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SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO
CENTRAL DIVISION

AMERICAN CIVIL LIBERTIES UNION)	Case No. 24CECG01635
OF SOUTHERN CALIFORNIA, a)	
non-profit corporation,)	
) Petitioner,	JUDGMENT GRANTING PEREMPTORY
) v.	WRIT OF MANDATE AND STATEMENT
) CITY OF FRESNO,	OF DECISION
) Respondent,	
) _____	

This matter came before the Court on January 8, 2025, for hearing on Petitioner's Motion for Judgment in Department 97E of the Superior Court, the Honorable W. Kent Hamlin, Ret., presiding by stipulation of the parties. Shayla Harris of the American Civil Liberties Union (hereinafter "ACLU") appeared on behalf of Petitioner, and Tony M. Sain of the law firm of Lewis, Brisbois, Bisgaard & Smith, LLP, appeared on behalf of Respondent City of Fresno (hereinafter "FRESNO").

The Court reviewed the Verified Petition for Writ of Mandate, the Answer to the Petition, Notice of Motion and Motion for Judgment on the Petition and Declaration in support of the motion, Opposition to Motion for Judgment, Declarations and Request for

1 Judicial Notice in opposition to the motion, and ACLU's Reply
2 Memorandum. After oral argument, the case was set for further
3 briefing and a hearing on March 21, 2025, at 1:30 p.m. in Dept. 53
4 of this Court. After reviewing supplemental briefs and supporting
5 declarations submitted by both parties on March 7, 2025, the Court
6 entertained further argument in Dept. 52 of this court and took
7 the matter under advisement on March 21. The Court received no
8 additional evidence.

9 After reviewing the record and considering the written and
10 oral arguments of Petitioner and Respondent, the Court issues the
11 following Statement of Decision in support of its granting a
12 peremptory writ of mandate directing FRESNO to provide to ACLU all
13 records responsive to ACLU's request under the California Public
14 Records Act (hereinafter "CPRA"), as more specifically described
15 herein.

16 **STATEMENT OF DECISION**

17 **I. Background**

18 ACLU submitted a CPRA request to FRESNO in 2023 relating to
19 FRESNO's use of police canines. FRESNO provided a limited number
20 of responsive documents, many with significant redactions. After
21 several unsuccessful attempts to obtain FRESNO's compliance, ACLU
22 filed the instant petition on April 22, 2024.

23 The right to access public records is governed by the CPRA
24 and the California Constitution. The CPRA provides that "access to
25 information concerning the conduct of the people's business is a
26 fundamental and necessary right of every person in this state."
27 (Gov. Code, § 7921.000.) The California Constitution requires that
28 any "statute, court rule, or other authority be broadly construed

1 if it furthers the people's right of access, and narrowly
2 construed if it limits the right of access." (Cal. Const., art. I,
3 § 3(b)(2).) CPRA exemptions are narrowly construed, and the agency
4 opposing disclosure bears the burden of proving an exemption
5 applies. (Becerra v. Superior Ct. (2020) 44 Cal. App. 5th 897,
6 914.)

7 The CPRA request from ACLU sought the following records
8 related to FRESNO's use of police canines: (1) any completed use
9 of force forms or use of force reports concerning use of a
10 police canine; (2) use of force reports documenting police canine
11 bite(s) and/or injur(ies); (3) records, including reports,
12 concerning accidental police canine bite(s) and/or injur(ies); and
13 (4) all records relating to the report, investigation, or findings
14 of a police canine incident involving use of force resulting in
15 death or serious bodily injury, unreasonable or excessive force,
16 failure to intervene against another officer using unreasonable or
17 excessive force, dishonesty about a police canine incident, or
18 discriminatory use or threat of police canine force.

19 After extensive briefing and argument, it is clear that the
20 parties' disagreement centers on whether the requested records are
21 investigatory reports exempt from disclosure by Government Code
22 Section 7923.600 and, if so, whether some or all of those records
23 are nevertheless required to be produced pursuant to Penal Code
24 Section 832.7, subdivision (b), which identifies those personnel
25 records of peace officers and custodial officers, records relating
26 to citizen complaints of excessive force, and investigations of
27 officers' conduct which are not exempt from disclosure.

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1 **II. Analysis**

2 Penal Code Section 832.7(b) provides, in relevant part:

3 (b) (1) Notwithstanding subdivision (a),
4 Section 7923.600 of the Government Code, or
5 any other law, the following peace officer
6 or custodial officer personnel records and
7 records maintained by a state or local agency
8 shall not be confidential and shall be made
9 available for public inspection pursuant to
10 the California Public Records Act (Division
11 10 (commencing with Section 7920.000) of
12 Title 1 of the Government Code):

13 (A) A record relating to the report,
14 investigation, or findings of any
15 of the following:

16 ***

17 (ii) An incident involving the use
18 of force against a person by a peace
19 officer or custodial officer that
20 resulted in death or in great bodily
21 injury.

