



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE THIRD APPELLATE DISTRICT

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THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff/Respondent

VS.

PATRICIA ELIZABETH LANE

Defendant/Appellant

COURT OF APPEAL
NUMBER: C094996

SUPERIOR COURT
NUMBER: 19FE010439

CLERK'S TRANSCRIPT ON APPEAL

APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT

OF THE STATE OF CALIFORNIA IN AND FOR

THE COUNTY OF SACRAMENTO

HON. ERNEST W. SAWTELLE

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Volume 4 of 8
Pages 901 to 1200

FILED / ENDORSED

JUN 24 2021

By D. Aguilera, Deputy Clerk

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IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

PATRICIA LANE,

Defendant

CITY OF FOLSOM,

Real Party in Interest

Case No.: 19FE010439

**NOTICE OF MOTION,
PITCHES MOTION FOR
DISCOVERY, AND
CORRESPONDING
DECLARATION OF COUNSEL.**

Date: 7/7/2021

Time: 3:30 p.m.

Dept.: 10

TO THE FOLSOM CITY POLICE DEPARTMENT: PLEASE TAKE
NOTICE that on July 7, 2021, at the hour of 3:30 p.m. or as soon thereafter
as counsel may be heard in the courtroom of the above-entitled court,
Patricia Lane (hereafter referenced as "Lane") will move for an order that
the above-noticed law enforcement agency make available the material
described below regarding **Folsom Police Department Detective**

1 **Melanie Catanio (Badge No. 237) and Officer Kimberly Lim (Badge**
2 **No. 198).**

3 1. Any and all documents in the personnel records of the above
4 name officers that record any complaint registered with the agency by any
5 detainee, inmate, fellow officer, or private citizen alleging any fabrication of
6 evidence, destruction of evidence, lying in a police report, or failing to
7 properly book evidence.

8 2. The names, addresses, and telephone numbers of all persons
9 who filed complaints described in Paragraph 1.

10 3. The names, addresses, and telephone numbers of all persons
11 interviewed by the agency during the investigation of said complaints.

12 4. All statements, written or oral, made by persons interviewed
13 during the investigation of said complaints.

14 5. All tape recordings and/or transcriptions thereof, notes and
15 memoranda by investigating personnel of the agency made pursuant to
16 investigations described in Paragraph 1.

17 6. The names and assignments of investigators and other personnel
18 employed by the agency in investigations described in Paragraph 1.

19 7. All investigative reports made as a result of said complaints,
20 excluding any "conclusions" reached by any officer investigating the
21 complaint.

22 8. Any and all documents that record disciplinary action
23 commenced or imposed against the above-named Officers because of conduct
24 described in Paragraph 1.

25 9. The names, badge numbers, and current assignments of all
26 officers directly involved in the events which form the basis of the criminal
27 charges in this case, regardless whether they are named in the peace officers
28 reports which are the bases of the information or complaint and any

1 statement by officers involved in the instant case to investigators in internal
2 affairs, or other police officers regarding the events which form the basis of
3 the criminal charges in this case.

4 10. The names of any law enforcement agency that previously
5 employed the above-named Officer.

6 11. Any information that might reasonably lead to evidence of the
7 above named Officers' habit or custom for behavior described in Paragraph
8 1.

9 12. Any exculpatory evidence within the meaning of *Brady v.*
10 *Maryland*, 373 U.S. 83, 87 (1963).

11 13. Any information concerning behavior involving moral turpitude
12 by the above-named Officers, which would qualify as impeachment evidence
13 under *People v. Wheeler*, 4 Cal. 4th 284 (1992).

14 14. Any and all documents in the personnel records of the above
15 named Officer that record any complaint registered with the agency by any
16 inmate, fellow officer, or private citizen alleging conduct described in
17 Paragraph 1, made before, or after the date of the defendant's arrest in this
18 case.

19 15. The written procedures established by the Folsom Police
20 Department to investigate citizen complaints against the Department or its
21 personnel as required by Penal Code section 832.5(a), which were utilized
22 with respect to complaints against the above-named Officers.

23 16. The results of any internal affairs investigation in this matter.

24 This motion is made on the ground that the personnel records of these
25 named officer contains evidence material and relevant to the defense of the
26 case and are within the possession, custody, or control of the Folsom Police
27 Department. This motion will be based on this notice of motion, on the
28 attached declaration and memorandum of points and authorities served and

1 filed herewith, on such supplemental memoranda of points and authorities
2 as may hereafter be filed with the Court or stated orally at the conclusion of
3 the hearing on the motion, on all the papers and records on file in this
4 action, and on such oral and documentary evidence as may be presented at
5 the hearing of the motion.

6

7 Date: June 23, 2021

Respectfully submitted,
FERRENTINO & ASSOCIATES, INC.

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Correen Ferrentino

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Correen Ferrentino
Attorney for Patricia Lane

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Statement of the Case and Facts

On July 5, 2019, prior counsel Michael Chastaine requested access to all the written and recorded interviews of all witnesses and Lane's children, including one witness (CV5) and one alleged victim (CV4), at their elementary school Natoma Station Elementary School.¹ These recorded interviews took place on December 4, 2018. On November 5, 2021, when the undersigned counsel substituted in as attorney of record, attorney Chastaine provided his file, including a USB drive to undersigned counsel with what he stated were all the recorded interviews he had received. Also, Deputy District Attorney Nancy Cochrane provided what was described as a complete set of all recordings. In an abundance of caution, on January 7, 2021, the undersigned counsel sent an informal discovery request to the prosecution, requesting all audio and video recordings.

5

1 A review of the discovery materials provided to current counsel
2 revealed the absence of the recordings of CV4 and CV5's school interviews
3 with Detective Catanio.

4 On December 14, 2020, about one year and half after prior counsel's
5 request, the undersigned counsel specifically advised Deputy District
6 Attorney Nancy Cochrane the defense did not receive the recorded
7 interviews of CV4 and CV5. The same day, Deputy District Attorney Nancy
8 Cochrane requested the recorded interviews from Folsom Police Department
9 Detective Melanie Catanio (Badge No. 237). In response, Detective Catanio
10 indicated, "I had recorded [the interviews], and the recordings of each
11 interview should be on the CD provided with all audio recordings." (See Exh.
12 A). Deputy District Attorney Cochrane then relayed to Detective Catanio
13 that the recordings were not provided. On December 15, 2020, Detective
14 Catanio discovered that she failed to book the recordings into evidence with
15 the Folsom Police Department.

16 On December 16, 2020, Detective Catanio accessed iTunes and was
17 able to view the recordings (Exh. A). Apple technical support suspected that
18 Detective Catanio had deleted the recordings (Exh. A). In response,
19 Detective Catanio reported, "I had deleted the recordings once I loaded the
20 recordings into iTunes." (Exh. A). Detective Catanio spoke with a detective
21 with more electronic experience and with two IT personnel and Apple
22 Technical Support. The detective stated he was not experienced with Apple
23 products. Catanio then claimed, "I feel I have exhausted all resources in
24 attempt to recover those two recordings."² (Exh. A). She indicated, "As of
25 1/26/2021, both recordings appear in my Voice Memos folder within iTunes,
26 but neither will play and continue to display the error message when
27

28 ² Detective Catanio did not identify any of the Folsom Police
Department personnel with whom she consulted.

1 selected for playback.” (Exh. A). A screenshot of Detective Catanio’s voice
2 memos reveals the two relevant interviews. (Exh. A). The interview of the
3 alleged victim, CV4, appears to be 12 minutes in length. The interview of
4 witness CV5 appears to be nearly 7 minutes. Conveniently, these two
5 recordings appear to be the only recordings with a “!” next to them.
6 Additionally, only after receiving this screenshot did undersigned counsel
7 see listed on the screenshot the recorded interview of Lane’s husband, father
8 and stepfather for two of the alleged victims, that had never been provided
9 to defense counsel in this matter.³ This recording apparently was not booked
10 into evidence.

11 The defense received Detective Catanio’s report prepared on January
12 26, 2021 regarding the problems with the recordings on February 24, 2021.
13 Detective Catanio has failed to demonstrate why the recordings were ever
14 erased or why she has taken no additional steps to obtain the recorded
15 interviews. Detective Catanio has failed to indicate why the recordings of the
16 alleged victim, a witness, and Lane’s husband were never booked into
17 evidence within the Folsom Police Department. Detective Catanio has failed
18 to explain why this error was not caught sooner. As evidenced by Detective
19 Catanio’s screenshot, her phone only had 40 voice memos on it. Therefore,
20 she cannot now make the argument that three of the interviews related to
21 this case were lost within 100s of recorded interviews. This conduct
22 represents a pattern of failure to log evidence, book evidence, failure to
23 provide the prosecution with evidence, and a general lack of transparency,
24 honesty and trustworthiness. A 12-minute interview of the alleged victim in
25 this case is absolutely necessary to the presentation of Lane’s case. Deputy
26 District Attorney Cochrane even described this evidence as “exonerating.”

27
28 ³ Counsel subsequently requested the recording of Lane’s husband,
Robert Lane and received it.

1 On June 2, 2018, Officer Lim interviewed CV2, along with his
2 grandmother Jan Cole and his step grandfather Mike Mideiros. This
3 interview was recorded; however, the recording terminates before the
4 interview is concluded. Officer Lim's narrative report of the interview is
5 misleading as she does not indicate Mr. Mideiros was present despite the
6 fact that he is heard on the recording suggesting information to
7 CV2. Additionally, her narrative suggests she interviewed CV2 and Jan
8 Cole separately but instead the four of them are heard speaking amongst
9 each other throughout the recorded part of the interview. Finally, after CV2
10 has complained of showering with Lane and naked cuddling with Lane from
11 ages 4-10, he asks Officer Lim essentially if she has enough evidence and
12 states he thinks no one will think his claims are wrong because his mother is
13 a woman and there is no penetration. In response, Officer Lim says it's okay
14 and describes various sex acts, digital penetration, rape, lewd and lascivious
15 acts on someone under 14, that can constitute a felony sex crime. She
16 describes digital penetration as putting other objects besides a penis inside
17 someone. CV2 then indicates her statement has refreshed his memory and
18 recalls Lane putting her finger in his "ass" while his clothes were on when
19 he was 16. Officer Lim does not include in her narrative report her
20 description to CV2 of various felony sex crimes, especially digital
21 penetration, which she stated immediately before this last allegation. If this
22 portion of the interview were not recorded, the defense would not be aware
23 that Officer Lim had described digital penetration to CV2 immediately
24 before he "remembered" it. The fact that a portion of the interview, of
25 unknown length, after these statements is not recorded is cause for concern
26 in that Officer Lim shows a pattern of failing to include important, relevant
27 details in her narrative report. (Exh. B).

28

1 Based upon the following, Lane, through her counsel of record,
2 requests that this Court grant this *Pitchess* request for additional discovery.

3
4 **ARGUMENT**

5 **I. DEFENDANT LANE SEEKS DISCOVERY PURSUANT TO**
6 **EVIDENCE CODE SECTION 1043**

7 Pitchess motions are not governed by the reciprocal discovery statutes
8 of Penal Code sections 1054 to 1054.10, but by the provisions of the
9 Evidentiary Code sections 1043 to 1047. *Albritton v. Superior Court* (1974)
10 225 Cal. 3d 531, 537. In order to obtain the discovery requested in this case,
11 a defendant must first comply with Evidentiary Code section 1043, which
12 requires the defendant to file a declaration showing good cause for discovery
13 and setting forth the materiality of the subject matter involved in connection
14 with the pending litigation.

15 The defense has the burden of establishing good cause; however, this
16 threshold burden is very low. *City and County of San Francisco v. Superior*
17 *Court* (1st Dist.1981) 125 Cal. App. 3d 879, 881. Relevant information under
18 this section is not limited to facts that may be admissible at trial, but rather
19 facts that could lead to they discovery of admissible evidence. *Haggerty v.*
20 *Superior Court* (4th Dist. 2004) 117 Cal. App. 4th 1079, 1087. A defendant is
21 not required to provide foundational facts about the information sought
22 because the defendant is not in a position to know whether the complaints in
23 fact establish the habit, custom, intent, motive or plan which is potentially
24 being alleged against these officers. The moving party need only raise the
25 issue, not prove the misconduct actually occurred or to prove that any prior,
26 similar misconduct occurred. *People v. Gaines* (2009) 46 Cal. 4th 172, 175.

27 The materiality element of the good cause showing requires that the
28 defendant propose a defense and articulate how the requested discovery may
be admissible as direct or impeachment evidence in support of the proposed

1 defense or how the requested discovery may lead to such evidence. *Warrick*
2 *v. Superior Court* (2005) 35 Cal. 4th 1011, 1024. The materiality element is
3 satisfied when several factors are met: (1) a logical connection between the
4 charges and the proposed defense; (2) the requested discovery is factually
5 specific and tailored to support the claim of officer misconduct; (3) the
6 requested discovery supports the proposed defense or is likely to lead to
7 information that will do so; (4) the requested discovery is potentially
8 admissible at trial. *Giovanni B. v. Superior Court* (4th Dist. 2007) 152 Cal.
9 App. 4th 312, 319.

10 Counsel's affidavit "must describe a factual scenario supports the
11 claimed officer misconduct" but may also "consist of a denial of the facts
12 asserted in the police report." *Warrick v. Superior Court* (2005) 35 Cal. 4th
13 1011, 1024. For example, a sworn declaration alleging that the defendant did
14 not resist the police, and contending that the statements in the police reports
15 written by each of the officers were false, satisfies this "relatively low
16 threshold." *Id.*

17 Based upon the factors described above, Ms. Lane asserts that
18 Detective Catanio and Officer Lim failed to properly book interviews and
19 recorded statements into evidence, failed to properly maintain recorded
20 interviews, failed to provide the prosecutor exonerating evidence, and
21 showed a pattern of dishonesty and a lack of transparency. Defense counsel
22 intends to use the items sought to act as impeachment evidence against
23 Detective Catanio and Officer Lim and the officers' character, habits,
24 customs, and credibility will be material issues in this case.

25

26 **A. Connection Between Charges & Proposed Defense:**

27 Lane has been charged with 15 counts of lewd acts with a minor in
28 violation of Penal Code section 288(a). The prosecution alleges that Lane

1 molested four of her children and her half-brother while they were between
2 the ages of 4 and 16. Three of her sons and her half-brother, all adults,
3 reported in 2018 that Lane sexually abused them from 2002 to 2016. The
4 fifth alleged victim, George Doe, is Lane's 10-year-old son who has been
5 interviewed multiple times and consistently denies any sexual abuse. The
6 proposed defense will be that Lane has not abused her son. A portion of the
7 defense will also be that the officers investigating this case did not follow
8 proper standards when interviewing witnesses, have misrepresented facts
9 presented in the police reports, and have suppressed exonerating evidence.

10 The interview of two of Lane's children, including a 12-minute
11 interview of the alleged victim, denying any abuse, performed two years ago
12 would add support to the argument that Lane did not abuse her son.
13 Further, as material witnesses in this case, Detective Catanio and Officer
14 Lim's character, habits, customs and credibility will be necessary for
15 impeachment evidence. Detective Catanio and Officer Lim's character,
16 habits, customs and credibility will be material issues in the case as they
17 will give light to whether the counts charged were truly warranted.

18
19 **B. Requested Discovery is Specific & Tailored:**

20 In the instant matter, the defense seeks 15 items of information:
21 (1) complaints, (2) names of complainants, (3) names of witnesses, (4)
22 statements of witnesses, (5) investigator's notes, (6) names of investigators,
23 (7) investigator's reports excluding conclusions, (8) disciplinary reports, (9)
24 statements of officers in this case, (10) prior employment, (11), habit or
25 custom, (12) Brady material, (13) acts of moral turpitude, (14) post-arrest
26 complaints, (15) written procedure for complaints.

27 **Complaints, Names of Complainants, Names of Witnesses:**

28 Within the landmark case of *Pitchess v. Superior Court* (1974) 11 Cal. 3d

1 531, 535, the court held that information concerning an officer's use of
2 excessive force was discoverable. Discovery is not limited to records of
3 complaints that have been sustained against the police officer. California
4 courts have previously held that a defendant is also entitled to names,
5 addresses and telephone number of complainants. *City of Santa Cruz v.*
6 *Municipal Court* (1989) 49 Cal. 3d 74, 84. Third, defendant is similarly
7 entitled to the names, addresses and telephone numbers of "any witnesses
8 interviewed by the department in connection with such complaints." *Kelvin*
9 *L v. Superior Court* (2d Dist. 1976) 62 Cal. App. 3d 823, 828.

10 **Statements of Witnesses:** As the Court is well aware, the
11 statements of witnesses are more difficult to acquire. However, the refusal
12 by a complainant to cooperate with defense investigators establishes "good
13 cause" for a supplemental Pitchess disclosure of the substance of the
14 complaint in the police personnel file. *Alvarez v. Superior Court* (2d Dist.
15 2004) 117 Cal. App. 4th 1107, 1110. Often police officers refuse to be
16 interviewed by the defense, typically citing department policy. Rather than
17 waste defense resources by contacting the court and returning to court to
18 request the statements, the defense requests the Court order disclosure of
19 those statements at this stage.

20 **Investigative Notes, Names & Reports:** Items five through
21 seven involve the use of investigator's and relevant notes and reports. While
22 Evidentiary Code section 1045(b)(2) excludes from discovery the conclusions
23 of any investigating citizen complaints, there are no statutory exclusions for
24 notes or names of investigators. This information could become necessary for
25 foundational or impeachment purposes. Additionally, the Evidence Code
26 excludes conclusions of any officer investigating citizen complaints yet there
27 is no statutory exclusion for the remainder of the report.

28 **Disciplinary Reports & Prior Employment:** Next, Evidence

1 Code section 1045(a) requires the disclosure of "any discipline imposed" as a
2 result of any investigating arising out of the events on which a prosecution is
3 based. *City of San Jose v. Superior Court* (1993) 5 Cal. 4th 47, 54.

