FIRE DISTRICTS ASSOCIATION OF CALIFORNIA (FDAC) 2015 ANNUAL CONFERENCE

Public Safety Legal Update: The Good, the Bad, and the Just Plain Ugly

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PRESENTED BY:

Morin I. Jacob
THE GOOD………………

FBOR

• Notice of Intent to Discipline Must Be Received by Public Safety Officer Within One-Year Statute of Limitations.
Public Records Act

• What Happens on a Personal Device (May) Stay on a Personal Device.
  – *City of San Jose v. Superior Court* (2014) 169 Cal.Rptr.3d 840.
    • Review by California Supreme Court granted.

Public Records Act

• California Supreme Court Holds Names of Police Officers Involved in Shooting Are Subject to Disclosure Under Public Records Act.

FMLA Leave

• County Did Not Violate the FMLA by Ordering Peace Officer to Submit to Fitness for Duty Examination After Reinstating Her to Employment Following FMLA Leave.
Court Appearance Fees

• AB 2727 – Increases Daily Fee for Local Agency Employee Whose Attendance at a Civil Action is Compelled by Subpoena.
  – Increased from $150 to $275 per day.

Fitness for Duty

• University Did Not Violate the FEHA by Terminating Professor After He Failed to Attend Fitness-for-Duty Examination.

Disability Discrimination

• Officer With ADHD Who Had Interpersonal Issues Was Not Disabled Within Meaning of ADA.
  – Weaving v. City of Hillsboro (9th Cir. 2014) 763 F.3d 1106.
### Worker’s Compensation

- **AB 1035** – Increases Time Period for Dependents of Firefighters and Peace Officers Who Die as a Result of Cancer, TB, or MRSA to file for WC Death Benefits.
  - New Deadline Is 420 Weeks After Date of Injury (but no more than a year after death).

### THE BAD

- Gender Discrimination
  - Summary Judgment Overturned in Sex Discrimination Lawsuit Because County Did Not Demonstrate that Male Deputies Are Unfit to Work in Female Inmate Housing Pods.
    - *Ambat v. City & County of San Francisco* (9th Cir. 2014) 757 F.3d 1017.
Retirement

• Trial Court Should Have Made Independent Determination Regarding Whether Police Officer Who Applied for Disability Retirement Was Credible.

FBOR

• Misconduct Charges Against Police Officer Were Barred by Statute of Limitations.

Worker’s Compensation

• Correctional Officer’s Off-Duty Injury that Occurred While Performing Personal Fitness Regimen Was Covered by Worker’s Compensation.
Retaliation

• Deputy Sheriff Was Entitled to Assert Whistleblower Retaliation for Reporting Conduct the County May Have Already Known About.

Public Records Act

• A Department’s Disclosure Duties Under the CPRA Are Not Limited to Just “Contemporaneous” or “Current” Records.
  – Fredericks v. Superior Court (City San Diego) 2015 WL 222374.
Discipline

• Hearing Officer Was Required to Exercise Independent Judgment as to Appropriate Level of Discipline.
  – Quintanar v. County of Riverside (2014) 179 Cal.Rptr.3d 82.

Thank You!

Morin I. Jacob
Partner | Chair of the Public Safety Practice Group
San Francisco Office
415.512.3000 | mjacob@lcwlegal.com
http://lcwlegal.com/Morin-Jacob