

Law Enforcement Agencies Must Publish and Follow Procedures for Investigating Citizen Complaints Against Peace Officers

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A public agency that employs peace officers must "establish a procedure to investigate complaints by members of the public" against its personnel, and "make a written description of the procedure available to the public," under Penal Code Section 825(a)(1). While the statute is silent as to whether agencies must indeed *follow* such procedures in all cases, the California Court of Appeal recently ruled they must.

In *Galzinski v. Somers*, the Sacramento Police Department established and published a procedure for addressing citizen complaints that included investigating the complaint and rendering one of four possible findings (sustained, not sustained, exonerated, or unfounded) in a written decision. A citizen filed a complaint alleging that Sacramento officers took biological samples from him during an arrest without a warrant or probable cause. The Department responded that it "reviewed" the complaint but "no further action" would be taken.

The citizen then filed a court petition to compel the Department to investigate the complaint and render a finding, per its published procedure. The trial court denied the petition on grounds that the Department "essentially" made a finding by taking no further action and that, in any event, it did not abuse its discretion in responding in the way it did.

The Court of Appeal reversed, holding that law enforcement agencies have a ministerial duty not only to publish but also to *follow* procedures to investigate citizen complaints. The court cited legal precedent and common sense to preserve the "very reasonable and settled expectations of the public" that the procedures would be followed in all cases. "Why publish a procedure," the court asked, "if you have no obligation to follow it?"

In accord with that principle, the court further held that the citizen was entitled to writs of mandate compelling the Sacramento Police Department to "properly investigate" the complaint and to "make official findings" as to his allegations, per the Department's published procedure.

If you have any questions about *Galzinski v. Somers* or any other issues regarding police practices, please contact Romtin Parvaresh or Jennifer Petrusis.