that he had to return books to the Law Library after they became overdue. The three books in question were all overdue. The Law Library requested you return them several times, to which you responded by Inmate Message Slip that they were harassing you and causing you emotional distress. This issue was addressed on an Inmate Message Slip you turned in and I included a copy of the Law Library procedures with my response to that message slip. To avoid any confusion, please adhere to the Law Library procedures I provided you. If you are in need of the books that were removed from your cell, you may submit a request to check them out again.
- 11/4/19 Inmate NAME REDACTED is alleging he is not being provided Inmate Message Slips to request Law Library material. This Grievance is unfounded and without merit. I spoke to Deputies assigned to Module 'L' who confirmed Inmate Message Slip are available to inmate NAME REDACTED and they can be found in the dayroom. Additionally, I spoke with the Law Library Supervisor who told me inmate NAME REDACTED has submitted and received material from the Law Library as recently as today. (11/5/19)
- 11/9/19 NAME REDACTED claims when he was searched and transferred from the main jail to Lacy his Law Library books were taken and now he is being denied Law Library due to the books being delinquent. NAME REDACTED stated there is nothing he can do to get the books back and the search was recorded on camera. Book has been sent to inmate.

11/12/19 Inmate NAME REDACTED is unhappy that the Law Library is sending him copies of chapters of a book, instead of sending him the entire book.

12/22/19 Inmate NAME REDACTED is requesting Law Library materials and has not received the items he has listed in his grievance (see attached).

12/26/19 Inmate claims he is not receiving the correct books from the Law Library

12/27/19 Inmate NAME REDACTED states that Program's Staff from the Law Library is not allowing him to renew his law library books beyond 2 days.

1/6/20 Inmate NAME REDACTED is upset he was unable to check out a book from the Law Library in October because he already had a book checked out.

1/9/20 Inmate does not feel he is being granted proper access to the Law Library.

1/9/20 Inmate has not received items he requested.

1/22/20 Inmate NAME REDACTED is not receiving his Law Library requests.

2/6/20 Inmate is not receiving his Law Library requests.

3/23/20 Inmate NAME REDACTED states he has been unable to get information from the Law Library after submitting several grievances.

3/30/20 IM claims to not receiving law library materials

4/5/20 Inmate requests changes in the law library products or access to a computer. He claims the database currently used by the law library is "a waste of energy and resources." His reasoning is that the products he receives from the library often include a significant amount of "links" and not actual material requested.

Please note: while he dated the incident as 3-17-2020 and signed the grievance on 3-17-2020, the grievance was actually placed in the Mod grievance box on 4-6-2020.

5/6/20 Inmate NAME REDACTED states he has not received material he has requested from the Law Library.

5/7/20 Inmate complained the law library refused to provide a list of books available from the Nutshell series by West Publishing.

5/13/20 NAME REDACTED has requested several items from Law Library, but has not received response.

5/19/20 Inmate NAME REDACTED submitted this grievance because he is frustrated that Law Library staff cannot provide him with a book list so he knows what materials are available for him to check out.

7/1/20 Inmate is complaining he is not receiving the requested materials

7/6/20 Inmate NAME REDACTED is complaining it is taking too long to receive law library books is he requesting.

8/28/20 Inmate NAME REDACTED states the OCSD Law Library and Services are inadequate. Inmate NAME REDACTED is not receiving his request in full.

9/4/20 NAME REDACTED has been given 5-message slips a day to make Law Library requests. He is grieving that he should receive more than 5-message slips a day and that the process to receive resources back from the Law Library are too slow (e.g. 8-days) in order to aid in his defense. He threatened to contact the NAACP.

9/6/20 Inmate is grieving regarding the time delay between his request and receipt of his law library materials.

9/12/20 IM is not receiving his law library in a timely fashion.

10/6/20 NAME REDACTED claims he has been trying to get law books/articles to aid in his defense. As of yet, he has been unable to obtain them.

10/7/20 Inmate is grieving not receiving information on two cases from Law Library.

12/20/20 NAME REDACTED claims the law library did not provide him the proper forms in time for him to present his case for representing himself.

12/28/20 NAME REDACTED claims he cannot properly prepare for court due to not receiving the requested items from the Law Library. He claims to have made more than 30 requests and "have yet to receive almost any of it."

12/28/20 NAME REDACTED claims to have filled out three message slips requesting "602 Title 15 forms" He said he has not received the forms or a response.

The Law Library only has limited copies of some legal books. Some of the books you are requesting are not only highly requested material but are limited in the number of copies the Law Library has. As a result, the Law Library photocopies the requested material and sends it to you so that it may be available for other inmates as well. You may continue to request material as needed and the Law Library will provide that material as it is available. To avoid any further confusion, I have attached a copy of the Law Library "Request Procedures" for you to refer to.

No request have been received for this inmate as of 12/6/19.

No request have been received for this inmate as of 12/10/19.

A request for renewal has not been received from this inmate.

This Grievance is unfounded and without merit. The time period to submit a Grievance for this incident has expired. Additionally, I spoke with the Law Library supervisor who told me, as of today 1/7/20, there are no restrictions on inmate NAME REDACTED and he is able to checkout/request material from the Law Library.

Inmate has continuously received material from the law library. Attached are the list of items the inmate requested and received

Attached is the list of items the inmate requested and has received.

No request have been received for this inmate as of 1/8/2020.

Attached is the list of items the inmate requested and has been issued as of 1/29/2020. Last request received for this inmate by law library 1/27/2020.

Mr. NAME REDACTED, I contacted a Correctional Programs Supervisor who is going to have a staff member from the Law Library speak to you when he visits Module R where you are housed. This staff member will help you get the information you are requesting.

The Law Library will only print out up to 100 pages per request. I have included and attached the Table of Contents from the CCOM. If you would like contents from a section, you may request that section through the Law Library.

The law library uses the latest law based computer software programs from contracted vendors to answer inmate message slips. Law Library staff only answer questions based on what is written on the inmates message slip. Jail policy does not allow for inmates to have access to computers.

Attached is the list of items the inmate has requested and received.

The material requested is not available in the law library. Attached is the booklist with books available for circulation.

Referred to Law Library.

Attached is the list of items the inmate has requested and received.

Booklist are available to be viewed upon request by the Mod Deputy.

Attached is the list of items the inmate has requested and received.

No book request have been received for this inmate. He can place his request through a message slip. Law Library staff only answers questions based on what is written on the inmates message slip.

Inmates must fill out a properly formatted Inmate Message Slip issued by the facility for each individual request. Only one request per slip. Requests exceeding 100 pages will be sent in full when requested in multiple message slips by the next hundred pages wanted.

No request have been received for this inmate as of 9/3/2020. Jail staff have provided Inmate Message Slips and were instructed to continue to provide this means of communication to all inmates. Please submit your request via Inmate Message Slip

Inmate has continuously received material from the law library. Attached is the list of items the inmate requested and received.

Inmate has continuously received material from the law library. Attached is the list of times the inmate requested and received.

As of 10/7/2020; law library has not received any request for this inmate. Please submit your request on an inmate message slip

Inmate has continuously received material from the law library and has nothing outstanding as of 10/12/2020. Attached is the list of items the inmate requested and received.

As of 12/1/2020, law library has not received any request from this inmate.

Inmate has continuously received material from the law library. Attached is the list of items the inmate requested and received.

Law Library has not received any request for this inmate.



Adam Bereki <abereki@gmail.com>

Updated PRA Request 032921

2 messages

Adam <abereki@gmail.com>
To: PAJAR <PAJAR@jud.ca.gov>

Mon, Mar 29, 2021 at 9:48 AM

The following is an updated records to the request I made earlier today.

Please provide the email addresses for the following personnel. I need to serve them official process electronically.

Fourth District Court of Appeal

Thomas Goethals
Kathleen O'Leary
Richard Aronson

Supreme Court of California

Tani Cantil-Sakouye
Ming Chin
Joshua Gorban
Carol Corrigan
Goodwin Liu
Mariano-Florentino Cuellar
Leondra R. Kruger

Superior Court of California- County of Orange

James J. Di Cesare

Please provide this information by email to abereki@gmail.com

Sincerely,

Adam Bereki

PAJAR <PAJAR@jud.ca.gov>
To: Adam <abereki@gmail.com>, PAJAR <PAJAR@jud.ca.gov>

Mon, Mar 29, 2021 at 4:11 PM

You have reached the "Public Access to Judicial Administrative Records" (PAJAR) team at the Judicial Council of California. The PAJAR team responds to requests to inspect "judicial administrative records" pursuant to rule 10.500 of the California Rules of Court. You can find information about rule 10.500, the process for requesting records, and the types of records available through this process at www.courts.ca.gov/publicrecords.htm.

-

You have requested email addresses for specified justices of the California Court of Appeal, the Fourth Appellate District, and for the Supreme Court of California, as well as the email address for a specified superior court judge. We have determine we have no disclosable responsive records. The only responsive records are exempt. (See Cal. Rules of Court, rule 10.500(f)(3).)

Sincerely,

Public Access to Judicial Administrative Records

Legal Services | Leadership Services Division

Judicial Council of California

455 Golden Gate Avenue

San Francisco, California 94102-3688

415-865-7796 | PAJAR@jud.ca.gov

www.courts.ca.gov/publicrecords.htm

[Quoted text hidden]



Adam Bereki <abereki@gmail.com>

PRA Request 03/14/21

Prerequisites <Prerequisites@ocsd.org>
To: Adam <abereki@gmail.com>

Wed, Mar 31, 2021 at 7:44 AM

Hello Mr. Bereki,

Attached are the records responsive to your request.

