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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, AFL-CIO, et al. Petitioners, v. SUPERIOR COURT OF ALAMEDA COUNTY, Respondent. CONTRA COSTA NEWSPAPERS, INC, et al., Real Parties in Interest.	A108488 (Alameda County Super. Ct. No. RG04166830)

Does the right to privacy in one's personal finances preclude disclosure of the names and salaries of high-earning public employees? We conclude it does not. Once they have received their salaries, public employees enjoy the same rights of financial privacy as other citizens. Payment of public employee salaries, however, is a public expense, and the amounts and recipients of that expense are public records. The people have the right to examine those records to monitor the conduct of public business, unless unusual circumstances justify a different result in a particular case. This is not such a case.

BACKGROUND

Reporters from two newspapers published by Contra Costa Newspapers, Inc. (CCN) petitioned the City of Oakland under the California Public Records Act (the CPRA; Gov. Code, § 6250 et seq.) for records indicating the name, job title, and gross salaries of all city employees who earned at least $100,000 in fiscal year 2003-2004, including those whose

base salaries were below $100,000 but who crossed that threshhold when overtime and other compensation were included.

The City refused to identify any individual employees with such earnings. It relied on Government Code section 6254, subdivision (c), which exempts personnel files from disclosures that "would constitute an unwarranted invasion of personal privacy"; Government Code section 6254, subdivision (k), a general exemption for legally protected records; Government Code section 6255, which provides a case-by-case exemption when the public interest in nondisclosure outweighs the public interest in disclosure; Penal Code section 832.7, which protects the confidentiality of peace officer personnel records; the state constitutional right to privacy (Cal. Const., art. I, § 1); and two Court of Appeal decisions, *Teamsters Local 856 v. Priceless, LLC* (2003) 112 Cal.App.4th 1500 (*Priceless*), affirming the grant of a preliminary injunction to prevent the identification of city employees in a release of salary information, and *City of Los Angeles v. Superior Court* (2003) 111 Cal.App.4th 883 (*City of Los Angeles*), ruling that peace officer payroll records are protected from disclosure under the definition provided in Penal Code section 832.8, subdivision (f).

CCN responded by seeking a writ of mandate under the CPRA. In its petition, CCN claimed the City had historically disclosed salary records and was required to do so by its own "Sunshine Ordinance." It argued the information was "essential to CCN's mission of informing the public about the salaries and qualifications of City employees, issues pertaining to excessive overtime, potential favoritism and nepotism, and issues about whether the City is properly spending tax dollars in an era of lean budgets."

The trial court granted leave to intervene to two public employee unions, the International Federation of Professional and Technical Engineers, Local 21 (Local 21) and the Oakland Police Officers Association (OPOA). In its complaint in intervention, Local 21 claimed past newspaper coverage of city employee salaries had included unfair insinuations that the employees were "greedy, undeserving, and overpaid." It contended the *Priceless* case exemplified a trend in the case law toward recognizing the privacy rights of public employees. The OPOA brief argued the disclosures sought by CCN were "offensive and objectionable" to police officers, and would violate Penal Code section 832.7 as well as the holdings of the *Priceless* and *City of Los Angeles* cases.

After hearing argument, the trial court granted CCN's petition. In a written order, the court noted the CPRA placed the burden of establishing an exemption from disclosure on the City and the unions, and exemptions are strictly construed. It ruled that City employees earning over $100,000 had no legally protected privacy interest in their salary information, given the City's well-established past practice of releasing such information. Nor was the court convinced by claims that dissemination of salary information would result in unjustified embarrassment or risk of identity theft. Assuming there were a protected privacy interest in salary information, the court concluded it would be outweighed by the public interest in exposing "inefficiency, favoritism, nepotism, and fraud with respect to the government's use of public funds for employee salaries."

As for the OPOA's claims under Penal Code section 832.7, the court found that police officers' salary information is not within the statutory definition of protected "personnel records." (Pen. Code, § 832.8.) The OPOA relied on the "catchall provision" of Penal Code section 832.8, subdivision (f), which covers "[a]ny . . . information the disclosure of which would constitute an unwarranted invasion of personal privacy." The court rejected this argument for the same reasons it denied the privacy claims of other City employees.

The court concluded: "Clearly, most employees, public or private, would prefer that information about their jobs or earnings not be published in the media. But in Oakland, as in other cities, and indeed, for high-earning government employees generally, there is a long tradition of making such information available to the public, so that citizens can effectively monitor the activities of the government. The Court concludes that the disclosure sought in this case is not an unwarranted invasion of personal privacy, and that [the] public interest served by this disclosure outweighs the interests served by nondisclosure."

Local 21 sought a writ of mandate in this court, and requested a stay of the trial court's order. We denied the stay, but because the issue presented by the petition is likely to recur and involves a matter of continuing public interest, we issued an order to show cause and set the matter for argument. OPOA sought to join in and supplement the petition, by way of a motion we have construed as a separate petition. The City has not joined the unions' challenges in this court.

DISCUSSION

We independently review the trial court's ruling, upholding its factual findings if they are based on substantial evidence. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1336; *Bakersfield City School Dist. v. Superior Court* (2004) 118 Cal.App.4th 1041, 1045.) The trial court's findings in this case were well supported, its reasoning sound, and its conclusion correct.

We agree with the trial court that CCN's disclosure request implicated no protected privacy interests. The unions do not dispute the court's finding that the City had routinely disclosed the names and salaries of its employees in previous years. This fact supports the conclusion that in Oakland, at least, highly paid public employees had no reasonable expectation of privacy regarding their salary information. However, we take a broader view of the privacy issue than the trial court, extending our analysis beyond the local circumstances of CCN's disclosure request. After reviewing the terms and purposes of the CPRA and the sources of privacy rights identified by our Supreme Court (see Part 1, *infra*), we conclude that well-established norms of California public policy and American public employment exclude public employee names and salaries from the zone of financial privacy protection. We explain this conclusion in Part 2 of our discussion, and consider the counter-arguments raised by Local 21, which pertain to the rights of all public employees.

