

RESPONSE TO REQUEST FOR VOLUNTARY INTERVIEW

Please present this document to any prosecutor or grand jury reviewing this incident.

To the Requesting Investigator:

This is in reply to your request for a voluntary interview pursuant to a criminal investigation.

It is the duty of every police officer according to case law¹ and the LAPD Manual² to cooperate with a criminal investigation. Violation of this duty could lead to discipline up to and including termination. Therefore, I am not refusing to cooperate with this criminal investigation, however, I am also not waiving any of my rights under the federal or state constitution or under state law, nor is it necessary for me to do so to perform my duty as a police officer.

I wish to retain the confidentiality and protections afforded me under the Public Safety Officers Procedural Bill of Rights Act ("Act"), section 832.7 of the Penal Code³, and constitutional law. Submitting to a voluntary interview would deprive the City of Los Angeles and myself of significant confidentiality protections in the event of a civil lawsuit⁴ and would deprive me of the protections of the Act⁵. I am not refusing to provide information, I am asserting my rights.

It is not my purpose to deprive anyone of information to which they are entitled under the law subject to the limitations imposed by the law. It is a fact that both the Chief of Police and the District Attorney have legal access to my statement under state law and can evaluate it or use it in compliance with the law, as can a grand jury. Also, my ability to testify in court as a witness against another person accused of a crime is unhindered and I consider it my duty to testify if called upon to do so.

I request that this document be maintained as part of this investigation.

In the event that you wish to proceed with this interview under the above conditions, please contact me and, if either of the boxes below are checked, allow me sufficient time to obtain representation.

- I wish to have an employee representative [213-485-9516], or an attorney at my own expense.
- I am in the Enhanced Legal Plan and wish to have a League panel attorney present. [866-LAPPL4U]

Date: _____

Officer's Name, Serial No., and Division

¹ "When police officers acquire knowledge of facts which will tend to incriminate any person, it is their duty to disclose such facts to their superiors and to testify freely concerning such facts when called upon to do so before any duly constituted court or grand jury. It is for the performance of these duties that police officers are commissioned and paid by the community, and it is a violation of said duties for any police officer to refuse to disclose pertinent facts within his knowledge even though such disclosure may show, or tend to show, that he himself has engaged in criminal activities." *Christal v. Police Commission*, (1939) 33 Cal. App. 2d 564; 92 P.2d 416

² "1/210.47. POLICE OFFICER'S DUTY TO TESTIFY. Among the duties of police officers are those of preventing the commission of crime, of assisting in its detection, and of disclosing all information known to them which may lead to the apprehension and punishment of those who have transgressed the law. When police officers acquire knowledge of facts which will tend to incriminate any person, it is their duty to disclose such facts to their superiors and to testify freely concerning such facts when called upon to do so, even at the risk of self-incrimination. It is a violation of duty for police officers to refuse to disclose pertinent facts within their knowledge, and such neglect of duty can result in disciplinary action up to and including termination. **Note:** Under California and federal law, any testimony or statement made by an officer under administrative compulsion of this policy cannot be used against that officer in any pending or future criminal prosecution."

³ 832.7 Penal Code. "Confidentiality of peace officer records (a) Peace officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General's office."

⁴ Government Code 3303 (f) "No statement made during interrogation by a public safety officer under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This subdivision is subject to the following qualifications: (1) This subdivision shall not limit the use of statements made by a public safety officer when the employing public safety department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Section 19572. (2) This subdivision shall not prevent the admissibility of statements made by the public safety officer under interrogation in any civil action, including administrative actions, brought by that public safety officer, or that officer's exclusive representative, arising out of a disciplinary action. (3) This subdivision shall not prevent statements made by a public safety officer under interrogation from being used to impeach the testimony of that officer after an in camera review to determine whether the statements serve to impeach the testimony of the officer. (4) This subdivision shall not otherwise prevent the admissibility of statements made by a public safety officer under interrogation if that officer subsequently is deceased."

⁵ Officer who had submitted to a voluntary criminal interview not entitled to obtain copy of that interview before administrative interview because Public Safety Officers Procedural Bill of Rights Act does not apply to voluntary criminal interviews. *Alhambra Police Officers Association v. City of Alhambra* (2003) 113 Cal. App. 4th 1413; 7 Cal. Rptr. 3d 432