

No. 19FE010439

COPY

App. No. C094996

IN THE APPELLATE COURT OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

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Appeal from the Superior Court of Sacramento County
Honorable Ernest W. Sawtelle, Judge

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THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

vs.

PATRICIA LANE,

Defendant and Appellant.

Volume 2
(Pages 51 - 115)

REPORTER'S TRANSCRIPT ON APPEAL

Date: July 7, 2021

APPEARANCES OF COUNSEL:

For the Plaintiff and Respondent:

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For the Defendant and Appellant:

FOR: PATRICIA LANE
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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

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THE PEOPLE OF THE STATE OF CALIFORNIA,	)	
Plaintiff,	)	No. 19FE010439
vs.	)	Dept. 10
PATRICIA LANE,	)	
Defendant.	)	REPORTER'S TRANSCRIPT OF PITCHESS MOTION

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Wednesday, July 7, 2021

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The above-entitled matter came on regularly at
the date above set forth before the HON. ERNEST W.
SAWTELLE, Judge of the Superior Court of the State of
California, County of Sacramento.

Reported by:

Dianne Coughlin, RDR, CRR, CSR No. 10418

APPEARANCES OF COUNSEL

For the Plaintiff:

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For the Defendant Patricia Lane:

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Attorney at Law

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CITY OF FOLSOM CITY ATTORNEY
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Folsom, California 95630
By: SARI DIERKING
Assistant City Attorney

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1 WEDNESDAY, JULY 7, 2021

2 AFTERNOON SESSION

3 ---o0o---

4 Proceedings in the matter of the People of the
5 State of California, Plaintiff, versus Patricia Lane,
6 Defendant, Case No. 19FE010439, came on regularly before
7 the Honorable Ernest W. Sawtelle, Judge of the
8 Sacramento Superior Court, County of Sacramento, State
9 of California, sitting in Department 10.

10 The People were represented by Nancy Cochrane
11 (not present), Deputy District Attorney, for the County
12 of Sacramento, State of California.

13 The Defendant, Patricia Lane, was represented
14 by Correen Ferrentino, Attorney at Law.

15 The Folsom Police Department was represented by
16 Sari Dierking, Attorney at Law.

17 The following proceedings were then had:

18 ---o0o---

19 (Proceedings commenced at 1:42 p.m.)

20 THE COURT: We are on the record on the case of
21 the People vs. Patricia Lane.

22 Ms. Ferrentino is here on behalf of the
23 defendant, Ms. Lane, who is also present today in court
24 and in custody.

25 This case is on calendar today for a Pitchess
26 motion, so we have representatives also, I believe, from
27 the Folsom Police Department.

28 Can you identify yourself, please?

1 MS. DIERKING: Yes. Good afternoon,
2 Your Honor. Sari Dierking from the City of Folsom.

3 THE COURT: And I've read the motions from both
4 sides.

5 Would you like to be heard further at this
6 time, Ms. Dierking?

7 MS. DIERKING: Only to say, Your Honor,
8 Ms. Ferrentino served the City of Folsom with a subpoena
9 within the last couple of days that requested some
10 training records of Detective Catanio, and I spoke with
11 her and explained that because those records are part of
12 the personnel file they would not be subject to a
13 subpoena, but they would require a Pitchess motion, and
14 because we are going to be down here today, she and I
15 agreed that if the Court would entertain it, we would
16 like to have that issue resolved today as a part of the
17 Pitchess motion in the interest of judicial economy.

18 Aside from the position that I took in the
19 papers, I would argue that respect to that issue, there
20 is neither good cause nor materiality for production of
21 the training records under those circumstances.

22 And I'll just pause there. If the Court is
23 willing to entertain it, I can make an additional
24 argument.

25 THE COURT: I guess I should start with the
26 fact that, Ms. Ferrentino, you should not have, without
27 authorization from the Court, placed anything else on
28 calendar.

1 This is on calendar for a Pitchess motion, not
2 a discovery motion, so why did you do this?

3 Why would you have subpoenaed things that were
4 not part of the Pitchess motion today?

5 MS. FERRENTINO: I don't know if I subpoenaed
6 it for today's production.

7 THE COURT: You did. I've got it right here.
8 It says "7/19," right?

9 MS. FERRENTINO: No. I did it for the trial
10 date.

11 THE COURT: Then forget it.

12 MS. FERRENTINO: And we just informally spoke.

13 Honestly, I made a request pursuant to 1054,
14 and then I was told to seek it from the department.

15 My brain was not connecting with Pitchess
16 versus subpoena, and that's what I did.

17 THE COURT: So did you already make an informal
18 discovery request to Ms. Cochrane?

19 MS. FERRENTINO: I did.

20 THE COURT: And she did not, and so you went
21 through the process of doing this separately.

22 All right.

23 So now you are saying you do have those
24 materials, whatever it might be?

25 MS. DIERKING: Yes. They are in the City's
26 possession.

27 THE COURT: So you want whatever those policies
28 and procedures are.

1 Are those policies and procedures protected, do
2 you believe?

3 MS. DIERKING: No.

4 So item 1 of the subpoena, the policies and
5 procedures, we have no objection to producing those, and
6 we will produce those within the time frame requested of
7 the subpoena, so we'll go ahead and produce those.

8 THE COURT: Okay.

9 MS. DIERKING: The only issue under dispute is
10 item No. 2, the training and related records that are
11 requested in item 2.

12 THE COURT: Training materials, because those
13 are not part of Detective Catanio's packet, or in her
14 personnel file, these would be -- this would be a class
15 that she may have attended, for example, and the
16 training materials would be in possession of whoever
17 trained her?

18 MS. DIERKING: Certain materials -- for
19 instance, certain training materials might be in
20 possession of other parties, but the City does have
21 records related to Detective Catanio's training
22 regarding interviewing witnesses, and also what
23 POST-certification courses she attended. So we do have
24 those records, and they are a part of her personnel
25 file.

26 So they were not specifically requested as a
27 part of the Pitchess motion. But Penal Code section
28 832.8 describes what is considered an employee's

1 personnel file, and included amongst those materials
2 would be educational records.

3 And there are several court cases that have
4 found that training records for these purposes count as
5 educational records, and they are therefore part of the
6 personnel file, and therefore they are confidential, and
7 not subject to production except through the Pitchess
8 process.

9 So if the Court doesn't have time today, we are
10 fine to make a formal objection to the subpoena. We can
11 come back and do another Pitchess procedure at another
12 time.

13 We just wanted to raise the issue, since
14 counsel flew in from out of town, if there is time, we
15 were hoping to resolve it today, but it's not --

16 THE COURT: So No. 2, since that's the only one
17 we are worried about, is training and experience in
18 interviewing witnesses, including any POST classes she
19 took, and the training materials.

20 So training and experience in interviewing and
21 training materials, all of that you believe is part of
22 Pitchess -- the personnel file?

23 MS. DIERKING: We don't necessarily have -- the
24 way it's worded is a little broad, but in terms of
25 documents that would be subject to production under a
26 subpoena or a Pitchess motion, we do have documents
27 reflecting training courses taken by Detective Catanio
28 with respect to interviewing witnesses.

1 I am informed -- I do not believe that we have
2 actual training materials in the files of the City of
3 Folsom.

4 In terms of experience, to me that doesn't seem
5 like a document. It would maybe be more of a question
6 for the witness or something.

7 But we do have documents reflecting training
8 that she received, and those documents would be in her
9 personnel file.

10 THE COURT: Is that what you are looking for?

11 MS. FERRENTINO: Basically. I'm looking for
12 which POST-certified courses Detective Catanio attended
13 because she testified to it at the prelim.

14 But there is so many courses with different
15 materials, and if they don't have materials I can seek
16 them once I know which ones it is.

17 And then any training she has regarding
18 interview techniques -- which I think goes to the heart
19 of the --

20 THE COURT: Didn't you ask her while she was on
21 the witness stand?

22 MS. FERRENTINO: I wasn't the lawyer, and it
23 wasn't asked, so that's why I asked Ms. Cochrane.

24 She is going to be testifying about
25 interviewing a number of witnesses, so I wanted to ask
26 about her training and experience -- training,
27 background, and experience in that regard, and what
28 courses she took, because some courses have different

1 subject matter.

2 THE COURT: So how would you ever get training
3 materials as part of a Pitchess? What would you be
4 alleging in order to get those?

5 What would a defense have to allege in order to
6 get training materials?

7 MS. DIERKING: Are you asking me?

8 THE COURT: Yes. I'm sorry. Ms. Dierking.

9 MS. DIERKING: Sorry. I wasn't sure,
10 Your Honor.

11 I think it would be the same kind of request
12 that is listed here.

13 But in terms of making a showing of good cause
14 and materiality, I am not frankly sure if that would
15 exist in a criminal case.

