

INFORMATION AND OPTIONS FOR THE PEACE OFFICER: THE IMMEDIATE TEMPORARY SUSPENSION (ITS) PROCESS

Senate Bill (SB) 2 (Stats.2021, c. 409 (SB 2), § 12, eff. Jan. 1, 2022) established a system of certification and decertification for most peace officers in California. Peace officers subject to SB 2 must have a current and valid certification to exercise peace officer powers.

A disqualifying conviction or act of serious misconduct by the peace officer may result in suspension or revocation of certification. SB 2 also provides that, in certain circumstances, a peace officer's certification may be temporarily suspended pending a final determination as to whether the certification will be suspended or revoked.

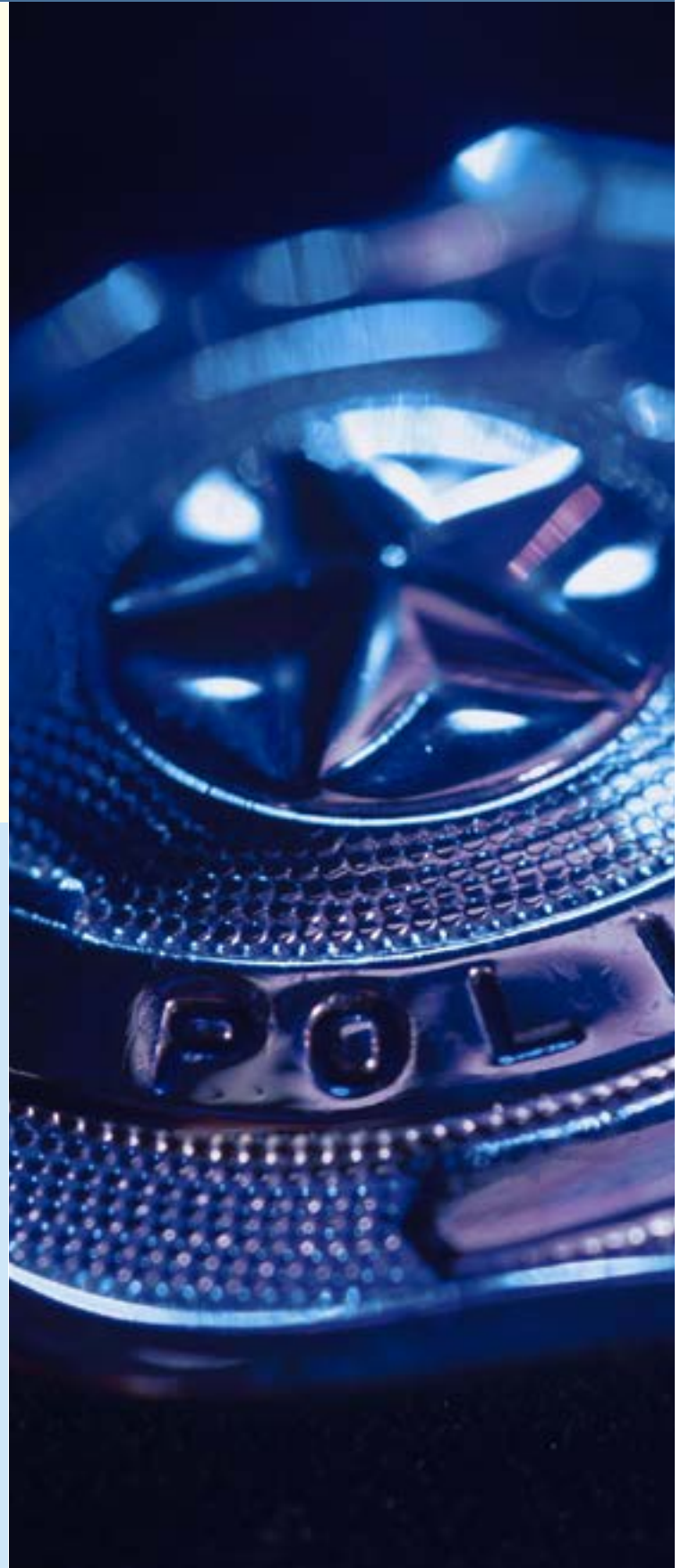
This informational document explains the process and the officer's options in the event of a temporary suspension.

