

Effects of Police Reform on Civil Litigation

AB 392- changed use of force in Penal Code §835a to require “necessary” but that means “required.”

AB 490-positional asphyxia-officers need to be able to put a knee on suspect’s back to handcuff

AB 1506-DOJ now investigates all Officer Involved Shootings where the suspect is “unarmed.”

SB 2-amended Bane Act to allow Wrongful Death actions which includes attorney’s fees.

SB 447-new 4 year program to allow pre-death pain & suffering damages in wrongful death actions

--Valenzuela v. City of Anaheim:

California's prohibition against recovery for decedent's loss of life did not apply in § 1983 action. Valenzuela v. City of Anaheim, 6 F4th 1098 (9th Cir. 2021)

In *Valenzuela*, a divided 2-1 panel of the 9th Cir. held that California's prohibition on post-death “hedonic” damages awards, which purportedly compensate the deceased for the pleasure he would have taken from his life had he lived, is inconsistent with the compensation and deterrence goals of 42 USC §1983.

The panel's holding is foreclosed by the Supreme Court precedent of *Robertson v. Wegmann*, 436 US 584, 98 S.Ct. 1991 (1978) (holding that a state law that totally eliminated a §1983 claim did not violate the compensation and deterrence goals of §1983), relies on an incorrect application of 42 USC §1988, which governs damages in §1983 cases, and conflicts with the tort law schemes of the 44 other states which ban post-death “hedonic” damages. For these reasons, *Valenzuela* should have been given en banc review. Valenzuela v. City of Anaheim, 29 F4th 1093 (9th Cir. 2022) (dissent by 11 judges)

SB 1421-requires transparency on Officer Involved Shootings investigations under the Public Records Act.

Police Reform in Anaheim: 8 Can’t Wait.