

# BOLO

## Be On the Lookout

The Newsletter for the Los Angeles Airport Peace Officers Association



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VOLUME 11, ISSUE 5

SEPTEMBER 2021

## Supreme Court Shows Its Spirit for Students' First Amendment Rights — Here's What That Means for Public Employees

By Mastagni Holstedt, APC

In *Mahanoy Area School District v. B.L.*, 594 U.S. \_\_\_ (2021), the U.S. Supreme Court ruled in favor of a disgruntled high school cheerleader (B.L.) who didn't make the varsity squad.

During one weekend, at a convenience store, B.L., a public high school student, made Snapchat posts criticizing the school and the cheerleading team. One post showed her with middle fingers raised with the caption: "F— school, f— softball, f— cheer, f— everything." To no surprise, the other cheerleaders and their parents caught wind of the post, became upset and went to the principal. In response, the school handed B.L. a one-year suspension from the cheer team.

The issue was whether the suspension violated B.L.'s First Amendment rights.

Schools have a special interest in regulating speech that "materially disrupts classwork or involves substantial disorder or invasion of the rights of others." Here, the court weighed B.L.'s interest of freedom of expression against the school's interest of maintaining order for off-campus activity. Examples of off-campus activity that may call for school intervention include bullying, harassment, threats or cheating on schoolwork.

However, B.L.'s Snapchat did not require school intervention. She did not identify the school in her post or make threats to anyone. She posted the Snapchat to an audience that only consisted of her private Snapchat friends. The post did not amount to substantial disorder because it only made the cheerleaders upset momentarily. Thus, the First Amendment protected B.L.'s speech, and the school's suspension violated her First Amendment rights.



### Public Employees and Free Speech

B.L. won the government interest argument because her post did not disrupt the school. A student's gripes about the cheer team have little to no effect on the school's operations. However, your "unpopular opinion" post can trigger more public outcry and cause a major disruption at work.

Public employees are protected by the First Amendment for speaking about matters of "public concern." A matter is of "public concern" if it deals with political, social or other community concerns. However, the First Amendment will not protect you if the government's interest in preventing disruptions at work and

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## FIRST AMENDMENT RIGHTS

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maintaining public trust outweighs your interest in free speech. This is a similar balancing test to the one in the above case.

To make matters worse for public employees, the First Amendment does not protect speech that is a part of your job duties. Don't let this rule fool you into thinking that making a post after work is protected by the First Amendment. Your post may still be subject to the balancing test above.

***“The First Amendment will not protect you if the government’s interest in preventing disruptions at work and maintaining public trust outweighs your interest in free speech.”***

### Here’s a Scenario

You have a Trump sticker on your personal truck. This is a matter of public concern because Trump is a politician (among other things). A few Biden supporters complain to your employer. Your employer is worried that you will treat Biden supporters differently than Trump supporters and tells you to remove the sticker or be fired. You sue your employer, claiming that your sticker is protected by the First Amendment. The court will apply the balancing test and likely find that the sticker is protected, because a Trump sticker doesn't necessarily imply that you do not like Biden supporters. Moreover, there is no disruption because only a few Biden supporters complained.

Let's change the facts a little. Along with your Trump sticker, you have a "Liberals Suck" sticker. Moreover, you live in an area that voted overwhelmingly for Biden. The First Amendment will probably no longer protect you because your stickers make it appear that you won't treat Biden supporters equally. Given the community you are in, your stickers will likely harm public trust and disrupt work operations. Thus, you should follow your employer's orders.



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## LAAPOA Member Spotlight: PO II Shannon Weathersbee

*The “LAAPOA Member Spotlight” is a series of articles that highlight our members and the remarkable work they are doing to help keep our airports, parks and communities safe.*

Whether it’s those in law enforcement or the armed forces, it takes a special individual to voluntarily put on a uniform and risk their life to protect the freedoms and rights of others. PO II Shannon Weathersbee knows this very well. Before being sworn in with LAPD Academy Class 1-17 and joining the Los Angeles Airport Police in July 2017, Weathersbee was a Security Forces member with the Air National Guard for nearly two decades.

With about 19% of police officers also being military veterans, Weathersbee, who officially retired from the military in May 2020 after 22 years of service, joined others in making the natural transition to law enforcement. So far, her journey has been extremely fruitful. “The military has helped me tactically be ready for anything, and a lot of what I learned transferred over,” she explains. “Military police training is basically the same — some laws are different, but the tactics, rules of engagement and daily patrol duties are very similar, so having the military police training made it easier to transition to civilian police work. Also, the police academy is a paramilitary-type training, so it was like second nature attending the Academy.”

What made Weathersbee’s decision to join the force even easier was her family’s deep ties to the profession. “I’ve always wanted to be in law enforcement because my father and uncle were in law enforcement, and they inspired me,” she says. “Both were California officers; my father was a local P.D. patrolman and my uncle was with the Sheriff’s Department and retired as a detective.”

Asked why these figures had such an impact on her law enforcement career, Weathersbee’s answer was simple: “They had families and did all they could to be great law enforcement officers, and they made it a priority to be home and be great fathers and role models.”

Before becoming an officer, Weathersbee was also a competitive bodybuilder, even coming in first place at the 2016 NPC Iron Man Naturally Anaheim contest for her division. But the drastic lifestyle change from bodybuilder to police recruit came with some adjustments.

“When I went into the Academy, my whole life changed,” she says. “I was not able to eat my regular meals during the day at my regular scheduled times or go to the gym as often due to being tired from the Academy and the lack of free time from studying and preparing uniforms and equipment for the next day’s training.”

However, Weathersbee’s experience in the fitness world helped her recognize how crucial it is for officers to stay healthy and in shape throughout their law enforcement careers.

“There should never be a question of, ‘Should I be physically fit?’ because if you aren’t, you risk injury and major health issues,” she says. “Law enforcement can be an unhealthy lifestyle as it is,



due to different schedule types, always being on the go and high stress, but being unfit will make it worse. Being in shape makes it easier to get up and go if needed, keeps you alert and makes physical contact, if needed, easier.”

Now a four-year LAXPD veteran, Weathersbee plans to keep growing in her role and continuing to be an invaluable asset to the Department and community. “Becoming one of the few women in law enforcement, saving someone’s life and helping family members locate lost loved ones are the proudest moments of my law enforcement career so far,” she says. “The most rewarding part of my job is helping others in need. My ultimate goal is to become a drill or PT instructor at the Academy or be a part of LAXPD recruiting. I also aspire to become a detective one day.”



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