4 Additionally, California courts have held that the disclosure of law
5 enforcement's prior employment is not privileged as a matter of law. *Fletcher*
6 *v. Superior Court* (1st Dist. 2002) 100 Cal. App. 4th 386, 406.

7 **Habit or Custom, Brady Material & Acts of Moral**

8 **Turpitude:** Habit or custom evidence is very important to the defense.

9 Habit or custom is often established by evidence of repeated instances of
10 similar conduct. In *People v. Memro* (1985) 38 Cal. 3d 658, 681 (1985) held
11 that the Evidence Code section 1105 supports a discovery request that may
12 lead to evidence of habit or custom as such evidence is admissible to show
13 that a person acted in conformity with that habit or custom on a given
14 occasion. The court in *Memro* held that evidence that interrogating officers
15 had a custom or habit of obtaining confessions by violence, force, threat or
16 unlawful aggression would be admissible. *Id.* Here, such information could
17 be used to establish that these particular officers often engage in
18 unnecessarily violent and aggressive tactics only to later pursue resisting
19 arrest charges against their victims.

20 The California Supreme Court has made it very clear that
21 because Brady's constitutional standard is narrower than the Pitchess
22 requirements, any citizen complaint that meets Brady's test of materiality
23 necessarily meets the relevant standard for disclosure under Pitchess. *City*
24 *of Los Angeles v. Superior Court* (2002) 29 Cal. 4th 1, 10. Thus, if a
25 defendant meets the good cause requirement for Pitchess discovery, any
26 Brady material in the officers' files will necessarily be included. *People v.*
27 *Gutierrez* (2d. Dist. 2003) 112 Cal. App. 4th 1463, 1474. On February 9,
28 2018, the Deputy District Attorney handling the instant matter stated to

1 defense counsel that there is Brady material relating to one of the deputies
2 involved. The defense has yet to receive this material.

3 Finally, evidence of conduct amounting to moral turpitude is
4 admissible to assist the jury to determine whether a witness is telling the
5 truth. The Supreme Court has held that prior acts of misconduct not
6 amounting to a felony may be used to impeach any witness, if the conduct
7 relates to moral turpitude. *People v. Wheeler* (1992) 4 Cal. 4th 284, 291.

8 **Post Arrest Complaints & Written Reports:** If the proper
9 showing of good cause is made, a defendant is entitled to complaints filed
10 after the relevant arrest. *Blumberg v. Superior Court* (2d. Dist. 2011).
11 Additionally, Penal Code section 832.5(a) requires that every law
12 enforcement department establish a written procedure for the investigation
13 of citizen complaints against the department or its personnel.

14 The fifteen items of information, which the defense requests, are
15 specific and narrowly tailored. Every item listed in detail above has been
16 supported by California courts and are at issue in the current matter.

17 **C. Requested Discovery Supports Proposed Defense:**

18 As articulated above, the requested discovery would be used for
19 Lane's defense. The items above would be used for impeachment evidence
20 against material witness Detective Catanio and Officer Lim. The items used
21 by Evidence of similar conduct, dishonestly, failure to book evidence, and
22 issues with chain of custody will all support the defense in this case.
23 Additionally, Detective Catanio and Officer Lim character, habits, customs
24 and credibility will be material issues in the case as they will give light to
25 whether the counts were truly warranted.

26 **D. Requested Discovery is Potentially Admissible at Trial:**

27 Finally, as discussed at length throughout this motion, the requested
28 discovery is potentially admissible at trial. First, the described evidence will

1 be used to show that Detective Catanio and Officer Lim materially
2 misrepresented the facts in the police report, suppressed exonerating
3 evidence, hid interviews of the alleged victim and witnesses, and failed to
4 turn over favorable evidence. Misrepresentations made during the creation
5 of police reports could be used as impeachment evidence. Habit or custom
6 evidence could also be admissible to show that Detective Catanio and Officer
7 Lim acted in conformity with previous acts of unlawful tactics or material
8 misrepresentations. Finally, complaints of similar conduct could assist the
9 defense in finding defense witnesses who may be able to speak on the past
10 instances of misrepresentations, issues with chain of custody, suppression of
11 evidence and other issues in support of the above-referenced situation
12 involving Lane.

13
14 **II. The Defense Requests that this Court look to the Procedures**
15 **Set Forth in *People v. Mooc***

16 Lane respectfully requests that this Court follow the procedures for
17 Pitchess motions that the California Supreme Court discussed at length in
18 *People v. Mooc* (2001) 26 Cal.4th 1216, 1222. When the defendant
19 sufficiently makes a showing of good cause, the custodian of records is
20 required to bring the trial court all potentially relevant documents to permit
21 this Court to examine the records itself. The custodian must also be
22 prepared to state what documents or category of documents were produced
23 and why. A court reporter should document the custodian's statements and
24 any questions from the trial court regarding the completeness of the record.
25 Id. at 1229.

26 Before ruling on this motion, the Court shall make a record of what
27 documents it examined to permit for future appellate review. To make the
28 record complete, the defense asks that this Court photocopy the records the
custodian provides and place them in a confidential file. Alternatively, the

1 trial court may make a list of or state for the record the documents it
2 examined. After this examination is done, the trial court shall seal the
3 record of the in-camera hearing. *Id.* at 1229 – 1230.

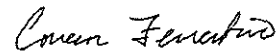
4 **CONCLUSION**

5 A criminal defendant's right to discovery is based on the fundamental
6 proposition that an accused is entitled to a fair and an intelligent defense in
7 light of all relevant and reasonably accessible information. For the reasons
8 set forth above and in the attached declaration, Lane respectfully requests
9 that this Court order the disclosure of the requested items.

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Date: June 23, 2021

Respectfully submitted,
FERRENTINO & ASSOCIATES, INC.



Correen Ferrentino
Attorney for Patricia Lane

Exhibit A
Report Prepared by
Detective Melanie Catanio

: 01167

**FOLSOM POLICE DEPARTMENT**46 NATOMA ST FOLSOM, CA 95630 916-355-7230
**SUPPLEMENT 17 - Supplement- School interviews with
George and Irish**

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CONTROLLED DOCUMENT - DO NOT DUPLICATE

On December 14, 2020, I received an e-mail from DDA Nancy Cochrane asking if I recorded the interviews conducted with George and Irish, at their elementary school on December 4, 2018. I responded by telling her I had recorded them, and the recordings of each interview should be on the CD provided with all audio recordings. Cochrane informed me the recordings were not on the evidence provided.

On December 15th, 2020 I checked in evidence and noticed the recordings were also not booked there. I also reviewed my CD copy of all the audio from the case, and couldn't find the recordings.

After the original interviews with George and Irish (12-4-18), I loaded the recordings from my department issued cell phone, into i-tunes on my work computer, to retain them and listen to them for dictation of my report.

On Dec 16th, I went to open iTunes, but the application wasn't showing on my computer. I called IT and had them install the application on my desktop. I opened my i-tunes and could see the recordings. When I clicked on the recordings, to put them on a thumb drive, an exclamation point surrounded by a circle appeared to the left of the audio file and the file would not play. I called a detective with more electronic expertise and asked about why I might be receiving the error message, and he was unsure and inexperienced with Apple products.

Later on Dec 16th, I called Apple Support and explained the situation to them. I told them about the error message, as well as took a screen shot of the recordings still showing in my iTunes. The Apple tech was unsure of why the recordings were not playing. The Apple Tech asked if I deleted the recordings off my actual device (cell phone), and I told him I had deleted the recordings once I loaded the recordings into iTunes. He told me that me deleting the recordings from my device could have deleted them across all platforms. I explained to him again that the recordings were still showing in my iTunes, but weren't playing. I also told him I back my phone up to iCloud consistently. He advised that I find an extra department cell phone, and restore the phone using my iCloud backup. He explained that the location of my iTunes media folder may have been lost, and restoring from iCloud might fix the problem. I asked him how the location of the folder, and its contents, could be lost and he told me that sometimes happens during computer updates, or if you copy the iTunes folder to an external drive.

Upon hearing this, I called our IT department. I called them because just a week prior, they had to restore a program to my computer that was not working properly. I asked the tech about the process, and he advised that they had tried to uninstall and reinstall without success of fixing the error in running the program, so they wiped my hard drive. He further explained that was why I had to call him to re-install iTunes earlier that day.

On December 17th I got an unused iPhone from a Department Lieutenant, and restored that phone using my iCloud backup. The recordings did not show up in the Voice app, but still show up when I plug the phone into iTunes. The recordings still will not play out of iTunes.

On December 17th I spoke with the same City of Folsom IT personnel, and explained the situation to him. I asked if there was any way to restore my desktop, and he said there was not. I asked him if he could assist in trouble shooting the iTunes issue, and he told me they don't get involved with Apple

Prepared By:

237 CATANIO, MELANIE

Date:

01/26/2021

Approved By:

196 WRIGHT, LOU

Date:

01/26/2021

0000482

: 01168

**FOLSOM POLICE DEPARTMENT**

46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 17 - Supplement- School interviews with
George and Irish

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product management.

I feel I have exhausted all resources in attempt to recover those two recordings. As of 1/26/2021, both recordings appear in my Voice Memos folder within iTunes, but neither will play and continue to display the error message when selected for playback.

I have included a screen shot of my iTunes folder. To preserve confidentiality of victims not involved in this report, I have blacked out several last names and exact street addresses. The recordings of George and Irish are highlighted in yellow, and are titled Full Steam Academy 4 (Irish) and Full Steam Academy 2 (George).

Attachments: Screen shot of iTunes Library.

Recommendations: E-mail a copy of this narrative to DDA Nancy Cochrane.

CONTROLLED DOCUMENT - DO NOT DUPLICATE

Prepared By:

237 CATANIO, MELANIE

Date:

01/26/2021

Approved By:

196 WRIGHT, LOU

Date:

01/26/2021

0000483

: 01169

Συντάκτης: Δρ. Γεώργιος Α. Λαμπρόπουλος

Exhibit B
Report Prepared by Officer
Kimberly Lim

**FOLSOM POLICE DEPARTMENT**

46 NATOMA ST FOLSOM, CA 95630 916-355-7230

NARRATIVE

Page 5

FPD18-2149

On 06-01-18 I was dispatched to a child abuse report at the Folsom Police Department. Text from the call stated that the grandfather and reporting party, Doug Lane, was advising that his grandsons, *Controlled Document (CV-1) and *Controlled Document (CV-2), advised him they had been physically and sexually abused by their mother, Patricia (Patti) Lane (aka Burns) in the past ten years. They used to live at 3106 Brophy Drive in Sacramento, CA 95821. Currently, P. Burns lived at 109 Demurrage Way in Folsom.

I contacted D. Lane who advised the following summarized statement:

I have been estranged from my son, Robert Lane, for several years because I don't get along with his wife Patti (Lane). Patti had a son, CV-1, from a previous relationship who used to live with my son until he attended college in Southern California. CV-1 is currently attending USC and is 19 years old. CV-1's half brother, CV-2, has been living with my ex-wife, Jane Cole, in Folsom because he doesn't get along with his parents.

CV-1 and CV-2 were at my house last week in Malibu for dinner. They told my wife and I about Patti abusing them. CV-1 told me that when he was between 12-14 years old, his mother had told him to go take a nap, and to undress and lay in bed. CV-1 told me that Patti fondled his genitals when he was around the same age.

CV-2 told me that Patti has had a problem with drugs and alcohol and has been physically and mentally abusive to him. CV-2 gave me the example that his mother would ask him a question and, when he would answer it, she would twist it around, saying his answer was wrong. She would slap him or backhand him in the face. CV-2 also said there was an incident that happened when he was 13 years old when Patti made him wash their dog for punishment in cold weather. Patti didn't like how CV-2 was washing the dog. She made him go outside and strip down to a shirt and underwear in the 40 degree weather. CV-2 then said his mother sprayed him with water and made him wash the dog out in the cold while she watched.

CV-2 has two younger siblings, Irish (03-10-11) and George (09-19-09). Irish and George live with their parents (Demurrage Way, Folsom). CV-1 and CV-2 said they were wanted to make sure their brother and sister didn't have anything happen to them.

I came up here from Southern California because I knew Patti and my son would be out of town on a cruise. CV-2 went with Patti and Rob on the cruise. They are not supposed to be back in Folsom until tomorrow (06-02-18).

END OF STATEMENT

Detective Catanio came and introduced her self to D. Lane after seeing that I was on a possible child abuse call. I advised Detective Catanio regarding the circumstances of this case (refer copy to Detective Catanio).

D. Lane provided a phone number for CV-1. I contacted CV-1 and he advised he would call me back since he was driving and had very little battery left on his phone. I obtained CV-1's contact information

Prepared By:

198 LIM, KIMBERLY

Date:

06/01/2018

Approved By:

211 ZELAYA, AARON

Date:

06/03/2018

000010

: 01172

**FOLSOM POLICE DEPARTMENT**

46 NATOMA ST FOLSOM, CA 95630 916-355-7230

NARRATIVE

Page 6

FPD18-2149

before the phone disconnected. I received a follow-up call from CV-1. I called him back, later receiving his voice mail. I contacted CV-1 a second time, also receiving his voice mail.

I looked at Patricia Burns' WebKPF history. She showed no arrests.

I contacted the CPS liaison, Nahren Shahbazian, at the Folsom Police Department. Shahbazian looked up past CPS referrals for P. Lane (also under her prior last name of Burns) and found the following reports were made:

02-23-14 - Referral for CV-2 not attending school regularly and having a broken arm, but the case was suspended for not enough information.

2011 there was a referral and a second one in 2010 for general neglect.

10-19-07 - An immediate response was requested for P. Lane being abusive and they used services until March 2008.

END OF CPS CONTACTS

I spoke briefly with CV-1 again on 06-02-18. He suggested talking to his grandmother, Jan Cole, and his brother. CV-1 said he was en route to work and could not talk until later.

I responded out to 111 Simmons Way and spoke with J. Cole and her grandson, CV-2 (see recorded statement for complete interview under item 198-1; booked into Lynx). The following is summary of CV-2's statement:

I have lived with my grandmother (Jan) since the week before Thanksgiving (2017). My mom, Patti, was raped by her father when she was very young. She was around 5-6 years old. Patti is extremely intelligent, but also has some mental health problems along with prior drug and alcohol abuse.

It is very hard for me talk about incidents concerning my mom (Patti) and my brother CV-1, but we don't want our younger brother (George) and sister (Irish) to suffer like we did. I remember my mom in the past has had me take showers with her while we were both naked. My mom walks around the house naked and talks to me about sexually explicit things. When I was younger, maybe around five years old, my mom had grabbed my genitals and commented that I was getting bigger when I was naked.

I remember being very young (between 4 and 6 years old), my mom would have "naked cuddle buddy time" where she had me lay in bed with her. I was naked and my mom was naked. I remember my mom was thrusting at me from behind, but no penetration was made. I could feel my mom's pubes (pubic hair) on my backside. (At the time of the interview, CV-2 became extremely upset, he started to shake, breath quickly, and pressed his hands tightly together).

I remember my mom showering with me and she would have her legs spread in the shower. I remember another incident. I was probably around 10 years old. CV-1 was 13 years old. My mom was bathing in

Prepared By:

198 LIM, KIMBERLY

Date:

06/01/2018

Approved By:

211 ZELAYA, AARON

Date:

06/03/2018

**FOLSOM POLICE DEPARTMENT**

Page 7

46 NATOMA ST FOLSOM, CA 95630 916-355-7230

NARRATIVE

FPD18-2149

the bathtub naked with her, and all of us and having a conversation like it was normal. We would sit in the bath tub for hours and talk like this was normal.

My mom also would tell me sexually inappropriate things, like how many times she had sex with my dad. My mom told me that she and my dad had sex on my bed once.

I had assumed this treatment was abusive, but since my mom is a female and there was no penetration, no one would think it was wrong because I am a male.

The incidents I described happened while I was living at the address on Brophy Drive. The recent incident I remember after my parents moved to the Demurrage Way address in Folsom was when I was sitting on the couch, leaning to one side with one hip up. My mom came up and took her finger and stuck it in my ass. I was wearing clothes at the time. My mom laughed, saying she poked me in the ass. This happened in front of my dad.

I ended up moving in with my grandma after we got into a huge fight before Thanksgiving. I was asked if I would still talk to my mom and dad after I turned 18 or leave like Christian and CV-1. I told my parents that I probably wouldn't talk to them. My parents told me to leave. So, I packed up my stuff and called my grandmother (J. Cole). I have stayed with her since then.

END OF STATEMENT

J. Cole provided an additional statement:

I have been estranged mostly from my son, Rob (Lane), and his wife, Patti. There have been bouts where they have forbade me to see my grandchildren. I am a nurse. My husband, Mike (Mederos), is a psychiatric nurse. If we ever believed that there was anything going on currently with Irish and George, we would have no qualms calling CPS or the police department.

We really don't converse much, but Rob and Patti have allowed us to take Irish and George on occasion for a short while. While everyone went on their cruise, I watched Rob and Patti's dog. Rob came and picked him up this morning.

CV-1 also has an older brother, Christian, who lives in Idaho. Patti sent him to live with his biological father years ago. Christian is CV-2, Irish, and George's half brother.

END OF STATEMENT

I contacted CV-1 via phone (interview also recorded and booked into Lynx under item 198-1). The following is a summary of CV-1's statement:

It is hard to know where to start when describing the mental abuse that my mother did to CV-2 and me. I remember living a little while in Folsom at 1103 Sibley Street, and then I lived at the 3106 Brophy Drive address until I was 17 years old and moved out.

Prepared By:	Date:	Approved By:	Date:
198 LIM, KIMBERLY	06/01/2018	211 ZELAYA, AARON	06/03/2018

: 01174

**FOLSOM POLICE DEPARTMENT**46 NATOMA ST FOLSOM, CA 95630 916-355-7230
NARRATIVE

Page 8

FPD18-2149

I do recall the incident where CV-2 got into trouble and had to clean the dog. My mom (Patti) told me to make sure CV-2 washed the dog in the cold, 30 degree weather.

I know for my mom, that when George and Irish were around two years old, if they were crying she would tell them to stop. If they didn't, she would hit them in the mouth.

