

# **LAWS ON POLICE PROTECTION**

## **SOVEREIGN IMMUNITY PRINCIPLE**

Every jurisdiction in the country recognizes that it is impossible for the police and other public authorities to provide adequate protection to any individual. Therefore, they developed a legal principle that government is not liable for failure to provide adequate protection. They can only attempt to provide some level of protection to the community as a whole. Most states (approximately 37) have sovereign immunity statutes stating that government is not responsible for failure to provide police protection to any individual. The remaining jurisdictions have precedent cases which permanently established the same legal principles. These statutes and precedents are consistently cited by the courts to dismiss suits by individuals for government failure to provide adequate protection.

## **SPECIFIC EXAMPLES**

California has enacted, and relies upon, numerous statutes providing complete government immunity for any failure to provide adequate protection. The following sections of the California Government Code, cited verbatim, prove that California legally acknowledges these principles. The City of Long Beach, for example, dismissed without trial all of the 400 plus suits brought against it for failure to provide police protection during the **1992 Los Angeles Riots**. Another example is the **Maria Navarro case** (8/27/89, 10:35 p.m., East L.A.), wherein the police failed to respond to repeated 911 emergency calls. In that case, Maria Delia Navarro, two aunts, and a friend were murdered, and two guests were wounded at her 27th birthday party, despite the fact that police had at least fifteen minutes advance notice to respond before the murderer arrived. Her wrongful death suit was dismissed without trial in accord with the provisions of **§ 845**.

## **NO LIABILITY FOR ISSUING LICENSES**

Note that **§ 821.2** applies to any type of license, including licenses to carry concealed weapons (CCW licenses). The same is true of **§ 818.4** (not listed) which is identical to **§ 821.2** except that it applies to a public entity rather than a public employee. Note that **§ 820.2** applies to a Police Chief exercising his discretion under Penal Code **§ 12050** to issue CCW licenses.

This information has been researched and provided by the **Firearms Education Institute** P.O. Box 2193, El Segundo, CA 90245, (310) 322-7244. WEB: **www.FEInet.Org**

### **1) § 845. Failure to provide police protection**

Neither a public entity nor a public employee is liable for failure to establish a police department or otherwise provide police protection service or, if police protection service is provided, for failure to provide sufficient police protection service.

### **2) § 846. Failure to make arrest or to retain person arrested in custody**

Neither a public entity nor a public employee is liable for injury caused by the failure to make an arrest or by the failure to retain an arrested person in custody.

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3) **§ 845.2. Failure to provide prison, jail or correctional facilities**

Except as provided in Chapter 2 (commencing with Section 830), neither a public entity nor a public employee is liable for failure to provide a prison, jail or penal or correctional facility or, if such facility is provided, for failure to provide sufficient equipment, personnel or facilities therein.

4) **§ 845.8. Parole or release of prisoner; escape of prisoners**

Neither a public entity nor a public employee is liable for:

(a) Any injury resulting from determining whether to parole or release a prisoner or from determining the terms and conditions of his parole or release or from determining whether to revoke his parole or release.

(b) Any injury caused by:

- (1) An escaping or escaped prisoner;
- (2) An escaping or escaped arrested person; or
- (3) A person resisting arrest.

5) **§ 820.9. Mayors, members of local public entities, boards, commissions and advisory bodies not vicariously liable for injuries caused by public entity**

Members of city councils, mayors, members of boards of supervisors, members of school boards, members of governing boards of other local public entities, members of locally appointed boards and commissions, and members of locally appointed or elected advisory bodies are not vicariously liable for injuries caused by the act or omission of the public entity or advisory body. Nothing in this section exonerates an official from liability for injury caused by that individual's own wrongful conduct. Nothing in this section affects the immunity of any other public official.

6) **§ 821.2. Issuance, denial, suspension or revocation of permit, license, etc.**

A public employee is not liable for an injury caused by his issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where he is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked.

7) **§ 820.2. Discretionary acts**

Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused.

8) **§ 820.6. Acting under unconstitutional, invalid or inapplicable enactments**

If a public employee acts in good faith, without malice, and under the apparent authority of an enactment that is unconstitutional, invalid or inapplicable, he is not liable for an injury caused thereby except to the extent that he would have been liable had the enactment been constitutional, valid and applicable.