



## **PLACER COUNTY GRAND JURY**

# **Lincoln City Government Transparency**

**What Happened to Our Police Chief?  
The People Want to Know**

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## **What Happened to Our Police Chief? The People Want to Know**

### **Summary**

On July 1, 2016, the Lincoln City Manager announced that the Lincoln City Police Chief resigned. The City Manager refused to provide specific details, stating only that it was a personnel matter.

The local media and citizens asked for more details and were not satisfied with the answers they received. It was their opinion that the answers given did not fully explain the circumstances related to the resignation. There was significant concern that the City was not acting as transparently as expected. In light of the public controversy surrounding the resignation of the Chief, the Grand Jury investigated the matter.

The Grand Jury exercised its oversight authority to review the employment contract, the Settlement Agreement and the internal investigation documents which were not provided to the general public. It should be noted that there was much confusion between the terms “Settlement Agreement” and “severance package.” The “Settlement Agreement” is the official document which was negotiated between the Chief and the City of Lincoln on July 1, 2016. “Severance package” is the term used by a newspaper to describe the financial agreement between the City and the Police Chief upon his departure.

Based on this review, the Grand Jury acknowledges the City was within its rights to accept the Chief’s resignation. However, the Grand Jury believes the City could, and should, be more transparent in providing additional information to City residents while remaining in compliance with legal restrictions on the release of confidential personnel information.

### **Background**

The Lincoln Police Chief was hired in September of 2013 and resigned July 1, 2016.

On February 1, 2016, the Lincoln Peace Officers Association (LPOA) submitted a list of grievances to the City of Lincoln, which led to an independent investigation of the Chief. On June 13, 2016, the Lincoln City Manager confirmed to the Lincoln News Messenger that an independent investigation was being conducted by the City.

On July 1, 2016, the Lincoln City Manager announced the Chief’s resignation. He told the press that State law precluded him from commenting on whether the resignation was connected to the recent independent investigation into concerns filed with the City Manager by the LPOA. The

City Manager was quoted by the local newspaper saying, “I’m unable to disclose any information regarding the internal investigation.”

For months following this announcement, the local press published articles and tried unsuccessfully to obtain documents pertaining to the Chief’s sudden departure. Citizens of Lincoln took to social media and submitted letters to the editor of the Lincoln Messenger. They criticized the City’s refusal to provide a copy of the Settlement Agreement the City negotiated with the Chief, complete details of the investigation of the Chief, or confirm if the investigation was connected to his resignation.

## **Methodology**

The 2016-2017 Grand Jury

- reviewed the Police Chief’s employment agreement;
- studied the independent investigation into a list of grievances filed against the Chief by the LPOA;
- examined the Settlement Agreement between the Chief and the City of Lincoln;
- reviewed the California Public Records Act (CPRA);
- read California Evidence Code Sections 1043 and 1045;
- reviewed articles published by The Lincoln News Messenger;
- considered citizen comments posted in response to articles published by The Lincoln News Messenger and on social media;
- interviewed Lincoln City officials.

## **Facts**

- The Police Chief was employed by the City of Lincoln for a total of 22 months.
- On February 1, 2016, a list of grievances against the Chief was submitted to the Lincoln City Manager by the LPOA.

- A Lincoln City Council Member is on record saying, "...the city takes any and all information regarding potential misconduct or violations of the law seriously, and asked for an independent investigation of this information."<sup>1</sup>
- In response to the list of grievances, in April 2016 the City of Lincoln hired a law enforcement consultant to conduct an investigation into the allegations made against the Chief by LPOA.
- On July 1, 2016, the Lincoln City Manager publicly announced the Chief's resignation without providing any details.
- On July 14, 2016, a Lincoln News Messenger article reported that upon his departure, the Chief received a settlement totaling \$84,666.13 before taxes. The employment agreement and an itemization document were given to the press. According to the article, severance payments made to the Chief covered three months' salary and benefits, as follows:
  - Three months' salary at \$37,412.13
  - Payout, accrued vacation plus three months at \$18,593.83
  - Payout, accrued sick leave plus three months at \$21,472.41
  - Payout, health benefits at \$4,817.76
  - Phone allowance at \$300
  - Vehicle allowance at \$1,620
  - Uniform allowance at \$450

On the itemized document, the severance period was from July 1, 2016 to October 1, 2016.<sup>2</sup> The amount received in the Settlement Agreement was identical to the amount originally included in the Termination of Employment and Severance clause of his employment agreement.