Back in 2007, the time when CPS intervened and Christian was living with us at 12 years old, we shared a room. Christian was tired of the physical and mental abuse from our mom. He told me he was going to tell people at our school. My mom had choked me back then. I don't think I told the CPS workers there when we were in the receiving home for the weekend. We did have CPS work with our family for a few months, but my mom was very good at manipulating the situation and seeming like everything was fine.

I do also remember being home with my mom while we lived at the 1103 Sibley Street address and my mom and I being home alone. My mom told me that I had a big penis after grabbing my penis. I was seven years old when this happened.

My mom had me shower and bathe with her and CV-2 naked together. This happened more than once. I was in the shower with my mom. I remember her rubbing my testicles, commenting that my penis was big.

My mom was neglectful with my younger brother and sister when they were in diapers. She did not change them enough. She sat on the porch, smoking. When I was younger, she would drink alcohol and ask me to take a shot of alcohol with her and I would.

I think my mom finally realized when CV-2 and I got older that it wasn't appropriate to touch or grab us anymore. I am just fearful that this same stuff could happen to George or Irish. George is quiet and keeps to himself, playing his video games with his headphones on.

END OF STATEMENT

I contacted CPS intake worker Alice #GG21 on 06-03-18 at approximately 1700 Hours via telephone to cross report (see attached 11166 PC documentation).

RECOMMENDATIONS:

Refer this case to Detective Catanio for follow up with Robert and Patricia Lane for incidents that occurred at 109 Demurrage Way (Folsom) and past incidents at 1103 Sibley Street (Folsom). Forward this case to the Sacramento County Sheriff's Department for incidents that occurred while the Lane family resided at 3106 Brophy Drive (Sacramento County).

ATTACHMENTS:

Controlled Document forms (2) for CV-1 and CV-2
CPS 11166 PC (Suspected Child Abuse Report) form

Prepared By: 198 LIM, KIMBERLY	Date: 06/01/2018	Approved By: 211 ZELAYA, AARON	Date: 06/03/2018
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: 01175

Exhibit C

Declaration of Attorney
Correen Ferrentino

: 01176

1 Correen Ferrentino SBN# 172485
2 Ferrentino & Associates, Inc.
3 4425 Jamboree Rd, Ste 270
4 Newport Beach, Ca. 92660
5 Phone (714) 973-2024 | Fax (714) 973-2025
6 Email cori@ferrentinolaw.com
7 Attorney for Patricia Lane

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9
10 IN THE SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SACRAMENTO
12

13
14
15 PEOPLE OF THE STATE OF
16 CALIFORNIA ,

17 Plaintiff,

18 vs.

19 PATRICIA LANE,

20 Defendant

21
22 COUNTY OF SACREMENTO,

23 Real Party in Interest

Case No.: 19FE010439

DECLARATION OF COUNSEL

24 I, Correen Ferrentino, hereby declare as follows:

25 1. I am an attorney licensed to practice law in the State of California. I
26 am counsel of record for Patricia Lane in the above-referenced case. I was
27 retained as counsel of record in this matter on October 29, 2020.
28

1 2. My review of this case has included a review of all police reports, audio
2 recordings, video and other discovery provided to by the prosecution and
3 other investigators.

4 3. On July 5, 2019, prior counsel Michael Chastaine requested access to
5 all the written and recorded interviews of all witnesses and Lane's children,
6 including one witness (CV5) and one alleged victim (CV4), at their
7 elementary school Natoma Station Elementary School. These recorded
8 interviews took place on December 4, 2018. On November 5, 2021, when I
9 substituted in as attorney of record, attorney Chastaine provided his file,
10 including a USB drive which he stated included all the recorded interviews
11 he had received. Also, Deputy District Attorney Nancy Cochrane provided
12 what was described as a complete set of all recordings to me. In an
13 abundance of caution, on January 7, 2021, I sent an informal discovery
14 request to the prosecution, requesting all audio and video recordings.

15 4. Soon after, review of the discovery materials provided to me revealed
16 the absence of the recordings of CV4 and CV5's school interviews with
17 Detective Catanio.

18 5. On December 14, 2020, about one year and half after prior counsel's
19 request, I specifically advised Ms. Cochrane the defense did not receive the
20 recorded interviews of CV4 and CV5. The same day, Ms. Cochrane requested
21 the recorded interviews from Folsom Police Department Detective Melanie
22 Catanio (Badge No. 237). In response, Detective Catanio indicated, "I had
23 recorded [the interviews], and the recordings of each interview should be on
24 the CD provided with all audio recordings." (See Exh. A). Ms. Cochrane then
25 relayed to Detective Catanio that the recordings were not provided. On
26 December 15, 2020, Detective Catanio discovered that she failed to book the
27 recordings into evidence with the Folsom Police Department.

28

1 6. On December 16, 2020, Detective Catanio accessed her iTunes account
2 on her computer at Folsom Police Department and was able to view the
3 recordings but could not retrieve them. (Exh. A). Apple technical support
4 suspected that Detective Catanio had deleted the recordings. (Exh. A). In
5 response, Detective Catanio reported, "I had deleted the recordings once I
6 loaded the recordings into iTunes." (Exh. A). However, the recordings were
7 visible in her iTunes account. Detective Catanio spoke with a detective with
8 more electronic experience and with two IT personnel. The detective stated
9 he was not experienced with Apple products. Catanio then claimed, "I feel I
10 have exhausted all resources in attempt to recover those two recordings."
11 (Exh. A). She indicated, "On 1/26/2021, both recordings appear in my Voice
12 Memos folder within iTunes, but neither will play and continue to display
13 the error message when selected for playback." (Exh. A). A screenshot of
14 Detective Catanio's voice memos reveals the two relevant interviews. (Exh.
15 A). The interview of the alleged victim, CV4, appears to be 12 minutes in
16 length. The interview of witness CV5 appears to be nearly 7 minutes.
17 Conveniently, these two recordings appear to be the only recordings with a
18 "!" next to them. Additionally, only after receiving this screenshot I saw
19 listed on the screenshot the recorded interview of Lane's husband, father
20 and stepfather for four of the alleged victims, that had never been provided
21 to defense counsel in this matter. This recording was also not booked into
22 evidence. I subsequently requested the recording of Lane's husband, Robert
23 Lane, and received it.

24 7. I received Detective Catanio's report, prepared on January 26, 2021,
25 regarding the problems with the recordings on February 24, 2021. Detective
26 Catanio has failed to demonstrate why the recordings were ever erased or
27 why she has taken no additional steps to obtain the recorded interviews.
28 Detective Catanio has failed to indicate why the recordings of the alleged

1 victim, a witness, and Lane's husband were never booked into evidence
2 within the Folsom Police Department. Detective Catanio has failed to
3 explain why this error was not caught sooner. As evidenced by Detective
4 Catanio's screenshot, her phone only had 40 voice memos on it. Therefore,
5 she cannot now make the argument that three of the interviews related to
6 this case were lost within 100s of recorded interviews. This conduct
7 represents a pattern of failure to log evidence, book evidence, failure to
8 provide the prosecution with evidence, and a general lack of transparency,
9 honesty and trustworthiness. A 12-minute interview of the alleged victim in
10 this case is absolutely necessary to the presentation of Lane's case. Ms.
11 Cochrane even described this evidence as "exonerating."

12 8. I have reviewed the June 2, 2018, Officer Lim interview of CV2, along
13 with his grandmother Jan Cole and his step grandfather Mike Mideiros.
14 This interview was recorded; however, the recording terminates before the
15 interview is concluded. Officer Lim's narrative report of the interview is
16 misleading as she does not indicate Mr. Mideiros was present despite the
17 fact that he is heard on the recording suggesting information to CV2.
18 Additionally, her narrative suggests she interviewed CV2 and Jan Cole
19 separately but instead the four of them are heard speaking amongst each
20 other throughout the recorded part of the interview. Finally, after CV2 has
21 complained of showering and naked cuddling with Lane from ages 4-10, he
22 asks Officer Lim if she has enough evidence and states he thinks no one will
23 think his claims are wrong because his mother is a woman and there is no
24 penetration. In response, Officer Lim says it's okay and describes various sex
25 acts, including digital penetration, rape, and lewd and lascivious acts on
26 someone under 14, that can constitute a felony sex crime. She describes
27 digital penetration as putting other objects besides a penis inside someone.
28 CV2 then immediately indicates her statement has refreshed his memory

1 and recalls Lane putting her finger in his "ass" while his clothes were on
2 when he was 16. Officer Lim does not include in her narrative report her
3 description to CV2 of various felony sex crimes, especially digital
4 penetration, which she stated immediately before this last allegation. If this
5 portion of the interview were not recorded, the defense would not be aware
6 that Officer Lim had suggested various felony sex crimes described digital
7 penetration to CV2 immediately before he "remembered" it. The fact that a
8 portion of the interview, of unknown length, after these statements are made
9 is not recorded is cause for concern in that Officer Lim shows a pattern of
10 failing to include important, relevant details in her narrative report.

11 9. Much of the defense at trial will be establishing that Patricia Lane did
12 not sexually abuse her children. A portion of the defense will also be that the
13 officers investigating this case have misrepresented facts presented in the
14 police reports and have suppressed exonerating evidence. The interview of
15 Lane's children, including a 12-minute interview of the alleged victim,
16 performed two years ago would add support to the argument that Lane did
17 not abuse her son. Further, as material witnesses in this case, Detective
18 Catanio and Officer Lim's character, habits, customs and credibility will be
19 necessary for impeachment evidence. Detective Catanio and Officer's Lim's
20 character, habits, customs and credibility will be material issues in the case
21 as they will give light to whether the counts were truly warranted.

22 10. I am informed and believe that all information sought exists and
23 is in the possession of the Folsom Police Department, its attorneys or their

24 //

25 //

26 //

27

28

1 agents. Further, the defense is unable to obtain the records I seek through
2 means other than an order from this Court.

3 I declare under penalty of perjury under the laws of the State of
4 California that the foregoing is true and correct. Executed in Newport
5 Beach, California on June 23, 2021

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Respectfully submitted,
FERRENTINO & ASSOCIATES, INC.

Correen Ferrentino

Correen Ferrentino
Attorney for Patricia Lane

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- 28

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 4425 Jamboree Road, Suite 270, Newport Beach, Ca. 92660.

Nancy Cochrane
Deputy District Attorney
Sacramento District Attorney's Office
CochraneN@sacda.org

Folsom City Attorney's Office
City Clerk
lgonzales@folsom.ca.us

L. H.

Samuel Rivas
Declarant

FILED / ENDORSED

JUN 25 2021

By D. Aguilera, Deputy Clerk

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Attorney for Patricia Lane

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

PATRICIA LANE,

Defendant

Case No.: 19FE010439

**NOTICE OF MOTION, MOTION
FOR DISCOVERY, POINTS AND
AUTHORITIES; AND
DECLARATION OF COUNSEL.**

Date: 6/30/2021

Time: 4:00 p.m.

Dept.: 10

TO THE HONORABLE JUDGE OF THE ABOVE-ENTITLED COURT AND
TO THE DISTRICT ATTORNEY OF SACRAMENTO COUNTY:

PLEASE TAKE NOTICE that on June 30, 2021, at the hour of 4:00
p.m. or as soon thereafter as counsel may be heard in the courtroom of the
above-entitled court, Patricia Lane (hereafter referenced as "Lane") will
move for an order compelling discover in this case, including the following:

1. Access to Detective Catanio's iPhone, computer, iTunes and
iCloud account, as referenced in her report dated 1/26/2021 in which
she states she recorded and/or stored two recorded interviews of

1 alleged victim CV4 (counts 12-14) and witness CV6 which she claims
2 are unretrievable (Exh. A), for purposes of allowing defense expert
3 Matt Erickson to extract these recordings from these locations and
4 attempt to recover them in the presence of Folsom Police Department
5 personnel and under protective order to delete all information from
6 any extraction, excluding these two recordings.

7
8 2. The full name and badge number of the any and all Folsom
9 Police Department personnel Detective Catanio indicates she
10 contacted in an effort to retrieve the subject recordings. (Exh. A)

11
12 3. All communication, including email, text, and voicemail by
13 Detective Catanio or any other law enforcement, DA investigator,
14 Victim Witness advocate or DA personnel and any witness or alleged
15 victim in this case, including but not limited to communication with
16 Detective Catanio as referenced in CV2's letter to the court filed on
17 June 4, 2021, where CV2 indicated he has been in contact with
18 Detective Catanio approximately once a week for the last two years.

19
20
21 This motion is made on the grounds that the recordings contain
22 exonerating evidence which the defense is entitled to under *Brady v.*
23 *Maryland* and Penal Code § 1054.1 and that Detective Catanio and the
24 Folsom Police Department have not exhausted all reasonable efforts to
25 retrieve the recordings and the district attorney refuses to provide the
26 defense access to these devices or identify from whom Detective Catanio
27 sought assistance or their relevant level of expertise. There also exists
28 evidence in the discovery including the narrative reports, recordings and

1 letters subpoenaed and provided to the court that the defense has not
2 received all relevant discovery required under Penal Code Section 1054.1
3 and the prosecution refuses to disclose all communication between law
4 enforcement and witnesses and/or alleged victims in this case. This motion
5 will be based on this notice of motion, on the attached declaration and
6 memorandum of points and authorities served and filed herewith, on such
7 supplemental memoranda of points and authorities as may hereafter be filed
8 with the Court or stated orally at the conclusion of the hearing on the
9 motion, on all the papers and records on file in this action, and on such oral
10 and documentary evidence as may be presented at the hearing of the motion.

11
12 Date: June 25, 2021

Respectfully submitted,
FERRENTINO & ASSOCIATES, INC.

Correen Ferrentino

Correen Ferrentino
Attorney for Patricia Lane

STATEMENT OF THE CASE AND FACTS

Defendant, Patricia Lane, is charged with 15 counts of lewd acts with a minor in violation of Penal Code §288(a). The prosecution alleges that Lane molested four of her children and her half-brother while they were between the ages of 4 and 16. Three of her sons and her half-brother, all adults, reported in 2018 that Lane sexually abused them from 2002 to 2016. The fifth alleged victim, CV4, is Lane's 10-year-old son who has denied any abuse and his first interview with anyone regarding these allegations which were recorded at his school by Detective Catanio is the subject of this motion. One of CV4's older brothers allege he saw Lane abuse CV4 sometime between 2017 and 2018. CV5 is Lane's 8-year-old daughter who denies witnessing any abuse by Lane. Her interview with Detective Catanio at her school is also the subject of this motion. There are no independent corroborating witnesses or forensic evidence of the alleged abuse. The matter is currently scheduled for a jury trial to occur on July 19, 2021.

On December 11, 2018, Detective Catanio interviewed CV4 and CV5 at Natoma Elementary School. She indicated in her report that both CV4 and CV5 denied any abuse by Lane, that she recorded these interviews and that they were later booked into Lynx as evidence. (Exh. A, Bates 128-129.)

After substituting in on this case in December 2020 and receiving discovery from prior attorney Chastiane and DDA Cochrane, undersign counsel reviewed the audio and video recordings and did not find the recordings of the December 2018 recordings of CV4 and CV5's school interviews with Detective Catanio in which they both denied any abuse by Lane.

On December 14, 2020, the undersigned counsel specifically advised DDA Cochrane the defense did not receive the recorded interviews of CV4 and CV5. The same day, DDA Nancy Cochrane requested the recorded

1 interviews from Folsom Police Department Detective Melanie Catanio
2 (Badge No. 237). In response, Detective Catanio indicated, "I had recorded
3 [the interviews], and the recordings of each interview should be on the CD
4 provided with all audio recordings." (See Exh. B). DDA Cochrane then
5 relayed to Detective Catanio that the recordings were not provided. On
6 December 15, 2020, Detective Catanio discovered that she failed to book the
7 recordings into evidence with the Folsom Police Department.

8 On December 16, 2020, Detective Catanio accessed iTunes and was not
9 able to access the recordings although she could see them in her iTunes
10 account. (Exh. B). Apple technical support suspected that Detective Catanio
11 had deleted the recordings (Exh. B). In response, Detective Catanio reported,
12 "I had deleted the recordings once I loaded the recordings into iTunes." (Exh.
13 A). Detective Catanio spoke with a detective with more electronic experience
14 and with two IT personnel. The detective stated he was not experienced
15 with Apple products. Catanio then claimed, "I feel I have exhausted all
16 resources in attempt to recover those two recordings." Detective Catanio did
17 not identify any of the Folsom Police Department personnel with whom she
18 consulted. (Exh. B). She indicated, "[a]s of 1/26/2021, both recordings appear
19 in my Voice Memos folder within iTunes, but neither will play and continue
20 to display the error message when selected for playback." (Exh. B). A
21 screenshot of Detective Catanio's voice memos attached to her January 2021
22 report reveals the two relevant interviews. (Exh. B). The interview of the
23 alleged victim, CV4, appears to be 12 minutes in length. The interview of
24 witness CV5 appears to be nearly 7 minutes. These two recordings appear to
25 be the only recordings with a "!" next to them. Additionally, only after
26 receiving this screenshot did undersigned counsel see listed on the screen a
27 recorded interview of Lane's husband, father and stepfather to four of the
28 alleged victims, that had never been provided to the defense in this matter.

1 This recording apparently was not booked into evidence. And somehow this
2 recording, made at the same time as the subject interviews, was retrievable
3 from Det. Catanio's iTunes account. It was subsequently provided to the
4 defense.

5 On February 24, 2021, the defense received Detective Catanio's report
6 prepared on January 26, 2021 regarding the issues with the school
7 recordings. Detective Catanio has failed to demonstrate why the recordings
8 were ever erased or why she has taken no additional steps to obtain the
9 recorded interviews. After receiving the report, defense counsel advised DDA
10 Cochrane multiple times to advise Det. Catanio to preserve her phone,
11 iTunes and iCloud account and computer. Defense counsel did not receive a
12 response that Detective Catanio would comply with this request.

