Filed 9/16/04

CERTIFIED FOR PUBLICATION

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE COPLEY PRESS, INC., Petitioner, v. THE SUPERIOR COURT OF SAN DIEGO COUNTY, Respondent;	D042251 (San Diego County Super. Ct. No. GIC807922)
COUNTY OF SAN DIEGO et al., Real Parties in Interest.	

Petition for Writ of Mandate from an order of the Superior Court of San Diego County, Wayne Peterson, Judge. Petition denied in part and granted in part.

Gray Cary Ware & Freidenrich, Guylyn R. Cummins; Harold W. Fuson, Jr.; Judith L. Fanshaw; and Scott A. Wahrenbrock for Petitioner.

Casey Gwinn, City Attorney, Anita M. Noone, Assistant City Attorney, and James M. Chapin, Deputy City Attorney, for City of San Diego and City of San Diego Civil Service Commission as Amici Curiae on behalf of Petitioner.

No appearance for Respondent.

John J. Sansone, County Counsel, and William H. Songer, Deputy County Counsel, for Real Parties in Interest County of San Diego and San Diego County Civil Service Commission.

Bobbitt & Pinckard and Everett L. Bobbitt for Real Parties in Interest San Diego Deputy Sheriffs' Association and San Diego Police Officers' Association.

Real party in interest County of San Diego Civil Service Commission (CSC) adopted rules providing that if a peace officer does not request the public be admitted to his or her disciplinary appeal hearing held pursuant to Government Code section 3304, subdivision (b)[1] (the appeal hearing), the CSC will close the appeal hearing to the public and conceal the identity of the appealing police officer. Petitioner The Copley Press, Inc., (Copley) challenges the validity of the appeal hearing closure rules. Copley also contends its postappeal proceeding request to the CSC for the identity of the officer involved in the proceeding, transcripts of the appeal proceedings, and the evidence introduced and documents created in connection with the appeal was improperly rejected. The closed appeal hearing rules and denial of Copley's request for information were based on the decision of this court in *San Diego Police Officers Assn. v. City of San Diego Civil Service Com.* (2002) 104 Cal.App.4th 275 (*SDPOA*), which addressed a

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1 All further statutory references are to the Government Code unless otherwise specified.

narrow question of the applicability of Penal Code section 832.7 (section 832.7) in peace officer disciplinary appeal hearings.[2]

I

FACTUAL AND PROCEDURAL BACKGROUND

In early 2003 Copley learned that a disciplinary appeal by a peace officer was scheduled for hearing before the CSC as case No. 2003-0003. However, the CSC agenda stated that "the identity of the peace officer is held confidential per Penal Code section 832.7 [citing *SDPOA*]." Copley learned the peace officer had requested a closed hearing under the CSC's interim rules, which provided that if the peace officer requested a closed appeal hearing the CSC would close the hearing and conceal the identity of the appealing peace officer. The CSC's interim rules were adopted after and in response to the *SDPOA* decision.

Copley appeared before the CSC and moved for access to the appeal hearing but the motion was denied. In March 2003, after the conclusion of the disciplinary appeal, Copley made a series of requests to real parties in interest County of San Diego (County) and the CSC, pursuant to the California Public Records Act (CPRA), seeking materials related to the appeal in case No. 2003-0003. Copley's CPRA request sought documents filed with or submitted to the CSC in connection with Case No. 2003-0003, including

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2 Here, the peace officer demanded a closed hearing rather than an open hearing. (See *Caloca v. County of San Diego* (2002) 102 Cal.App.4th 433, 442-447.) Accordingly, the parties do not address and we do not consider whether an officer who elects an open hearing thereby waives the protections of section 832.7.

documents concerning the officer's termination or discipline; documents created by the CSC in connection with Case No. 2003-0003, including its findings and decision; any documents containing its findings or decision; and any tape recordings made of the appeal hearing. The CSC denied the requests under section 6254, subdivisions (c) and (k). Copley filed a writ petition in superior court, and a complaint for declaratory and injunctive relief, seeking disclosure of the documents and other information sought by Copley's CPRA requests and a declaration that the practice of closing appeal hearings was unlawful. On May 14, 2003, the trial court, relying on *SDPOA*, denied Copley any relief. The trial court's minute order provided: "The Court finds this matter is controlled by the holdings of [SDPOA] and Penal Code sections 832.7 and 832.8."

