

**From:** [Jordan Green](#)  
**To:** [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]  
**Cc:** [Dennis Pocekay](#); [Peggy Flynn](#); [Miller, Brian](#)  
**Subject:** FW: Clean Records Agreements - SF Chronicle Article  
**Date:** Wednesday, September 25, 2024 1:10:00 PM  
**Attachments:** [emailsiq\\_citylogo\\_d1\(2\)\\_a1e70f08-7592-4fe0-bb56-cb14bfb4a22e.png](#)  
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Dear Public Safety Advisory Committee Members,

The SF Chronicle recently wrote two articles relating to law enforcement records, Industrial Disability Retirements (IDRs), and discipline. Unfortunately, the SF Chronicle alleges the city of Petaluma promised disability retirements to incentivize officers accused of misconduct to resign. This is inaccurate, misleading and conflicts with the City's policies and procedures. Please see the below response from our City Manager, Peggy Flynn, wherein she explains the city of Petaluma's discipline process, including several checks and balances.

During this evening's PSAC meeting, we can discuss whether the PSAC would like to agendize this topic for an in-depth discussion at a future PSAC meeting. To remain compliant with the CA Brown Act, please discuss your interest in this topic at tonight's meeting, rather than via email.

Thank you,  
Jordan

**Jordan Green**

Assistant City Attorney  
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**From:** Peggy Flynn <PFlynn@cityofpetaluma.org>

**Sent:** Wednesday, September 25, 2024 9:54 AM

**To:** David Tuttle [REDACTED] >

**Cc:** Kevin McDonnell <kmcdonnell@cityofpetaluma.org>; John Shribbs <jshribbs@cityofpetaluma.org>; Barnacle, Brian <bbarnacle@cityofpetaluma.org>; Mike Healy <mhealy@cityofpetaluma.org>; Karen Nau <knau@cityofpetaluma.org>; Dennis Pocekay <dpocekay@cityofpetaluma.org>; Janice Cader-Thompson <jcaderthompson@cityofpetaluma.org>; Brian Cochran <BCochran@cityofpetaluma.org>; Miller, Brian <BMiller@cityofpetaluma.org>; Eric Danly <EDanly@cityofpetaluma.org>; Jordan Green <JGreen@cityofpetaluma.org>; Le, Linda <LLe@cityofpetaluma.org>; -- Police Auditors <independentpoliceauditor@cityofpetaluma.org>; McGowan, Nicholas <NMcGowan@cityofpetaluma.org>

**Subject:** Re: Clean Records Agreements

Dear Mr. Tuttle,

Thank you for bringing the SF Chronicle article to our attention. I want to assure you that under my tenure as City Manager, the City of Petaluma has never agreed to provide a disability pension to officers who had been accused of misconduct to induce them to leave. Nor does the City of Petaluma have the authority to require CalPERS to provide a disability pension to an officer, whether they are accused of misconduct or not.

In the following we summarize the City's policies and practices regarding peace officer disability retirement applications, investigations and discipline.

Police officers who apply for disability retirements with CalPERS sign a waiver giving CalPERS access to their personnel file, including disciplinary records.

When evaluating a disability retirement application, CalPERS requires the employing public agency to certify the following:

"Pursuant to Government Code section 21156, a disability retirement must not be used as a substitute for the disciplinary process. I hereby certify (check all that apply):

- ☐ The member has an adverse action pending against them.
- ☐ The member was terminated for cause.

- ☐ The member resigned/service retired in lieu of termination.
- ☐ The member signed an agreement to waive their reinstatement rights (i.e., Employment Reinstatement Waiver).
- ☐ The member is being investigated for or has been convicted of a work-related felony.
- ☐ None of the above apply to this member.

The City also provides CalPERS a copy of the officer's personnel file, accident reports and medical reports. CalPERS reviews officers' personnel files for any discipline and obtains copies of all disciplinary documents when they are evaluating whether the officer is eligible for a disability retirement. Thus, the information the City provides permits CalPERS to make a fully-informed decision regarding whether an officer is eligible for disability retirement.

Additionally, to be eligible for a disability retirement, an officer must be unable to perform the usual duties of their position, due to a physical or mental condition, and their condition must be expected to be permanent or to last longer than 12 months. That finding must be based on competent medical opinion. If CalPERS has any questions, they require the officer to undergo an examination by a qualified independent medical examiner, in addition to all the prior medical examinations they have undergone as a result of their condition. Officers who resign in lieu of termination and whose employment relationship is terminated pending disciplinary action, are ineligible for disability retirement.

