



# RIVERSIDE SHERIFFS' ASSOCIATION LEGAL DEFENSE TRUST TRAINING BULLETIN

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## OFFICERS ON UNPAID, RELIEVED-OF-DUTY STATUS MAY BE DISCIPLINED FOR VIOLATING RULES OF CONDUCT

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and  
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On September 29, 2015, the California Court of Appeal issued its opinion in the case of *Negron v. Los Angeles County Civ. Serv. Comm. (Negron)* (Case No. B258031). The main issue before the Court was whether an officer may be disciplined for violating rules of conduct while on unpaid, relieved-of-duty status. The Court ruled that the Los Angeles County Sheriff's Department may terminate a deputy for misconduct while on relieved-of-duty status and distinguished the case from the Supreme Court's decision in *Garvin v. Chambers* (1924) 195 Cal. 212.

The underlying case involved Deputy Sheriff Negron (Negron) who was arrested for driving under the influence on January 26, 2011. At the time of Negron's arrest, he was on relieved-of-duty status and was not required to report to work. CHP Officer Escalera stopped Negron after observing him driving erratically at an excessive speed. Officer Escalera ran a check on the Negron's vehicle and learned it was registered to a sheriff's deputy and that the registration had expired in 2009. Officer Escalera asked Negron to produce identification and Negron told him that he was not carrying any form of identification.

Officer Escalera observed a sheriff's deputy uniform in the back seat of the vehicle with Negron's name on the nametag. Negron refused to confirm his status as a deputy sheriff and his agency's phone number when asked. Officer Escalera placed Negron under arrest for driving under the influence, confiscated his driver's license, and issued a driver's license suspension and a 30-day temporary license that expired on February 26, 2011.

On March 25, 2011, Negron drove (while on a driver's license suspension) to the Newhall CHP office to obtain a copy of his January 26, 2011 arrest report. Negron presented a business card identifying himself as a deputy sheriff. The CHP officer informed Negron that he was prohibited from driving on a suspended license and called for officers from Negron's station Pritchess Detention Center to pick him up. After being driven to Pritchess Detention Center, officers at the station witnessed Negron driving away in his vehicle.

Negron was subsequently discharged and the Civil Service Commission upheld a hearing officer's decision that he had violated department regulations. The Los Angeles Superior Court then granted

Negron's petition for a writ of mandate, holding that under *Garvin v. Chambers*, a law enforcement officer cannot be disciplined for misconduct that occurred while on unpaid, relieved-of-duty status. The Court of Appeal overturned the Superior Court decision and ruled the County had the authority to terminate Negron for insubordination, and that *Garvin* was distinguishable.

In *Garvin*, a police officer who had been suspended without pay while under investigation, was asked to appear for a meeting with the chief of police. When the officer appeared at the chief's office with his lawyer, the chief ordered the officer to meet with him without counsel present. When the officer refused, he was discharged for "insubordination." The Supreme Court ruled that an officer could not be fired for insubordination for refusing to be "a witness against himself".

The Court in *Negron* reasoned that while an officer may not be deemed insubordinate for refusing to be a witness against himself, Negron's conduct fell squarely within the prohibitions as laid out by the Department's Manual of Policies and Procedures. Negron acted uncooperative, evasive, and belligerent towards CHP officers and discredited his Department with his conduct. Based on Negron's actions, the Court ruled that the department was justified for terminating his employment.

The ruling in *Negron* is important because it upholds the rule that an officer may be held liable for insubordination or violating rules of conduct while on unpaid, relieved-of-duty status. Whether a public safety officer is on duty, off duty, and now, even if relieved-of-duty, he or she may be disciplined for misconduct.

**Michael P. Stone** is the firm's founding partner and principal shareholder. He has practiced almost exclusively in police law and litigation for 35 years, following 13 years as a police officer, supervisor and police attorney.

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