On May 21, 2003, Copley made a CPRA request to the County and the CSC seeking documents concerning Case No. 2003-0003 that may have been received or created by the CSC after Copley's original requests, including the CSC's findings and decision in Case No. 2003-0003. The CSC thereafter provided various documents to Copley, including the Order for Termination citing the grounds for discipline and an outline of the facts supporting each ground, the hearing officer's recommendation that the CSC accept a Stipulated Agreement regarding disposition of the appeal, and the minutes of the CSC proceedings approving the recommended disposition. The involved peace officer and the Sheriff's Department stipulated the peace officer would withdraw his appeal, voluntarily resign his position, and admit to the factual validity of six of the seven causes underlying the basis for discipline; and the Sheriff's Department would withdraw its termination action against the peace officer and change his exit status to "terminated-

resignation by mutual consent." However, the peace officer's identity was redacted from each of the disclosed documents. Copley then filed this petition for writ of mandate to review the trial court's May 14, 2003 order denying Copley any relief;[3] we issued an order to show cause and held oral argument.

II

ANALYSIS

A. *SDPOA* and Section 3304 Appeal Hearings

In *SDPOA*, this court considered whether the employer's routine practice of introducing a peace officer's personnel records at an appeal hearing open to the public was inconsistent with section 832.7's confidentiality provisions.[4] (*SDPOA, supra*, 104 Cal.App.4th at p. 280.) We concluded section 832.7 made peace officer personnel records confidential regardless of the context in which the employer proposed to disclose those records, and therefore held "employing agencies may not freely disclose these records at public disciplinary appeal hearings if the affected officer asserts an objection." (*Id.* at pp. 287-288.) However, *SDPOA* expressly cautioned that its decision was "limited to the relief sought in the petition, which, in this case, is a declaration that [Penal Code]

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3 A trial court order denying a request for disclosure under the CPRA is reviewable by petition for extraordinary writ addressed to the appellate court. (§ 6259, subd. (c).)

4 Section 832.7, subdivision (a) provides: "Peace officer . . . personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code."

section 832.8 personnel records are confidential in the context of disciplinary appeal hearings." (*SDPOA, supra*, at pp. 287-288.) Other issues raised in the appellate briefs, including whether disciplinary appeal hearings must be closed to the public, were determined to be beyond the scope of the *SDPOA* decision.

Copley contends the issue left open by *SDPOA* is presented here because the CSC has apparently adopted rules providing for closure of an appeal hearing on request of the peace officer, and Copley asserts appeal hearings may not be closed absent individualized hearings and findings under *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178 (*NBC*). Under *NBC*, the public has a presumptive right to attend civil and criminal proceedings, and that right of access may be denied only if the trial court, after notice and hearing, expressly finds: "(i) there exists an overriding interest supporting closure and/or sealing; (ii) there is a substantial probability that the interest will be prejudiced absent closure and/or sealing; (iii) the proposed closure and/or sealing is narrowly tailored to serve the overriding interest; and (iv) there is no less restrictive means of achieving the overriding interest." (*NBC, supra,* 20 Cal.4th at pp. 1217-1218, fns. omitted.) California's Rules of Court also make court records presumptively open (Cal. Rules of Court, rule 243.1(c)), although a court may order these records sealed if it finds (1) there exists an overriding interest that overcomes the right of public access and supports sealing of the record; (2) there is a substantial probability the overriding interest will be prejudiced absent sealing; (3) the proposed sealing is narrowly tailored to serve the overriding interest; and (4) there is no less restrictive means of achieving the overriding interest. (Cal. Rules of Court, rules 243.1(d), 243.2.) From this predicate,

Copley argues, the CSC's rules permitting closure of the appeal hearing when demanded by the peace officer are invalid. The courts have held that the First Amendment embraces a right of public access to criminal trials (See, e.g., *Globe Newspaper Co. v. Superior Court* (1982) 457 U.S. 596 [finding unconstitutional state statute mandating closure of courtrooms during testimony of minor victims in criminal trials]), to civil trials (*NBC, supra,* 20 Cal.4th 1178 [recognizing right of access and applying it to civil proceedings]), and to proceedings related to civil and criminal trials.[5] Copley argues we should hold this right of access extends to *any* quasi-judicial administrative proceeding, and an appeal hearing is a quasi-judicial proceeding because the involved peace officer is entitled to limited due process protections at that hearing. (*SDPOA, supra*, 104 Cal.App.4th at pp. 280-281.)

