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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SOLANO**

14 AMERICAN CIVIL LIBERTIES
15 UNION OF NORTHERN
16 CALIFORNIA,

17 Petitioner/Plaintiff,

18 v.

19 VALLEJO POLICE DEPARTMENT,

20 Respondent/Defendant.

CASE NO. FCS059257

**PETITIONER'S REPLY BRIEF ON REMAND
RE. OFFICER NAME REDACTIONS AND
DISCLOSURE OF DRAFT REPORTS**

Judge: Hon. Stephen Gizzi

Department: 3

Hearing date: January 7, 2026

Action filed: November 22, 2022

1 Petitioner the American Civil Liberties Union of Northern California (“ACLU”) submits
2 this reply to Respondent the City of Vallejo’s (“City”) brief on remand. The City offers no
3 persuasive reason to interpret “witness” to include peace officers under Penal Code section 832.7,
4 subdivision (b)(6)(B).¹ Nor does the City make any effective argument for withholding draft
5 reports. For the reasons below, and as detailed in ACLU’s underlying brief on remand, the Court
6 should resolve both questions in Petitioner’s favor to compel the broadest possible disclosure.

7
8 (a) Under Section 832.7, Subdivision (b)(6)(B), the Term “Witnesses” Does Not Include
9 Peace Officers.

10 ACLU explained in its underlying brief why reading section 832.7, subdivision (b)(6)(B)
11 in the context of the whole act, and in light of the Legislative purpose of SB 1421, compels an
12 interpretation of “witness” that excludes peace officers. Specifically:

- 13 (1) subdivision (b)(6)(B) already provides for redaction of “whistleblowers,” which
14 would be redundant if “witnesses” included officers;
- 15 (2) subdivision (b)(6)(A) provides that officer names are not “personal data or
16 information,” indicating a broad, legislative intent to disclose officer names;
- 17 (3) subdivision (b)(5) contemplates that for incidents involving multiple officers,
18 “factual information” and “statements” of officers on the scene must be disclosed
19 if “relevant” to a sustained finding against another officer, in direct contradiction
20 of the City’s suggestion that officer-“witnesses” should be redacted;
- 21 (4) *Long Beach Police Officers Assoc. v. City of Long Beach* (2014) 59 Cal.4th 59,
22 explicitly incorporated by section 832.7, subdivision (i), held that the public
23 interest generally favors disclosure of officer names; and
- 24 (5) the clear purpose of SB 1421 was to give the public the most information possible
25 about serious incidents of police misconduct.

26 The City’s underlying brief rebuts none of these arguments. The City offers no explanation for
27 how “witnesses” may be read to include officers that does not render other pieces of the act
28 redundant or inoperative, in contravention of the rule that textual language must always be read in
the context of the statute as a whole. (*Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735; accord
Dr. Leevil, LLC v. Westlake Health Care Ctr. (2018) 6 Cal.5th 474, 478 [“We begin with the text,
construing words in their broader statutory context and, where possible, harmonizing provisions

¹ Unless otherwise noted, all statutory references are to the Penal Code.

1 *concerning the same subject,”* emphasis added.].) Instead, the City offers a narrow and
2 unconvincing statutory argument, misrepresents the appellate decisions in this case and in
3 *BondGraham v. Superior Court* (2023) 95 Cal.App.5th 1006, and finally argues as a failsafe that
4 the Court should resolve any difficulty in interpreting section 832.7, subdivision (b)(6)(B) by
5 relying on the discretionary redaction provision at section 832.7, subdivision (b)(7). The Court
6 should reject these arguments.

7 *First*, the City’s statutory argument is limited to the discrepancy between subdivision
8 (b)(6)(A), which allows for redaction of “personal data or information . . . other than the names
9 and work-related information of peace and custodial officers” (§ 832.7, subd. (b)(6)(A)), and
10 subdivision (b)(6)(B), which contains no similar language expressly barring redaction of officer
11 names. From this, the City concludes that the Legislature intended that officer names would be
12 redacted when they function as “witnesses” under subdivision (b)(6)(B). (City Br. at p. 2.) But
13 there is a simple and obvious reason why subdivision (b)(6)(B) does not include language
14 excepting officer names from items which may be redacted: subdivision (b)(6)(B) compels
15 redaction for “whistleblowers,” which necessarily includes officers. Because subdivision
16 (b)(6)(B) thus already contemplates redaction of officer names—when they function as
17 “whistleblowers”—there is no reason to infer any further significance with regard to “witnesses.”