Thank you,

Helen Vasquez

OCSD I Records Division I CPRA

From: Adam <abereki@gmail.com>
Sent: Friday, March 26, 2021 10:31 AM
To: Prerequisites <Prerequisites@ocsd.org>
Subject: Re: [EXTERNAL] PRA Request 03/14/21

Veronica,

Thank you for the reply. In response, could you please provide: (1) the name and address of each jail/custody facility operated by the OCSD (please also distinguish which facilities have a law library and which don't); (2) the number of Pro-Per inmates in each facility that require access to the law library; (3) the OCSD's policy and procedures for inmate access to the law library for both pro per and represented inmates/defendants; (4) the law library hours in each facility; and (5) the number of inmates allowed in each law library at one time (before and during covid restrictions).

Sincerely,

Adam Bereki

Attention: This email originated from an **external source**. Use caution when opening attachments or clicking on links. Forward suspicious messages to Helpdesk@ocsd.org.

2 attachments



A. Bereki.pdf
176K



CPRA Request - Law Library.pdf
671K



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

March 31, 2021

Adam Bereki
abereki@gmail.com

RE: Your California Public Records Act (CPRA) request received Friday, March 26, 2021.

Dear Mr. Bereki:

This letter is in response to your above-referenced request received by the Orange County Sheriff's Department (OCSD) Records Division.

The following are the names and addresses of the OC Jail facilities in regards to item one (1).

Central Men's & Women's Jails – 550 N. Flower Street, Santa Ana, CA 92703

Intake Release Center – 550 N. Flower Street, Santa Ana, CA 92703

James A. Musick Facility – 13502 Musick, Irvine, CA 92618

Theo Lacy Facility – 501 The City Drive South, Orange, CA 92868

Please note that the law library is not located in the OC Jail facilities. Regarding item two (2), there is currently 18 total Pro Per inmates housed in the OC Jails as of today. The attached records are responsive to item three (3) for OCSD policy and procedures for inmate access to the law library. In regards to item four (4), the law library's business hours are 0600 to 1430 hours, Monday through Friday. The Orange County Sheriff's Department has no records responsive to item five (5) for the number of inmates allowed in each law library at one time. Be advised that all inmates are able to access law library materials by submitted a request in writing. OCSD personnel in the Inmate Services Division are responsible for fulfilling inmates' requests and delivering law library materials to the OC Jails.

Please contact Staff Specialist Veronica Musico at 714-834-6449 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Lee".

Edward Lee, Director
OCSD Records Division

EL: vm
Attachments
cc: Media Relations

EXHIBIT C – 2850

www.ocsd.org



CCOM

Court & Custody Operation Manual

JAIL COMPLIANCE & TRAINING TEAM

1203(7) – Inmate Classification
Procedures- Propria Persona (Pro-Per)
1204(10) - Inmate Classification
Procedures- Civil Detainees
1207.14 - Inmate Classification
Procedures- Conservation Camp Program
1600.6(f) – Orange County Jail Rules –
Orange County Correctional Programs
1604.1(y) – Orange County Jail Rules –
Inmate rights
1604.5(h) – Orange County Jail Rules –
Library Services
2010.1 – Inmate Services and Programs –
Legal Books

1203 – Propria Persona (Pro-Per)

7. New legal material from the law library will not be given to Pro-Per inmates if the amount of legal material will cause the total amount of materials in the inmate's possession to exceed six expandable folders. Once the inmate purges the material to allow space in their expandable folders they will be given new legal material. Legal mail will be delivered regardless.

1204 - Civil Detainees

10. Law Library

- i. Any Civil Detainee housed in any facility may request legal materials in the same manner as any inmate. All requests will be promptly acted upon.

1207 - Conservation Camp Program Inmates

1207.14 - Access to Courts

- a) The CDCR will ensure all Orange County Inmate's court related access is consistent with the CDCR policy.
 1. All Orange County Inmates requesting access to a law library will be transported back to the designated fire camp.
 2. Orange County Transportation will pick up the inmate from the designated fire camp and transport them back to the IRC for access to the Law Library.
- b) Any court order to produce an Orange County Inmate that is presented to Orange County shall immediately be forwarded to the Camp Administrative Office for processing.

1600.6 - Orange County Correctional Programs

f) Law Library

1. For Law Library books assistance fill out an inmate message slip addressed to "Law Library."

1604.1 - Inmate Rights

y) Inmates will have the right to request assistance in their legal matters. This will include persons with legal training, the Public Defender's Office and law library facilities. Inmates seeking judicial or administrative redress will not be subject to reprisals or penalties as a consequence.

1. Inmates may assist one another with legal matters. If documents belonging to one inmate are found in the possession of another inmate, the deputy making the discovery will make every effort to determine if the inmate named on the document gave his/her permission for the other inmate to possess the document. If permission was not given, the inmate who is not named on the document will be in "Possession of Contraband" and a Jail Incident Report will be written.
2. Inmates may request books from the County Law Library by submitting a written request to the Law Librarian. All books previously checked out must be returned prior to obtaining additional books.

1604.5 - Inmate Services

h) Library Services

1. A list of legal books available from the jail law library is available for review in each housing location. Requests for legal books must be submitted on an Inmate Message Slip. If a certain book is not available from the jail law library, the request will be taken to the Orange County Law Library. Inmates may request or possess a maximum of five (5) books. Books may be retained for a twenty-four (24) hour period unless properly renewed.

2010.1 - Legal Books

- a) Any inmate housed in any facility may request legal books. All requests will be promptly acted upon.
- b) Requests for legal books will be submitted on an Inmate Message Slip. Requests shall contain the following information:
 1. Inmate's name and booking number.
 2. Housing location (facility, module, sector, and cell).
 3. Specific title of book.
 4. Date and time of request.
 5. Whether the book is to be obtained from in-house law library or from the Orange County Law Library.
- c) A maximum of five (5) books may be requested for any one day. All books must be returned prior to requesting any others. No book may be kept over twenty-four (24) hours unless renewed, or on weekends.
- d) If a requested book is "restricted" (not permitted out of the Orange County Law Library) the inmate may, through his/her legal runner:
 1. Order the book at his/her own expense from the publisher.
 2. Request photocopies of all or part of the book at his/her own expense.
 3. Petition the Division Commander for permission to receive the book from other sources.
- e) Inmates will sign for each book received.
- f) The destruction or defacing of any legal book will result in immediate disciplinary action with the possibility of modification/loss of privileges.
- g) Responsibilities of the Law Library Staff
 1. An Inmate Services Staff member will pick up and deliver law books to the various housing locations during weekdays only.
 2. When the inmate returns the book to the Law Library it is the responsibility of the Law Librarian to forward the inmate message slip to Inmate Records staff for placement in the inmate's file. If the inmate is late returning his book, the Law Librarian will notify the housing deputy who will assist in collecting the book.
- h) Responsibilities of the Deputies/CST's
 1. The housing deputy will ensure that the inmate signs the back of the inmate message slip for material received. The housing deputy will return the signed inmate message slip to the Law Librarian.
 2. It is the responsibility of the assigned housing deputies to search any law book for contraband prior to it being turned over to an inmate.
 3. If the housing deputy determines that the legal book is dangerous, due to having a hard cover and/or being too large, the deputy will have the requesting inmate review the book away from other inmates. The inmate will not be allowed to take the book back to his bunk/cell.
 4. The CST assigned to conduct the daily Administrative Run will be responsible for obtaining the legal materials from the IRC.
 5. An envelope, marked "Legal Book Requests," will be maintained in Main Control.
 6. The personnel receiving the request will place all Inmate Message Slips, containing a request for legal books, into this envelope.
 7. The Inmate Mail CST will pick up all legal book requests prior to 0600 hours.
 8. Prior to 1100 hours, the Inmate Mail CST will fax the legal book request to the IRC Watch Commander.
 9. The AM Inmate Mail CST will forward a copy to the CST conducting the Administrative Run.
 10. The CST conducting the Administrative Run will pick up the requested legal books from the IRC. If a request has not been fulfilled, this CST will inquire as to the reason why and note that reason on the inmate message slip (e.g. "not in stock," "not available," etc.).
 11. The Administrative Run CST will deliver the legal books to the Inmate Mail CST, who will disperse them during the evening mail call.
 12. Upon delivery of the legal book (s), the Inmate Mail CST will obtain the inmate's signature on the Inmate Message Slip as receipt of delivery.
 13. The Inmate Mail CST will retain the original request until the following day. At that time, the previous day's disbursements will be collected. Inmates are permitted to retain materials for 24 hours.
 14. Once the legal book is collected, the original Inmate Message Slip will be forwarded to the IRC Inmate Records for placement in the inmate's booking files.

15. All collected legal books will be maintained in the mailroom for pick up, each day, by the Administrative Run CST.

16. The Administrative Run CST will return all legal books to the IRC.

i) Use of Law Books

1. Books from the jail law library and the Orange County Law Library will be available to the following inmate classification:
 - i. Priority I - In Propria Persona (Pro-Per) Inmates
 - ii. Priority II - All Other Sentenced and Pre-trial Inmates
 - iii. Legal books and materials will be distributed for use in accordance with the priority system.
 - iv. Priority I - In Propria Persona (Pro-Per) Inmates Books will be available to Pro-Per inmates from the jail law library and the Orange County Law Library. Pro-Per inmates may take these law books from jail to court. All Pro-Per inmates requesting law books will sign for a copy of the jail law library rules. Pro-Per inmates will also sign for an updated list of available jail law library books at the beginning of each month.
 - v. Priority II - Sentenced and Pre-Trial Inmates Books from the jail and county law libraries will also be available for sentenced and pre-trial inmates. These inmates will utilize a law book list available from each module office. Inmates will request legal books in accordance with guidelines set forth for Pro-Per inmates.