In this proceeding, the hearing officer apparently recognized closure would be unnecessary to the extent nonconfidential evidence was introduced but, as an administrative reality, the nature of the hearing necessitated the introduction of

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5 See, e.g., *Press-Enterprise Co. v. Superior Court* (1984) 464 U.S. 501 [right of access extends to jury voir dire proceedings]; *Waller v. Georgia* (1984) 467 U.S. 39 [suppression hearings]; *Press-Enterprise Co. v. Superior Court* (1986) 478 U.S. 1 [preliminary hearings]; *United States v. Chagra* (5th Cir. 1983) 701 F.2d 354 [bail hearing]; *In re Charlotte Observer (Div. of Knight Pub. Co.)* (4th Cir. 1989) 882 F.2d 850 [change of venue hearing]; *In re Washington Post Co*. (4th Cir. 1986) 807 F.2d 383 [plea hearing]. The right of access to criminal proceedings has been applied to permit access to transcripts or other records of those proceedings (see, e.g., *Press-Enterprise Co. v. Superior Court, supra,* 464 U.S. 501 [transcripts of voir dire proceeding]; *Copley Press, Inc. v. Superior Court* (1992) 6 Cal.App.4th 106 [court minutes]) and to documents filed in those proceedings. (See, e.g., *Matter of New York Times Co.* (2d Cir. 1987) 828 F.2d 110, 114.)

confidential materials. The hearing officer, rejecting Copley's request to attend the hearing, noted the hearing "would involve argument, discussion and the presentation of evidence concerning peace officer personnel records. This Hearing Officer finds that argument, testimony and documents involving peace officer personnel records or information obtained from such records would be intermingled during the hearing. Such information may not, standing alone, constitute peace officer personnel records, but it would be administratively impracticable to open and close portions of the hearing dependent upon whether at any given moment the question, discussion or testimony involves or does not involve information from peace officer personnel records."

After outlining the rights accorded to officers when disciplinary action is taken, *SDPOA* evaluated the impact of section 832.7's confidentiality provisions on appeal hearings. *SDPOA* first compared the interpretation of the scope of section 832.7 adopted by *Bradshaw v. City of Los Angeles* (1990) 221 Cal.App.3d 908 (*Bradshaw*) with the divergent interpretation adopted by *City of Richmond v. Superior Court* (1995) 32 Cal.App.4th 1430 (*Richmond*) and *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411 (*Hemet*). (*SDPOA, supra,* 104 Cal.App.4th at pp. 281-282.) In *Bradshaw*, the court interpreted section 832.7 to have limited operational import and concluded it applied only to preclude the employer from disclosing peace officer personnel records when those records were sought by a third party in connection with a civil or criminal proceeding. Under this construction, *Bradshaw* concluded section 832.7 did not prohibit the employer's dissemination of a transcript of an appeal hearing because section 832.7 did not apply to disclosures outside the context of third party requests for

records in connection with a civil or criminal proceeding. (*Bradshaw, supra,* 221 Cal.App.3d at pp. 915-920.)

However, the courts in *Richmond* and *Hemet* disagreed with *Bradshaw's* holding that section 832.7 applied only to regulate disclosures by the employer in response to third party discovery motions in criminal or civil actions, and instead interpreted section 832.7 to make peace officer personnel records confidential regardless of the context in which the documents were sought. The court in *Richmond* held a city properly denied a newspaper's request under the CPRA for personnel records pertaining to an investigation of a peace officer because the CPRA, although not specifically exempting those records, provided that a public entity need not disclose records "exempted or prohibited pursuant to federal or state law" (§ 6254, subd. (k)), and *Richmond* held section 832.7 was a state law that "prohibited" disclosure of peace officer personnel records within the meaning of subdivision (k). (*Richmond, supra*, 32 Cal.App.4th at p. 1440.) In *Hemet*, the court similarly engrafted section 832.7 onto the CPRA to hold that a newspaper was not entitled to compel the city to disclose records of an internal police investigation of a peace officer's actions, reasoning that "[l]ogic does not permit the conclusion that information may be 'confidential' for one purpose, yet freely disclosable for another." (*Hemet, supra*, 37 Cal.App.4th at p. 1430.)