13 On June 11, 2021, after retaining forensic computer expert Matt
14 Erickson from USA Forensic LLC, undersigned counsel emailed DDA
15 Cochrane and requested access to the subject iPhone, computer and iCloud
16 and/or iTunes account and set forth the procedures by which the defense
17 expert would extract and analyze the devices at the Folsom Police
18 Department and would not leave the department with anything but the
19 audio recordings if recoverable. (See precise description of process below)

20 On June 15, 2021, DDA Cochrane emailed counsel and advised "we are
21 not in agreement to have anything done that you have proposed in your
22 email below." (Exh. C.)

23 The defense is requesting the court to order the Folsom Police
24 Department to provide forensic computer expert Matt Erickson, USA
25 Forensic LLC, access to the phone, iTunes account, iCloud account and
26 computer utilized by Detective Catanio to record and attempt to save and/or
27 retrieve these two school interviews. Specifically, the defense, understanding
28 the sensitive nature of these devices, seeks only to locate the audio files in

1 question. The defense requests to perform a forensic extraction of the
2 iPhone, computer and iTunes and iCloud account in the presence of the
3 owner/officer in this matter. Data will be forensically extracted to new
4 storage media and can remain with the officer once the work is
5 completed. For the iPhone, the expert would use Cellebrite UFED to extract
6 the data, and Cellebrite Physical Analyzer to analyze the data. For the
7 computer, the expert would do a forensic image of the original drive using a
8 write-blocker and various forensic tools for analysis. For the iCloud account,
9 the defense expert would use Oxygen Forensic Cloud Extractor to extract the
10 data, and Oxygen Forensic Detective to analyze the data. If the defense
11 locates the audio files on one device, it will not need to examine the
12 remaining devices. In other words, iCloud extraction will not be attempted if
13 the files are located on the physical devices. The defense has no interest in
14 any files unrelated to the desired audio interviews in this matter. All
15 extraction and analysis would be completed at the Folsom Police
16 Department in the presence of officers and the defense would only request to
17 leave the site with the school recording audio files and nothing more. The
18 defense expert would also be willing to submit to a protective order
19 regarding any other materials that may be inadvertently accessed or
20 viewed.¹ (Exh. H.)

21 Additionally, on June 21, 2021, defense counsel requested DDA
22 Cochrane obtain from Det. Catanio the full name and badge number of each
23 of the Folsom personnel Catanio spoke to regarding retrieving the school
24 interviews mentioned in her report (Exh. C) in an effort to determine the
25 credibility of her account and if in fact she had exhausted all possible
26 avenues to retrieve these recordings. (Exh. D.) On June 22, 2021, DDA
27

28

¹ This is essentially the same request made to DDA Cochrane.

1 Cochrane responded that this request was not covered by 1054.1. The
2 defense seeks an order compelling this discovery.

3 Also on June 21, 2021, the defense requested the following:

4 "All communication, including email, text, and voicemail
5 between Detective Catanio and any other law enforcement, DA
6 investigator or DA personnel and any alleged victim in this case,
7 including but not limited to communication with Detective Catanio as
8 referenced in CV2's letter to the court filed on June 4, 2021, where
CV2 indicated he has been in contact with Detective Catanio
approximately once a week for the last two years. "

9
10 This request was made in part due to the letter dated June 15, 2020
11 written by Sacramento County District Attorney Victim Advocate Mailyn
12 Chuong, M.S.W. which the court received via defense subpoena from UCSB
13 Financial Aid Office. (Exh. E.) This letter was released from the court to the
14 defense on June 4, 2021. Prior to the court's release of this letter, Lane had
15 not received it from the prosecution. This letter indicates the DA Victim
16 Witness Advocate was attempting to assist CV2 in obtaining a financial
17 benefit due to his status as an alleged victim in this case. The letter stated
18 "Since [CV2] disclosed the abuse, he has been on his own with no support
19 from his father, emotionally or financially. I ask that you take Bob's terrible
20 situation into consideration and provide financial assistance he is eligible for
21 in his pursuit of a higher education." (Exh. E.) Clearly, there was some form
22 of communication between CV2 and the DA's office regarding the contents of
23 the letter prior to it being sent. Lane is concerned this letter was not
24 provided originally in discovery and seeks any additional communication,
25 including but not limited to any which attempts to provide or obtain a
26 benefit for any witness or alleged victim in this case and is relevant to bias
27 and credibility of the witnesses.

28

1 Further, this request is in part based on the letter from CV2 to the
2 court filed by DDA Cochrane on June 4, 2021. In this letter, CV2 states that
3 since the alleged abuse was reported "for the following year, I got a call just
4 about every week with updates on the investigation and sometimes having
5 to tell what happened again." Lane believes there has been additional
6 witness statements taken by Det Catanio and possibly other law
7 enforcement or DA personnel. Additionally, Lane believes Det. Catanio and
8 Officer Lim have provided information to some or all of the alleged victims in
9 this case that may impact the veracity of their allegations and potential bias.
10 Therefore, Lane requests the court order the prosecution to produce all
11 communication between these parties.

12 Based upon the following, Lane, through her counsel of record,
13 requests that this Court grant this request for additional discovery.

14
15 **Memorandum of Points and Authorities**

16
17 **ARGUMENT**

18 **I. AN INFORMAL DISCOVERY REQUEST HAS ALREADY**
19 **BEEN MADE. THE PROSECUTION HAS REFUSED TO**
20 **COMPLY.**

21 The defense is required to informally seek discovery at least 15 calendar
22 days before asking for court-ordered discovery. (§ 1054.5, subd. (b).)²
23 Petitioner has made such a request, as evidenced in the previously filed
24 motion to continue along with the attachments to the motion. The

25
26
27 ² Lane acknowledges that two of the requests were made less than 15 days
28 ago but the prosecution has made clear it does not intend to comply with the
request and in the interest of time, Lane asks the court to waive the 15 day
period.

1 prosecution has refused to comply and contends that it is not legally
2 obligated to comply. Accordingly, Petitioner seeks this order.

3
4 **II. THE CRIMINAL DISCOVERY ACT APPLIES.**

5 Discovery in criminal cases is governed by the Criminal Discovery Act.
6 Section 1054.1 requires the prosecution to provide certain items to the
7 defendant or the defendant's attorney. The Criminal Discovery Act applies
8 to "criminal cases." (§§ 1054, subd. (e), 1054.5, subd. (a).) "A ... defendant's
9 right to discovery is based on the fundamental proposition that [an
10 accused] is entitled to a fair trial and an intelligent defense in light of all
11 relevant and reasonably accessible information." *Santa Cruz v. Municipal*
12 *Court* (1989) 49 Cal.3d 74, 84. Penal Code Section 1054 governs the
13 discovery obligations of both the prosecution and the defendant.
14 Section 1054.1 provides, in pertinent part:

15
16 The prosecuting attorney shall disclose to the defendant or his
17 or her attorney all of the following materials and information,
18 if it is in the possession of the prosecuting attorney or if the
19 prosecuting attorney knows it to be in the possession of the
investigating agencies:

- 20 (b) Statements of all defendants;
21 (c) All relevant real evidence seized or obtained as a part of the
investigation of the offenses charged.
22 (e) Any exculpatory evidence.
23 (f) Relevant written or recorded statements of witnesses or
24 reports of the statements of witnesses whom the prosecutor
intends to call at the trial, including any reports or statements of
25 experts made in conjunction with the case, including the results
26 of physical or mental examinations, scientific tests, experiments,
27 or comparisons which the prosecutor intends to offer in evidence
at the trial. Pen. Code, § 1054.1.

1 Additionally, section 1054.5 mandates that certain types of evidence may
2 only be obtained by the defense through section 1054. Pen. Code § 1054.5,
3 subd. (a). "This chapter shall be the only means by which the defendant may
4 compel the disclosure or production of information from prosecuting
5 attorneys, *law enforcement agencies which investigated or prepared the case*
6 *against the defendant*, or any other persons or agencies which the
7 prosecuting attorney or investigating agency may have employed to assist
8 them in performing their duties. Pen. Code, § 1054.5(a).

9 Section 1054.1 itself directly imposes upon the prosecution a duty to
10 inquire of the investigating agencies whether any of the required disclosures
11 exist. *In re Littlefield* (1993) 5 Cal.4th 122, the court extends this duty to
12 learn of it when it is reasonably accessible to the prosecution. *Teal v.*
13 *Superior Court* (2004) 117 Cal.App.4th 488 at 491, holds that information in
14 the possession of law enforcement agencies that investigated or prepared the
15 case against the defendant is reasonably accessible to the prosecution.

16
17 **III. THE RULES OF PROFESSIONAL CONDUCT AND *BRADY***
18 **REQUIRE THAT THE PROSECUTION PROVIDE**
19 **DISCOVERY.**

20 "[S]uppression by the prosecution of evidence favorable to an accused
21 upon request violates due process where the evidence is material either to
22 guilt or to punishment, irrespective of the good faith or bad faith of the
23 prosecution." (*Brady v. Maryland* (1963) 373 U.S. 83, 87.) "The prosecutor
24 in a criminal case shall: . . . (d) make timely disclosure to the defense of all
25 evidence or information known to the prosecutor that the prosecutor knows
26 or reasonably should know tends to negate the guilt of the accused, mitigate
27 the offense, or mitigate the sentence, except when the prosecutor is relieved
28 of this responsibility by a protective order of the tribunal . . . : (Cal. Rules of

1 Prof. Conduct, rule 3.8.) The disclosure obligation imposed on the
2 prosecution "are not limited to evidence or information that is material as
3 defined by *Brady v. Maryland* (1963) 373 U.S. 83." (Cal. Rules of Prof.
4 Conduct, rule 3.8, Comment [3].)

5 A prosecutor's duty under *Brady* to disclose material exculpatory evidence
6 extends to evidence the prosecutor--or the prosecution team-- knowingly
7 possesses or has the right to possess. The prosecution team includes both
8 investigative and prosecutorial agencies and personnel. (*See In re Brown*
9 (1998) 17 Cal. 4th 873, 879.) The scope of the prosecutorial duty to disclose
10 encompasses exculpatory evidence possessed by investigative agencies to
11 which the prosecutor has reasonable access. (*People v. Robinson* (1995) 31
12 Cal. App. 4th 494, 499.)

13 In regards to the prosecutor's duty to know, in *Kyles v. Whitley* (1995) 514
14 U.S. 419, the Court held that the prosecutor has a duty to learn of any
15 favorable evidence known to the others acting on the government's behalf,
16 including the police. Penal Code§ 1054(a) lists "the ascertainment of truth"
17 first among the stated "purposes" for the discovery chapter. To get to the
18 truth requires that the defense have the capability to conduct its own
19 investigation into the facts of the case. Moreover, the right to the effective
20 assistance of counsel means the right to counsel who is making informed and
21 reasoned tactical and strategic decisions based on adequate preparation and
22 investigation. Such preparation occurs best when the accused is aware of the
23 evidence against him or her. (See *Strickland v. Washington* (1984) 466 U.S.
24 668, and *People v. Ledesma* (1987) 43 Cal.3d 171, on the definitions of the
25 right to effective assistance of counsel.) Therefore, the defense must have
26 unfettered access to all of the information collected by the police agency and
27 the District Attorney's Office in its investigation of this alleged crime.

28

1 Here the prosecution has refused to provide certain discovery relating to
2 exonerating evidence and impeachment evidence.

3
4 **CONCLUSION**

5 "The right of an accused in a criminal trial to due process is, in essence,
6 the right to a fair opportunity to defend against the State's accusations."
7 *Chambers v. Mississippi* (1973) 410 U.S. 284,294.

8 For all of the above-stated reasons, defendant requests that this Court
9 compel discovery of the evidence requested. Should the District Attorney
10 express an unwillingness or inability to obtain the discovery within a
11 reasonable time, the defense requests that the court provide for any
12 additional relief necessary to effectuate the purpose of this motion.

13
14
15 Date: June 25, 2021

Respectfully submitted,
FERRENTINO & ASSOCIATES, INC.

16 *Correen Ferrentino*

17 _____
18 Correen Ferrentino
19 Attorney for Patricia Lane
20
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28

EXHIBIT A

:01197

**FOLSOM POLICE DEPARTMENT**46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 7

Page 121

FPD18-2149

Interview with CV5:

On 12/4/18 at approximately 1230 hours, I responded to Natoma Station Elementary School to interview CV5. I began our talk by discussing the difference between telling the truth and telling a lie, and she was able to articulate the difference. I asked CV5 if she had any idea why I was there, and she immediately began crying and said, "It's a home thing, and it's kind of private." I let her know that people were concerned about her safety and asked her why she was upset, the following is a summary of her statement:

"I can't see my brother any more. My brother CV2. I miss my brothers. A while ago there was a lady who came to our house and asked if our parents fed us enough, and we told her yes. Nothing that shouldn't be happening, is happening. My brothers don't talk to my mom because they think she did something bad to them, when they were little kids, an I say that's not true. She parents us, just fine, exactly like she's supposed to. She told me it makes her sad that they won't talk to her. I know my brothers pretty well, and I think since they won't talk to my mom now maybe they would be making it up. I think she is doing a fine job of parenting. Nothing inappropriate is happening to my body at home. No body is touching my private parts, that shouldn't be. Should I tell my mom this happened? I will tell you this, I won't tell anyone this happened, because it's kind of personal.

*****Conclusion of CV5 interview.*****

The interview was audio recorded and later booked into LYNX as evidence.

Attachments: None.

Recommendations: Attach to original report.

Prepared By:

237 CATANIO, MELANIE

Date:

12/11/2018

Approved By:

192 BATES, ANDREW

Date:

12/19/2018

**FOLSOM POLICE DEPARTMENT**46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 8

Page 122

FPD18-2149

Interview with CV4:

On 12/4/18 at approximately 1245 hours, I responded to Natoma Station Elementary School to interview CV4. I began our talk by discussing the difference between telling the truth and telling a lie, and she was able to articulate the difference. I told CV4 that I was there because people were concerned for his safety and asked if he would talk to me about it. The following is a summary of his statement:

I feel safe. I don't have any reason to not feel safe at home. This is inappropriate things for school. I'm not going to talk about it because I am at school. My mom is pretty open with me, and all of her kids. We think my brothers had a better life, but my brothers think we have a better life because my parents aren't as harsh with us. My brothers complained about how my mom and dad treated them. My mom and dad only yell at us when we are doing things we aren't supposed to and they tell us to stop several times, and then they yell at us because it gets annoying. I feel like I'm fine. I had my birthday in September, they were really nice to me.

I told CV4 that one of his brothers told me they saw P. Lane do some inappropriate things to his body. The following is his response:

They are lying. Which brother said that? I think I'm fine. I think they are lying. Do you know if they are saying these things happened to me when I was younger? Was I younger? I don't recall. They have to be lying, because I don't recall. They have been jerks and have been lying about all kinds of things lately. I don't remember what the lies were, but all three of them are liars, yeah. They are all drama starters. I went to a funeral about 4 months ago, and I was next to my brother CV3. He always starts drama, but since I was sitting next to him when we went to dinner, he didn't start any drama because he wouldn't do that around his younger brother. I mean maybe they aren't totally lying, maybe they are telling the truth about some things. It would make sense that they are lying because I don't recall being physically abused. I probably was asleep or something like that. There is nothing inappropriate happening at home to my body. But my parents do things that they say are joking around. They say that I have a big butt, and I believe them about that, I'm fine with that and I kind of want to have a big butt. I feel safe going home. I think my mom will be annoyed about you being here. She doesn't like people talking about our brothers and what they have done, so I will keep it to myself.

*****Conclusion of CV4 statement.*****

The interview was audio recorded and later booked into lynx as evidence.

Attachments: None.

Recommendations: Attach to original report.

Prepared By:

237

CATANIO, MELANIE

Date:

12/11/2018

Approved By:

192

BATES, ANDREW

Date:

000000

: 01199

EXHIBIT B

: 01200



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE THIRD APPELLATE DISTRICT

---oOo---

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff/Respondent

VS.

PATRICIA ELIZABETH LANE

Defendant/Appellant

COURT OF APPEAL
NUMBER: C094996

SUPERIOR COURT
NUMBER: 19FE010439

CLERK'S TRANSCRIPT ON APPEAL

APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT

OF THE STATE OF CALIFORNIA IN AND FOR

THE COUNTY OF SACRAMENTO

HON. ERNEST W. SAWTELLE

ATTORNEY GENERAL
1300 I STREET, SUITE 1101
SACRAMENTO, CA 95814

Counsel for Plaintiff/Respondent

CENTRAL CALIFORNIA
APPELLATE PROGRAM
2150 RIVER PLAZA DRIVE,
SUITE 300
SACRAMENTO, CA 95833

Counsel for Defendant/Appellant

Volume 5 of 8
Pages 1201 to 1500

**FOLSOM POLICE DEPARTMENT**

46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 17 - Supplement- School interviews with
George and Irish

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FPD18-2149

On December 14, 2020, I received an e-mail from DDA Nancy Cochrane asking if I recorded the interviews conducted with George and Irish, at their elementary school on December 4, 2018. I responded by telling her I had recorded them, and the recordings of each interview should be on the CD provided with all audio recordings. Cochrane informed me the recordings were not on the evidence provided.

On December 15th, 2020 I checked in evidence and noticed the recordings were also not booked there. I also reviewed my CD copy of all the audio from the case, and couldn't find the recordings.

After the original interviews with George and Irish (12-4-18), I loaded the recordings from my department issued cell phone, into i-tunes on my work computer, to retain them and listen to them for dictation of my report.

On Dec 16th, I went to open iTunes, but the application wasn't showing on my computer. I called IT and had them install the application on my desktop. I opened my i-tunes and could see the recordings. When I clicked on the recordings, to put them on a thumb drive, an exclamation point surrounded by a circle appeared to the left of the audio file and the file would not play. I called a detective with more electronic expertise and asked about why I might be receiving the error message, and he was unsure and inexperienced with Apple products.

