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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SOLANO  
THE HONORABLE DANIEL HEALY, JUDGE



---oOo--

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

vs. No. VCR233208  
DOMINIC MILANO,  
Defendant.

/

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
MARCH 23, 2022

---oOo---

A P P E A R A N C E S

For the People: BRUCE FLYNN,  
Deputy District Attorney  
County of Solano  
Vallejo, CA 94590

For the Defendant: NICK FILLOY and  
TRACY KRAUSE,  
Deputy Public Defenders  
Vallejo, CA 94590

For the City of Vallejo: KATELYN KNIGHT,  
Assistant City Attorney  
CA 94590

Reported by:  
CHRISTINE L. WESNER  
Certified Shorthand Reporter  
No. 10767

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SESSIONS

MARCH 22, 2022

PAGE

Morning Session

4

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MASTER INDEX

CHRONOLOGICAL ORDER OF WITNESSES

FOR THE DEFENDANT: PAGE

DAVID McLAUGHLIN

Direct Examination by Mr. Filloy 5

ROBERT GIORDANO

Direct Examination by Mr. Filloy 20

JAKE ESTRADA

Direct Examination by Mr. Filloy 47

EXHIBITS

FOR THE PEOPLE:

NO.	DESCRIPTION	ID	EVID
NO EXHIBITS			

FOR THE DEFENDANT:

NO.	DESCRIPTION	ID	EVID
NO EXHIBITS			

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1 MARCH 23, 2022

MORNING SESSION

2 ---oOo---

3 THE PEOPLE OF THE STATE OF CALIFORNIA versus DOMINIC  
4 MILANO.

5 The above-entitled cause came regularly this day for  
6 hearing before the Honorable DANIEL HEALY, Judge.

7 THE PEOPLE OF THE STATE OF CALIFORNIA were represented by  
8 BRUCE FLYNN, Deputy District Attorney for Solano County.

9 The Defendant, was present and represented by NICK FILLOY  
10 and TRACY KRAUSE, Deputy Public Defenders for Solano County.

11 The City of Vallejo was represented by KATELYN KNIGHT,  
12 Assistant City Attorney.

13 CHRISTINE L. WESNER, RPR, CSR No. 10767, was present and  
14 acting as an Official Shorthand Reporter for the County of  
15 Solano.

16 The following proceedings were then and there had, to  
17 wit:

18 P R O C E E D I N G S

19 THE COURT: Mr. Milano's back, counsel are all present.  
20 We're on the record continuing with our 402. I indicated we  
21 could bring some folks back for basically some pinpoint  
22 questions. Hopefully this is going to be really quick. I  
23 think McLaughlin, Estrada, Giordano.

24 Ready to role, Mr. Filloy?

25 MR. FILLOY: Yes.

26 THE COURT: Who do you want to you call?

27 MR. FILLOY: Officer McLaughlin.

28

1                   DAVID McLAUGHLIN,  
2                   having been duly sworn, was  
3                   examined and testified as follows:  
4

5           THE WITNESS: I do.

6           THE CLERK: Please state your full name, spelling your  
7 last for the record.

8           THE WITNESS: David, D-A-V-I-D, McLaughlin,  
9 M-C-L-A-U-G-H-L-I-N.

10          THE COURT: Mr. Filloy.

11                                   DIRECT EXAMINATION BY MS. KRAUSE: Q.

12 Good morning, Officer McLaughlin.

13 A. Good morning.

14 Q. How are you employed?

15 A. With the City of Vallejo as a police officer.

16 Q. And how long have you worked there

17 A. A little over seven years.

18 Q. Did you work anywhere else before that?

19 A. I did. Oakland.

20 Q. At some point in your career as a law enforcement officer  
21 did you hear about badge bending?

22 A. I did.

23 Q. When did you first hear about badge bending?

24 A. I can't say if it was on or right around the time -- I  
25 couldn't say if it was right before it happened or right  
26 after when I was involved in a shooting at Vallejo.

27 Q. Is that the shooting in 2016?

28 A. Yes, ma'am.

1 Q. That's the shooting you had with Officer Komoda?

2 A. Yes, ma'am.

3 Q. That was the first shooting that you had; is that right?

4 A. Yes, ma'am.

5 Q. You can't say whether or not you heard about it  
6 beforehand?

7 A. I can't say. It was right around that time.

8 Q. Do you think you may have heard about it beforehand?

9 A. I don't know.

10 Q. Okay. And the 2016 shooting was Officer Kent Tribble  
11 your supervisor at the time?

12 A. I believe he was, yes, ma'am.

13 Q. Okay. And in that shooting, did you or Officer Komoda  
14 strike anyone in that shooting?

15 A. No, ma'am.

16 Q. You discharged your firearms?

17 A. Yes.

18 Q. Okay. Were you or Officer Komoda, to your knowledge,  
19 ever critical of your performance of that shooting?

20 A. You always look back on crazy stressful situations. I  
21 think we did the best we could with the situation that  
22 presented itself.

23 Q. Now, did you ever express anything to Kent Tribble about  
24 how you felt about your performance in that shooting  
25 afterwards?

26 A. Not that I recall, no.

27 Q. Do you recall if you ever expressed to Kent Tribble, or  
28 anyone else, that you felt badly because the bullets, when

1 you shot at the vehicle, didn't penetrate the vehicle?

2 A. I don't remember saying that, no.

3 Q. Okay. Did you do you recall hearing Officer Komoda say  
4 that to Kent Tribble?

5 A. I don't remember him saying that, no.

6 Q. Okay. Okay. So, after this shooting, you do your  
7 interviews?

8 A. Yes, ma'am.

9 Q. And then at some point my understanding is that Kent  
10 Tribble contacts you; is that right?

11 A. Yes.

12 Q. Can you explain that?

13 A. It was either the next day or -- I don't remember  
14 exactly, but within a couple days he said, "Hey meet me at  
15 the Relay", which was a bar across the street from the  
16 Vallejo Police Department.

17 Q. Do you remember how Kent Tribble contacted you?

18 A. I don't remember if it was either phone or verbal, we  
19 worked with him. I don't know.

20 Q. Do you remember where you were when he contacted you?

21 A. No.

22 Q. Do you remember if Officer Komoda was with you at the  
23 time or not?

24 A. I don't remember that.

25 Q. So Kent Tribble says, "Hey, come over to the Relay", does  
26 he say anything else?

27 A. He said, "Bring your badge".

28 Q. Okay. And so then did you go over to the Relay?

1 A. Yes.

2 Q. Okay. When did you go?

3 A. I don't know the time, ma'am. It was -- I believe it was  
4 getting dark, or dark. I don't know the time.

5 Q. Okay. After an officer-involved shooting, there's like  
6 an interview process, right?

7 A. Yes, this was days -- this wasn't the same day.

8 Q. Okay. That's what I am getting at. So, you do your  
9 interviews, then are you placed on some time of standard  
10 leave?

11 A. I think it depends on, for leave, if there was injuries  
12 in the shooting.

13 Q. Okay. So you're not necessarily placed on leave?

14 A. You would have to check, but I don't believe so.

15 Q. Do you recall being at work or on leave when Kent Tribble  
16 asked you?

17 A. I don't believe I was on leave.

18 Q. Okay. So you said that you believe that it was a couple  
19 of days after the August 2016 shooting?

20 A. I don't remember exactly but I know it wasn't -- from my  
21 recollection I know it wasn't the same day.

22 Q. Not the same day. Do you think it could have been the  
23 day after that?

24 A. In the next couple days, ma'am, I don't know exactly  
25 when.

26 Q. You can't say. Can you exclude that it was the day  
27 after?

28 A. I don't know.



1 Q. I'm sorry?

2 A. I don't know.

3 Q. Okay. So you went over to the Relay?

4 A. Yes, ma'am.

5 Q. And what's the Relay?

6 A. It's, like I explained, it's a bar across from the  
7 Vallejo Police Department.

8 Q. How did you get to the Relay?

9 A. I walked.

10 Q. Okay. Did you walk with Officer Komoda?

11 A. You know, I don't remember.

12 Q. Okay. When you got to the Relay, who was there?

13 A. There was some other people in the bar, but Kent, who was  
14 a sergeant at the time, was there. So Sergeant Tribble,  
15 there's two Tribble brothers, but it was Sergeant Kent  
16 Tribble then officer coleman.

17 Q. Okay. Do you recall if Officer Komoda was already there?

18 A. I don't remember. I know at a certain point the four of  
19 us were there.

20 Q. You remember Sergeant Kent Tribble, Officer Komoda  
21 yourself and Officer Coleman?

22 A. Yes, ma'am.

23 Q. Okay. That's Joshua Coleman, right?

24 A. Yes.

25 Q. You had worked with Joshua Coleman before for a period of  
26 time; is that right?

27 A. Yes. He was there before I started.

28 Q. And can you describe what happened after you arrived?

1 A. We got a beer, I believe, and then from what I remember  
2 Josh really didn't say anything, Officer Coleman. Then Kent  
3 basically at a certain point said, "hey, can I have your  
4 badge". I believe he did the same thing with Officer Komoda  
5 right around the same time. And he said, "You guys can hold  
6 yourself professionally, that was a scary life or death  
7 situation", but it wasn't -- to me it wasn't interpreted as  
8 he didn't say hey, man, great job getting that shooting.  
9 That would really freak me out. That's not what he said.  
10 So, I don't know. All I can say is what was told to me at  
11 the time.

12 Then later on when that article came out I freaked out.

13 Q. Okay. So, you said that you don't remember Joshua  
14 Coleman really doing anything?

15 A. He didn't touch my badge or anything, from what I  
16 remember. I don't remember really him saying anything about  
17 Kent bending the badge.

18 Q. Did you guys have any kind of conversation about the  
19 shooting beforehand, the 2016 shooting that was just a couple  
20 days before?

21 A. I don't remember specifically talking about the actual  
22 incident. I think both said, "you guys handled yourself as  
23 well as you could professionally".

24 Q. So it did come up?

25 A. Yeah, I mean, just from what I remember.

26 Q. Yeah. You said that at some point after you had a beer,  
27 is it one beer or two beers?

28 A. I don't remember. A beer or so.

1 Q. After you had one beer or two beers, Sergeant Kent  
2 Tribble took your badge and then bent it; is that right?

3 A. Yes, ma'am.

4 Q. Okay. And do you recall whether he did this separately,  
5 meaning did your badge first then Komoda's, or did it happen  
6 at the same time?

7 A. It would take two hands to bend the badge, I would  
8 assume. So, I don't remember who he did first.

9 Q. Okay. And what specifically did Kent Tribble communicate  
10 to you guys? I know you kind of said you did a good --

11 A. Basically what I interpreted, I couldn't give you a  
12 quote. But I interpreted it as you guys handled yourself  
13 professionally in a life or death situation, basically.

14 Q. Okay. Did he tell you, you know, you guys something to  
15 the effect of, you guys were from a stressful situation where  
16 you used your handguns?

17 A. I don't remember it ever being specifically hey, this is  
18 for a shooting, but just basically more of a critical life or  
19 death incident, basically.

20 Q. Okay. Was he saying that you guys did a good job; is  
21 that sort of what you got from it?

22 A. I wouldn't say he was saying hey, great job getting into  
23 a shooting. He said you handled yourself professionally. I  
24 guess as good as a job we could, given the circumstance.

25 Q. Did you give a statement to Robert Giordano in 2021?

26 A. Yes, ma'am.

27 Q. And that statement was about the badge bending?

28 A. That's what the investigation and the statement was for,

1 yes.

2 Q. When you gave that statement to Mr. Giordano, do you  
3 recall telling Mr. Giordano that Kent Tribble communicated to  
4 you it was a stressful situation where you used your handguns  
5 and you guys acted professionally. Do you recall telling  
6 Mr. Giordano that?

7 A. If it's in the statement, then I did. I don't remember  
8 Kent trying to say, "Hey, you guys", like I said, trying to  
9 illustrate it was a great job for getting into a shooting.

10 MR. FLYNN: Counsel, what page of the transcript are you  
11 referring to?

12 MS. KRAUSE: Page 11 of Officer McLaughlin's.

13 MR. FLYNN: Thank you.

14 BY MS. KRAUSE: Q. So, did you understand it as being tied  
15 to getting -- not necessarily because you shot, but did you  
16 understand that the thing that Kent Tribble was doing was  
17 related to the fact that you guys had been in a shooting?

18 A. I thought it was just because -- I wasn't -- he didn't  
19 come out and say basically hey, this is because this only  
20 happens at shootings. I wasn't a hundred percent sure. I  
21 knew it had to do with the critical incident we were involved  
22 in.

23 Q. Okay. So after this happens, how long were you guys at  
24 the Relay for?

25 A. I couldn't tell you. I don't remember. Not too long.

26 Q. Okay. And afterwards did you go back to the station, did  
27 you go home?

28 A. I went back to the station.

1 Q. Okay. And did you have any sort of conversation with  
2 Officer Komoda afterwards about what happened?

3 A. Yes.

4 Q. What was that conversation?

5 A. Just that it was a bizarre experience. It was weird. I  
6 had never heard of anything like that happening. I had been  
7 told great job by a supervisor, but I've never had anyone  
8 mess with my equipment or anything.

9 Q. And then at some point did you bend your badge back?

10 A. Yes.

11 Q. When did you do that?

12 A. I don't remember exactly when. So, I wear a wool  
13 uniform, which is like a wool uniform is for, I guess court  
14 and other, like, basically your classier uniform, so to  
15 speak, but a utility uniform is what I was wearing at the  
16 shooting. I know it was fixed before I wore my duty uniform  
17 again, which is when I use my badge.

18 Q. So what, did you fix it in 2016?

19 A. Yeah, it was within -- it was very short time frame of it  
20 happening.

21 Q. Okay. And did you ever ask Officer Komoda if he fixed  
22 his?

23 A. I remember him saying he was going to, but at that time  
24 the way it was explained to me this was nothing like, not a  
25 big deal. I thought it was bizarre. It was different. If  
26 he would have said -- it was just bizarre. If he would have  
27 said, "Hey, man I'm very glad no one got injured on that  
28 first shooting. I'm very glad it resolved as peacefully as

1 it could with not one getting injured". If someone would  
2 have got hurt and he would have said, "great job hurting that  
3 guy", I would have told -- that was not why I got into police  
4 work. My dad was a police officer for years, I do not want  
5 to hurt anybody. That's not -- I love getting bad guys off  
6 the street. I love getting guns. But I would never wish an  
7 officer to have to get into a shooting. It's a horrible  
8 experience.

9 Q. So you worked -- at this time in 2016 were you on patrol  
10 with Officer Komoda on a regular basis?

11 A. Yes, we were partners all the time.

12 Q. You were partners all the time. So, you don't have any  
13 kind of follow-up conversation with Officer Komoda at any  
14 time about this thing?

15 A. No, not that I recall. It was no big deal to me. It  
16 didn't mean anything, really.

17 Q. Okay. And did you at any time tell Officer Komoda that  
18 you had bent yours back?

19 A. Not that I recall. No.

20 Q. Okay. Did you, after the 2016 shooting, hear anything at  
21 all at the Vallejo Police Department about badge bending?

22 A. You would hear people like murmurs of people, hear  
23 someone say, badge bending something, but I can't say a  
24 specific time. Like I said, at the time that was explained,  
25 it didn't really mean anything so I didn't really key up on  
26 it or think anything bad about it. When I freaked out is  
27 when that article came out saying police officers are  
28 celebrating death.

1 Q. How frequently would you hear murmurs?

2 A. Very randomly, not very frequently.

3 Q. When you would hear these, were these things that people  
4 told directly to you or were you overhearing conversations?

5 A. No. Overhearing.

6 Q. Okay. So, other people were talking about badge bending  
7 while you were in within earshot?

8 A. Yeah, I have heard people mention it, I couldn't say  
9 specifics.

10 Q. Okay. Now, did you get into another officer-involved  
11 shooting in 2017?

12 A. Yes. Unfortunately, yes.

13 Q. And was that also with Officer Komoda?

14 A. There was other officers, but he was present.

15 Q. Okay. In that shooting did both you and Officer Komoda  
16 discharge your firearms?

17 A. Yes.

18 Q. Other officers did as well?

19 A. Yes, ma'am.

20 Q. Okay. After that shooting, did you and other officers  
21 have drinks afterwards?

22 A. Yeah.

23 Q. Where did that happen?

24 A. At the POA Hall.

25 Q. Were those drinks -- did that happen after you did your  
26 interviews, end of shift, or when that did that happen?

27 A. Yeah, after everything was complete.

28 Q. After you completed your interviews and finished the

1 shift?

2 A. Once everything was done, yes, ma'am.

3 Q. Okay. How long did you stay there at the POA?

4 A. I couldn't tell you.

5 Q. Do you recall who was there at the POA?

6 A. I think everybody that was involved in the shooting and a  
7 few other people came. Again, the article said, that I read  
8 that other celebrations or whatever. Again, that's not --  
9 it's completely misconstrued. It was more of hey, this was a  
10 rough day at work. It was a horrible experience. Here's  
11 some drinks. What I would assume people in business do after  
12 a stressful day at work is to have drinks.

13 Q. Sure. And was the shooting discussed at the POA Hall?

14 A. I'm sure, yeah. I can't think of specifics. I would  
15 assume.

16 Q. And you said that you think everyone was there who was in  
17 the shooting, so that would have been yourself, Officer  
18 Komoda, Officer McDonough --

19 A. Yes.

20 Q. Jake Estrada?

21 A. Yes.

22 Q. Zack Jacobsen?

23 A. Yes, other people came out to support, basically.

24 Q. And do you recall who those other people were?

25 A. No. I remember -- I do remember Jake Estrada's  
26 father-in-law, he's a retired police officer from here. He  
27 was there. And I think my brother was there as well.

28 Q. I'm sorry, who was the last one?



1 A. My brother was there, I believe.

2 Q. That's Ryan?

3 A. Yes.

4 Q. Do you recall if Shawn Kenney was there?

5 A. I don't remember that.

6 Q. Can you exclude whether Sean Kenney was there?

7 A. I just don't remember. I don't know.

8 Q. Okay. Then a couple months or so after the shooting in  
9 2017 -- let me back up. That was in August of 2017; is that  
10 right?

11 A. I believe so. I don't know the exact date, ma'am.

12 Q. Okay. And you think it was around there?

13 A. I believe so, yes.

14 Q. Okay. Did you -- did badge bending come up again a  
15 couple months after that?

16 A. It did.

17 Q. How did that happen?

18 A. I just remember coming in and it was the higher, like  
19 sergeants and lieutenants, I think they were checking  
20 people's badges. Hey, is everyone's badge normal. Again,  
21 just looking back, after reading that article, I was  
22 completely terrified about what the thing said it was about.  
23 But at that time I didn't know anything. Mine was back to  
24 normal. It was -- I bent it back. There was no permanent  
25 damage. I didn't think there was policy violation. I didn't  
26 think anything of it. I just thought, mine's fine.

27 Q. When you heard that your, or people's badges were going  
28 to be inspected, did you think about the fact that your badge

1 had previously been bent by Kent Tribble?