Adam Bereki <abereki@gmail.com>

Public Records Act Request 03/14/21

1 message

Adam <abereki@gmail.com>

Sun, Mar 14, 2021 at 1:03 PM

To: prarequests@lasd.org

Bcc: James Allard <jim@strongarmpi.com>

Good day,

Please see the attached request.

Sincerely,

Adam Bereki

2 attachments

 **LASD JAILS PRA 031421.pdf**
35K

 **Sample Response.pdf**
14072K

Adam Bereki
818 Spirit
Costa Mesa, California 92626
abereki@gmail.com | 949.241.6693

Los Angeles County Sheriff's Department
Via prarequests@lasd.org

March 14, 2021

RE: Public Records Act Request

Please provide all documents in your custody or control evidencing:

(1) inmate complaints or grievances made to your agency in each and every county correction facility and jail pertaining to: denial of access to the law library; law library computers not functioning; denial of pens, pencils or other necessary instruments or tools to conduct legal research; printers not working; unsanitary conditions in cells and/or law library restrooms; and lights not working in inmate cells to be able read;

(2) the number of computers, printers, and telephones in the law library in each and every county correction facility and jail;

(3) that each of the computers and printers in the law library in each and every county correction facility and jail are functioning in a reasonable capacity to conduct legal research and produce court filings; Please include all documents evidence the dates/times of inspections and repairs mad

(4) a list of the legal research titles available in print in the law library for legal research in each and every county correction facility and jail;

(5) a list of the online legal research tools and utilities available for legal research in each and every county correction facility and jail;

Please separate your responses to each of these questions according to each facility and provide your response to me via email at this email address: abereki@gmail.com.

I have provided a sample of a similar records request response. As you will notice, the response is not legible because the font is so small and blurry. Please ensure your responses are legible in 12-point font and certified by a custodian of records like this example.

Sincerely,

/s/ Adam Bereki

EXHIBIT C- 2857

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
CERTIFICATION OF RECORDS**

THIS IS TO CERTIFY THAT I, ADAM KENNEDY, DEPUTY, CUSTODY DIVISION,
DEPARTMENT OF THE SHERIFF, COUNTY OF LOS ANGELES, STATE OF
CALIFORNIA, AM ONE OF THE OFFICIAL LEGAL CUSTODIANS OF RECORDS FOR
MEN'S CENTRAL JAIL, A SHERIFF'S DEPARTMENT CUSTODY FACILITY, AND
THAT I HAVE RECORDS IN MY CUSTODY PERTAINING TO:

MATTHEW JOE SANDOVAL.

I FURTHER CERTIFY THAT THE ATTACHED COPY OF:

GRIEVANCES IN REGARD TO THE LAW LIBRARY COMPUTERS FROM JANUARY
2016, TO PRESENT. THE GRIEVANCE SYSTEM CAN ONLY BE SEARCHED BY
THOSE KEY WORDS GOING BACK TO JANUARY 2016.

IS A TRUE AND CORRECT COPY OF THE ORIGINAL IN MY CUSTODY, AS
REQUIRED BY LAW.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AT LOS ANGELES,
CALIFORNIA, THIS 14TH DAY OF AUGUST, 2020.