Later on Dec 16th, I called Apple Support and explained the situation to them. I told them about the error message, as well as took a screen shot of the recordings still showing in my iTunes. The Apple tech was unsure of why the recordings were not playing. The Apple Tech asked if I deleted the recordings off my actual device (cell phone), and I told him I had deleted the recordings once I loaded the recordings into iTunes. He told me that me deleting the recordings from my device could have deleted them across all platforms. I explained to him again that the recordings were still showing in my iTunes, but weren't playing. I also told him I back my phone up to iCloud consistently. He advised that I find an extra department cell phone, and restore the phone using my iCloud backup. He explained that the location of my iTunes media folder may have been lost, and restoring from iCloud might fix the problem. I asked him how the location of the folder, and its contents, could be lost and he told me that sometimes happens during computer updates, or if you copy the iTunes folder to an external drive.

Upon hearing this, I called our IT department. I called them because just a week prior, they had to restore a program to my computer that was not working properly. I asked the tech about the process, and he advised that they had tried to uninstall and reinstall without success of fixing the error in running the program, so they wiped my hard drive. He further explained that was why I had to call him to re-install iTunes earlier that day.

On December 17th I got an unused iPhone from a Department Lieutenant, and restored that phone using my iCloud backup. The recordings did not show up in the Voice app, but still show up when I plug the phone into iTunes. The recordings still will not play out of iTunes.

On December 17th I spoke with the same City of Folsom IT personnel. and explained the situation to him. I asked if there was any way to restore my desktop, and he said there was not. I asked him if he could assist in trouble shooting the iTunes issue, and he told me they don't get involved with Apple

Prepared By:

237 CATANIO, MELANIE

Date:

01/26/2021

Approved By:

196 WRIGHT, LOU

Date:

01/26/2021

CONTROLLED DOCUMENT - DO NOT DUPLICATE

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: 01201./

**FOLSOM POLICE DEPARTMENT**

Page 371

46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 17 - Supplement- School interviews with
George and Irish

FPD18-2149

product management.

I feel I have exhausted all resources in attempt to recover those two recordings. As of 1/26/2021, both recordings appear in my Voice Memos folder within iTunes, but neither will play and continue to display the error message when selected for playback.

I have included a screen shot of my iTunes folder. To preserve confidentiality of victims not involved in this report, I have blacked out several last names and exact street addresses. The recordings of George and Irish are highlighted in yellow, and are titled Full Steam Academy 4 (Irish) and Full Steam Academy 2 (George).

Attachments: Screen shot of iTunes Library.

Recommendations: E-mail a copy of this narrative to DDA Nancy Cochrane.

CONTROLLED DOCUMENT - DO NOT DUPLICATE

Prepared By:

237 CATANIO, MELANIE

Date:

01/26/2021

Approved By:

196 WRIGHT, LOU

Date:

01/26/2021

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44 >>

File Edit View Window Help

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Voice Memo

at 10:00 AM, 1/1/00

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: 01203

EXHIBIT C

: 01204

From: Cori Ferrentino
To: Cochrane, Nancy (DA)
Subject: Re: People v. Patricia Lane re recorded school Interviews of George and Irish
Date: Tuesday, June 15, 2021 3:15:48 PM

Thanks for the response. Please ensure the phone, computer and iCloud account are preserved and not utilized. I will be filing a motion to request access.

Cori Ferrentino

Sent from my iPhone

Correen Ferrentino
Criminal Law Specialist
Certified by the California State Bar

Please note new address

Ferrentino & Associates, Inc.
4425 Jamboree Road, Suite 270
Newport Beach, CA 92660
Telephone: (714) 973-2024
Facsimile: (714) 973-2025
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On Jun 15, 2021, at 3:04 PM, Cochrane, Nancy (DA) <CochraneN@sacda.org> wrote:

Hi Cori,

: 01205

We are not in agreement to have anything done that you have proposed in your email below.

N

From: Cori Ferrentino <cori@ferrentinolaw.com>
Sent: Friday, June 11, 2021 4:27 PM
To: Cochrane, Nancy (DA) <CochraneN@sacda.org>
Subject: People v. Patricia Lane re recorded school Interviews of George and Irish

Hi Nancy,

As we have stated on several occasions, we are seeking to analyze the phone, computer and icloud account used by Det. Catanio in relation to the school interviews of George and Irish and thus far are irretrievable as set forth in Det Catanio's report (Bates 482-484.) as you know, these interviews are exculpatory and I have also requested that Det. Catanio cease from using the phone or computer until they can be analyzed.

We've been told the audio interviews were recorded on an iPhone, and at one time the files were present on the computer to which it was syncing. Without direct knowledge of where these files may be located now, we will need to request access to the iPhone, computer and iCloud backups for this device.

We understand this is a sensitive matter, as these devices will have data unrelated to this case. We only seek to locate the audio files in question. We propose a forensic extraction of the iPhone, computer and iCloud account in the presence of the owner/officer in this matter. Data will be forensically extracted to new storage media and can remain with the officer once the work is completed.

For the iPhone, we would use Cellebrite UFED to extract the data, and Cellebrite Physical Analyzer to analyze the data.

For the computer, we would do a forensic image of the original drive using a write-blocker and various forensic tools for analysis.

For the iCloud account, we would use Oxygen Forensic Cloud Extractor to extract the data, and Oxygen Forensic Detective to analyze the data.

If we locate the audio files on one device, we will not need to examine the remaining devices. In other words, iCloud extraction will not be attempted if the files are located on the physical devices. We have no interest in any files unrelated to the desired audio interviews in this matter. We would only request to leave the site with the audio files and nothing more. We would also be willing to submit to a protective order regarding any other materials that may be

: 01206

inadvertently accessed or viewed. This is done in many CP cases at the agency. It would be similar to that process.

Best regards,

Cori Ferrentino

CORREEN FERRENTINO, ESQ.
Certified Specialist in Criminal Law,
Certified by the State Bar of California

PLEASE NOTE NEW ADDRESS

FERRENTINO & ASSOCIATES, INC.

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Newport Beach, CA 92660

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Facsimile: (714) 973-2025

Email: cori@ferrentinolaw.com

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: 01207

EXHIBIT D

: 01208

SECOND DISCOVERY REQUEST¹

DATE: June 21, 2021
TO: Nancy Cochrane
Deputy District Attorney
Sacramento County District Attorney's Office
FROM: Correen Ferrentino
CASE: *People v. Patricia Lane*, Case No. 19FE010439

Ms. Cochrane:

I am requesting the following additional discovery pursuant to Penal Code Section 1054 *et. seq.* and *Brady* and following up on previously requested discovery.

Previously Requested:

1. All documents² that contain statements and utterances pertaining to this case, written or oral, however recorded or preserved, whether or not signed or acknowledged, including, but not limited to, police reports and investigative reports prepared by the prosecution team and its agents, audio and video recordings, 911 calls, dispatch logs and recordings, surveillance, and all other writings pertaining to statements and utterances made by all defendants, alleged victims, and witnesses.
2. A list of all witnesses and potential witnesses that the prosecution intends to call at trial, including their names, current addresses and all known telephone numbers.
3. Examination of any and all physical evidence obtained in the investigation of the case against the defendant.
4. All photographs, video, and audio recordings, taken of all victims, witnesses, the crime scene, and all defendants, including, but not limited to video and audio taken by all police officers and investigators, footage from body worn cameras, dash mounted cameras, surveillance footage, six-pack photographs,

¹ This is the second request I have made for discovery but the third request on behalf of Ms. Lane.

² The term "document," singular and plural, means and includes any writing defined in Evidence Code § 250, including, but not limited to, electronically stored information as defined in Code of Civil Procedure § 2016.020.

and all photographs and video/audio footage taken by witnesses and other individuals at the scene.

5. Documents that contain information about felony convictions and prior acts that adversely reflect on honesty, regardless of whether or not they resulted in arrests or convictions, for both felonies and misdemeanors, of all defendants, victims, witnesses, police officers, and members of the prosecution team that were involved in the investigation and prosecution of this case. (*Davis v. Alaska* (1974) 415 U.S. 308; *Giglio v. United States* (1972) 405 U.S. 150.)
6. Notice regarding prior acts that the prosecution may introduce pursuant to Evidence Code §§ 1101, 1103, 1108 or 1109, plus all writings that contain court and law enforcement records underlying those offenses.
7. All information and writings that are favorable to any defendant, including information and writings which a defendant can use to impeach the credibility of a witness, rebut or contradict evidence against the defendant, exonerate a defendant, implicate a third party, or may be favorable to a defendant at trial or sentencing. (See *Brady v. Maryland* (1963) 373 U.S. 83). The "[s]cope of Brady disclosure obligation extends beyond contents of prosecutor's case file and encompasses duty to ascertain as well as divulge any favorable evidence known to others acting on government's behalf." (*In re Brown* (1998) 17 Cal. 4th 873, 879; emphasis added.)
8. The identity and whereabouts of material informants. (See *Renzi v. Commonwealth of Virginia* (4th Cir. 1986) 794 F2d. 155.

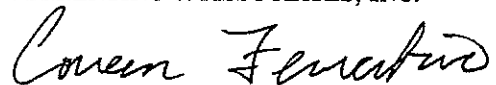
Additional Discovery Requested:

1. All communication, including email, text, and voicemail between Detective Catanio and any other law enforcement, DA investigator or DA personnel and any alleged victim in this case, including but not limited to communication with Detective Catanio as referenced in CV2's letter to the court filed on June 4, 2021, where CV2 indicated he has been in contact with Detective Catanio approximately once a week for the last two years.
2. Legible copies of Bates p. 377 to 380.
3. All acts and/or arrests and convictions of moral turpitude and all felony convictions of all witnesses.

4. Please provide the name and badge number of the detective that detective Catanio called to ask about the error message she received in her itunes account when trying to retrieve the school interviews of George and Irish. (Bates 482, para. 4).
5. Please provide the full name of the IT personnel/employee who installed the itunes account on Det. Catanio's computer as referenced in her report. (Bates 482, Para. 4).
6. Please provide the full name of the IT personnel/employee who Det. Catanio called about the inability to retrieve the school interviews who advised her that her computer hard drive had been wiped. (Bates 482 para. 6)
7. Please provide the full name of the IT personnel/employee who told Det. Catanio there was no way to restore her desktop. (Bates 482., para. 8).
8. The continued recording of Officer Lim's interview of CV2 following the recording labeled "[CV2]³ second convo w Officer Lim1." This audio recording ends abruptly while the interview appears to continue.

Each item set forth herein is a continuing request, up to, including, and after the time of trial or disposition. If, at the time the prosecution receives this request, the prosecution has already submitted all materials and information that are responsive to above-referenced requests and there is no new or additional materials and information, *there is no need to respond with duplicates.*

Sincerely,
FERRENTINO & ASSOCIATES, INC.



Correen Ferrentino
Attorney at Law

³ The label on the audio recording includes the actual first name of alleged CV2.

EXHIBIT E



Sacramento District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Stephen J. Grippi
Chief Deputy

Michael A. Neves
Assistant District Attorney

June 15, 2020

UCSB Office of Financial Aid
Santa Barbara, CA 93106-3180

To Whom It May Concern:

In my capacity as a Victim Advocate with the Sacramento County District Attorney's Office, Victim Witness Assistance Program, I am writing this letter on behalf of Robert Lane.

Bob is one of the victims in the case of People v. Patricia Lane, his mother. In the complaint with Sacramento Superior Court, Case # 19FE01043, Patricia Lane is charged with 14 felony counts of assault against Bob and other victims. She is currently in custody at the Sacramento County Jail.

Since Bob disclosed the abuse, he has been on his own with no support from his father, emotionally or financially. I asked that you take Bob's terrible situation into consideration and provide any financial assistance he is eligible for in his pursuit of a higher education.

If you have any questions or concerns, please call me at (916) 874-4758.

Sincerely,

Mailyn Chuong, M.S.W.
Victim Advocate

sacda.org

Victim and Witness Assistance Program
901 G Street, Sacramento, CA 95814 | p: 916.874.5701 | f: 916.321.2205

: 01213

EXHIBIT F

: 01214

From: Cochrane, Nancy (DA)
To: Cori Ferrentino
Subject: RE: People v Patricia Lane Pretrial Motions and Second Discovery Request
Date: Tuesday, June 22, 2021 4:11:35 PM

I am replying to your discovery request dated June 21, 2021, that you sent to me in an email.

Previously Requested:

1. Please be specific as to this request. You have the entire report but for the audio recordings of George and Irish at their school.
2. A list of witnesses has been provided as well as current addresses of civilian witnesses.
3. What physical evidence are you referring to?
4. The People have provided photographs to you of the named victims when they were younger. The defense has been provided with recorded interviews and SAFE interviews. Folsom Police Dept does not utilize body worn camera or dash mounted cameras. There is no surveillance footage.
5. RAPS of civilian witnesses will be run and any moral turpitude crimes/convictions will be provided. The People will not be providing RAP sheets to the defense on any police officers or members of the prosecution team.
6. Please be on notice that any evidence in the reports that may comply with 1108, 1101, 1103 or 1109 will be outlined in motions in limine.
7. You are in possession of reports and in fact you have CPS records pursuant to 827.
8. The identity and whereabouts of material informants??? There are none.

Additional Discovery Requested:

1. I refer defense to 1054.1: Which states that..."all relevant statements...."shall be turned over in discovery. You are in possession of relevant statements. Updating a victim regarding the status of the case is not a "relevant statement".
Further, the statement written by Bob Doe to Judge Sawtelle dated June 4, 2021, in opposition to another defense motion to continue, is being misconstrued. He does not say that he has been in contact with Det. Catanio approximately once a week for the last two years. He says: "for the following year, I got called just about every week about updates on the investigation and sometimes having to tell what happened again."
2. Pages 377 to 380 will be provided to defense again.
3. RAPS will be run on civilian witnesses and moral turpitude arrests/convictions will be turned over to defense.
4. - 7. Requests made in #4-7 are not covered by 1054.1. Defense is in possession of the exculpatory statements made by George and Irish at the school. No one is going to say that either of those children said anything other than what is contained in their exculpatory statements in written form.
8. It appears that Officer Lim began the recording after the interview started. Officer Lim does not have any additional audio to add.

From: Cori Ferrentino <cori@ferrentinolaw.com>
Sent: Tuesday, June 22, 2021 11:09 AM

: 01215

EXHIBIT G

: 01216

1 Correen Ferrentino SBN# 172485
2 Ferrentino & Associates, Inc.
3 4425 Jamboree Rd, Ste 270
4 Newport Beach, Ca. 92660
5 Phone (714) 973-2024 | Fax (714) 973-2025
6 Email cori@ferrentinolaw.com
7 Attorney for Patricia Lane

8
9
10 IN THE SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SACRAMENTO
12

Case No.: 19FE010439

DECLARATION OF COUNSEL

10 PEOPLE OF THE STATE OF
11 CALIFORNIA ,

12 Plaintiff,

13 vs.

14 PATRICIA LANE,

15 Defendant
16

17 I, Correen Ferrentino, hereby declare as follows:

18 1. I am an attorney licensed to practice law in the State of
19 California. I am counsel of record for Patricia Lane in above-referenced case.
20 I was retained as counsel of record in this matter on October 29, 2020.

21 2. My review of this case has included a review of all police reports,
22 audio recordings, video and other discovery provided to by the prosecution
23 and other investigators.

24 3. I am informed and believe that the school recordings of CV4 and
25 CV5 are *Brady* material and include exonerating information. These
26 recordings contain the very first time CV4 and CV5 were interviewed by the
27 police and were conducted without prior notice to CV4, CV5 or their parents.
28 I am also informed and believe the prosecution will attempt to argue at trial

1 that CV4 and CV5 were coached by Lane and/or her husband prior to their
2 second set of interviews conducted at the SAFE house six months after the
3 school interviews. The recordings of the school interviews will be critical to
4 rebut any inference that either CV4 or CV5 were coached. I am informed and
5 believe Detective Catanio did not exhaust all efforts to retrieve the school
6 recordings of her initial interviews with CV4 and CV5. Further examination
7 is necessary to adequately prepare for this case and to provide exonerating
8 evidence to the defense.

9 4. My review of discovery revealed that on December 11, 2018,
10 Detective Catanio interviewed CV4 and CV5 at Natoma Elementary School.
11 She indicated in her report that both CV4 and CV5 denied any abuse by
12 Lane, that she recorded these interviews and that they were later booked
13 into Lynx as evidence. See Exh. A, Bates 128-129.

14 5. After receiving discovery from prior attorney Chastaine and
15 DDA Cochrane after my initial appearance in this matter in December 2020,
16 I reviewed the audio and video recordings which revealed the absence of the
17 December 2018 recordings of CV4 and CV5's school interviews with
18 Detective Catanio.

19 6. On December 14, 2020, I requested the school recordings from
20 DDA Cochrane who in turn requested the recordings from Det. Catanio.
21 (Exh. A.) I was subsequently informed by DDA Cochrane the recordings
22 could not be retrieved. I then received Detective Catanio's report regarding
23 the failure to book and properly preserve these recordings, her inability to
24 retrieve these recordings and her opinion that she had exhausted all efforts
25 to recover them. (Exh. A.) Det Catanio has failed to demonstrate why the
26 recordings were ever erased or why she has taken no additional steps to
27 obtain the recorded interviews. Detective Catanio has failed to indicate why
28 the recordings of the alleged victim, a witness, and Lane's husband were

1 never booked into evidence within the Folsom Police Department. Detective
2 Catanio has failed to explain why this error was not caught sooner. As
3 evidenced by Detective Catanio's screenshot, her phone only had 40 voice
4 memos on it. Therefore, she cannot now make the argument that three of the
5 interviews related to this case were lost within 100s of recorded interviews.
6 This conduct represents a pattern of failure to log evidence, book evidence,
7 failure to provide the prosecution with evidence, and a general lack of
8 transparency, honesty and trustworthiness. A 12-minute interview of the
9 alleged victim in this case is absolutely necessary to the presentation of
10 Lane's case. Ms. Cochrane even told me this evidence as "exonerating."