16 This isn't some kind of a civil case where
17 there is an allegation that Detective Catanio violated
18 certain things.

19 Frankly, based on my research, there would need
20 to be a showing that the records could be admissible as
21 direct or impeachment evidence, and I don't believe, at
22 least under the facts and circumstances of this case,
23 that any training materials would be admissible at all.

24 THE COURT: I am not sure about training
25 material, but in terms of training and experience, it
26 seems to me -- so if the DA asked for her training and
27 experience, are you saying would you tell the DA you
28 can't release that to the DA?

1 Because it seems to me the way this ought to
2 work is that Ms. Catanio (sic) ought to ask the DA. The
3 DA can say no in an informal request, and then she
4 brings a formal motion for discovery to me, and I decide
5 whether or not it's discoverable -- regardless of
6 Pitchess -- just say, yeah, I think that's a
7 discoverable issue, and order the DA to turn them over
8 or to get them from the Folsom Department.

9 Or you can -- maybe the right way to do it is
10 if you were to say no to the DA, is to have you a party
11 to appear at a formal discovery motion, and I could
12 order you to turn it over if I thought it was important
13 to turn over, but that kind of sidesteps the Pitchess
14 issue altogether.

15 MS. DIERKING: Yes.

16 The procedure is less important to me. As a
17 representative of the City, I will do whatever procedure
18 the Court deems appropriate.

19 My position is just based on Penal Code section
20 832.8, which defines personnel records for purposes of
21 Pitchess and all of these matters that we are
22 discussing, and that definition includes records of
23 education for police officers.

24 And there are several court cases -- I
25 apologize, I do not have the citations, but I can
26 provide them -- that have determined that training of
27 officers in this context would constitute records of
28 education. That would be part of a personnel file, and

1 therefore should be deemed confidential under 832.7, and
2 therefore only disclosed pursuant to a Pitchess motion.

3 But I'm happy to return, Your Honor, if that
4 makes more sense.

5 THE COURT: I'm sorry. What I'm struggling
6 with is, on a Pitchess motion usually an attorney is
7 making an allegation that there is some sort of
8 misconduct involved with the officer, and that they want
9 to get any records related to that.

10 So what kind of -- I'm just struggling how
11 anything could ever be just released to the defense
12 under a Pitchess motion when it relates to just general
13 discovery matters like someone's training.

14 MS. DIERKING: Well, my understanding, although
15 I'm not directly involved in the criminal case, but from
16 reading the Pitchess motion in this case, my
17 understanding is there was an issue with retaining the
18 recorded interviews of two alleged victims that were
19 minors, and that discrepancy -- I think basically the
20 recorded interviews were lost or not provided to the
21 defense, and as a result of that the Pitchess motion is
22 forthcoming, talking about --

23 THE COURT: Right. But that's because the
24 defense is making an allegation that essentially Folsom,
25 or this particular detective, has engaged in some sort
26 of cover-up, or that she's being dishonest by not
27 turning them over. It's not a matter of whether or not
28 she was trained to do it, right?

1 MS. DIERKING: Right.

2 So our position is, to the extent any training
3 records might relate to that, I thought it would be a
4 part of the Pitchess motion.

5 But to the extent that it's just a general
6 broad request -- we want to know what kind of training
7 this officer has received -- our position is that those
8 records are in fact confidential, and they would not be
9 subject to disclosure because they are not material to
10 any issue to be decided in the criminal case.

11 THE COURT: Okay.

12 So I guess I would have to -- I can't see any
13 way you get to them through Pitchess. I don't know how
14 she could ever write an affidavit that would ever be
15 sufficient to get at training records.

16 But it seems very easy to see how it would be
17 material in the court case. You are basically
18 cross-examining a detective about their level of
19 training and experience in an area, and you could easily
20 impeach them with the fact that they say they took a
21 course, for example, and it turns out they never took
22 that course, or that they have a lot of training in
23 interviewing, and it turns out they have very little.
24 Or they say this is how I was trained to do an
25 interview, and it turns out they were never trained to
26 interview a witness in that way.

27 So it seems that impeachment could be done on
28 most detectives, I guess, if they are talking about

1 whatever it is they did. It's not usually a big issue
2 in most cases, but it can be more often in a case
3 involving child witnesses, for example, or sex assault
4 cases. But anyway, so it seems to me that really this
5 is a discovery.

6 What is the Folsom Police Department -- what
7 will you do if I order you to turn them over in a
8 discovery motion as opposed to a Pitchess motion?

9 Is it your office position that you are going
10 to say this is a Pitchess issue and this is improper?

11 MS. DIERKING: We would take that position.

12 I would like the opportunity to perform some
13 additional research and present a brief on that issue to
14 the Court.

15 We only received the subpoena yesterday, and
16 this is all very new. And frankly, we haven't had this
17 issue come up frequently, so I would like to look at it
18 further and brief the Court.

19 But ultimately if the Court were to order
20 production, I would request similar protections like I
21 would in any case where a Pitchess motion is involved,
22 and I would request production be subject to a
23 protective order.

24 THE COURT: Sure. Okay.

25 So I have not really encountered this
26 particular issue before, and I am not sure.

27 So it still seems to me that the way to get at
28 these records is simply to make a formal discovery

1 motion.

2 So I guess what I would say is, Ms. Ferrentino,
3 I think they are not going to turn them over to you
4 readily, so you need to make a formal discovery motion,
5 and perhaps you should make a Pitchess motion. So make
6 it for a formal discovery and a Pitchess motion, and
7 betwixt the two we can get to it and take it up at
8 another time, because it really wasn't on calendar today
9 anyway. And I know it sounds like you are willing to
10 talk about it, but I would need more research on the
11 issue before I move forward.

12 MS. FERRENTINO: May I comment briefly?

13 I think counsel was agreeing that we could
14 address it under the Pitchess umbrella instead of a
15 discovery umbrella. I know my declaration didn't speak
16 to that specifically because it wasn't listed in the
17 Pitchess.

18 I mean, I could make a verbal offer of proof.

19 I think all the things the Court noted just a
20 moment ago about training records were relevant.

21 The other thing is, in some instances an
22 individual has been trained a certain way, and they
23 haven't complied with that training.

24 THE COURT: I guess you can go ahead and make
25 your offer of proof. I don't see how you are going to
26 do it for a Pitchess, but go ahead.

27 MS. FERRENTINO: What I'm saying, I think in
28 this case it's relevant.

1 I think I've noted to the Court in the past in
2 the other motions that there have been a number of
3 interviews that a narrative was prepared, and the
4 transcript is significantly different from the
5 narrative.

6 In a lot of instances there has been suggested
7 questions:

8 The manner in which the interview is done.

9 Not following up on impeachment evidence of the
10 complaining witnesses that's been provided.

11 And so the interviewing techniques of the
12 officer is going to be a significant part of the trial,
13 and so whether or not the officer is interviewing
14 witnesses and conforming with her training is going to
15 be relevant, just like it would in the case -- other
16 police-conduct cases -- criminal cases, not civil
17 cases -- whether or not the police officers are
18 following their training, and the training that they've
19 been given in a certain area.

20 So in various reports there has been
21 suggestability. I mean, I am inquiring with an expert
22 on that issue, and may want to present testimony
23 regarding that.

24 So I think the training the officer had is
25 relevant to whether or not the officer complied with
26 that training, and the specific techniques used to
27 interview five accusers, and probably three or four more
28 witnesses in this case, and whether or not it was done

1 properly, and whether or not it may have contaminated
2 the interviews or provoked some sort of bias, or
3 informed witnesses or victims of information that might
4 have tainted their statements or even their
5 understanding of the case, so that's why I'm asking for
6 it. And if she were on the stand I could ask what
7 certified POST courses she attended, and how many hours,
8 and how many hours related to interview techniques.

9 These are not secret privileged -- this isn't
10 secret privileged information.

11 THE COURT: Sure.

12 MS. FERRENTINO: I just wasn't at the prelim.
13 I think it is discoverable.

14 While they may not technically be an expert
15 witness, it's similar to a gang officer that is going to
16 testify about gang indicia, and we question them about
17 their training and experience as a gang member (sic).

18 She's going to be the one who -- and even in
19 particular, which does go to the Pitchess, we have two
20 interviews that are recorded, and the recordings are
21 irretrievable at this point, so the only person that can
22 talk about those interviews is this detective.