2 A. I did, but briefly. Like I said, the way everything was  
3 explained to me it was not a big deal.

4 Q. Was it your understanding that people's badges were being  
5 inspected at that time to check specifically to see if there  
6 were bent badges?

7 A. I thought they were looking for permanent damage and  
8 wanted everybody to have uniform badges, is what I thought.

9 Q. Did you think that this had any connection to badge  
10 bending?

11 A. Yes, I thought that it was commonplace that people's,  
12 other people's badged had been bent. I didn't really think  
13 too much of it.

14 Q. Is that because you had heard the talk about badge  
15 bending?

16 A. That and what was explained to me. It was not like it  
17 was something weird, but it was weird, and I didn't -- at  
18 that time I was a newer officer when it happened. I thought  
19 maybe that's just the way they're showing you did a good job.  
20 It was bizarre.

21 Q. You said that you recall specifically this coming up, the  
22 inspection coming up, was it -- how long after the shooting  
23 in 2017?

24 A. I couldn't tell you exactly. A couple months. I don't  
25 know exactly.

26 Q. So like a period of months, is that fair to say?

27 A. Yes.

28 Q. Two or three?

1 A. I couldn't tell you exactly.

2 Q. Okay. Not like years --

3 A. No.

4 Q. -- after?

5 A. Not that I recall. No.

6 Q. Do you recall -- do you remember if your badge was  
7 actually inspected?

8 A. I don't remember. I don't know. I thought it possibly  
9 was, but I can't answer that. I don't know for sure.

10 Q. And the badge that had been bent by Kent Tribble, did you  
11 -- were you still using that badge at the time?

12 A. I still have it now, yeah.

13 Q. Okay. And prior to this article coming out, the Open  
14 Vallejo article, at any time did Kent Tribble come to you and  
15 tell you to fix your badge or anything like that at all?

16 A. No, not that I remember at all. No.

17 Q. Do you think that's something that you would remember?

18 A. I believe so. I don't remember him saying that to me.

19 Q. Okay. At the POA Hall after the shooting in 2017, did  
20 you see or hear about anyone bending their badge after that?

21 A. No.

22 MS. KRAUSE: That's all I have for now.

23 THE COURT: Mr. Flynn.

24 MR. FLYNN: No questions, your Honor.

25 THE COURT: Okay. All right. Thank you, sir.

26 THE WITNESS: Thank you, sir.

27 ///

28 ///

1                   ROBERT GIORDANO,  
2                   having been duly sworn, was  
3                   examined and testified as follows:  
4

5           THE WITNESS: I do.

6           THE CLERK: Please state your full name, spelling your  
7 last for the record.

8           THE WITNESS: Robert Giordano, G-I-O-R-D-A-N-O.

9           THE COURT: All right. Mr. Filloy or Ms. Krause.

10                                   DIRECT EXAMINATION

11 BY MR. FILLOY: Q. Good morning, Mr. Giordano.

12 A. Good morning.

13 Q. Mr. Giordano, how are you employed?

14 A. I currently run my own business doing contract internal  
15 affairs work for law enforcement agencies.

16 Q. When you say "contract internal affairs work", can you  
17 describe for the record a little more expansive what that is?

18 A. I'm a retired law enforcement officer, so I don't work in  
19 law enforcement anymore, so I'm a private investigator now.  
20 I get hired by law enforcement agencies to come in and do  
21 internal affairs investigations for them.

22 Q. So this in the mode sort of an independent investigative  
23 auditor that works specific contracts?

24 A. It is one of the things that they get by hiring me is  
25 somebody independent from outside.

26 Q. And prior to this business that you run now, what did you  
27 do professionally?

28 A. I was a law enforcement officer for 29 years.

1 Q. Were you, at one point, the sheriff of Sonoma County?

2 A. I retired as the sheriff of Sonoma County.

3 Q. And prior to that, you worked other law enforcement?

4 A. I worked at two different agencies, one of them being the  
5 Sonoma County Sheriff's Office, spent a full career through  
6 all the ranks in investigative units.

7 Q. In your current capacity were you contacted by the City  
8 of Vallejo to perform an investigation regarding the Vallejo  
9 Police Department?

10 A. I was.

11 Q. And what was the nature of the investigation that you  
12 were contracted to perform?

13 A. It was an allegation of officers bending their badges.

14 Q. Was this an allegation into misconduct or just a  
15 fact-finding investigation?

16 A. No, it was an allegation into misconduct.

17 Q. What was the specified misconduct?

18 A. I'm sorry, I don't know that I understand the question.

19 Q. I mean, when you get contracted by, I presume that when  
20 you're contracted by law enforcement agency to investigate  
21 some kind of misconduct, you know, there's a specific ruling  
22 violation, set of violations, you know, type of misconduct,  
23 conduct unbecoming of an officer, excessive force, that you  
24 may be looking into; is that accurate?

25 A. Yes, that's right. We don't always know what that rule  
26 violation is, so I guess to speak to your question a little  
27 earlier, there always has to be a fact-finding portion first  
28 to figure out that potential rule is. In this case the

1 allegation was badge bending. Was there anything wrong.

2 Q. There was an open-ended sort of contract that question,  
3 to go investigate this and see if there was misconduct?

4 A. Correct.

5 Q. Okay. And what was the manner in which you proceeded to  
6 investigate? I mean, how did you do this?

7 MR. FLYNN: Your Honor, I may object. I believe that we  
8 called Mr. Giordano here to answer some limited questions.

9 THE COURT: We did. This is feeling like --

10 MR. FILLOY: I'm getting to the interview.

11 THE COURT: I'm guessing this is foundational.

12 MR. FILLOY: It is.

13 THE COURT: But I agree, we can do the short version of  
14 the foundation.

15 MR. FLYNN: Okay.

16 BY MR. FILLOY: Q. Did you do -- was large part of this  
17 investigation interviews?

18 A. It was. The bulk of the investigation was interviews.

19 Q. Were these interviews audio recorded?

20 A. They were.

21 Q. So, when you wanted to interview specific officers, I am  
22 assuming you didn't interview every single Vallejo police  
23 officer, right?

24 A. I did not.

25 Q. Okay. And when you wanted to interview a specific  
26 officer, you send them a notice or you have the chief send  
27 them a notice?

28 A. Yes, I had the agency send them a notice.

1 Q. They have a process where they get a lawyer and schedule  
2 an interview with you?

3 A. Correct.

4 Q. Did the notice contain some information for them to come  
5 prepared to the interview?

6 A. It does. It's required.

7 Q. Okay. Did the notice that your investigation was sending  
8 out to these officers, did it indicate anything about  
9 bringing any physical items to the interview?

10 A. Yeah, I asked some of them to bring their badges.

11 Q. When you say you asked them to bring their badges, did  
12 you ask them to bring a specific badge or all badges or all  
13 metal badges, or anything of that nature?

14 A. I believe the phrase used was all badges.

15 Q. All badges in their possession?

16 A. Correct.

17 Q. Okay. When you are doing audio recorded interviews,  
18 which I'm assuming you've been trained to do, right?

19 A. Correct.

20 Q. You're pretty specific about letting the tape reflect  
21 what you're looking at because there's no video, you can't  
22 see?

23 A. I work hard to get that right.

24 Q. Right. So, when officers would come to these interviews  
25 and they bring their badges, you say like, for example, "All  
26 right. For the record you're showing me two metal badges,  
27 one is flat, one is a duty badge", something of that nature?

28 A. Correct.

1 Q. Did you have an interview with Matthew Komoda?

2 A. I did.

3 Q. Did that occur in March of this year? I'm sorry, last  
4 year?

5 A. March of '21, I believe.

6 Q. Right. And did you give him notice to bring his badges  
7 to that interview?

8 A. I did.

9 Q. And did you reflect in your interview recording and your  
10 report whether or not he brought any badges?

11 A. I did. I reflected -- I'm sorry, and he did.

12 Q. Did he bring a single badge or multiple badges?

13 A. A single badge.

14 Q. And was that single badge an officer duty badge?

15 A. I'm sorry, I don't recall if it was an officer or a  
16 corporal badge, or which one it was.

17 Q. So, did the badge -- you don't know if the badge said  
18 "corporal" or "officer" on it?

19 A. I do not.

20 Q. Okay. Did Officer Komoda represent to you that this was  
21 the badge that had previously been bent?

22 A. I did not have that conversation with him, either. I  
23 literally inspected the badge he brought.

24 Q. So you don't actually know if the badge -- he did tell  
25 you his badge was bent at one point, right?

26 A. That is correct.

27 Q. You don't know and you didn't question him if the badge  
28 he showed you was an officer badge or corporal badge?



1 A. I can't recall.

2 Q. Okay. You didn't specify whether or not that was the  
3 badge that had previously been bent?

4 A. No, I did not with him.

5 Q. But you're certain it was only one badge.

6 A. Only one badge.

7 Q. Okay. Somebody says he brought two badges to that  
8 interview, showed them to you, hundred percent false?

9 A. Just not my recollection. And I make good notes in my  
10 interviews.

11 Q. Okay. Was there a reason that it was not specified or  
12 you didn't follow up as to whether or not this was all the  
13 badges in his possession?

14 A. Yeah, because the inspecting badges started to lose its  
15 value in the investigation because I interviewed people that  
16 had five, six badges. I interviewed people that had one  
17 badge. Officers can buy their own badges. So it got to the  
18 point that it was really asking them to bring their badges.  
19 Some people called me back and said, "I found one when I was  
20 a reserve" and sent me pictures of it. Others could only  
21 find one. The reality is that it's so easy to fix the badge  
22 that nobody's going to bring me a bent badge. So, it lost  
23 its value. So it became less relevant.

24 Q. Did you ever consider the fact that an officer might have  
25 bought a replacement badge at some point and present that to  
26 you as the badge that had allegedly been bent, or to say it  
27 hadn't been bent that way it would look like an unbent badge?

28 A. That is my point in why it lost its relevance and I'll

1 tell you I've bent one. I've looked at badges where they  
2 told me it was bent and you can't see it.

3 Q. In some instances you can tell where the lettering or  
4 enamel is bent?

5 A. From my experience from testing one, it takes a lot of  
6 bending to do that.

7 Q. Okay. And did you attempt to ascertain, as to Officer  
8 Komoda or any of the officers, how many metal badges they had  
9 been issues or obtained over time in the Vallejo Police  
10 Department?

11 A. No, for the reason I gave you. My experience was I was  
12 seeing multiple different versions.

13 Q. Did you review the emails and invoices at the Vallejo  
14 Police Department for badges for prior years to see if badges  
15 had been fixed, replaced in a manner that would be suspicious  
16 or suggest --

17 A. No.

18 Q. You did not?

19 A. Not at the Vallejo Police Department.

20 Q. Was there a reason you did not do that?

21 A. I have to explain. We did it a different direction. We  
22 went to the badge company, tried to get invoices of officers  
23 who purchased their own badge. Problem we ran into is the  
24 badge company didn't have records of that. So, Vallejo PD  
25 invoicing for badges really doesn't mean anything because  
26 they buy badges all the time. We were looking for  
27 individuals purchasing badges.

28 Q. Okay. So you went -- are you talking about Ed Jones?

1 A. We didn't go to Ed Jones Company. My partner reached out  
2 to them in email.

3 Q. Did they provide you with the records that they had?

4 A. They initially did not provide us with any records, said  
5 that Vallejo has the records, we've changed ownership. They  
6 pushed back and we ended up get a spreadsheet that had a list  
7 of invoices, dollar amounts, dates, all to Vallejo PD. Again  
8 irrelevant. Vallejo PD buys badges all the time. We don't  
9 know who they're for, what numbers they are, so it didn't  
10 help us with what we were trying to do.

11 Q. Did they provide with you the emails between the badge  
12 company and the Vallejo Police Department?

13 A. I'm confused. I have an email, I believe they were  
14 responded in an email to Vallejo, who was sent to me with the  
15 information I just gave you. Is that what you're referring  
16 to?

17 Q. No. Were aware whether or not these badge orders  
18 over time -- first of all, foundationally, would it be  
19 accurate to say when you want to order a new badge, have a  
20 badge fixed, get something from the badge company, if you're  
21 a police officer you have to go through the Police Department  
22 for security reasons?

23 A. That's my understanding historically. I don't  
24 specifically know what Vallejo is doing with that.

25 Q. Were you aware if, over time, the orders for badges were  
26 done through email?

27 A. I was not aware of that.

28 Q. Okay. Were you aware of a woman named Shaleen Darst?

1 A. I am aware of her, yes.

2 Q. And were you aware of a woman named Elizabeth Ruska?

3 A. I do not know that name.

4 Q. So you've never seen sets of emails between Shaleen Darst  
5 and Elizabeth Ruska or somebody else at the badge company?

6 A. No. I'm sorry, can I -- we did an email search as part of  
7 case. I looked at several emails. I don't remember any of  
8 those. We searched for badge emails. I suspect if it had  
9 "badge" in it, I would have seen it.

10 Q. Did you specifically determine that Shaleen Darst was the  
11 person who would do the badge orders?

12 A. I did not know that.

13 Q. Okay. So you did not specifically look at her emails?

14 A. We did an email search of everyone in the office for  
15 certain words, key words. I don't recall if I saw any of her  
16 emails or not. One of the key words was "badge" and "bent  
17 badge" and so I would have assumed had the email search found  
18 it, it would have been those.

19 Q. Was the Vallejo Police Department not -- when you began  
20 this investigation, was the Vallejo Police Department not in  
21 possession of all of the invoices for the Ed Jones Company  
22 from prior years?

23 A. I don't know. Again, it wasn't relevant what the Vallejo  
24 Police Department bought. What was relevant what an  
25 individual officer bought.

26 Q. But when an individual officer buys a badge, is it not  
27 your understanding that that's going to be reflected in  
28 invoicing to the Vallejo Police Department?

1 A. It's not my experience. Agencies I've worked with in the  
2 past, what typically happens is someone wants to purchase  
3 their own badge, they just need permission from the agency.  
4 They get it in a letter or email saying this officer can  
5 purchase their own badge and they invoice with the company.

6 Q. So, if I'm understand you correctly, Vallejo Police  
7 Department is in possession of invoices to the Ed Jones  
8 Company, but you didn't go through them?

9 A. I don't know if they have invoices from Ed Jones Company.  
10 I know that the Ed Jones Company sent me a list of invoices  
11 with Vallejo PD.

12 Q. Did they send you copies?

13 A. No, they send a spreadsheet detailing the date, invoice  
14 number and amount and lists who the invoicee was and it was  
15 Vallejo PD.

16 Q. That spreadsheet, that list that was not identified by  
17 badge number, whose badge was being produced or worked on?

18 A. It did not.

19 Q. So that would be of very limited use?

20 A. Very limited use. That's why this lead deteriorated.

21 Q. So did you make -- when did you obtain the spreadsheet?

22 A. I'm sorry, I could refresh my recollection, if I could.

23 THE COURT: That's fine.

24 THE WITNESS: I'm referring to the report itself. I  
25 don't have the date on that. I can look for the email, if  
26 you would like. I don't have the date I did it. I just  
27 noted it was early in the investigation I made the request.

28 THE COURT: ball park figure. We don't need an exact

1 date. Just general.

2 THE WITNESS: Let's see, it was going to be roughly May,  
3 June, July of '21. Spring. In the summer/spring of '21.

4 BY MR. FILLOY: Q. Did you obtain those records from  
5 Mr. Headley, who now owns the badge company?

6 A. I'm sorry, I don't recall the name of who sent them. It  
7 came through my co-investigator. I'm sure that name's on the  
8 email.

9 Q. Who is that person?

10 A. My co-investigator?

11 Q. Yes.

12 A. Christine Malone.

13 Q. Christine Malone. She handled the communication with the  
14 badge company?

15 A. She did, along with there was something from the City  
16 working with her as well.

17 Q. Do you know who that was?

18 A. I don't recall.

19 Q. Did -- do you know if Chief Williams ever requested these  
20 records from Ed Jones Company for your investigation?

21 A. I believe he sent -- I believe the letter was drafted by  
22 him. The goal was for the chief to send the letter to them  
23 and the response was what I got back.

24 Q. What was the response?

25 A. The first response was, "We changed ownership. Vallejo  
26 PD has its own records". They were not responsive. The  
27 second response, when Christine and the person from the City  
28 called them, they had a conversation they sent another email

1 with that spreadsheet I've been speaking of.

2 Q. Okay. And you didn't ever go down there to the Ed Jones  
3 Company to try to get more information?

4 A. No, that goes back to what I said earlier. That whole  
5 avenue lost its relevance as we learned how easy it was to  
6 fix a badge and how easy it was to get a badge.

7 Q. Have you ever actually seen one of the Ed Jones Company's  
8 invoices?

9 A. No.

10 Q. Are you aware that the invoices contain the badge number?

11 A. I am not.

12 Q. Are you aware of different types of badges that the  
13 Vallejo Police Department orders?

14 A. That was another issue I learned in the investigation  
15 where there was so many different badges, complicating the  
16 issue of what bringing what badge.

17 Q. So I'm assuming you're not aware that there are, on the  
18 invoices, notes about the specifics of repairs?

19 A. No, I'm not aware of that.

20 Q. So you didn't think it was worth while to work on  
21 obtaining the actual invoices from the Ed Jones Company?

22 A. Not to Vallejo PD. I wanted the invoices to individual  
23 officers. They weren't responsive to that. They basically  
24 didn't have that record, is what our understanding was from  
25 them. I was not interested in invoices between them and  
26 Vallejo. Nobody who bent their badge took it to their boss  
27 and had it repaired by them.

28 Q. So if there was an invoice to Vallejo PD for a badge

1 refurbishment, I'll give a hypothetical.

2 So, say there was a badge refurbishment invoice says,  
3 refurbish badge X, badge number, and in the notes on the  
4 invoice it says, straighten the point over the "E" in  
5 "Vallejo", would that have been a document that you think  
6 would have been relevant in your investigation?

7 A. Well, it could be.

8 MR. FILLOY: So, judge, I think --

9 THE COURT: Are you looking to present such a thing to  
10 him?

11 MR. FILLOY: Not at this moment, judge. I think that  
12 maybe -- I know that Mr. Flynn wanted to -- we discussed  
13 yesterday how wide my latitude to cross-examine Mr. Giordano  
14 was going to be and I think -- I don't know if you want to  
15 take a break to discuss that or if you want know layout here  
16 what I am saying.

17 THE COURT: You can keep going. I haven't stopped you  
18 yet. Maybe let me insert myself here for a second and focus  
19 a little bit and you can think about this for a second.

20 Q. Mr. Giordano, we had there discussion about why I was  
21 going to allow certain inquiries, questions with you and they  
22 were two areas. One of them had to do with Komoda and how  
23 many badges did he bring.

24 The other thing had to do with the Ed Jones situation.  
25 What I shared with counsel, and I don't think I've seen what  
26 I shared with you, I had reviewed your initial report. I had  
27 made certain conclusions and I had released, to the defense,  
28 certain information based on my initial interpretation of



1 your report. Then the defense presented to me information  
2 along the lines of this Ed Jones information, that that  
3 information that -- you had not sought that information or  
4 not obtained this information. Certainly it was not  
5 incorporated into the report I read.

