



FEDERAL CIVIL RIGHTS & GOVERNMENT LIABILITY

360°

ABOUT OUR PRACTICE

Morris Polich & Purdy LLP understands the legal environment in which public officials, law enforcement officers, public entities and their special districts operate. We are well versed in the procedural and substantive defenses afforded officials and officers under judicial doctrine and the federal civil rights acts. We are equally versed in those special defenses afforded to governmental entities by, for example, the California Tort Claims Act. We have prevailed in numerous cases based on those doctrines, which include absolute and qualified immunity, sovereign immunity, standing, exhaustion of administrative remedies and the government contractor defense. We have consistently and creatively applied the various judicial and statutory immunities available to governmental clients in order to achieve outright dismissal, or to narrow the issues to position the case for favorable resolution.

Our extensive experience in federal civil rights law encompasses frequent representation of federal and local law enforcement officers, including in civil rights jury trials in both federal and state courts. We have successfully represented numerous federal officials in "*Bivens*" cases involving claims of excessive force and other misconduct. We also have represented Southern California county sheriff's departments and individual deputies in similar cases. Our services have included

counseling departments and officers regarding the escalation of force, from the use of non-deadly force such as batons and tasers to the use of deadly force when necessary.

We also have represented public entities for over 30 years in such diverse areas as negligent performance of contracts, assault and battery, false arrest, intentional torts, taking of property, "*Monell*" doctrine claims, dangerous conditions, violation of ministerial obligations, failure to discharge mandatory duties, and inverse condemnation.

Also, our law firm currently serves as National Plan Counsel for the Legal Defense Plan sponsored by the National Coalition of Public Safety Officers. The NCP SO, a sector of the Communications Workers of America, represents over 16,000 municipal police officers, deputy sheriffs, state police, county and state correctional officers, EMS workers, communications dispatchers, probation officers and fire fighters. Morris Polich & Purdy coordinates on a national level the Legal Defense Plan, which provides legal representation and indemnity to members involved in on-duty incidents giving rise to administrative proceedings, or to claims and suits for which the member's employing organization is not offering a defense or indemnity.

A CROSS SECTION OF OUR EXPERIENCE

- We represented a Customs & Border Protection agent in a federal civil rights case arising from the agent's use of firearm in self-defense during the apprehension of a large group of suspected illegal immigrants at night in steep terrain.
- We represented a DEA agent in a federal civil rights case after the agent, part of a multi-agency SWAT team, was sued in a case stemming from use of his firearm in a raid on the residence of a suspected heavily armed drug operation.
- We represented Immigration & Naturalization Service officials in multi-plaintiff litigation alleging civil rights violations as a result of abusive treatment at INS detention center.
- We represented a sheriff's department deputy in a wrongful death/federal civil rights case stemming from the deputy's use of deadly force on a suspect who attempted to stab the deputy in the leg with a sharp, pointed fishing tool. We obtained summary judgment in favor of the deputy, based on showing that the deputy acted reasonably in self defense, and was also entitled to qualified immunity. The judgment in the deputy's favor was upheld on appeal by the 9th Circuit.
- We represented a sheriff's department deputy in a federal civil rights case alleging that the deputy responding to a "disturbing the peace" dispatch made false arrest and used excessive force. We tried the case to a federal court jury, which rendered a verdict that plaintiff had sustained no damages.
- We represented a California Highway Patrol officer in a civil rights case brought by a motorcyclist who tried to run over the officer at close range. The officer discharged his firearm at night on a rural dirt road in self-defense, striking the motorcyclist, who was attempting to avoid apprehension.
- We represented a sheriff's department deputy in a federal civil rights case brought by an intoxicated suspect who alleged that the deputy made false arrest and used excessive force in connection with the arrest and handcuffing of the suspect after responding to a "disturbing the peace" dispatch.
- We obtained summary judgment on behalf of a sheriff's department lieutenant in a case brought by a woman who abandoned her baby anonymously at the sheriff's station and later claimed violation of her civil rights and invasion of privacy when the lieutenant sent out a press release asking for public assistance in locating baby's mother. Summary judgment was affirmed on appeal.

