



RIVERSIDE SHERIFFS' ASSOCIATION LEGAL DEFENSE TRUST TRAINING BULLETIN

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October 2015

COURT OF APPEAL RULES IN FAVOR OF DISCLOSURE UNDER THE PUBLIC RECORD ACT

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On September 10, 2015, the California Court of Appeal issued its opinion in the case of *Pasadena Police Officers Association v. Superior Court (PPOA)* (Case No. B260332). The main issue before the Court was whether the Pasadena Police Officers Association (PPOA) may block or otherwise redact information requested by news outlets under the Public Records Act (PRA). The Court ruled narrowly defined “personnel records” and generally ruled in favor of disclosure of information.

On March 24, 2012, two officers of the Pasadena Police Department shot and killed an unarmed teenager, after a 911 caller had falsely reported that two men with guns had stolen a backpack from his car. In the wake of the fatal shooting, the City of Pasadena hired an outside firm, the OIR Group, to investigate the incident. The OIR Group, which specializes in police oversight and evaluation, issued its report to the City in August 2014. PRA requests by news outlets and others to have access to the full document were filed with the City. At that time, the City Manager announced he would only release the “recommendations” made in the report. PPOA then filed a lawsuit in the Los Angeles County Superior Court to block the release of the report on the grounds that

it was “a confidential **personnel record** entirely exempt from disclosure” under the Penal Code.

Those seeking disclosure of the report argued the report was a public record and should be disclosed in its entirety. The City took the position that the report should be released, but certain portions of the report contained confidential personnel information which should be redacted before doing so. The Superior Court ruled the report was a public record, the interest in disclosure was “particularly great” and that release was required, other than portions, (those redacted by the City), the judge found to be confidential personnel records.

The PPOA appealed the ruling of the Superior Court, seeking once again to preclude disclosure of the entire report or, in the alternative, only the production of a more heavily redacted report. The Court of Appeal held the trial judge was correct as to the nature of the report, stating “[t]here can be no legitimate dispute that the report is a public record.” The Court concluded, “The information and analysis contained in the report is precisely the sort the disclosure of which will promote public scrutiny of and agency accountability for specific uses of deadly forces.”

The Court agreed that some material related to personnel information should be redacted, but suggested the redactions made to the report by the City (and the trial judge) went too far. **“The trial court’s ruling erroneously shields from disclosure information which must be publicly released, specifically criticisms in the report of the (Pasadena Police Department’s) administrative review and investigation”** of the shooting incident. The matter will now be returned to the Superior Court, where the trial judge will oversee the second round of redactions.

The OIR report, due to pleadings submitted by the PPOA, is known to be critical of the officers’ conduct. This case follows the decision in two recent cases, *Long Beach Police Officers Assn. v. City of Long Beach* (2014) 59 Cal.4th 59, where the Association was attempting to block the release of the names of officers involved in shootings, and *Federated University Police Officers Assn. v. Superior Court* (2014) 175 Cal.Rptr.3d 809, where the Association was trying to block a report critical of officer conduct in the U.C. Davis “pepper spray” incident. California courts have been construing the “personnel record” exception to the Public Record Act disclosure very narrowly, especially when a request involves issues relating to police officer conduct of a public nature. Public agencies and officer associations can expect similar rulings will be made if attempts are made to prevent the disclosure of such reports.

Robert Rabe prior to joining our firm was a barrister in England and Wales, prosecuting criminal cases for the Crown for 16 years. He serves as our writs and appeals specialist and has been with us since 2011.