



SAN JOSE POLICE DEPARTMENT

TRAINING BULLETIN

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DECERTIFICATION:
SENATE BILL 2**

DATE: January 12, 2023

Bulletin #2023-001

California [Senate Bill 2 \(link\)](#) went into effect January 1, 2023. This bill amended numerous Government and Penal Codes and created a process for decertification for peace officers by the Peace Officer Standards Accountability Division within the Commission on Peace Officer Standards and Training. This training bulletin is a synopsis of some of the changes covered under Senate Bill 2. Department members are encouraged to read the [amended law \(link\)](#) for full the full text.

Government Code section 1029 provides that a person is disqualified from holding office as a peace officer or being employed as a peace officer under any of the following events:

- Felony conviction
- Conviction in another jurisdiction of an offense that would be a felony in California
- Discharge from the military for an offense that would be a felony in California
- Conviction after January 1, 2004, of a felony that was dropped to a misdemeanor
- Charged with a felony and judged to be mentally incompetent
- Charged with a felony and found not guilty by reason of insanity
- Determined to be a mentally disordered sex offender
- Determined to be a narcotics addict
- Previously decertified

A certified peace officer **may** have their certification suspended or revoked if they engage in any of the following types of serious misconduct listed under Penal Code section 13510.8:

1. **Dishonesty** (including, but not limited to, false statements; filing false reports; tampering with, falsifying, destroying, or concealing evidence; perjury; and tampering with data recorded by a body-worn camera)
2. **Abuse of power** (including, but not limited to, intimidating witnesses; knowingly obtaining a false confession; and knowingly making a false arrest)
3. **Physical abuse** (including, but not limited to, excessive or unreasonable use of force)

4. **Sexual assault** (including commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority; propositioning for or commission of any sexual act while on duty is considered a sexual assault)
5. **Demonstrating bias** (on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status)
6. **Egregious or repeated acts that violate the law**
7. **Participation in a law enforcement gang**
8. **Failure to cooperate with an investigation into potential police misconduct**
9. **Failure to intercede** when present and observing another officer using force that is clearly beyond that which is necessary

Anytime an *allegation* of one of the misconducts listed above is received, the Department must notify POST. POST has the right to monitor the investigation. At the conclusion of the investigation, the Department must again notify POST. POST has the right to review the completed investigation. Any decisions on decertification are made by POST, not the Department. However, if applicable, the Department may impose discipline, up to and including termination, prior to any determination by POST. In addition, there is a retroactive reporting requirement to POST from January 1, 2020 through December 31, 2022. However, not all misconduct allegations from that period may result in decertification by POST. For example, if the misconduct was from 2020 or 2021, only dishonesty, sexual assault, or misconduct during deadly force that resulted in significant bodily injury or death may result in decertification. In 2022, all the types of misconduct listed above may be acted upon for decertification by POST.

The Internal Affairs Unit is coordinating the communication between the Department and POST. The Internal Affairs Unit will also be making notification to Department members who are the subject of any qualifying *allegation*. This notification to Department members will be provided on the 120-Day Notice. See Attachment 1 for an example. Notifications to POST under Senate Bill 2 will begin after January 1, 2023.

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In addition, when an officer is separated from City service (for any reason, including retirement, resignation, or involuntary separation), the Department must notify POST of the reason for separation and if there was any misconduct that was a factor in the separation or pending at the time of separation. If there are any allegations of serious misconduct pending at the time of separation, the Department is required to complete an investigation of the allegations and notify POST.



Anthony Mata
Chief of Police

AM:SD:MZ

Attachment 1: Example of a 120-Day Notice

Attachment 1: Example of a 120-Day Notice



Memorandum

TO: FROM: Internal Affairs Unit

SUBJECT: 120 Day Notice DATE:

Approved Date

The Memorandum of Agreement (MOA) between the City of San Jose and the San Jose Peace Officers' Association states that an officer who has an active complaint under investigation at the Internal Affairs Unit shall be notified periodically of the status of that case.

In accordance with the MOA, the following case is currently under investigation:

Complainant:

I.A. Case Number: Date of Complaint:

I.A. Investigator: Allegation(s):

Status: This complaint was just received with the Internal Affairs Unit and the allegations are subject to change. The associated case number is _____. Department members are reminded not to access criminal histories of complainants or civilian witnesses involved in the investigation.

NOTE: Although you are not prohibited from discussing this investigation with individuals other than your representative, we ask you to be mindful such conversations are not confidential. While this investigation is pending, we urge you to exercise discretion in who you speak to about this matter so as not to impact the integrity of the investigation.

The allegation(s) identified in the above referenced Internal Affairs investigation requires notification to POST as defined by Senate Bill 2 (SB 2). SB 2 requires the POST Commission to adopt a definition of "serious misconduct" which will serve as the criteria to be considered for ineligibility for, or revocation of, peace officer certification.

For the subject officer listed above, no action is required by you. The Internal Affairs Unit administers all notifications to POST on behalf of the San Jose Police Department. Should you have additional questions, feel free to contact Internal Affairs at 408-277-█████. For more information about SB 2, please visit post.ca.gov/sb-2.

Office of the Chief
Internal Affairs Unit