SDPOA, agreeing with the rationale of *Richmond* and *Hemet,* concluded it would be unreasonable to construe the various statutes in a fashion that strictly limited the discovery of peace officer personnel records when sought by litigants while simultaneously permitting any member of the public to obtain those same records without

any showing of good cause merely because the employer chose to reveal those records at a public appeal hearing to support its disciplinary action. *SDPOA* reasoned:

> "Section 832.7's protection would be wholly illusory unless that statute is read to establish confidentiality status for personnel records in the context of public disciplinary hearings. Personnel records include all complaints and investigations of complaints, and information that would constitute an 'unwarranted invasion of personal privacy.' ([Pen. Code,] § 832.8.) If a law enforcement agency could—without the consent of the affected officer—present evidence at a public hearing regarding all past complaints and investigations of the complaints to assist in proving a particular personnel action, even if those complaints were later determined to be unfounded, criminal and civil litigants would then have full access to later wade through those records in an attempt to prove their current allegations against the officer. This is precisely what the Legislature sought to avoid by codifying the *Pitchess* procedures and recognizing these restrictions in section 832.7." (*SDPOA, supra*, 104 Cal.App.4th at p. 284.)

In *Davis v. City of San Diego* (2003) 106 Cal.App.4th 893, this court evaluated whether the City could voluntarily release to the media an investigative report, prepared by the Citizens Review Board on Police Practices, concerning a police-involved shooting. After concluding the report was a personnel record within the meaning of Penal Code section 832.8, this court affirmed its adherence to the *SDPOA* analysis that section 832.7 declared the records to be confidential regardless of the context of the proposed disclosure, and therefore the report could not be voluntarily released to the media. (*Id*. at pp. 898-902.)

Copley suggests that, in other contexts, litigants who might otherwise have privacy interests in certain records are deemed to have waived those privacy rights when they tender a claim that necessitates examination of those records, and therefore a peace

officer who appeals a disciplinary action should be deemed to have waived his or her privacy rights in the record. However, this argument presents a peace officer with a Hobson's choice: the peace officer may retain privacy rights at the cost of foregoing appeal rights, or may pursue appeal rights at the cost of sacrificing privacy interests.

Here, the CSC, the hearing officer and trial court all considered that *SDPOA* and its analysis required appeal hearings be closed to the public unless the peace officer requested an open hearing, even though we cautioned in *SDPOA* that the closed hearing issue was beyond the scope of that decision. (*SDPOA, supra,* 104 Cal.App.4th at pp. 287-288.) Copley contends that issue is now before us. However, here there was no appeal hearing; the disciplinary appeal was settled and an agreed disposition entered. Therefore, it is not appropriate to decide whether an appeal hearing may be closed to the public if the peace officer does not request an open hearing because that issue is not before us on this record and we are not inclined to issue an advisory opinion on that issue. (*People v. Slayton* (2001) 26 Cal.4th 1076, 1084.) That issue should be decided in a case in which the peace officer does not request an open appeal hearing and the appeal hearing is closed to the public. *SDPOA* did not address the issue of closed appeal hearings and we decline to address that issue on this record.

B. *SDPOA* and Peace Officer Personnel Records

Although no appeal hearing was held in CSC Case No. 2003-0003, there were disciplinary proceedings in which charges were made, discussions took place, findings were made and a disposition of the charges finalized. Copley was provided in response to its CPRA requests some but not all of these materials and from these materials the

peace officer's identity was redacted. The denial of materials to Copley was based on *SDPOA* and section 6254, subdivisions (c) and (k), and the trial court denied Copley's petition for writ of mandate based on *SDPOA*.

In this case it is appropriate to decide whether the record of the appeal proceedings--which separately qualifies as a public record within the meaning of the CPRA (see § 6252, subds. (b), (e) & (f); *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 824-825)--must be disclosed pursuant to a CPRA request.

The CPRA was intended to safeguard the accountability of government to the public (*San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 771-772), and because the CPRA serves this important public interest by securing public access to government records, the CPRA is construed broadly in favor of access, and exemptions from disclosure are construed narrowly. (*Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 476.) However, the Legislature expressly declared the CPRA was also enacted "mindful of the right of individuals to privacy" (§ 6250), a right expressly recognized by the California Constitution as an "inalienable" right of the citizens of this state. (Cal. Const., art. I, § 1.) In *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, the Supreme Court acknowledged the competing interests of personal privacy and access to public records, stating that: "Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process. However, a narrower but

no less important interest is the privacy of individuals whose personal affairs are recorded in government files." (*Id.* at p. 654, fns. omitted.)