ALEX VILLANUEVA, SHERIFF

BY DEPUTY




EXHIBIT C- 2858

ADAM KENNEDY EMPLOYEE #455198

EXHIBIT C- 2859

| | | | | | | |
|-----------|--------------------|--------------------|---|------------|---------|-------------------|
| 5/17/2016 | Men's Central Jail | 5100-2016-0523-299 | INMATE ROBERTSON STATES SINCE BEING ON THE 4000 FLOOR THE STAFF HAVE REFUSED TO ESCORT ME TO THE LAW LIBRARY ON SEVERAL OCCASIONS. I AM A PRO PER INMATE AND I HAVE A COURT ORDER TO ATTEND THE LIBRARY. I HAVE BEEN ON THE 4000 FLOOR SINCE 05-09-16 AND ON 05-12-16 I WAS NO LONGER ON DISCIPLINE. ON 05-12-16 TO 05-17-16 I REMAIN OFF DISCIPLINE AND THE STAFF CONTINUED TO REFUSE TO SEND ME TO THE LIBRARY. I AM FILING THIS COMPLAINT AGAINST THE DEPARTMENT AND ALL THE PERSONNEL WHO HAVE WORKED SINCE 05-09-16. THE JUDGE WILL BE NOTIFIED. I CAN NOT PREPARE FOR MY CASE WITHOUT ACCESS TO THE LIBRARY. | ROBERTSON | 4549468 | A staff member |
| 5/19/2016 | Men's Central Jail | 5100-2016-0525-579 | INMATE CORTES STATES HE NOW POSSESSES TWO HEARING AIDS FOR BOTH MY EARS. THE COURT ORDER THAT MY SISTER AND P.D. ATTORNEY OBTAINED CAME WITH THEM. ON MONDAY THE 16TH AT THE VAN HORN COURT HOUSE THIS APPEARANCE WAS PREARRANGED AND IT WAS IN LAMC COMPUTER INFORMATION FOR MCI WHEREAS THE "INSURURORINATION ETC" CHARGING PARTIES KNEW IN ADVANCE UP TO 24 HOURS I WANTED TO BE HEARD RIGHT AWAY. | CORTES | 4542179 | Other |
| 5/25/2016 | Men's Central Jail | 5100-2016-0531-555 | Inmate states that multiple family members and his girlfriend are unable to visit him. He believes there may be an issue in the computer restricting him from visits. See PDF for further. | CAMPOS | 4664309 | Visiting |
| 5/28/2016 | Men's Central Jail | 5100-2016-0603-216 | INMATE LOOKADDO STATES HE ASKED THE OFFICERS (CATER, PENA, DIAZ, VERA MONTES, COLLASO, KELLY, VELA) FOR LAW LIBRARY TIME TO CHECK THE STATUS OF MY CIVIL SUIT AGAINST THE SHERIFF DEPARTMENT. I ADVISED DEPUTY COLLASO THAT A COMPLAINT IS FILED WITH THE SHERIFF'S DEPARTMENT AND FOR HIS ACTIONS HE WOULD BE ADDED TO MY COMPLAINT AT WHICH TIME COLLASO SAID, "WHATEVER SPELL MY NAME RIGHT." COLLASO WAS VERY DISRESPECTFUL AND UNPROFESSIONAL OUT OF RETALIATION. | LOOKADDO | 3782836 | A staff member |
| 5/19/2016 | Men's Central Jail | 5100-2016-0603-214 | WHY AM I TREATED LIKE AN ANIMAL. WHY NEVER GO OUTSIDE TO SEE SUNLIGHT AND WHY DO I HAVE TO STAY LOCKED DOWN IN A CELL FOR 24 HOURS A DAY LOOKING AT TRASH, BUGS, RAT DROPPINGS AND EATING COLD MEALS THAT SHOULD BE HOT. WHY IS THE JAN. TEMPERATURE SO COLD? WHY DO I GET CALLED NAMES BY DEPUTIES AND HARASSED. WHY I NEVER SEEM TO GET ESCORTED TO THE LAW LIBRARY TO FIGHT MY CASE. I AM PRO-FRITS BEEN NOTHING BUT RETALIATION FROM ME TRYING TO COMPLAIN, BUT NOW I AM ABLE TO COMPLAIN BECAUSE I AM GOING HOME AFTER PRISON AND THERE IS NO MORE RETALIATION OR HARASSMENT FROM DEPUTIES ONCE I COMPLAIN. | MALBROUGH | 4496794 | Other |
| 5/31/2016 | Men's Central Jail | 5100-2016-0608-202 | INMATE REPORTS HE IS BEING DENIED ACCESS TO THE LAW LIBRARY BECAUSE HE IS NOT PRO PER. INMATE IS SEEKING TO USE THE LIBRARY. | ALLEN | 3884645 | Other |
| 6/1/2016 | Men's Central Jail | 5100-2016-0611-227 | PRO PER FITS WITH NECESSARY LEGAL SUPPLIES WERE ISSUED LAST NIGHT ON BAKER ROW. I HAVE PUT IN A TIMELY REQUEST FOR PRO PER KIT EVERY WEEK BUT DID NOT RECEIVE ONE LAST NIGHT. I NEED MY INDIGENT PRO PER SUPPLIES TO ACCESS THE COURT. ADDITIONALLY, I GAVE HINTON WRITTEN NOTICE MY PRO PER PIN NUMBER WAS STOLEN AND \$20.00 WAS STOLEN FROM MY PRO PER PHONE ACCOUNT. I ASKED HIM IN WRITING TO PLEASE CHANGE MY PRO PER PIN BEFORE THE REMAINING 47.00 COULD BE STOLEN. HINTON IGNORED THIS AND ALLOWED THE REST TO BE STOLEN SAYING HE DID THIS TO "REDUCE FRAUD". HINTON NEVER RESPONDS TO REQUEST OR GRIEVANCES. HE LIES TO INMATES SAYING THE LAW LIBRARY COMPUTERS ARE DOWN DUE TO "BAND SPEED" PROBLEMS WITH THE WI FI. THERE IS PROCESSOR SPEED AND BANDWIDTH BUT NO SUCH THING AS "BAND SPEED" AND THE LAW LIBRARY COMPUTERS USE DATA LINES, NOT WI FI. | JEANES | 4488136 | Other |
| 6/2/2016 | Men's Central Jail | 5100-2016-0609-262 | Inmate states he was written up because he created a disturbance requiring deputies to call a Sergeant because he felt he had not received his full law library time. SEE PDF. | OSBY | 4387066 | Other |
| 6/3/2016 | Men's Central Jail | 5100-2016-0622-278 | AFTER SHOWERS I ASKED C/A BENOIT CAN WE PLEASE GET OUR DAY ROOM AT 9:00 AM. SHE TOLD ME DONT TELL ME WHAT TO DO. I SAID I'M NOT, I AM JUST ASKING NICELY CAN WE GET OUR DAY ROOM BECAUSE WE ALWAYS GO LATE, THEN WE ARE IN THE LAW LIBRARY FOR 40 MINUTES AND SHE TELLS US TO GET OUT. WE TOLD HER WE JUST GOT IN HERE AND WE GET 1 HOUR AND 30 MINUTES, THAT IS WHAT WE'RE ENTITLED TO AND SHE SAID I DONT CARE WHAT YOU ALL GOT COMING AND STILL TRIED TO MAKE US LEAVE. THEN JENKINS C/O HAD TO COME OVER AND FOR THE SITUATION, THEN WE HAVE DAY ROOM AT 9:00. SHE IS VERY DISRESPECTFUL. | SAULSBERRY | 4606723 | Living conditions |
| 6/3/2016 | Men's Central Jail | 5100-2016-0609-217 | I AM BEING TREATED FOR MY LIFE AND IN FEAR OF MY LIFE BECAUSE OF INMATES ON MY FLOOR (200) HEARD SERGEANT ALFORD CALL ME A PREDICTOR AND SAYING I MIGHT BE RAPING LITTLE GIRLS ON THE STREET. I HEARD SERGEANT ALFORD TELL DEPUTIES TO WATCH ME I AM A PREDICTOR. SERGEANT ALFORD SAYS THESE THINGS IN OPEN AREAS AROUND INMATES. I FEEL VIOLATED, SHAMERED, HUMILIATED AND IN FEAR. SERGEANT ALFORD IS PLACING SIGNS EVERYWHERE SAYING TO WATCH ME IN MY CELL DOOR. I AM STARTING TO HAVE BAD DREAMS. I AM NOT IN THE COMPUTER AS GUARDED OR WATCHED. SERGEANT ALFORD IS PLACING SIGNS EVERYWHERE TO DO SO. I AM GOING THROUGH MENTAL STAGES. I AM IN DISBELIEF. PLEASE HELP I DO NOT KNOW WHAT TO DO. | ROBERTSON | 4529211 | A staff member |
| 6/9/2016 | Men's Central Jail | 5100-2016-0621-263 | IT IS IN THE COMPUTER THAT MY ALLERGIES IS NOT PEANUT BUTTER, NO BOLOGNA, BUT YOU STILL GIVE IT TO ME. THE PROBLEM IS TO CHANGE THE STICKER TO NO PEANUT BUTTER, NO BOLOGNA. | WILLIAMS | 4548758 | Dietary |
| 6/9/2016 | Men's Central Jail | 5100-2016-0622-296 | I WAS CURRENTLY ON L.O.P. FOR 25 DAYS ON 5/10/16. I AM DONE DOING MY TIME AND MY VISITS ARE BEING RESTRICTED. I HAVE TALKED TO MULTIPLE DEPUTIES AND NO CHANGE. I TALKED TO SERGEANT HOFFMAN TODAY AND HE IS CURRENTLY WORKING ON IT BUT HE FINDS NOTHING ON THE COMPUTER ABOUT MY VISITS BEING RESTRICTED. MY FAMILY CANNOT SCHEDULE A VISIT STILL. | KING | 3022971 | Visiting |
| 6/12/2016 | Men's Central Jail | 5100-2016-0620-217 | PER IS CCR 1280, FACILITY SANITATION AND MAINTENANCE. THE 2500 PRO PER SEASONHA COMPUTER LAW LIBRARY HAS A BROKEN SHITTER AND URINAL TOILETS FULL OF OLD FEES AND URINE. THIS HAS BEEN GOING ON TO LONG (WEEKS). I AM NOT GOING TO BREATHE IN THIS FILTH ANYMORE AND CATCH A COMMUNICABLE DISEASE. PLEASE FIX FORTHWITH AND PROVIDE ME WITH LIQUID SANITIZER TO CLEAN MY FILTY CELL. PLEASE FOR THE NUMEROUS BROKEN LAW LIBRARY COMPUTERS. | ALLEN | 4569961 | Living conditions |