6 And to be honest with you, I shared with the attorneys  
7 yesterday, I felt that kind of like an idiot for not having  
8 the light bulb go on to say, how would this not have arisen  
9 as an issue. It just seems to me, in hindsight, it seems to  
10 me if you're investigating whether or not individual officers  
11 are defacing or bending their badges, the number of badges  
12 they bought would seem to be axiomatic. It seems to be  
13 obviously relevant, because in the event they bought a bunch  
14 of badges, it would be -- and they have multiple badges, it  
15 would be really easy to say I never bent a badge, if no one  
16 goes to see how many badges they had. There would be no way  
17 to do a further inquiry.

18 So, based on that, and I heard issues regarding  
19 McLaughlin and Stephanie McDonough and buying more badges,  
20 these sorts of things, I released the entirety of all of  
21 those transcripts to the defense, based on that. But  
22 ultimately came back to this fundamental thing.

23 You're saying that it's not -- that information is not  
24 relevant. I don't understand that at all. How can you  
25 possibly investigate the patterns of individual officers and  
26 what they're doing with their badges if you never bother to  
27 figure out how many badges each of them bought.

28 Help me with that.

1 THE WITNESS: You bet.

2 THE COURT: I'm saying this on the record. I'm not even  
3 sure it's relevant to what we're talking about here, but  
4 certainly if someone on appeal is wondering what that judge  
5 was doing at different periods of time, that explains why I  
6 did what I did in the manner of releasing this information.

7 So if you want to help me with that. I just, in  
8 hindsight, I don't understand that at all.

9 THE WITNESS: So, I understand your confusion. I will  
10 tell you that initially we thought that was the Holy Grail,  
11 go find the badges. What I found, actually asked one of  
12 them, did they get their badge repaired, who had a bent  
13 badge. They looked at me like why would you ask me that. I  
14 don't need my badge repaired. It's bent, you just bend it  
15 right back, it's that easy. That was the first light bulb  
16 that went on in my head when he showed me how to do that. I  
17 did it myself multiple times. No one who's bending their  
18 badge in these circumstances will take it to their boss and  
19 say, "I need my badge fixed". They can buy their own badges.  
20 That's why we went to Ed Jones Company trying to find those  
21 records of them buying badges. When they do that, they  
22 contract with Ed Jones Company. So I needed Ed Jones Company  
23 to tell me what individual officers they had done business  
24 with, not the City of Vallejo. Because they don't buy them  
25 through the City of Vallejo, they buy them from the City of  
26 Vallejo through the PD, the PD invoice theoretically had to  
27 be ordered by the PD and they had to show their damaged  
28 badge.

1           So, we went after those records at the Ed Jones Company  
2 specifically for the question you're asking me. Where are  
3 these badges? We were hoping to find that officer John Smith  
4 had purchased a badge in such and such year. That would help  
5 us look in that angle. But when we couldn't get that  
6 information, we didn't have another way to get that  
7 information. It didn't exist. As far as we knew Ed Jones  
8 couldn't produce it.

9           THE COURT: You interviewed, and I was talking about this  
10 yesterday. About 30 percent of your report involves  
11 interviewing officers who did nothing, who just denied  
12 bending their badges and said this whole thing was stupid.  
13 Why would not, with each person you interview, you say hey, I  
14 want you to do me a favor and I want you to give me the list  
15 of every badge you bought and when. Then you would have the  
16 metric for which you could assess each officer's behavior.  
17 Why did you not do that?

18           THE WITNESS: I guess I don't understand the metric to  
19 assess to them if they could tell me they had five, they  
20 could tell me they had two, they could produce two, three or  
21 five and I would have no way to verify it. And I know they  
22 can bend it back sitting right in front of me. So, nobody's  
23 going to bring me that bent badge. That was the ultimate  
24 problem, came down to that. You just bend it right back.  
25 It's too much of a -- this isn't the kind of damage that  
26 stays. I looked at badges that were bent that you can't tell  
27 they were bent. I had a sample badge and I bent it multiple  
28 times. I showed it to people. There's no way to verify that

1 it wasn't bent.

2 So even if I asked them if they had five badges and the  
3 dates they got them, I'm still faced with the issue of  
4 bringing them all to me, or all that you say you have and  
5 they're not going to be -- nobody's bringing me a bent badge.

6 THE COURT: All right. Mr. Filloy.

7 BY MR. FILLOY: Q. Okay. So, your understanding was Chief  
8 Williams sent a letter to the badge company, you got a  
9 response that said, "you guys should have these records",  
10 right?

11 A. The first time, correct.

12 Q. You got -- was that a letter?

13 A. I don't remember if it was a letter or email. it was  
14 relayed to me in an email.

15 Q. Something written?

16 A. Yes.

17 Q. Were you aware of Chief Williams having the owner of the  
18 Ed Jones badge company having set up a conversation with Ann  
19 Cardwell, the Assistant City Manager or interim city manager?

20 A. So, I know that Christine had a conversation with Ed  
21 Jones Company and Ann Cardwell might have been the person  
22 with the City working on that issue with her. That would not  
23 surprise me.

24 Q. So, whatever you obtained from them was quite sometime  
25 later than that?

26 A. It was -- that would be the email I am referring to with  
27 the spreadsheet, the list of invoices from Vallejo.

28 Q. Are you aware that there's a version of Vallejo PD badge

1 that is sometimes ordered, cheaper version that is made out  
2 of chrome?

3 A. I did you hear that from somebody.

4 Q. And are you aware that at some point in 2021 Chief  
5 Williams ordered a blank chrome badge from the Ed Jones  
6 Company and paid for it personally?

7 A. No.

8 Q. The sample badge that you had, you were using in the  
9 interviews, was that chrome or silver?

10 A. I believe it was silver, because it was the one they  
11 issue. That's what I asked for.

12 Q. Was that blank?

13 A. I don't understand "blank".

14 Q. Did it have a number on it?

15 A. It had a number on it.

16 Q. So it was an old officer's badge?

17 A. That was my understanding.

18 Q. So you never, to your knowledge, were given or saw a  
19 blank chrome badge?

20 A. I never saw a blank badge, no.

21 Q. Was the existence of the chrome badges significant in  
22 your investigation?

23 A. I suspect the chrome badge is going to be harder to bend,  
24 but I didn't test one of those. Silver is what I had and the  
25 one that was issued.

26 Q. Did your investigation uncover anything to indicate that  
27 over a period, lengthy period of time, or over any time that  
28 Vallejo police officers who had bent badges were ordering the

1 cheeper chrome version to wear so they wouldn't be bent? So  
2 the bend wouldn't be seen?

3 A. I'm sorry, can you restate question.

4 Q. All right. So, when -- this hypothetical. I'm a Vallejo  
5 police officer, got a bent badge, part of the reason it's  
6 easy to bend the badge is it's made of sterling silver.

7 A. Okay.

8 Q. I've got a bent badge, not supposed to wear it around,  
9 not want anyone to know or see it's bent, it's a private  
10 thing, so I'm going to buy a cheeper version, a chrome badge,  
11 which looks the same but it's made out of chrome, the duty  
12 badge, and wear that with my dress uniform if I need to wear  
13 it somewhere?

14 A. I was not aware of that.

15 Q. Okay. Were you aware of anything significant regarding  
16 chrome badges?

17 A. No. Nothing about the chrome badges came up, except what  
18 I've said already. It's so easy to buy another badge. They  
19 could have four chrome badges, and they could bring two to  
20 me. I have no way to verify how many.

21 Q. You don't think there was any way for you to verify that  
22 through the records?

23 A. That was the purpose of going to Ed Jones to get their  
24 invoices with individual officers, just like you said, with  
25 the chief buying one to try to verify how many badges they  
26 had.

27 Q. So even -- isn't it your understanding that if anybody,  
28 Vallejo police officer or anyone, wants a police badge from

1 the Ed Jones Company, that request, that order has to be  
2 approved by the Vallejo Police Department?

3 A. Not necessarily. Sometimes an agency, you could send a  
4 -- years past you could send a picture of your ID card and a  
5 letter from your agency, so there wouldn't be a record  
6 anywhere that they authorized you to get one.

7 Q. Do you know if that was a requirement at the Vallejo  
8 Police Department?

9 A. I do not know.

10 Q. Do you know if this was a requirement of the Ed Jones  
11 Company?

12 A. I don't know what their requirements were.

13 Q. Do you think that determining what the security protocols  
14 were for ordering badges at the Vallejo Police Department, do  
15 you think that would have been a useful piece of information  
16 in investigating the allegations of badge bending?

17 A. So here's the problem with that. It was over a 20-year  
18 period. A lot of changes, a lot of -- that problem, again,  
19 I'll go back to the same thing. The people that actually  
20 came to me and I talked to them about bent badges never  
21 considered replacing their badge. They just bent the points  
22 back. So what we learned was we were spending money and time  
23 chasing down a lead that wasn't going to give us any  
24 conclusive information.

25 Q. So, as far as all the interviews, I don't need to be  
26 specific as to people, that you conducted, you never heard of  
27 anybody replacing their badge that was bent by ordering a new  
28 one from the Ed Jones Company?

1 A. Not bent for the purposes we're discussion in this  
2 investigation. I think somebody told me they had a damaged  
3 badge from falling on the ground.

4 Q. Certainly, if it's broken. I'm talking about bent for  
5 the purposes --

6 A. For the purpose of this, I did not have anybody tell me  
7 they bought a new badge.

8 Q. Okay.

9 A. I want to say, there might have been one who bought a  
10 couple, so they could -- I do think somebody told me they  
11 bought a couple so they could leave the bent at home, or do  
12 this. But, again, we go back to the same thing of bending  
13 the tip back.

14 Q. Someone did tell you?

15 A. That I think one of them had two badges and wore a  
16 different one at a different time.

17 Q. Did Kent Tribble tell you that?

18 A. I am pretty sure it was Kent Tribble.

19 Q. So, he did tell you when he bent a badge he bought  
20 another badge so that he wouldn't be wearing a marred one in  
21 public?

22 A. In wasn't so much that. It was that he could keep his  
23 bent badge for what it meant to him. He's the same person  
24 who told me you just bend it back when you don't it bent.

25 Q. Other than that, nobody said to you that they were  
26 ordering new badges from the Ed Jones Company to wear so that  
27 they wouldn't be seen with a bent badge?

28 A. No.



1 Q. Nobody told you they sent any badges to the Ed Jones  
2 Company to be refurbished, to be repaired after being bent?

3 A. Not an individual officer, no.

4 Q. Okay. Did somebody tell you?

5 A. No. There was someone who turned their badge into the  
6 supervisor because it was damaged, not the bending we're  
7 talking about if this investigation, for refurbishment and it  
8 came back to him partially changed.

9 Q. Okay. Who was that?

10 A. I'm trying to remember the name. Bare with me one  
11 second. Jason Scott.

12 Q. Okay. So, did it occur to you that these officers would  
13 have a lot of incentive to lie to you about having done what  
14 we just discussed, which is ordering new badges, replacement  
15 badges or ordering refurbishment of badges, especially if the  
16 City of Vallejo had paid for that?

17 A. So, there's two parts to your question. Absolutely it  
18 occurred to me I could be lied to. One of the serious  
19 absolute issue in the case.

20 I don't understand the part about Vallejo paying for it.  
21 So I need to you explain that part of the question. So in  
22 other words, I understand they could lie to me about having  
23 to replace their badges, which again why we went to the Ed  
24 Jones Company, individual transactions with officers. That  
25 was very relevant to me. An officer who bent a badge in this  
26 case does not go to their supervisor and say, hey, my badge  
27 is ruined, I need a new one. There would be a reason for  
28 that. So I wouldn't expect to see that record in the Vallejo

1 chain.

2 Q. So, you would expect the police officers to be smart  
3 enough that they wouldn't leave a trail through the Police  
4 Department paperwork of having a bent badges repaired?

5 A. Correct, especially if they know they can just bend the  
6 tip back, versus -- I also will tell you that I know officers  
7 have damaged their badges falling, fights, or whatever, have  
8 gotten them replaced by their agency. I suspect that has  
9 happened, too.

10 Another part of the complication of the issue is this  
11 bend is very specific. Badges bend all the time. A bent  
12 badge repair doesn't necessarily mean it has anything to do  
13 with this.

14 Q. So --

15 THE COURT: Let me ask. Again, you're losing me here,  
16 again. If, in fact there's really not an issue about Vallejo  
17 police, about police officers sending their badges back to be  
18 repaired or replaced, why is there several pages of  
19 discussion in your report about Chief Bidou looking to avoid  
20 such an expense. Followed by this thing that breaks out  
21 between Whitney and whatever. Why was all that even an  
22 issue? Why would Bidou be worried about the costs of fixing  
23 badges if no one was incurring a cost to fix their badge?

24 THE WITNESS: That was an allegation. He wasn't worried  
25 about the cost of fixing badges. He was concerned about the  
26 -- he may have said that as well, but let me go back to the  
27 same issue. When we started this, everybody believed they  
28 had to be repaired. As we did the investigation, we learned

1 there's no repair. You literary push the point back.  
2 There's nothing to be repaired. If you sent it to Ed Jones  
3 Company, somebody's going to grab it and push the point back  
4 two millimeters. It's that easy to do. That's why I go back  
5 to I talk to the officers. I remember the first one that  
6 looked at me like, "what do you mean repaired".

7 When you actually understand the bend and what they're  
8 doing with this badge, you realize they're not thinking  
9 repair, because there's nothing to repair. You just push the  
10 point back. This is not the kind of damage that needs to be  
11 fixed. I'll tell you from my own experience. I wore a star  
12 most of my career. You might need to fix it. You have to  
13 bend it back with pliers. The silver badges push right back.  
14 That was really undermined -- whole plan was that it was too  
15 easy to fix. They are not getting them repaired.

16 Then we ran into, like the one I spoke about a minute ago  
17 where he sends it back in to get repaired. That was a big  
18 eye opener because the whole comment about that I was not  
19 going to send you a bent badge if I bent it for what people  
20 say there were bent for. This was bent from my bag, that's  
21 why I didn't send it back to get fixed. So, it's that issue.

22 THE COURT: All right. Mr. Filloy. Let's wrap this up  
23 here.

24 MR. FILLOY: I think we should take a break, because I  
25 want to make a record on further examination of Mr. Giordano.  
26 I know Mr. Flynn's probably going to object. I don't want --  
27 I think maybe we should have a discussion.

28 THE COURT: We can do that. But I guess I'm indicating I

1 assume at this point Mr. Giordano has figured out that  
2 Mr. Filloy has obtained the entirety of the records that  
3 you're indicating you were unable to obtain. If you want to  
4 present him with those, have at it.

5 MR. FILLOY: I don't think that he's going think they're  
6 significant, based on his testimony.

7 THE COURT: Why don't we do this. Why don't we -- all  
8 right. We can take -- Mr. Giordano can step down. I'll give  
9 my crew a little break in a minute. Mr. Giordano can step  
10 outside.

11 THE WITNESS: You bet.

12 THE COURT: Let's -- so what are we doing here?

13 MR. FILLOY: So, here's the thing. If I was Mr. Flynn  
14 right now, I would say is this particularly relevant to  
15 impeachment of Officer Komoda or 1103.

16 THE COURT: That's right.

17 MR. FILLOY: It's fair, right. I think we're coming --  
18 this is why I had think the Court had made some indications  
19 about limiting me yesterday and that's why I didn't want to  
20 start trying to jam it up and over step. You know, I have  
21 made one of my requested rulings is we have talked but public  
22 records, Sixth Amendment. One of my requested rulings is, I  
23 have said the entire Pitches paradigm is constitutionally  
24 deficient as applied to the Vallejo Police Department.  
25 That's because the Vallejo Police Department acts in bad  
26 faith in terms of its internal affairs investigation and this  
27 investigation by Mr. Giordano was done in bad faith. And I  
28 have a significant record to make on that.

1 THE COURT: All right. But let's stop there. Because I  
2 think some of this has clarified things.

3 MR. FILLOY: I would need to call other witnesses, too.

4 THE COURT: We can have that discussion, because it seems  
5 to me that what I indicated yesterday is that I thought I had  
6 revealed that information which was both pertinent and  
7 reliable and that was the statements of those officers  
8 themselves. That the balance of the report has to do with  
9 either these machinations about management, which I just made  
10 reference to one, then his opinions about things. I think  
11 you have done, and this may be the unintended consequences on  
12 your part, I think you have done an admirable job of  
13 torpedoing the credibility of Mr. Giordano.

14 Again, my frustration with him was shown right there. I  
15 don't find his investigation to be thorough. I don't find  
16 his investigation designed to serve the needs of the  
17 community. It feels to me like he was seeking to thread some  
18 needle to satisfy various entities in a way that minimized  
19 blow back, certainly not designed to bring light.

20 So the unintended consequences, why would I -- to the  
21 extent that I'm looking to protect Mr. Milano's procedural  
22 rights here, why would we be engaged in a prolonged  
23 discussion about whether or not I should disclose something  
24 that I just indicated has no value.

25 So, I appreciate what you you've done here. And I think  
26 in some other forums a lot of this needs to be revisited  
27 because of the reliance in this report as something that  
28 advances the community discussion and I think in the end

1 you've just demonstrated, to a large extent, it does not.  
2 That discussion needs to happen elsewhere with wiser and more  
3 objective persons leading that discussion.

4 So based on that, to be honest with you, at this point I  
5 have been hinting this the whole time, I think you've just  
6 confirmed that for me. I don't know why anything else  
7 Mr. Giordano says matters. I know I'm throwing you for a  
8 loop there when I tell you that.

9 MR. FILLOY: Well, judge, I kind of -- I think I  
10 understand where the Court's going. I'm going to ask if we  
11 can take a break, I can collect my thoughts and make an  
12 adequate record for Mr. Milano.

13 THE COURT: We'll take a 15-minute break and I'll let you  
14 collect your thoughts and we can do that.

15 (Break taken.)

16 THE COURT: All right. We're back on the record in  
17 Mr. Milano's case.

18 Mr. Filloy.

19 MR. FILLOY: I was thinking that we could get Deputy  
20 Estrada out of here since he'll be quick.

21 THE COURT: Let's do that. That's fine.

22  
23 JAKE ESTRADA,  
24 having been duly sworn, was  
25 examined and testified as follows:

26  
27 THE WITNESS: I do.

28 THE CLERK: Please state your full name, spelling your

1 last for the record.

2 THE WITNESS: Jake Estrada. J-A-K-E, E-S-T-R-A-D-A.

3 THE COURT: Before you go, let me make sure media stuff.  
4 I have my media players, sir it's mister?

5 MR. KING: King, your Honor.

6 THE COURT: I had signed, I think I signed one for  
7 Mr. Kranz, I forgot. I had signed one media request, not  
8 two. You're both welcome to be here. I just want to make  
9 sure we're on the same page. I authorized audio, no video,  
10 any photography no court staff, right?