WHEN WILL AN IMMEDIATE TEMPORARY SUSPENSION (ITS) BE ISSUED?

Pursuant to Penal Code (PC) section 13510.8(d), an ITS will be issued:

- Upon arrest or indictment of a peace officer for any crime described in Section 1029 of the Government Code (GC); or
- Upon discharge from any law enforcement agency for serious misconduct as specified in PC §13510.8(b); or
- Upon separation from employment of a peace officer during a pending investigation into allegations of serious misconduct.

If any of those three events occur, POST's executive director shall order the ITS of any certificate held by that peace officer upon a determination by the executive director that the temporary suspension is in the best interest of the health, safety, or welfare of the public.



WHAT IS THE EFFECT OF AN ITS ISSUANCE?

During any period when a peace officer's certification has been temporarily suspended, the individual may no longer exercise the powers of a peace officer.

HAS A FINAL DETERMINATION BEEN MADE ABOUT MY PEACE OFFICER POWERS?

No. The only determination that has been made is that an ITS issuance is in the best interest of the public's health, safety, or welfare based on the occurrence of one or more of the three grounds listed in PC §13510.8(d).

It may ultimately be determined that no permanent action against your certification is warranted. If decertification is sought, the matter will be set for a hearing, as noted below.

HOW LONG WILL AN ITS LAST?

- **Arrest or Indictment**

If the temporary suspension is based upon an arrest or indictment, the ITS order is intended to prevent the exercise of peace officer powers until the criminal matter is resolved. If the matter results in a judgment that disqualifies the officer from holding office as a peace officer under GC §1029, the officer will either have their certification revoked under PC §13510.9(a)(1) or, alternatively, will have a notation placed in their POST profile that they are ineligible to be a peace officer under PC §13510.7, or both, depending upon the date of the conviction and other facts.

If a development in a criminal case eliminates the possibility of disqualification from office under GC §1029, the ITS will be withdrawn. However, any serious misconduct allegations will be investigated and may separately merit decertification, even if a criminal case is dropped.

- **Serious Misconduct Separation/ Termination**

If the temporary suspension is based upon a separation during a serious misconduct investigation or a termination for serious

misconduct, the suspension will continue until a final determination is made on revocation of the officer's certification. If a determination is made that a serious misconduct action will not be prosecuted by POST, the ITS order will be withdrawn.

If POST decides to commence a decertification action as a result of serious misconduct, the officer will be notified of that decision and the matter will be set for a hearing. The POST Peace Officer Standards Accountability Division will present its case against the officer at hearings before the Peace Officer Standards Accountability Advisory Board and the POST Commission. If both bodies determine that a suspension or revocation is appropriate, the matter will be set for an evidentiary hearing before an Administrative Law Judge. After a decision is reached following the evidentiary hearing, the Commission will either adopt the proposed decision, modify it, remand it for additional findings, or hear the case itself. *These hearings, and all documents introduced during them, are public.* You may, but are not required to, engage legal counsel to represent you.

Officers should be aware that the employment consequences of any acts of serious misconduct are separate from POST's obligations to enforce SB 2 and take action against an officer's certification as a result of serious misconduct. POST will, however, monitor the status of any litigation involving discipline imposed by an officer's law enforcement employer.

MAY I SURRENDER MY CERTIFICATION AND AVOID FURTHER LITIGATION?

Under SB 2, a peace officer may, at any time, voluntarily surrender their certification permanently. Pursuant to PC §13510.8(f), a voluntary surrender has the same effect as a revocation. Once an officer voluntarily surrenders their certification, POST will no longer pursue involuntary decertification and a public hearing on the merits of a misconduct claim against the officer will not be necessary.



ADDITIONAL QUESTIONS?

General information about POST's certification and decertification process is available at post.ca.gov/Certification.

Any officer who receives an ITS order will also receive accompanying correspondence which will include the name of the POST Law Enforcement Consultant assigned to the case.



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