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## **COURT URGED TO PROVIDE ACCESS TO ARRESTEE INFORMATION**

***(LAPD v. United Reporting Publishing Corp., No. 98-678)***

The Washington Legal Foundation (WLF) yesterday urged the Supreme Court to order that the names and addresses of those arrested be made available to the public. In a brief filed in *Los Angeles Police Dep't v. United Reporting Publishing Corp.*, WLF argued that police departments act improperly when they release arrestee information to a select group (such as newspapers) without making the information generally available.

The case involves a challenge to a California statute that provides that the names and addresses of arrestees are to be made available to those (such as newspapers and private investigators) wishing to use the information for scholarly, journalistic, political, governmental, or investigative purposes. Those receiving the information, however, must swear that they will not use the information for commercial purposes. WLF argues that those restrictions on the use of information violate the First Amendment.

"Incredibly, California seeks to justify its law as a means of protecting the privacy of those it has just arrested," WLF Chief Counsel Richard Samp said after filing WLF's brief. "But the law freely permits newspapers to report the names and addresses of those arrested; it is hard to imagine a greater intrusion than that on one's privacy. In any event, we find it hard to have sympathy for the privacy rights of those arrested for committing a felony," Samp said.

The California law is being challenged by companies that wish to sell arrestees' names and addresses to anyone who might have an interest in contacting the arrestee. Potential purchasers include, for example, driver education schools offering classes to those charged with reckless driving, attorneys offering assistance in connection with court proceedings, and religious officials offering pastoral support.

In its brief, WLF argued that the First Amendment does not permit the government to impose greater restrictions on commercial speech than on non-commercial speech where the asserted justifications for the restrictions apply just as

strongly to the latter as to the former. WLF noted that California's only justification for prohibiting commercial use of arrestee information is to protect the privacy of those arrested; it claims that some arrestees might be upset if they receive numerous solicitation letters following their arrest. But, WLF argued, that rationale does not justify discriminating against commercial uses of arrest information, because arrestees' privacy interests are far more threatened by noncommercial uses of the information (e.g., printing the names and addresses of all arrestees in the newspaper) than by commercial uses.

WLF also argued that there is no evidence that most arrestees would view occasional solicitation letters as an invasion of their privacy. Many likely would welcome receiving information regarding services available to them. WLF argued that California was stacking the deck against criminal defendants by forcing them to defend themselves in court and at the same time denying them access to information about available legal services.

WLF filed its brief with the pro bono assistance of David H. Remes of the Washington, D.C. law firm of Covington & Burling.

The Washington Legal Foundation is a public interest law and policy center with supporters in all 50 states. It devotes a significant portion of its resources to protecting the rights of the business community from overly intrusive government regulations.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302.