Under the CPRA, when a public agency is presented with an otherwise proper request, the agency must disclose a record unless "the record in question is exempt under express provisions of this chapter or . . . on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (§ 6255.) Thus, the CPRA permits nondisclosure either on the basis of a specific exemption under section 6254 or, absent an express exemption, when the entity satisfies the standards of the *catch-all* provision of section 6255. (*Poway Unified School Dist. v. Superior Court* (1998) 62 Cal.App.4th 1496, 1501.) We consider first potentially applicable express exemptions in section 6254 before considering the applicability of the section 6255 catch-all exemption. (Accord, *Hemet, supra*, 37 Cal.App.4th at pp. 1421-1422.)

Section 6254, subdivision (k) exempts from disclosure "[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege." The courts in *Richmond* and *Hemet* concluded that proper resolution of the tension between the public's right to know under the CPRA and the peace officer's confidentiality interests under section 832.7 required recognition that section 832.7 *was* an exemption under state law within the meaning of section 6254, subdivision (k). (*Richmond, supra*, 32 Cal.App.4th at pp. 1438-1441; *Hemet, supra*, 37 Cal.App.4th at pp. 1442-1431.) Although we agree with *Richmond's* and *Hemet's* conclusions that section 832.7 should be imported into the

CPRA through subdivision (k)'s provisions to preclude citizens from attempting to end-run section 832.7 by the artifice of a CPRA request to obtain a peace officer's personnel records, that conclusion merely imports the *entirety* of section 832.7 into the CPRA and returns us to the question of *whether* disclosure *of the appeal records* are "exempted or prohibited pursuant to" section 832.7. This specific issue was not addressed by *Richmond, Hemet* or *SDPOA*, all of which considered only personnel records as defined in Penal Code section 832.8 and not other evidence that may be introduced in and considered, and information developed, in connection with a section 3304 appeal.

Section 832.7 states peace officer personnel records "are confidential and shall not be disclosed," and Penal Code section 832.8 defines "personnel records" to mean "any file maintained under that individual's name by his or her employing agency" containing specified information. The identified information relates to personal data, medical history, employee benefits, employee appraisal or discipline, complaints or investigations of complaints concerning an event or transaction in which the officer participated or observed and pertaining to the manner in which the officer performed his or her duties, and any other information the disclosure of which would constitute an unwarranted invasion of personal privacy. (Pen. Code, § 832.8.) Section 832.7's confidentiality provision has a fundamental limitation: it applies only to files maintained *by the employing agency* of the peace officer, and does not apply to information about a peace officer the source of which is other than the employing agency's file maintained under the individual's name, even if that information is duplicated in that file. Therefore, the only information subject to section 832.7 and incorporated into section 6254, subdivision (k) is

the written material maintained in the peace officer's personnel file or oral testimony that is a recitation from material in that file. Testimony of a percipient witness to events, or from documents not maintained in the personnel file, is not information subject to section 832.7 even though that information may be identical to or duplicative of information in the personnel file. Section 6254, subdivision (k) therefore does not exempt from the required disclosures under the CPRA information relating to a disciplinary appeal from sources other than the peace officer's personnel file.

Because the CSC's records of the appeal that are not documents from a personnel file or recited from documents in a personnel file are outside the definitional limitations applicable to section 832.7, a CPRA request for those records may not be denied under subdivision (k)'s exemption for records "the disclosure of which is exempted or prohibited pursuant to" section 832.7. A similar rationale convinces us the exemption under section 6254, subdivision (c), which exempts from disclosure "[p]ersonnel, medical, or similar files," may not be invoked to shield the CSC's record of the appeal hearing from disclosure, unless that information is within the definitional limitation of Penal Code section 832.8. Furthermore, although information from the appeal proceeding might be added to the peace officer's file maintained by the employing agency, the CSC's records themselves do not nunc pro tunc become *personnel* files maintained by the peace officer's employer under Penal Code section 832.8 and exempt from a CPRA request for information relating to the appeal.

