

August 7, 2023

Via Electronic Filing

Chief Justice Patricia Guerrero and Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, CA 94102-4797

Re: *Housley v. Los Angeles Times*, No: S281005

Dear Chief Justice Guerrero and Associate Justices:

Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) & the Brady Center to Prevent Gun Violence (“Brady”) respectfully submit this letter in support of the above-referenced petition. *See* California Rules of Court Rule 8.500(g).

Housley presents a compelling and recurring issue that has far-reaching policy implications for the growing number of Californians who have endured gun violence, especially mass shootings. Failing to grant review in this case will greatly harm the privacy interests of surviving families of mass shootings, whose losses are already marked by intense public scrutiny and life-changing trauma. Contrary to respondents’ assertions, non-disclosure of the decedents’ autopsy records serves the public interest by preventing additional tragedies and continual re-traumatization of gun violence survivors. For these reasons, the Court should grant the petition for review.

I. Statement of Interest

Giffords Law Center¹ is a nonprofit policy organization serving lawmakers, advocates, legal professionals, gun violence survivors, and others who seek to reduce gun violence and improve public safety. Brady is the nation’s most longstanding nonpartisan, nonprofit organization dedicated to reducing gun violence through education, research, and legal advocacy. Giffords Law Center and Brady have a strong interest in ensuring that (1) the privacy interests of mass shooting victims are protected and (2) the public interest in preventing further harm from gun violence is properly considered and effectuated.

¹ Giffords Law Center previously participated as *amicus curiae* in this case. Brief for Giffords Law Center as Amicus Curiae in Support of Respondents, *Los Angeles Times v. Housley*, No. B310585 (Cal. Ct. App. Oct. 5, 2021); *see also* Application for Permission to File Brief of Giffords Law Center as Amicus Curiae in Support of Appellants, *Los Angeles Times v. Housley*, No. B322230 (Cal. Ct. App. Nov. 30, 2022).

II. Media Attention Retraumatizes Surviving Families

Losing a family member to a mass shooting is life-altering. Because of the violent and sudden nature of the loss that surviving families experience, their bereavement is often characterized as “traumatic grief,” where “significant trauma symptoms [] interfere with typical grief responses”² and are “associated with a greater risk of developing adverse mental health outcomes.”³ Furthermore, studies analyzing secondary traumatization after mass shootings have found that many in the broader community also develop PTSD due to the violence.⁴

Significant media attention can exacerbate traumatic grief. Because of the horrific violence and the “commodification of crime news,”⁵ mass shootings garner widespread coverage.⁶ This coverage is aggressive, as underscored by the sheer number of responding journalists and their conduct within an affected community. For instance, in the aftermath of the Virginia Tech shooting in 2007, media outlets created “one of the [densest] media sites of all time,” equipped with “more than 600 reporters [and] nearly five acres of satellite trucks” at the university.⁷ One professional journalist, herself a survivor of the Capital Gazette newspaper shooting, has lamented her re-traumatizing treatment by the media after her victimization.⁸ Moreover, a recent study demonstrated that a majority of journalists agree that coverage of mass shootings is marked by “parachute journalism” and sensationalism.⁹ Notwithstanding growing evidence regarding the

² JUDITH A. COHEN ET AL., TREATING TRAUMA AND TRAUMATIC GRIEF IN CHILDREN AND ADOLESCENTS 21 (2017).

³ Carina Heeke et al., *A Systematic Review of Meta-Analysis of Correlates of Prolonged Grief Disorder in Adults Exposed to Violent Loss*, 8 EUROPEAN J. PSYCHOTRAUMATOLOGY 1, 2 (2017).

⁴ See, e.g., Rebecca G. Cowan et al., *Supporting Survivors of Public Mass Shootings*, 14 J. SOCIAL, BEHAVIORAL, & HEALTH SCIENCES 169, 171 (2020); Salma M. Abdalla et al., *Mitigating the mental health consequences of mass shootings: An in-silico experiment*, 51 THE LANCET 1, 1 (2022).

⁵ Jaclyn Schildkraut et al., *Mass Shootings and the Media: Why All Events Are Not Created Equal*, 41 J. CRIME AND JUST. 223, 225 (2018).

⁶ See *id.* at 237.

⁷ See Nicole Smith Dahmen et al., *Covering Mass Shootings: Journalists’ perceptions of coverage and factors influencing attitudes*, JOURNALISM PRAC. 1, 2 (2017).

⁸ Selene San Felice, *I survived a mass shooting. Here’s my advice to other journalists*, POYNTER INSTITUTE (Dec. 19, 2019), <https://www.poynter.org/business-work/2019/i-survived-a-mass-shooting-heres-my-advice-to-other-journalists/>.