The unions correctly point out that a different approach was taken in the *City of Los Angeles* and *Priceless* decisions, which appear to have motivated the City to alter its past practice.[1] We conclude *City of Los Angeles* is both distinguishable and unpersuasive. We respectfully disagree with the analysis of the *Priceless* court. These cases are discussed in Part 3. In Part 4, we consider and reject the contentions of the OPOA, which are confined to peace officers' confidentiality rights under Penal Code section 832.7.

We emphasize the limitations of our holding. We are called upon to consider only the privacy claims of high-earning public employees, and only in regard to the disclosure of

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1 In its traverse, Local 21 asks us to judicially notice an action filed in Santa Clara County, reportedly arising from the City of San Jose's decision to end its longstanding practice of releasing city employee salaries. We deny the request, on grounds of irrelevance and failure to comply with the procedures set out in California Rules of Court, rule 22.

names and gross salaries. If there are arguments unique to public employees earning less than $100,000, we have not considered them. Nor should anything in our opinion be read to cast doubt on public employees' right to privacy in the details of their personal finances. Moreover, the lack of a protected privacy interest in their names and salaries does not preclude public employees from seeking to block disclosures on a case-by-case basis under Government Code section 6255, which permits any public record to be withheld from disclosure if "on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record."[2]

1. *The CPRA and Privacy Rights*

As this court has noted before, the tension between privacy rights and disclosure is inherent and explicit in the CPRA. (*City of Richmond v. Superior Court* (1995) 32 Cal.App.4th 1430, 1433.) "In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." (Gov. Code, § 6250.) Government Code section 6254, subdivision (c), the CPRA exemption pertaining most directly to this case, authorizes the withholding of "[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy."

The Legislature has weighted the scales in favor of disclosure by requiring the government agency possessing a public record to shoulder the burden of establishing an exemption. "The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record." (Gov. Code, § 6255.) The statutory exemptions from disclosure are narrowly construed. (*California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 831; Cal. Const., art. 1,

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2 Neither union has invoked Government Code section 6255 in this court. Our review of the record discloses no particular local circumstances that might justify withholding the names and salaries of Oakland's high-earning employees as a matter of public interest.

§ 3(b) [statutes restricting public access to "information concerning the conduct of the people's business" must be narrowly construed].) Nevertheless, public employees retain their rights to privacy. While the fact that they are engaged in the public's business necessarily deprives them of a degree of anonymity, on appropriate occasions the interests served by disclosure must yield to the privacy rights of public employees. (*New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, 100; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 347.)

Our Supreme Court has identified three elements comprising a claim for violation of the state constitutional right to privacy: (1) a legally protected privacy interest; (2) a reasonable expectation of privacy in the circumstances; and (3) a serious invasion of privacy. (*Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 39-40.) In this case, we are concerned with "informational privacy," the interest in precluding the dissemination of sensitive information, as opposed to the interest in making personal decisions without observation or interference ("autonomy privacy"). Informational privacy is the core value protected by our state constitutional right to privacy. (Cal. Const., art. I, § 1; *Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 35.) The standards for evaluating a constitutional privacy claim also apply when determining whether a disclosure of public records would be "an unwarranted invasion of personal privacy" under Government Code section 6254, subdivision (c). (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 347.)

Whether there is a legally protected privacy interest in a particular case is a question of law. (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 40.) "A particular class of information is private when well-established social norms recognize the need to maximize individual control over its dissemination and use to prevent unjustified embarrassment or indignity." (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 35.) "Whether well-established social norms safeguard a particular type of information . . . is to be determined from the usual sources of positive law governing the right to privacy — common law development, constitutional development, statutory enactment, and the ballot arguments accompanying the Privacy Initiative." (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 36.)

2. *The Privacy Interest in Public Employee Names and Salaries*

Common-law development is the first source the *Hill* court noted for determining whether well-established social norms justify informational privacy rights in a particular context. (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 36.) Before the *City of Los Angeles* and *Priceless* decisions, case law in California favored the disclosure of public employee salary information.

In *San Diego Union v. City Council* (1983) 146 Cal.App.3d 947, a newspaper obtained an order enjoining the San Diego City Council from discussing and determining the salaries of nonelected city employees in private. (*Id*. at p. 951.) The City Council appealed, contending the "personnel exception" provided by Government Code section 54957, a part of the Brown Act (Gov. Code, § 54950 et seq.), permitted it to consider employment matters in executive session.[3] The Council claimed the "personnel exception" was intended to protect employees from undue public embarrassment during discussion of personnel issues, including salary levels. (*San Diego Union v. City Council*, *supra*, 146 Cal.App.3d at p. 953.) The Fourth District Court of Appeal soundly rejected the Council's arguments:

"Salaries and other terms of compensation constitute municipal budgetary matters of substantial public interest warranting open discussion and eventual electoral public ratification. Public visibility breeds public awareness which in turn fosters public activism politically and subtly encourag[es] the governmental entity to permit public participation in the discussion process. It is difficult to imagine a more critical time for public scrutiny of its governmental decision-making process than when the latter is determining how it shall spend public funds. With ever-increasing demands on public funds which have dwindled so drastically since the passage of Proposition 13, secrecy cannot be condoned in budgetary determinations, including the establishment of salaries. Granted, evaluating a specific employee's performance is a matter within the ambit of the 'personnel exception' in light of

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3 At the time, the relevant provisions of Government Code section 54957 were as follows: "Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions . . . during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing." (See *San Diego Union v. City Council*, *supra*, 146 Cal.App.3d at pp. 951-952.)

the 1982 amendment to section 54957; however, upon the determination a particular public employee is deserving of a salary increase, various other factors must be considered such as available funds, other city funding priorities, [and] relative compensation of similar positions within the city and in other jurisdictions, before determining the salary increase. Each of these considerations is of acute public interest." (*San Diego Union v. City Council*, *supra*, 146 Cal.App.3d at p. 955.)