23 So, you know, the techniques that were done,
24 and the way that she might have questioned these
25 children is highly relevant to this case, especially if
26 they come in and testify and say something different
27 about what she said or what she might have told them.

28 So we can go through a more formal process.

1 I'm concerned because our trial date is about a week and
2 a half away, and I imagine Detective Catanio will be on
3 the stand early in the case.

4 THE COURT: I recognize that, but that's your
5 fault for not filing this earlier.

6 MS. FERRENTINO: I understand. I realized I
7 didn't have that information.

8 I've only -- I've been on the case since
9 December. As the Court knows, there is a lot of
10 information, and we gathered a lot of information.

11 I appreciate counsel wanting to expedite this
12 and consolidate it if we can.

13 So that's all I'm saying, is if the Court -- if
14 it's under the Pitchess guise -- I hear what the Court
15 is saying, and I agree it's a discovery issue, and
16 that's why I made the discovery request. But I was told
17 to seek it from the department.

18 Even if it's a Pitchess issue, I think it's
19 relevant based on what's been raised so far in
20 declarations and in the prior motions and then what I'm
21 saying here today.

22 Her interview techniques will be critical to
23 this case. Pretty much all the evidence is going to be
24 the result of her interviews, so whether or not she's
25 following the training that she's been given in her
26 POST-certification course --

27 THE COURT: Ms. Dierking, so if you have the
28 information, I can look at it with you, right, is what

1 you're saying, with you?

2 MS. DIERKING: Yes.

3 THE COURT: So I am not sure where to put that
4 particular issue.

5 So I'll look at it in camera -- how about
6 that -- regardless. Whatever else I decide about it
7 today, I'll decide about the training and experience,
8 whatever is listed there, and if I feel inclined that --
9 if I think it's relevant and material, that I should
10 just order it turned over.

11 And I am not sure whether or not it properly
12 belongs under the Pitchess umbrella or not.

13 And I'd be happy to give some sort of a
14 protective order on the issue so it doesn't get spread
15 around, so I will do that.

16 So let's move on to the main issue which we are
17 here for, the Pitchess motion.

18 Ms. Ferrentino has made allegations -- or a
19 request for documents in the personnel records of two
20 officers, Officer Melanie Catanio and Kimberly Lim,
21 alleging fabrication of evidence, destruction of
22 evidence, lying in a police report, and failing to
23 properly book evidence.

24 To that end she has asked for a long list of
25 things, most of which are not properly within the
26 purview of Pitchess; or in other words they exceed, I
27 guess, the scope of Pitchess.

28 But what I do think she has made a showing of

1 good cause for is the names -- looking on page 2, if we
2 can, of Ms. Catanio's motions.

3 Page 2 of that motion --

4 THE REPORTER: Ms. Catanio's motions?

5 MS. FERRENTINO: Ms. Ferrentino's.

6 THE COURT: I see that on the top of the page,
7 so I'm just saying "Catanio."

8 MS. FERRENTINO: That's fine. I didn't mean to
9 correct the Court.

10 THE COURT: Somebody needs to. I can't even
11 blame it on post-Covid since I never had that.

12 So Ms. Ferrentino's motion, page 2.

13 Item No. 2. Names, addresses, and telephone
14 numbers of the persons who filed complaints described in
15 item 1 -- which is what I just read, and I think I would
16 include -- and who witnessed the misconduct above.

17 So names, addresses, and telephone numbers is
18 what is called for.

19 No. 3. Names, addresses, and telephone numbers
20 of all persons interviewed by the agency.

21 And of course that exceeds the scope.

22 No. 4. All statements, written or oral, made
23 by persons interviewed during the investigation.

24 That exceeds the scope, I believe.

25 No. 5. All tape-recordings and/or
26 transcriptions thereof, notes, and memoranda by
27 investigating personnel of the agency.

28 That exceeds the scope.

1 No. 6. The names and assignments of
2 investigators and other personnel employed by the agency
3 in investigations.

4 That exceeds the scope.

5 No. 7. All investigative reports made as a
6 result of said complaints, excluding conclusions.

7 That exceeds the scope.

8 No. 8. Any and all documents that record
9 disciplinary action commenced or imposed against the
10 above officers because of the conduct.

11 I think that is potentially admissible. I have
12 to look at it, and then I would decide.

13 No. 9. Names, badge numbers, and current
14 assignments of all officers directly involved in the
15 events which form the basis of the criminal charges in
16 this case, regardless of whether they are named in the
17 peace officer's reports, which are the basis of the
18 information or complaint, and any statement by officers
19 involved in the instant case to investigators in
20 internal affairs or other police officers regarding the
21 events which form the basis of the criminal charges in
22 this case.

23 That's just a basic discovery motion you need
24 to make to the DA's office. The DA already has a
25 discovery obligation to provide all of those things to
26 you, or most of that, anyway, to you, so you need to ask
27 for that in discovery, and make a discovery motion to
28 the Court if you feel like that has not been turned over

1 to you.

2 It's certainly not part of the Pitchess motion.

3 No. 10. The names of any law-enforcement
4 agency that previously employed the above-named
5 officers.

6 That exceeds the scope.

7 No. 11. Any information that might reasonably
8 lead to evidence of the above-named officers' habit or
9 custom for behavior.

10 That exceeds the scope.

11 Any exculpatory evidence within the meaning of
12 *Brady vs. Maryland*.

13 When the Court does an in-camera review and I
14 find *Brady* material that's there, if I see *Brady*
15 material, I am not going to just ignore that, and I'll
16 turn it over if I see *Brady* material, but I don't think
17 that's typically covered by a Pitchess, per se.

18 But I also agree that the Court is in a
19 difficult position, and if I do see *Brady* material my
20 habit is to turn over *Brady* material if I see it in the
21 personnel files.

22 No. 13. Any information concerning behavior
23 involving moral turpitude by the above-named officers
24 which would qualify as impeachment.

25 That exceeds the scope of a Pitchess.

26 No. 14. Any and all documents and personnel
27 records of the above-named officers that record any
28 complaint registered with the agency by any inmate,

1 fellow officer, or private citizen alleging conduct.

2 It's sort of somewhat redundant of what you've
3 already asked for. You are asking for names, addresses,
4 and phone numbers of people who have alleged what you
5 are alleging in paragraph 1, so that is improperly
6 within the review of the court.

7 No. 15. The written procedures established by
8 the Folsom Police Department to investigate citizen
9 complaints against the department or its personnel which
10 were utilized with respect to complaints against the
11 above-named officers.

12 That exceeds the scope of Pitchess.

13 No. 16. The results of any internal affairs
14 investigations in this matter.

15 I am not sure exactly what that means, but
16 that's a maybe, I guess.

17 I mean, I'll certainly be looking for documents
18 that, as you mentioned in No. 8, that report
19 disciplinary action.

20 So I think those are the 16 items that you put
21 in your request here.

22 So again, most of that exceeds the scope of
23 Pitchess, as Ms. Dierking has already outlined in her
24 motion in opposition to this.

25 Pitchess is limited. It's limited to a
26 five-year time period, and it's limited to names,
27 addresses, and phone numbers of sustained complaints
28 that you alleged in No. 1.

1 You want to add to that, Ms. Dierking?

2 MS. DIERKING: No.

3 Submitted, Your Honor. Thank you.

4 THE COURT: Ms. Ferrentino?

5 MS. FERRENTINO: The City did turn over 15,
6 which is the procedures established by the Folsom Police
7 Department to investigate the complaints, just so the
8 Court knows.

9 THE COURT: Okay.

10 MS. FERRENTINO: And then obviously some of
11 these the defense would come back if we are not able to
12 locate individuals, if there is anybody, and ask for
13 reports, but I understand that the DA and I can try to
14 get that information on our own.

15 THE COURT: Other than that, I am satisfied
16 that you have demonstrated good cause to go to an
17 in-camera hearing at this time, and I will review the
18 records that exist with the police department, Folsom
19 Police Department, and then I will release anything that
20 I think should be released.

21 So what I would like, if you could do, is go
22 in camera. I don't really want to do it in my office
23 though. I think I am going to have everybody leave the
24 courtroom because it's easier than doing it in chambers
25 right now. I have everything I need out here, so I'd
26 rather just do it right here.

27 So at this time I am going to have a closed
28 proceeding. It's just going to be the court reporter

1 and myself and Ms. Dierking.

