



Dear Legally Liz,

I was recently notified by Internal Affairs that a complaint was initiated against me. I was contacted by the investigator and ordered to appear at an interview on a specific date and time within the next week. I responded to the investigator that I would need to contact the League and obtain the representative of my choice, but that I did not yet have his schedule. The investigator informed me that Dep. Chief Mark Perez had issued an Order dated April 10, 2007, that requires all interviews to be conducted within 10 days of the investigator giving notice to the employee of the interrogation, with limited exceptions, none of which included the availability of the officer's attorney. Even worse, the investigator explained that his only availability during that 10-day time frame was on the date and time which he had ordered me to appear and that if my attorney was not available, I would have to contact another representative or simply appear unrepresented. I have had previous complaints and have always used the same attorney who is familiar with my history and has expertise in this area of law. When I said it appeared to be illegal, he stated that Dep. Chief Perez had authority under the *Upland* case to schedule the interviews without regard to the officer's or his representative's schedule. Can this be correct?

Signed,
Officer Kurt Isii

Dear Officer Isii,

No, this is not correct. Dep. Chief Perez has misread the *Upland* case and issued an Order that goes out of its way to deprive an officer such as yourself of his right to have a representative of his choice at an interview. This right stems from the Public Safety Officers Procedural Bill of Rights, California Government Code Section 3303(i), which states that "upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, at his or her request, shall have the right to be represented by a representative of his or her choice who may be present at all times during the interrogation." Contrary to Dep. Chief Perez's Order as interpreted by the investigator, the *Upland* decision upholds the principle that officers are entitled to the reasonable opportunity to obtain representation at a reasonably scheduled interrogation. In the *Upland* case, the issue was whether an officer has the right to continually reschedule an interview based upon his attorney's busy schedule. While the court did not hold that an officer may avoid an interview by indefinitely claiming unavailability, it also did *not* hold that the Department has the right to unilaterally set the initial interview without any regard to the officer's attorney of choice. As we all know, especially me, attorneys are not interchangeable. Each attorney holds a special amount of expertise in certain areas, and a history or comfort with a particular attorney can be irreplaceable. The League has initiated the process of challenging this unreasonable and unlawful practice by the Department.

Legally,
Liz

Names have been changed to protect privacy. Send your anonymous questions to legallyliz@lappl.org. ❖