

MEMORANDUM

To : All Chiefs and Sheriffs

Date: February 1, 2008



From : PAUL A. CAPPITELLI
Executive Director
Commission on Peace Officer Standards and Training

Subject: **LOS ANGELES TIMES V. POST: PEACE OFFICER INFORMATION**
URGENT – RESPONSE REQUIRED

On August 27, 2007, the California State Supreme Court ruled that some information in POST's Peace Officer Database is public information. [POST Bulletin 2007-22](#) explains the origin of the suit and the decision. To access the Court's decision, go to: <http://www.lexisnexis.com/clients/CACourts>. Next, scroll down to the second section titled "GET OPINION BY CITE" - type "42," select Cal.4th, type "278," then click "go." You and your departmental legal advisors are strongly encouraged to review the ruling and material that will be sent to your agency through the Electronic Data Interchange system by February 5, 2008.

The Supreme Court decision permits withholding the identities of "*particular officers*" who might be at risk if their names are disclosed. On January 31, 2008, POST received a Court Order from the Sacramento Superior Court (attached) requiring POST to release all peace officer information requested by the *Times*, and approved by the Supreme Court, by February 15, 2008. Since POST does not have peace officer assignment information, it is not possible for POST to justify withholding the identities of any peace officers. The employer is the only entity able to justify withholding names. For this reason, each agency must take whatever appropriate legal action necessary to preclude POST from releasing the peace officer information sought by the media in this matter.

Initially, in 2002, the *Times* requested information on all officers hired or terminated between January 1, 1991, and December 31, 2001. That request would have involved the release of 141,000 entries in the Peace Officer Database. Due to the five years that it took to litigate the case, the *Times* modified its request and is seeking the same information from January 1, 1995, through December 31, 2007. The modified request involves the release of 171,000 entries.

By Monday, February 4, 2008, POST will provide each agency a Court Order Report of its own peace officer names which POST intends to release on February 15, 2008. The report will be available for download via the encrypted Electronic Data Interchange (EDI) system. Immediately upon receipt, your EDI operator should present the list to you or a designated command officer to review and determine if the department wants to take action to exclude any names from disclosure.

The court did not specify conditions that would justify exclusion from disclosure. However, the Supreme Court decision references exigent safety considerations and Government Code Sections 6254 (c) and 6255 as possible reasons for exempting an officer's name from disclosure. **Agencies wishing to withhold names from the Court Order Report should contact their legal advisor.** If an agency seeks to exclude names from the report, POST should be notified of the names of those officers the agency wishes to protect. POST will redact those names from the report and deliver them to POST's legal counsel pending a decision by the court. If the court rules against an agency, POST's lawyer will provide those names (or respective names within the report) to the media.

Because POST must produce the names to the *Times* by February 15, 2008, copies of filed legal motions and names to be redacted from the Court Order Report must be provided to POST by **Wednesday, February 13, 2008**. If you decide that no names will be excluded from the report, your EDI operator should notify POST through EDI. If agencies do not contact POST by February 13, 2008, all names will be released to the *Los Angeles Times* on February 15, 2008.

Questions regarding the Court Order or issues related to the Supreme Court Decision should be referred to POST's legal counsel, Supervising Deputy Attorney General Michael E. Whitaker, at (213) 897-2092. Questions regarding the EDI system should be referred to the EDI Coordinator at (916) 227-4807 or (916) 227-4808. Other inquiries may be directed to Bureau Chief Dave Spisak, Information Services Bureau (916/227-0539 or Dave.Spisak@post.ca.gov) or to Assistant Executive Director Dick Reed (916/227-2809 or Dick.Reed@post.ca.gov).

Attachment – Copy of Court Order

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

DATE/TIME : JANUARY 28, 2008
JUDGE : LLOYD G. CONNELLY
REPORTER : NONE

DEPT. NO : 33
CLERK : C. BEEBOUT
BAILIFF : NONE

LOS ANGELES TIMES COMMUNICATIONS LLC,
Petitioner,

VS. Case No.: 03CS01077

CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING,
Respondent.

Nature of Proceedings: ORDER TO SUBMIT COMPLIANCE STATEMENTS BY 2/15/08

In approving the third stipulation of the parties to an extension of time for petitioner to move for attorney fees and costs, the Court notes that the parties have not sought further proceedings in accordance with the directions of the California Supreme Court in *Commission on Peace Officers Standards and Training v Superior Court* (2007) 42 Cal.4th 278, 303. In particular, respondent Commission has not sought an opportunity to demonstrate in the superior court that information in its records concerning undercover officers or other officers who have an interest in maintaining anonymity should be exempted from disclosure under Government Code sections 6254, subdivision (c), or 6255 and the applicable legal principles set forth in the opinion of the Supreme Court. (*Ibid.*)

To ensure compliance with the directions of the Supreme Court, this Court requests the parties to submit a statement no later than February 15, 2008 indicating whether they intend to pursue any further proceedings on the merits of this case in addition to proceedings on such ancillary matters as attorney fees and costs.

LLOYD G. CONNELLY

Dated: January 28, 2008

Honorable LLOYD G. CONNELLY,
Judge of the Superior Court of California,
County of Sacramento

(Certificate of Service by Mailing attached.)

BOOK : 33
PAGE : 1077MO12808
DATE : JANUARY 28, 2008
CASE NO. : 03CS01077
CASE TITLE : LA TIMES v CCPOA

**Superior Court of California,
County of Sacramento**

BY: **C. BEEBOUT,**
Deputy Clerk

CASE NUMBER: 03CS01077

DEPARTMENT: 33

CASE TITLE: LA TIMES v CCPOA

PROCEEDINGS: ORDER TO SUBMIT COMPLIANCE STATEMENTS BY 2/15/08

CERTIFICATE OF SERVICE BY MAILING

(C.C.P. Sec. 1013a(4))

I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the above entitled notice in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at 720 9th Street, Sacramento, California.

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Superior Court of California,
County of Sacramento

Dated: January 28, 2008

By: C. BEEBOUT,
Deputy Clerk

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