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## File identification

Archive resolution of the previous information no. IP 132/2018, referring to the City Council of (...).

## Background

1.- En data 25/05/2018 va tenir entrada a l'Autoritat Catalana de Protecció de Dades, per remissió de l'Agència Espanyola de Protecció de Dades, un escrit d'una persona pel qual formulava denúncia contra l'Ajuntament de (...), due to an alleged breach of the regulations on the protection of personal data. The complainant stated that, following criminal proceedings opened against him on 23/04/2017 for an alleged crime against road safety, the then Chief Inspector of the Local Police of the City Council of (...) issued police report no. (...), dated 04/24/2017, which in his opinion would violate Organic Law 15/1999, of December 13, on the protection of personal data (hereinafter, LOPD). In particular, he considered that the said report had included, without his consent, excessive, inaccurate and incomplete data, and without informing him about it, and he also complained because he considered that with the referral of the report to certain people from this town hall, the obligation to keep it secret had been contravened.

2.- The Authority opened a preliminary information phase (no. IP 132/2018), in accordance with the provisions of article 7 of Decree 278/1993, of November 9, on the sanctioning procedure of 'application to the areas of competence of the Generalitat, and article 55.2 of Law 39/2015, of October 1, on the common administrative procedure of public administrations (henceforth, LPAC), to determine whether the facts were likely to motivate the initiation of a sanctioning procedure, the identification of the person or persons who could be responsible and the relevant circumstances that were involved.

3.- In this information phase, on 04/07/2018 the City Council of (...) was required to report on the events reported.

4.- On 31/07/2018, the City Council of (...) responded to the aforementioned request, once the extension of the granted deadline had been agreed, through a letter accompanied by various documentation, in which it set out , among other issues, the following:

- That: "The report with number (...) -2017 was issued ex officio within the framework of the municipal powers for the withdrawal of the provision weapon as a precautionary measure in the face of controversial facts. This report, as indicated in its body, wanted to record article 102 of the Local Police regulations of (...), however, as also indicated in the same report, the same regulations apply with their provisions, and we must also comply with the provisions of article 104, the initial motivation of said report:

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"Article. 104. The head of the Police, or the head of the corresponding shift, as a precautionary measure against exceptional situations, may order the suspension and preventive withdrawal of the use of the weapons of the members of the Police with reasons this fact in the immediate knowledge of the hierarchical superior, who will transfer it to the Mayor who will determine the temporary or definitive withdrawal of the weapon, as the case may be."

Therefore, as the municipal rule establishes without any doubt, the person or the body competent to issue said report is the Chief of the Local Police or any police officer on duty.

In relation to the administrative procedure, this report was the one that started a certain administrative file, identified as (...), because this file was the one that dealt with the confirmation of the precautionary measure of withdrawal of the weapon

which motivated the (...) -2017 report. Well, the municipal competence that falls in the prefecture of the Police force on the withdrawal of official weapons must always be ratified in second instance linked to the corresponding technical-optional report through the appropriate administrative act. In that one, the reasons for the withdrawal of the official weapon were reported, which at the same time would be indicative for the initiation of an informative/disciplinary file.

As a result of that administrative file, the mayor's decree confirming the withdrawal of weapon no. (...) and subsequently the initiation of proceedings disciplinary for a non-minor offense.

The regulatory regulations are as follows:

- Law 16/91 of the Local Police of Catalonia.
  - Decree 219/1996, of June 12, approving the Weapons Regulation of the local police.
  - Article 97.1, 103 and 104 of the Local Police Regulations of (...) (BOPB of April 29, 2011).
  - General instruction of the Police (...) of (...), of the Local Police of (...).
- On the origin of the information contained in the police report relating to both the events that took place in 2017 (relating to the driving of the complainant here under the influence of alcohol, and the result of the test in exhaled air), as in the events that happened in 2011 and for which the complainant here was convicted as the author of a crime against road safety in 2013, the City Council pointed out the following:

"The source of the information in the (...) -2017 report is from the chief inspector of the Mossos d'Esquadra of the ABP of (...), who in the framework of the coordination and complementation which is established in the preamble and in article 5.4 of Law 4/2003 of April 7, on the organization of the public security system of Catalonia, I quote verbatim (...) and for the effect by legal imperative to the rules that will be cited later, taking into account the seriousness of the events and the impact on the service, it was transferred to the chief inspector of this Local Police.