We agree with the *San Diego Union* court that the public interest in budgetary transparency is incompatible with the notion that public employees have a right to keep their salaries private. Certainly, the pressures on government budgets are at least as great a concern today as they were in 1983, when the *San Diego Union* decision was published.

The right of a public employee to keep his salary out of public view also came up, in tangential fashion, in *Braun v. City of Taft*, *supra*, 154 Cal.App.3d 332. Braun was a city councilman who believed a transit administrator named Polston had been improperly appointed. To confirm the fact of the appointment, Braun obtained a copy of Polston's "salary card," which showed that he had been appointed. The appointment was then rescinded and Polston reinstated in his former post as a firefighter. Braun was denied copies of letters reflecting these developments, but he showed the letters to a reporter along with the salary card, which someone had altered by whiting out the transit administrator designation and printing "firefighter" in its place. Polston filed a grievance against Braun for invading his privacy interest in the contents of his personnel file. The city council censured Braun, but he successfully sued to set aside the censure on the ground that disclosure of the documents was required by the CPRA. The trial court also ruled that Braun was entitled to copies of the disputed records. (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at pp. 338-340.)

The Fifth District Court of Appeal noted the CPRA, like the federal Freedom of Information Act (5 U.S.C. § 552), is construed to further the general policy of disclosure. (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 342.) The court distinguished a federal case involving disclosure of personnel records in a management report.[4] It observed that 5

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[4] *Campbell v. United States Civil Service Commn.* (10th Cir. 1976) 539 F.2d 58. See footnote 6, *infra*.

U.S.C. section 552(b)(6), which like Government Code section 6254, subdivision (c) exempts personnel files from disclosures that would constitute unwarranted invasions of privacy, has been interpreted "to protect intimate details of personal and family life, not business judgments and relationships." (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at pp. 343-344, quoting *Sims v. Central Intelligence Agency* (D.C. Cir. 1980) 642 F.2d 562, 575; accord, *Bakersfield City School Dist. v. Superior Court*, *supra*, 118 Cal.App.4th 1041, 1045; *Washington Post Co. v. U.S. Dept. of Justice* (D.C. Cir. 1988) 863 F.2d 96, 100.)

The court then pointed out that the only portion of the salary card relevant to Braun's lawsuit was the altered job position designation. (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 344.) The trial court could have redacted the other information, which included Polston's phone number, birth date, address, social security and credit union numbers, and salary, but the Court of Appeal declined to "reverse on the limited ground that some personal data was on the face side of the salary card." (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 345.) Noting that salary classifications are public information, the court concluded it was within the trial court's discretion to find that disclosing the salary card would not be an unwarranted invasion of personal privacy. (*Ibid*.)

Addressing the constitutional right to privacy separately, the *Braun* court held the same balancing of Polston's privacy rights against "the public's interest in its business" that supported disclosure under Government Code section 6254, subdivision (c) also supported the trial court's conclusion that Polston's privacy rights under the California Constitution were not violated. (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at pp. 347.)

Thus, while much more was at issue than the disclosure of a name and salary in *Braun*, the case stands for the proposition that public employee salary information is not private. Our review of the case law in other states reveals that disclosure of public employee names and salaries is overwhelmingly the norm.[5] Local 21 contends federal cases recognize

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5 *Magic Valley Newspapers, Inc. v. Magic Valley Regional Medical Center* (Idaho 2002) 59 P.3d 314, 316 [statute requiring disclosure of public employees' names and salaries mandated identification of county medical center employees earning over $50,000]; *Intl. Assn. of Firefighters, Local 1264 v. Municipality of Anchorage* (Alaska 1999) 973 P.2d 1132, 1136 [municipal employees have no legitimate expectation of privacy in their names and salaries]; *Clymer v. City of Cedar Rapids* (Iowa 1999) 601 N.W.2d 42, 48 [public had right to examine records of compensation paid to

public employees' right to financial privacy. However, only one of the cases it cites involved the salaries of federal employees, and there the disclosure request included material

