



LEGAL DEFENSE TRUST TRAINING BULLETIN

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HIGH COURT UPHOLDS PUBLIC RIGHT TO KNOW SHOOTING OFFICERS' NAMES

Long Beach Police Officers Association v. City of Long Beach, filed May 29, 2014
Supreme Court of California, S200872

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In a 6-1 decision, the Supreme Court of California rejected arguments made by the Long Beach Police Officers Association (LBPOA) and held there is a presumption that the public has a right to know the identities of officers involved in shooting incidents. While the justices indicated there may be circumstances that would permit the names to be withheld, particularly if an officer's safety might be jeopardized, departments do not have a right to withhold officers' identities in the aftermath of police shootings. "We reject that blanket rule," Justice Joyce Kennard, who retired this spring with the case pending, wrote for the majority.

The case at issue before the court involved a December 2010 shooting by two Long Beach police officers who shot and killed an intoxicated man standing in his front yard after he pointed a garden hose spray nozzle at them. When a Los Angeles Times reporter sought the names of the officers involved, as well as those of all Long Beach officers involved in shootings over the previous six years, the LBPOA moved to block the disclosure in the courts.

The Association sought to bar release of the names on the ground that doing so could lead to threats against them. A Los Angeles Superior Court judge

ruled that the city could not withhold the officers' names, a decision that was upheld on appeal, prompting a petition to the state Supreme Court. A state law requiring uniformed officers to wear a badge with their name or identification number "reflects a legislative policy that, generally, the public has a right to know the identity of an officer involved in an on-duty shooting", Justice Kennard wrote in the opinion. "Vague safety concerns" do not permit withholding the officers' identities in the aftermath of shootings.

The court did note that "if it is essential to protect an officer's anonymity for safety reasons or for reasons peculiar to the officer's duties - as, for example, in the case of an undercover officer - then the public interest in disclosure of the officer's name may need to give way."

Justice Ming Chin was the lone dissent, siding with the LBPOA, which was joined by other law enforcement groups as amici in the case. ¹Justice Chin wrote, "Because the lives of our officers and their

¹ Including the Riverside Sheriffs' Association and the Los Angeles Police Protective League, which were both represented by Stone Busailah, LLP in the case.

families are at stake, I would not require a law enforcement agency to wait until there is a specific threat - or worse, an actual attack - before allowing it to withhold information that puts its officers and their families at risk. Absent a showing of some greater public need for the information, we should allow law enforcement agencies to protect the very officers who are out there every day protecting us."

Citing *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, a case involving the protection of the Governor, Stone Busailah, LLP, argued to the court that it should use "the same standards to protect them [peace officers] from potential threats as it did in the case involving the Governor." Justice Chin agreed, and noted the majority failed "to explain why police officers and their family members are entitled to less protection than the Governor."

It is expected that most departments will now use a procedure similar to that currently used by the Los Angeles Police Department (LAPD) following a critical incident. The LAPD waits several days and conducts a risk assessment prior to releasing the names of involved officers. If there is a specific danger to the officer or to the members of the officer's family, his or her name is not

disclosed. In those departments that had previously withheld the names of its officers, it will now be incumbent on the officer involved shooting investigators to determine if there is evidence of a “specific safety concern” regarding the involved officer. When such evidence is determined to exist, it will still be possible to withhold an officer’s name.

STAY SAFE!

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June 11, 2014
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