

Federal Court Rules Phoenix Police Officers Can Be Forced to give DNA Samples without Warrant

(Washington, DC) – Judicial Watch announced today a decision by the United States District Court for the District of Arizona dismissing a lawsuit by Phoenix police officers Daniel Bill, Bryan Hanania, and Michael Malpass, who were forced to give DNA samples in the “[Death Unknown](#)” case of slain police officer Sean Drenth.

In December 2012, Judicial Watch filed a federal civil rights lawsuit in the United States District Court for the District of Arizona on behalf of Bill, Hanania, and Malpass. The lawsuit alleged that Phoenix Police Department (PPD) officers forced the plaintiffs to surrender their DNA in violation of their Fourth and Fourteenth Amendment rights ([Bill, et al. v. Brewer, et al.](#) (No. 2:12-cv-02613)). In her [opinion](#) dismissing the lawsuit, the Honorable Susan R. Bolton wrote, “... the Court is not convinced that under either the Arizona statute or the Fourth Amendment of the United States Constitution, Plaintiffs had to be suspected of committing the crime in order to be searched without a warrant.”

In response, Judicial Watch President Tom Fitton said he was “taken aback” by the court ruling. “When one considers that the ‘search’ required the officers to open their mouths and have them swabbed for a DNA sample, the District Court’s decision seems rather extraordinary – especially in light of the Supreme Court decision recently requiring search warrants for most alcohol blood tests in DUI investigations,” Fitton said.

“Not only were officers Bill, Hanania, and Malpass not ‘suspected of committing a crime,’ they were in the very process of actually trying to solve one,” Fitton added.

Each of the officers had responded to an “officer down” call the night of October 18, 2010, but none of them came into direct contact with the slain officer, Sergeant Sean Drenth, his vehicle, or weapons. Unknown male DNA was later found on the vehicle and on one of the weapons. The PPD repeatedly stated that none of the plaintiffs were suspects in Sergeant Drenth’s death.

Subsequent to searches of the area adjacent to the body of the slain sergeant, the teams in which Bill, Hanania, and Malpass were included provided detailed reports as to their actions and whereabouts throughout the evening of October 18. According to the complaint filed by Judicial Watch, “These reports were readily available to PPD management.”

Beginning on December 3, 2010, the PPD began requesting DNA samples “for exclusionary purposes” from all PPD officers at the crime scene, including officers Bill, Hanania, and Malpass. In April 2011, PPD employees, including the plaintiffs, who had declined to provide DNA, were delivered a memo requesting immediate compliance. That memo was presented to Officers Bill, Hanania, and Malpass on April 18, 2011, at which time each of the officers again informed the investigating detectives of their specific locations and activities on the night of Sgt. Drenth’s death.

On August 8, 2011, the PPD requested and received orders from the Maricopa County Superior Court to detain officers Bill, Hanania, and Malpass in order to take samples of their DNA. One week later, the PPD detained Bill, Hanania, and Malpass and obtained the DNA samples against their will.