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individual public employees, including sick leave and vacation]; *Miss. Dept. of Wildlife, Fisheries and Parks v. Miss. Wildlife Enforcement Officers Assn., Inc.* (Miss. 1999) 740 So.2d 925, 936 [disclosing compensation information such as gross salary and accrued leave does not violate public employees' right to privacy]; *Tacoma Pub. Library v. Woessner* (Wash.App. 1998) 951 P.2d 357, 366 [public employee names and salaries are not exempt from disclosure] (but see *Smith v. Okanogan County* (Wash.App. 2000) 994 P.2d 857, 863 [requests for information about public employees' position, salary, and length of employment do not relate to government business and are not subject to disclosure]); *Pulitzer Publishing Co. v. Missouri State Employees' Retirement System* (Mo. App. 1996) 927 S.W.2d 477, 483 [statute requiring disclosure of public employee names and salaries construed to require disclosure of pension payments to retirees]; *State Dept. of SRS v. Public Employee Relations Board* (Kan. 1991) 815 P.2d 66, 70, 72 [statute exempting personnel files from disclosure, but expressly excepting names and salaries from exemption, did not authorize refusal to disclose employee addresses]; *State ex rel. Petty v. Wurst* (Ohio.App. 1989) 550 N.E.2d 214, 216 [public's right to know names and gross salaries of county employees outweighed any invasion of privacy]; *Richmond County Hospital Authority v. Southeastern Newspapers* (Ga. 1984) 311 S.E.2d 806, 807 [disclosure of names and salaries of county hospital employees earning over $28,000 would not be invasion of personal privacy]; *Cleveland Newspapers, Inc. v. Bradley County Memorial Hospital Bd. of Directors* (Tenn.App. 1981) 621 S.W.2d 763, 764-767 [county hospital could not prevent disclosure of employee salaries by designating them "confidential"]; *Redding v. Brady* (Utah 1980) 606 P.2d 1193, 1196-1197 [public's right to know salaries paid to state college employees outweighed privacy interests of employees] (compare *Redding v. Jacobsen* (Utah 1981) 638 P.2d 503, 510 [upholding constitutionality of statutory amendment exempting employees in higher education from salary disclosure requirement]); *Penokie v. Michigan Technological University* (Mich.App.1979) 287 N.W.2d 304, 309-310 [privacy interests did not protect names and salaries of state university employees from disclosure]; *People ex rel. Recktenwald v. Janura* (Ill.App. 1978) 376 N.E.2d 22, 24-25 [constitutional and statutory provisions requiring disclosure of public expenditures applied to public employee salaries]; *Hastings & Sons Publishing Co. v. City Treasurer of Lynn* (Mass. 1978) 375 N.E.2d 299, 303-304 [names and salaries of municipal employees were not protected from disclosure by right of privacy]; *Mans v. Lebanon School Bd.* (N.H. 1972) 290 A.2d 866, 868 [disclosure of public school teachers' names and salaries did not invade privacy rights; noting that salaries of state and municipal employees were commonly published by statute or by custom]; *Caple v. Brown* (La.App. 1975) 323 So.2d 217, 218, 221 [sheriff's payroll records were subject to disclosure]; *Moak v. Philadelphia Newspapers Inc.* (Pa. Cmwlth. 1975) 336 A.2d 920, 923-924 [police payroll records were subject to disclosure]; *Moberly v. Herboldsheimer* (Md. 1975) 345 A.2d 855, 863-864 [salary of hospital director had to be disclosed under statute making public employee salaries "public records"]; *Winston v. Mangan* (Sup.Ct. 1972) 338 N.Y.S.2d 654, 662 [names and salaries of park district employees were matters of public record subject to inspection]; *Board of School Directors v. Wisconsin Employment Relations Com*. (Wis. 1969) 168 N.W.2d 92, 101 [names and salaries of teachers, and of any municipal employees, were matter of public record and could be disclosed to union].

more embarrassing than just names and salaries.[6] The federal cases have typically arisen from attempts to discover the wages paid to private employees under federal contracts. Federal courts have rejected these attempts on the ground that such disclosure would "not contribute significantly to the public's understanding of government activities." (E.g., *Sheet Metal Workers v. Dept. of Veterans Affairs* (3rd Cir. 1998) 135 F.3d 891, 904, and see cases cited on p. 903.)[7]

The reason Local 21 can provide no case law against disclosing federal employee salaries was noted by the trial court in this case — the regulations implementing the Freedom of Information Act require disclosure of the name and salary rate, including bonuses, awards, and "allowances and differentials," of "most present and former Federal employees." (5 C.F.R. § 293.311(a).) Therefore, while the legislative history and judicial construction of the federal disclosure law are useful in construing the CPRA (*Times Mirror Co. v. Superior Court*, *supra*, 53 Cal.3d 1325, 1338; *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008, 1016), the comparison is not favorable to Local 21.

Statutory development is another factor determining whether social norms protect the salaries of public employees from disclosure. (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 36.) As we have noted, both the CPRA and the Freedom of Information Act embody a public policy favoring disclosure of public records, and protect

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6 The exception is *Campbell v. United States Civil Service Commn.* (10th Cir. 1976) 539 F.2d 58. The *Campbell* court concluded that a report on personnel management at a federal research laboratory, which contained not only salaries but also information on individuals who had been improperly promoted or "overclassified" (i.e., placed in GS service levels too high for their duties) were not subject to disclosure because of the personal embarrassment it would cause for the affected employees. (*Id*. at pp. 60, 62.) Thus, *Campbell* is not authority for refusing to disclose names and salaries only.

Our research turned up a case predating the Freedom of Information Act in which a court refused to require the disclosure of payroll records for the United States Senate. The court noted the separation of powers doctrine, and concluded legislation authorizing disclosure was necessary. (*Trimble v. Johnson* (D.C. Dist. 1959) 173 F.Supp. 651, 652-654.)

7 A different result was reached in *News Group Boston, Inc. v. National Railroad Passenger Corp.* (D. Mass. 1992) 799 F.Supp. 1264. The *News Group* court ordered disclosure of the salaries but not the names of Amtrak employees, noting that Amtrak was not a federal agency but that because its operations were federally subsidized and regulated, it was more closely related to governmental operations than the employees at issue in the federal contractor cases. (*Id*. at p. 1272.)

personnel files only insofar as their release would constitute an unjustified invasion of privacy. (Gov. Code, § 6254, subd. (c); 5 U.S.C. § 552(b)(6).) The federal act has not been applied to protect public employees' names and salaries from disclosure. The regulation requiring disclosure of federal employee names and salaries has been in effect at least since 1989, and neither Congress nor the federal Office of Personnel Management have acted to change the rule. (5 C.F.R. § 293.311(a); see *Kassel v. U.S. Veterans' Admin.* (D.N.H. 1989) 709 F.Supp. 1194, 1202.) Nor has the California Legislature responded to the *Braun* decision, handed down in 1984, by amending the CPRA to protect names and salary information from the Act's disclosure requirements.[8]

Indeed, since 1975 the CPRA has specified "[e]very employment contract between a state or local agency and any public official or public employee is a public record which is not subject to the [exemption] provisions of Sections 6254 and 6255." (Gov. Code, § 6254.8; Stats. 1974, ch. 1198, § 1, p. 2588.) In this case, evidently Oakland had no contracts with employees earning over $100,000; the trial court noted the City had agreed to provide copies of such contracts but was able to identify none. We recognize that public employment in California is typically held by statute, not by contract. (*Miller v. State of California* (1977) 18 Cal.3d 808, 813; *Kim v. Regents of California* (2000) 80 Cal.App.4th 160, 164; and see *Priceless*, *supra*, 112 Cal.App.4th 1500, 1516-1519 [legislative history of Gov. Code, § 6254.8 reflects intent not to apply statute to civil service employees].) Nevertheless, Government Code section 6254.8 demonstrates the Legislature does not consider the information found in employment contracts with public officials or employees, which would certainly include names and salary information, to be protected from disclosure by social norms or the constitutional right to privacy.

