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TRAINING BULLETIN

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THE *DAHLIA* CASE: POLICE WHISTLEBLOWERS AND THE FIRST AMENDMENT IN THE NINTH CIRCUIT

*U.S. Supreme Court Declines To Hear City's Appeal
In Retaliation Case*

by
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On February 24, 2014, the U.S. Supreme Court denied the City of Burbank's petition to grant hearing (certiorari) in *City of Burbank v. Angelo Dahlia*, No. 10-55978. Thus, the Ninth Circuit's *en banc* (9-2) decision in *Dahlia v. Rodriguez* 689 F.3d 1094 (9th Cir. 2012) becomes the law of the Circuit and a powerful precedent elsewhere in the country in understanding *how* and *when* the First Amendment protects police officers who make good faith reports about police corruption existing within their own agencies, from retaliation by their employers.

In 2006, the U.S. Supreme Court backpedaled on 38 years of federal courts' First

Amendment protection for public employee "protected speech" in *Garcetti v. Ceballos*, 547 U.S. 410 (2006). Since 1968 (*Pickering v. Board of Education*, 391 U.S. 563 [1968]) when the Court first embraced the principle that a public employee could not be punished or retaliated against for speech about a matter of important public concern, there followed an unbroken line of Supreme Court and federal appellate court decisions that hued faithfully to the *Pickering* principles. But in *Garcetti*, the Court took public employee First Amendment law in a new direction, and in the process, gutted the constitutional protection for "protected speech" that occurs within the employee's core job duties. According to

"Defending Those Who Protect Others"