Subsequently, the Local Police inspector contacted the OAC de Mossos of the ABP of (...) to be informed of the agent's conduct, outside of

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service at the time of the events in case they were directly related to the police function, because all information is relevant for the possible graduation of a disciplinary sanction. We refer to article 49 (very serious offences) of Law 16/91 on Local Polices of Catalonia:

e) Any conduct or action constituting an intentional crime.

r) The fact of getting drunk or consuming toxic drugs, narcotics or psychotropic substances during the service or habitually and the fact of refusing, in a situation of obvious physical or mental abnormality, the relevant technical checks."

As well as in article 11.4 and 12.2.b) of Decree 179/2015, of August 4, which approves the Regulation of the procedure of the disciplinary regime applicable to the local Police forces of

Catalonia:

11.4 The initiation of criminal proceedings against members of the local police forces will not prevent the agreement to initiate disciplinary proceedings for the same events. (...)

12.2.b) When the initiation of the procedure is based on declared facts proven criminally in a final sentence for the commission of an intentional crime that constitutes an offense in accordance with the disciplinary regime applicable to the local police."

In relation to the request for information issued by the APDCAT described as "facts of 2011" this party has not reported anything on said date. However, if the facts of 2011 are to be considered make reference to the facts described in the same report (...) -2017 as reoccurrence of facts previous counterparts, this information has its origin in the police files (report of the head of the Local Police (...) of (...) of 2014), where the facts that the same officer (...) expressed verbally in the office of the Chief of the Local Police, which were transferred to the mayor and secretary of the town hall at the time (...)."

- Regarding whether the City Council informed the complainant of the extremes provided for in article 5 of the LOPD, the City Council pointed out that: "no extremes were informed, because this party understands that it does not apply to him given that it does not conform to the object of the aforementioned article".
- On the reason why the information regarding the events was included in the police report happened in 2011, the City Council stated that:

"The information that was included in the police report (...) -2017 was included due to the seriousness of the events and repetition over time, given that the agent's own colleagues verbally communicated said incidence on several occasions, as for the judicially intruded facts in relation to this matter. As well as for the conditioning that was determined by the professionals through the psychological report mentioned in the report.

We are facing an event that is legally regulated as a disciplinary offense in the legal text that regulates the Local Police of Catalonia (Law 16/91), which is why the reports in which these incidents are reported must be sufficient motivated to initiate the corresponding administrative files/procedures in an objective and reliable manner, based on real and demonstrable facts through the means available to the administration with the limits established by the regulations (basic principles of action of

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the Police, Code of Ethics of the Police and those corresponding to the protection of personal data).

In relation to the agent's psychological fitness discharge report, as indicated above, it was verbatim conditioned on direct observation in case of emotional instability or significant alcohol consumption (. ..)"

- Regarding the meaning of the word "recidivism" used in the police report, the City Council pointed out that:

"(...) is a word that means to re-occur, it refers to committing an act at least twice, as is the case. It is clear that said recidivism was recorded because the same agent communicated verbally that the magistrate imposed the corresponding penalty in said sentence citing "recidivism" in relation to the facts tried in 2013 for not giving the prescription for two days, fact that the criminal law takes into consideration when passing sentence, similarly in the case of reaping disciplinary sanctions. This information can be contrasted with the judicial sentence of the 2017 procedure, which the agent has not yet provided to this prefecture. On the cancellation of criminal records: This administration does not have the documentation (...)." Traduït

- Regarding the origin of the reference made in the police report to maladaptive behavior - in allusion to the person making the complaint -, the City Council pointed out that:

"The origin of said information lies in different known sources, with the aim of being able to specify more rigorously the area affected by "serious social maladjustments" which was indicated generically in the Local Police Regulation, and detected in the affected agent after reporting the facts (...). You can consult one of the published manuals (eleventh edition) in Psychopathology, Abnormal Psychology: The Problem of Maladaptive Behavior by Irwin G. Sarason and Barbara R. Sarason, pages 444 et seq. This manual is published in

the following URL: [https://\(...\)](https://(...)).