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8 California's Attorneys General, when asked by public officials for advice on the disclosure of salaries and related matters, have consistently opined that the CPRA requires disclosure of the amounts paid to public employees. (68 Ops. Cal. Atty. Gen. 73, 78 (1985) [performance awards to city's executive managers must be disclosed]; 64 Ops. Cal. Atty. Gen. 575, 582 (1981) [payroll records of public employees, unlike those of private employees, are subject of legitimate public interest]; 60 Ops. Atty. Gen. 110, 113 (1977) [names and amounts received by county retirees, contained in county payroll records, must be disclosed]; see also 25 Ops. Cal. Atty. Gen. 90, 91 (1955) [opinion predating CPRA, concluding that state employee's retirement pay, like name and salary of every public employee, was matter of public record].)

We note also the open meetings provisions of the Brown Act are inconsistent with the idea that social norms preclude the disclosure of public employee salaries. The Act's declaration of legislative intent itself counters that notion: "The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." In 1994, the Legislature codified the holding of *San Diego Union v. City Council*, *supra*, 146 Cal.App.3d at p. 947, with a qualification, by adding the following language to the provision authorizing closed sessions on matters of public employment: "Closed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline." (Gov. Code, § 54957; Stats. 1994, ch. 32, § 14, p. 11460.) **9**

The trial court in this case properly relied on Oakland's "Sunshine Ordinance," which requires disclosure of "[t]he exact gross salary and paid benefits available to every public employee." (Oakland Municipal Code, § 2.20.220(C)(4).) Local 21 argues that "available" salaries and benefits are not the same as salaries and benefits actually paid. However, another provision of the ordinance requires disclosure of all "records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social and other services whose records are confidential by law." (Oakland Municipal Code, § 2.20.220(F)(2).) Read together, these provisions require the disclosure of salaries actually paid to city employees.

We also observe that when providing for disclosure of "job pool information," including such matters as sex, age, ethnicity, and prior experience, the municipal ordinance specifies the disclosure shall not include "the identification of any particular individual." (Oakland Municipal Code, § 2.20.220(C)(1).) No such provision barring identification by name is included in the provisions pertaining to salaries and disbursements.

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9 As a result of further amendment in 2002, this language is now found in Government Code section 54957, subdivision (b)(4).

Local 21 contends financial privacy legislation recently enacted on the federal and state levels supports the right of public employees to keep their salary information private. It does not. Both the Gramm-Leach-Bliley Act and the California Financial Privacy Act of 2003 apply only to information obtained by financial institutions, and specifically exempt from their terms information disclosed to the general public. (15 U.S.C. § 6809(4)(A) & (B); Fin. Code, § 4052, subd. (a).) Nothing in these statutes purports to shield public employee salaries from disclosure. Those salaries are not merely personal finances; they are public expenditures. Of course, public employees have the same privacy rights as their fellow citizens in the details of their transactions with financial institutions.[10]

Thus, neither Congress, the California Legislature, nor the Oakland City Council has recognized any social norm making public employee salary data a private matter. Some state legislatures, on the other hand, have specifically authorized the disclosure of public employee names and salaries.[11]

Constitutional development is another source our Supreme Court has counseled us to consult in determining whether social norms establish a privacy right in a particular kind of information. (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 36.) CCN notes that in the November 2, 2004 election the voters passed amendments to the California Constitution strengthening the public "right of access to information concerning the conduct of the people's business." (Cal. Const., art. 1, § 3(b)(1).) The amendments provide: "A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and

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10 Much of the California case law Local 21 relies on involved such private financial information, and is therefore inapposite. (E.g., *City of Carmel-by-the-Sea v. Young* (1970) 2 Cal.3d 259, 268 [statute requiring public officials to disclose private financial dealings held unconstitutional]; *Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 656-659 [privacy rights of bank customers must be accommodated in discovery proceedings]; *Harris v. Superior Court* (1992) 3 Cal.App.4th 661, 663, 664 [financial records of father's cohabitant protected from discovery in child support dispute].)

11 The states with such legislation include Alaska (AS 39.25.080(b)(6)), Kansas (KSA § 45-221(a)(4), and Missouri (RSMo § 610.021(13)). In Idaho and Maryland, public employee salaries are exempted from protection without any statutory reference to names. (ID St. § 9-340C(1); MD State Gov. Code § 10-617(f)(1).)

narrowly construed if it limits the right of access." (Cal. Const., art. 1, § 3(b)(2).) The impact of the new provisions on this case should not be overstated, as they also include qualifications against any modification of privacy rights or nullification of the confidentiality of law enforcement records. (Cal. Const., art. 1, § 3(b)(3) & (5).) Nevertheless, this constitutional development favors increased transparency in the conduct of government business.

The final factor noted in *Hill* is the ballot arguments accompanying the initiative measure that enacted California's constitutional right to privacy. (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 36.) The relevant ballot argument was quoted in *Hill*: the right to informational privacy was intended to "prevent[] government and business interests from [1] collecting and stockpiling unnecessary information about us and from [2] misusing information gathered for one purpose in order to serve other purposes or to embarrass us." (Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Gen. Elec. (Nov.7, 1972), p. 27; *Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 36.) The purpose of gathering salary information is plain — to ascertain how much to pay public employees. The purpose of disclosing the information is not very different — to permit the public to ascertain how much its employees are paid.

We conclude there are no established social norms that would support a privacy right protecting public employees from the disclosure of their names and salaries. The *San Diego Union* court recognized that public salaries are "matters of substantial public interest warranting open discussion." (*San Diego Union v. City Council*, *supra*, 146 Cal.App.3d at p. 955.) The *Braun* court ruled that an employee's salary is not the kind of intimate personal information intended to be exempt from disclosure under Government Code section 6254, subdivision (c). (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at pp. 342-345.) The Oakland City Council, our state Legislature, the legislatures of other states, and Congress have all demonstrated, through affirmative enactments or the failure to respond to regulations or court decisions requiring disclosure, that the salaries paid to public employees are public records, not private matters. California voters have recently approved a constitutional amendment enhancing the right of public access to government records. Our conclusion is also

consistent with the ballot arguments considered by the voters when they approved the addition of a privacy right to our state constitution.

Before turning to the contrary conclusions of the *City of Los Angeles* and *Peerless* cases, we address Local 21's principal objections to the result we have reached. Local 21 claims disclosing names and salaries exposes public employees to the risk of identity theft. However, the union fails to explain how publication of names and salaries alone would facilitate such theft. It raises the specter of "cold calls" from stock brokers and the like. Even if such calls could be considered a serious invasion of privacy, we take judicial notice of the establishment of do-not-call registries by the Federal Communications Commission and the California Attorney General for the purpose of combating the annoyance of telemarketers. (http://www.fcc.gov/cgb/donotcall; http://caag.state.ca.us/donotcall; Evid. Code, § 452, subd. (c).) We also note Local 21's concession below that during the eight previous years when Oakland disclosed the names and salaries of its employees, there were no evident problems with identity theft.

Local 21 argues the benefits of disclosing salaries can be obtained without linking the salaries to the names of individual employees. We disagree. The public has a right to know not only how much it is spending on salaries, but also who the recipients are. Salary information stripped of personal identification would leave the public in the dark as to possible instances of nepotism, favoritism, inefficiency, and fraud. Local 21 has provided no convincing authority suggesting that releasing the names of high-earning public employees with their salaries would violate any social norm. The Legislature contemplated the disclosure of names as well as salaries when it enacted the statute specifying that public employment contracts were not exempt from disclosure. (Gov. Code, § 6254.8.) Our sister states have commonly required public employee names as well as salaries to be disclosed, as does the federal government. (5 C.F.R. § 293.311(a), and see footnotes 5 and 11, *ante*.) The terms of Oakland's "Sunshine Ordinance" indicate no protection from personal identification was intended when salary expenses are disclosed. (Oakland Municipal Code, § 2.20.220.)

We agree with the *Braun* court that while public employment does not entail the loss of privacy rights — and we emphasize that public employees have the same financial privacy rights as anyone else after they have received their salaries — it does require a surrender of

anonymity due to the fact that public employees are engaged in the people's business. (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 347.) The public is entitled to know the names as well the salaries of its highly paid employees.

2. *The City of Los Angeles and Priceless Decisions*

In *City of Los Angeles*, a police officer resisted his wife's attempt to subpoena his payroll records in their marital dissolution proceeding. The officer contended his wife had to comply with the Evidence Code requirements for discovery of peace officer personnel files, which were enacted in response to the disclosure requirement imposed by our Supreme Court in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 538. (*City of Los Angeles*, *supra*, 111 Cal.App.4th 883, 885-889.) Division Three of the Fourth District Court of Appeal held that peace officer payroll records are "personnel records" under the catchall provision of the relevant statutory definition: "Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy." (Pen. Code, § 832.8, subd. (f).)

The *City of Los Angeles* court declared: "Payroll information is personal. Ask any ordinary reasonable person if he or she would want their payroll information routinely disclosed to parties involved in litigation and one would hear a resounding, 'No.' (See *Braun v. City of Taft* [*supra*] 154 Cal.App.3d 332, 343 [] [job classification and salary are deemed ' "personal and capable of causing embarrassment" '].) Even though the pay scale of public employees is generally a matter of public record, it is quite a different thing to know with precision another person's salary, selection of benefits, and potential retirement income. Few records are deemed more personal. Of all records kept by employers, it is the disclosure of payroll records that would constitute one of the greatest 'unwarranted invasions of personal privacy.' " (*City of Los Angeles*, *supra*, 111 Cal.App.4th at p. 892.)

This broad statement regarding the privacy interest in payroll records does not apply to the circumstances before us. "Whatever their common denominator, privacy interests are best assessed separately and in context." (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at p. 35.) *City of Los Angeles* did not involve the public's right to disclosure of public finances, but the discovery rights of a private party in litigation. Furthermore, the information sought by the officer's wife was not limited to his salary but included other

employee benefits, including retirement income. Those sorts of financial details are not at issue here.

Aside from these distinguishing factors, *City of Los Angeles* is unpersuasive for several reasons. The court gave no consideration to the guidelines set out in *Hill* for determining the existence of a legally protected informational privacy interest. (*Hill v. National Collegiate Athletic Assn.*, *supra*, 7 Cal.4th at pp. 35-36.) The only legal authority it cited was *Braun v. City of Taft*, which held that disclosure of a public employee's salary was *not* an unwarranted invasion of personal privacy. (*Braun v. City of Taft*, *supra*, 154 Cal.App.3d at pp. 345, 347.) Furthermore, the *City of Los Angeles* court went on to hold that despite the privacy interest it had recognized in payroll records, divorcing spouses will "invariably demonstrate good cause for disclosure of payroll information," without having to comply with the *Pitchess* procedures. (*City of Los Angeles*, *supra*, 111 Cal.App.4th at pp. 895.) Thus, as a matter of law there could be no "unwarranted invasion of privacy" for purposes of Penal Code section 832.7 in any marital dissolution proceeding, rendering the court's preliminary holding on the privacy interest in payroll information nugatory. For all these reasons, we decline to follow the reasoning of the *City of Los Angeles* court.

The *Priceless* case, unlike *City of Los Angeles*, is on point. There, public employee unions sought injunctive relief in response to a CPRA request from a newspaper reporter for the names, titles, and W-2 wages of city employees for five Bay Area municipalities. (*Priceless*, *supra*, 112 Cal.App.4th 1500, 1505-1506.) The trial court issued a preliminary injunction permitting the release of salary information but blocking any identification of individual employees. (*Id*. at pp. 1507-1508.) Division One of this court affirmed, concluding the unions had met all three *Hill* requirements for establishing that publication of employee names and salaries would be an invasion of privacy. However, the court emphasized the case was at a preliminary phase and additional evidence presented at the hearing on the CPRA request might warrant a different result. (*Id*. at pp. 1522-1523.)

The *Priceless* court cited, but did not discuss, the *San Diego Union* decision. (*San Diego Union v. City Council*, *supra*, 146 Cal.App.3d 947; *Priceless*, *supra*, 112 Cal.App.4th at p. 1511.) It did discuss *Braun*, noting the *Braun* court had declined to reverse an order authorizing disclosure of payroll information despite its reservations about the inclusion of

personal details such as birthdate and social security and credit union numbers. We agree with the *Priceless* court's observation that with the recent spread of identity theft, the *Braun* court's willingness to affirm an order requiring the disclosure of such sensitive personal information would not be matched by any court today. (*Priceless*, *supra*, 112 Cal.App.4th at pp. 1512-1513.)

We are puzzled, however, by the grounds on which the *Priceless* court distinguished *Braun*. "Unlike this case, the *Braun* case concerned the investigation of a single individual where disclosure of the individual's name was not severed from the disclosed information itself. Furthermore, that court was upholding the lower court's determination to approve of the councilman's disclosure of the information, while indicating it would also have upheld an order redacting the personal information. Here, wholesale disclosure of every public employee's name and salary history [is] sought and the names have been redacted by the trial court's order." (*Priceless*, *supra*, 112 Cal.App.4th at p. 1513.)

While it is true *Braun* involved the payroll records of an individual employee, presumably the invasion of privacy would be greater for a person singled out for investigation than for employees whose names and salaries appear on a list. More importantly, the fact that the *Braun* court indicated some information *could* have been redacted from the disclosed record does not detract from its plain holding that release of the salary information was not an unwarranted invasion of personal privacy. And the circumstance that the *Priceless* trial court had redacted names from the salary disclosure did not help resolve the central question on appeal — whether the redaction was proper under the CPRA. As the *Priceless* court recognized, the issues before it were primarily legal, and thus no particular deference was owed to the trial court's determination. (*Priceless*, *supra*, 112 Cal.App.4th at p. 1510.)

Having distinguished *Braun*, the *Priceless* court proceeded to consider whether public employees have a legally protected privacy interest in "their personally identified salary information."[12] It first cited our Supreme Court's decision in *City of Carmel-by-the-Sea* for

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12 We note the *Priceless* court appeared to place the burden of establishing the absence of a privacy interest on the newspaper, by pointing out that the cases it relied upon failed to support its argument for disclosure. (*Priceless*, *supra*, 112 Cal.App.4th at p. 1514.) The burden of establishing

the proposition that there is a personal privacy right in one's financial affairs. (*City of Carmel-by-the-Sea v. Young*, *supra*, 2 Cal.3d 259; *Priceless*, *supra*, 112 Cal.App.4th at p. 1514.) That case, however, had nothing to do with the salaries earned by public employees. The Supreme Court reviewed the constitutionality of a statute requiring public officers to disclose all investments over $10,000, except personal real property. (*City of Carmel-by-the-Sea v. Young*, *supra*, 2 Cal.3d at p. 262.) The high court ruled this intrusion into "personal financial affairs" was barred by the privacy right derived from the Fourth Amendment to the federal Constitution. (*Id*. at pp. 267-268.)[13] No such detailed revelation of personal finances was involved in *Priceless*, or in this case.

Next, after noting the three elements of invasion of privacy established in *Hill*, the *Priceless* court observed Government Code section 6254, subdivision (c) itself recognizes the right of privacy in personnel files. (*Priceless*, *supra*, 112 Cal.App.4th at p. 1514; see also *id*. at pp. 1515-1516.) However, the statute does not contemplate an absolute privacy right; it protects only those items in personnel files "the disclosure of which would constitute an unwarranted invasion of personal privacy."

The *Priceless* court then reviewed several United States Supreme Court opinions concerning privacy rights in personnel files, none of which was limited to the disclosure of names and salaries. (*Priceless*, *supra*, 112 Cal.App.4th at p. 1515.) As we have noted, federal regulations generally require the disclosure of names and salaries of federal employees. (5 C.F.R. § 293.311(a); see Part 2, *ante*.)

Finally, the *Priceless* court pointed out the parties had stipulated that "employees' salary details are kept confidential in personnel files," and concluded "[t]his unchallenged fact supports the trial court's recognition that a privacy interest was at stake . . . ." (*Priceless*, *supra*, 112 Cal.App.4th at p. 1516.) But surely a government agency cannot circumvent the requirements of the CPRA merely by placing information in a file labeled

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a privacy interest properly rested on the unions in their pursuit of injunctive relief, because ultimately the CPRA would require the cities to justify any refusal to disclose the information sought by the newspaper. (Gov. Code, § 6255.)

13 The Supreme Court upheld the constitutionality of a more narrowly tailored disclosure statute in *County of Nevada v. MacMillen* (1974) 11 Cal.3d 662, 672.

"confidential." (See *Williams v. Superior Court* (1993) 5 Cal.4th 337, 355 [agency may not shield record from disclosure by placing it in file labeled "investigatory"]; *New York Times Co. v. Superior Court*, *supra*, 52 Cal.App.4th 97, 103 [public scrutiny under CPRA may not be avoided by placing into personnel file what would otherwise be unrestricted information].)

We believe our colleagues in Division One gave insufficient consideration to the burden placed on parties resisting disclosure under the CPRA, and to the limited nature of the intrusion into personal finances occasioned by the release of gross salary data for named public employees.

