

BOLO

Be On the Lookout

The Newsletter for The Los Angeles Airport Peace Officers Association



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Report of the Chief Legislative Analyst — Resolution to Oppose SB 446

Editor's note: The following report from Chief Legislative Analyst (CLA) Gerry F. Miller to the Los Angeles City Council's Information Technology and Governmental Affairs Committee addresses a resolution by Los Angeles City Councilmembers Bill Rosendahl and Janice Hahn to oppose SB 446 (Dutton). The report has been edited for length and clarity.

Summary

Air travel in general has been on the decline and/or sluggish since before the terrorist attacks on the U.S. occurred on September 11, 2001, and before the current economic downturn took hold more recently. Over the past several years, passenger traffic at medium-sized airports, such as Ontario International Airport (LA/ONT), which is owned and operated by the City of Los Angeles' Los Angeles World Airports (LAWA), has been more significantly impacted than at larger airports, such as Los Angeles International Airport, which LAWA also owns and operates. As a result, LAWA has begun to consider alternative management options for LA/ONT and, in fact, has been engaged in good faith negotiations during the past year with the City of Ontario regarding the possible transfer of management and/or ownership of LA/ONT back to the City of Ontario. These discussions are ongoing and are addressing key issues relating to, among others, strategies to reduce LAWA's operating costs at LA/ONT, air service marketing needs for LA/ONT, the future status of 300 City of Los Angeles employees who currently work at LA/ONT and the investments that LAWA has made in LA/ONT over several decades.

SB 446, introduced on February 10, 2011, would create the Ontario International Airport Authority for the purpose, sale or transfer of control of LA/ONT from the City of Los Angeles to the City of Ontario. However, LAWA staff contends that the introduction of SB 446 is premature and inappropriate.

Following its introduction on February 10, 2011, SB 446 has been amended twice and fleshed out to lay out a procedure for the establishment and future operations of a proposed Ontario International Airport Authority. As amended on April 7, 2011, and on May 10, 2011, SB 446 describes in detail how the Ontario International Authority would be structured with a board of directors and a staff, what its powers and duties would be and how it would proceed to

work with the City of Los Angeles to achieve the transfer of LA/ONT from the City of Los Angeles to the proposed Authority (underlining denotes language added in the May 10 amendment to the April 7 amendment):

- Authorize the Authority to enter into an agreement with the City of Los Angeles to facilitate the sale of or the transfer of management and operational control of Ontario International Airport to the Authority;
- Provide that the area of jurisdiction of the Ontario International Airport is the area described in the "Agreement between the City of Los Angeles and the City of Ontario for the Acquisition of the Ontario International Airport by the City of Los Angeles dated June 19, 1985";
- With respect to the board of directors, require the board to appoint a general manager, a chief counsel and a chief financial officer; and provide that the general manager may enter into contracts on behalf of the board, consistent with board-adopted policies;
- Provide that the Authority may enter into an agreement with the City of Los Angeles to facilitate the acquisition of the Ontario International Airport by the Authority or the transfer of management and operational control of the Airport from the City of Los Angeles to the Authority, upon the approval of the FAA and the TSA;
- Provide that, upon the agreement of the City of Los Angeles, the Authority, in cooperation with the City of Los Angeles and the City of Ontario, shall develop a transition plan to facilitate either the sale of, or the transfer of management and operational control of, the Ontario International Airport to the Authority..";
- Provide that the transfer of the Ontario International Airport to the Authority shall not in any way relieve the Authority from all liabilities and obligations that are secured by revenues generated from Airport activities;
- Provide that the Authority may acquire property outside of its area of jurisdiction for the purpose of installing equipment for the safe operation of the Airport and the aircraft using the Airport, environmental mitigation or environmental remediation.

Continued on page 4

CDCR Secretary Issues Statement on U.S. Supreme Court Ruling

The U.S. Supreme Court has spoken, and in their ruling affirmed a lower court's decision to reduce California's inmate population. It is disappointing that the court did not consider the numerous improvements made in health-care delivery to inmates in the past five years, as well as the significant reduction in the inmate population.