- Clause F in the employment agreement for the Chief dated September 30, 2013, under the heading Termination of Employment and Service, states the "Employee shall not be entitled to Severance if Employee voluntarily resigns."
- The Lincoln News Messenger filed a CPRA request dated July 15, 2016 seeking to obtain the "severance package," the list of concerns regarding the Chief, and a copy of the final report regarding the independent investigation.
- The City of Lincoln denied The Lincoln News Messenger's CPRA request, contending that "Peace officer personnel records are confidential and privileged and the procedures set forth in Evidence Code section 1043 are the exclusive method for obtaining those records."

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<sup>1</sup> Lincoln News Messenger article dated July 6, 2016.

<sup>2</sup> Lincoln News Messenger article dated July 14, 2016.

- The Lincoln Mayor is on record stating: *“I will state that from a public policy perspective, release of a severance agreement once it has been completed is typically the norm”*<sup>3</sup>
- The California Public Records Act (CPRA) was designed to give the public access to information so they can monitor all aspects of the government that serves and represents them. The CPRA allows for inspection or disclosure of governmental records to the public upon request, although there are some very specific exceptions to this disclosure in the law.
- The CPRA Government Code section 6252(e) states: *“Public records” includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.* There are some specific exceptions to this disclosure in the law, such as attorney/client communication, recipients of public assistance, personnel records and law enforcement records, to name a few. In these exceptions a court order would be required.
- The Grand Jury found no evidence that a request for a court order has been filed in this case.

## **Findings:**

The Grand Jury found:

- F1. It was clearly stated in the employment agreement that the Chief would not be entitled to severance upon his resignation. However, in the Settlement Agreement the City of Lincoln granted the Chief all the severance benefits listed in the employment agreement.
- F2. The City of Lincoln was not transparent in dealing with the Chief’s resignation.

## **Conclusion**

There are strong opinions on both sides surrounding the City of Lincoln’s decision not to release documents pertaining to the resignation of the Lincoln Police Chief.

The Grand Jury has exercised its authority to review documents not accessible to the media or the general public. Based on this review, the Grand Jury accepts that the City of Lincoln properly exercised its discretion to accept the Chief’s resignation.

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<sup>3</sup> Lincoln News Messenger article dated July 25, 2016.

The Grand Jury accepts the City of Lincoln's decision to refuse to release the list of LPOA grievances and the independent investigation of the Chief.

It is unclear why the City of Lincoln has refused to release to the public the Settlement Agreement negotiated between the City and the Chief. The Grand Jury recognizes that there are differing opinions on this and points out that the Superior Court could make a final determination.

The Grand Jury notes that a request for a court order has not been filed by any party in this case. Further, the Grand Jury does not take a position on whether or not a request for a court order would be successful in this situation.

It is the Grand Jury's opinion that the City of Lincoln should make every effort to be more transparent with its citizens.

## **Recommendations**

The Grand Jury makes the following recommendations:

- R1.** The City of Lincoln adhere to all terms of employment agreements they negotiate and not make generous settlements when not required and justified.
- R2.** The City of Lincoln release a copy of the Settlement Agreement they negotiated with the Police Chief to the public they serve.

**Request for Responses:**

	<u>Recommendations Requiring Response</u>	<u>Response Due Date</u>
<b>Mr. Matt Brower</b> Lincoln City Manager 600 6 <sup>th</sup> Street Lincoln, CA 95648	<b>R1, R2</b>	<b>August 31, 2017</b>
<b>Lincoln City Council</b> Lincoln City Hall 600 6 <sup>th</sup> Street Lincoln, CA 95648	<b>R1, R2</b>	<b>September 30, 2017</b>

**Copies Sent to:**

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