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SAN FRANCISCO

## Student argues for shield law protection

June 13, 2009 | By Jaxon Van Derbeken, Chronicle Staff Writer

A judge heard arguments Friday about whether San Francisco police are entitled to seize photos from a college student whose lawyers say was acting as a freelance journalist when he took pictures at a Bayview neighborhood slaying.

The 22-year-old San Francisco State University student has refused to be interviewed by police about what he saw April 17 when Norris Bennett, 21, was gunned down during a dice game at Griffith Street and Navy Road.

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The student says he is covered by California's shield law, which allows journalists to keep sources confidential and to withhold from law enforcement unpublished information they obtain during reporting.

In May, police obtained a search warrant and seized photos and other items from his apartment. The student, who was with Bennett to gather material for a project on life in the Bayview, is demanding that the search warrant be quashed and the items returned to him.

The student has also said he fears retaliation if he cooperates with police, said his attorneys.

On Friday, Judge Tomar Mason of San Francisco Superior Court sealed the student's identity and other information at the request of his lawyers. An attorney for the city did not object. The Chronicle has withheld the student's name at the request of his lawyers.

Attorneys for the student say their client was acting as a freelancer, and that courts have ruled that freelancers are protected under the shield law, just as journalists who work for media organizations are.

"I don't think we'd be here if the police executed a search warrant on The San Francisco Chronicle or on a CNN van," said one of the student's attorneys, Michael Ng.

"Our state has given one of the most broad protections available to journalists," Ng said. "The people of the state of California have decided to draw a line around the newsgathering process, so we don't have to decide these matters on a case-by-case basis."

Ng said his client was reporting in an area of the city that isn't often covered, and that such coverage increasingly is being done by freelance journalists as media companies cut costs. He added his client was trying to shop the project to the Wall Street Journal and Bay Area News Group, publisher of the San Jose Mercury, Oakland Tribune and Contra Costa Times, but acknowledged that no media outlet had agreed to a deal.

A lawyer for the district attorney's office, Laura Zunino, argued that simply hoping to sell a project did not qualify someone for coverage under the shield law.

"He was working on a school project," she said. Extending the shield law to him, she said, would "in essence, eviscerate the rule."

Zunino added that the student lacked an established freelance relationship with a media outlet that courts have recognized as a condition for protection under the shield law. Ng responded that freelancers almost always have to gather information before reaching an agreement to sell their stories.

Judge Mason appeared skeptical of the city's contention that a freelance journalist had to have a relationship with a media company to qualify for shield-law protection.

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Zunino said no, but stressed that the issue was the "degree of professional employment or association." The San Francisco State student, she said, "simply does not have that."

Mason did not rule, and set June 24 to hear further arguments in the matter.

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