2 And you have somebody -- a custodian from the
3 Folsom Police Department?

4 MS. DIERKING: Yes, Your Honor.

5 THE COURT: Everybody else will have to leave
6 the courtroom. The bailiff will lock it and put a note
7 on the door.

8 CLOSED SESSION

9 THE COURT: We are in a closed proceeding. All
10 of the doors are locked, and I have to have you leave as
11 well. It has to be completely closed to every single
12 person except for the court reporter and myself and the
13 custodian and the attorney.

14 So we are now in a closed hearing.

15 So Ms. Dierking, can you introduce your
16 witness?

17 MS. DIERKING: Yes. Thank you, Your Honor.

18 With me today is our custodian of records for
19 the Folsom Police Department, Sergeant David Canepa.

20 MR. CANEPA: Good afternoon.

21 THE COURT: So can you spell your first and
22 your last name, sir?

23 THE WITNESS: David, D-a-v-i-d, Canepa,
24 C-a-n-e-p-a.

25 THE COURT: Would you please raise your right
26 hand, please.

27 Do you swear to tell the truth, the whole
28 truth, and nothing but the truth, so help you God?

1 THE WITNESS: I do.

2 THE COURT: All right.

3 So this is the custodian here who has reviewed
4 all these records.

5 TESTIMONY OF
6 DAVID CANEPA, witness called by the Court:

7 EXAMINATION

8 BY THE COURT:

9 Q Mr. Canepa, did you have a chance to
10 carefully -- did you receive the motion, first of all,
11 that was requested for Detective Catanio's information,
12 as well as Officer Kim, right?

13 A I received both, and it's Officer Kim Lim,
14 L-i-m.

15 Q And Melanie, M-e-l-a-n-i-e, Catanio,
16 C-a-t-a-n-i-o.

17 So did you review the personnel records of
18 these two officers?

19 A I did.

20 Q And did you record any -- or did you notice
21 whether or not there were any complaints that had been
22 registered with the agency by anyone -- whether it's a
23 fellow officer or a private citizen -- alleging any
24 fabrication of evidence, destruction of evidence, lying
25 in a police report, or failing to properly book
26 evidence?

27 A No. Not in those categories, Your Honor.

28 And there were no sustained complaints for

1 either officer.

2 Q All right.

3 And did you bring those records with you today?

4 A I did.

5 Q All right.

6 As you reviewed those records -- can you first
7 of all tell me, how long are they?

8 A Excuse me? How long are the records?

9 Q I'm looking at them from across the room here.
10 Looks like maybe a hundred pages or so.

11 A Approximately.

12 Q And so what I would like to do is, I would --
13 it is my habit when I do a motion like this to look at
14 the records myself also, just so that I can indicate for
15 the Court of Appeal that I have reviewed all the records
16 myself as well as you have.

17 Can you tell me first, how is it you go about a
18 search for these types of records?

19 A When I receive the subpoena, I check three
20 places.

21 The first is the watch file or division file.
22 That is a file that's maintained at the watch level. So
23 it's something that would -- where their immediate
24 supervisor would put documents related to their
25 performance in, and I reviewed both of those watch files
26 for the Officer Lim and Detective Catanio.

27 I also review the personnel file, which is kept
28 in the Office of the Chief, which is a more broad file

1 that tracks the length of their employment as well as
2 evaluations.

3 Then I also check their internal affairs file
4 as well.

5 Q And you did that for each of these two
6 officers?

7 A Yes.

8 Q And when you reviewed those, you found no
9 sustained complaints in these categories that we've
10 talked about?

11 A That's correct.

12 Q How many years have you worked for Folsom?

13 A I've been employed by the Folsom Police
14 Department for nine years.

15 Q And your current position?

16 A I am the Professional Standards Unit sergeant.

17 Q What qualifies you to be the sergeant for that
18 division?

19 A Well, first of all you have to be a sergeant,
20 so I was promoted two years ago.

21 And then there is a selection process that
22 occurs through the Office of the Chief, and there is
23 some training that you receive subsequent to your
24 appointment.

25 Q Are you trained on how to respond to Pitchess
26 motions?

27 Is that one of the areas of training?

28 A Yes. That's included in the basic internal

1 affairs class.

2 Q And have you handled Pitchess motions before?

3 A Yes.

4 Q Approximately how many?

5 A I believe this is our fourth.

6 Q So relatively new to the Pitchess motion,
7 probably because during Covid you didn't do many I'm
8 guessing.

9 A Relatively new, yes. And relatively new to
10 this position, as well.

11 Q So you are comfortable, based on the training
12 that you have received, that you know exactly what it is
13 you are supposed to search for and how to search for it?

14 A I am.

15 Q All right.

16 So at this time what I'd ask you to do, can you
17 hand me, if you wouldn't mind -- first of all, let me
18 look through Detective Catanio's files.

19 A Would you like me to bring them up?

20 Q Could you? If you wouldn't mind.

21 A Sure.

22 Q So the first one here is a brown manila file
23 and it says "Evaluations" on it.

24 So this is the personnel file that the chief
25 holds?

26 A That's correct.

27 Q Okay.

28 And then the second file you have there?

1 A This is an external complaint in which
2 Detective Catanio was exonerated.

3 Q There is a complaint from IA, the internal
4 affairs file?

5 A Correct.

6 Q And so somebody made a complaint to do
7 with something not part of our -- that doesn't fit
8 within the five areas or so that the defense alleges in
9 this case, correct?

10 A Correct. I can give you the details of the
11 case if you like.

12 Q I will probably just read through that in a
13 moment.

14 There is a third file or area that you look at
15 usually?

16 A That's correct. That would be the division
17 file, a watch file.

18 I did not locate any relevant information in
19 any of those files for both the officer -- both
20 officers.

21 Q So in that file there was nothing in either one
22 of those files?

23 A There was, I believe, a commendation in one of
24 them.

25 Q So there was nothing -- even if it's not
26 related to complaints involved in our case, you are
27 telling me you couldn't locate any complaints at all in
28 that file?

1 A No, Your Honor.

2 We would generally not keep any complaints in
3 that file. That's more for -- mostly it's more for the
4 commendations, e-mails that the sergeant may receive
5 from citizens saying I appreciate the way the officer
6 handed this situation.

7 Sometimes we will get letters from other
8 departments thanking the officer for the participation
9 on a large-scale event.

10 That's typically what goes in there.

11 Q So the two files I have contain the only
12 relevant information, or potentially relevant
13 information, as to any sort of improper conduct at all,
14 correct?

15 A That's correct.

16 Q Okay.

17 So what I am going to do is, I am going to
18 start with this first one, which is the chief's file,
19 and it's a brown file here with several tabs on it.

20 The tabs relate to commendations, education and
21 training, and evaluations.

22 Then there is some miscellaneous information on
23 the left-hand side, and I will be reading those.

24 If I have some questions as I'm going through,
25 I'll just ask you to explain what they are, fair enough?

26 A Fair enough.

27 Q So on the left side of this file there is
28 really -- it's just essentially an offer for a job.

1 It has all kinds of information like
2 confidentiality requests for DMV, because she is a peace
3 officer, and requests for confidentiality of her home
4 address, as well as her vehicle's address.

5 And there is new-hire personal information just
6 in terms of height and weight and home address,
7 emergency contacts.

8 Then there is a checklist for the things that a
9 new officer would need, like a badge and a gun and an ID
10 card and other things like that, baton, pepper spray,
11 et cetera.

12 Then there is the oath of allegiance that she
13 will support and defend the Constitution.

14 That's the only thing on the left-hand side of
15 this file.

16 On the right-hand side there is a tab called
17 "Commendations." It looks like Detective Catanio
18 received a variety of commendations.

19 There is one in here for good work she did on a
20 search warrant, there is another one where she arranged
21 the Easter bunny parade, the kind of stuff you don't
22 hear too much from police departments. So just sort of
23 a commendation for the work she did in the community.

24 There is another commendation from May of 2019
25 for excellent work in investigating a sexual assault
26 case ultimately signed even by the chief of police.

27 Another one from November of 2017 to the chief
28 of police just by a civilian for some excellent work an

1 officer did in helping her in a difficult time.

2 So that concludes the commendation sections.

3 There is also a tab here for "Discipline." On
4 that tab the file is completely blank. There is nothing
5 where it says "Discipline."

6 Is there normally -- if someone has not been
7 disciplined, is this the way it would normally look,
8 that is there is nothing to put in here, so it's just a
9 blank section?

10 A That's correct. But there are time limits that
11 surround certain types of discipline where they may be
12 in the personnel file and come out after a certain
13 amount of time.

14 Q To your knowledge, from your review, there is
15 nothing in here because there is nothing that she was
16 disciplined for?

