

Sacramento Television Stations, Inc. v. Superior Court of Placer County
Court of Appeal, Third District, California

FACTS/PROCEDURAL HISTORY

Around 12:30 p.m. on April 6, 2023, gunshots were fired in a City park after officers of the California Highway Patrol (CHP) attempted to serve a search warrant on Eric J. Abril. Roseville PD responded to the park, multiple Roseville PD officers fired shots, and a wounded Abril was captured. Both hostages sustained gunshot wounds, one of them fatally.

Sac TV reporter requested the release of police bodycam and dashboard camera footage. Roseville PD lieutenant responded with an email containing a link to “portions of the audio/video records related to the involved officers,” specifically: (a) four 39-second clips of body camera footage (with audio and video) from four different Roseville PD officers, and (b) two audio clips of radio communications—one nearly three minutes long and the other 27 seconds long. Later, a second Sac TV reporter insisted that Roseville PD was required to release complete footage from all body cameras. In response, the lieutenant maintained that Roseville PD had released everything it was legally required to disclose.

The superior court denied Sac TV's mandate petition, finding that under subdivision (a)(2) of CPRA (California Public Records Act), the City had shown by clear and convincing evidence that further disclosure of recordings would substantially interfere with the active investigation in Abril's criminal case.

Sac TV filed a timely petition for writ of mandate in the court of appeals, seeking review and reversal of the superior court's ruling and an order compelling disclosure of all audio and video footage.

DISCUSSION

CPRA generally requires disclosure of public records upon request and establishes a presumptive right of access to any record created or maintained by a public agency related to the agency's business unless a statutory exception applies. When enacting CPRA, the Legislature was mindful of the right to privacy and set out multiple exemptions designed to protect that right.

Assembly Bill #748, which was passed into law in 2018, added a new section to CPRA which provides in relevant part: “Notwithstanding any other provision of this article ... a video or audio recording that *relates to a critical incident, as defined in subdivision (e)*, may be withheld only as follows”: during an “*active criminal or administrative investigation*,” disclosure may be delayed for no longer than 45 days if disclosure would “substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source” (§ 7923.625, subd. (a)(1))

We conclude the record does not disclose substantial evidence for the trial court's finding that the “active investigation” exemption applies here. As a definitional matter, the court of

appeals agreed with Sac TV's position that a pending criminal prosecution, by itself and without more information, is not an "active investigation" within the meaning of subdivision (a).

On appeal, the City asserted the hostages' privacy interests "clearly outweighed the public's interest in disclosure" and that subdivision (b)(1) protects from disclosure the additional records Sac TV seeks. However, the court of appeals ruled that the word "may" in subdivision (b)(1) does not grant to an agency the discretion to withhold a recording in its entirety; it grants to an agency the discretion to *alter* a recording to protect the privacy interests of someone depicted in the recording. (§ 7923.625, subd. (b)(1))

The court of appeals ruled that the trial court's decision was erroneous and held that more information needed to be disclosed. Now, the trial court needs to have further proceedings to determine how much more disclosure is required.