11 MR. KING: Yes, your Honor.

12 THE COURT: Good. So we're all on the same page. Thank  
13 you for that.

14 Mr. Filloy.

15 MS. KRAUSE: Thank you.

16 THE COURT: Ms. Krause.

17 DIRECT EXAMINATION

18 BY MS. KRAUSE: Q. Good morning, Officer Estrada. How you  
19 employed?

20 A. I am a deputy with the Solano County Sheriff's Office.

21 Q. How long have you been a deputy there?

22 A. One year.

23 Q. Did you work anywhere else before that?

24 A. I did.

25 Q. Where did you work?

26 A. City of Vallejo as a police officer.

27 Q. How long did you work for the City of Vallejo?

28 A. Seven years.

1 Q. Was that the first position you had a police officer?

2 A. Yes.

3 Q. At some point during your career in law enforcement, did  
4 you become aware of the practice of badge bending?

5 A. I did.

6 Q. When was that?

7 A. I heard the rumors around, I want to say the year 2020.

8 Q. So you heard some rumors in 2020?

9 A. Yes.

10 Q. Was that before the Open Vallejo article came out or  
11 after?

12 A. I don't know.

13 Q. Were you in an officer-involved shooting while at the  
14 Vallejo Police Department?

15 A. I was.

16 Q. That was just one shooting; is that right?

17 A. Correct.

18 Q. That was the shooting of Mr. Barboa?

19 A. Yes.

20 Q. In 2017?

21 A. Correct.

22 Q. Okay. And there were some other officers who also  
23 discharged their firearms?

24 A. Correct.

25 Q. And who were those officers?

26 A. It was Matthew Komoda, David McLaughlin, Zack Jacobsen,  
27 and Stephanie McDonough.

28 Q. And you also discharged your firearm on that date?



1 A. Correct.

2 Q. And Mr. Barboa, he was killed, right?

3 A. Correct.

4 Q. And during the shooting, can you describe what was -- not  
5 going into the details about what lead up to it or anything,  
6 did everyone there, you, Komoda, Jacobsen, McLaughlin and  
7 McDonough, were you all discharging your firearms around the  
8 same time?

9 MR. FLYNN: Objection, relevance as to the details.

10 THE COURT: Sustained. Let's move forward.

11 BY MS. KRAUSE: Q. After that shooting, did you and other  
12 officers go have drinks?

13 A. Yes.

14 Q. And how did that happen?

15 A. Our POA building was opened up to us so that we can wind  
16 down, relax, check on each other, make sure we're all okay.  
17 Because after the shooting, we're all sequestered and we  
18 can't talk to each other.

19 Q. Right. So the process after an officer-involved shooting  
20 is that you get sequestered and you give an interview,  
21 correct?

22 A. Correct.

23 Q. And then everybody gets their interviews who's involved;  
24 is that right?

25 A. Correct, with our attorney.

26 Q. After that you're not sequestered anymore?

27 A. Correct.

28 Q. So, was it right after everybody finished their

1 interviews that you went to the POA Hall?

2 A. Yes.

3 Q. And is this close to the Vallejo Police Department?

4 A. I'm sorry?

5 Q. Is the POA Hall close to the Vallejo Police Department?

6 A. It's within 10 blocks or so.

7 Q. Okay. And was it your recollection that everybody who  
8 was the shooter in that shooting went?

9 A. I believe so. I don't remember McDonough being there.

10 Q. Okay.

11 A. But I believe everybody else.

12 Q. You remember Officer Komoda and McLaughlin and Jacobsen  
13 and yourself. Do you remember anyone else being there?

14 A. Family members.

15 Q. Okay. Family members of officers?

16 A. Yes.

17 Q. Okay. Did you all have a couple drinks?

18 A. Yes.

19 Q. And was the shooting discussed at that?

20 A. No.

21 Q. Not in any way?

22 A. No. We made sure that we were okay with each other.

23 Q. Okay. But the facts of that shooting, were they  
24 discussed?

25 A. The facts as in?

26 Q. Like, did you guys talk about what happened or was it  
27 limited exclusively to hey, are you okay?

28 A. It was mostly limited to hey, are you okay.

1 Q. Okay. "Mostly", you said?

2 A. Yes.

3 Q. And did the topic of badge bending come up at any point  
4 during that?

5 A. No.

6 Q. And did you hear anything about badge bending at Vallejo  
7 Police Department at any time before 2020?

8 A. Not that I can recall.

9 MS. KRAUSE: That's all. Thank you.

10 THE COURT: That day, did you see anyone bend anyone  
11 else's badge?

12 THE WITNESS: No, sir.

13 THE COURT: Okay.

14 MR. FLYNN: No questions.

15 THE COURT: Thank you, sir.

16 THE WITNESS: Thank you.

17 THE COURT: All right.

18 MR. FILLOY: Judge, why don't I try to -- I think with  
19 Mr. Giordano, let me break it out. There's a couple more  
20 follow-up questions I have just a couple that are actually  
21 for him that may be more directly relevant to the Officer  
22 Komoda and the badges in the investigation in this case.

23 Other than that, what we're really talking about with  
24 other witnesses that I have subpoenaed and with further  
25 examination of Mr. Giordano would be evidence presented on my  
26 discovery motions which are still pending and I've made these  
27 requests for rulings. I made these motions, I've asked for  
28 the entire badge bending investigation as a public record.

1 I've talked about its necessity being provided to  
2 Mr. Milano's counsel under his Sixth Amendment rights, and I  
3 have made this assertion several times. I've asked for a  
4 ruling that, you know, when I say Pitchess is a  
5 constitutionally deficient remedy as employed to the Vallejo  
6 Police Department because they act in bad faith, I am saying  
7 they do not get to be afforded privilege if what they're  
8 doing is not legitimate, personnel investigations as is  
9 intended under the law. But simply, you know, liability  
10 limitation and PR spin, that they don't get the privilege.

11 I think if I was the City of Vallejo right now, really my  
12 best argument against that is yeah, judge, maybe we're acting  
13 in bad faith, but they're privileged anyway.

14 THE COURT: Cutting to the chase, let's assume for  
15 purposes of discussion it's all liability and PR spin, other  
16 than what I've disclosed, how does it -- what value is any of  
17 that to the defense? Why is any of that relevant?

18 MR. FILLOY: Well, because there are audio interviews, as  
19 I've stated before, of all of these officers.

20 THE COURT: That's something different. I've given you  
21 an awful lot of that.

22 MR. FILLOY: I guarantee you that other officers  
23 mentioned, these officers named, at some point there's more  
24 information that's cross cutting. I have a giant amount of  
25 information in my head about this stuff. I'm also going put  
26 it to the Court that I don't just represent Mr. Milano being  
27 prosecuted by Vallejo Police Department, there is an issue  
28 we're going to keep dealing with over and over.

1 THE COURT: I understand that. There are certain  
2 officers I mentioned yesterday when they come up and I know  
3 its coming, but let's zero in on Mr. Milano and Officer  
4 Komoda, what's in front us.

5 MR. FILLOY: So, yeah, I think, like I said, in trying to  
6 be fair in what are we on about here, I have a few more  
7 questions that relate to the specifics of this case. And  
8 then my further examination of him, and of the other  
9 witnesses that I have, would be me trying to show that the  
10 Court should not afford privilege to this investigation  
11 outside of the question of whether or not they're public  
12 records.

13 THE COURT: Why don't we get him back and get him out of  
14 here. We'll get done with whatever questions we've got. I  
15 think I'm going to tentatively tell you what I think about  
16 all of this. I'll give you time to brief it, if you want, to  
17 give you more time to do a deeper dive, but why don't I do  
18 that. Can we do that first? Let's get him done and get him  
19 out of here.

20 MR. FILLOY: Sure.

21 THE COURT: We're back on the record. Few more questions  
22 here.

23 Mr. Filloy.

24 BY MR. FILLOY: Q. When Officer Komoda showed you his badge,  
25 do you recall if it was a concaved badge or a flat badge?

26 A. It was not a flat badge.

27 Q. Did you receive information in this case that sometimes  
28 the metal flat badges were bent as an indication of a

1 shooting?

2 A. No, I never heard that I did see several flat badges that  
3 were not bent, though.

4 Q. And so just to clarify. In your earlier answers you've  
5 never seen an invoice from the Ed Jones Company, you have  
6 never seen an example of an invoice to the Vallejo Police  
7 Department?

8 A. I have not.

9 Q. You've never seen any of the emails between Shaleen Darst  
10 and Elizabeth Ruska or Angela Knight and the Ed Jones  
11 Company?

12 A. I'm only hesitating because, again, we had an email  
13 search done. I looked at a lot of emails. I may have seen  
14 an email between them where the word "badge" would have been  
15 in the email.

16 Q. Okay. But if I asked have you reviewed hundreds of  
17 emails between the Ed Jones Company and Vallejo Police  
18 Department --

19 A. No.

20 Q. No. Okay.

21 And did you become ever aware that a person who was often  
22 working the booth at the trade shows for the Ed Jones Company  
23 was Robert Nicholini?

24 A. No idea. I've never heard that.

25 MR. FILLOY: I don't think I have anything further at  
26 this time, judge.

27 THE COURT: Okay.

28 MR. FLYNN: No questions.

1 THE COURT: All right. Thank you, sir.

2 THE WITNESS: Thank you.

3 MR. FILLOY: Would you like me to make my further record  
4 and offer of proof on that?

5 THE COURT: Offer of proof of?

6 MR. FILLOY: Into terms of, I have John Whitney  
7 subpoenaed for this afternoon. I've got Elizabeth Ruska, I  
8 have Shaleen Darst, and Ann Cardwell under subpoena and I  
9 want to call these people. I want to make my showing under  
10 these discovery motions. It seems the Court is indicating  
11 probably not going to let me do that, but I would like to  
12 make --

13 THE COURT: That's fine. Let's talk it through. It  
14 seems to me we have covered -- I've given broad latitude. We  
15 have covered that which is relevant to Officer Komoda and to  
16 Mr. Milano's situation. I think I know where you're going  
17 with these other folks and I think there's probably a time  
18 and a place for all of that to be revealed. A lot of what  
19 we've allowed in the last day I think probably is broader  
20 than was necessary here, but I think there was some value in  
21 allowing it. I hope various persons and entities can find a  
22 way to move forward. But sure, we can go through maybe  
23 categories rather than individual folks. You have categories  
24 of several witnesses, Ms. Cardwell, Shaleen Darst, persons, I  
25 guess associated with city management?

26 MR. FILLOY: Yeah. Let me just talk it through for you  
27 then.

28 THE COURT: Please.

1 MR. FILLOY: So I have hundreds of emails between, I  
2 don't know, maybe thousands, probably hundreds at least  
3 between Elizabeth Ruska and Shaleen Darst. The emails stop  
4 going back it in time at 2016 and they stop at an interesting  
5 point, and we don't know why, but they don't have, Ed Jones  
6 Company, any emails before 2016, apparently. Don't know if  
7 Vallejo has them or not. I suspect they don't, but these  
8 communications about, you know, what badge, what the badge  
9 number was were on going. I don't think that -- it's my  
10 impression from reviewing these records, I think you had to  
11 go through the Vallejo Police Department. Certainly you paid  
12 on your own, but I don't think that you couldn't generally  
13 order directly from the company. You needed approval from  
14 the police department that pretty much always went through  
15 the police department.

16 There were a couple examples of guys who were retired or  
17 friends of retired guys embalming the badge company saying,  
18 "I want to get some gift or commemorative badge" for a guy if  
19 they retired. But they had to go through the police  
20 department. They had to get approval, they couldn't just  
21 order it for him. That appeared to be with everybody. And  
22 there are a lot of indications that, as time went on, there  
23 was a tightening up about the ordering of things.

24 Officer Komoda ordering his duty badge that he remembered  
25 when he was on the stand that he has, but it has a different  
26 backing opposed to mount in June of 2018 when all of this  
27 clean-up talk was apparently happening.

28 You get to that point and you start getting emails from



1 Shaleen Darst over to the badge company saying, "I to need  
2 you to separate out those invoices. That's not a city Paid  
3 item. It can't be on the invoice with these other items".  
4 We're not seeing that in the earlier emails. And it's hard  
5 to tell sometimes if the officer's actually paying for this  
6 or if the City's paying or it's being order through the City.

7 But Shaleen Darst and Elizabeth Ruska are the people who  
8 can lie a foundation for those records. Then you would  
9 assume Vallejo Police Department would have all of these  
10 invoices that I have from the Ed Jones Company were sent to  
11 the Vallejo Police Department. So, the idea that Robert  
12 Giordano has never seen one is appalling. Like, I have like  
13 a thousand of these things. One of them is a refurbishment  
14 order that said straighten the point over the "E" in  
15 "Vallejo". For the same officer who, like, in the prior year  
16 is bugging Ms. Darst to email over there saying I'm anxiously  
17 awaiting my chrome badge. I need to get that chrome badge  
18 and then a year later send in the real badge to have the  
19 point straightened in 2017.

20 There are these chrome badge orders that very few of  
21 them, over time, very few --

22 THE COURT: Right. So let's assume all of this. You did  
23 a nice job compelling the City that impeaches Mr. Giordano in  
24 his report.

25 MR. FILLOY: Right.

26 THE COURT: It indicates that there were avenues of  
27 investigation --

28 MR. FILLOY: -- that he didn't pursue.

1 THE COURT: -- that didn't occur. Maybe, it seems to me  
2 a couple emails you presented to me suggest there were  
3 intentional efforts on the part of the City to avoid  
4 disclosure of that information.

5 MR. FILLOY: Yeah, that's what I'm getting to here,  
6 judge.

7 THE COURT: I know where you're going. I get all of  
8 that. And that relates to Officer Komoda.

9 MR. FILLOY: I'm telling you this relates to my discovery  
10 motions that the Court should not afford privilege to these  
11 records, if that assertion of privilege is made in bad faith,  
12 right. That if this investigation is a limitation of  
13 liability exercise done by a guy who is a professional  
14 apologist and cover-up artist for police misconduct, which I  
15 have significant evidence from the past that Mr. Giordano is,  
16 that that is not something that should be afforded privilege.

17 Like I said, maybe hey, it's privilege under the law.  
18 Even if it's done in bad faith. I think it's a public record  
19 anyway under 832.7(b). But, that's what this showing is  
20 going to. You're right, judge, I mean, we are at the point  
21 where we have covered this stuff that I think is directly  
22 relevant to the facts surrounding Officer Komoda in this  
23 case. I wanted to make a record because I am still trying to  
24 obtain the remainder of the discovery in this case because I  
25 don't know what else out there actually might help  
26 Mr. Milano.

27 It concerns me that the Court has not listened to all of  
28 the interviews, but as I stated, the Court can -- we cannot

1 ever -- this is the whole problem with Pitchess is a  
2 paradigm. We can not ever substitute the Court's brain for  
3 my brain as Mr. Milano's lawyer and all the things I know and  
4 what may be relevant. Other kinds of discovery I just get  
5 discovery and I decide if I think something's relevant. In  
6 Pitchess we don't do it that way. Basically do they get that  
7 extra protection and privilege if they're doing this  
8 investigation in bad faith? This cost the City of Vallejo  
9 tax payers a hundred thousand dollars, Mr. Giordano, not  
10 looking at a single invoice from Ed Jones company, right.

11 THE COURT: Your brain and my brain, that's scary enough  
12 before you get to the idea of exchanging them. But any  
13 event.

14 Yeah, again, but -- you're making a lot of good points  
15 and in a different forum, I think this discussion is  
16 appropriate. But I do think that your focus at this point on  
17 the balance of this badge bending report is, it's just  
18 there's nothing there. This argument about maybe I'm missing  
19 something.

20 MR. FILLOY: You haven't listened to the interviews,  
21 judge.

22 THE COURT: I read the transcripts. I listened to one of  
23 them. I read the transcripts of ones that I've released to  
24 you and I thought were relevant. The rest of this is going  
25 to go to a more generalized culture. There's no one else  
26 talking about seeing Komoda bend his badge, hearing Komoda  
27 admit something. There's other things, maybe about Kent  
28 Tribble, but nothing new and different from that which was

1 revealed. This whole presentation by -- which is probably  
2 where you should be going. I will concede that I didn't see  
3 what was coming with Officer Coleman, because he was not  
4 included in this report. I did not see any of that coming.  
5 And I suspect the same is probably true for Whitney and for  
6 other folks, and they're not before the court, they're not in  
7 they report. So the argument about the fighting for the  
8 report reminds me of that, there's that old Woody Allen joke  
9 about the two guys at the deli, the guy says, "Boy, the food  
10 here is really terrible" and the second guy says, "Yeah, and  
11 such small portions". I think we've established the food is  
12 terrible. So I'm not sure why you're seeking more portions.

13 MR. FILLOY: I'm seeking them because I don't know what's  
14 in them, judge, and because I think I'm entitled to them,  
15 right? I mean, that's why. I mean, that's what the defense  
16 lawyers in discovery and working hard on behalf of their  
17 clients are supposed to get everything that might be relevant  
18 given the fact every time I learn something more, in this  
19 case, got another previous of discovery, got to more relevant  
20 information, I am, you know, surmising that I may get to some  
21 more.

22 Frankly, the Court, early on, didn't seem to think there  
23 was as much relevant information as there ended up being for  
24 Mr. Milano.

25 THE COURT: To be honest with you, I'm not even convinced  
26 of that. I released things to you in the abundance of  
27 caution. I'm not sure anything I released got us any further  
28 than where I thought we were going anyway.

1           Having said that, we've talked about Ann Cardwell and --  
2           MR. FILLOY: So Ann Cardwell has this conversation,  
3 maybe, with Elizabeth Ruska where maybe it's conveyed to Ms.  
4 Ruska that they don't want the badge records and they don't  
5 have subpoena power, I don't know. Maybe the VPOA or  
6 Nicolini has something to do with that. You know, Captain  
7 Whitney could come in here and I believe that he would tell  
8 you about the way in which the Pitchess process at Vallejo  
9 Police Department was altered, which matched my own  
10 experience litigating here after Bidou became chief and Jason  
11 Potts became the IA sergeant, all of the IA, all of the  
12 Pitches files dried up because Chief Bidou had a policy,  
13 essentially that he would not open an IA investigation  
14 without an actual citizen complaint being fully filed and  
15 fully filled out. No internal IA investigation. And a lot  
16 of the citizen complaints that came in were actually funneled  
17 off and not kept in the professional standards division  
18 because Jason Potts developed a protocol known as the  
19 "informal resolution file", where he had a file cabinet of  
20 Pitchess stuff in his offense that was somehow not kept in  
21 the professional standards division. And I suspect a lot of  
22 that information did not make it into litigation of motions.  
23           THE COURT: As to this point you're making right there,  
24 is this first time you're sharing this, or have you shared  
25 this information with Mr. Flynn or with the District  
26 Attorney's Office?  
27           MR. FLYNN: I can tell you I've never seen any invoices  
28 or none of things he's talking about now.