17 A That's correct. And I have no knowledge of her
18 being involved in any sort of discipline at the
19 department.

20 Q Then on "Education and Training" we have a
21 certificate for having fulfilled the requirements for
22 character education, training, and experience under
23 Title II.

24 This is from the Commission on Peace Officers
25 Standards and Training.

26 A Your Honor, if you would like to review the
27 training record, I have that as well, but it's in my
28 bag.

1 Q What kind of a record?

2 A The training record that you were --

3 Q That we talked about earlier, the different
4 training that she's had?

5 A That's correct.

6 Q Thank you. I may look at that after I'm
7 finished here.

8 Looks like her high school transcript is in
9 here from Redding, California, close to where I grew up,
10 and also some college transcripts, Butte College
11 transcripts, and that's all we have under the "Education
12 and Training" tab.

13 Then there is one on "P1."

14 What's a "P1"?

15 A A P1 is a proposed level of pay change. So if
16 you get a step raise as part of your employment, then
17 would you receive a new P1.

18 Q Okay.

19 So it looks like there is maybe five or six in
20 here. Looks like there's one for almost every year.

21 She's been with the department since 2017, it
22 looks like. So maybe there is one going back to 2016.
23 So 2016, 2017, 2018, 2019, 2020.

24 A couple from 2019. So actually three from
25 2019 it looks like. So maybe she received various step
26 increases in pay.

27 So these are just notice of payroll changes,
28 and that's all.

1 And under "Evaluations" there are several
2 evaluations in this section. They are performance
3 evaluations from supervisors.

4 So there is an evaluation, performance
5 evaluation, it looks like, from 2021, and also 2020, and
6 also 2019, 2018.

7 All of them -- 2021 and '19 were excellent
8 performance evaluations.

9 Here is one from 2018. Seems like the only
10 criticism is that she could have made more traffic
11 enforcements. Can't really hold that against her.

12 Also performance eval from 2017.

13 That's it.

14 Looks like probably -- I assume she just didn't
15 work enough in 2016 to get evaluated most likely, but
16 anyway, from 2017 on very positive evaluations.

17 That completes the file here for Melanie
18 Catanio that we were referring to as the "Chief's File,"
19 right?

20 A We call it the "Personnel File," but it is kept
21 within the Office of the Chief.

22 Q Okay.

23 So the next one is, there is a binder here put
24 together. It's from, looks like, 2021, and this would
25 be the internal-affairs file?

26 A That's correct. It's a 2019 case.

27 Q I see. I see what you are saying. I'm looking
28 at the wrong date here.

1 So somebody was assigned to investigate -- in
2 2019 to investigate an incident that occurred in 2017?

3 A That's correct.

4 Q So this complaint, I've just now completed
5 reading it. It's a fairly thorough report, even
6 involving also a transcript of testimony by Officer
7 Catanio.

8 In March of 2019 Folsom received a complaint
9 from a person by the name of Jude Chabot, C-h-a-b-o-t,
10 alleging an improper investigation and follow-up on a
11 restraining-order violation that occurred on August 19
12 of 2017 by Officer Catanio and another detective, a
13 Detective Davis. The suspect was Chabot's ex-wife,
14 Andrea.

15 "In summary, in August of 2017 there was a
16 valid restraining order by Chabot against Andrea.
17 Chabot indicated he walked into the Folsom Lifetime
18 Fitness. He went upstairs and saw Andrea on a
19 treadmill. He stated Andrea immediately got off the
20 treadmill and went downstairs to the front door. He
21 stated that she lingered there for 15 to 20 minutes
22 before she left with another male. Chabot then
23 contacted the police department to file a crime report
24 for this alleged violation of the restraining order. In
25 his complaint he alleged that Officer Catanio and
26 Detective Davis conducted an inadequate investigation
27 that ultimately had adverse effects on his life."

28 So there was an investigation into that.

1 Ultimately internal affairs concluded that the
2 investigation was proper, and that Officer Catanio did
3 nothing wrong.

4 I don't think this is related in any way to the
5 areas -- there is nothing alleging dishonesty here or
6 fabrication or destruction of evidence or failing to
7 properly book evidence, so based on that I don't think
8 any of this is covered in any way by Attorney
9 Ferrentino's request for this information, so I will not
10 be turning over any information from this.

11 However, I will, as Ms. Ferrentino has
12 requested, and as the appellate courts are becoming more
13 and more adamant about, is that they want trial courts
14 to make a copy or a good record of everything so that
15 they can review it properly.

16 I made a good record of the file that the chief
17 keeps in his office. I made a page-by-page record of
18 that. However, this is too lengthy to make a
19 page-by-page record, so what I am going to do is, I am
20 going to have my clerk make a copy, unless you have a
21 second copy for me, or unless I can have this copy, and
22 then I will just have it sealed by the court.

23 It will never be opened unless there is a
24 request by the Third District Court of Appeal to open
25 it, and at that time they can look at what I looked at
26 to make their own assessment.

27 Ms. Dierking, do you have any problem with
28 that?

1 MS. DIERKING: No, Your Honor.

2 Unfortunately we do not have a second copy, so
3 we would need a copy for the Court if that's possible.

4 THE COURT: It's no problem. I'll have my
5 clerk make a copy. I'll pop in here and have her copy
6 it. Okay.

7 Q As to the same detective, Detective Catanio, we
8 had talked --- before we went into this Pitchess motion
9 in-camera review there had been a request for a copy of
10 training that Detective Catanio had, and so you located
11 these pages of training that she had.

12 I guess it's training -- is this training that
13 Folsom Police Department gives, or do you -- is this
14 POST training?

15 A That is Detective Catanio's POST training
16 profile, so it would include any training that was
17 POST-certified throughout her entire law enforcement
18 career.

19 Q (Reviewing.)

20 Okay. I've reviewed the training. It's two
21 and a half pages listing out everything since, it looks
22 like, 2011 through 2021. Looks like every training
23 course that she took, at least through POST, which is
24 the Peace Officers Standards and Training.

25 This probably wouldn't cover in-house type
26 training, if have you any in-house training.

27 A If it's POST-required training, then yes it
28 would count. It would be noted on there.

1 Q So the request from Ms. Ferrentino was for
2 training and experience in interviewing witnesses,
3 including POST-certified courses.

4 I am interpreting this as anything to do with
5 training -- or excuse me -- interviewing witnesses and
6 interrogation, so I think there is some relevance to
7 that. I think it is material in this case.

8 So what I would propose to do is turn over some
9 of this, but not everything. In other words, not a list
10 of everything she's ever done, but rather those two or
11 three items on here that she is requesting.

12 Can I make copies of these, or can I have
13 these?

14 MS. DIERKING: I think the Court can probably
15 have those.

16 One proposal that Sergeant Canepa and I
17 discussed a moment ago is, if the Court would permit it,
18 we could discuss, and Sergeant could explain, which
19 courses on there relate, at least potentially, to
20 interviewing techniques, and if the Court agrees we
21 could just -- I could go back to the office and redact
22 the ones that are not relevant, and then produce the
23 relevant information in response to the subpoena with
24 the normal time frame.

25 THE COURT: Okay.

26 Q So training with regard to interviewing
27 witnesses. I see a couple here that are kind of
28 obvious. One is called "Interview and Interrogation" on

1 9/12/2014.

2 Then there is one for "Sexual Assault
3 Investigation" on 2/9/2018.

4 I'm just guessing that, as part of that course,
5 there is bound to be some interviewing for sex assault
6 victims, but that's all -- those are the only ones that
7 jump out at me here.

8 Are there others here that would involve
9 interviewing witnesses?

10 A It's difficult without an actual course
11 description, which I don't have access to, or even the
12 ability to provide to the Court, so there may be other
13 courses on there that were involved in the interviewing
14 of witnesses. I believe I noticed about three of them
15 during my initial review of that document.

16 Q Can you look through these again and see if,
17 other than the two I mentioned -- and there is one not
18 listed specifically there that is called "Sacramento
19 Valley Hi-Tech Crimes Task Force," and it says that she
20 completed a 40-hour Forensic Solutions Specialist
21 Interview Course by Dr. Joe Sullivan, so this probably
22 has to do with interviews.

23 A That's correct. And it's outside of POST, so
24 it would not be included in that training profile.

25 Q So can you look at the ones that say "POST" on
26 them and tell me of any others that I missed?

27 A The only additional course that I would include
28 would be the basic academy, which also would include a

1 section on interviewing witnesses as well.