11 7. I am informed and believe that Det. Catanio did not exhaust all
12 possible manners in which to retrieve the audio recordings in this case. Her
13 February 2021 report contradicts the report she wrote in December 2019
14 where she memorialized the interviews and indicated she booked the
15 recordings into the LYNX evidence system at the Folsom Police Department.
16 Additionally, since the prosecution and/or Folsom Police Department refuse
17 to disclose who Det. Catanio sought assistance from to retrieve these
18 recordings or that person's level of expertise, it is impossible to confirm all
19 efforts have been made to retrieve the recordings that constitute *Brady*
20 material.

21 8. Detective Catanio has failed to demonstrate why the recordings
22 were ever erased or why she has taken no additional steps to obtain the
23 recorded interviews. After receiving the report, I advised DDA Cochrane
24 multiple times to advise Det. Catanio to preserve her phone, iTunes and
25 iCloud account and computer. DDA Cochrane refused to provide this
26 assurance or comply with this request.

27 9. On June 11, 2021, after retaining forensic computer expert Matt
28 Erickson from USA Forensic LLC, I emailed DDA Cochrane and requested

1 access to the subject iPhone, computer and iCloud and/or iTunes account
2 which sets forth the procedures by which the defense expert would extract
3 and analyze the devices at the Folsom Police Department and would not
4 leave the department with anything but the audio recordings if recoverable.
5 (Exh. E-Declaration of Matt Erickson.)

6 10. On June 15, 2021, DDA Cochrane emailed counsel and advised
7 "we are not in agreement to have anything done that you have proposed in
8 your email below." (Exh. B.).

9 11. The defense is requesting the court order the Folsom Police
10 Department to provide forensic computer expert Matt Erickson, USA
11 Forensic LLC, access to the phone, iTunes account, iCloud account and
12 computer utilized by Detective Catanio to record and attempt to save and/or
13 retrieve these two school interviews. Specifically, the defense, understanding
14 the sensitive nature of these devices, seeks only to locate the audio files in
15 question. The defense requests to perform a forensic extraction of the
16 iPhone, computer and iTunes and iCloud account in the presence of the
17 owner/officer in this matter. Data will be forensically extracted to new
18 storage media and can remain with the officer once the work is
19 completed. For the iPhone, the expert would use Cellebrite UFED to extract
20 the data, and Cellebrite Physical Analyzer to analyze the data. For the
21 computer, the expert would do a forensic image of the original drive using a
22 write-blocker and various forensic tools for analysis. For the iCloud account,
23 the defense expert would use Oxygen Forensic Cloud Extractor to extract the
24 data, and Oxygen Forensic Detective to analyze the data. If the defense
25 locates the audio files on one device, it will not need to examine the
26 remaining devices. In other words, iCloud extraction will not be attempted if
27 the files are located on the physical devices. The defense has no interest in
28 any files unrelated to the desired audio interviews in this matter. All

1 extraction and analysis would be completed at the Folsom Police
2 Department in the presence of officers and the defense would only request to
3 leave the site with the school recording audio files and nothing more. The
4 defense expert would also be willing to submit to a protective order
5 regarding any other materials that may be inadvertently accessed or viewed.

6 12. Additionally, on June 21, 2021, I requested DDA Cochrane
7 obtain from Det. Catanio the full name and badge number of each of the
8 Folsom personnel Catanio spoke to regarding retrieving the school
9 interviews mentioned in her report (Bates 482) in an effort to determine the
10 credibility of her account and if in fact she had exhausted all possible
11 avenues to retrieve these recordings. (Exh. C.) On June 22, 2021, DDA
12 Cochrane responded that this request was not covered by 1054.1. The
13 defense seeks an order compelling this discovery since this discovery is
14 relevant to Det. Catanio's credibility regarding her representations in her
15 February 2021 report (Exh. A) regarding her attempt to retrieve this
16 exonerating evidence.

17 13. Also on June 21, 2021, the defense requested all
18 communication, including email, text, and voicemail between Detective
19 Catanio and any other law enforcement, DA investigator or DA personnel
20 and any alleged victim in this case, including but not limited to
21 communication with Detective Catanio as referenced in CV2's letter to the
22 court filed on June 4, 2021, where CV2 indicated he has been in contact
23 with Detective Catanio approximately once a week for the last two years. "
24 I made this request in part due to the letter dated June 15, 2021 written by
25 Sacramento County District Attorney Victim Advocate Mailyn Chuong,
26 M.S.W. on June 15, 2020 which the court received via defense subpoena
27 from UCSB Financial Aid Office. This letter was released from the court to
28 the defense on June 4, 2021. Prior to the court's release of this letter, Lane

1 had not received it from the prosecution. In addition, I am informed and
2 believe that there was some form of communication between CV2 and the
3 DA's office regarding the contents of the letter prior to it being sent. Lane is
4 concerned this letter was not provided originally in discovery and seeks any
5 additional similar communications which attempt to confer a benefit upon
6 any witness or alleged victim in this case and is relevant to bias and
7 credibility of the witnesses.

8 14. Further, this request is in part based on the letter from CV2 to
9 the court filed by DDA Cochrane on June 4, 2021. In this letter, CV2 states
10 that since the alleged abuse was reported "for the following year, I got a call
11 just about every week with updates on the investigation and sometimes
12 having to tell what happened again." I am informed and believe both from
13 my review of the discovery and defense investigation there has been
14 additional witness statements taken by Det. Catanio and possibly other law
15 enforcement or DA personnel.

16 15. Additionally, I am informed and believe Det. Catanio and Officer
17 Lim have provided information to some or all of the alleged victims in this
18 case that may impact the veracity of their allegations, their motives and
19 bias. Therefore, the defense requests the court order the prosecution to
20 produce all communication between these parties.

21 16. I have reviewed the June 2, 2018, Officer Lim interview of CV2,
22 along with his grandmother Jan Cole and his step grandfather Mike
23 Mideiros. This interview was recorded; however, the recording terminates
24 before the interview is concluded. Officer Lim's narrative report of the
25 interview is misleading as she does not indicate Mr. Mideiros was present
26 despite the fact that he is heard on the recording suggesting information to
27 CV2. Additionally, her narrative suggests she interviewed CV2 and Jan
28 Cole separately but instead the four of them are heard speaking amongst

1 each other throughout the recorded part of the interview. Finally, after CV2
2 has complained of showering and naked cuddling with Lane from ages 4-10,
3 he asks Officer Lim if she has enough evidence and states he thinks no one
4 will think his claims are wrong because his mother is a woman and there is
5 no penetration. In response, Officer Lim says it's okay and describes various
6 sex acts, including digital penetration, rape, and lewd and lascivious acts on
7 someone under 14, that can constitute a felony sex crime. She describes
8 digital penetration as putting other objects besides a penis inside someone.
9 CV2 then immediately indicates her statement has refreshed his memory
10 and recalls Lane putting her finger in his "ass" while his clothes were on
11 when he was 16. Officer Lim does not include in her narrative report her
12 description to CV2 of various felony sex crimes, especially digital
13 penetration, which she stated immediately before this last allegation. If this
14 portion of the interview were not recorded, the defense would not be aware
15 that Officer Lim had suggested various felony sex crimes and described
16 digital penetration to CV2 immediately before he "remembered" it. The fact
17 that a portion of the interview, of unknown length, after these statements
18 are made is not recorded is cause for concern in that Officer Lim shows a
19 pattern of failing to include important, relevant details in her narrative
20 report.

21 I declare under penalty of perjury under the laws of the State of
22 California that the foregoing is true and correct. Executed in Newport
23 Beach, California on June 24, 2021.

24 Respectfully submitted,
25 FERRENTINO & ASSOCIATES, INC.

26 *Correen Ferrentino*

27 Correen Ferrentino
28 *Attorney for Patricia Lane*

EXHIBIT H

: 01224

Correen Ferrentino SBN# 172485
Ferrentino & Associates, Inc.
4425 Jamboree Rd, Ste 270
Newport Beach, Ca. 92660
Phone (714) 973-2024 | Fax (714) 973-2025
Email cori@ferrentinolaw.com
Attorney for Patricia Lane

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF
CALIFORNIA,
Plaintiff,
vs.
PATRICIA LANE,
Defendant

Case No.: 19FE010439

DECLARATION OF MATTHEW ERICKSON

I, Matthew Erickson, hereby declare:

1. I am a computer, IT, and mobile forensics expert currently contracted with USA Forensic in Phoenix, Arizona. I am the lead forensic analyst for all computer and mobile device cases and have been employed for nearly five years.

2. I studied at the Rio Salado College in Tempe, Arizona, and I have been a computer and mobile device IT analyst since 1998.

3. My work history includes CRA/CIT and Somerset Capital group as a Senior Unix Technician, RB Balch as a Field Service Technician, Robert Half Technology as a Help Specialist for PetSmart, Orion Computer Solutions as Technical Consultant, PetSmart as a Systems Analyst,

1 Business Intelligence Desktop Support Specialist, and AccentCare as a
2 Senior Support Specialist.

3 4. I have forensically analyzed over approximately 500 computers
4 and cellphones and have testified 2 times in court as an expert witness.

5 5. Using years of prior experience, as well as verified forensically-
6 sound methods, I established proper procedure and wrote the "Forensic
7 Image Procurement" document.

8 6. I have performed data extractions from mobile device chips that
9 have been through a "chip-off" process.

10 7. My technical skills in forensic software include Encase,
11 Cellebrite/UFED, Oxygen Forensics, Secure View, Autopsy, FTK, DME,
12 DART Pro, and X-Ways. In addition, my technical skills in other software
13 include Active Directory, Exchange, Microsoft Office, Citrix Enterprise and
14 XenApp Clients, Hyena, Service-Now, Remedy, VMware vSphere, BMC
15 Marimba, RemoteWare, Good for Enterprise, PGP, SharePoint,
16 CompuTrace, Workday, Acrobat, and Photoshop.

17 8. My technical skills in operating systems include Windows
18 Server, Windows, Mac OS X, Linux, iOS, Android.

19 9. My technical skill in scripting include PowerShell, Batch, C++,
20 Exchange Management Shell, VBScript, VBA, Excel, SQL, PERL, and Java.

21 10. My technical skills in remote support solutions include
22 Dameware, TeamViewer, VNC, RDP, Solarwinds Orion, Soti MobiControl,
23 and WebEx.

24 11. My technical skills in conferencing include Cisco Jabber, Skype,
25 Arkadin, and WebEx.

26 12. My technical skills in telephony include Cisco IP Phones, Cisco
27 IP Communicator, Cisco Supervisor and Agent Desktop Clients, Cisco Phone
28 Management

1 13. My technical skills in imaging and hardware provisioning
2 include Altiris, Ghost, Ghostcast, and SCCM.

3 14. In relation to the Patricia Lane matter, I have reviewed
4 Detective Catanio's report that the audio interviews were recorded on an
5 iPhone, and at one time the files were present on the computer to which it
6 was syncing. Without direct knowledge of where these files may be located
7 now, we will need to request access to the iPhone, computer, and iCloud
8 backups for this device.

9 15. From reviewing the screenshot, the error in iTunes shows that
10 the file is no longer on the computer in the exact location where it was stored
11 at one time; therefore, a forensic examination is required in order to attempt
12 to recover these recordings.

13 16. I understand this is a sensitive matter, as these devices will
14 have data unrelated to this case. I have worked in many cases involving
15 sensitive matters. I only seek to locate the audio files in question. I propose a
16 forensic extraction of the iPhone, computer, iCloud, and iTunes account in
17 the presence of the owner/officer in this matter. Data will be forensically
18 extracted to a new storage media and can remain with the officer once the
19 work is completed.

20 17. For the iPhone, I would use Cellebrite UFED to extract the data,
21 and Cellebrite Physical Analyzer to analyze the data.

22 18. For the computer, I would do a forensic image of the original
23 drive using a write-blocker and various forensic tools for analysis.

24 19. For the iCloud account, I would use Oxygen Forensic Cloud
25 Extractor to extract the data, and Oxygen Forensic Detective to analyze the
26 data.

27 20. If I locate the audio files on one device, I will not need to
28 examine the remaining devices. In other words, iCloud extraction will not be

1 attempted if the files are located on the physical devices. I have no interest
2 in any files unrelated to the desired audio interviews in this matter. We
3 would only request to leave the site with the audio files and nothing more. I
4 would comply with any protective order issued by the court.

5 I declare under penalty of perjury that the foregoing is true and
6 correct to the best of my knowledge.

7 Executed on this day of June 24, 2021 at Phoenix, Arizona

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Matthew Erickson
Declarant

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I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 4425 Jamboree Road, Suite 270, Newport Beach, Ca. 92660.

Nancy Cochrane
Deputy District Attorney
Sacramento District Attorney's Office
CochraneN@sacda.org

L. h.

Samuel Rivas
Declarant

**CONFIDENTIAL MAY NOT BE EXAMINED WITHOUT A COURT ORDER PER
PENAL CODE 1054.7**

NO. AND NAME: 19FE010439 PATRICIA ELIZABETH LANE

THE ENCLOSED MATERIAL IS CONFIDENTIAL:

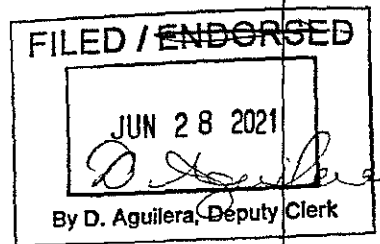
CORRESPONDENCE FROM BRIAN LANE

**PUBLIC INSPECTION OF THE ABOVE PERMITTED ONLY BY PERSONS
AUTHORIZED BY LAW AND/OR COURT ORDER**

PAGES 1230 TO PAGES 1238

1 ANNE MARIE SCHUBERT
2 Sacramento County District Attorney
3 901 G Street
4 Sacramento, CA 95814-1858
5 Telephone (916) 874-6637

6 Attorneys for Plaintiff



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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

PATRICIA LANE,)

Defendant.)

Case No.: 19FE010439

PEOPLE'S OPPOSITION TO
DEFENDANT'S MOTION TO
COMPEL DISCOVERY

DATE: 6-30-21
TIME: 4:00 p.m.
DEPT: 10

STATEMENT OF FACTS

The People will address the defendant's motion for discovery concerning :

1. Defense seeks discovery of lost audio recordings of George and Irish by asking this court to compel the folsom Police Department to be subjected to a deep dive forensic search into their report system, Det. Catanio's computer, iTunes, and work phone by someone hired by the defense.

Detective Catanio's interviewed the named victim George and his sister Irish on December 4, 2018. (Exhibit A). These interviews took place at their elementary school. Detective Catanio memorialized the statements of both children in her report. Both George and Irish in their statements stated that nothing has happened to them at the hands of their

1 mother. George goes on to say that he thinks his brothers are lying and that they are all drama
2 starters. He tells Catanio that there is nothing inappropriate happening at home to his body.
3 Irish tells Catanio that nothing inappropriate is happening to her body at home and that she
4 believes her brothers to be liars.

5 These written statements by George and Irish were provided to the defense early on in the
6 prosecution of defendant.

7
8 During the investigation and subsequent filing of this case numerous recordings were
9 provided to the DA and then to the defense (Michael Chastaine at the time). It did not
10 become apparent that the recordings of George and Irish were not included in these
11 recordings until Ms. Ferrentino pointed it out in December of 2020.

12 The People immediately requested those interviews, and it eventually became clear that
13 through an inadvertent error neither of those recordings (George and Irish) were actually
14 downloaded into the report system Folsom Police Department uses. Det. Catanio wrote a
15 supplemental report on the steps she took using both her IT department as well as Apple to
16 try and retrieve those recordings. (see Exhibit B)

17 2. Defense seeks discovery of attempts "to provide or obtain a benefit for a witness or
18 alleged victim" based on a letter written by Victim Advocate Mailyn Choung on behalf
19 of another named victim Bob Doe.

20 This letter was written on June 15, 2020 and sent to the Office of Financial Aid at the
21 University of California at Santa Barbara. (Exhibit C). The letter was disclosed to defense
22 through a release of records by the court. It is unclear how the defense construes this letter
23 as an attempt to assist a named victim "in obtaining a financial benefit due to his status as an
24 alleged victim in this case." Clearly, from the body of the letter the advocate states that since
25

1 the disclosure of abuse "he (Bob) has been on his own with no support from his father." She
2 further states that he is in a "terrible situation" and that any financial assistance would be
3 dependent on what "he is eligible for". This is merely a letter of support for a named
4 victim who has no support from either of his parents.

5 3. Defense seeks discovery regarding additional alleged statements defense contends exist
6 based on a letter written to the court by Bob Doe opposing any further continuances
7 heard by this court on June 4, 2021. (Exhibit D).

8 Defense states that there are additional witness statements that have been taken by Det.
9 Catanio and "possibly other law enforcement or DA personnel".
10

11 Again, defense misconstrues what is actually written in Bob's letter to the court: ".... I
12 was not aware of this until I had a police officer knock on my door and ask what happened.
13 This was in June of 2018. I told her my story, and immediately a sex crimes detective was
14 put on the case, Ms. Mel Catanio. For the following year, I got called just about every week
15 about updates on the investigation and sometimes having to tell what happened again....."

16 Defense is in possession of statements of this named victim. The defense is suggesting
17 that statements are being withheld. That is exceedingly frustrating and insulting that they are
18 claiming that the People are not disclosing all statements made in this case.

