



LEGAL DEFENSE TRUST

TRAINING BULLETIN

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LAPD OFFICERS WIN CONSENT DECREE AGAINST HOLLENBECK "COMMUNITY ACTIVIST"

*Woman Filed Over 120 Citizen Complaints
Against East L.A. Gang Officers*

by
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Guadalupe Andrade has an addiction. But she doesn't abuse drugs or alcohol; rather, she abuses police officers. She is addicted to abuse of the citizen complaint system within the LAPD and in the Office of the Inspector General, attached to the Los Angeles Police Commission.

Over the past few years, "Lupe" Andrade has filed over 120 citizen complaints against scores of Hollenbeck Division officers and supervisors. Only one of these, many years ago, was sustained over a minor transgression. But all the rest of them have been investigated, and adjudicated as non-misconduct, unfounded, frivolous, demonstrably false or not resolved.

She has been classified as a "chronic complainant" for some time by LAPD's Professional Standards Bureau (PSB) and within PSB, Internal Affairs Group (IAG). But Lupe Andrade is not just a vexatious litigant or complainant. She has a purpose.

First, she understands well the mechanics and dynamics of the internal investigative process and disciplinary system. She also knows how to manipulate the requirements of the federal consent decree under which the LAPD has labored for years. She knows for example, that while a complaint investigation is pending, the affected officer is unable to promote or transfer, and might be removed from field duties. Officers with a lot of complaints, regardless of the disposition, are not considered to be promotable. Complaints remain on their "TEAMS" tracking system for the balance of their careers. They may be referred to Risk Management for evaluation of their fitness. Lupe Andrade knows all of this, and she also knows that she can delay the investigatory process by making herself unavailable for an interview. And, she presents complaints in the names of persons who cannot be located and perhaps are fictitious, and she offers no assistance to investigators in identifying these (perhaps)

imaginary people. One day Andrade presented six such complaints from others; she returned in an hour to Hollenbeck and presented six more.

A second important feature of Andrade's scheme is that she targets any officer who is active in the Ramona Gardens Housing Project where the "Big Hazard" violent criminal street gang is entrenched. Andrade disavows gang connections, but two of her brothers are Hazard members, and her targets are gang and vice officers who pursue Hazard gang enforcement. She has learned that she can drive good officers out of Hollenbeck by peppering them with baseless complaints - - they would rather transfer out than suffer further career damage. A typical Andrade tactic is to prowl Hazard "turf" in search of gang and vice officers conducting an operation. She will harass and photograph the officers and provoke and distract them until they turn their attention to her. She may be arrested; her camera might be seized. But one certain outcome of the confrontation will be a spate of new false complaints

Andrade would systematically file complaints against supervisors as well in order that Hollenbeck management would be increasingly conflicted in handling her complaints. Ultimately PSB-IAG took over all Andrade complaints, which were assigned to one primary Sergeant II investigator, William Kelly. Kelly estimated Andrade's complaints alone were over 50% of his workload. Andrade thus had a "personal" IAG investigator. But the LAPD could not stop Andrade. A City prosecutor succeeded in obtaining a protective order in 2005 which prohibited Andrade from following, photographing, stalking and harassing Sergeant Andy Rea and Officer Oscar Garza, and from coming

within 50 feet of Hollenbeck Station. But this order did not restrain Andrade from flooding IAG with more complaints.

Our first effort for a group of Hollenbeck gang officers was to sue Andrade under the civil harassment statute, *Code of Civil Procedures* § 527.6. Trial Judge Haley Fromholz dismissed our case, holding that on-duty officers could not invoke this procedure against citizen-harasser Andrade to obtain an injunction to stop her from filing baseless complaints. We appealed that ruling, and the Second District Court of Appeal reversed, finding that on-duty officers *can* employ the procedures to enjoin and restrain police harassers.¹

The lawsuit that produced the current consent decree was *Lieutenant Gregory Jones, Sergeant Ray Castro, Sergeant Andy Rea and Officer Oscar Garza v. Andrade, LASC No. BC 355541*. But in this case, we employed a different strategy. Feeling that our evidence of false and malicious complaints by Andrade was strong, we sued for defamation under *Civil Code* § 47.5, the much-maligned civil remedy allowing officers to sue for false complaints made with malice. The officers' burden in these cases is very high due to their status as public officials. But we believed we could overcome the high hurdle, and sought a jury trial on the damages claims, and an injunction from the Court. We tried the case

¹ For further information about this ruling, see our Training Bulletin Vol. VIII, Issue 2, February 2005(mo/yr) "Are On-Duty Police Officers Protected by Civil Harassment Statutes Entitling Them to Injunctions Against 'Citizen Complainants'?" available from the authors.

in downtown Los Angeles and drew a good jury with a great trial judge, David L. Minning. After the sixth day of trial, as we prepared to rest the officers' case, Judge Minning recognized that we had a very strong case, but that a verdict for damages would be a hollow victory for the officers. We knew Andrade had no assets; what we wanted was a potent injunction. Meanwhile, we filed a third lawsuit on behalf of Officer Matthew Meneses, Andrade's latest target.

The Judge kept the jury waiting in the hall while he pushed the parties toward settlement. The result was a stipulated consent decree and settlement which features the following:

1. Andrade may not file any further complaints against any Hollenbeck employee, without the Court's prior approval.
2. In order to do so, Andrade must apply to the Court for permission to file a complaint, supported by a declaration under penalty of perjury, stating the facts.
3. The "facts" must be personally witnessed by Andrade, and be supported by admissible corroborating evidence.
4. The complaint must relate to substantial misconduct; common discourtesy and profane language are not "substantial misconduct."
5. The application to file a complaint must be accompanied by a noticed motion, with no less than 10 days written notice to our office, permitting us to oppose the granting

of leave to file a complaint against the targeted officer(s).

6. Violation of the consent decree is punishable as contempt of court.
7. Judge Minning retains jurisdiction of the matter for three years, the life of the decree.
8. Andrade must dismiss her cross-complaint based on the First Amendment, against Jones, Castro, Rea and Garza.

The *Andrade* case shows that a determined harasser like Andrade can impair police operations and cause great damage to individual officers' careers by waging a false complaint campaign. The civil harassment statute and *Civil Code* § 47.5 are your primary weapons to stop people like Andrade from ruining good officers' careers. But the litigation is expensive and must be carefully executed to avoid anti-SLAPP motions and First Amendment counterclaims. It is necessary to carefully select the complaints upon which you will base your lawsuit and to develop a litigation plan that can withstand a First Amendment challenge.

STAY SAFE

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