

## Collondrez v. City of Rio Vista

Court of Appeal, First Appellate District,  
Division Three

Filed 3/16/2021

### PERSONNEL RECORDS DISCLOSED IN SPITE OF AGREEMENT TO KEEP CONFIDENTIAL

#### CAN YOU KEEP PERSONNEL RECORDS CONFIDENTIAL WITH A SETTLEMENT AGREEMENT? NO.

Former City of Rio Vista Police Officer John Collondrez sued the City of Rio Vista and the Police Chief because the City had disclosed information from his personnel file in response to a public records request. The City moved to strike the complaint, which was granted, in part, and both parties appealed.

#### Background

In August 2017, then-Officer Collondrez was the subject of an IA investigation which found he falsified his report related to a hit and run accident, arrested a suspect without probable cause, used excessive force when he applied a carotid hold on the suspect, and failed to request medical assistance or inform the jail that he had applied the carotid hold. In October 2017, the Chief issued a Notice of Intent to terminate his employment for violating personnel rules,

misconduct, dishonesty, and making false statements. Collondrez appealed and before the matter proceeded to hearing, the parties settled the case, paying Collondrez \$35,000 and accepting his resignation. The settlement agreement stated the “City will maintain all disciplinary notices and reports” and only release “as required by law” or if ordered by a court. The agreement also required the City to give Collondrez notice of any request to release the records.

#### City Disclosure

Effective January 1, 2019, Penal Code §832.7 was amended to require the disclosure of police officer personnel records involving sustained findings of dishonesty or making false reports. The City received a CPRA requests from the media for records related to Collondrez’s disciplinary action. The City produced the records from the personnel file and gave Collondrez prior notice of some, but not all, of the disclosures. Various media outlets reported on the August 2017 incident, the misconduct allegations, and the internal investigation. One article reported that Collondrez’ current employer, Uber, would “take appropriate action” because of concern about the incident. In February 2019, Uber fired Collondrez, as a result of the media reports.

Collondrez sued the City and the Chief for breach of contract, invasion of privacy, interference with his employment, and emotional distress.

The trial court found, that while Collondrez had requested a Skelly hearing, ... no ‘sustained finding’ was issued because Colondrez and the

City settled the case before the administrative appeal.

### Court of Appeal Decision

The Court of Appeal found Penal Code §832.7 (b)(1)(C) requires public disclosure of records related to “an incident in which a **sustained finding** was made by any law enforcement agency...**of dishonesty** ... relating to the reporting, investigation, or prosecution of a crime....” A sustained finding means the **final determination** by the agency, hearing officer, or arbitrator, following an investigation and **opportunity** for an administrative appeal.

In reversing the judgment, the Court of Appeal noted that the Legislature specified there must be an opportunity for an administrative appeal before records are subject to release, and found the legislative intent of Senate Bill (SB) 1421 was to give the public “the right to know all about serious police misconduct”. The trial court’s interpretation would permit officers that have committed serious misconduct to avoid the “right to know” by deciding not to appeal the discipline or, as here, by settling or withdrawing an appeal before its conclusion.

Since Collondrez had the “opportunity” for an appeal, which he declined when he settled the matter, the City was obligated to disclose the personnel information.

Collondrez also contended that, even if there were a “sustained finding” of dishonesty, the City unlawfully failed to redact information in the investigation that was unrelated to the dishonesty finding. He asserted the City should

have withheld summaries of his statements to investigators and information related to the arrest, inappropriate use of force, and failure to secure medical care for the suspect. The Court disagreed, finding the agency may redact records **only** for specified purposes, like to remove personal data, preserve the anonymity of complainants, protect confidential medical or financial information. None of those circumstances were present in this matter.

### Conclusion

When the settlement, in this case, was drafted and agreed upon, SB 1421 was not law. Because of this case, we now know that the once common practice in termination cases, of resignation prior to the administrative hearing and the sealing of personnel records, will ***not be effective to stop disclosure of sustained findings under SB 1421*** when a CPRA request is made. We also know that the **entire investigation report** will be disclosed, not just those portions that relate to the types of misconduct listed in SB 1421. Which is another reason why it is imperative, when discipline is involved, to be represented by an attorney experienced in this area of the law.

### Stay Safe and Stay Informed!

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