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OFFICE OF THE CHIEF OF POLICE

MEMORANDUM NO. 1

JANUARY 7, 1980

SUBJECT: DEFENSE REPRESENTATION

For over 50 years members of the Los Angeles Police Department have enjoyed, and often taken for granted, the protection of Section 202 of the City Charter. This Memorandum will help Department members understand the intent and purpose of this most important statute. Section 202 was enacted to protect Department employees from arbitrary loss of their offices, positions or compensation. The Section provides all members with the rights of due process, including a hearing before a Board of Rights, prior to removal, suspension or loss of position or office. Among the rights granted a member facing such disciplinary action is the right to select any officer of the Department below the rank of Captain, to act as the member's defense representative during the Board of Rights Hearing.


This most valuable right, however, remains an effective protection for Department members only so long as the accused has qualified and capable members of the Department to select as his defense representative.

Once a member of the Department has been selected to be a defense representative, it becomes his duty to use every legal means available and exercise the best efforts of which he is capable to defend the accused at the Board of Rights Hearing. While this requirement of "best efforts" does not mandate the possession of legal skills or training, the best interests of the accused and the Department would dictate the need for competent and qualified representation.

The defense representative should be knowledgeable in the substantive laws relating to police officers' rights, Charter Section 202, current MOU's and The Department Manual. He should also have the ability to thoroughly investigate a complaint, analyze facts and provide appropriate evidence, either physical or testimonial, that would ensure the accused is afforded an absolutely fair and impartial hearing. Recognizing the need for additional qualified defense representatives, the Department has approved and cooperated with the Police Protective League in the formulation of Defense Representative Seminars for on-duty personnel who wish to participate in this training. The Department encourages members to participate in this program, and stresses the positive management experience to be gained from such participation.

All members of the Department are reminded of the fact that the defense representative role is the keystone in the perpetuation of Charter Section 202. The right to have a defense representative belongs only to the employee, and once this right is invoked the Department recognizes certain obligations to the individual selected to act in that capacity.

Defense representatives are free to pursue any proper defense available to the accused, and to determine the tactics to be used at the Board of Rights Hearing. It is the posture of the Chief of Police that those who participate in the defense representative program are to be given positive recognition for their key role in the disciplinary system, rather than being dissuaded or penalized in any way for their participation.

  
DARYL F. GATES  
CHIEF OF POLICE

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