19 Further they go on to state that defense "believes" that law enforcement has provided
20 information to some or all of the alleged victims in the case that may impact the veracity of
21 their allegations and potential bias. And that because of these "believes" defense requests
22 "all communication between these parties".
23
24
25

LAW AND ARGUMENT

I. DEFENSE IS NOT ENTITLED TO REQUESTED DISCOVERY ITEM 1

When a report or notes relating to a conversation are lost, or a recording of a conversation is lost, the availability of the parties to the conversation can serve as comparable evidence to the missing report, notes, or recording. (See *People v. Thomas* (2012) 54 Cal.4th 908, 929; *United States v. Ludwig* (10th Cir. 2011) 641 F.3d 1243, 1254; *United States v. Parker* (10th Cir. 1995) 72 F.3d 1444, 1452; *United States v. Rivera-Relle* (9th Cir. 2003) 333 F.3d 914, 922; *United States v. Fritzsching* (D. Utah 2017) 2017 WL 389088, at *8; *State v. McNeil* (Ga. Ct. App. 2011) 708 S.E.2d 590, 595 Cf. *Trombetta* at p. 490 [“[T]he defendant retains the right to cross-examine the law enforcement officer who administered the [destroyed] test, and to attempt to raise doubts in the mind of the factfinder whether the test was properly administered.”]. This is true even where the witnesses recounting the statement cannot recall it word for word. (See *Olszewski v. Spencer* (1st Cir. 2006) 466 F.3d 47, 58-59; but see *Scott v. Meese* (1985) 174 Cal.App.3d 249, 257 [where conflicting testimony from parties to tape, tape may not be comparable evidence].) Having the parties who were recorded on a missing tape available for cross-examination can provide “comparable evidence.” (*United States v. Rivera-Relle* (9th Cir. 2003) 333 F.3d 914, 922; see also *United States v. Ludwig* (10th Cir. 2011) 641 F.3d 1243, 1254 [videotape]; *United States v. Parker* (10th Cir. 1995) 72 F.3d 1444, 1452 [same]; *People v. Thomas* (2012) 54 Cal.4th 908, 929 [interview not recorded; no due process violation because officer taking interview was subject to cross examination]; *United States v. Fritzsching* (D. Utah 2017) 2017 WL 389088, at *8 [defendant failed to show “no comparable evidence” existed where recording device did not record statement of defendant because parties to conversation available to testify to statement]; but see *Scott v. Meese* (1985) 174 Cal.App.3d 249, 257 [where conflicting testimony from parties to tape, tape may not be comparable]

1 evidence]; see also this IPG, section G-11 at pp. 23-24 [discussing issue when defendant is a
2 party to the conversation].)

3 Similarly, comparable evidence of a destroyed written statement can be provided where the
4 general content of statement is known and the police who took the statement can be cross-
5 examined on its making and destruction. (See *Olszewski v. Spencer* (1st Cir. 2006) 466 F.3d 47,
6 58-59 [and finding this true even where the officers recounting the statement could not recall it
7 word for word]; see also *United States v. Bell* (7th Cir. 2016) 819 F.3d 310, 315-19 [destruction
8 of written statement by inmate was not violation of due process because inmate was available to
9 testify to contents of statement].)

10
11 Penal Code section 1054.1(f), which requires the prosecution to disclose "relevant written or
12 recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor
13 intends to call at the trial" does not require law enforcement officers to retain all investigatory
14 notes. (*People v. Coles* (2005) 134 Cal.App.4th 1049,1054; accord, 81 Ops.Cal.Atty.Gen. 397,
15 (1998).)

16 The California Supreme Court holds unequivocally that the right to discovery is not a
17 "fishing expedition." (*People v. McPeters* (1992) 2 Cal. 4th 1148, 1170, superseded on other
18 grounds in *People v. Wallace* (2008) 44 Cal 4th, 1032 at 1086). Requests for discovery must be
19 describe the requested information with at least some degree of specificity and "be sustained by
20 plausible justification." (*Id.*, citing *Griffin v. Municipal Court* (1977) 20 Cal.3d 300,306
21 (superseded on other grounds)).

22
23 Defense seeks a discovery order regarding a forensic examination of the Folsom Police
24 Department report recording system along with Det. Catanio's work computer, iTunes account
25 and phone.

1 Defense is in possession of the exculpatory statements made by George and Irish.
2 Defense seeks to intrude upon the Folsom Police Department's record keeping system and the
3 detective's computer and phone searching for a recorded statement they have in written form.
4 This request should be denied.

5 II. DEFENSE IS NOT ENTITLED TO REQUEST TWO OR THREE
6

7 The plain language of Penal Code Section 1054.1 (c) requires discovery of all relevant
8 real evidence seized or obtained as part of the investigation of *offenses charged* (emphasis
9 added), (e) requires any exculpatory evidence and (f) requires discovery of any relevant written
10 or recorded statements of witnesses or reports of the statements of witnesses the prosecution
11 plans to call.

12 The California Supreme Court holds unequivocally that the right to discovery is not a
13 "fishing expedition." (*People v. McPeters* (1992) 2 Cal. 4th 1148, 1170, superseded on other
14 grounds in *People v. Wallace* (2008) 44 Cal 4th, 1032 at 1086). Requests for discovery must be
15 describe the requested information with at least some degree of specificity and "be sustained by
16 plausible justification." (*Id.*, citing *Griffin v. Municipal Court* (1977) 20 Cal.3d 300,306
17 (superseded on other grounds)).
18

19 This letter is merely a letter of support for a named victim that did not have
20 support from his father who supports the defendant. The defense is seeking nothing more than to
21 be allowed to go "fishing".
22
23
24
25

1 Further they again request to go "fishing" based on a misconstrued line from a letter
2 written to this court opposing any further delays in this trial.

3 Both requests should be denied.
4

5 CONCLUSION

6 For the reasons discussed above, the People would ask the court to deny discovery
7 motion items two, three, and four.
8

9
10 Dated: June28,2021

11 Respectfully submitted,

12 JAN SCULLY
13 DISTRICT ATTORNEY
14

15 _____
16 Nancy C. Cochrane
17 Deputy District Attorney
18
19
20
21
22
23
24
25

EXHIBIT

A

: 01246

**FOLSOM POLICE DEPARTMENT**46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 8

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FPD18-2149

Interview with CV4: GEORGE

On 12/4/18 at approximately 1245 hours, I responded to Natoma Station Elementary School to interview CV4. I began our talk by discussing the difference between telling the truth and telling a lie, and she was able to articulate the difference. I told CV4 that I was there because people were concerned for his safety and asked if he would talk to me about it. The following is a summary of his statement:

I feel safe. I don't have any reason to not feel safe at home. This is inappropriate things for school. I'm not going to talk about it because I am at school. My mom is pretty open with me, and all of her kids. We think my brothers had a better life, but my brothers think we have a better life because my parents aren't as harsh with us. My brothers complained about how my mom and dad treated them. My mom and dad only yell at us when we are doing things we aren't supposed to and they tell us to stop several times, and then they yell at us because it gets annoying. I feel like I'm fine. I had my birthday in September, they were really nice to me.

I told CV4 that one of his brothers told me they saw P. Lane do some inappropriate things to his body. The following is his response:

They are lying. Which brother said that? I think I'm fine. I think they are lying. Do you know if they are saying these things happened to me when I was younger? Was I younger? I don't recall. They have to be lying, because I don't recall. They have been jerks and have been lying about all kinds of things lately. I don't remember what the lies were, but all three of them are liars, yeah. They are all drama starters. I went to a funeral about 4 months ago, and I was next to my brother CV3. He always starts drama, but since I was sitting next to him when we went to dinner, he didn't start any drama because he wouldn't do that around his younger brother. I mean maybe they aren't totally lying, maybe they are telling the truth about some things. It would make sense that they are lying because I don't recall being physically abused. I probably was asleep or something like that. There is nothing inappropriate happening at home to my body. But my parents do things that they say are joking around. They say that I have a big butt, and I believe them about that, I'm fine with that and I kind of want to have a big butt. I feel safe going home. I think my mom will be annoyed about you being here. She doesn't like people talking about our brothers and what they have done, so I will keep it to myself.

*****Conclusion of CV4 statement.*****

The interview was audio recorded and later booked into lynx as evidence.

Attachments: None.

Recommendations: Attach to original report.

Prepared By:

237

CATANIO, MELANIE

Date:

12/11/2018

Approved By:

192

BATES, ANDREW

Date:

10129

: 01247

**FOLSOM POLICE DEPARTMENT**46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 7

Page 121

FPD18-2149

Interview with CV5: **IRISH**

On 12/4/18 at approximately 1230 hours, I responded to Natoma Station Elementary School to interview CV5. I began our talk by discussing the difference between telling the truth and telling a lie, and she was able to articulate the difference. I asked CV5 if she had any idea why I was there, and she immediately began crying and said, "It's a home thing, and it's kind of private." I let her know that people were concerned about her safety and asked her why she was upset, the following is a summary of her statement:

"I can't see my brother any more. My brother CV2. I miss my brothers. A while ago there was a lady who came to our house and asked if our parents fed us enough, and we told her yes. Nothing that shouldn't be happening, is happening. My brothers don't talk to my mom because they think she did something bad to them, when they were little kids, an I say that's not true. She parents us, just fine, exactly like she's supposed to. She told me it makes her sad that they won't talk to her. I know my brothers pretty well, and I think since they won't talk to my mom now maybe they would be making it up. I think she is doing a fine job of parenting. Nothing inappropriate is happening to my body at home. No body is touching my private parts, that shouldn't be. Should I tell my mom this happened? I will tell you this, I won't tell anyone this happened, because it's kind of personal.

*****Conclusion of CV5 interview.*****

The interview was audio recorded and later booked into LYNX as evidence.

Attachments: None.

Recommendations: Attach to original report.

Prepared By:

237

CATANIO, MELANIE

Date:

12/11/2018

Approved By:

192

BATES, ANDREW

Date:

12/19/2018

10128

: 01248

EXHIBIT

B

**FOLSOM POLICE DEPARTMENT**

46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 17 - Supplement- School interviews with
George and Irish

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FPD18-2149

CONTROLLED DOCUMENT - DO NOT REPLICATE

On December 14, 2020, I received an e-mail from DDA Nancy Cochrane asking if I recorded the interviews conducted with George and Irish, at their elementary school on December 4, 2018. I responded by telling her I had recorded them, and the recordings of each interview should be on the CD provided with all audio recordings. Cochrane informed me the recordings were not on the evidence provided.

On December 15th, 2020 I checked in evidence and noticed the recordings were also not booked there. I also reviewed my CD copy of all the audio from the case, and couldn't find the recordings.

After the original interviews with George and Irish (12-4-18), I loaded the recordings from my department issued cell phone, into i-tunes on my work computer, to retain them and listen to them for dictation of my report.

On Dec 16th, I went to open iTunes, but the application wasn't showing on my computer. I called IT and had them install the application on my desktop. I opened my i-tunes and could see the recordings. When I clicked on the recordings, to put them on a thumb drive, an exclamation point surrounded by a circle appeared to the left of the audio file and the file would not play. I called a detective with more electronic expertise and asked about why I might be receiving the error message, and he was unsure and inexperienced with Apple products.

Later on Dec 16th, I called Apple Support and explained the situation to them. I told them about the error message, as well as took a screen shot of the recordings still showing in my iTunes. The Apple tech was unsure of why the recordings were not playing. The Apple Tech asked if I deleted the recordings off my actual device (cell phone), and I told him I had deleted the recordings once I loaded the recordings into iTunes. He told me that me deleting the recordings from my device could have deleted them across all platforms. I explained to him again that the recordings were still showing in my iTunes, but weren't playing. I also told him I back my phone up to iCloud consistently. He advised that I find an extra department cell phone, and restore the phone using my iCloud backup. He explained that the location of my iTunes media folder may have been lost, and restoring from iCloud might fix the problem. I asked him how the location of the folder, and its contents, could be lost and he told me that sometimes happens during computer updates, or if you copy the iTunes folder to an external drive.

Upon hearing this, I called our IT department. I called them because just a week prior, they had to restore a program to my computer that was not working properly. I asked the tech about the process, and he advised that they had tried to uninstall and reinstall without success of fixing the error in running the program, so they wiped my hard drive. He further explained that was why I had to call him to re-install iTunes earlier that day.

On December 17th I got an unused iPhone from a Department Lieutenant, and restored that phone using my iCloud backup. The recordings did not show up in the Voice app, but still show up when I plug the phone into iTunes. The recordings still will not play out of iTunes.

On December 17th I spoke with the same City of Folsom IT personnel, and explained the situation to him. I asked if there was any way to restore my desktop, and he said there was not. I asked him if he could assist in trouble shooting the iTunes issue, and he told me they don't get involved with Apple

Prepared By:

237 CATANIO, MELANIE

Date:

01/26/2021

Approved By:

196 WRIGIT, LOU

Date:

01/26/2021

100482

: 01250

**FOLSOM POLICE DEPARTMENT**

46 NATOMA ST FOLSOM, CA 95630 916-355-7230
SUPPLEMENT 17 - Supplement- School interviews with
George and Irish

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FPD18-2149

product management.

I feel I have exhausted all resources in attempt to recover those two recordings. As of 1/26/2021, both recordings appear in my Voice Memos folder within iTunes, but neither will play and continue to display the error message when selected for playback.

I have included a screen shot of my iTunes folder. To preserve confidentiality of victims not involved in this report, I have blacked out several last names and exact street addresses. The recordings of George and Irish are highlighted in yellow, and are titled Full Steam Academy 4 (Irish) and Full Steam Academy 2 (George).

Attachments: Screen shot of iTunes Library.

Recommendations: E-mail a copy of this narrative to DDA Nancy Cochrane.

CONTROLLED DOCUMENT - DO NOT DUPLICATE

Prepared By:

237 CATANJO, MELANIE

Date:

01/26/2021

Approved By:

196 WRIGHT, LOU

Date:

01/26/2021

10483

: 01251

[illegible]

EXHIBIT

C

: 01253



Sacramento District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Stephen J. Grippi
Chief Deputy

Michael A. Neves
Assistant District Attorney

June 15, 2020

UCSB Office of Financial Aid
Santa Barbara, CA 93106-3180

To Whom It May Concern:

In my capacity as a Victim Advocate with the Sacramento County District Attorney's Office, Victim Witness Assistance Program, I am writing this letter on behalf of Robert Lane.

Bob is one of the victims in the case of People v. Patricia Lane, his mother. In the complaint with Sacramento Superior Court, Case # 19FE01043, Patricia Lane is charged with 14 felony counts of assault against Bob and other victims. She is currently in custody at the Sacramento County Jail.

Since Bob disclosed the abuse, he has been on his own with no support from his father, emotionally or financially. I asked that you take Bob's terrible situation into consideration and provide any financial assistance he is eligible for in his pursuit of a higher education.

If you have any questions or concerns, please call me at (916) 874-4758.

Sincerely,

Mailyn Chuong, M.S.W.
Victim Advocate

sacda.org

Victim and Witness Assistance Program
901 G Street, Sacramento, CA 95814 | p: 916.874.5701 | f: 916.321.2205

00490

: 01254

FILED / ENDORSED

JUN 29 2021

By D. Aguilera, Deputy Clerk

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(Fee Exempt: Gov. Code, § 6103)

Attorneys for CITY OF FOLSOM

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

PATRICIA LANE,

Defendant.

CASE NO. 19FE010439

**CITY OF FOLSOM'S RESPONSE TO
MOTION FOR DISCOVERY OF LAW
ENFORCEMENT PERSONNEL RECORDS**

DATE: July 7, 2021

TIME: 1:30 p.m.

DEPT: 10

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I.

INTRODUCTION

By this "*Pitchess*" Motion (the "Motion"), Defendant Patricia Lane ("Defendant") seeks information from the personnel files of Detective Melanie Catanio ("Detective Catanio") and Officer Kimberly Lim ("Officer Lim") of the City of Folsom Police Department ("City"). The underlying criminal case stems from a report dated June 1, 2018, wherein Defendant was accused of physically and sexually abusing her children between the years 2002 to 2016. As a result of the investigation, Defendant was charged with fifteen (15) counts of lewd or lascivious acts involving children in violation of Penal Code section 288(a).

A. Summary of Underlying Facts

On June 1, 2018, the Folsom Police Department received a report of child abuse from the grandfather of two (2) of the Defendant's children, alleged victims CV-1 and CV-2. (Exhibit B to Defendant's Motion ("Exhibit B"), FPD 18-2149 Crime Report at p. 5.)

The subsequent investigation revealed a total of five (5) victims and Defendant was charged with fifteen (15) counts of lewd or lascivious acts involving children in violation of Penal Code section 288(a).

B. The Pitchess Motion

The Motion seeks information from each officer's personnel file relating to five areas of alleged officer misconduct: fabrication of evidence, destruction of evidence, lying in a police report, failing to properly book evidence, and behavior involving moral turpitude. The Motion also seeks the following information:

- The names, badge numbers, and current assignments of all officers directly involved in the events which form the basis of the criminal charges in this case;
- The names of any law enforcement agency that previously employed Detective Catanio or Officer Lim;
- Any information concerning behavior involving moral turpitude by the officers, which would qualify as impeachment evidence under *People v. Wheeler* (1992) 4 Cal.4th 284; and

- The written procedures established by the Folsom Police Department to investigate citizen complaints against the Department or its personnel as required by Penal Code section 832.5(a).

II. LAW AND ARGUMENT

A. The Records Requested Are Confidential

With this motion, Defendant seeks the disclosure of peace officer personnel records, which are confidential and generally protected from disclosure by Penal Code sections 832.7, 832.8, and Evidence Code section 1040. Courts have long recognized that a peace officer has “a strong privacy interest in his or her personnel records and that such records should not be disclosed unnecessarily.” (*People v. Mooc* (2001) 26 Cal.4th 1216, 1227; *City of San Jose v. Superior Court (Michael B.)* (1993) 5 Cal.4th 47, 53; *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 538-39.)

To ensure those protections, the Legislature mandated that peace officer personnel records shall not be disclosed except by discovery pursuant to Evidence Code sections 1043 and 1046. (Penal Code § 832.7(a).) Strict compliance with the statutory framework is necessary to ensure that a peace officer’s constitutionally protected right to privacy is respected. (*Willis v. Superior Court* (1980) 112 Cal.App.3d 277, 296-297; *San Francisco Police Officers Ass’n v. Superior Court* (1988) 202 Cal.App.3d 183, 189.) In fact, the Attorney General has opined that disclosure of peace officer personnel records without following the procedures set forth in the Evidence Code may constitute a crime. (82 Ops.Cal.Atty.Gen. 246 (1999).) As such, the procedures set forth in Evidence Code sections 1043 *et seq.* are “the exclusive method for obtaining both peace officer personnel records and the information contained in them.” (*Davis v. City of Sacramento* (1994) 24 Cal.App.4th 393, 401; see also *People v. Jordan* (2003) 108 Cal.App.4th 349, 360; *Hackett v. Superior Court* (1993) 13 Cal.App.4th 96, 99.)