| 6/12/2016 | Men's Central Jail | 5100-2016-0610-216 | SINCE BEING PLACED IN THE HOSPITAL FROM GENERAL POPULATION ON MAY 7, 2016, I HAVE BEEN DENIED ACCESS TO THE LAW LIBRARY. ON MAY 26, 2016, AFTER 3 WEEKS OF ENDURING THIS SITUATION I WAS ABLE TO GET TO THE LEGAL UNITS TO GENERATE A MEMO INFORMING HOSPITAL GUARDS THAT I WAS PRO PER AND TO NOTIFY THEM OF THE LAW LIBRARY SCHEDULE. HOWEVER, I AM NOT BEING LET OUT TO THE LIBRARY WHEN I REQUEST TO BE LET OUT. I AM SIMPLY REQUESTING TO BE ALLOWED TO GO TO THE LAW LIBRARY IN A TIMELY MANNER. | DOE | 3753324 | Other |
| 6/16/2016 | Men's Central Jail | 5100-2016-0622-293 | I TALKED TO MS CORTES WHO WORKS IN THE KITCHEN TELLING ME IT'S IN THE COMPUTER, NO PEANUT BUTTER, NO BOLOGNA, SHE MAKE IT RIGHT BUT THEY DOING IT ON PURPOSE IN THE KITCHEN, OFFICER REEZ AND OFFICER WILLIAMS WHO WORKS IN THE KITCHEN. | WILLIAMS | 4548758 | Medical Services |
| 6/20/2016 | Men's Central Jail | 5100-2016-0622-305 | I WISH TO FILE A CITIZEN'S COMPLAINT PURSUANT TO PENAL CODE 832.5 FOR DEPRIVING ME ACCESS TO THE LAW LIBRARY WHEN I AM PRO PER. ON 6/19/16 AT 4:30 PM, I INFORMED DEPT. MARGOLIS OF MY GROUPE'S AND MY TIME FOR LAW LIBRARY IS NOW. HE IGNORED ME AND I HAD TO MISS 30 MINUTES UNTIL ANOTHER DEPUTY CAME TO GRANT ACCESS TO THE LAW LIBRARY. I SHOWED HIM MY SCHEDULE FOR PROPER. | DAVIS | 4142924 | Other |
| 6/23/2016 | Men's Central Jail | 5100-2016-0706-218 | Inmate wants access to the law library even though he is not a pro-per inmate. | LUKARZIA | 4647545 | Other |
| 6/30/2016 | Men's Central Jail | 5100-2016-0609-247 | Inmate claims that he is not being taken to law library during his assigned time. | DAVIS | 4142924 | Living conditions |
| 7/11/2016 | Men's Central Jail | 5100-2016-0720-258 | Inmate claims he is not being brought to law library on a regular basis. | CAMPBELL | 4661379 | Other |
| 7/12/2016 | Men's Central Jail | 5100-2016-0728-193 | Inmate complains about not being brought to the law library on time. SEE PDF. | DAVIS | 4142924 | Other |
| 7/14/2016 | Men's Central Jail | 5100-2016-0728-187 | Inmate complains about not being brought to the law library on time. SEE PDF. | BAIRD | 4539549 | Other |
| 7/17/2016 | Men's Central Jail | 5100-2016-0801-257 | THE DEPUTIES HAVE A SCHEDULE FOR THE LAW LIBRARY TODAY, BUT THEY WON'T COME GET ME ON TIME. THIS NEGLECT NEEDS TO STOP. EVERYDAY I TELL THE DEPUTIES IT'S LAW LIBRARY TODAY, BUT THEY WON'T COME GET ME ON TIME. PLEASE INFORM THEM TO STOP MISSING OUR LAW LIBRARY TIME. | CAMPBELL | 4661379 | Other |
| 7/21/2016 | Men's Central Jail | 5100-2016-0725-220 | ON 7/6/16 AT APPROXIMATELY 6 AM-7 AM, I WAS WRITTEN UP BY OFFICER A. TORRES #200994 AND TAKEN TO 1750 G B FOR ALLEGEDLY CREATING A DISTURBANCE, PHYSICALLY FIGHTING AND FIGHTING WITH STAFF. IT HAS BEEN 12 DAYS SINCE THIS WRITE UP AND I HAVEN'T HAD NO DISCIPLINARY HEARING ON THESE ALLEGED CHARGES. I HAVEN'T BEEN ALLOWED TO GO TO THE LAW LIBRARY EITHER ALTHOUGH I AM STILL PRO PER, SO MY DUE PROCESS RIGHTS HAVE BEEN ABANDONED AND AM BEING GROSSLY VIOLATED. I DONT KNOW THE NAME OF THE WATCH COMMANDER WHO INTERVIEWED ME WITH THE VIDEO CAMERA SHORTLY AFTER THIS INCIDENT, BUT HE SAID THAT HE SAW THE INCIDENT ON VIDEO AND THAT HE WAS DEEPLY DISTURBED BY IT. SA. FLORES TOLD ME THAT HE RECOMMEND THAT I GO BACK TO GP IN 2500 BECAUSE HE DONT SEE ME DO NOTHING. | TURNERY | 4578169 | Other |
| 7/23/2016 | Men's Central Jail | 5100-2016-0728-263 | Inmate states that he has not been getting law library time, legal supplies, legal phone calls, etc. | SHEPPARD | 4718766 | Other |
| 7/26/2016 | Men's Central Jail | 5100-2016-0801-208 | TODAY ON 7/26/16 I TOLD SEVERAL DEPUTIES IN 4300 THAT I HAVE LAW LIBRARY. NO DEPUTY CAME AND GOT ME. THIS IS THE THIRD DAY I MISSED THE LAW LIBRARY AND IT IS BECOMING MORE CONSISTENT BEHAVIOR THAT THE DEPUTIES DELIBERATELY SHOW THAT THEY MAKE EXCUSES. | CAMPBELL | 4661379 | Other |
| 7/27/2016 | Men's Central Jail | 5100-2016-0801-210 | ON 7/20/16 I BECAME A PRO PER INMATE AND AS OF TODAY I HAVE NOT RECEIVED LAW LIBRARY TIME, PRO PER PIN NUMBER, PRO PER SUPPLIES AND I NEED THE ABOVE ITEMS AS SOON AS POSSIBLE O/S I CAN START MY LITIGATION IN THE SUPERIOR COURT. | SHEPPARD | 4718766 | Other |
| 8/2/2016 | Men's Central Jail | 5100-2016-0802-242 | EVERY SINCE FRIDAY THE 23RD OF JULY MY CELL TOILET IS NOT WORKING. I WAS TOLD A WORK ORDER WAS PUT IN ABOUT MY TOILET NOT WORKING. MY CELL LIGHT IS OUT ALL TOGETHER. DEPUTIES GAVE ME A HEAD TIME WHILE I AM TO USE THE LAW LIBRARY TOILET ON THE DAYROOM TOILET. PLEASE HAVE MY TOILET AND LIGHTS ON MY CELL FIXED. I TURNLY FEEL THAT DEPUTY JOHNSON WHO WORKS 2700 MODULE IS TAKING ANIMOSITY AND REPRASAL AGAINST ME BY DAMAGING MY TOILET ON PURPOSE BECAUSE OF PAST COMPLAINT FORMS I HAD TO WRITE ON JOHNSON. PLEASE MOVE JOHNSON TO ANOTHER MODULE FOR BEING UNPROFESSIONAL. | WEST | 4575925 | A staff member |
| 8/2/2016 | Men's Central Jail | 5100-2016-0808-219 | I TALKED TO LEGAL UNIT STAFF (C/A HINTON) ON 7/20/16 AND I GAVE HIM MY PRO PER PHONE AND PRO PER KIT PAPERWORK PERSONALLY. ON 8/1/16 I TALKED TO (C/A HINTON) AT WHICH TIME HE SAID HE TURNED IN THE PRO PER KIT AND PRO PER PHONE PAPER LAST WEEK BUT AS OF TODAY I HAVE NOT RECEIVED NOTHING AT ALL. I HAVE BEEN PRO PER SINCE 7/12/16 AND I HAVE NOT RECEIVED NO LAW LIBRARY TIME OR LAW LIBRARY PRO PER KIT OR A PRO PER FOUR DIGIT PIN NUMBER AS OF YET AND THIS IS UNACCEPTABLE. I AM GETTING FRUSTATED AND STRESSED OUT ABOUT MY LAW LIBRARY TIME AND I NEED TO TALK TO SOMEBODY AS SOON AS POSSIBLE. I DONT HAVE NO LAW LIBRARY SUPPLIES OR LAW LIBRARY TIME OR MY FOUR DIGIT PIN NUMBER TO CALL MY PRIVATE INVESTIGATOR OR LEGAL COUNSEL. | SHEPPARD | 4718766 | Other |
| 8/2/2016 | Men's Central Jail | 5100-2016-0810-206 | ON 08-02-16 I NOTIFIED C.A. BLANCHARD AT APPROX. 4:00AM OF MY COURT DATE. AN COMPUTERIZED INQUIRY OF MY COURT DATE REVEALED THAT THE COURT HAD NO COURT DATES AVAILABLE, NO RELEASE DATES, NO HOLDS AND NO RESTRICTIONS. I NOTIFIED C.A. BLANCHARD THAT MY FAMILY HAD MADE A COURT DATE INQUIRY PRIOR TO SPEAKING WITH HIM, WITHIN SECONDS HE BEGAN TO USE PROFANITY SO I NOTIFIED HIM OF THE OBSTRUCTION OF JUSTICE. | WILSON | 4724929 | A staff member |
| 8/5/2016 | Men's Central Jail | 5100-2016-0819-303 | CURRENTLY PRISONERS ARE BEING FORCED TO GO PRO PER IN ORDER TO UTILIZE THE LAW LIBRARY. THIS IS UNCONSTITUTIONAL AND IS CRUEL AND UNUSUAL PUNISHMENT OF AN INDIVIDUAL WHO IS INNOCENT UNTIL PROVEN GUILTY, NOT TO MENTION UNETHICAL DUE TO THE FACT THAT ATTORNEY'S MUST ATTEND LAW SCHOOL FOR ATLEAST 3 YEARS TO BE DEEMED QUALIFIED TO PRACTICE LAW IN OPEN COURT. I AM REQUESTING FULL ACCESS TO THE COURTS, INCLUDING LAW LIBRARY WITHOUT BEING FORCED TO EXERCISE MY RIGHT TO REPRESENT MYSELF. | MORGAN | 4691791 | Other |
| 8/8/2016 | Men's Central Jail | 5100-2016-0810-301 | Inmate states that several computers in 1750 are constantly not working. Inmate states that only 1 phone are currently working in the canteen cells. | PORRAS | 3857974 | Other |
| 8/12/2016 | Men's Central Jail | 5100-2016-0817-337 | DEPUTY SANCHEZ, DEPUTY PENNEZ, DEPUTY HARRIS AND DEPUTY PEOPLES ARE NOT ALLOWING LAW LIBRARY. | CAMPBELL | 4661379 | Living conditions |