"California's inmate population has been reduced to levels not seen since 1995, and non-traditional beds have been eliminated by nearly 13,000. We've come a long way in both population-reduction measures and in the quality of care given to inmates.

"To meet this order, [the] CDCR cannot act alone. It will take cooperation from all facets of state and local government. We particularly need the support and cooperation of the Legislature with the immediate funding and implementation of AB 109, the Public Safety Realignment Plan signed by Governor Brown on April 4. The governor has repeatedly called for full and constitutionally protected funding of this bill to allow certain offenders to serve their incarceration and parole terms under local supervision.

"We appreciate that the U.S. Supreme Court acknowledged that it may be warranted for the state to request that the district court modify its population-reduction order — including establishment of more appropriate timeframes, if necessary, to implement inmate-reduction proposals as safely as possible — or to request termination of ongoing injunctive relief?"

Note: For a list of recent actions taken by the CDCR to reduce overcrowding, a timeline of court actions and other documents related to this decision, visit the CDCR's website at www.cdcr.ca.gov.

Governor Brown Issues Statement on U.S. Supreme Court Ruling

Sacramento — Governor Edmund G. Brown, Jr. today issued the following statement in response to the U.S. Supreme Court's ruling in *Brown v. Plata*:

"The Supreme Court has upheld a lower court's decision that California must reduce its prison population. In its ruling, the Supreme Court recognized that the enactment of AB 109 is key to meeting this obligation. We must now secure full and constitutionally guaranteed funding to put into effect all the realignment provisions contained in AB 109. As we work to carry out the court's ruling, I will take all steps necessary to protect public safety."



6080 Center Drive, 6th Floor
Los Angeles, CA 90045
Telephone: (310) 242-5218
Fax: (310) 242-5201
E-mail: info@laapoa.com
Website: www.laapoa.com

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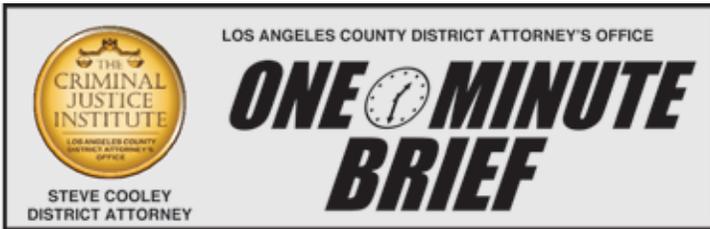
The Board of Directors meets on the third Thursday of each quarter at the LAAPOA Headquarters.

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Number: 2011-11 Date: 06-16-11 By: Devallis Rutledge
Topic: "Custody" of Juveniles

Issue: Does a Minor's Age Bear on the Miranda "Custody" Determination?

"Custody," for *Miranda* purposes, means "a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest." *California v. Beheler* (1983) 463 U.S. 1121, 1125. Although assessment of whether a person's freedom of movement has been restrained to such a degree during interrogation has not previously taken his or her age into account, *Yarborough v. Alvarado* (2004) 541 U.S. 652, 666-67, **the U.S. Supreme Court has now ruled that where a minor's age was known or apparent to police at the time of interrogation, a court should factor minority age into its "custody" analysis.**

J.D.B. was a 13-year-old burglar who was taken out of class by a uniformed officer and escorted to a closed room where he was confronted by school officials and law enforcement officers. He was questioned for 30 to 45 minutes behind closed doors, without *Miranda* warnings and **without being advised that he could leave the room if he wished.** He confessed to two residential burglaries. His motion to suppress his statements on *Miranda* grounds was denied, the North Carolina courts holding that J.D.B.'s age was not relevant. He appealed this ruling.

The U.S. Supreme Court reversed. The 5-4 court majority said that a child's age bears on his perception of whether or not he would consider himself to be under arrest-like restraint, and should therefore be taken into account by courts when ruling on *Miranda* issues:

"[W]e hold that so long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is

consistent with the objective nature of [the "custody"] test. **This is not to say that a child's age will be a determinative, or even a significant, factor in every case.**" *J.D.B. v. North Carolina* (2011) 564 U.S. ___, WL 2369508.