18 *Second*, the City misrepresents the Court of Appeal’s decision in this matter. The City
19 claims that ACLU asked the appellate court to hold that “witnesses” does not include officers,
20 that the Court declined, and that the Court of Appeal instead highlighted the discrepancy between
21 subdivisions (b)(6)(A) and (b)(6)(B), noted above, supporting the City’s interpretation. (City Br.
22 at pp. 4-5.) This is incorrect. ACLU did not ask the Court of Appeal to hold that “witnesses”
23 excludes peace officers. Rather, ACLU asked the Court to strike language in its tentative decision
24 holding that “witnesses” *includes* officers. As ACLU argued, the question is not decided by any
25 controlling authority, was not briefed before the Court of Appeal, and strong arguments weigh
26 against reading “witnesses” to include officers. In response, the Court of Appeal amended its
27 decision to leave the question open for decision on remand. The Court of Appeal thus granted

1 ACLU’s request because the issue warrants a decision based on fulsome briefing.

2 Moreover, while the Court of Appeal noted that subdivision (b)(6)(B) does not contain the
3 same language regarding redaction of officer names as (b)(6)(A), that is not probative, either. The
4 Court of Appeal was careful to note that subdivision (b)(6)(B) covers “whistleblower” as well as
5 “witness,” which, as noted, fully explains the discrepancy between subdivisions (b)(6)(A) and
6 (b)(6)(B). The Court of Appeal thus did not express any opinion as to how to interpret
7 “witnesses,” leaving that question for resolution here.

8 *Third*, the City misreads *BondGraham*. While it is true, as the City notes, that the trial
9 court in that case found that “witnesses” includes peace officers under 832.7, subdivision
10 (b)(6)(B), it is false that the Court of Appeal “implicitly” agreed with that decision. (City Br. at p.
11 3.) The *BondGraham* appellant raised three arguments on appeal, including “that police officers
12 who witness misconduct may not have their names redacted under section 832.7, subdivision
13 (b)(6)(B),” and the Court held “[w]e agree with all three arguments.” (*Supra*, 95 Cal.App.5th at p.
14 1012.) The Court of Appeal ultimately explained its decision on other grounds, holding that the
15 officers in question were not truly “witnesses.” (*Ibid.*) But this did not undermine the Court’s
16 prior, broader statement that it agreed with the Appellant that subdivision (b)(6)(B) should not be
17 read to cover officers within the category of “witnesses.” And certainly, the decision offers no
18 support for the contrary position.

19 *Fourth*, and finally, the City urges the Court to apply the catch-all balancing test of 832.7,
20 subdivision (b)(7) “where an individual is identified as a witness in the Giordano report, but
21 where applicability of [subdivision (b)(6)(B)] is not 100% clear.” (City Br. at p. 4.) The City’s
22 admission that when an officer should be characterized as a “witness” will not always be “100%
23 clear,” and that subdivision (b)(7) should be utilized in borderline cases, provides further reason
24 to exclude officers from the definition of “witnesses” altogether. That is because, as the Court of
25 Appeal held, there is significant public interest in disclosure of officer names, generally—
26 accountability hinges on knowing *which officer did what*. (*City of Vallejo v. Super. Ct.* (2025)
27 112 Cal.App.5th 565, 602-607.) Allowing law enforcement agencies another basis to assert

1 withholding under subdivision (b)(6)(B), including in admittedly questionable cases, will only
2 frustrate accountability. Given the strong public interest in disclosure of officer names, it would
3 be more appropriate to analyze redaction of the name of *any* alleged officer-witness under
4 subdivision (b)(7), lest subdivision (b)(6)(B) authorize redaction where the City would be unable
5 to meet its heavy burden under subdivision (b)(7) of showing that the public interest in non-
6 disclosure clearly outweighs the public interest in disclosure.

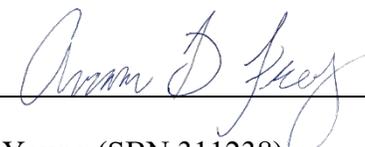
7 (b) The City Has Provided No Convincing Reason to Withhold Draft Reports.

8 As the Court of Appeal noted, the City must demonstrate that the public interest in
9 withholding drafts “clearly outweighs the public interest in disclosure” in order to justify
10 withholding draft reports. (*City of Vallejo, supra*, 112 Cal.App.5th at p. 606 [citing Gov. Code, §
11 7927.500].) The City suggests no meaningful public interest in non-disclosure. Initially, the City
12 states that any drafts do “not reflect the agency’s final determination.” (City Br. at p. 6.) But this
13 is true of any draft—the City must nonetheless establish some public interest in secrecy that
14 outweighs the interest in disclosure. Next, the City argues that “most of the changes between
15 drafts were non-substantive.” (*Ibid.*) This is not an argument that disclosure would be harmful,
16 however—if anything, it suggests that disclosure would be harmless. Meanwhile, the public
17 interest in disclosure is substantial regardless of whether revisions between drafts and the final
18 report were substantive or not: the public has a weighty interest in knowing whether Giordano’s
19 findings and conclusions were truly his own. If drafts differ from the final report only in
20 superficial ways, the City should welcome the opportunity to demonstrate Giordano’s
21 independence.

22
23 Dated: December 19, 2025

Respectfully submitted,

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25 AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA

26
27 By:  _____

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