1 THE COURT: No, not that part. This thing -- I get all  
2 that. No, this thing about alternate Pitchess process.

3 MR. FLYNN: I know nothing about that.

4 MS. KNIGHT: Your Honor, inquiry resolution files come to  
5 Pitchess, the same as all the other files.

6 THE COURT: Okay. All right. So we talked about  
7 management. We've talked about Whitney. I guess there were  
8 a couple yesterday, I said Stephanie McDonough I don't think  
9 we need to hear from. Who else?

10 MR. FILLOY: I had John Whitney, Elizabeth Ruska, Ann  
11 Cardwell. I had Sanjay Ramrakha was more 1103, you said you  
12 didn't want to hear from him on that. And, I mean, he was  
13 also going -- I also wanted to call him for the purpose of in  
14 the discovery motions as to them being public records and as  
15 to, you know, the relational nature. That these guys were  
16 being investigated -- the shootings were being investigated  
17 by the guys who had bent badges and were sometimes bending  
18 their badges before they finished investigating the shooting.

19 You know, Terry Poyser, who apparently bends people's  
20 badges, is interviewing Komoda after the first shooting.  
21 He's doing the shooting interview. Kent Tribble is on the  
22 use -- he's the use of force guy on the critical incident  
23 review. None of this investigation completed Kent Tribble is  
24 bending his badge. Sanjay Ramrakha had his badge bent at  
25 some point. He's writing critical incident reviews, you  
26 know, on shootings later on. So this also goes to -- that  
27 also goes to the Public Records Act angle. He was more on  
28 the 1103 front as to the Barboa shootings. So if you don't

1 need to hear that, we probably don't need hear him.

2 Yeah, I mean, I think I had Cardwell, Ruska, Darst, lay  
3 foundation for the badge records. Whitney to talk about what  
4 happened with the internal investigation procedures there.

5 THE COURT: Okay. So let me do this. Part of this I'm  
6 going to rule now, part of this I'm going to wait and I think  
7 and we can come back and discuss, maybe you can brief these  
8 things later.

9 Let me do this. I do not believe that there's any reason  
10 to call any of the other witnesses. I guess the City has  
11 framed it in the form of a motion to quash. I don't think I  
12 need to quash a subpoena, but I do think that it's  
13 unnecessary and largely irrelevant to get the machinations.  
14 That is not at all a comment in any way on the materiality of  
15 that information for other purposes. It is simply, in this  
16 case, the narrower scope of what we are doing.

17 I am going to go back through Mr. Filloy's list of  
18 requested rules here and we can have more of a discussion  
19 here about this.

20 Defense requests a ruling that the recordings,  
21 transcripts and records produced as part of the badge bending  
22 investigation as public records pursuant to 832.7(b). I  
23 indicated this yesterday. I still think the same thing. I  
24 am not sure exactly what that report is. I do think that the  
25 amendments to the statute, and the recent efforts to require  
26 release of records and reports regarding officer-involved  
27 shootings is a really specific thing and is much more  
28 specific than what we're talking about here. Maybe the

1 legislature wants to review that. But what I don't think is  
2 that a broad interpretation of the Public Records Act  
3 regarding shootings, I don't believe, and I'm not prepared to  
4 find, that that would include all information regarding  
5 office culture regarding violence. Those are two different  
6 things.

7 Perhaps the legislature should revisit this.

8 I think we've gone down this rabbit hole, focusing on  
9 badge bending in response to shootings and we are, ourselves  
10 have not, in terms of your 103 request, I'm making this point  
11 preemptively saying I think we would have this discussion  
12 about this. The issue isn't specifically on a specific given  
13 day did someone bend a badge. Then we go down the rabbit  
14 hole of what do we think that means. The issue is, is there  
15 an office culture? Is there a department culture that  
16 governs violence? That encourages shooting? That rewards  
17 shooting more than rewards the avoidance of shooting? That's  
18 what I think the question is now. I don't know how you  
19 reconcile any of that in the context of a criminal trial.  
20 But in terms of the legislature trying to ask themselves how  
21 can we bring about a better look at communities in terms of  
22 how community responds to violence, I think -- I don't think  
23 the amended statute goes there. Maybe it should, but I don't  
24 think it does.

25 Having said that, it seems to me that this is academic.  
26 I believe I've released to you everything that matters in  
27 terms of the relevance of badge bending to this  
28 investigation. I understand that you think it might be



1 impeached, that there might be information in these officer's  
2 statements that could be attacked, but I don't see how  
3 revealing the report gets you very far for two reasons: One,  
4 because my review of the information just -- I don't see it  
5 and Mr. Flynn has read it all now. So, if he thinks I'm  
6 missing something here and if he thinks there's something  
7 that was ever -- that would be Brady, he has an independent  
8 obligation to do it.

9       Secondly, I just do not find, and I made the statement  
10 earlier, I'll make it again. I don't find -- I wouldn't  
11 allow Mr. Giordano's opinions to be admitted at trial on any  
12 of these things, not in this case. I don't find it  
13 particularly meaningful or reliable.

14       For those reasons I think this is a bit of an academic  
15 discussion. I am not going to order that the record be  
16 released. I don't think I am harming Mr. Milano in any way  
17 by making that finding and I defer the legislature or the  
18 Appellate Court to offer guidance or what to do with these  
19 situations. The entire report is in the record. The  
20 Appellate Court can, if it ever gets there, could address  
21 these issues.

22       The defense requests a ruling that the recordings,  
23 transcripts and reports produced as part of the badge bending  
24 investigation are relevant to Mr. Milano's defense and must  
25 be disclosed. And I think I've done that to the extent they  
26 were relevant. Now, reports, I'm not sure what he means by  
27 that. But it seems to me that the transcripts and recordings  
28 of that which is relevant. I think I've already done that.

1 Three, the Pitchess process codified in Evidence Code  
2 Section 71043 is a constitutionally deficient protocol as  
3 applied to the Vallejo Police Department in Mr. Milano's  
4 case.

5 I guess here's what I hope when I say the "Pitchess  
6 process". What we have done here for many hearings now and  
7 for the last two days, is part of that process. I hope at  
8 the end of the day that we have done things in a way that  
9 have protected Mr. Milano and balanced these rights. It  
10 seems to me under the statute, under Pitchess, since we're  
11 under the Public Record Act and under Pitchess, what I would  
12 be ordering Ms. Knight to do is give you something with  
13 Mr. Giordano's name on it, name and address on it, if we are  
14 complying with Pitchess. So, while I share the kind of  
15 absurdity of the process sometimes, because we do things like  
16 that, I'm not going to find it's constitutionally deficient.  
17 I guess it would be for someone else to judge whether I have  
18 straddled this line correctly for Mr. Milano if we do that.

19 Those are the findings I am making there.

20 As to the discovery requests, I am not going to order any  
21 further disclosure of the so-called badge bending record or  
22 any of the reports or transcripts accompanying there to. I  
23 believe I already have disclosed that which is germane.

24 Before we get to 1103, what are the other -- which is  
25 really why did you this motion, to do a 402 on the  
26 admissability of this discussion, were there any other  
27 questions. The big question is any of this going to get to  
28 the jury in Mr. Milano's case.

1 MR. FILLOY: I think that maybe in terms of fact-specific  
2 stuff I might not be prepared to address that today.

3 THE COURT: I'm not going make an ultimate ruling. I am  
4 going to tell you what I think and invite you to brief all of  
5 this and respond on the 1103 thing.

6 Are there other questions or motions that either of you  
7 have brought that seem to me I already ruled on? There was a  
8 Pitchess back there asking me to go through other files,  
9 including Bidou.

10 MR. FILLOY: I do have that Pitchess pending, judge.  
11 There's not going to be anything you have in those guys'  
12 files.

13 THE COURT: I'm going to deny any further Pitchess. I  
14 think it was Bidou and some others. I'm going to deny that  
15 request. At some point, I don't know that there's anything  
16 further to be garnered in these proceedings. I will conceded  
17 that that whole thing about spending money on badges and not  
18 spending money on badges, all of that, I have no idea what  
19 any of that was going on there and Bidou would be one of the  
20 guys to be asking. But I don't think that's necessary for  
21 these proceedings.

22 So sounds like that gets us to the 1103. I'll ask  
23 Mr. Flynn, first, what are your thoughts on -- the question  
24 is, if we get in front of a jury?

25 MR. FILLOY: Judge, I really would ask in terms of  
26 specifics of the 1103 arguing, that I would want time to go  
27 back and prepare that.

28 THE COURT: I am going to give you time. I am not going

1 to rule today. I'm trying to front load as much as possible.  
2 I am going to ask him what he thinks. I'm going to tell you  
3 what I think. I'm going to put it over.

4 MR. FLYNN: I think I'm going to need time to be able to  
5 address that as well. It's a lot of facts.

6 MR. FILLOY: There's body camera footage and all kinds of  
7 things.

8 THE COURT: Fair enough. Let me indicate, I'm not sure  
9 what I think. I do think that there's two different things  
10 going on here. The case itself, the case-specific facts. It  
11 seems to me you're going to be entitled not even without --  
12 before you get to 1103 about other evidence you're going to  
13 be entitled to ask why do you do that? Why did do you that?  
14 There's 20 minutes of driving, and then there's positioning  
15 and there's shooting, and there are all of these things and  
16 it seems to me that each time you ask a specific question,  
17 and this gets back to it the culture thing and training  
18 thing, why would you do that? Why would you pull your gun  
19 rather than draw back? Why would you shoot twice rather than  
20 once? All you have those sort of things. I don't think  
21 that's 1103. I think you're going to have latitude in doing  
22 that. The question becomes after we've done all that, can we  
23 go down this issue of, isn't it true that the reason why you  
24 chose -- you went left rather than right. The reason why you  
25 shot rather than didn't shoot, is because of this history,  
26 right? That's -- it seems to me that's where we're going to  
27 go.

28 MR. FILLOY: Well, maybe I would probably phrase it in a

1 different way, different than that. But there are -- judge,  
2 frankly my brain's shot right now. There's a lot of  
3 complicated evidentiary evidence questions. I'm guessing  
4 Mr. Flynn would probably agree with me on that in terms of  
5 what we are going to be able to get into at trial. And that  
6 relates to 1103. It relates to impeachment. It relates to  
7 motive and bias, right? We are going to have to have some  
8 extended discussions about that. I mean, but I have made the  
9 point many times, right, that in a case where a police  
10 officer is alleged to be a victim and alleged to have used  
11 lethal force, the jury is going to be aware that he's still a  
12 police officer so they are going to assume that an authority  
13 has legitimized that action in some way and they will be  
14 right to assume that in this case. I feel I'm entitled to  
15 address the legitimacy of that given authority.

16 THE COURT: That maybe an instruction issue more than how  
17 you offer the evidence issue. I'll share with you my  
18 concern. My concern, I assume Mr. Flynn is going make this  
19 argument, is this is all 352. Is that it is such a --  
20 something that could just open itself up to a lot of  
21 confusion and distraction. I understand the argument that  
22 this is a notch on the belt, that this is wild west, that's  
23 certainly how it's been characterized. I understand that  
24 argument. Got a bit of a more nuanced presentation yesterday  
25 about what it is. But I think to open it up it opens up this  
26 whole can of worms than even what is it and the multiple  
27 interpretations of, is it a sign of assertion? Is it a sign  
28 of post-event reflection? Then there's the impeachment of

1 all of that. So, I'm going to ask you, again, I just wanted  
2 to telegraph this, I need you to present or overcome my  
3 concern. If this is coming in, how can it come in in a way  
4 which does not become a black hole of evidence and disputed  
5 information and a distraction. I'm really torn about it.  
6 But that's -- when I put on my jury management hat, that is  
7 the thing that screams out at me.

8 So I'm going to ask you to you specifically address that.  
9 Is that fair?

10 MR. FILLOY: That'll take some thought, but I think that  
11 is totally fair, judge.

12 MR. FLYNN: So, are we going to set a briefing schedule  
13 for this?

14 THE COURT: Yeah. Let's do that.

15 MR. FILLOY: Why don't -- I was actually going to ask if  
16 maybe we can come back relatively shortly in a week or two  
17 just try to conceptualize of how we've going to present this  
18 and we can work out a briefing schedule or something that  
19 have nature if you want to set a briefing schedule we'll do  
20 what we can.

21 THE COURT: Here's what I will like you to do. Seems to  
22 me the most efficient way to do it is to ask you first to  
23 spell out what you want to present.

24 MR. FILLOY: Okay.

25 THE COURT: Then Mr. Flynn can respond to it. I can look  
26 at it, then we can see. When I say what, with some meat on  
27 that bone in terms of who would I be calling, what documents  
28 might I be offering, what would I be -- how it will be

1 presented. I think that makes the most sense to me, unless  
2 Mr. Flynn want to jump out in front of this.

3 MR. FLYNN: No. It seems to make sense to me, too, to do  
4 it that way, judge.

5 THE COURT: All right. So I'll let you pick first in  
6 terms of timing. How much time. You're not going to be  
7 bound by your first submission. I'll let you add and amend  
8 all of that. When do you think you would be in the best  
9 position to put something out there that we can dig into?

10 MR. FILLOY: Judge, I've just been informed that the  
11 brains of this here operation is going to be out first two  
12 weeks of April. So don't press on me too hard.

13 THE COURT: I asked you what date. I'm deferring to you.

14 MR. FILLOY: I'm thinking sometime in May here to come  
15 back, if I'm going to put something in writing Mr. Flynn  
16 wants to respond. I am thinking maybe mid May.

17 THE COURT: Let's break it down. First give me a date  
18 that you can commit to having something submitted.

19 MR. FILLOY: We could -- Ms. Krause and I could having  
20 something submitted on file by the 6th of May, then give  
21 Mr. Flynn a couple weeks to respond and maybe come back on  
22 the 20th or the 27th, maybe.

23 THE COURT: So, if we said you're going to submit  
24 something by May 6th, Mr. Flynn would submit any response by  
25 May 20th, we come back on May 27th at 10:00 to give us time  
26 to do that.

27 MR. FLYNN: Sure.

28 THE COURT: Does that work? All right. There we go.

1 Thank you all very much.

2 MR. FLYNN: So the next court date would be May 27 at  
3 10:00 a.m.?

4 THE COURT: Yes, time continues to be waived, right?

5 MR. FILLOY: Yes.

6 THE COURT: Okay. I've addressed all motions, other than  
7 the 1103, the trial management 1103 stuff, right?

8 MR. FILLOY: I'm sure I forgot one, but we'll get to it  
9 later.

10 THE COURT: Ms. Knight is the one who has to keep coming  
11 back.

12 MS. KNIGHT: I believe you've resolve them all, your  
13 Honor.

14 THE COURT: Thank you all very much.

15 (Proceedings were concluded.)

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-	4	address 65:20 66:13 67:2 68:5 69:15 70:8	2 62:10
---ooo--- 3:23 4:2	4 2:3	addressed 72:6	answers 54:4
1	402 4:20 66:25	adequate 46:12	anxiously 57:16
10 50:6	47 3:11	admirable 45:12	anymore 20:19 49:26
103 64:10	5	admissability 66:26	apologist 58:14
10767 4:13	5 3:7	admit 59:27	appalling 57:12
10:00 71:25 72:3	6	admitted 65:11	apparently 56:6,27 62:19
11 12:12	6th 71:20,24	advances 45:28	appeal 34:4
1103 44:15 62:11,28 66:24 67:5,22,26 68:12, 21 69:6 72:7	7	affairs 20:15,16,21 44:26	appeared 56:21
15-minute 46:13	71043 66:2	afford 53:10 58:10	Appellate 65:18,20
2	8	afforded 52:7 58:16	applied 44:24 66:3
20 3:9 68:14	832.7(b) 58:19 63:22	afternoon 55:7	approval 56:13,20
20-year 39:17	A	agencies 20:15,20 21:4 29:1	approved 39:2
2016 5:27 6:10 8:19 10:19 13:18 14:9,20 56:4,6	a.m. 72:3	agency 21:20 22:28 29:3 39:3,5 42:8	April 71:12
2017 15:11 17:9 18:23 19:19 48:20 57:19	above-entitled 4:5	agree 22:13 69:4	areas 32:22
2018 56:26	absolute 41:19	allegation 21:13,14,16 22:1 42:24	arguing 67:26
2020 48:7,8 51:7	Absolutely 41:17	allegations 39:16	argument 52:12 59:18 60:7 69:19,21,24
2021 11:25 37:4	absurdity 66:15	alleged 69:10	arisen 33:8
2022 2:2 4:1	abundance 60:26	allegedly 25:26	arrived 9:28
20th 71:22,25	academic 64:25 65:14	Allen 60:8	article 10:12 14:27 16:7 17:21 19:13,14 48:10
21 24:5 30:3	accompanying 66:22	allowed 55:19	artist 58:14
22 2:2	accurate 21:24 27:19	allowing 55:21	ascertain 26:7
23 4:1	act 52:6 62:27 64:2 66:11	altered 61:9	assertion 52:3 58:11 69:27
27 72:2	acted 12:5	alternate 62:2	assess 35:16,19
27th 71:22,25	acting 4:14 52:12	amend 71:7	Assistant 4:12 36:19
29 20:28	action 69:13	amended 64:23	assume 11:8 16:11,15 44:1 52:14 57:9,22 69:12,14,18
3	acts 44:25	Amendment 44:22 52:2	assumed 28:17
30 35:10	actual 10:21 31:21 61:14	amendments 63:25	assuming 22:22 23:18 31:17
352 69:19	add 71:7	amount 29:14 52:24	attacked 65:2
		amounts 27:7	attempt 26:7
		Angela 54:10	attorney 4:8,12 49:25
		angle 35:5 62:27	Attorney's 61:26
		Ann 36:18,21 55:8 61:1,	