B. If Good Cause is Found, Peace Officer Personnel Records Must be Examined in Camera

If the Court determines that Defendant has made the required showing of good cause, the Court must still review the material, *in camera*, before disclosure of any information to Defendant, in order to determine whether the material sought is relevant to the case. As explained by the

1 California Supreme Court, “[a] finding of ‘good cause’ under section 1043, subdivision (b) is only
2 the first hurdle in the discovery process.” (*City of Santa Cruz, supra*, 49 Cal.3d at p. 83.) If good
3 cause for discovery has been established, the court then reviews the pertinent documents in
4 chambers and discloses only that information falling within the statutorily defined standards of
5 relevance.” (*Warrick, supra*, 35 Cal.4th at p. 1019.) “That practice imposes a further safeguard to
6 protect officer privacy where the relevance of the information sought is minimal and the officer’s
7 privacy concerns are substantial.” (*Ibid; Alford v. Superior Court* (2003) 29 Cal.4th 1033.)

8 Accordingly, in this case, if the Court finds that Defendant established good cause for any
9 of the requested discovery, the Court may only examine Detective Catanio’s and Officer Lim’s
10 personnel records in camera, in order to protect the privacy of the law enforcement officers whose
11 personnel records are sought. (Evidence Code § 1045; *Alford, supra*, 29 Cal.4th 1033.)

12 Examination of the documents and questioning of the custodian must be done in chambers
13 in accordance with Evidence Code section 915 - i.e. “in chambers out of the presence and hearing
14 of all persons except the person authorized to claim the privilege and any other persons as the
15 person authorized to claim the privilege is willing to have present.” (Evidence Code § 915; *Mooc,*
16 *supra*, 26 Cal.4th at p. 1229; *City of Santa Cruz, supra*, 49 Cal.3d at p. 83; see also *Alford, supra*,
17 29 Cal.4th at pp. 1037-39 [quoting *City of Santa Cruz* approvingly].)

18 A court reporter must be present during the *in camera* hearing to document statements by
19 the custodian of records, as well as any questions the trial court may wish to ask the custodian
20 regarding the completeness of the record. (*Mooc, supra*, 26 Cal.4th at p. 1229.) To permit future
21 appellate review, the Court should state for the record what documents it examined in chambers.
22 (*Ibid.*) The transcript of the in chambers hearing and copies of the documents examined, if any,
23 must then be placed under seal. (*Ibid.*)

24 **C. Defendant’s Request Exceeds the Scope of Permissible Pitchess Discovery**

25 After the *in camera* review, the Court determines whether any peace officer personnel
26 records are relevant. (*Warrick, supra*, 35 Cal.4th at p. 1019.) From the relevant records, the trial
27 court typically “discloses only the names, addresses, and telephone numbers of individuals who
28 have witnessed, or have previously filed complaints about, similar misconduct by the officer.”

1 (*Warrick, supra*, 35 Cal.4th at p. 1019.)

2 In this case, the Defendant seeks a broad array of records including statements of witnesses,
3 investigator's notes, names of investigators, investigator reports excluding conclusions,
4 disciplinary reports, statements of officers in this case, prior employment, habit or custom, Brady
5 material, acts of moral turpitude, post-arrest complaints and written procedure for complaints. (See
6 Motion Section B, at 11:20-14:16 and Notice of Motion at 2:3-3:23.) However, Courts have
7 "generally refused to disclose verbatim reports or records of any kind from peace officer personnel
8 files..." (*City of Santa Cruz, supra*, 49 Cal.3d at p. 84; see also *City of Hemet v. Superior Court*
9 (1995) 37 Cal.App.4th 1411, 1423 ["good cause for disclosure of actual records or reports does not
10 exist if the party seeking discovery can obtain the desired information through direct contact with
11 the complainants or witnesses"; *City of Azusa v. Superior Court* (1987) 191 Cal.App.3d 693
12 [release of entire file at initial stage is improper]; *Arcelona v. Municipal Court* (1980) 113
13 Cal.App.3d 523 [verbatim reports of internal investigations are not discoverable]; *Carruthers v.*
14 *Municipal Court* (1980) 110 Cal.App.3d 439 [criminal defendant only entitled to names, addresses
15 and telephone numbers unless the information later proves inadequate]; *People v. Matos* (1979) 92
16 Cal.App.3d 862 [release of reports is improper until necessity for information is shown].)
17 Additionally, Evidence Code section 1045(b)(2) expressly excludes from disclosure any
18 conclusions of an officer investigating a citizen complaint against a peace officer.

19 Should this Court find "good cause", proceed to an *in camera* review, and determine that
20 any disclosure is appropriate in this case, the scope of information that may actually be released is
21 limited to the names and addresses of the complaining parties and witnesses, if any, and the
22 disposition of any complaint regarding the relevant areas of alleged officer misconduct. (See *City*
23 *of San Jose, supra*, 5 Cal.4th at p. 57; *City of Azusa v. Superior Court* (1987) 191 Cal.App.3d 693,
24 696; *Kelvin L. v. Superior Court* (1976) 62 Cal.App.3d 823, 828-29.)

25 In this case, Defendant seeks information from each officer's personnel file relating to five
26 areas of alleged officer misconduct: fabrication of evidence, destruction of evidence, lying in a
27 police report, failing to properly book evidence, and behavior involving moral turpitude. If the
28 Court finds good cause to review the Officers' personnel files, the City does not dispute that most

1 of the above-referenced categories of alleged officer misconduct, with the exception of general
2 behavior involving moral turpitude (addressed below), might be potentially relevant to the pending
3 criminal case under the circumstances.

4 However, the Motion also seeks additional information, which is not within the permissible
5 scope of *Pitchess* discovery. Specifically, Defendant asks the Court to order the City to produce
6 the names, badge numbers, and current assignments of all officers directly involved in the events
7 which form the basis of the criminal charges in this case, regardless of whether they are named in
8 the police reports. This information, to the extent it exists, is better requested and produced through
9 the normal criminal discovery process between the Defendant and the District Attorney's Office.

10 In fact, nothing in Evidence Code sections 1043 – 1047 directly addresses this kind of
11 discovery request. The limited references in those sections that are applicable to this request
12 support the City's position that the request is inappropriate in a *Pitchess* motion. For example,
13 Evidence Code section 1047(a) states that records of officers who were not present during the arrest
14 or had no contact with Defendant from the time of the arrest until the time of booking are not subject
15 to disclosure. In addition, Evidence Code section 1043(b) includes a specific list of the information
16 that must be included in any *Pitchess* motion. This list includes an identification of the officers
17 whose records are sought (Evidence Code § 1043(b)(1)) and affidavits showing good cause for the
18 discovery or disclosure sought, setting forth the materiality thereof to the subject matter involved
19 in the pending case (Evidence Code § 1043(b)(3)). Here, the Motion does not assert that additional
20 officers (other than Detective Catanio and/or Officer Lim) were present during the arrest or had
21 contact with Defendant from the time of the arrest until the time of booking, it does not identify
22 any other involved officer, and it does not include in the affidavit any information supporting a
23 showing of good cause for disclosure of information from or regarding any officer other than
24 Detective Catanio and Officer Lim. For those reasons, the Defendant's request for the names,
25 badge numbers, and current assignments of all officers directly involved in the events which form
26 the basis of the criminal charges in this case (to the extent any such information exists) should be
27 denied.

28

1 The Motion also requests the names of any law enforcement agency that previously
2 employed Detective Catanio or Officer Lim. This information is beyond the scope of permissible
3 *Pitchess* discovery and should not be ordered produced. Both Detective Catanio and Officer Lim
4 have been employed by the City of Folsom since at least 2018 (when the subject report was written)
5 so, if good cause is found to perform an *in camera* review, the Court will have several years of
6 available information in each officer's personnel file.

7 The Motion also requests any information concerning behavior involving moral turpitude
8 by the officers, which would qualify as impeachment evidence under *People v. Wheeler* (1992) 4
9 Cal.4th 284. This kind of request has been rejected by the courts because *Wheeler* was not intended
10 to apply in the context of *Pitchess* motions. (See, i.e. *California Highway Patrol v. Superior Court*
11 (2000) 84 Cal.App.4th 1010, 1024.) As explained by the Court of Appeal, "[t]o grant discovery of
12 peace officer personnel records on the basis that *Wheeler* permits discovery of all personnel records
13 reflecting officer misconduct involving moral turpitude, without requiring defendant to comply
14 with the good cause requirement of Evidence Code section 1043 would have the effect of destroying
15 the statutory scheme." (*Ibid.*) "Defendant could assert merely that police officers are known to lie,
16 and thereby obtain discovery of all information contained in an officer's personnel records which
17 potentially reflects on the officer's credibility. This procedure would effectively abrogate the good
18 cause requirement set forth in the Evidence Code and approved and applied by our Supreme Court,
19 by permitting fishing expeditions into the arresting officers' personnel records in virtually every
20 criminal case." (*Ibid.*) Therefore, the Court should deny the general request for information
21 concerning behavior involving moral turpitude, to the extent it encompasses anything beyond the
22 specific categories of records already requested (fabrication or destruction of evidence, lying, etc.).

23 Finally, the Motion requests the written procedures established by the Folsom Police
24 Department to investigate citizen complaints against the Department or its personnel as required by
25 Penal Code section 832.5(a). While this information is beyond the scope of *Pitchess* discovery and
26 not a proper subject for a *Pitchess* motion, the City recognizes that the requested information is
27 subject to disclosure under the Public Records Act and, as such, this information will be produced
28 to defense counsel along with a copy of the City's response to the *Pitchess* motion.

1 **D. The Court's Inquiry is Limited to Matters Occurring Within Five Years Prior to the**
2 **Incident, and *Brady v. Maryland* and its Progeny do not Compel a Deeper Inquiry**

3 Evidence Code section 1045 imposes a five-year limit on discovery of peace officer
4 personnel records. Section 1045 provides that in determining the relevance of material sought,
5 courts are to categorically exclude "[i]nformation consisting of complaints concerning conduct
6 occurring more than five years before the event or transaction that is the subject of the litigation in
7 aid of which discovery or disclosure is sought." (Evidence Code § 1045(b)(1); see also *City of*
8 *Santa Cruz, supra*, 49 Cal.3d at p. 83; see also *City of Los Angeles v. Superior Court* (2002) 29
9 Cal.4th 1, 13 (statute comports with federal due process requirements).) The allegations against
10 the Defendant were reported to the Folsom Police Department on June 1, 2018 rendering
11 information related to any complaint made prior to June 1, 2013 categorically excluded from
12 disclosure.

13 The five-year limitation on discovery contained at Evidence Code section 1045(b)(1) sets a
14 standard of materiality. In *City of Los Angeles, supra*, the Supreme Court held that the five-year
15 limitation "comports on its face with the federal due process requirements," and the court declined
16 discovery of a ten-year-old report under the statutory *Pitchess* scheme and *Brady*. (*City of Los*
17 *Angeles, supra*, 29 Cal.4th at p. 13; see also *Harrison v. Lockyer* (9th Cir. 2003) 316 F.3d 1063,
18 1066 (reaffirming the *City of Los Angeles* decision, and stating that "we are clear that the California
19 Supreme Court has faithfully followed the United States Supreme Court."))

20 Furthermore, *Brady* does not create a general constitutional right to discovery in criminal
21 cases. (*People v. Guitierrez* (2003) 112 Cal.App.4th 1463, 1472.) Evidence is material under *Brady*
22 if it is favorable to the accused on the facts of the case by tending to show lack of guilt, and "there
23 is a reasonable probability that the result of the proceeding would have been different had the
24 evidence been disclosed." (*Ibid.*) *Brady* "does not require the disclosure of information that is of
25 mere speculative value." (*Ibid.*) The statutory *Pitchess* procedures "implement *Brady* rather than
26 undercut it, because a defendant who cannot meet the less stringent *Pitchess* standard cannot
27 establish *Brady* materiality." (*Id.* at p. 1474.) Put another way, "[I]f a defendant cannot meet the
28 less stringent *Pitchess* materiality standard, he or she cannot meet the more taxing *Brady* materiality

1 requirement." (*Ibid.*) As the California Supreme Court explained, "because *Brady's* constitutional
2 materiality standard is narrower than the *Pitchess* requirements, any citizen complaint that meets
3 *Brady's* test of materiality necessarily meets the relevance standard for disclosure under *Pitchess*."
4 (*City of Los Angeles, supra*, 29 Cal.4th at p. 10.)

5 The five-year limitation has been tested in the courts and its constitutional validity has been
6 upheld. Therefore, any disclosure ordered in this case should be limited to matters occurring within
7 five years prior to June 1, 2018.

8 **E. Disclosure of Irrelevant Contents of the Officers' Personnel File is Prohibited**

9 After conducting the *in camera* review, the moving party is only entitled to disclosure of
10 information that the Court determines to be relevant to the case. (*Herrera v. Superior Court* (1985)
11 172 Cal.App.3d 1159, 1163.) The remaining contents of the personnel file are privileged and
12 protected from disclosure. (*Ibid.*)

13 The scope of *Pitchess* discovery is limited to information relevant to the claims asserted and
14 for which good cause has been established. (See *Memro, supra*, 38 Cal.3d at p. 685) The Supreme
15 Court explained in *Warrick* that officer information irrelevant to the pending charges must not be
16 produced. (*Warrick, supra*, 35 Cal.4th at p. 1021.) This relevancy requirement "enables the trial
17 court to identify what types of officer misconduct information, among those requested, will support
18 the defense or defenses proposed to the pending charges." (*Ibid.*)

19 Section 915 of the Evidence Code states, "If the judge determines that the information is
20 privileged, neither the judge nor any other person may ever disclose, without the consent of a person
21 authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers."
22 This includes the number of items found in the file (or the lack thereof), as well as the substantive
23 content of those items (if any). (*Herrera, supra*, 172 Cal.App.3d at p. 1163.)

24 The moving party is not entitled to question the Court to ascertain the scope or nature of the
25 material which the Court protected from disclosure, or the reasons for doing so. (*Herrera, supra*,
26 172 Cal.App.3d at p. 1163.) In *Herrera*, the Court of Appeal specifically ruled that such post-
27 hearing "fishing expeditions" are prohibited. (*Ibid.*) As the court explained, "The inquiry must
28 end at some point, and the Legislature has provided that it ends when the court makes its

1 determination as to which items should be disclosed.” (*Ibid.*)

2 **F. Any Disclosure Must be Made Subject to a Protective Order**

3 If the Court orders that any of the requested information must be disclosed, the Court is
4 required to issue a protective order that limits the use of the disclosed information and any
5 information derived from it, to the instant proceeding only and for no other purpose. (Evidence
6 Code § 1045 (e); *Alford, supra*, 29 Cal.4th at pp. 1040-1043.) Therefore, the City will request that
7 a written protective order be issued in association with any disclosure of information in this case,
8 including an order that the disclosed information be limited to use in the instant proceeding only
9 and for no other purpose, and that the information be restricted to use by Correen Ferrentino
10 (Defendant’s attorney of record) and not shared with any other person. (See *Alford, supra*, 29
11 Cal.4th at pp. 1042-43 (any information disclosed on *Pitchess* motions may be used only in the
12 criminal proceedings in which the material is sought, and the material may not be shared with any
13 other defendant, counsel for another defendant, or any other member of defense counsel’s office).
14

15 The City further requests that the Court order Defendant’s counsel to return to the City any
16 disclosed information at the conclusion of this case. In the alternative, the Court should order that
17 the information and any copies made of the information be destroyed at the conclusion of the case
18 or filed with the Court under seal pursuant to its discretionary power under Evidence Code sections
19 1045(d) and (e) in order to protect the Officers from unnecessary embarrassment and intrusion into
20 protected privacy interests.

21 **III.**

22 **CONCLUSION**

23 High priority must be given to preserving the privacy of statutorily protected confidential
24 peace officer personnel records. To the extent any inquiry is deemed justified, it should be limited
25 to the narrow scope of documents relating to claims for which good cause is established. Defendant
26 is not permitted to cast about in the officers’ personnel files in an uncontrolled manner for any
27 materials that the defense might deem useful. If any discovery is permitted by this Motion, it should
28 be limited to the names, addresses, and telephone numbers of complainants and witnesses making
complaints occurring within five years prior to the incident in this case regarding only the areas of

1 alleged officer misconduct for which the requisite showing of materiality has been made. In
2 addition, any material released should be subject to a protective order under Evidence Code sections
3 1045(d) and 1045(e).

4 Dated: June 28, 2021

Respectfully submitted,

CITY OF FOLSOM

By

SARI MYERS DIERKING
Assistant City Attorney
Attorney for CITY OF FOLSOM

PROOF OF SERVICE

I, Stacy Saldutti, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 50 Natoma Street, Folsom, CA 95630. On June 29, 2021, I served the within documents:

CITY OF FOLSOM'S RESPONSE TO MOTION FOR DISCOVERY OF LAW ENFORCEMENT PERSONNEL RECORDS

- ☒ by delivering the document listed above via electronic mail to the email address set forth below per agreement between the parties.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Folsom, California addressed as set forth below.
- ☐ by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Clerk of the Court
Sacramento Superior Court
720 Ninth Street
Sacramento, CA 95814
dept10@saccourt.ca.gov
aguiled@saccourt.ca.gov

Correen Ferrentino
Ferrentino & Associates, Inc.
4425 Jamboree Rd., Suite 270
Newport Beach, CA 92660
cori@ferrentinolaw.com

Nancy Cochrane, Deputy District Attorney
Sacramento County District Attorney's Office
901 G Street
Sacramento, CA 95814
CochraneN@sacda.org

I am readily familiar with the City of Folsom's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this proof of service was executed on June 29, 2021, at Folsom, California.



Stacy Saldutti

PROOF OF SERVICE

: 01280