#### **Petaluma Policy and Practice Regarding Alleged Police Officer Misconduct**

When the Petaluma Police Department receives allegations of misconduct involving its officers, it conducts a preliminary investigation to determine whether the officer should remain on active duty. All allegations of misconduct are shared with the City's Independent Police Auditor or IPA. If the alleged misconduct involves issues of honesty, use of force, unlawful discrimination, or other serious allegations, PPD also shares the allegations and results of the preliminary investigation with me, with the Director of Human Resources (HR) and the City Attorney (CA) to evaluate whether the officer should remain on active duty or be placed on administrative leave.

PPD, HR and the CA evaluate whether the subsequent investigation should be conducted in house (such as by PPD's Professional Standards Division or by HR), or by an independent, outside attorney investigator. Once an investigation begins, we continue to evaluate, and once the investigation is complete and a report prepared, we discuss next steps. If there are no sustained allegations of misconduct, we discuss whether the officer would benefit from professional development training, coaching, or conflict resolution, and the officer is informed of the investigation results.

If there are sustained allegations of misconduct, we discuss the appropriate level of discipline, up to and including termination, and disciplinary action is carried out in accordance with the Peace Officers' Bill of Rights, the applicable bargaining unit agreement, City policy and all applicable laws and regulations.

The PPD complies with Penal Code 13510.9 by reporting complaints, charges, and allegations of serious misconduct to the California Department of Peace Officer Standards and Training or POST, and also notifies POST of all officer terminations and separations from employment. The PPD promptly addresses complaints related to less grave matters such as unprofessional conduct, or minor procedural errors through mentoring, counseling and additional training.

### **Officer Resignation Pending Discipline**

Officers who are subjects of an investigation are provided notice of investigation and interviewed. Officers sometimes conclude based on a notice of investigation that their misconduct will likely result in termination, and resign their employment before the City concludes the investigation and/or begins the discipline process. There is no law that prevents an officer from resigning during or at the conclusion of an investigation. If the officer resigns with discipline pending, the City still completes the investigation and places the completed investigation report in the officer's file, where it is available for CalPERS review in case of a disability retirement application, or for subsequent background check if an officer applies to be a peace officer in another jurisdiction. Officers have the right to review completed investigation reports and to provide a written response for their file.

In summary, the City does not offer disability retirements to officers accused of misconduct as an incentive to resign. The City engages in an integrated system of checks and balances to hold police officers accountable for their actions in accordance with City policy and applicable law, to protect the community at large, to promote public safety transparency and accountability through the work of the City's Independent Police Auditor, and to safeguard officers' due process rights.

We are also following up with Chronicle regarding the errors in their article.

Sincerely,  
Peggy Flynn

### **Peggy Flynn**

City Manager  
City of Petaluma | City Manager's  
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On Sep 18, 2024, at 9:43 AM, David Tuttle [REDACTED] > wrote:

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Mr. Mayor and City Council members,

I'm writing to you to bring to your attention a series of articles in the SF Chronicle that are dealing with the phenomenon of "[clean record agreements](#)" I was incredibly disappointed to see the name of our fair city included in the list of agencies that have executed these kinds of agreements and I was even more outraged that in today's update to find that our agency had (fraudulently) also agreed to provide [a disability pension](#) to some officers who had been accused of misconduct in an effort to induce them to leave.

My experience with the Petaluma police department has to date been relatively positive. We had a potential breakin at our home and when a community service officer responded they were incredibly helpful, professional, and reviewed the situation with us and helped alert our elderly neighbors to potential issues so that they could secure our homes.

I also am generally in support of police officers -Police work is a very dangerous job and requires a high degree of trust from the community that police officers will be honest public servants doing their job to the best of their ability. This trust is undermined when problem officers are given a free pass to go to another community. Not only does it cast a shadow on the actions of the Police chain of command in making these kinds of decisions it also calls into question any officer who may have transferred into the Petaluma police department.

Mr. Mayor - I ask you to do the following:

1. At the October 7 City Council meeting adopt a resolution banning the City from executing these Clean Record Agreements going forward.

2. That the City adopt a resolution requesting that the City Attorney review any and all disability pension claims by the Police department to determine if they are valid claims and if not alert CalPERS to that fact.

Mr. Mayor, when you were campaigning you came to my door and we discussed what kind of City we wished to live in and you promised me that the City would be an ethically prosperous city. I look forward to attending the City Council meeting on Oct 7th and watching you keep your promise.

Thank you,

--

David Tuttle

cell phone contact:

