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A D.C. Superior Court has ordered the city's police department to release to The Washington Post the disciplinary records of a retired high-profile DC police officer with a history of excessive force complaints and a recent arrest on sex charges with a minor. [WP Co. LLC v. D.C.](#), No. 2023-CAB-000951, 2023 D.C. Super. LEXIS 14 (D.C. Sup. Ct. Sep. 14, 2023).

## Background

Retired DC Metropolitan Police Department (MPD) Officer Brett Parson, once praised as a “living legend” by the District’s Capital Pride Alliance, pioneered the growth of a policing unit specifically for the District’s LGBTQ+ community and served as the head of the MPD’s Gay and Lesbian Liaison Unit. Parson spoke to law enforcement agencies around the globe regarding community policing of the queer community and starred in a Department of Justice training video. As a high-profile officer, Parson frequently talked to the press, including The Washington Post.

As the newspaper’s reporting noted, during Parson’s career he racked up a record of excessive force complaints. He pulled cab drivers from vehicles, threw a bystander through a plate glass window leading to litigation and settlement, ratcheted handcuffs tightly and slapped arrestees who mouthed off. Parson boasted about his tough approach – “Guilty as charged,” “I’ve done this hundreds of times” in several news reports in the early 2000s. MPD even listed him on its early warning program that tracks officers with an excessive number of citizen complaints. The District paid over \$17,000 to settle one excessive force suit involving Parson.

Parson retired in 2020 but remained a member of the MPD reserves. Two years later, while visiting his parents in South Florida, Parson was arrested on charges of having engaged in sexual activity with a minor with whom he had met in an isolated parking lot. Parson was promptly removed from the MPD reserves. (The Florida criminal charges were ultimately dropped after the victim refused to cooperate.)

## FOIA Requests and Litigation

In June 2022, the Post submitted three FOIA requests for Parson’s personnel file, disciplinary records, and records related to the incident that resulted in the \$17K settlement. The District categorically denied all three requests pursuant to the DC FOIA personal privacy exemption.

balance the public interest against Parson's privacy interest, as required under FOIA. The District argued that the CPJRAA did not apply yet because the funding provision of the law had not yet been satisfied, and that the age of the records and Parson's retirement from the force supported a lack of public interest.

## Court Opinion

In an important victory for police transparency, DC Superior Court Judge Maurice A. Ross granted the Post's motion for summary judgment, rejected the District's arguments for withholding the records under FOIA's privacy exemption, and ruled that the Post should be awarded its attorney's fees.

The Court observed that, even if unenforceable at the moment, the CPJRAA "cannot be ignored," as it recognizes the "strong nationwide desire to police accountability in the wake of George Floyd," which weighs in favor of the public interest in disclosure. *Id.* at \*12. The Court likewise rejected the District's argument that the age of the records diminished the public interest, comparing old police disciplinary records to the Pentagon Papers, the Boston Globe's investigation of the Catholic Church, and other "disclosures of historical misconduct." *Id.* at \*16.

As to Parson specifically, the Court found his privacy interest was diminished because "he actively took steps to thrust himself into the spotlight and openly boasted about instances in his misconduct while simultaneously holding roles of significant responsibility." *Id.* at \*15. The Court concluded its interest balancing analysis by stating that "[d]isclosure would serve the core purpose of FOIA in revealing to the public how the MPD handled a high-profile officer with many instances of misconduct over the years." *Id.* at \*20.

The Court further concluded, without the issue having yet been briefed, that the Post was eligible and entitled to recover its attorney's fees in the matter. Significantly, the Court found that the first factor in assessing fee entitlement, the public benefit in the records sought, was "significant" because "enlightening the public as to how MPD handled disciplinary action for a high-profile officer with a history of misconduct over the years in a time when the public desire for police transparency is at an all-time high[.]" *Id.* at \*\*22-23.

The Court instructed the Post to file a motion for its attorney's fees.

*Plaintiff WP Company LLC d/b/a The Washington Post was represented by Charles D. Tobin, Maxwell S. Mishkin, and Margaret N. Strouse of Ballard Spahr LLP and James A. McLaughlin, Deputy General Counsel of The Washington Post. The District was represented by Assistant D.C Attorneys General Rachel B. Gale and Steven N. Rubenstein.*