<b>attorneys</b> 33:6	28 32:2,3 33:15 34:12, 13,14,18,19,28 35:4,15, 23,27 36:5,8,18,28 37:5,8,16,19,20,23	<b>behavior</b> 35:16	<b>bought</b> 25:25 28:24,25 33:12,13,27 35:15 40:7, 9,11,19
<b>audio</b> 22:19 23:17 47:9 52:18	38:5,6,8,10,12,18,28 39:16,21,27 40:3,7,19, 20,23,27 41:5,25,26 42:12,23 43:8,19 48:4 51:3,6,11,28 53:24,25, 26 54:14 56:8,17,18,24 57:1,17,18,20 59:17,26 61:4 62:24 63:3,21 64:9,13,27 65:23 66:21	<b>believed</b> 42:27	<b>bound</b> 71:7
<b>auditor</b> 20:23		<b>belt</b> 69:22	<b>Boy</b> 60:9
<b>August</b> 8:19 17:9		<b>bend</b> 11:7 13:9 34:14 35:22,24 37:23 38:2,6 40:24 42:5,11 43:7,13 51:10 59:26 64:13	<b>Brady</b> 65:7
<b>authority</b> 69:12,15		<b>bending</b> 5:21,23 10:17 11:27 14:21,23 15:6 17:14 18:10,15 19:20 21:13 22:1 26:6 33:11 34:17 35:12 39:16 40:12 41:6 48:4 51:3,6, 28 59:17 62:17,24 63:21 64:9,27 65:23 66:21	<b>brain</b> 59:2,3,11
<b>authorized</b> 39:6 47:9			<b>brain's</b> 69:2
<b>avenue</b> 31:5			<b>brains</b> 71:11
<b>avenues</b> 57:26			<b>break</b> 32:15 43:24 44:9 46:11,13,15 51:19 71:17
<b>avoid</b> 42:19 58:3	<b>badged</b> 18:12		<b>breaks</b> 42:20
<b>avoidance</b> 64:17	<b>badges</b> 17:20,27 18:4, 6,8 21:13 23:10,11,12, 13,14,15,25,26 24:6,10, 12 25:7,13,14,16,17,18 26:1,8,14,25,26,27 27:8,25 31:12,15 32:23 33:11,14,16,19,26,27 34:11,19,21 35:3,12,26 36:2 37:21,28 38:16,17, 19,25 39:14,20 40:15, 26 41:1,14,15,23 42:4, 7,11,17,23,25 43:13 51:22 53:28 54:2 62:17, 18,20 67:17,18		<b>briefing</b> 70:12,18,19
<b>awaiting</b> 57:17			<b>briefly</b> 18:2
<b>aware</b> 27:17,25,27,28 28:1,2 31:10,12,17,19 36:17,28 37:4 38:14,15 48:4 54:21 69:11		<b>bends</b> 62:19	<b>bring</b> 4:21 7:27 23:10, 11,12,25 24:6,12 25:18, 22 32:23 35:23 38:19 45:19 64:21
<b>awful</b> 52:21		<b>bent</b> 11:2 14:18 17:24 18:1,6,12 19:10 24:21 25:3,22,26,27 26:1,2,4 28:16 31:26 33:15 34:12,14 35:23,26,27 36:1,5 37:28 38:1,5,8,9 39:20,21,27 40:1,4,11, 19,23,24,27 41:2,25 42:4,11 43:19,20 53:28 54:3 62:17,24	<b>bringing</b> 23:9 31:16 36:4,5
<b>axiomatic</b> 33:12			<b>broad</b> 55:14 64:2
<hr/> <b>B</b> <hr/>			
<b>back</b> 4:19,21 6:20 12:26,28 13:9 14:18 17:9,21,23,24 25:19 27:6 30:23 31:4 33:22 34:15 35:22,24 39:19, 22 40:12,13,24 41:8 42:6,17,26 43:1,3,4,10, 13,17,21 45:19 46:16 53:13,21 56:4 63:7,17 67:8,27 68:17,19 70:16 71:15,21,25 72:11	<b>badly</b> 6:28	<b>bet</b> 34:1 44:11	<b>broader</b> 55:19
<b>backing</b> 56:26	<b>bag</b> 43:20	<b>bias</b> 69:7	<b>broken</b> 40:4
<b>bad</b> 14:5,26 44:25,27 52:6,13 58:11,18 59:8	<b>balance</b> 45:8 59:17	<b>Bidou</b> 42:19,22 61:10, 12 67:9,14,19	<b>brother</b> 16:27 17:1
<b>badge</b> 5:21,23 7:27 10:4,15,17 11:2,5,7,27 13:9,17 14:21,23 15:6 17:14,20,28 18:9,14 19:6,10,11,15,20 22:1 23:12,27 24:12,13,14, 16,17,21,23,24,25,27, 28 25:3,5,6,17,21,22, 25,26,27 26:22,23,24 27:11,17,19,20 28:5,8, 9,11,16,17,26 29:3,5,17 30:5,14 31:6,10,16,26,	<b>balanced</b> 66:9	<b>big</b> 13:25 14:15 18:3 43:17 66:27	<b>brothers</b> 9:15
	<b>ball</b> 29:28	<b>bit</b> 32:19 65:14 69:24	<b>brought</b> 24:10,23 25:7 67:7
	<b>bar</b> 7:15 9:6,13	<b>bizarre</b> 13:5,25,26 18:20	<b>BRUCE</b> 4:8
	<b>Barboa</b> 48:18 49:2 62:28	<b>black</b> 70:4	<b>bugging</b> 57:16
	<b>Bare</b> 41:10	<b>blank</b> 37:5,12,13,19,20	<b>building</b> 49:15
	<b>based</b> 32:28 33:18,21 44:6 46:4	<b>blocks</b> 50:6	<b>bulb</b> 33:8 34:15
	<b>basically</b> 4:21 10:3 11:11,13,18,19 12:19 13:14 16:23 31:23 59:6	<b>blow</b> 45:19	<b>bulk</b> 22:18
	<b>basis</b> 14:10	<b>body</b> 68:6	<b>bullets</b> 6:28
	<b>beer</b> 10:1,26,27,28 11:1	<b>bone</b> 70:27	<b>bunch</b> 33:13
	<b>beers</b> 10:27 11:1	<b>booth</b> 54:22	<b>business</b> 16:11 20:14, 26 34:23
	<b>began</b> 28:19	<b>boss</b> 31:26 34:18	<b>buy</b> 25:17 26:26 34:19, 24,25 38:10,18
	<b>behalf</b> 60:16	<b>bother</b> 33:26	<b>buying</b> 33:19 34:21 38:25

<b>buys</b> 27:8 28:26	<b>chose</b> 68:24	<b>communities</b> 64:21	<b>consequences</b> 45:11, 20
<hr/> <b>C</b> <hr/>	<b>Christine</b> 4:13 30:12, 13,27 36:20	<b>community</b> 45:17,28 64:22	<b>considered</b> 39:21
<b>cabinet</b> 61:19	<b>chrome</b> 37:2,5,9,19,21, 23 38:1,10,11,16,17,19 57:17,20	<b>company</b> 26:22,24 27:1,12,20 28:5,21 29:5,8,9,10 30:5,14,20 31:3,21 34:20,22 35:1 36:8,18,21 37:6 39:1, 11,28 40:26 41:2,24 43:3 54:5,11,17,22 56:6,13,17 57:1,10 59:10	<b>constitutionally</b> 44:23 52:5 66:2,16
<b>CALIFORNIA</b> 4:3,7	<b>CHRONOLOGICAL</b> 3:2	<b>Company's</b> 31:7	<b>contacted</b> 7:17,20 21:7
<b>call</b> 4:26 45:3 55:9 62:13 63:10	<b>circumstance</b> 11:24	<b>compelling</b> 57:23	<b>contacts</b> 7:10
<b>called</b> 22:8 25:19 30:28	<b>circumstances</b> 34:18	<b>complaint</b> 61:14	<b>context</b> 64:19
<b>calling</b> 70:27	<b>citizen</b> 61:14,16	<b>complaints</b> 61:16	<b>continues</b> 72:4
<b>camera</b> 68:6	<b>city</b> 4:11,12 5:15 21:7 30:15,27 34:24,25 36:19,22 41:16 47:26, 27 52:11 55:25 57:2,6, 23 58:3 59:8 63:10	<b>complete</b> 15:27	<b>continuing</b> 4:20
<b>capacity</b> 21:7	<b>City's</b> 57:6	<b>completed</b> 15:28 62:23	<b>contract</b> 20:14,16 22:2 34:22
<b>Captain</b> 61:6	<b>clarified</b> 45:2	<b>completely</b> 16:9 17:22	<b>contracted</b> 21:12,19, 20
<b>card</b> 39:4	<b>clarify</b> 54:4	<b>complicated</b> 69:3	<b>contracts</b> 20:23
<b>Cardwell</b> 36:19,21 55:8,24 61:1,2 62:11 63:2	<b>classier</b> 13:14	<b>complicating</b> 31:15	<b>conversation</b> 10:18 13:1,4 14:13 24:22 30:28 36:18,20 61:2
<b>career</b> 5:20 21:5 43:12 48:3	<b>clean-up</b> 56:27	<b>complication</b> 42:10	<b>conversations</b> 15:4
<b>case</b> 21:28 28:7 41:19, 26 46:17 51:22 53:7,27 58:23,24 60:19 63:16 65:12 66:4,28 68:10 69:9,14	<b>CLERK</b> 5:6 20:6 46:28	<b>complying</b> 66:14	<b>conveyed</b> 61:3
<b>case-specific</b> 68:10	<b>clients</b> 60:17	<b>conceded</b> 67:16	<b>convinced</b> 60:25
<b>categories</b> 55:23	<b>close</b> 50:3,5	<b>conceptualize</b> 70:17	<b>copies</b> 29:12
<b>caution</b> 60:27	<b>co-investigator</b> 30:7, 10	<b>concern</b> 69:18 70:3	<b>corporal</b> 24:16,18,28
<b>celebrating</b> 14:28	<b>Code</b> 66:1	<b>concerned</b> 42:25	<b>correct</b> 22:4 23:3,16, 19,28 24:26 36:11 42:5 48:17,21,24 49:1,3,21, 22,25,27
<b>celebrations</b> 16:8	<b>codified</b> 66:1	<b>concerns</b> 58:27	<b>correctly</b> 29:6 66:18
<b>chain</b> 42:1	<b>coleman</b> 9:16,21,23,25 10:2,14 60:3	<b>concluded</b> 72:15	<b>cost</b> 42:23,25 59:8
<b>changed</b> 27:5 30:25 41:8	<b>collect</b> 46:11,14	<b>conclusions</b> 32:27	<b>costs</b> 42:22
<b>characterized</b> 69:23	<b>commemorative</b> 56:18	<b>conclusive</b> 39:24	<b>counsel</b> 4:19 12:10 32:25 52:2
<b>chase</b> 52:14	<b>comment</b> 43:18 63:14	<b>conduct</b> 21:23	<b>County</b> 4:8,10,14 21:1, 2,5 47:20
<b>chasing</b> 39:23	<b>commit</b> 71:18	<b>conducted</b> 39:26	<b>couple</b> 7:14 8:18,24 10:19 17:8,15 18:24 40:10,11 50:17 51:19, 20 56:16 58:2 62:8 71:21
<b>check</b> 8:14 18:5 49:16	<b>commonplace</b> 18:11	<b>confirmed</b> 46:6	<b>court</b> 4:19,26 5:10 13:13 19:23,25 20:9 22:9,11,13 29:23,28 32:9,17 34:2 35:9 36:6
<b>checking</b> 17:19	<b>communicate</b> 11:9	<b>confused</b> 27:13	
<b>cheeper</b> 37:1 38:1,10	<b>communicated</b> 12:3	<b>confusion</b> 34:9 69:21	
<b>chief</b> 22:26 30:19,22 36:7,17 37:4 38:25 42:19 61:10,12	<b>communication</b> 30:13	<b>connection</b> 18:9	
	<b>communications</b> 56:8		

42:15 43:22,28 44:7,12, 16,18 45:1,4 46:13,16, 21 47:3,6,10,12,16 49:10 51:10,13,15,17 52:14,20,26 53:1,10,13, 21 54:27 55:1,5,10,13, 28 57:22,26 58:1,7,10, 27,28 59:11,22 60:6,22, 25 61:23 62:1,6 63:5 65:18,20 67:3,13,28 68:8 69:16 70:14,21,25 71:5,13,17,23,28 72:2, 4,6,10,14	<b>date</b> 17:11 29:13,25,26 30:1 48:28 71:13,17 72:2	<b>DESCRIPTION</b> 3:15	<b>document</b> 32:5
	<b>dates</b> 27:7 36:3	<b>DESCRIPTIONID</b> 3:19	<b>documents</b> 70:27
	<b>David</b> 3:6 5:1,8 48:26	<b>designed</b> 45:16,19	<b>dollar</b> 27:7
	<b>day</b> 4:5 7:13 8:7,21,22, 23,26 16:10,12 51:10 55:19 64:13 66:8	<b>detailing</b> 29:13	<b>dollars</b> 59:9
	<b>days</b> 7:14 8:7,19,24 10:20 66:7	<b>details</b> 49:5,9	<b>DOMINIC</b> 4:3
	<b>deal</b> 13:25 14:15 18:3	<b>deteriorated</b> 29:20	<b>drafted</b> 30:21
<b>Court's</b> 46:10 59:2	<b>dealing</b> 52:28	<b>determine</b> 28:10	<b>draw</b> 68:19
<b>cover-up</b> 58:14	<b>death</b> 10:6 11:13,19 14:28	<b>determining</b> 39:13	<b>dress</b> 38:12
<b>covered</b> 55:14,15 58:21	<b>decide</b> 59:5	<b>developed</b> 61:18	<b>dried</b> 61:12
<b>crazy</b> 6:20	<b>deeper</b> 53:17	<b>dig</b> 71:9	<b>drinks</b> 15:21,25 16:11, 12 49:12 50:17
<b>credibility</b> 45:13	<b>defacing</b> 33:11	<b>Direct</b> 3:7,9,11 5:11 20:10 47:17	<b>driving</b> 68:14
<b>crew</b> 44:9	<b>Defendant</b> 3:5,18 4:9	<b>direction</b> 26:21	<b>duly</b> 5:2 20:2 46:24
<b>criminal</b> 64:19	<b>Defenders</b> 4:10	<b>directly</b> 15:4 51:21 56:13 58:21	<b>duty</b> 13:16 23:27 24:14 38:11 56:24
<b>critical</b> 6:19 11:18 12:21 62:22,25	<b>defense</b> 32:27 33:1,21 52:17 60:15 63:20 65:22,24	<b>discharge</b> 15:16	<hr/> <b>E</b> <hr/>
<b>cross</b> 52:24	<b>defer</b> 65:17	<b>discharged</b> 6:16 48:23,28	<b>E-S-T-R-A-D-A</b> 47:2
<b>cross-examine</b> 32:13	<b>deferring</b> 71:13	<b>discharging</b> 49:7	<b>earlier</b> 21:27 31:4 54:4 57:4 65:10
<b>CSR</b> 4:13	<b>deficient</b> 44:24 52:5 66:2,16	<b>disclose</b> 45:23	<b>early</b> 29:27 60:22
<b>culture</b> 59:25 64:5,15 68:17	<b>deli</b> 60:9	<b>disclosed</b> 52:16 65:25 66:23	<b>earshot</b> 15:7
<b>current</b> 21:7	<b>demonstrated</b> 46:1	<b>disclosure</b> 58:4 66:21	<b>easy</b> 25:21 31:5,6 33:15 34:15 38:6,18 43:4,15
<b>cutting</b> 52:14,24	<b>denied</b> 35:11	<b>discovery</b> 51:26 55:10 58:9,24 59:4,5 60:16,19 62:14 66:20	<b>Ed</b> 26:28 27:1 28:21 29:7,9,10 30:20 31:2,7, 21 32:24 33:2 34:20,22 35:1,7 36:18,20 37:5 38:23 39:1,10,28 40:26 41:1,23 43:2 54:5,10, 17,22 56:5 57:10 59:10
<hr/> <b>D</b> <hr/>	<b>deny</b> 67:13,14	<b>discuss</b> 32:15 63:7	<b>effect</b> 11:15
<b>D-A-V-I-D</b> 5:8	<b>department</b> 7:16 9:7 14:21 21:9 26:10,14,19 27:12,21 28:19,20,24, 28 29:7 31:13 39:2,8,14 42:4 44:24,25 48:14 50:3,5 51:7 52:6,27 54:7,18 56:11,14,15,20 57:9,11 61:9 64:15 66:3	<b>discussed</b> 16:13 32:12 41:14 50:19,24	<b>efficient</b> 70:22
<b>dad</b> 14:4	<b>depends</b> 8:11	<b>discussion</b> 32:20 40:1 42:19 43:27 45:4,23,28 46:2,3 52:15 59:15 63:18 64:11 65:15 66:26	<b>efforts</b> 58:3 63:25
<b>damage</b> 17:25 18:7 35:25 43:10	<b>deputy</b> 4:8,10 46:19 47:20,21	<b>discussions</b> 69:8	<b>Elizabeth</b> 28:2,5 54:10 55:7 56:3 57:7 61:3 62:10
<b>damaged</b> 34:27 40:2 41:6 42:7	<b>describe</b> 9:28 20:17 49:4	<b>disputed</b> 70:4	<b>else's</b> 51:11
<b>DANIEL</b> 4:6		<b>distraction</b> 69:21 70:5	<b>email</b> 27:2,13,14,26 28:6,14,17 29:4,25 30:8,28 36:13,14,26 54:12,14,15 57:16
<b>dark</b> 8:4		<b>District</b> 4:8 61:25	
<b>Darst</b> 27:28 28:4,10 54:9 55:8,24 56:3 57:1, 7,16 63:2		<b>dive</b> 53:17	
		<b>division</b> 61:17,21	