You can also consult more specifically on page 3 of module 4 on behavioral disorders of the UAB Master's in Paidopsychiatry published at the following URL [http://www.paidopsiquiatria.cat/\(...\)](http://www.paidopsiquiatria.cat/(...))

You can also consult the manuals of the basic police training course taught at the Public Security Institute of Catalonia, where there are subjects that train on these maladaptive behaviors. In other words, this information is also extracted from the knowledge acquired in the initial and continuing training received by police officers (...)." Traduït

- Regarding the recipients of the police report, the City Council noted the following:

"In relation to the submission of police reports, the mayor or councilor to whom they have delegated their functions as higher command of the police force are competent, as well as

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general secretary who is the one who signs the decrees, together with the mayor or delegated councilor, of precautionary weapon withdrawals or initiation of disciplinary proceedings, as is the case according to the regulations in force in relation to criminal convictions by final sentence. The reference regulation is the following:

- Article 21.1 i) of Law 7/1985 regulating the Basics of Local Government.
- Article 8, 13, 18 a) c) i) of the Local Police Regulations of (...).
- Article 4, 26.1 and 27.d) of Law 16/91 of the Local Police of Catalonia.
- Article 17 of Decree 179/2015, of August 4, which approves the Regulation of procedure of the disciplinary regime applicable to the local police forces of Catalonia."

#### Fundamentals of law

1. In accordance with the provisions of articles 90.1 of the LPAC and 2 of Decree 278/1993, in relation to article 5 of Law 32/2010, of October 1, of the Authority Catalan Data Protection Agency, and article 15 of Decree 48/2003, of February 20, which approves the Statute of the Catalan Data Protection Agency, the director of the Catalan Data Protection Authority.

2.- In relation to the regulatory framework, it must be taken into account that on the date of the events reported (24/07/2017) the LOPD was still in force, so this rule should be applied.

3.- Based on the account of events that has been presented in the antecedents section, the reported events will be analyzed below. Firstly, section 3.1 will address the reason for the complaint regarding the inclusion in police report no. (...) -2017 (hereinafter, police report) of certain personal data relating to the person making the complaint here, without their consent; then, in section 3.2, the reason for the complaint will be analyzed regarding the lack of information on the ends provided for in article 5 of the LOPD; and lastly (section 3.3) the reason for the complaint relating to the violation of the duty of secrecy for having disclosed this data to certain people from the City Council will be analysed.

3.1. On the inclusion in the police report of certain personal data relating to the person reporting here, without their consent.

First of all, the complainant expressed his complaint about the fact that the chief inspector of the local police of the City Council of (...) would have included in the police report certain of his data without his consent, and that some of them would be excessive, erroneous, or incomplete.

As can be inferred from the aforementioned police report, entitled "report on withdrawal of weapon from the agent (...)", on 04/24/2017 the chief inspector of the Local Police received a call from the chief inspector of the Basic Police Area (ABP) of the Mossos d'Esquadra (MMEE) of

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(...), in which he was informed that the previous day (23/04/2017) the person reporting here, a local police officer from the City Council of (...), had committed an alleged crime against the security of traffic, for driving a motor vehicle under the influence of alcohol(...). In the police report, the chief inspector proposed, as a precautionary measure, the withdrawal of the weapon from the allegedly author agent - here the complainant.

The complainant considers that the police report should not include the information regarding the events that took place in 2011 and for which he was convicted by sentence no. (...)/13 of (...) of 2013 of the Criminal Court no. 2 of (...), as the author of a crime against road safety in 2013, and this because, according to his opinion, this is information that the chief inspector would know because of his position, and about which he had to keep secret. Likewise, he considers that there should not be information about the events that happened in 2017 regarding the result of the test that was performed on him to measure the rate of alcohol in aspirated air, and this based on the consideration that on the date issue of the report (the day after the test was carried out), the facts had not been judged. He also considers that the report should not have referred to an alleged recidivism, since the first acts for which he was criminally convicted occurred in 2011. And lastly, he considers that neither the references made to article 102 of the Local Police Regulations should be included, which lead to consider that the complainant here suffers from serious social maladjustments, and in particular, that he has an alcoholism problem, and this based to the consideration that this assessment would not be based on a doctor's report. Lastly, he maintains that the inclusion of the data mentioned in the police report would be a consequence ("repercussions") of the manifestations and opinions expressed by the complainant here about the chief inspector in the framework of the processing of a procedure initiated following the complaint in the labor field made by another local police officer against the chief inspector.

With regard to the reasons put forward by the City Council regarding these manifestations of the complainant, in the letter of response to the request for information the City Council has made reference to various regulations (vid. factual antecedent 4th ), on the basis of which he considers, in essence, that the chief inspector of the local police was competent to issue the controversial report, which he prepared in fulfillment of his duties, and consequently was legitimate to process personal data of the herein declarant that it contains.

Well, once the reasons put forward by the person making the complaint here and by the City Council of (...) have been analyzed, it must be said that no conduct has been observed that would allow the City Council to be charged with any of the infractions pointed out here complainant, and this for the reasons set out below.

As the City Council points out in its letter dated 07/26/2018, the police report falls under the factual assumption provided for in article 104 of the Local Police Regulations of this City Council, which establishes that: "The Chief of Police, or the head of the corresponding shift, as a precautionary measure against exceptional situations, may



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order the suspension and preventive withdrawal of the use of weapons by the members of the Police. Indeed, the report is the basis for the chief inspector's decision, taken as a precautionary measure, to remove the complainant's weapon, which appears to have been done the day after the controversial report was issued, is that is to say, on 04/25/2017 (according to the e-mail provided by the City Council, in which the chief inspector orders the sergeant to change the weapon of the person reporting here). At the same time, the purpose of sending the report to the mayor was to make him aware of the information provided by the chief inspector of the ABP of the MMEE of (...) about the events that happened (...) on 04/23/2017, for which the complainant here was criminally charged for an alleged crime against traffic safety, and to raise the proposal of repeated weapons -

provisionally adopted as a precautionary measure-, for its confirmation or lifting.

It should be noted that the aforementioned article 104 indicates that the decision of the head of the local police to suspend and withdraw preventively the use of weapons must be motivated, a requirement that, in any case, would be mandatory.

Well, the Authority considers that the personal data referred to by the person reporting here served as motivation for the decision to withdraw the weapon, as set out below in the separate analysis of each data or set of related data. In any case, as relevant information for all the information included in the report, it should be noted that prior to its issuance, specifically on 06/09/2016, the Selection, Evaluation and Monitoring Service of the 'Institute of Public Security of Catalonia

(ISP) issued an evaluation report of the psychological conditions of the person here reporting for the use of the regulatory weapon assigned by his status as an agent of the local Police of the City Council of (...) , in which it considered the person reporting here suitable for the use of the firearm, but it was specified that it was a conditional decision ("conditionally suitable"), noting verbatim that: "if observe changes at a behavioral level, present some type of emotional instability or observe a significant consumption of alcohol, the next review should be brought forward in order to assess the suitability or not of their conditions for the use of the firearm (...)".

3.1.1. About the information regarding the events that happened in 2017 regarding the result of the test that measured the rate of alcohol in aspirated air.

This information is considered relevant to support the chief inspector's decision to withdraw the weapon on a provisional basis, as well as for the mayor's subsequent decision to confirm or lift the precautionary measure. More if we take into account that the evaluation report issued by the ISP made express reference to a significant consumption of alcohol as an assumption that could modify the decision of fit to carry a firearm. The relevance of this information would also be confirmed by the fact that, subsequently, on 03/29/2018, the Official College of Psychologists of Catalonia determined in the psychotechnical tests carried out on 03/07/2018 that the person reporting here he was not fit to carry a firearm - "with one condition. Hold the weapon repeatedly for six

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months more, and the passing of the psychotechnical tests again to determine his capacities", and also that on 04/10/2018 the mayor of the City Council of (...) issued a decree confirming the precautionary measure of reiterating the firearm. It is therefore not considered an excessive figure.

3.1.2. Regarding the information regarding the events that happened in 2011 and for which the person reporting here was convicted by sentence no. (...) /13 of (...) of 2013 of the Criminal Court no. 2 of (xxx), as the author of a crime against road safety in 2013.

This information is considered relevant for the same reasons indicated, but also due to the fact that the recent events that happened in 2017 were in essence a repetition of what happened in 2011, which could be relevant both in terms of the assessment of the psychological conditions for the use of the firearm, as in the assessment regarding the possible commission of a disciplinary offense (art. 48.1.r of Law 16/1991, of July 10, of the local police provides as a very serious offense the fact of getting drunk during the service or habitually), as in the assessment of the effects of a criminal conviction in which recidivism is appreciated. Therefore, it is not considered excessive data either.

This issue is related to the inclusion in the controversial report of the mention of an alleged "recidivism". In this regard, the City Council has stated that the word had been used to refer to "previous homologous events", to "reoccur", to "commit an event at least twice, as is the case", and then he also pointed out that: "the same agent communicated verbally that the magistrate imposed the corresponding penalty on him in said sentence citing "recidivism" in relation to the facts tried in 2013 for not giving the prescription for two days (...)". This information can be contrasted with the judicial sentence of the 2017 procedure, which the agent has not yet provided to this prefecture".

This Authority does not know whether the aggravating factor of recidivism was concurrent or not. In any case, the complaints made by the reporting person on this matter they call into question, at the very least, whether there was recidivism under the terms provided for in Article 22 of the Penal Code, since it must be borne in mind that such consideration would be prevented if the antecedents criminal charges had been canceled before the events in 2017 that are the cause of the police report.

But this does not prevent us from considering that, even if it were so, the use of the word recidivism could not be considered a serious infraction for violating the principle of accuracy, which obliges us to treat accurate and up-to-date data. Indeed, to the extent that the person reporting here had been convicted in 2013 as the author of a crime against road safety for driving under the influence of alcoholic beverages, it was true that in 2017 he will repeat the same facts, and, therefore, could be considered an improper use of the term recidivism, but grammatically correct. In any case, given the temporary circumstances of the case, the eventual erroneous inclusion of this word does not cover the entity sufficient as impute to the City Council the commission of an infringement for violation of the aforementioned principle.



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3.1.3. With regard to the references made to article 102 of the Local Police Regulations, which would lead to consider that the complainant here suffers from serious social maladjustments, and in particular, that he has an alcoholism problem.

In this regard, it should be noted that the report only contains the transcription of the precept, without making any particular observation referring to the complainant here. However, the part of the precept highlighted in bold makes its connection with that one inevitable.

In relation to this information, it should be noted, first of all, that the precept transcribed was the one applicable to the case, given that it regulates the cases in which the mayor can withdraw the firearm, among which are the two that the the inspector remarked in bold and that they are: "psychic alterations" and "serious social maladjustments".

Secondly, regarding the origin of the clarification made in the report on the expression "serious social maladjustments", the City Council has referred, on the one hand, to a master's degree in child psychiatry taught by the University of Barcelona with the collaboration of the Official Association of Psychologists of Catalonia, in module V of which the Authority has found that the same paragraph referring to social maladjustment as contained in the police report appears literally. And he has also stated that this is information that would also appear in the basic police training manuals given by the ISP.

It follows from the above that the information contained in the report would not be inaccurate, as it would be, on the one hand, the transcription of an article applicable to the case (Article 102 of the Local Police Regulations), and on the other, the explanation of the meaning of a phrase ("serious social maladjustments") that appears in a doctrinal article, and which literally follows the definition given in some Psychiatry studies.

To the above, it should be added that the police report does not contain a medical or psychological assessment of the person making the complaint, as the subsequent confirmatory decision to withdraw the firearm from the complainant here was preceded by a psychological assessment previously carried out by the Official College of Psychologists of Catalonia (COPC) on 07/03/2017, in which the complainant was declared unfit (conditional). Therefore, the information contained in the report would be indicative, in any case, of the value judgment of the chief inspector on the possible subsumption of the events that occurred in one of the two cases provided for in article 102 of the Local Police Regulations, and this is not considered contrary to the principle of accuracy, because it reflects in any case the opinion of the head of inspection, opinion or judgment of value that he must necessarily have, because if he did not consider the possibility of concurrence of one of the cases indicated, he could not have adopted the provisional measure of withdrawal of the firearm from the complainant here, nor could he have proposed to the mayor its definitive withdrawal.

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3.1.4. Finally, with regard to the statements of the reporting person that would refer to an alleged motivation different from that provided for in the rules applicable in the police report, it should be noted that this is a question that exceeds the area of competence of this Authority, as it does not appear that it could constitute an infringement of the data protection regulations. And in any case, it would be a mere assertion, not based on evidentiary elements.

3.2. On the lack of information on the ends provided for in article 5 of the LOPD.

As a second reason for complaint, the complainant refers to an alleged breach of the obligation provided for in article 5 of the LOPD, referring to the duty of information to the affected person - the complainant here - on various relative ends to the processing of your personal data by the notified City Council.

In this regard, the City Council has recognized that the complainant was not informed about such extremes, considering that article 5 of the LOPD was not applicable to him. Specifically, in the municipal secretary's report dated 07/26/2018, the following is indicated: "this precept does not apply to the case at hand since the information contained in this report 019-2017 was not obtained at the request of the interested party. Specifically, it came from the Mossos d'Esquadra body of the ABP of (...), and from the psychological antecedents working in this corporation".

Well, these allegations made by the City Council cannot be favorably received, since, as the complainant here points out, section 4 of article 5 of the LOPD expressly provides for the obligation to inform when the data does not come from the person concerned. Specifically, it determines the following: "when the personal data have not been collected from the interested party, the latter must be informed expressly, precisely and unambiguously, by the person in charge of the file or by their representative, within the following three months at the time of recording the data, the content of the treatment, the origin of the data and what is provided for in letters a, d) and e) of paragraph 1 of this article, unless you have already been informed previously". This would be the present case, since the chief inspector collected the data from the complainant regarding his driving in (...) on 04/23/2017 following a call from the ABP of MMEE (...).

However, the following section of article 5 LOPD, that is, 5.5, provides that the set forth in section 4 will not be applicable, among other cases: "when, expressly, a law provides for it". This provision must be interpreted based on the content of the precept it transposed, that is to say, art. 11.2 of Directive 95/46/CE, of the European Parliament and of the Council, of October 24, 1995, relating to the protection of natural persons with regard to the processing of personal data and the free disposal of such data, in which it is provided that the information required for the case in which the data have not been collected from

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the interested party but from a third party, it is not necessary to provide it: "when the registration or communication to a third party is expressly prescribed by law".

In this regard, with regard to the communication of data by the MMEE to the chief inspector of the local police of the City Council of (...), Law 4/2003, of April 7, d "organization of the public security system provides in article 24.1 that: "the authorities and members of the police force of the Generalitat-mossos d'esquadra and the local police forces of Catalonia are obliged to provide each other with the information that is relevant to the fulfillment of the respective functions, without prejudice to the reservation that is appropriate for the reason of the matter and in full respect of the applicable legislation, in particular that relating to the protection of personal data".

On the other hand, Decree 219/1996, of June 12, which approves the Armament Regulation of the local police regulates the cases in which the firearm should be removed as a precautionary measure, and the article 17.1 establishes that: "for the purposes provided for in letter b) of the previous article, the mayor or person he delegates will order the withdrawal of the firearm, for a period not exceeding fifteen days (... )". Articles 102 and 104 of the Local Police Regulations are pronounced in the same sense.

On the other hand, with regard to the processing by the chief inspector of the data communicated, it is necessary to take into account article 27 of Law 16/1991, of July 10, on the local police, which establishes that it corresponds to the head of the body, among others: "d) to inform the mayor, or the position to which he delegates, of the operation of the service", and also: "e) Fulfill any other function attributed to it by the body's municipal regulations".

It follows from the regulations presented that the information received by the chief inspector of the local police of (...) coming from the MMEE, could lead, at least initially, to the withdrawal of the weapon from the reporting agent here, and consequently affect the operation of the service, reason that justified the communication made by the MMEE, and which is protected in article 24.1 of Law 4/2003 that has been transcribed. Given the communication provided for in this rule with the rank of law, the subsequent collection and/or processing of personal data of the complainant here by the chief inspector did not require compliance with the right of information of the person concerned - here complainant-, based on the provisions of art. 5.4 and 5.5 of the LOPD and the equivalent precepts of Directive 95/46/CE.

3.3. About the alleged violation of the duty of secrecy for having disclosed this data to certain people from the City Council.

As a third and final reason for complaint, the complainant stated that through the said report the chief inspector had disclosed his data to third parties, without his consent and in violation of the obligation to keep secret, and that these data were in his opinion unnecessary. The data in question which he considered excessive were the

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referring to the fact that on 04/23/2017 the reporting person was driving a motor vehicle "doing tests (...)" and that "the result of the exhaled air test was 1.15 mg/liter" .

This ground of complaint cannot succeed either. While it is true that the chief inspector sent his report dated 04/24/2018 to the mayor, without the consent of the complainant, disclosing the indicated facts, the disclosure of data is subject to law , since it was carried out within the framework of the powers assigned to the chief of police, and in fulfillment of the functions assigned to him, which include the general obligation to inform the mayor about the operation of the service police, and in particular that of raising the decision to withdraw the weapon from the reporting officer, as a precautionary measure by the chief of police, for its lifting or subsequent confirmation by the mayor, in accordance with the provisions in article 102 of the Local Police Regulations.

On the other hand, although it has not been the subject of a complaint, it is worth saying that the subsequent disclosures made as a result of this same report, as is the case of those made in the framework of the disciplinary procedure that was initiated against the person here denouncing based on the facts collected in this report, they are also in line with the law, to the extent that the access and data processing of the denouncing here by the people indicated by the City Council, were carried out in and for the fulfillment of the functions entrusted to each of them.

4. In accordance with everything that has been set forth in the legal basis 2, and given that during the previous information it has not been proven that there are rational indications that allow imputation of any fact that could be constitutive of any of the violations provided for in the applicable legislation, it is necessary to agree on the archive of these actions.

Article 89 of the LPAC, in accordance with articles 10.2 and 20.1 of Decree 278/1993, foresees that the actions should be archived when the following is made clear in the instruction of the procedure: "a) The non-existence of the facts that may constitute the infringement".

resolution

Therefore, I resolve:

1. File the actions of prior information number IP 132/2018, relating to the City Council of (...).
2. Notify this resolution to the City Council of (...) and communicate it to the person making the complaint.
3. Order the publication of the resolution on the Authority's website ([www.apd.cat](http://www.apd.cat)), in accordance with article 17 of Law 32/2010, of October 1.

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Against this resolution, which puts an end to the administrative process in accordance with article 14.3 of Decree 48/2003, of 20 February, which approves the Statute of the Catalan Data Protection Agency, the denounced entity can file, with discretion, an appeal for reinstatement before the director of the Catalan Data Protection Authority, within one month from the day after its notification, in accordance with the which provides for article 123 et seq. of Law 39/2015. You can also directly file an administrative contentious appeal before the administrative contentious courts, within two months from the day after its notification, in accordance with articles 8, 14 and 46 of Law 29/1998, of July 13, regulating the administrative contentious jurisdiction.

Likewise, the reported entity can file any other appeal it deems appropriate to defend its interests.

The director,