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|------------|--------------------|--------------------|---|----------|---------|-------------------|
| 8/13/2016 | Men's Central Jail | 5100-2016-0817-413 | ON 8/13/16 AT 11:30 AM I TOLD C/A LOPEZ I HAD 11 O'CLOCK LAW LIBRARY TIME FOR GROUP #10. I AND C/A LOPEZ ARRIVED TO LAW LIBRARY AT 12:15 PM. C/A LOPEZ ARRIVED BACK AT 1:15 TO PICK ME UP AND THEN SHE STATED THAT MY LAW LIBRARY TIME WAS 9:00 AM WITH GROUP #8. I TOLD HER THAT I'M IN GROUP #10, NOT GROUP #8 AND MY SCHEDULED TIME IS FROM "12 NOON TO 1:30 HOURS. CAN I RECEIVE MY 30 MINUTES I AM ENTITLED TO (1 1/2 HOUR AND 1/2 EVERYDAY PRO PER INMATE. SHE WALKED OUT AND CLOSED THE LAW LIBRARY DOOR AND THEN CAME BACK WITH MULTIPLE DEPUTES (MIRAMONTES, LUTTKUS, HEREDIA) AND A FEW MORE NAMES I DID NOT GET. THEY BASICALLY TOLD ME I WAS GIVING LOPEZ PROBLEMS AND THEY WERE THERE TO PROTECT HER, BUT I ONLY TOLD HER I WAS IN GROUP #10 AND I WANTED MY LAW LIBRARY TIME, THE 30 MINUTES ONLY. LOPEZ AND DEPUTES ESCORTED ME BACK TO 2900 HALL 4 AND THEN I REQUESTED TO SEE MY LAW LIBRARY SCHEDULE AND LOPEZ COMPLIED BUT THE SCHEDULE SHE HAD SAID INMATE NAME WAS "MILSON" AND HE LIVED IN A BELL AND WAS IN GROUP #8. I FELT LIKE MY LIFE WAS IN DANGER AND I NEVER DID NOTHING WRONG AND THIS TYPE OF BEHAVIOR IS UNACCEPTABLE. I WANT AN INVESTIGATION DONE BECAUSE THIS INCIDENT WAS SHS. | SHEPARD | 4719766 | A staff member |
| 8/20/2016 | Men's Central Jail | 5100-2016-0819-251 | 1. C.TIER BACK HALL (CELLS 15-24) DENIED BY SHERIFF'S DEPARTMENT STAFF FROM GOING TO THE LAW LIBRARY ON SATURDAY 8/20/16. COMMON OCCURRENCE. 2. PRO PER INMATES DENIED THEIR 14TH, 8TH, AND 6TH FEDERAL CONSTITUTIONAL RIGHTS AND CALIFORNIA'S FARETTA RIGHTS. 3. COPY TO ACLU AND 2ND APPELLATE FOR ORDER TO SHOW CAUSE AGAINST LASD. 4. COPIES TO NBC, DATELINE, JESSICA DEVAUL PRODUCER. | GRZELO | 2918136 | Other |
| 9/5/2016 | Men's Central Jail | 5100-2016-0908-407 | Inmate is stating that he was made a pro-per on 09/29/2016 and as of 09/25/2016 he has not been able to use the law library | MARQUEZ | 4102728 | Other |
| 9/11/2016 | Men's Central Jail | 5100-2016-0912-332 | I BROUGHT IT TOWARDS JAILER CASTRO ATTENTION THAT I HAD LAW LIBRARY TIME AT NOON TIME BUT HE SAID PER 1750 SERGEANT THE LIBRARY WAS CANCELLED FOR THE DAY BUT THIS IS UNACCEPTABLE BECAUSE I HAVE A COURT DEADLINE AND I NEED TO DO MY RESEARCH TO SUBMIT MY MOTIONS TO COURT. PLEASE LOOK INTO THIS SITUATION BECAUSE THIS IS NOT RIGHT AND I NEED MY LAW LIBRARY TIME AS A PRO-PER INMATE. PLEASE GIVE ME WHAT I GOT CORRECT THAT'S ONLY THE FAIR THING TO DO. | SHEPARD | 4719766 | Other |
| 9/14/2016 | Men's Central Jail | 5100-2016-0918-203 | Inmate claims that the computers don't work in the law library | DARBY | 4645902 | Living conditions |
| 9/14/2016 | Men's Central Jail | 5100-2016-0915-223 | MY FAMILY IS BEING SENT AWAY AND ARE NOT BEING ABLE TO SEE OR VISIT WITH ME. I HAVE BEEN DECLASSIFIED FROM K-10 TO THE GENERAL POPULATION OVER A WEEK NOW. CAN YOU PLEASE CORRECT THIS ISSUE ON COMPUTER. | CHAVEZ | 4675577 | Visiting |
| 9/18/2016 | Men's Central Jail | 5100-2016-0917-263 | I WAS BOOKED INTO MCJ ON 1/23/16 AND SENTENCED ON 4/5/16. I WAS GRANTED TRUSTEE STATUS WHEN FIRST BOOKED AND WORKED FOR EXTRA CREDITS UNTIL BEING GRANTED PRO PER STATUS IN AUGUST FOR THE RESTITUTION PORTION OF MY CASE. IN ORDER TO HAVE ACCESS TO THE LAW LIBRARY, I WAS RELOCATED TO THE PRO PER DORM. ON 9/7/16 RESTITUTION WAS WRAPPED UP AND MY PRO PER STATUS ENDED. A COUPLE OF DAYS LATER I WAS REASSIGNED A CELL IN GENERAL POPULATION AND I REQUESTED TO SPEAK TO LEGAL. THE FOLLOWING DAY AFTER NO RECEIVING MY REQUEST, I REQUESTED A SERGEANT FROM LEGAL TO SPEAK WITH. SERGEANT WILLIAMS AND I HAD A THOROUGH CONVERSATION REGARDING THE FACTS. THE FOLLOWING DAY SERGEANT FOLLOWED UP AND CONFIRMED HE HAD SENT ONE TWO EMAILS AND THAT I WAS APPROVED TO RETURN TO MY PRIOR POSITION AS TRUSTEE FOLLOWING THE DECISION BY THE SERGEANT. I CONTINUED TO WAIT FOR MY RELOCATION PASS. ON FRIDAY 9/16/16, I RECEIVED A PASS TO THE ATTORNEY'S ROOM. IN ROUTE, I PASSED, CROSSED PATHS WITH CORRECTION OFFICER AND LEGAL DEPUTY HINTON. I HAD A FRIENDLY CONVERSATION WITH HIM REGARDING MAINTENANCE WORK TO THE LAW LIBRARY'S COMPUTERS BY THE PRESENT TECHNICIAN. UPON MY RETURN TO DORM 2500 I AGAIN CROSSED PATHS WITH HINTON AND MY BELONGINGS BAGGED UP IN THE HALLWAY. HINTON'S DECISION HAS CHANGED FROM 15 MINUTES PER AND HE IS ACCUSING ME OF REFUSING TO FOLLOW MY RELOCATION ASSIGNMENT. THIS WAS THE REASONING MY BELONGINGS WERE BAGGED UP FOR ME. SERGEANT SMITH WAS CALLED TO INTERVIEW. I EXPLAINED THE SITUATION TO SGT. SMITH AND INFORMED HIM THAT SGT. WILLIAMS HAD ALREADY FACT CHECKED MY CLAIMS AND THAT I WAS APPROVED TO RETURN TO MY TRUSTEE POSITION. HINTON'S ACTIONS WERE UNWARRANTED AND HIS ACTIONS OVER RIDING A SUPERVISOR'S DECISION BASED ON FACTS AND FOLLOW UP VERSUS MY UNCONFORMED YEARS ARE DISTURBING AND UNPROFESSIONAL. HINTON'S UNPROFESSIONAL APPROACH TO SOLVING THIS PROBLEM REFLECTS AND MIRRORS HIS APPROACH TO SOLVING COMPLICATED PROBLEMS PRESENTED TO HIM DURING HIS COURSE OF BUSINESS AS LEGAL DEPUTY. HIS DECISIONS LACK FOUNDATION, REASONING, AND FOLLOW THROUGH. HINTON'S POSITION IS CRITICAL TO THE DUE PROCESS RIGHTS OF PRO PER AND HIS CONSTANT UNAVAILABILITY IS HINDERING INMATE'S CONSTITUTIONAL RIGHTS. HAD HINTON BEEN AVAILABLE AND RESPONDED TO MY INITIAL REQUEST TO SPEAK TO LEGAL AND FOLLOWED UP WITH A SIMPLE EMAIL, LIKE SGT. WILLIAMS DID, ALL OF THE FOLLOWING COULD HAVE BEEN ELIMINATED. THERE'S NO REASON TWO SERGEANTS, SEVERAL OFFICERS AND NOW THE GRIEVANCE UNIT, NEEDED TO GET INVOLVED IN SUCH A TRIVIAL AND NOW ESCALATED SITUATION. HINTON'S APPROACH TO THIS AND HIS APPROACH TO LEGAL ASSISTANCE MATTERS SHOULD BE EVALUATED AND CORRECTED. HINTON'S INABILITY TO MAKE SOUND AND EDUCATED DECISIONS IS PROBLEMATIC FOR EVERYONE. | TURNER | 4614595 | Living conditions |
| 9/20/2016 | Men's Central Jail | 5100-2016-0917-245 | I HAVE NOT BEEN TO THE LAW LIBRARY IN 2 WEEKS AND I NEED TO DO RESEARCH AND CALL MY P.L. EXPERT WITNESSES, AND I'M NOT RECEIVING MY PRO PER SUPPLIES BECAUSE NOBODY IS TURNING IN MY PRO PER ORDER FORM AND THIS IS COMPLETELY UNACCEPTABLE. I HAVE NO ACCESS TO 1750 LAW LIBRARY TO GET THE ORDER FORMS OR TURN THEM IN AND SOMETHING HAS TO BE DONE ABOUT THIS AS SOON AS POSSIBLE. IS THE LAW LIBRARY CLOSED OR OPEN, WHAT'S GOING ON. I AM TURNING IN THE PRO PER ORDER FORM TO DEPUTIES BUT I DON'T KNOW IF THEY ARE TURNING THEM IN. I NEED A PRO PER ORDERING FORM | SHEPARD | 4719766 | Other |
| 9/21/2016 | Men's Central Jail | 5100-2016-0927-245 | SERGEANT JUST CAME TO MY CELL, ALE 4 WITH A GRIEVANCE FORM STIPULATING I'M NOT READING LAW LIBRARY IN MORE THAN A WEEK FOR UNKNOWN REASONS AND I HAVE A COURT DEADLINE, NEED PRO PER SUPPLIES, NEED TO MAKE PHONE CALLS FOR LITIGATION ETC. SERGEANT SAID LAW LIBRARY IS OPEN AS OF TODAY AND HE WAS GOING TO TELL 1750 DEPUTIES TO RUN LAW LIBRARY. I ASKED VASQUEZ, 2900 JAILER TO CALL 1750 LAW LIBRARY AND THEY SAID LAW LIBRARY IS STILL CLOSED FOR ANOTHER WEEK, SO SOMEBODY IS NOT TELLING THE TRUTH AND IS PLAYING GAMES WITH THE LAW LIBRARY. THIS IS UNACCEPTABLE FOR PRO PER INMATES. PLEASE HELP IN THIS MATTER AS SOON AS POSSIBLE BECAUSE I NEED TO DO RESEARCH | SHEPARD | 4719766 | Other |
| 9/26/2016 | Men's Central Jail | 5100-2016-0928-275 | AT 7 PM, INMATE TOLD THE DEPUTY I HAD 7:30 PM LAW LIBRARY TIME AND THEN JAILER SOLTERO MADE A SMART COMMENT AND SAID BETTER HOPE YOU GET IT. JAILER SOLTERO DID A 3:30 PM WALK AND ONCE AGAIN BROUGHT IT TO HER ATTENTION THAT I HAD LAW LIBRARY, BUT SHE IGNORED ME. SOLTERO IS NOT GIVING ME WHAT I GOT COMING AND THAT IS LAW LIBRARY TIME. I THINK SHE IS RACIST TOWARDS BLACK INMATES BECAUSE SHE IS RACING THE HISPANIC INMATE'S GATES AND TAKING THEM TO THE LAW LIBRARY FOR SOME STRANGE REASON WHEN I ASK TO GO TO THE LAW LIBRARY I'M GETTING DENIED. THIS TYPE OF BEHAVIOR IS UNACCEPTABLE AND I WANT SOMETHING DONE ABOUT THIS AS SOON AS POSSIBLE. SHE THINKS SHE CAN GET AWAY WITH THIS, BUT SHE CAN'T. SOLTERO JUST DID ANOTHER 8 PM WALK AND IGNORED ME AGAIN AFTER I TOLD HER I WANT MY LAW LIBRARY TIME. | SHEPARD | 4719766 | A staff member |
| 9/18/2016 | Men's Central Jail | 5100-2016-0929-269 | I am filing and documenting a complaint on C.A. Hinton for violating my constitutional rights. I have not had access to the law library since 09-18-16 due to C.A. Hinton neglecting his duties and responsibilities. I am pro-per and I have exhausted all remedies to correct this matter. | BEAVER | 4695213 | A staff member |
| 9/28/2016 | Men's Central Jail | 5100-2016-1003-305 | I AM CURRENTLY AN INMATE WHO IS PRO PER. I WAS BROUGHT DOWN FROM WAYSIDE ON MONDAY AND HOUSED HERE IN 2200. I HAVE NOT BEEN ABLE TO HAVE LIBRARY ACCESS NOR COMPUTER ACCESS IN ORDER TO PREPARE OR STUDY AN ADEQUATE DEFENSE. I NEED LIBRARY ACCESS AS SOON AS POSSIBLE. | MUNOZ | 4647373 | Other |
| 10/18/2016 | Men's Central Jail | 5100-2016-1115-540 | Inmate claims he is being denied access to the law library while in 1751 | HARRIS | 4318428 | Other |
| 10/31/2016 | Men's Central Jail | 5100-2016-1103-250 | My telephone is off, I can not contact my family. I have not violated any jail rules. I am not convicted of any crime. I have no criminal record. I am being punished for something I have no control over nor with which I had anything to do. Law library is mandatory, county rule 8042 G) | WOLFE | 4065245 | Telephone |
| 10/31/2016 | Men's Central Jail | 5100-2016-1103-260 | I am housed in Pro-per and on lock down for something I nor anyone in here have done to violate our status. This has violated our right to due process! It is affirmative to our defense to have access to the law library immediately. | BELLE | 4694700 | Living conditions |
| 11/9/2016 | Men's Central Jail | 5100-2016-1129-252 | My right to access a law library under Title 15, section 3123 (b) has been violated and is being continuously violated to date. I want financial compensation for this violation of my 5th and 14th amendment rights to not be deprived of liberty without due process of law. | HAYES | 4379677 | Other |
| 11/20/2016 | Men's Central Jail | 5100-2016-1121-339 | I'm Pro Per and need to get moved to the Pro Per unit so I can go to the law library and obtain legal supplies for writing motions. They do not pass out legal supplies where I'm housed. I need to get moved to 2500 so I can obtain the materials I need for writing motions. I have court on Tuesday and need to be finished | LIRA | 4823437 | Other |
| 11/22/2016 | Men's Central Jail | 5100-2016-1213-416 | Inmate states that he is unable to use the computers because they are not set to Spanish language. | CORTEZ | 3954818 | Living conditions |
| 11/29/2016 | Men's Central Jail | 5100-2016-1220-290 | Inmate requests a computer in law library to be in spanish | CORTEZ | 3954818 | Living conditions |
| 1/16/2017 | Men's Central Jail | 5100-2017-0218-304 | Inmate states he has been requesting law library for a month | JUARIZ | 4847023 | Living conditions |
| 3/4/2017 | Men's Central Jail | 5100-2017-0207-113 | Inmate complaining he has not been going to law library ever since he has been a pro-per. | FALST | 4907096 | Living conditions |
| 3/7/2017 | Men's Central Jail | 5100-2017-0308-284 | I'm pro-per inmate that's having a hard time getting my full law library time when Deputy Bendeze is here we go in late and get rushed out early. This is a on going situation. I use my pro per inmate time to help me to explain that some of us have time lines or deadlines. But he gives a sarcastic answers. I'm asking for pro-per module 17500 Officers to talk to inmates with respect, and to get us in the law library on time it won't be a problem with us getting our full time and handling what we have to for case. Thank you and God bless. | FOHNEY | 4381753 | A staff member |
| 3/8/2017 | Men's Central Jail | 5100-2017-0314-401 | Inmate states he had to wait 2 hours in the laundry room after being let out of law library and he did not have a toilet to use | MILLER | 4891487 | Living conditions |
| 3/12/2017 | Men's Central Jail | 5100-2017-0314-317 | why am I not allowed visit in the computer. | CRUZ | 4979992 | Living conditions |
| 3/15/2017 | Men's Central Jail | 5100-2017-0314-300 | Inmate Services, watch commander why am I not allowed visit, why does it got a N in the computer my visiting status. | CRUZ | 4979992 | Living conditions |
| 3/27/2017 | Men's Central Jail | 5100-2017-0328-244 | Requesting forms and info needed to file and secure the administrative procedural process services, access for purchase or then indigent law library service material. | VASQUEZ | 4791982 | Mail |
| 3/27/2017 | Men's Central Jail | 5100-2017-0331-296 | "1) C/A Hinton Pro Per Coordinator for MCJ facility refused, denied, continue to delay, violate all inmate 6th, 14th amend rights. A) Provide legal forms, legal supplies, pencil sharpeners, clean law library trash, facemasks, nose gear year." | LEWIS | 4284657 | A staff member |
| 4/4/2017 | Men's Central Jail | 5100-2017-0406-263 | The computers in the law library don't work. Some of them don't turn on at all, and the ones "broken" | HAYES | 4379677 | Living conditions |
| 4/23/2017 | Men's Central Jail | 5100-2017-0425-237 | Inmate claims that pro per computers are not working properly and that C/A Hinton is not processing phone time. | MARKINEZ | 4945721 | Other |
| 4/25/2017 | Men's Central Jail | 5100-2017-0426-255 | Have been asking for my Pro Per for 1/2 use on telephones in Law Library and have yet to receive it in almost 2 weeks, although \$35.00 has been charged to my Pro-Per account | MEZA | 4884933 | Classification |
| 5/8/2017 | Men's Central Jail | 5100-2017-0509-236 | Inmate is complaining that the Law library does not contain any of the Habeas Corpus forms as well as the Petition for writs forms | HAYES | 4379677 | Living conditions |
| 5/14/2017 | Men's Central Jail | 5100-2017-0519-252 | I came from prison 5-10 been stuck on fish row 6-10 since. I been denied phone call to contact my lawyer and I been denied law library usage. My family doesn't even know I'm here I have no disciplinary so why am I here? | RAMIREZ | 4981600 | Classification |
| 5/15/2017 | Men's Central Jail | 5100-2017-0531-232 | Inmate states the law library computers do not work well. | HAYES | 4379677 | Living conditions |
| 5/15/2017 | Men's Central Jail | 5100-2017-0531-238 | Inmate complains the law library is dirty. | HAYES | 4379677 | Living conditions |
| 5/18/2017 | Men's Central Jail | 5100-2017-0537-333 | Former inmate Nathaniel Lewis submitted a letter to the Office of the Inspector General (OIG), alleging that custody personnel used derogatory language towards him, threatened him and denied him access to the law library while housed at the Men's Central Jail (MCJ). Please note that inmate Lewis was released on April 17, 2017 | LEWIS | 4894657 | A staff member |
| 5/18/2017 | Men's Central Jail | 5100-2017-0519-247 | I had the following book ordered on March 25, 2017 and the computer shows it arriving on March 27, 2017, but have yet to receive the book. Order 3 a 109-8695177-4784667 from Amazon.com LLC. Title is Criminal Law Handbook: Know your rights, survive the system. | MEZA | 4884613 | Mail |
| 5/25/2017 | Men's Central Jail | 5100-2017-0531-225 | Inmate complains he has problems getting to law library on time. | BARRETT | 4792510 | Living conditions |
| 5/26/2017 | Men's Central Jail | 5100-2017-0530-246 | Inmate complaining that Law Library has not been available to inmates. | HAYES | 4379677 | Living conditions |