⁹ See Dahmen, *supra* note 7, at 9.

detrimental influence of such aggressive reporting, outlets fail to alter their coverage,¹⁰ with some even insisting on increased sensationalism.¹¹

Beyond media scrutiny, other forms of public attention also re-traumatize survivors. After mass shootings, there are complex and multi-agency responses across varying jurisdictions¹²; there is a dramatic influx of human and capital resources¹³; and there are public debates about appropriate policy responses. An egregious form of stigmatization, as mentioned by the court of appeals in this case,¹⁴ is that surviving families are routinely subject to abuse that casts doubt upon the veracity of their experiences, including appalling accusations that they are crisis actors advancing policy objectives.¹⁵

A fulsome evaluation of the harms suffered by families and communities demonstrates why the trial court’s comparison between the “unsettling effect[s]” of autopsy records and autopsy photographs is misguided.¹⁶ Here, the release of autopsy records will no doubt worsen existing traumatic grief,¹⁷ and likely reignite the media’s already-intense coverage. By contrast, non-disclosure of the autopsy records would serve other mass shooting survivors, gun violence survivors, and the broader public by preventing further traumatization.

¹⁰ *See id.* at 3; 10.

¹¹ After the Robb Elementary School shooting in Uvalde, Texas, David Boardman—the former executive editor of the *Seattle Times*—stated “It’s time...to show what a slaughtered 7-year-old looks like.” Charlotte Klein, “*We Cannot Sanitize These Killings*”: *News Media Considers Breaking Grimly Routine Coverage of Mass Shootings*, CONDE NAST (May 26, 2022), <https://www.vanityfair.com/news/2022/05/news-media-considers-breaking-grimly-routine-coverage-of-mass-shootings>.

¹² *See* Patrick Melmer et al., *Mass Casualty Shootings and Emergency Preparedness: A Multidisciplinary Approach for an Unpredictable Event*, 12 J. MULTIDISCIPLINARY HEALTHCARE 1013, 1014 (2019).

¹³ *See* Tom Jackman, *Cash Raised After Mass Shootings Doesn’t Always Go to Victim Families*, THE WASHINGTON POST (July 6, 2022), <https://www.washingtonpost.com/national-security/2022/06/16/mass-shooting-donations-controversy/>.

¹⁴ *Los Angeles Times v. Housley* (Cal. Ct. App., Apr. 6, 2022, No. 2D CIV. B310585) 2022 WL 1024667, at *3–4.

¹⁵ Sam Levin & Lois Beckett, *US gun violence spawns new epidemic: conspiracy theorists harassing victims*, GUARDIAN NEWS & MEDIA LIMITED (Nov. 28, 2017), <https://www.theguardian.com/us-news/2017/nov/28/us-guns-mass-shootings-hoax-conspiracy-theories>.

¹⁶ *Ventura County Deputy Sherriffs’ Association v. County of Ventura* (Cal. Sup. Ct., Aug. 1, 2022, No. 56-2019-00523492-CU-WM-VTA).

¹⁷ Heeke, *supra* note 6, at 3.

III. Non-Disclosure Serves the Public's Interest in Preventing Mass Violence

As mass shootings have proliferated, many major attacks have clustered in time.¹⁸ An expanding body of evidence demonstrates connections between sensational media coverage of shootings and subsequent mass shootings.¹⁹ Indeed, the extensive media coverage of mass shootings incentivizes further violence.²⁰

In California, the Monterey Park and Half Moon Bay shootings form but one grim example of shooting clusters. These shootings took place within three days of one another and claimed the lives of eighteen people. This perverse feedback loop arises because at-risk individuals perceive extensive media coverage as encouragement or validation toward committing their own shooting.²¹ One researcher found that “80% [of shooters] were actively suicidal prior to the shooting,”²² and thus some shooters may feel that violence “is a justifiable response to [] feelings of mistreatment and marginalization” when consuming coverage from other shootings.²³ Others simply wish to gain notoriety and fame for completing an act of mass violence.²⁴ Unfortunately, this fame-seeking behavior means that mass shootings have become more elaborate and deadly, as perpetrators are incentivized to take more lives to increase coverage.²⁵ And despite media’s recognition of the aggressive and sensational nature of mass shooting coverage, most journalists fail to “acknowledge a connection between [their] coverage and [a] contagion effect.”²⁶

¹⁸ See Dahmen, *supra* note 7, at 3.