22 (iii) A sustained finding involving
23 a complaint that alleges unreasonable
24 or excessive force.

25 ACLU argues that, without further definition, the term "great
26 bodily injury" means a "significant or substantial physical
27 injury," as defined in Penal Code Section 12022.7, subdivision
28 (f) (1). It does not require the victim to suffer from permanent,
prolonged, or protracted disfigurement, impairment, or loss of
bodily function, or life-threatening injuries. (People v. Escobar
(1992) 3 Cal.4th 740, 750; see also, e.g., People v. Saez (2015)
237 Cal.App.4th 1177, 1188 [GBI "need not be permanent or cause
lasting bodily damage"].)

FRESNO has been unable to cite to any statute or court
decision that otherwise defines the term "great bodily injury."
Instead, FRESNO argues that in passing Senate Bill 1421, which
included the catchall exemption for use of force causing great

1 bodily injury in subsection (b)(1)(A)(ii), the Legislature must
2 necessarily have meant the term to mean serious bodily injury.
3 Respondent's counsel argues that this court needs to "read GBI the
4 way law enforcement reads it," which he contends is the way the
5 Legislature intended the term to be understood.

6 In any case involving statutory interpretation, the Court's
7 fundamental task is to determine the Legislature's intent in order
8 to effectuate the law's purpose. (Simpson Strong-Tie Co. v. Gore
9 (2010) 49 Cal. 4th 12, 27, citing People v. Lewis (2008) 43
10 Cal.4th 415, 491.) The text of the statute is the best indicator
11 of legislative intent, but the court may reject a literal
12 construction that is contrary to the legislative intent apparent
13 in the statute or that would lead to absurd results. (*Id.*,
14 citations omitted.)

15 As a starting point, the language of this statute is
16 unambiguous. "Great bodily injury" has a well-accepted meaning in
17 the law -- a significant or substantial physical injury. (Pen.
18 Code §12022.7, subd.(f).) California courts have held that some
19 physical pain or damage, such as lacerations, bruises, or
20 abrasions constitutes GBI (People v. Washington (2012) 210
21 Cal.App.4th 1042, 1047-48); cuts and burns from being flex-tied,
22 and a burning sensation from an insecticide-like substance qualify
23 (People v. Wallace (1993) 14 Cal.App.4th 651, 665-66); multiple
24 abrasions, lacerations, and contusions have been deemed GBI
25 (People v. Bustos (1994) 23 Cal.App.4th 1747, 1755); a swollen
26 jaw, bruises to head and neck and sore ribs were GBI (People v.
27 Corona (1989) 213 Cal.App.3d 589, 592); and multiple contusions,
28 swelling and discoloration of the body, and extensive bruises were

1 GBI (People v. Jaramillo (1979) 98 Cal. App. 3d 830, 836-837).

2 When the language of a statute is clear and there is no
3 uncertainty as to the legislative intent, the statute is applied
4 according to its terms. (Baker v. Workers' Comp. Appeals Bd.
5 (2011) 52 Cal. 4th 434, 442.) Absent some other accepted legal
6 definition of the term "great bodily injury," the Legislature's
7 intent in using that term is clear, and the plain language of the
8 statute controls.

9 On request by Respondent, the Court took judicial notice of
10 the legislative history of Senate Bill 1421, which enacted Penal
11 Code Section 832.7, as well as Senate Bill 776, which later sought
12 a further amendment to that code section. FRESNO's argument that
13 interpretation of the statute as written would lead to an absurd
14 result is two-fold: (1) The removal of other specific exemptions
15 in Senate Bill 1421 indicates an intent by the legislature to
16 narrow, not broaden, the circumstances in which Penal Code Section
17 832.7 requires disclosure of reports evidencing injury, and (2) If
18 the Legislature intended great bodily injury to be interpreted as
19 commonly understood, there would have been no reason for the
20 author of Senate Bill 1421 to seek to further expand the exemption
21 contained in subsection (b) two years later through introduction
22 of Senate Bill 776. Neither argument is persuasive.

23 As initially introduced by Senator Skinner, Penal Code
24 section 832.7, subdivision (b), provided an exemption from the
25 confidentiality of subdivision (a) for records relating to the
26 report, investigation, or findings of any incident involving
27 discharge of a firearm at a person, discharge of an electronic
28 control weapon or conducted energy device, or a strike with an

1 impact weapon or projectile to the head or neck of a person, along
2 with a catchall provision exempting reports reflecting a use of
3 force that resulted in death or "serious bodily injury, as defined
4 in Penal Code Section 243(f)." (Declaration of Abigail Mclaughlin
5 in Support of Respondent's Opposition to Motion for Judgment, Exh.
6 B.)