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| 4/11/2020 | Men's Central Jail | 5100-2020-0413-213 | Inmate is stating that the pencil sharpener in the law library needs to be replaced. Inmate is stating that it is eating the pencils up instead of sharpening them. He is stating that it is impossible to get writing done without having a sharpened pencil. | KING | 5201554 | Other |
| 4/13/2020 | Men's Central Jail | 5100-2020-0413-319 | Inmate is stating that he was deprived law library access by staff shipping cells 15-26 of B-row when being next from the last row. Inmate states C/A Ochoa allowed the and told him it was up to the sergeant to make up the time. Inmate states previous times this has happened because of a delay and the schedule resumed where it left off. Inmate is requesting a policy in review. | BIBBS | 4842823 | Other |
| 4/13/2020 | Men's Central Jail | 5100-2020-0413-320 | The law library computers have been malfunctioning since he has been a pro per. Inmate states it has become more difficult to do any legal research because other computers that have worked are now off. Inmate states this is a constant issue and several grievances have been submitted regarding this issue. | AYALA | 4040556 | Other |
| 4/14/2020 | Men's Central Jail | 5100-2020-0414-203 | Inmate states legal Sgt Hernandez granted him reasonable access to the law library and CA Hinton was present. Inmate states CA Hinton is retreating and not granting their agreement and his behavior is violating his rights. | RODRIGUEZ | 5679411 | Other |
| 4/14/2020 | Men's Central Jail | 5100-2020-0414-213 | Inmate is requesting to have the law library computers to be fixed or to have them replaced with new ones. Inmate states this has become a serious issue since he has been a pro per. | JIMENEZ | 5578413 | Other |
| 4/15/2020 | Men's Central Jail | 5100-2020-0416-211 | Inmate is stating that the law library computers have been malfunctioning since he has been a pro per. Inmate states he is not able to do his research and it's hard to find a computer to work. | BALSELLS | 5689940 | Other |
| 4/17/2020 | Men's Central Jail | 5100-2020-0421-224 | Inmate stating law library computers not working. | Anonymous | 0 | Other |
| 4/17/2020 | Men's Central Jail | 5100-2020-0421-252 | Inmate requesting law library computers to be repaired. | KING | 5201554 | Other |
| 4/21/2020 | Men's Central Jail | 5100-2020-0421-348 | Inmate is stating that he has been waiting for movement to but he has not been re-interviewed. Inmate states he has not been able to go to store, visit or law library due to not being in his housing. | VENTURA | 5755448 | Classification |
| 4/24/2020 | Men's Central Jail | 5100-2020-0428-203 | Inmate is stating that the computers in the law library have been not working properly ever since Lexus Advance software was installed on the computers. Inmate states he wrote a previous grievance that stated the computers were fixed but they have not been fixed they are having the same issue. | CHAVIRA | 6400667 | Other |
| 4/28/2020 | Men's Central Jail | 5100-2020-0429-229 | Inmate stating law library computers are malfunctioning and needs to be repaired. | CAMOU | 5691867 | Other |
| 4/29/2020 | Men's Central Jail | 5100-2020-0430-258 | Inmate states he went to computer class from February 5, 2020 till corona virus hit around March 27, 2020 and only had two tests and 5 days to graduation. Inmate would like to know if he will receive his midstate credit even though he only had 5 days left and two tests. | SAVER | 5815906 | Educational / Vocational Programs |
| 5/1/2020 | Men's Central Jail | 5100-2020-0504-205 | Inmate states that they have been quarantine since 4/24/20 with no access to the Law Library which is essential to prepare for the defense of his case. | OUTERVILCABRENA | 5755107 | Service Related - Procedural |
| 5/1/2020 | Men's Central Jail | 5100-2020-0504-212 | Inmate states the law library is down to only 3 working computers. | ASHLEY | 5751468 | Other |
| 5/9/2020 | Men's Central Jail | 5100-2020-0508-218 | Inmate is stating he is a pro per inmate and is asking for an updated law library schedule. Inmate states he has been asking for it for about two weeks and it would highly be appreciated. | VENTURA | 5755448 | Other |
| 5/10/2020 | Men's Central Jail | 5100-2020-0512-313 | Inmate states he was given a law library schedule on 5/9/20 but he is R-20 and it did not show what group he is on or what hours. Inmate asking for law library schedule pertaining to his classification. | VENTURA | 5755448 | Other |
| 5/11/2020 | Men's Central Jail | 5100-2020-0512-330 | Inmate states that the computers in the law library do not work. | MARTINEZ | 5683552 | Other |
| 5/13/2020 | Men's Central Jail | 5100-2020-0514-268 | Inmate is stating that during this pandemic time the computers in the law library are not working and he is currently fighting his case. Inmate is also stating that the law library is dirty and needs to be cleaned. He is stating that his food is not coming up from the kitchen properly and the water in his cell is not hot enough for his food. Inmate is requesting for these issues to be handled. | BELL | 5672824 | Living Conditions |
| 5/14/2020 | Men's Central Jail | 5100-2020-0514-202 | Inmate wrote a complaint to OIG dated 4/30/20 regarding the law library computers. Inmate also states Sr Flores brought him back his grievance he attempted to submit on 4/26/20 stating it was an emergency and he would not accept it. | BAUDOONSONOAAA | 5837751 | A staff member |
| 5/14/2020 | Men's Central Jail | 5100-2020-0514-244 | Inmate states that the computers in the law library are still not functioning properly and they have not been replaced. Inmate states that he has caused him injury due to the fact that it is not allowing him to defend himself properly with the computer not functioning. | SARUNAMA | 5141310 | Other |
| 5/14/2020 | Men's Central Jail | 5100-2020-0515-222 | Inmate complaining law library computers still does not function appropriately. | SARUNAMA | 5141310 | Other |
| 5/15/2020 | Men's Central Jail | 5100-2020-0519-207 | Inmate is stating that the computers in the law library are not working properly. Inmate states that the issues has caused problems between himself and other inmates due to everyone trying to find a working computer. Inmate states he needs access to a working computer that is working properly. | SALCIDO | 5780352 | Living Conditions |
| 5/19/2020 | Men's Central Jail | 5100-2020-0519-371 | Inmate stating he has been denied access to law library due to quarantine on the 9000 floor. | FRAZDER | 4606326 | Living Conditions |
| 5/22/2020 | Men's Central Jail | 5100-2020-0526-212 | Inmate stating inmates in Module 2500 have been on quarantine and has affected his law library time. | WHELICHEL | 5801663 | Other |
| 5/29/2020 | Men's Central Jail | 5100-2020-0601-201 | Inmate is stating that the computer system still has his charge as murder even though that case was dismissed. Inmate states having his charge wrong has caused him to be held longer than he should be. | PALMER | 5894034 | Other |
| 6/4/2020 | Men's Central Jail | 5100-2020-0610-220 | Inmate states he has been classified as E19 and is pro per. Inmate states he wants to be placed on the law library schedule. | HODDER | 5684088 | Other |
| 6/9/2020 | Men's Central Jail | 5100-2020-0611-212 | Inmate states that the law library computers are not working and has not been able to access the computers due to them being damaged which is preventing him from doing his research. Inmate states it has been a major problem since July 2019. | JIMENEZ | 5578413 | Other |
| 6/10/2020 | Men's Central Jail | 5100-2020-0611-270 | Inmate states he was brought to here from state prison and was told they would protect them from the rest of the population so he is not get infected. Inmate states 14 days he was isolated then he was placed in 2900 where he has been on quarantine twice and exposed to the virus. Inmate states the computer has the wrong charges for his case as well. | BURGESS | 5918279 | Other |
| 6/15/2020 | Men's Central Jail | 5100-2020-0617-331 | Inmate is requesting to repair and reset seven of the computers on the left side of the wall entrance. | KING | 5201554 | Other |
| 6/16/2020 | Men's Central Jail | 5100-2020-0618-336 | Inmate states that he was advised by a deputy that the law library was closed at the time he was scheduled to go for repairs on the computers. Inmate states that the 2000 floor goes out of their way to prevent the L&C inmates from going. Inmate states the law library is always closed during his scheduled time. | ASHLEY | 5107905 | Other |
| 6/17/2020 | Men's Central Jail | 5100-2020-0618-329 | Inmate states that his row did not get there law library today. Inmate states it is important for them to go to law library and they should not be missing it. | TORRES | 5800437 | Other |
| 6/22/2020 | Men's Central Jail | 5100-2020-0702-340 | Inmate stating only 6 out of 19 computers are working in the law library. | JIMENEZ | 5578413 | Other |
| 6/25/2020 | Men's Central Jail | 5100-2020-0628-242 | Inmate complaining legal unit did not contact him regarding law library access. | SEKHEMARE | 5871110 | Other |
| 6/27/2020 | Men's Central Jail | 5100-2020-0701-227 | Inmate is stating that he is trying to receive his credit line and to make sure that his hold has been lifted. Inmate is stating that he should no longer have any holds even though it shows in the computer system it does. Inmate is requesting to have the issue corrected. | GORDEN | 5641652 | Other |
| 6/30/2020 | Men's Central Jail | 5100-2020-0701-445 | Inmate states on 6/27 he was not taken to law library and that was the second day in a row. | RAMIREZ | 5427889 | Other |