2 Q That's the first one that shows up in 2011?

3 A That's correct.

4 THE COURT: So Ms. Dierking, do I need to
5 repeat those?

6 MS. DIERKING: No. I have it. Thank you.

7 THE COURT: So those three from the POST
8 course.

9 And also, I would say, even though she didn't
10 specifically say "POST," I think this one that I just
11 mentioned where there is a certificate from the
12 Sacramento Valley Hi-Tech Crimes Task Force on
13 interviewing techniques by Dr. Joe Sullivan, I think
14 that also should be discovered. So if you could make a
15 list of those four items.

16 And a protective order, if you want that, I'd
17 be happy to sign it, and then you could turn that over.
18 That would be great.

19 MS. DIERKING: Thank you, Your Honor.

20 And just procedurally, I believe the way the
21 City has access to those records is just a list, just
22 like what the Court has reviewed. So if I were just to
23 redact everything other than -- on the POST list redact
24 everything other than those three POST courses, and then
25 provide a copy of that certificate for the non-POST
26 course, would that be sufficient?

27 THE COURT: Yes.

28 Obviously the ones we are redacting have to do

1 with DUI investigations and just so many other things,
2 domestic violence, et cetera, various specialties within
3 the area of policing, and so they are not specifically
4 asked for by Ms. Ferrentino, and do not seem material to
5 the case involving Ms. Lane, so I am not ordering all of
6 those to be turned over at this time.

7 MS. DIERKING: And so I will produce those, as
8 well as the requested policies and procedures to the
9 Court in response to this subpoena. It looks like it's
10 due on July 19th.

11 Would the Court recommend that I just include a
12 proposed protective order maybe with my declaration,
13 send it with the subpoenaed documents, and that would
14 cover it?

15 THE COURT: That would be great.

16 If you turn over this information to me in this
17 courtroom with that protective order, I can sign the
18 protective order, and then I'll have my clerk contact
19 Ms. Ferrentino to pick up the discovery.

20 So if you could get it in in the next few days,
21 that would be great. The trial is set for the 19th, so
22 preferably in the next week sometime, as early as you
23 can. That would be great.

24 MS. DIERKING: Sure. We can do it this week.

25 Is there an ability to provide it to the Court
26 electronically?

27 THE COURT: Yes. Before you leave, make sure
28 you get my clerk's e-mail address.

1 MS. DIERKING: Then we should be able to do it
2 by Friday.

3 THE COURT: So that concludes Detective
4 Catanio.

5 Now as to Officer Kimberly Lim --

6 MS. DIERKING: Your Honor, before we move on
7 from Detective Catanio, I had a question with respect to
8 the sealed records, the IA complaint.

9 Is there a certain time period that that would
10 be maintained on file, or is there a procedure where the
11 City could request that that be purged, or how would
12 that work?

13 THE COURT: If there were to be a conviction in
14 this case, and these are charges relating to child
15 molest, there could be lengthy appeals.

16 So we have our own internal policies for
17 destroying files after a certain time. I can't recall
18 at the moment if it's statutory or we have our own
19 internal policies, but there is probably like a 15,
20 20-year period that they sit there.

21 I can say that anything that is filed sealed no
22 one can open those other than a judge. There has to be
23 an order of a judge to open those files. If they do,
24 it's a crime.

25 So that's the best we can do. We do keep them.

26 I can't tell you that there is not going to be
27 somebody who commits a crime and opens a file they
28 shouldn't, but we do keep very sensitive things, as you

1 can imagine, in court files under seal all the time, and
2 so we do have security for that and all those things.

3 So we'll follow all those rules. I just don't
4 know how long an appeal could take on a case like this.
5 It could go very high theoretically, so we have to keep
6 it through that process.

7 If there is an acquittal completely, then stay
8 in touch with the DA's office, because certainly if
9 there is an acquittal everything can be returned. I can
10 make an order to have it released back to you right
11 after the trial is over. So in theory that would be in
12 a couple months.

13 But if there is a conviction of any felony
14 count, or even a misdemeanor or felony count, then there
15 would be a different time period. If it's a misdemeanor
16 it would be a fairly short time. If it's a felony it
17 could be many years.

18 MS. DIERKING: Thank you, Your Honor.

19 The City has various obligations under our MOU
20 with the Police Officers' Union, so I wanted to make
21 sure that I ask the question so I can provide that
22 information.

23 Thank you.

24 THE COURT: All right.

25 Q So Officer Lim. So you did the same.

26 All of the steps that you took in looking at
27 Detective Catanio 's personnel files, you took the exact
28 same steps as to Officer Lim?

1 A That's correct.

2 Q You looked in the same three places that we
3 talked about.

4 And I think we already covered the fact that
5 the first one you look at -- I forget the name now.

6 A The division file, Your Honor.

7 Q The division file had no disciplinary issues in
8 it. And in fact, it usually has to do with
9 commendations, and there was nothing in there that is
10 even remotely relevant to what we are doing here today;
11 is that correct?

12 A That's correct.

13 Q And the second was the file that the chief has,
14 keeps.

15 You do have that, correct?

16 A That is in your possession just to your right.

17 Q This is a larger file, it looks like, since
18 Officer Lim has perhaps been working longer?

19 A That's correct.

20 Q And there was no IA file at all, correct?

21 A That's correct.

22 Q And just as with Detective Catanio, is it
23 correct that you found no issues, any disciplinary
24 issues, files, related to Officer Lim related to the
25 areas that Ms. Ferrentino made her motion on?

26 A That's correct.

27 Q Were there any disciplinary issues, period?

28 A There were one.

1 Q Is that contained in here or somewhere else?

2 A It's contained in the personnel file.

3 Q That I have in my hands right now?

4 A That's correct.

5 Q So I will review all of this again.

6 On the left-hand side of this file it is just
7 as before. This has to do with an offer to work. It
8 extends an offer to Ms. Lim.

9 It has a 1099 or a form W-4 on it.

10 It has her oath of allegiance, Certificate of
11 Live Birth, Social Security number, driver's license,
12 military training, diploma from college, transcripts
13 from college and high school it looks like. High-school
14 diploma, fingerprints, and employment history.

15 So nothing else there.

16 On the right-hand side under "Training and
17 Education" it shows that she is proficient with weapons
18 there.

19 Has her certificate of advanced POST training.

20 A copy, again, of her bachelor of arts degree.

21 Intermediate certificate and beginning basic
22 certificate from POST.

23 That concludes that tab.

24 Then we have "Commendations."

25 So she received multiple commendations for
26 work, looks like, from civilians, and also from the
27 chief of police.

28 The next is a tab on discipline.

1 The discipline is a written reprimand to
2 Officer Lim because she was involved in an on-duty
3 traffic collision. It was non-injury traffic collision.
4 Apparently she may have violated 21658 of the Vehicle
5 Code; in other words, she went out of her lane. "Unsafe
6 lane change" is what we used to call that. I don't know
7 if it still is.

8 But the board determined that it was
9 preventable; in other words, she failed to stay in her
10 lane and a collision occurred.

11 Nobody got injured, so they gave her a written
12 reprimand, and that looks like it was signed off by the
13 chief in 2015. So not only is it over five years, but
14 also it certainly does not involve any type of moral
15 turpitude or *Brady* material or anything related to her
16 ability to do any of the things that are involved in our
17 current case, and certainly no misconduct would be
18 suggested in any of the categories by Ms. Ferrentino,
19 alleged by Ms. Ferrentino.

20 The next one has to do with evaluations, and it
21 looks like this just a long -- a large section of files
22 going back multiple years where she was evaluated,
23 performance evaluations, just on-the-job performance
24 evaluations.

25 Then there is a section on miscellaneous. It
26 has emergency contact information.

27 Request for confidentiality of her home and
28 address and her vehicle.

1 Has payroll -- notice of payroll changes.

2 These are all these were called "PIs" in the
3 last file I looked at, but it looks like every time she
4 received a change in pay she received one of these, so
5 it goes back many years.

6 Emergency contact information, that kind of
7 thing.

8 A lot of miscellaneous. A lot of photographs
9 of her shaking the hands of what looks like many other
10 important people, maybe a chief or somebody.

11 Department-issued equipment list, that kind of
12 thing.

13 So that is a complete review of this entire
14 file, and the Court finds there is nothing in here
15 whatsoever that should be turned over, and that is -- I
16 am not going to make a copy of this because I did go
17 through and describe everything that was in this file.

18 The only thing I did not describe in detail
19 were the performance reports or evaluations because they
20 are so numerous. It's a very long, involved evaluation.

21 These are good evaluations, above average in
22 most areas, and there is just nothing in here that could
23 be related to any of the issues involved in our case.
24 So I am not going to read them page by page, but it's
25 just multiple performance evaluations.