The court noted the unique aspects of schoolhouse questioning: "[T]he effect of the schoolhouse setting cannot be disentangled from the identity of the person questioned. A student — whose presence at school is compulsory and whose disobedience at school is cause for disciplinary action — is in a far different position than [an adult]. Without asking whether the person 'questioned in school' is a minor, the coercive effect of the schoolhouse setting is unknowable."

The court did not hold that J.D.B. was in custody — merely that his age and other "relevant circumstances" (apparently including the schoolhouse setting) should be considered:

"The question remains whether J.D.B. was in custody when police interrogated him. We remand for the state courts to address that question, this time taking account of all of the relevant circumstances of the interrogation, including J.D.B.'s age at the time."

Future appellate decisions must establish the extent to which *J.D.B.* applies, if it does, outside the "coercive schoolhouse setting." However, the court cited two of its prior decisions, *Oregon v. Mathiason* (1977) 429 U.S. 492 and *California v. Beheler* (1983) 463 U.S. 1121, which held that even within the more-coercive environment of a police station, a "*Beheler* admonition" helps dispel perceptions of "custody" ("You're not under arrest. You're free to leave whenever you wish."). A schoolhouse arguably being no more inherently coercive than a police station, it would seem sufficient that when seeking to interrogate a student at school, officers should ask school officials (not uniformed officers) to summon the student for brief, one-on-one questioning, and give a *Beheler* admonition before any interrogation. However, **if the student must remain involuntarily for questioning, a *Miranda* warning is advisable.**

Bottom line: A juvenile's age is now a factor for *Miranda* "custody" analysis. (Bold emphasis added and citations omitted in quoted material.)

For information on prosecutorial and law enforcement training offered by the Los Angeles County District Attorney's Criminal Justice Institute, please visit <http://da.lacounty.gov/CJI>.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.



Resolution to Oppose SB 446

Continued from page 1

SB 446 passed the full Senate on May 31, 2011, and was sent to the Assembly for referral. As of the date of publication of this issue of *Be On the Lookout*, a hearing has not been scheduled.

Resolution

The Rosendahl-Hahn resolution, introduced on June 1, 2011, notes that SB 446 would state the intent of the state Legislature to establish an Ontario International Authority and to require the transfer of management and operational control of LA/ONT from the City of Los Angeles to the Authority.

The resolution further notes that the City of Los Angeles and LAWA currently are in good faith negotiations regarding the possible transfer of management and/or operational control of LA/ONT to the City of Ontario or to another body. Several major issues must be addressed and resolved in considering such a transfer, including the future status of 300 City of Los Angeles employees who currently work at LA/ONT, and a guarantee that any such transfer will satisfactorily compensate LAWA for its past investments in LA/ONT.

The resolution also suggests that the mandatory transfer of LA/ONT operations, as proposed in SB 446 as introduced, may not be legally achievable through state legislation, given that the City of Los Angeles is a self-governing charter city and given that federal laws and regulations preempt state control of airports and their operations.

The resolution concludes that any state legislation that would prescribe the transfer of ownership and/or management and operational control of LA/ONT at this time is premature and inappropriate. The resolution therefore proposes that the City oppose SB 446 and any legislation that would unilaterally mandate the transfer of LA/ONT from the City of Los Angeles to any other city, county or other governmental agency or body.

On the CLA's recommendation, City Council adopted the resolution and included opposition to SB 446 in the City's 2011-2012 State Legislative Program.

Los Angeles City Charter

Sec. 636. Airport Police.

The Airport Police shall remain under the independent and autonomous control of the Department of Airports.

au·ton·o·mous

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– adj

Definition of AUTONOMOUS

- 1 of, relating to, or marked by autonomy.
- 2 a: having the right or power of self-government.
b: undertaken or carried on without outside control: self-contained.
- 3 a: existing or capable of existing independently.
b: responding, reacting or developing independently of the whole.



Los Angeles Airport Peace Officers Association
6080 Center Drive - 6th Floor
Los Angeles, CA 90045-9209