¹⁹ Nicole Smith Dahmen, *Visually Reporting Mass Shootings: U.S. Newspaper Photographic Coverage of Three Mass School Shootings*, AM. BEHAVIORAL SCIENTIST 62, no. 2, 163–80 (2018), <https://doi.org/10.1177/0002764218756921>.

²⁰ See, e.g., Sherry Towers et al., *Contagion in Mass Killings and School Shootings*, PLOS ONE 10, no. 7 (2015) <https://doi.org/10.1371/journal.pone.0117259>; Dahmen, *supra* note 9, at 3; Lankford, *supra* note 22, at 3; Michael Jetter & Jay K. Walker, *The Effect of Media Coverage on Mass Shootings*, IZA INSTITUTE OF LABOR ECONOMICS 1, 2 (2018).

²¹ See J. Meindl & J. Ivy, *Mass Shootings: The Role of the Media in Promoting Generalized Imitation*, 107 AM. J. PUBLIC HEALTH 368, 369 (2017).

²² Rhitu Chatterjee, *Mass Shootings Can be Contagious, Research Shows*, NATIONAL PUBLIC RADIO (Jan. 24, 2023), <https://www.npr.org/sections/health-shots/2019/08/06/748767807/mass-shootings-can-be-contagious-research-shows>.

²³ Adam Lankford & Eric Madfis, *Don't Name Them, Don't Show Them, But Report Everything Else: A Pragmatic Proposal for Denying Mass Killers the Attention They Seek and Deterring Future Offenders*, AM. BEHAVIORAL SCIENTIST 1, 3 (2017), <https://doi.org/10.1177/0002764217730854>.

²⁴ *Id.* at 2.

²⁵ *Id.* at 3.

²⁶ See Dahmen, *supra* note 7, at 16.

IV. Conclusion

Housley v. Los Angeles Times raises significant issues regarding familial privacy interests: whether surviving families of mass shootings enjoy a privacy right in the autopsy records of their loved ones (who often were their children). The most basic respect for human dignity compels the conclusion that these privacy interests should be afforded the utmost consideration. These surviving families already endure traumatic grief alongside the intense publicization and politicization of their loss. They are surely entitled to privacy protections that minimize further traumatization. Likewise, the Court should consider the public interests that are served by nondisclosure of mass shooting decedents' autopsies, including the prevention of additional mass violence. The undersigned strongly urge this Court to grant the instant petition and set this case for plenary consideration.

Respectfully submitted,



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1 **PROOF OF SERVICE**

2 I am employed in the City and County of San Francisco. I am over the age of 18 and not a party
3 to the within action. I am employed by GIFFORDS Law Center and my business address is 268
4 Bush St., #555, San Francisco, CA 94104.

5 On August 7, 2023, I served the within LETTER DATED AUGUST 7, 2023, on:

6 **SEE ATTACHED MAILING LIST**

7 **by U.S. mail.** I enclosed a true copy of each of said documents in a sealed envelope
8 addressed to the above-named person(s) as indicated above, and placed the envelope for
9 collection and mailing following ordinary business practices. I am readily familiar with
10 this business’s practice for collecting and processing correspondence for mailing with the
11 United States Postal Service. On the same day that correspondence is placed for collection
12 and mailing, it is deposited in the ordinary course of business with the United States
13 Postal Service with postage fully paid.

14 **by deposit in the United States mail.** I enclosed a true copy of each of said documents in
15 a sealed envelope addressed to the above-named person(s) as indicated above, and
16 deposited the envelope in the United States Postal Service mailbox with postage thereon
17 fully paid, at Ventura, California.

18 **by overnight delivery.** I enclosed a true copy of each of said documents in a sealed
19 envelope or package provided by an overnight delivery carrier addressed to the above-
20 named person(s) as indicated above, with delivery fees paid or provided for. I placed the
21 envelope or package for collection and overnight delivery at an office or a regularly
22 maintained drop box of the overnight delivery carrier.

23 **by fax transmission.** Based on an agreement of the parties to accept service by fax
24 transmission, I faxed said documents from fax number (805) 654-2185 to the above-
25 named person(s) at the fax number(s) as indicated above. The transmission was reported
26 as complete and without error. A copy of said report is attached.

by electronic service. Based on a court order, a court rule or an agreement of the parties
to accept electronic service, I electronically served said documents from to the above-
named person(s) at the electronic address(es) as indicated above.

by personal service. I delivered said documents by hand enclosed in a sealed envelope
addressed to the above-named person(s) as indicated above in the manner provided in
Code of Civil Procedure section 1011 or the Federal Rules of Civil Procedure, rule 5(b).

(STATE) I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed on August 7, 2023, at Brooklyn, NY.

Esther Sanchez-Gomez

Document received by the CA Supreme Court.