| |
|---------------|
| Search Words: |
| Law Library |
| Computer |

Date Current as of 07/15/20
Report Created on 06/24/20



Adam Bereki <abereki@gmail.com>

RE: Public Records Act Request 03/14/21 PRA#21-378MI

2 messages

CSS PRA <csspra@lasd.org>
To: Adam <abereki@gmail.com>

Thu, Mar 18, 2021 at 9:54 AM

Good morning,

Please see the attachment regarding your request for records pursuant to the California Public Records Act.

Sincerely,

CSS PRA Group

From: Adam [mailto:abereki@gmail.com]
Sent: Sunday, March 14, 2021 1:04 PM
To: Discovery Unit PRA Requests <DiscoveryUnitPRARRequests@lasd.org>
Subject: Public Records Act Request 03/14/21

This message is from an EXTERNAL SENDER - be CAUTIOUS, particularly with links and attachments

Good day,

Please see the attached request.

Sincerely,

Adam Bereki

 **Extension Letter.pdf**
57K

Adam <abereki@gmail.com>
To: James Allard <jim@strongarmpi.com>

Thu, Mar 18, 2021 at 9:56 AM

[Quoted text hidden]

 **Extension Letter.pdf**
57K



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALE OF JUSTICE

ALEX VILLANUEVA, SHERIFF



March 15, 2021

Adam Bereki
818 Spirit
Costa Mesa, California 92626

Dear Mr. Bereki:

This letter is in response to your letter dated on March 14, 2021, regarding your records request pursuant to the California Public Records Act (CPRA). In your letter, you requested the following records:

Request:

1. "Inmate complaints or grievances made to your agency in each and every county correction facility and jail pertaining to: denial of access to the law library; law library computers not functioning; denial of pens, pencils or other necessary instruments or tools to conduct legal research; printers not working; unsanitary conditions in cells and/or law library restrooms; and lights not working in inmate cells to be able read;
2. The number of computers, printers, and telephones in the law library in each and every county correction facility and jail;
3. That each of the computers and printers in the law library in each and every county correction facility and jail are functioning in a reasonable capacity to conduct legal research and produce court filings; Please include all documents evidence the dates/times of inspections and repairs made;

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
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EXHIBIT C- 2870

Mr. Bereki

-2-

March 15, 2021

4. A list of the legal research titles available in print in the law library for legal research in each and every county correction facility and jail;
5. A list of the online legal research tools and utilities available for legal research in each and every county correction facility and jail;”

Although the Los Angeles County Sheriff's Department is obligated to respond within ten (10) days of receipt of the request, this time limit is subject to an extension of up to fourteen (14) days under the following circumstances as defined in Government Code §6253(c)(1).

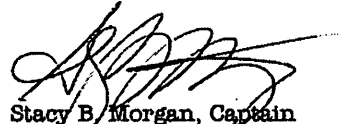
The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request, and the need to appropriately examine potentially voluminous amounts of records.

The records you seek are subject to the above provision. Consequently, an additional fourteen (14) days will be required to respond to your request.

If you have any questions, please contact Custody Support Services Bureau via email at csspra@lasd.org or via U.S. Mail at 450 Bauchet Street Room E888, Los Angeles, California 90012.

Sincerely,

ALEX VILLANUEVA, SHERIFF



Stacy B. Morgan, Captain
Custody Support Services Bureau