4. *Penal Code section 832.7*

Penal Code section 832.7, subdivision (a) provides in relevant part: "Peace officer or custodial officer personnel records maintained by any state or local agency . . . or information obtained from these records, are confidential and shall not be disclosed in any civil or criminal proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code." Penal Code section 832.8 defines "personnel records" as "any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

"(a) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

"(b) Medical history.

"(c) Election of employee benefits.

"(d) Employee advancement, appraisal, or discipline.

"(e) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

"(f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy."

The OPOA suggests that peace officer payroll records are included in categories specified in Penal Code, section 832.8, subdivisions (a) and (d) — "personal data," "employment history," and records of "[e]mployee advancement." We do not think so. On

this point we agree with the *City of Los Angeles* court. The Legislature did not mention payroll records in the statutory definition, and they are not "similar information" to the kinds of personal data specified in subdivision (a). (*City of Los Angeles*, *supra*, 111 Cal.App.4th at pp. 891-892; see also *Braun v. City of Taft*, *supra*, 154 Cal.App.3d at pp. 343-344; *Bakersfield City School Dist. v. Superior Court*, *supra*, 118 Cal.App.4th 1041, 1045; *Washington Post Co. v. U.S. Dept. of Justice*, *supra*, 863 F.2d 96, 100.) Nor is payroll information linked closely enough to records of career "advancement" to be held invariably confidential under subdivision (a) of the statute. It must qualify for protection, if at all, as "information the disclosure of which would constitute an unwarranted invasion of personal privacy," under Penal Code, section 832.8, subdivision (f). (*City of Los Angeles*, *supra*, 111 Cal.App.4th at p. 892; accord, *Priceless*, *supra*, 112 Cal.App.4th at p. 1525.)

The OPOA's reading of the statutes finds some support in a recent decision from the Third Appellate District. In *California Commission on Peace Officer Standards & Training v. Superior Court* (2005) __ Cal.App.4th __, 2005 WL 776219 (*California Commission*), the Los Angeles Times sought to compel the disclosure of peace officer employment history records maintained by the California Commission on Peace Officer Standards and Training (POST). The trial court ordered POST to disclose peace officer names, departments, appointment types and dates, and termination dates. (*Id*. at p. __.) The Court of Appeal granted POST's writ petition, ordering the trial court to deny the newpaper's CPRA request. (*Id*. at p. __.) The court ruled the records in question were "obtained from" the personnel files maintained by police departments, and thus were confidential under Penal Code section 832.7, subdivision (a). (*Id*. at p. __.) We find this aspect of the court's holding distinguishable; the employment histories sought by the Times, unlike the salary data sought by CCN, were the kind of information maintained only in personnel files.

However, the court also disagreed with the *City of Los Angeles* decision insofar as it "stand[s] for the proposition that the privilege applies only to items that are enumerated in Penal Code section 832.8." The *California Commission* court suggested "it is not the enumerated items that are protected, but *any information* in a file maintained by the employing agency that contains records relating to any of the items specified in subdivisions

(a) through (f)." (*California Comm'n. on Peace Officer Standards & Training v. Superior Court*, *supra*, __ Cal.App.4th at p. __, emphasis in original.)

We believe this reading of the statute is demonstrably overbroad. It would make confidential not only the kinds of information specified by the Legislature, but also *any* information from *any* file containing *any* item "relating to" confidential information. We do not believe the Legislature intended to paint with so broad a brush. The term "records relating" to the kinds of information specified in Penal Code section 832.8 is more reasonably understood as a reference to records that actually reflect the enumerated items. There would be no point in carefully describing distinct categories of protected information if all records in any file including an item that might be considered "related" would also be swept into the statutory definition. For practical purposes, all files would be transformed into "personnel files." As the *California Commission* court noted, the information sought by the Times fit comfortably within the category of "employment history" specified in Penal Code, section 832.8, subdivision (a). (*Id*. at p. __.) There was no need to disagree with the *City of Los Angeles* court's common-sense approach to the statutory classifications.

Peace officer payroll records might be considered "related to" confidential personnel records, but they are not themselves such records unless their disclosure amounts to an unwarranted invasion of privacy under Penal Code, section 832.8, subdivision (f). The analysis is the same under the CPRA and the peace officer confidentiality statutes. As this court held in *City of Richmond v. Superior Court*, *supra*, 32 Cal.App.4th 1430, 1439-1440, the CPRA may not be employed to "conduct[] an end run around" the confidentiality requirements of Penal Code section 832.7 and the related Evidence Code provisions. (See also *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588, 600; *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1425.) Records that are protected from disclosure by Penal Code section 832.7 are subject to the CPRA exemption for "[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." (Gov. Code, § 6254, subd. (k); *City of Richmond v. Superior Court*, *supra*, 32 Cal.App.4th at p. 1440; *City of Hemet v. Superior Court*, *supra*, 37 Cal.App.4th at pp. 1426-1428.) Nevertheless, absent factors peculiar to peace officers that might weigh against disclosure, a record that may be

released without perpetrating an "unwarranted invasion of personal privacy" under Government Code section 6254, subdivision (c) must also fall outside the scope of Penal Code section 832.8, subdivision (f), which employs identical terminology.

The OPOA presents no considerations that might take peace officers out of the analysis set out in Part 2, *ante*. Accordingly, we hold that Penal Code section 832.7 does not protect Oakland police officers earning over $100,000 from the disclosure of their names and salaries.

DISPOSITION

The unions' petitions for writ of mandate are denied. CCN shall recover its costs in this writ proceeding, and may seek attorney fees in the trial court.

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Parrilli, J.

We concur:

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McGuiness, P. J.

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Corrigan, J.

Trial Court:	Superior Court, Alameda County
Trial Judge:	Hon. Steven A. Brick
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Real Party in Interest, Oakland Police Officers' Association:	Alison Berry Wilkinson Rains, Lucia & Wilkinson