

In Re: Melamed - Right to Know Law Commonwealth Court Interpretation

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On December 19, 2022, the Commonwealth Court of Pennsylvania released an important decision that sheds light on whether the Right to Know Law (“RTKL”) requires municipalities to provide requestors with dismissal information regarding police officers prior to the completion of arbitration. In *Re: Melamed* involved a journalist from the Philadelphia Inquirer who submitted a request to the City of Philadelphia Police Department for “any record that reflects the police personnel dismissed in 2020, including name and rank and effective date of dismissal.”

Although final agency actions are considered public under the RTKL, the Court found that the dismissal of police officers are not final agency actions when an officer has an opportunity to appeal the dismissal to an arbitrator per the Collective Bargaining Agreement (“CBA”). The Court reasoned that Act 111 gives police personnel the right to bargain collectively with their public employers. In this case, the Police Department bargained-for CBA granted officers the opportunity to arbitrate their dismissal from the Department.

Since the CBA provided for mandatory arbitration as part of its employment termination process, a dismissal by the Department was found not to be a final action, as the officer was able to appeal the decision to an arbitrator to make the final decision regarding dismissal.

The Court ultimately held that the Police Department did not have to produce to the requestor records of officer dismissals that were pending the grievance arbitration process when the request was submitted. Based on the analysis and the language of the RTKL, we anticipate that this same concept will apply to officer demotions which would likewise not be final actions until the grievance arbitration process has concluded.

If you receive a Right to Know Law request and have questions about whether this Commonwealth Court holding is applicable to the request, please reach out to us for guidance on whether to provide the information requested. We may take the position that the requested dismissal information is not considered a final agency action if the decision is pending the grievance arbitration process. In addition, under the RTKL, only limited information regarding a demotion or dismissal needs to be provided and some information may be permitted to be released in redacted form.