<b>emails</b> 26:13 27:11 28:4,7,8,13,16 54:9,13, 17 56:1,3,6,28 57:4 58:2	<b>examples</b> 56:16	<b>falling</b> 40:3 42:7	<b>firearms</b> 6:16 15:16 48:23 49:7
<b>embalming</b> 56:17	<b>excessive</b> 21:23	<b>false</b> 25:8	<b>fix</b> 13:18 19:15 25:21 31:6 42:23 43:12,15
<b>employed</b> 5:14 20:13 47:19 52:5	<b>exchanging</b> 59:12	<b>Family</b> 50:14,15	<b>fixed</b> 13:16,21 26:15 27:20 34:19 43:11,21
<b>enamel</b> 26:4	<b>exclude</b> 8:26 17:6	<b>father-in-law</b> 16:26	<b>fixing</b> 42:22,25
<b>encourages</b> 64:16	<b>exclusively</b> 50:27	<b>favor</b> 35:14	<b>flat</b> 23:27 53:25,26,28 54:2
<b>end</b> 15:26 45:28 66:8	<b>exercise</b> 58:13	<b>feel</b> 69:14	<b>Flynn</b> 4:8 12:10,13 19:23,24 22:7,15 32:12 44:13 49:9 51:14 54:28 61:25,27 62:3 65:5 67:23 68:4 69:4,18 70:12,25 71:2,3,15,21, 24,27 72:2
<b>ended</b> 27:6 60:23	<b>EXHIBITS</b> 3:13,16,20	<b>feeling</b> 22:9	<b>Flynn's</b> 43:26
<b>enforcement</b> 5:20 20:15,18,19,20,28 21:3, 20 48:3	<b>exist</b> 35:7	<b>feels</b> 45:17	<b>focus</b> 32:18 59:16
<b>engaged</b> 45:22	<b>existence</b> 37:21	<b>felt</b> 6:24,28 33:7	<b>focusing</b> 64:8
<b>entire</b> 44:23 51:28 65:19	<b>expansive</b> 20:17	<b>fighting</b> 60:7	<b>folks</b> 4:21 55:17,23 60:6
<b>entirety</b> 33:20 44:2	<b>expect</b> 41:28 42:2	<b>fighths</b> 42:7	<b>follow</b> 25:12
<b>entities</b> 45:18 55:21	<b>expense</b> 42:20	<b>figure</b> 21:28 29:28 33:27	<b>follow-up</b> 14:13 51:20
<b>entitled</b> 60:14 68:11,13 69:14	<b>experience</b> 13:5 14:8 16:10 26:5,11 29:1 43:11 61:10	<b>figured</b> 44:1	<b>food</b> 60:9,11
<b>equipment</b> 13:8	<b>explain</b> 7:12 26:21 41:21	<b>file</b> 61:19 71:20	<b>footage</b> 68:6
<b>essentially</b> 61:13	<b>explained</b> 9:6 13:24 14:24 18:3,16	<b>filed</b> 61:14	<b>force</b> 21:23 62:22 69:11
<b>established</b> 60:11	<b>explains</b> 34:5	<b>files</b> 61:12 62:4,5 67:8, 12	<b>forgot</b> 47:7 72:8
<b>Estrada</b> 3:10 4:23 16:20 46:20,23 47:2,18	<b>express</b> 6:23	<b>filled</b> 61:15	<b>form</b> 63:11
<b>Estrada's</b> 16:25	<b>expressed</b> 6:27	<b>Filloly</b> 3:7,9,11 4:9,24, 25,27 5:10 20:9,11 22:10,12,16 30:4 32:8, 11 36:6,7 43:22,24 44:2,5,13,17 45:3 46:9, 18,19 47:14 51:18 52:18,22 53:5,20,23,24 54:25 55:3,6,26 56:1 57:25,28 58:5,9 59:20 60:13 61:2 62:10 67:1, 10,25 68:6,28 70:10,15, 24 71:10,14,19 72:5,8	<b>forum</b> 59:15
<b>event</b> 33:13 59:13	<b>extended</b> 69:8	<b>Filloly's</b> 63:17	<b>forums</b> 45:26
<b>everyone's</b> 17:20	<b>extent</b> 45:21 46:1 65:25	<b>find</b> 25:21 34:11,20 35:3 45:15 55:21 64:4 65:9,10,12 66:16	<b>forward</b> 49:10 55:22
<b>EVID</b> 3:15,19	<b>extra</b> 59:7	<b>finding</b> 65:17	<b>found</b> 25:19 28:17 34:11
<b>evidence</b> 51:25 58:15 66:1 68:12 69:3,17 70:4	<b>eye</b> 43:18	<b>findings</b> 66:19	<b>foundation</b> 22:14 57:8 63:3
<b>evidentiary</b> 69:3	<hr/> <b>F</b> <hr/>	<b>fine</b> 17:26 29:23 46:21 55:13	<b>foundational</b> 22:11
<b>exact</b> 17:11 29:28	<b>faced</b> 36:3	<b>finished</b> 15:28 49:28 62:18	<b>foundationally</b> 27:18
<b>examination</b> 3:7,9,11 20:10 43:25 47:17 51:25 53:8	<b>fact</b> 12:17 17:28 25:24 42:16 60:18	<b>firearm</b> 48:28	<b>frame</b> 13:19
<b>EXAMINATIONBY</b> 5:11	<b>fact-finding</b> 21:15,27		<b>framed</b> 63:11
<b>examined</b> 5:3 20:3 46:25	<b>fact-specific</b> 67:1		<b>frankly</b> 60:22 69:2
	<b>facts</b> 50:23,25 58:22 68:5,10		<b>freak</b> 10:9
	<b>fair</b> 18:26 44:17 53:6 68:8 70:9,11		
	<b>faith</b> 44:26,27 52:6,13 58:11,18 59:8		

<b>freaked</b> 10:12 14:26	<b>Grail</b> 34:10	<b>head</b> 34:16 52:25	
<b>frequently</b> 15:1,2	<b>great</b> 10:8 11:22 12:9 13:7 14:2	<b>Headley</b> 30:5	<hr/> <b>I</b> <hr/>
<b>friends</b> 56:17	<b>ground</b> 40:3	<b>HEALY</b> 4:6	<b>IA</b> 61:11,13,15
<b>front</b> 35:22 53:4 62:28 67:24 68:1 71:2	<b>guarantee</b> 52:22	<b>hear</b> 5:21,23 14:20,22 15:1,3 19:20 37:3 51:6 62:9,12 63:1	<b>ID</b> 3:15 39:4
<b>frustration</b> 45:14	<b>guess</b> 11:24 13:13 21:26 35:18 43:28 55:25 62:7 63:10 66:5, 17	<b>heard</b> 6:5,8 13:6 15:8 17:27 18:14 33:18 39:26 48:7,8 54:2,24	<b>idea</b> 54:24 57:11 59:12 67:18
<b>full</b> 5:6 20:6 21:5 46:28	<b>guessing</b> 22:11 69:3	<b>hearing</b> 4:6 7:3 59:26	<b>identified</b> 29:16
<b>fully</b> 61:14,15	<b>guidance</b> 65:18	<b>hearings</b> 66:6	<b>idiot</b> 33:7
<b>fundamental</b> 33:22	<b>gun</b> 68:18	<b>hesitating</b> 54:12	<b>illustrate</b> 12:9
<b>funneled</b> 61:16	<b>guns</b> 14:6	<b>hey</b> 7:14,25 10:3,8 11:17,22 12:8,19 13:27 16:9 17:20 35:13 41:26 50:27,28 58:17	<b>impeached</b> 65:1
<hr/> <b>G</b> <hr/>	<b>guy</b> 14:3 56:18 58:13 60:9,10 62:22	<b>higher</b> 17:18	<b>impeaches</b> 57:23
<b>G-I-O-R-D-A-N-O</b> 20:8	<b>guys</b> 10:5,18,22 11:10, 12,14,15,20 12:5,8,17, 23 14:5 36:9 50:26 56:16,17 60:9 62:15,17 67:20	<b>hindsight</b> 33:9 34:8	<b>impeachment</b> 44:15 69:6,28
<b>garnered</b> 67:16	<b>guys'</b> 67:11	<b>hinting</b> 46:5	<b>impression</b> 56:10
<b>gave</b> 12:2 26:11 27:15	<hr/> <b>H</b> <hr/>	<b>hired</b> 20:20	<b>incentive</b> 41:13
<b>general</b> 30:1	<b>Hall</b> 15:24 16:13 19:19 50:1,5	<b>hiring</b> 20:24	<b>incident</b> 10:22 11:19 12:21 62:22,25
<b>generalized</b> 59:25	<b>handguns</b> 11:16 12:4	<b>historically</b> 27:23	<b>include</b> 64:4
<b>generally</b> 56:12	<b>handled</b> 10:22 11:12, 23 30:13	<b>history</b> 68:25	<b>included</b> 60:4
<b>germaine</b> 66:23	<b>hands</b> 11:7	<b>hold</b> 10:5	<b>including</b> 67:9
<b>get all</b> 58:7 62:1	<b>happen</b> 11:5 15:23,25, 26 17:17 46:2 49:14	<b>hole</b> 64:8,14 70:4	<b>incorporated</b> 33:5
<b>giant</b> 52:24	<b>happened</b> 5:25 9:28 13:2 18:18 42:9 50:26 63:4	<b>Holy</b> 34:10	<b>incurring</b> 42:23
<b>gift</b> 56:18	<b>happening</b> 13:6,20 56:27	<b>home</b> 12:27 40:11	<b>independent</b> 20:22,25 65:7
<b>Giordano</b> 3:8 4:23 11:25 12:2,3,6 20:1,8, 11,13 22:8 32:13,20 43:25 44:1,8,9,27 45:13 46:7 51:19,25 57:12,23 58:15 59:9	<b>hard</b> 23:23 57:4 60:16 71:12	<b>honest</b> 33:6 46:4 60:25	<b>INDEX</b> 3:1
<b>Giordano's</b> 65:11 66:13	<b>harder</b> 37:23	<b>Honor</b> 19:24 22:7 47:5, 11 62:4 72:13	<b>indicating</b> 43:28 44:3 55:10
<b>give</b> 11:11,25 24:6 32:1 35:14 39:23 44:8 49:20 53:16,17 66:12 67:28 71:17,20,25	<b>harming</b> 65:16	<b>Honorable</b> 4:6	<b>indication</b> 53:28
<b>glad</b> 13:27,28	<b>hat</b> 70:6	<b>hope</b> 55:21 66:5,7	<b>indications</b> 44:18 56:22
<b>goal</b> 30:22	<b>he'll</b> 46:20	<b>hoping</b> 35:3	<b>individual</b> 28:25,26 31:22 33:10,25 34:23 38:24 41:3,24 55:23
<b>good</b> 5:12,13 11:10,20, 24 18:19 20:11,12 25:9 47:12,18 59:14		<b>horrible</b> 14:7 16:10	<b>individuals</b> 26:27
<b>governs</b> 64:16		<b>hundred</b> 12:20 25:8 59:9	<b>informal</b> 61:19
<b>grab</b> 43:3		<b>hundreds</b> 54:16 56:1,2	<b>information</b> 23:4 27:15 31:3 32:28 33:1, 2,3,4,23 34:6 35:6,7 39:15,24 45:6 52:24,25 53:27 58:4 60:20,23 61:22,25 63:15 64:4 65:1,4 70:5

<b>informed</b> 71:10	<b>investigating</b> 33:10 39:16 62:18	<b>Jacobsen</b> 16:22 48:26 49:6 50:12	<b>kinds</b> 59:4 68:6
<b>initial</b> 32:26,28	<b>investigation</b> 11:28 21:8,11,15 22:17,18 23:7 25:15 28:20 29:27 30:20 31:14 32:6 37:22, 26 40:2 41:7 42:28 44:26,27 45:15,16 51:22,28 53:10 57:27 58:12 59:8 61:13,15 62:23 63:4,22 64:28 65:24	<b>Jake</b> 3:10 16:20,25 46:23 47:2	<b>King</b> 47:5,11
<b>initially</b> 27:4 34:10	<b>investigations</b> 20:21 52:8	<b>jam</b> 44:20	<b>knew</b> 12:21 35:7
<b>injured</b> 13:27 14:1	<b>investigative</b> 20:22 21:6	<b>Jason</b> 41:11 61:10,18	<b>Knight</b> 4:11 54:10 62:4 66:12 72:10,12
<b>injuries</b> 8:11	<b>investigator</b> 20:19	<b>job</b> 10:8 11:20,22,24 12:9 13:7 14:2 18:19 45:12 57:23	<b>knowledge</b> 6:18 37:18
<b>inquiries</b> 32:21	<b>invite</b> 67:4	<b>John</b> 35:3 55:6 62:10	<b>Komoda</b> 6:1,13,18 7:3, 22 9:10,17,20 10:4 13:2,21 14:10,13,17 15:13,15 16:18 24:1,20 26:8 32:22 44:15 48:26 49:6 50:12 51:22 53:4, 24 55:15 56:24 58:8,22 59:26 62:20
<b>inquiry</b> 33:17 62:4	<b>invoice</b> 29:5,13 31:28 32:2,4 34:26 54:5,6 57:3 59:10	<b>joke</b> 60:8	<b>Komoda's</b> 11:5
<b>insert</b> 32:18	<b>invoicee</b> 29:14	<b>Jones</b> 26:28 27:1 28:21 29:7,9,10 30:20 31:2,7, 21 32:24 33:2 34:20,22 35:1,7 36:18,21 37:5 38:23 39:1,10,28 40:26 41:1,24 43:2 54:5,10, 17,22 56:5 57:10 59:10	<b>Kranz</b> 47:7
<b>inspected</b> 17:28 18:5 19:7 24:23	<b>invoices</b> 26:13,22 27:7 28:21 29:7,9,10 31:8, 10,18,21,22,25 36:27 38:24 57:2,10 61:27	<b>Josh</b> 10:2	<b>Krause</b> 4:10 5:11 12:12,14 19:22 20:9 47:15,16,18 49:11 51:9 71:19
<b>inspecting</b> 25:14	<b>invoicing</b> 26:25 28:28	<b>Joshua</b> 9:23,25 10:13	<hr/> <b>L</b> <hr/>
<b>inspection</b> 18:22	<b>involved</b> 5:26 12:21 16:6 49:23	<b>judge</b> 4:6 32:8,11 34:4 46:9 51:18 52:12 54:26 58:6,20 59:21 60:14 66:17 67:10,25 69:1 70:11 71:4,10	<b>large</b> 22:16 46:1
<b>instances</b> 26:3	<b>involves</b> 35:10	<b>July</b> 30:3	<b>largely</b> 63:13
<b>instruction</b> 69:16	<b>irrelevant</b> 27:8 63:13	<b>jump</b> 71:2	<b>latitude</b> 32:13 55:14 68:21
<b>intended</b> 52:9	<b>issue</b> 31:14,16 33:9 36:3,22 37:11 41:19 42:10,16,22,27 43:21 52:27 64:12,14 68:23 69:16,17	<b>June</b> 30:3 56:26	<b>law</b> 5:20 20:15,18,19, 20,28 21:3,20 48:3 52:9 58:17
<b>intentional</b> 58:3	<b>issued</b> 37:25	<b>jury</b> 66:28 67:24 69:11 70:6	<b>lawyer</b> 23:1 59:3
<b>interested</b> 31:25	<b>issues</b> 26:9 33:18 65:21	<hr/> <b>K</b> <hr/>	<b>lawyers</b> 60:16
<b>interesting</b> 56:4	<b>item</b> 57:3	<b>KATELYN</b> 4:11	<b>lay</b> 63:2
<b>interim</b> 36:19	<b>items</b> 23:9 57:3	<b>Kenney</b> 17:4,6	<b>layout</b> 32:15
<b>internal</b> 20:14,16,21 44:26 61:15 63:4	<hr/> <b>J</b> <hr/>	<b>Kent</b> 6:10,23,27 7:4,9, 17,25 8:15 9:13,15,20 10:2,17 11:1,9 12:3,8, 16 18:1 19:10,14 40:17, 18 59:27 62:21,23	<b>lead</b> 29:20 39:23 49:5
<b>interpretation</b> 32:28 64:2	<b>J-A-K-E</b> 47:2	<b>key</b> 14:25 28:15,16	<b>leading</b> 46:3
<b>interpretations</b> 69:27		<b>killed</b> 49:2	<b>learn</b> 60:18
<b>interpreted</b> 10:7 11:11, 12		<b>kind</b> 10:18 11:10 14:13 21:21 33:7 35:25 43:10 46:9 66:14	<b>learned</b> 31:5,14 39:22 42:28
<b>interview</b> 8:6 22:10,21, 22,25 23:2,5,9 24:1,7,9 25:8 35:13 49:20 62:21			<b>leave</b> 8:10,11,13,15,17 40:11 42:3
<b>interviewed</b> 25:15,16 35:9			<b>left</b> 68:24
<b>interviewing</b> 35:11 62:20			<b>legislature</b> 64:1,7,20 65:17
<b>interviews</b> 7:7 8:9 15:26,28 22:17,18,19 23:17,24 25:10 37:9 39:25 49:23 50:1 52:18 58:28 59:20			
<b>investigate</b> 21:20 22:3, 6 33:25			
<b>investigated</b> 62:16			



<b>legitimacy</b> 69:15	45:26 52:21 54:13	<b>meaning</b> 11:5	<b>motion</b> 63:11 66:25
<b>legitimate</b> 52:8	55:18 56:22 59:14	<b>meaningful</b> 65:13	<b>motions</b> 51:26,27
<b>legitimized</b> 69:13	61:15,21 68:5 69:2,20	<b>means</b> 64:14 65:26	55:10 58:10 61:22
<b>lengthy</b> 37:27	<b>love</b> 14:5,6	<b>meant</b> 40:23	62:14 67:6 72:6
<b>lethal</b> 69:11		<b>meat</b> 70:26	<b>motive</b> 69:7
<b>letter</b> 29:4 30:21,22		<b>media</b> 47:3,4,7	<b>mount</b> 56:26
36:8,12,13 39:5	<b>M</b>	<b>meet</b> 7:14	<b>move</b> 49:10 55:22
<b>lettering</b> 26:3	<b>M-C-L-A-U-G-H-L-I-N</b>	<b>members</b> 50:14,15	<b>multiple</b> 24:12 26:12
<b>letting</b> 23:20	5:9	<b>mention</b> 15:8	33:14 34:17 35:27
<b>liability</b> 52:9,15 58:13	<b>machinations</b> 45:9	<b>mentioned</b> 52:23 53:2	69:26
<b>lie</b> 41:13,22 57:8	63:13	<b>mess</b> 13:8	<b>murmurs</b> 14:22 15:1
<b>lied</b> 41:18	<b>made</b> 29:27 32:27 37:1	<b>metal</b> 23:13,26 26:8	
<b>lieutenants</b> 17:19	38:6,11 44:18,21 45:9	53:28	<b>N</b>
<b>life</b> 10:6 11:13,18	50:22 51:26,27 52:3	<b>metric</b> 35:16,18	<b>name's</b> 30:7
<b>light</b> 33:8 34:15 45:19	58:11 65:9 69:8	<b>mid</b> 71:16	<b>named</b> 27:28 28:2
<b>limitation</b> 52:10 58:12	<b>make</b> 25:9 29:21 43:25	<b>Milano</b> 4:4 46:12 52:26	52:23
<b>limited</b> 22:8 29:19,20	44:28 46:11 47:3,8	53:3 58:26 60:24 65:16	<b>narrower</b> 63:16
50:27,28	49:16 55:3,9,12 58:23	66:9,18	<b>nature</b> 21:11 23:13,27
<b>limiting</b> 44:19	61:22 65:10 67:3 69:18	<b>Milano's</b> 4:19 45:21	62:15 70:19
<b>lines</b> 33:2	71:3	46:17 52:2 55:16 59:3	<b>necessarily</b> 8:13 12:15
<b>list</b> 27:6 29:10,16 35:14	<b>makes</b> 71:1	65:24 66:3,28	39:3 42:12
36:27 63:17	<b>making</b> 59:14 61:23	<b>millimeters</b> 43:4	<b>necessity</b> 52:1
<b>listened</b> 58:27 59:20,	64:10 65:17 66:19	<b>Mine</b> 17:23	<b>needed</b> 34:22 56:13
22	<b>Malone</b> 30:12,13	<b>mine's</b> 17:26	<b>needle</b> 45:18
<b>lists</b> 29:14	<b>man</b> 10:8 13:27	<b>minimized</b> 45:18	<b>newer</b> 18:18
<b>literally</b> 24:23	<b>management</b> 45:9	<b>minute</b> 43:16 44:9	<b>nice</b> 57:23
<b>literary</b> 43:1	55:25 62:7 70:6 72:7	<b>minutes</b> 68:14	<b>Nicholini</b> 54:23
<b>litigating</b> 61:10	<b>manager</b> 36:19	<b>misconduct</b> 21:14,16,	<b>NICK</b> 4:9
<b>litigation</b> 61:22	<b>manner</b> 22:5 26:15	17,21,22 22:3 58:14	<b>Nicolini</b> 61:6
<b>load</b> 68:1	34:6	<b>misconstrued</b> 16:9	<b>nobody's</b> 25:22 35:22
<b>long</b> 5:16 12:23,25 16:3	<b>March</b> 2:2 4:1 24:3,5	<b>missing</b> 59:18 65:6	36:5
18:22 47:21,27	<b>marred</b> 40:20	<b>mister</b> 47:4	<b>normal</b> 17:20,24
<b>looked</b> 26:1 28:7 34:13	<b>MASTER</b> 3:1	<b>mode</b> 20:22	<b>notch</b> 69:22
35:26 43:6 54:13	<b>matched</b> 61:9	<b>moment</b> 32:11	<b>noted</b> 29:27
<b>loop</b> 46:8	<b>materiality</b> 63:14	<b>money</b> 39:22 67:17,18	<b>notes</b> 25:9 31:18 32:3
<b>lose</b> 25:14	<b>matters</b> 46:7 64:26	<b>months</b> 17:8,15 18:24,	<b>notice</b> 22:26,27,28
<b>losing</b> 42:15	<b>Matthew</b> 24:1 48:26	26	23:4,7 24:6
<b>lost</b> 25:22,28 31:5	<b>Mcdonough</b> 16:18	<b>morning</b> 2:3 4:1 5:12,	<b>nuanced</b> 69:24
<b>lot</b> 26:5 39:18 41:13	33:19 48:27 49:7 50:9	13 20:11,12 47:18	<b>number</b> 29:14,17 31:10
	62:8		32:3 33:11 37:14,15
	<b>Mclaughlin</b> 3:6 4:23,27		56:9
	5:1,8,12 33:19 48:26		
	49:6 50:12		
	<b>Mclaughlin's</b> 12:12		