Our conclusion that section 6254, subdivisions (c) and (k)'s exemptions are inapplicable to a CPRA request for the disciplinary appeal records that are not within the

limitations of Penal Code section 832.8 does not necessarily mean that all CSC's records of an appeal must always be produced on request. The CPRA still permits the CSC to withhold the records if "on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (§ 6255.) Thus, for example, to the extent the CSC concluded some or all of the charges were baseless, the peace officer's legitimate privacy interests in the records might be deemed to outweigh any public interest served by disclosure under section 6255. (Cf. *American Federation of State etc. Employees v. Regents of University of California* (1978) 80 Cal.App.3d 913, 918-919 [recognizing legitimate privacy interests militated against disclosure of baseless charges and investigations that uncovered no wrongdoing]; *Poway Unified School Dist. v. Superior Court, supra,* 62 Cal.App.4th at p. 1505 [application of section 6255 catch-all permits weighing of privacy interests against public interest].) We express no opinion on whether the CSC may properly reject Copley's CPRA request under section 6255, but instead conclude only that the CSC erred by relying on section 6254, subdivisions (c) and (k) to reject Copley's CPRA request in its entirety.

Our construction of the interplay between the CPRA and section 832.7 upholds the significant public interest embodied in the CPRA of the public's right to know about the operation of its government (*CBS, Inc. v. Block, supra,* 42 Cal.3d at p. 651), an interest we apprehend becomes even more acute in the context of understanding how and why peace officers are disciplined. (Cf. *SDPOA, supra*, 104 Cal.App.4th at p. 286; *New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, 104-105 ["Law enforcement

officers carry upon their shoulders the cloak of authority to enforce the laws of the state. In order to maintain trust in its police department, the public must be kept fully informed of the activities of its peace officers"]; *San Francisco Police Officers' Assn. v. Superior Court* (1988) 202 Cal.App.3d 183, 191 [" '[I]t is the attitude of the public toward the police discipline system that will determine the effectiveness of the system as an element of police-community relations. A system can be theoretically sound and objective in practice but if it is not respected by the public, cooperation between the police and the public can suffer' "])

Moreover, our construction does not appear to threaten an *improper* invasion of the confidentiality interests protected by section 832.7. We recognize that when the disciplinary appeal entails the introduction of evidence from sources independent of the personnel file, public disclosure of the appeal hearing record pursuant to a CPRA request may encompass the disclosure of information that duplicates information in records meeting Penal Code section 832.8's definitional criteria. However, section 832.7 does not cloak information in those records with the mantle of absolute privilege, but instead contemplates that although the records will retain their confidentiality, the same information derived from independent sources is not imbued with confidentiality.

SDPOA held only that peace officer personnel records, as strictly defined in Penal Code section 832.8, retain their confidentiality in the context of a disciplinary appeal. It did not decide how that confidentiality is to be maintained and did not conclude confidentiality required appeal hearings be closed to the public. It reviewed a demurrer to a complaint that alleged the public entities were introducing the personnel records

themselves into evidence at a public hearing without regard to their confidential nature. It did not refer to the introduction into evidence of information from sources other than documents in the personnel file or testimony reciting from those documents; that is, information not in a personnel record maintained by the employer within the definition of Penal Code section 832.8, although that information may also be contained within the personnel record. The parties have interpreted *SDPOA* more broadly than is warranted from the narrow scope of the issue presented in that case.

Copley's writ petition asserts that redaction of the peace officer's name from the CSC documents and agenda is improper, and real parties in interest proffer no argument explaining why the redaction is mandated by section 832.7, *SDPOA*, or the CPRA. Accordingly, we grant Copley's petition insofar as it seeks an order requiring release of the identity of the disciplined peace officer. (See *New York Times v. Superior Court, supra,* 52 Cal.App.4th at pp. 103-105.) We also conclude Copley is entitled to the information described in its CPRA requests to the CSC, redacted only to the extent that information consists of documents contained in the peace officer's personnel file or testimony that recites from those documents.

DISPOSITION

Let a writ of mandate issue directing the trial court to vacate its order of May 14, 2003, and to enter an order requiring the CSC to release its records in appeal Case No. 2003-0003, including the name of the peace officer, redacted only to exclude information within the limited ambit of Penal Code sections 832.7 and 832.8, as defined in this

opinion. In all other respects, the petition is denied. The parties are to bear their own costs in this writ proceeding.

CERTIFIED FOR PUBLICATION

McDONALD, J.

WE CONCUR:

McCONNELL, P. J.

HALLER, J.