26 All right. I think that concludes the hearing
27 then on this case. I will return both of these files to
28 the witness, and let me see if my clerk is finished

1 making a copy of the other.

2 So at this time I am going to order that this
3 hearing be confidential, and that the court reporter --
4 this be sealed by order of the court, and a transcript
5 of this shall not be released without a further court
6 order.

7 I think that concludes our hearing.

8 Anything else anybody wanted to say?

9 MS. DIERKING: No, thank you, Your Honor.

10 THE COURT: Here you go.

11 MS. DIERKING: Thank you.

12 (Proceedings resumed in open court.)

13 THE COURT: We are back on the record on the
14 Patricia Lane case.

15 We were in a closed in-camera hearing on a
16 Pitchess motion. I was with the custodian of records
17 from the Folsom Police Department, as well as their
18 attorney, Ms. Sari Dierking.

19 I conducted an in-camera review of those
20 records, as I indicated, and at this time there is -- we
21 are back in the presence, I should say, of the
22 defendant, and also her attorney, Ms. Ferrentino, and
23 members of the public who are present.

24 There is nothing to turn over to the defense
25 after my review, except I did take the extra step we
26 were discussing beforehand, that the parties agreed I
27 could look for training materials and things like that,
28 or training on certain areas involving interviewing, so

1 I did that, so there will be some things that you will
2 be getting from that.

3 So what I did was make an order about what
4 should be released. There will have to be some
5 redactions, obviously, and then you will get that soon.

6 What Ms. Dierking is going to do is, she is
7 going to send the areas that I said need to be
8 discovered to you.

9 MS. FERRENTINO: Okay.

10 THE COURT: She'll send that to the court with
11 a protective order. I'll sign that protective order and
12 notify you. And I think she can do that by e-mail.

13 MS. FERRENTINO: Okay.

14 THE COURT: I think you said you can get it to
15 us tomorrow?

16 MS. DIERKING: Yes.

17 THE COURT: Friday.

18 MS. DIERKING: I should be able to get it to
19 the court by the end of the week.

20 THE COURT: Today is Wednesday, and she'll get
21 it to us, and I'll get that over to you the same day so
22 I don't slow you down.

23 I think that covers everything for now.

24 I can say this. As to any issues with the
25 Folsom Police Department, you are free to go. I do have
26 a couple areas I still need to discuss with
27 Ms. Ferrentino ex parte regarding a subpoena that she
28 sent on something else altogether, so you guys are free

1 to go.

2 MS. DIERKING: Thank you.

3 THE COURT: So we are now in the presence --
4 the only people present now, again, is just the Court,
5 and obviously staff, the defendant, Ms. Ferrentino, and
6 there are a couple people in the audience, and I don't
7 know who they are, and I don't know if you want me to
8 talk about them in front of them.

9 MS. FERRENTINO: It's my investigator and
10 Ms. Lane's uncle who is not a witness in the case.

11 THE COURT: So these are subpoenas you didn't
12 want -- that you were subpoenaing things that you said
13 were confidential, so as long as you are comfortable
14 with me talking about it, I will do so.

15 The transcript, if there is one, of any of
16 these proceedings, I am going to order that they cannot
17 be released to the DA, certainly not until the trial is
18 completed. These are not to be released to anyone until
19 this trial is completed without order from this Court.

20 There is no need for these to be private after
21 trial is over. If there were to be a conviction anyone
22 could see them, so it would no longer be privileged
23 information.

24 By "privileged" -- I shouldn't say
25 "privileged." It's just information that currently the
26 defense, for strategic reasons, doesn't want the DA to
27 know what she is doing, but after the trial it would not
28 matter.

1 You agree?

2 MS. FERRENTINO: I don't know exactly what the
3 Court is referring to. I think I do. So there may be
4 some privilege that doesn't get exposed during the
5 trial. I don't know.

6 THE COURT: I guess all I'm talking about, I
7 received some subpoenas -- I received some documents,
8 excuse me, that you subpoenaed, that I was trying to do
9 a review of.

10 MS. FERRENTINO: Okay.

11 THE COURT: And I don't know how to go about
12 the review, so I am going to put it back on you.

13 -- So what you did was, you ordered records
14 from -- or subpoenaed records from somebody named Lisa
15 Larson. She is a custodian of records. It says -- oh,
16 "MFT," marriage and family therapist. You ordered
17 records from her.

18 I only have two documents in here as to what
19 you were trying to get, and maybe you can look at them
20 and tell me what you were trying to get, and then you
21 can maybe help me out.

22 MS. FERRENTINO: Are you only as to these two?
23 Because I issued five subpoenas to her.

24 THE COURT: That's all we got back. That's
25 what came in the mail, or attached, or was inside the
26 envelope.

27 So the records that I got from her, though,
28 seem to be far more than what those -- more than what

1 you have there in your hand.

2 So I don't know how -- she put so much in here.
3 I mean, as you can see -- I'm holding them up for you.

4 These records are really -- it looks like it's
5 on binder paper, college-ruled paper, and it would
6 appear to me that what's going on is that the therapist
7 was simply writing notes, and she must have just written
8 a lot of notes every time she had a counseling session.

9 It's really hard for me to figure out who she
10 is even talking to that day. Sometimes she'll put at
11 the top a name of a person she's talking to, and
12 sometimes it looks like maybe even somebody goes out of
13 the room, and somebody comes back in the room, or maybe
14 it's a different day altogether.

15 Mostly they are dated the date of the session,
16 but I get the impression it's almost like a group
17 counseling. Maybe two or three people in the same
18 family are utilizing the same person.

19 So I can't figure out what to discover.

20 Obviously some of these are for your client --
21 MS. FERRENTINO: Mm-hmm.

22 THE COURT: -- and obviously you can have
23 everything from your client, but I don't know how to
24 figure that out.

25 So my clerk told me that you had e-mailed her,
26 and there might have been some mix-up, that you had,
27 actually, releases for a couple of the people that you
28 had sent Ms. Larson, and you were hoping to get those

1 sent directly to you --

2 MS. FERRENTINO: That's correct.

3 THE COURT: -- and they never should have been
4 sent to the court separately.

5 So I don't know how to do this unless we do
6 this over. By "doing it over," meaning you contact
7 Ms. Larson, have her, with your release -- whoever is
8 releasing their information -- which I think was your
9 client and perhaps her spouse -- have those separately
10 sent to you, and then have only the balance of what it
11 is you are looking for sent to the court, and have them
12 hopefully separated by a staple or something, and
13 titled.

14 Even if it had a page that said so-and-so, then
15 I would know that's the person, and I could see those
16 are the records for that person. But when they are all
17 lumped in together, it's really difficult for me to
18 figure out -- she has a very informal style, as you'll
19 see when you read them, and sometimes there are things
20 written on the side of the paper, and arrows pointing in
21 this direction and that direction. It's very difficult
22 to figure out what it means.

23 MS. FERRENTINO: I did issue her releases
24 probably three months ago. We got responses that we
25 couldn't connect on, so we just issued subpoenas because
26 we weren't getting the materials.

27 Then when she finally got served with the
28 subpoenas -- that took a long time -- I got a phone call

1 from her, and she was going to release them to me by way
2 of release.

3 She finally got the records, and she said they
4 were all combined together, so she was going to send
5 them to the court.

6 So I've gone the release route.

7 What I will tell you is, she was Ms. Lane's
8 primary therapist throughout a number of years, and
9 helped with various issues that Ms. Lane dealt with that
10 I really need for my evaluation that we are trying to
11 get done soon.

12 THE COURT: I have no problem giving you these.

13 MS. FERRENTINO: In addition, Rob Lane, her
14 husband, also signed a release for his records.

15 The other individuals were all minors of Rob
16 Lane and Patty Lane when they saw Ms. Larson. So Patty
17 Lane was the parent, and was talking to her -- kind of
18 like the Theresa Davis, if you recall.

19 I think the finding was that Bob was the
20 patient, but grandma and grandpa and Patty went, and
21 Ms. Lane went, and Mr. Lane went. Like, they all went
22 for a session with him.

23 There is a session I think where Rob -- sorry,
24 Bob -- one of the accusers in the case came in, and
25 that's where the initial complaint is made regarding
26 these allegations.

27 And then Ms. Larson brings in Rob, who is
28 Ms. Lane's husband, and in that same session and the

1 next session all three of them come back -- Bob,
2 Ms. Lane, and Mr. Lane -- so they are all kind of
3 combined together.

4 So I think they are all very relevant to this
5 case.

6 THE COURT: You don't have to convince me of
7 anything. I just can't figure out how to review these.
8 I don't know how to review them because I don't know who
9 she is talking to sometimes. I can't figure out if
10 there is more people in the room at the same time,
11 et cetera. It's confusing.