REPRESENTATIVE APPELLATE CASES

- *Elene H. v. County of Los Angeles*, (1990) 220 Cal.App.3d 1445, 269 Cal.Rptr. 783
Court of Appeal affirms summary judgment for sheriff's deputies in child abuse case brought by parents to whom child was subsequently returned.
- *Reynolds v. County of San Diego*, (9th Cir. 1996) 84 F.3d 1162, affirming 858 F. Supp. 1064
In a comprehensive opinion affirming a summary judgment in favor of a deputy sheriff sued in a federal civil rights action, the Ninth Circuit Court of Appeals holds that where a suspect is armed and in close proximity to the officer, the officer may use deadly force to defend himself.
- *Branson v. Nott*, (9th Cir. 1995) 62 F.3d 287
In a second generation lawsuit against the Court of Appeal justices, trial court judge and clerk, among others, the Ninth Circuit affirms the dismissal of plaintiff's due process attack on the state court trial and appellate systems.
- *Martel v. County of Los Angeles*, (9th Cir. 1995) (en banc) 56 F.3d 993
Decision confirms the principle that an appellant must prove actual and substantial prejudice to obtain a reversal on appeal, notwithstanding the claim of inherent prejudice arising out of a district court mandating speedy disposition of cases and setting cases for trial three months after date of first answer.
- *Bryant v. County of Los Angeles*, (1994) 26 Cal.App.4th 919, 32 Cal.Rptr.2d 285
Opinion holds that police officers and the County of Los Angeles are statutorily immune from liability for injuries arising out of a police vehicle pursuit.
- *Thomas v. County of Los Angeles*, (9th Cir. 1992) 978 F.2d 504
In a major victory for governmental entities, the Ninth Circuit reversed a sweeping preliminary injunction against the L.A. County Sheriff's Department as overly broad and as unsupported by a factual record.
- *Porter v. Martinez*, (9th Cir. 1991) 941 F.2d 732
Opinion examines propriety of dismissing a federal civil rights action for failure to comply with discovery orders.
- *Coy v. County of Los Angeles*, (1991) 235 Cal.App.3d 1077, 1 Cal.Rptr.2d 215
In matter of first impression, Court of Appeal construed statute of limitations for lawsuits against governmental entities arising out of property that was lawfully seized during police search, but never returned.
- *Alicia T. v. County of Los Angeles*, (1990) 222 Cal.App.3d 869, 271 Cal.Rptr. 513
Court of Appeal holds that county social workers are absolutely immune from civil liability in connection with their investigation of child abuse and instigation of dependency hearings.

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- *Thompson v. Mahre*, (9th Cir. 1997) 110 F.3d 716

We were appellate counsel for over 200 cities who were amici curiae in a federal civil rights action, which after a protracted history, including multiple appeals, resulted in the successful defense of a police officer who led a team executing a drug search warrant. In addition to filing an amicus brief in the Ninth Circuit Court of Appeals, we filed an amicus brief with the United States Supreme Court supporting the police officer's earlier effort to obtain a pre-trial dismissal.

- *City of Pomona v. Superior Court*, (1986) 182 Cal.App.3d 1093, 227 Cal.Rptr. 714

Only opinion to interpret the governmental immunity in Government Code section 866 for actions taken to abate hazardous conditions caused by gradual earth movement.

- *Winterburn v. City of Pomona*, (1986) 186 Cal.App.3d 878, 231 Cal.Rptr. 105

Opinion applies the governmental immunity in Government Code section 831.2 to bar wrongful death action arising out of cave-in on greenbelt.

- *Pasadena Star-News v. Superior Court*, (1988) 203 Cal.App.3d 131, 249 Cal.Rptr. 156

Case involves liability of newspapers and sheriff's department for publicizing hoax about infant who was found under mysterious circumstances.



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