7 Later amendments, as the bill passed through committees,
8 removed the specific references to the deployment of an electronic
9 control weapon and strikes to the head and neck, but expanded the
10 catchall provision to include an exemption for records reflecting
11 the use of force causing great bodily injury, eliminating the
12 requirement of serious bodily injury to warrant disclosure. (*Id.*,
13 Exh. F.)

14 FRESNO argues that law enforcement would never have supported
15 the bill in its final form if the legislative intent were to
16 interpret great bodily injury in its accepted legal sense.
17 Instead, they argue that an officer may use deadly force when
18 threatened with death or serious bodily injury, so law enforcement
19 would interpret the term great bodily injury here to mean serious
20 bodily injury. FRESNO concedes that it relies on that
21 interpretation in its limited response to ACLU's CPRA request.

22 The fair inference from the amendments to the bill, however,
23 is that the expansion of the catchall provision was the tradeoff
24 for eliminating the disclosure of less serious incidents involving
25 taser deployment and baton strikes. The substitution of the words
26 "great bodily injury" in place of the words "serious bodily
27 injury," with a specific reference to the code section defining
28 that term, can only be interpreted as an intent to expand the

1 exemption and increase the public's right of access.

2 Courts presume the Legislature knew what it was saying and
3 meant what it said. (People v. Valdez (1982) 137 Cal.App.3d 21,
4 26.) If the words of a statute are clear, we do not add to or
5 alter them to accomplish a purpose that does not appear on the
6 face of the statute or from its legislative history. (Ramos v.
7 Superior Ct. (2007) 146 Cal. App. 4th 719, 727, as modified (Feb.
8 5, 2007).) To read great bodily injury to mean serious bodily
9 injury would ignore legislative intent and rewrite the code.

10 Arguing that great bodily injury is "essentially any injury,"
11 FRESNO contends that Senator Skinner would never have bothered to
12 attempt to expand disclosure through Senate Bill 776 if she
13 believed such a "low threshold" of great bodily injury applied to
14 the exemption already in place in subsection 832.7(b)(1)(A)(ii).
15 The intent of a common author two years later says nothing about
16 the Legislature's intent in passing Senate Bill 1421 in its final
17 form. FRESNO has provided no legal authority for that proposition
18 and the argument depends entirely on speculation.

19 FRESNO conceded during oral argument that if the standard for
20 disclosure of reports evidencing injuries from canine deployments
21 is great bodily injury instead of serious bodily injury, nearly
22 every dog bite would qualify. That may be true. Significant
23 puncture wounds or lacerations would qualify as great bodily
24 injury. But Fresno's dissatisfaction with the term "great bodily
25 injury" in Penal Code section 832.7(b)(1)(A)(ii), which the
26 Legislature specifically chose in the final adoption of SB 1421
27 over the term "serious bodily injury," is for the Legislature.
28 FRESNO is not free to interpret the statute as they choose and

1 ignore the plain language of the statute and the clear expression
2 of legislative intent apparent from a review of the legislative
3 history.

4 FRESNO has a duty to produce every responsive record that
5 evidences a canine deployment that caused great bodily injury, as
6 defined in Penal Code Section 12022.7(f) and reported court cases
7 interpreting the term, as well as records reflecting a sustained
8 finding involving a complaint that alleges unreasonable or
9 excessive force by means of a canine deployment (Pen. Code,
10 §832.7(b)(1)(A)(iii).)

11 **ORDERS**

12
13 Therefore, IT IS ORDERED that JUDGMENT should be entered:

- 14 1. A peremptory writ of mandate shall issue from the court
15 directing FRESNO to promptly provide to ACLU the following
16 records in incidents where great bodily injury was
17 inflicted, redacted only to protect personal identifying
18 information of any victim or officer involved:
- 19 (a) Any completed use of force forms or use of force
20 reports concerning use of a police canine;
 - 21 (b) Use of force reports documenting police canine bites
22 and injuries;
 - 23 (c) Records, including reports, concerning accidental
24 police canine bites and injuries;
 - 25 (d) All records relating to the report, investigation, or
26 findings of a police canine incident, failure to intervene
27 against another officer using unreasonable or excessive
28 force, dishonesty about a police canine incident, or

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discriminatory use of police canine force; and
(e) Records reflecting a sustained finding involving a
complaint that alleges unreasonable or excessive force by
means of a canine deployment.

2. Petitioner's request to recover costs of the proceeding is
granted. Petitioner's request for attorney's fees is
denied.

DATED this 19th day of May 2025.



Hon. W. Kent Hamlin, Ret.
Temporary Assigned Judge of the Superior Court



By: Jenny Xiong
Deputy Clerk