



TRAINING

SPECIAL DUTY / SPECIAL RELATIONSHIP

Special Relationship Doctrine – Duty to Protect

Law enforcement generally owes a duty to the public at large, not to specific individuals.

In **DeShaney v. Winnebago County**, the U.S. Supreme Court held that government generally has **no constitutional duty to protect a person from private violence** unless the government has restrained the person's liberty or created a qualifying special relationship.

A "special relationship" may be created when an agency's actions or assurances cause a person to reasonably rely on police protection.

Once a special relationship exists, a heightened duty to act may arise.

Failure to provide promised protection can increase agency exposure to negligence and wrongful death claims.

Common factors courts examine include:

- Direct Specific assurances or promises of protection.

- Contact between officers and the individual.

- Knowledge of a particularized threat or danger.

- Reasonable reliance by the individual on police actions or statements.

In California, courts have emphasized that police are generally **not in a special relationship with all citizens in their jurisdiction**, even when officers know of risk to a potential victim.

Officers should avoid making guarantees of safety or protection that cannot be ensured.

Communications should be factual, accurate, and consistent with agency capabilities.

Documentation of warnings, referrals, safety planning, and enforcement actions is critical.

Supervisory consultation is recommended when managing high-risk victims, threats, or ongoing protection requests.

Special relationship claims frequently arise in cases involving domestic violence, stalking, restraining orders, threats, vulnerable persons, and repeated requests for assistance.

Risk Management Considerations

Avoid promising safety or guaranteed protection. Use clear language: “We will respond consistent with policy and available resources,” not “We will keep you safe.”

Do not create unrealistic expectations regarding police protection.

Clearly explain available resources, limitations, and response procedures.

Follow agency policy consistently when handling threats or protective orders.

Thoroughly document all contacts, advisements, and protective measures offered.

When a specific threat is identified, take reasonable and timely action consistent with policy and law.

Recognize that well-intentioned assurances may create legal obligations beyond those otherwise imposed by law.

KEY TAKEAWAY

A special relationship is often created not by what officers do, **but by what officers say, promise or imply.**

Accurate communication, appropriate action, and thorough documentation are essential to managing both public safety expectations and potential liability.