12 So I want everything taken out of here that
13 belongs to your client. Because obviously you can have
14 your client's information. You guys can get it without
15 me being involved.

16 MS. FERRENTINO: I couldn't. I tried. She
17 wouldn't give them to me.

18 THE COURT: Okay. Here is what I am going to
19 do.

20 I can't figure this out, so I am going to turn
21 over nothing to you the way they are now because I can't
22 figure out -- these records are a mess.

23 There are records. There are things that look
24 like maybe it's relevant, but I don't know who she is
25 talking to always.

26 I don't even know if they are in order because
27 there is no page numbers. It's really -- I mean, look
28 at this. It's page after page after page of written

1 notes.

2 And I think it's her notes, but I don't even
3 know if it's the therapist's notes. I am assuming it
4 is, but I can't really assume that for the purpose of
5 this.

6 There is nothing about this that would tell me
7 how to interpret this, so you are going to have to, it
8 seems to me, subpoena her to directly to make her come
9 to court, which I don't think she is going to want to
10 do.

11 MS. FERRENTINO: I already have, actually. I
12 have her on call. Because I wasn't able to get the
13 records. We didn't check the box where she could just
14 provide the records.

15 THE COURT: I am going to leave it up to you.
16 I don't care how you do it, but I can't figure out what
17 to do, and I need to be able to make some sense of this
18 in order to turn over anything to you.

19 I know you want me to review some of these, and
20 I'm happy to do so, and I'm happy to turn your client's
21 information over. I just don't know.

22 I think, for example, Rob Lane, I think --

23 MS. FERRENTINO: That's her husband.

24 THE COURT: -- it looks like that's in one
25 session. It even had a paper clip on it. It seems like
26 that's fairly clean.

27 MS. FERRENTINO: I do have a release for that
28 that I can send to the Court if that would be helpful.

1 THE COURT: It would be helpful.

2 THE CLERK: I have that already.

3 THE COURT: Okay. So you have a release for
4 Rob Lane.

5 So here is what I am going to do for this
6 section. I am going to turn over the ones for Rob Lane.

7 MS. FERRENTINO: Perfect.

8 THE COURT: I am going to give them to my
9 bailiff to give to you. But nothing is numbered, and I
10 don't know how to track it for you, okay?

11 MS. FERRENTINO: Okay.

12 THE COURT: So you are receiving --

13 MS. FERRENTINO: Want me to count the pages?

14 THE CLERK: What should I put on the minute
15 order?

16 THE COURT: It's release of counseling records
17 for Rob Lane.

18 MS. FERRENTINO: I think there is 12 pages
19 double-sided.

20 THE CLERK: And then the rest held in the file?
21 Do you want to have a written release or not?

22 THE COURT: Yes. Pursuant to written release
23 by Rob Lane.

24 MS. FERRENTINO: Are there any others that
25 happen to be packaged that nicely?

26 THE COURT: There is about 100 pages here, it
27 looks like, that I put a clip on because they all seemed
28 to be -- I think this is really Ms. Lane's.

1 There are times it's difficult, and I read it,
2 and I'm like maybe not. There some in here that doesn't
3 seem to be the same.

4 Buried in the middle, for example, there is
5 information -- something about Christian, and I don't
6 know why it's in here.

7 MS. FERRENTINO: Does it impact the Court's
8 analysis if they were minors brought to Lisa Larson by
9 Rob Lane and Patty Lane?

10 Because Patty is the one that saw Lisa Larson
11 the most for a longer period of time, and at certain
12 times the kids would come in on an issue.

13 THE COURT: What my issue is, records on a
14 minor -- or more specifically in this case it's more
15 that they are the complaining witnesses, right --
16 whether or not this should be turned over when I balance
17 out the constitutional rights of the defendant and the
18 rights of privacy for the witness.

19 MS. FERRENTINO: For example, when Bob made his
20 complaint relevant to this case, Rob Lane was in the
21 room.

22 THE COURT: I have to be careful here. I can't
23 have too much ex parte discussion about this.

24 MS. FERRENTINO: Okay.

25 THE COURT: All I can say is, you are going to
26 have to trust me on this since you haven't looked at
27 these, but it's hard to figure out who is in the room.
28 I don't even know who is in the room.

1 These records are not very organized.
2 There's -- almost nothing is typed. Everything is
3 handwritten. I can read the handwriting okay, but what
4 I can't tell is who is in the room.

5 Obviously there are times when more than one
6 person is in the room, but it will just have a date, for
7 example, and then like bullet points, like it seems like
8 these are statements maybe attributable to somebody, but
9 it might just be these are subjects being discussed.

10 It's hard to say for sure. I just don't know
11 who else is in the room, and I don't know whether it's
12 discoverable or not because of that, or not
13 discoverable. I don't know if I should turn it over to
14 you. It's just difficult to say. I don't even know
15 what to make of them, I guess.

16 If I know it's one of the minors that is being
17 discussed or in the session, then I can -- then I'm
18 fine. I can figure that out. But I don't know if the
19 minor is in the room or not. I just don't know who
20 these people are.

21 MS. FERRENTINO: Perhaps I'll see if she can go
22 through that portion of it and label at least who was in
23 the room.

24 THE COURT: Right. If she could go through
25 that.

26 So exclude Rob Lane. I gave that you packet.

27 MS. FERRENTINO: Okay.

28 THE COURT: There's another packet that seems

1 to do with somebody named "Bob."

2 MS. FERRENTINO: That would be Bob Lane.

3 THE COURT: And "Bob" is not short for Rob?

4 MS. FERRENTINO: No. So Bob Lane would be --

5 THE COURT: At least that's your opinion.

6 I wish she said in here the person's full name,
7 for example. But I don't know if "Bob" means Rob to
8 her, regardless of what it means to you. I don't know
9 what she means by it.

10 MS. FERRENTINO: Okay.

11 THE COURT: And it's not obvious always.
12 Sometimes it's obvious we are talking about a kid
13 because high school is discussed or school is discussed.
14 So that's -- that will be easy sometimes.

15 And sometimes she actually does put "Bob Lane,"
16 for example. And then, I don't know. I just wish she
17 would give me a legend, like Bob Lane is this kid as
18 opposed to an adult and then...anyway.

19 Are mom and dad in the room with him at the
20 time of the therapy or is it personal?

21 I don't know.

22 MS. FERRENTINO: And maybe I just need to have
23 her come to court and explain.

24 THE COURT: Right. Maybe just the threat of
25 having to come to court -- if she just sat down and
26 labeled these, that would be helpful too.

27 So I hope that helps you a little bit.

28 MS. FERRENTINO: On the two records that the

1 Court didn't disclose, I wanted to provide further
2 information.

3 Do you want me to do that?

4 THE COURT: That will be in writing. Has to be
5 in writing.

6 MS. FERRENTINO: I will.

7 THE COURT: I don't want to prolong this
8 either. We have to have a record of it.

9 MS. FERRENTINO: That's fine.

10 Would the Court allow my paralegal to sit at
11 counsel table with me with Ms. Lane?

12 THE COURT: File a motion on it. The code
13 doesn't say paralegals.

14 MS. FERRENTINO: I've had it before when there
15 is a lot of material and there is a lot of different
16 people.

17 We are moving to trial --

18 THE COURT: This is an issue I can't discuss
19 ex parte. Make a motion on that as part of your
20 in limine motions, and we'll talk to Ms. Cochrane.

21 Thank you, guys.

22 (Proceedings adjourned at 3:39 p.m.)

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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2
3 STATE OF CALIFORNIA)
4 COUNTY OF SACRAMENTO) ss.
5

6 I, Dianne Coughlin, hereby certify that I am a
7 Certified Shorthand Reporter and that I recorded verbatim
8 in stenographic writing the proceedings had on Wednesday,
9 July 7, 2021, in the matter of the People of the State of
10 California, Plaintiff, versus Patricia Lane, Defendant,
11 Case No. 19FE010439, completely and correctly to the best
12 of my ability; that I have caused said sealed
13 stenographic notes to be transcribed into typewriting,
14 and pages 51 through 115 constitute a complete and
15 accurate transcript of said stenographic notes taken at
16 the above-mentioned proceedings.

17 I further certify that I have complied with CCP
18 237(a)(2) in that all personal juror identifying
19 information has been redacted if applicable.
20

21 Dated: 16th day of October, 2021
22
23
24

25
26 
27 _____
28 Dianne Coughlin, RDR, CRR, CSR
Certificate No. 10418