<b>numbers</b> 27:9	48:22,25 49:12 50:15 52:19,22,23 53:2	<b>partners</b> 14:11,12	<b>pick</b> 71:5
<hr/> <b>O</b> <hr/>	<b>Official</b> 4:14	<b>parts</b> 41:17	<b>picture</b> 39:4
<b>Oakland</b> 5:19	<b>open</b> 19:13 48:10 61:13 69:20,25	<b>past</b> 29:2 39:4 58:15	<b>pictures</b> 25:20
<b>object</b> 22:7 43:26	<b>open-ended</b> 22:2	<b>patrol</b> 14:9	<b>piece</b> 39:15
<b>Objection</b> 49:9	<b>opened</b> 49:15	<b>patterns</b> 33:25	<b>pinpoint</b> 4:21
<b>objective</b> 46:3	<b>opener</b> 43:18	<b>payers</b> 59:9	<b>Pitches</b> 44:23 61:12
<b>obligation</b> 65:8	<b>opens</b> 69:25	<b>paying</b> 41:20 57:5,6	<b>Pitchess</b> 52:4 59:1,6 61:8,20 62:2,5 66:1,5, 10,11,14 67:8,10,13
<b>obtain</b> 29:21 30:4 44:3 58:24	<b>operation</b> 71:11	<b>PD</b> 26:24 27:7,8 29:11, 15 30:26 31:22,28 34:26,27 36:28	<b>place</b> 55:18
<b>obtained</b> 26:9 33:4 36:24 44:2	<b>opinions</b> 45:10 65:11	<b>peacefully</b> 13:28	<b>plan</b> 43:14
<b>obtaining</b> 31:21	<b>opposed</b> 56:26	<b>pending</b> 51:26 67:10	<b>players</b> 47:4
<b>occur</b> 24:3 41:12 58:1	<b>order</b> 3:2 27:19 39:1 56:13,21 57:6,14 65:15 66:20	<b>penetrate</b> 7:1	<b>pliers</b> 43:13
<b>occurred</b> 41:18	<b>ordered</b> 34:27 37:1,5	<b>people</b> 3:14 4:3,7 9:13 14:22 15:3,6,8 16:7,11, 23,24 25:15,16,19 35:28 39:19,26 43:19 55:9 57:7	<b>POA</b> 15:24 16:3,5,13 19:19 49:15 50:1,5
<b>offense</b> 61:20	<b>ordering</b> 37:28 39:14, 27 40:26 41:14,15 56:23,24 66:12	<b>people's</b> 17:20,27 18:4,11,12 62:19	<b>point</b> 5:20 7:9 9:18 10:3,26 13:9 21:1 24:25 25:18,25,28 32:4 37:4 43:1,3,10 44:1 46:4 48:3 51:3 52:23 56:5,28 57:14,19 58:20 59:16 61:23 62:25 64:10 67:15 69:9
<b>offer</b> 55:4,5 65:18 69:17	<b>orders</b> 27:17,25 28:11 31:13 57:20	<b>percent</b> 12:20 25:8 35:10	<b>points</b> 39:21 59:14
<b>offering</b> 70:28	<b>overcome</b> 70:2	<b>perform</b> 21:8,12	<b>police</b> 5:15 7:16 9:7 14:3,4,21,27 16:26 21:9 22:22 26:9,14,19 27:12, 21 28:19,20,24,28 29:6 31:13 37:28 38:5,28 39:2,8,14 42:2,3,17 44:24,25 47:26 48:1,14 50:3,5 51:7 52:6,27 54:6,17 56:11,14,15,19 57:9,11 58:14 61:9 66:3 69:9,12
<b>office</b> 21:5 28:14 47:20 61:26 64:5,15	<b>overhearing</b> 15:4,5	<b>performance</b> 6:19,24	<b>period</b> 9:25 18:26 37:27 39:18
<b>officer</b> 4:27 5:12,15,20 6:1,10,13,18 7:3,22 9:10,16,17,20,21 10:2,4 12:12 13:2,21 14:4,7, 10,13,17 15:13,15 16:17,18,26 18:18 20:18,28 21:23 22:23, 26 24:14,15,18,20,28 25:24 26:7 27:21 28:25, 26 29:4 35:3 38:5,28 41:3,25 44:15 47:18,26 48:1 50:12 51:21 53:3, 24 55:15 56:24 57:15 58:8,22 60:3 69:10,12	<b>owner</b> 36:17	<b>periods</b> 34:5	<b>permanent</b> 17:24 18:7
<b>officer's</b> 35:16 37:16 57:5 65:1	<b>ownership</b> 27:5 30:25	<b>permissions</b> 29:3	<b>person</b> 28:11 30:9,27 35:13 36:21 40:23 54:21
<b>officer-involved</b> 8:5 15:10 48:13 49:19 63:26	<b>owns</b> 30:5	<b>personally</b> 37:6	<b>personnel</b> 52:8
<b>officers</b> 14:27 15:14, 18,20 21:13 22:21 23:8, 24 25:17 26:8,22 31:23 33:10,25 34:23 35:11 37:28 38:24 41:12,24 42:2,6,17 43:5 45:7	<hr/> <b>P</b> <hr/>	<b>persons</b> 46:3 55:21,24	<b>pertinent</b> 45:6
	<b>pages</b> 42:18	<b>phone</b> 7:18	<b>photography</b> 47:10
	<b>paid</b> 37:6 41:16 56:11 57:2	<b>phrase</b> 23:14 68:28	<b>physical</b> 23:9
	<b>paperwork</b> 42:4		
	<b>paradigm</b> 44:23 59:2		
	<b>park</b> 29:28		
	<b>part</b> 22:16 28:6 38:5 41:20,21 42:10 45:12 58:3 62:1 63:5,6,21 65:23 66:7		
	<b>partially</b> 41:8		
	<b>partner</b> 27:1		

<b>potential</b> 21:28	65:23	<b>questions</b> 4:22 19:24 22:8 32:21 51:14,20 53:7,14,21 54:28 66:27 67:6 69:3	<b>recording</b> 24:9
<b>Potts</b> 61:11,18	<b>professional</b> 58:13 61:17,21	<b>quick</b> 4:22 46:20	<b>recordings</b> 63:20 65:22,27
<b>power</b> 61:5	<b>professionally</b> 10:6, 23 11:13,23 12:5 20:27	<b>quote</b> 11:12	<b>records</b> 26:24 27:3,4,5 30:4,20,26 34:21 35:1 36:9 38:22 44:2,22 53:12 56:10 57:8 58:11 61:4 62:14,27 63:3,21, 22,26 64:2
<b>Poyser</b> 62:19	<b>prolonged</b> 45:22	<hr/> <b>R</b> <hr/>	<b>reference</b> 45:10
<b>PR</b> 52:10,15	<b>proof</b> 55:4,5	<b>rabbit</b> 64:8,13	<b>referring</b> 12:11 27:15 29:24 36:26
<b>practice</b> 48:4	<b>prosecuted</b> 52:27	<b>Ramrakha</b> 62:11,24	<b>reflect</b> 23:20 24:9
<b>preemptively</b> 64:11	<b>protect</b> 45:21	<b>ran</b> 26:23 43:16	<b>reflected</b> 24:11 28:27
<b>prepare</b> 67:27	<b>protected</b> 66:9	<b>randomly</b> 15:2	<b>reflection</b> 69:28
<b>prepared</b> 23:5 64:3 67:2	<b>protection</b> 59:7	<b>ranks</b> 21:6	<b>refresh</b> 29:22
<b>present</b> 4:9,13,19 15:14 25:25 32:9 44:4 70:2,17,23	<b>protocol</b> 61:18 66:2	<b>reached</b> 27:1	<b>refurbish</b> 32:3
<b>presentation</b> 60:1 69:24	<b>protocols</b> 39:13	<b>read</b> 16:7 33:5 59:22,23 65:5	<b>refurbished</b> 41:2
<b>presented</b> 6:22 33:1 51:25 58:2 71:1	<b>provide</b> 27:3,4,11	<b>reading</b> 17:21	<b>refurbishment</b> 32:1,2 41:7,15 57:13
<b>press</b> 71:12	<b>provided</b> 52:1	<b>Ready</b> 4:24	<b>regular</b> 14:10
<b>presume</b> 21:19	<b>public</b> 4:10 40:21 44:21 51:28 53:11 58:18 62:14,27 63:22 64:2 66:11	<b>real</b> 57:18	<b>regularly</b> 4:5
<b>pretty</b> 23:20 40:18 56:14	<b>pull</b> 68:18	<b>reality</b> 25:21	<b>relate</b> 53:7
<b>previous</b> 60:19	<b>purchase</b> 29:2,5	<b>realize</b> 43:8	<b>related</b> 12:17
<b>previously</b> 18:1 24:21 25:3	<b>purchased</b> 26:23 35:4	<b>reason</b> 25:11 26:11,20 38:5 41:27 63:9 68:23, 24	<b>relates</b> 58:8,9 69:6
<b>prior</b> 19:13 20:26 21:3 26:14 28:22 57:15	<b>purchasing</b> 26:27	<b>reasons</b> 27:22 65:3,14	<b>relational</b> 62:15
<b>private</b> 20:19 38:9	<b>purpose</b> 38:23 40:6 62:13	<b>recall</b> 6:26,27 7:3 8:15 9:17 11:4 12:3,5 14:15, 19 16:5,24 17:4 18:21 19:5,6 24:15 25:1 28:15 30:6,18 51:8 53:25	<b>relax</b> 49:16
<b>privilege</b> 52:7,10 53:10 58:10,11,16,17 59:7	<b>purposes</b> 40:1,5 52:15 63:15	<b>receive</b> 53:27	<b>Relay</b> 7:15,25,28 9:3,5, 8,12 12:24
<b>privileged</b> 52:13	<b>pursuant</b> 63:22	<b>recent</b> 63:25	<b>relayed</b> 36:14
<b>problem</b> 26:23 35:24 39:17,18 59:1	<b>pursue</b> 57:28	<b>recollection</b> 8:21 25:9 29:22 50:7	<b>release</b> 63:26
<b>procedural</b> 45:21	<b>push</b> 43:1,3,9,13	<b>reconcile</b> 64:19	<b>released</b> 32:27 33:20 59:23 60:26,27 64:26 65:16
<b>procedures</b> 63:4	<b>pushed</b> 27:6	<b>record</b> 4:20 5:7 20:7,17 23:26 31:24 34:2 39:5 41:28 43:25 44:28 46:12,16 47:1 51:28 53:21 55:3 58:18,23 65:15,19 66:11,21	<b>releasing</b> 34:6
<b>proceeded</b> 22:5	<b>put</b> 52:25 68:3 70:6 71:9,15	<b>recorded</b> 22:19 23:17	<b>relevance</b> 25:28 31:5 49:9 64:27
<b>proceedings</b> 4:16 67:16,21 72:15	<hr/> <b>Q</b> <hr/>		<b>relevant</b> 25:23 28:23, 24 32:6 33:13,24 34:3 41:25 44:14 51:21 52:17 55:15 58:22 59:4, 5,24 60:17,19,23 65:24, 26,28
<b>process</b> 8:6 23:1 49:19 61:8 62:2 66:1,6,7,15	<b>quash</b> 63:11,12		
<b>produce</b> 35:8,20	<b>question</b> 21:18,26 22:2 24:27 35:2 38:3 41:17, 21 53:11 64:18 66:27 67:23 68:16,22		
<b>produced</b> 29:17 63:21			

<b>reliable</b> 45:7 65:13	<b>requirements</b> 39:12	<b>ruling</b> 21:21 52:4 63:20 65:22 67:3	<b>serve</b> 45:16
<b>reliance</b> 45:27	<b>reserve</b> 25:20	<b>rulings</b> 44:21,22 51:27	<b>Session</b> 2:3 4:1
<b>remainder</b> 58:24	<b>resolution</b> 61:19 62:4	<b>rumors</b> 48:7,8	<b>SESSIONS</b> 2:1
<b>remedy</b> 52:5	<b>resolve</b> 72:12	<b>run</b> 20:14,26	<b>set</b> 21:22 36:18 70:12, 19
<b>remember</b> 7:2,5,13,17, 18,20,22,24 8:20 9:11, 18,20 10:1,13,16,21,25, 28 11:8,17 12:7,25 13:12,23 16:25 17:5,7, 18 19:6,8,16,17,18 28:7 36:13 41:10 43:5 50:9, 12,13	<b>resolved</b> 13:28	<b>Ruska</b> 28:2,5 54:10 55:7 56:3 57:7 61:3,4 62:10 63:2	<b>sets</b> 28:4
<b>remembered</b> 56:24	<b>respond</b> 67:5 70:25 71:16,21	<b>Ryan</b> 17:2	<b>Shaleen</b> 27:28 28:4,10 54:9 55:8,24 56:3 57:1, 7
<b>reminds</b> 60:8	<b>responded</b> 27:14	<hr/> <b>S</b> <hr/>	<b>share</b> 66:14 69:17
<b>repair</b> 42:12 43:1,9	<b>responds</b> 64:22	<b>sample</b> 35:27 37:8	<b>shared</b> 32:25,26 33:6 61:24
<b>repaired</b> 31:27 34:12, 14 41:2 42:4,18,28 43:2,6,15,17	<b>response</b> 30:23,24,25, 27 36:9 64:9 71:24	<b>Sanjay</b> 62:11,24	<b>sharing</b> 61:24
<b>repairs</b> 31:18	<b>responsive</b> 30:26 31:23	<b>satisfy</b> 45:18	<b>Shawn</b> 17:4
<b>replace</b> 41:23	<b>rest</b> 59:24	<b>scary</b> 10:6 59:11	<b>sheriff</b> 21:1,2
<b>replaced</b> 26:15 42:8,18	<b>restate</b> 38:3	<b>schedule</b> 23:1 70:12, 18,19	<b>Sheriff's</b> 21:5 47:20
<b>replacement</b> 25:25 41:14	<b>retired</b> 16:26 20:18 21:2 56:16,17,19	<b>scope</b> 63:16	<b>shift</b> 15:26 16:1
<b>replacing</b> 39:21,27	<b>revealed</b> 45:6 55:18 60:1	<b>Scott</b> 41:11	<b>shoot</b> 68:19,25
<b>report</b> 24:10 29:24 32:26 33:1,5 35:10 42:19 45:8,27 57:24 59:17 60:4,7,8 63:24 65:3,19	<b>revealing</b> 65:3	<b>screams</b> 70:7	<b>shooter</b> 50:8
<b>Reporter</b> 4:14	<b>review</b> 26:13 62:23 64:1 65:4	<b>Sean</b> 17:6	<b>shooting</b> 5:26,27 6:1,3, 10,13,14,19,24 7:6 8:5, 12,19 10:8,19 11:18,23 12:9,17 13:16,28 14:7, 20 15:11,15,20 16:6,13, 17 17:8 18:22 19:19 48:13,16,18 49:4,11,17, 19 50:8,19,23 54:1 62:18,20,21 64:16,17 68:15
<b>reports</b> 63:26 65:23,26 66:22	<b>reviewed</b> 32:26 54:16	<b>search</b> 28:6,14,17 54:13	<b>shootings</b> 12:20 62:16,26,28 63:27 64:3, 9
<b>represent</b> 24:20 52:26	<b>reviewing</b> 56:10	<b>searched</b> 28:8	<b>short</b> 13:19 22:13
<b>represented</b> 4:7,9,11	<b>reviews</b> 62:25	<b>Section</b> 66:2	<b>Shorthand</b> 4:14
<b>request</b> 29:27 39:1 47:7 64:10 67:15	<b>revisit</b> 64:7	<b>security</b> 27:22 39:13	<b>shortly</b> 70:16
<b>requested</b> 30:19 44:21,22 63:18	<b>revisited</b> 45:26	<b>seeking</b> 45:17 60:12,13	<b>shot</b> 7:1 12:15 68:25 69:2
<b>requests</b> 51:27 63:20 65:22 66:20	<b>rewards</b> 64:16,17	<b>send</b> 22:26,28 29:12,13 30:22 39:3,4 43:19,21 57:18	<b>show</b> 34:27 53:9
<b>require</b> 63:25	<b>rights</b> 45:22 52:2 66:9	<b>sending</b> 23:7 42:17	<b>showed</b> 24:28 25:8 34:16 35:28 53:24
<b>required</b> 23:6	<b>Robert</b> 3:8 11:25 20:1,8 54:23 57:11	<b>sends</b> 43:17	<b>showing</b> 18:19 23:26 55:9 58:19
<b>requirement</b> 39:7,10	<b>role</b> 4:24	<b>sense</b> 71:1,3	<b>shown</b> 45:14
	<b>rough</b> 16:10	<b>separate</b> 57:2	
	<b>roughly</b> 30:2	<b>separately</b> 11:4	
	<b>RPR</b> 4:13	<b>sequestered</b> 49:17,20, 26	
	<b>ruined</b> 41:27	<b>sergeant</b> 9:14,15,20 11:1 61:11	
	<b>rule</b> 21:25,28 63:6 68:1	<b>sergeants</b> 17:19	
	<b>ruled</b> 67:7		
	<b>rules</b> 63:18		

<b>shows</b> 54:22	<b>specifics</b> 15:9 16:14 31:18 53:7 67:26	<b>straightened</b> 57:19	34:3 35:9 40:4 41:7 51:23 59:26 61:28 63:28
<b>sign</b> 69:27	<b>spell</b> 70:23	<b>street</b> 7:15 14:6	<b>tape</b> 23:20
<b>signed</b> 47:6,7	<b>spelling</b> 5:6 20:6 46:28	<b>stressful</b> 6:20 11:15 12:4 16:12	<b>tax</b> 59:9
<b>significant</b> 37:21 38:15 44:6,28 58:15	<b>spending</b> 39:22 67:17, 18	<b>strike</b> 6:14	<b>telegraph</b> 70:2
<b>silver</b> 37:9,10,24 38:6 43:13	<b>spent</b> 21:5	<b>stuff</b> 47:3 52:25 58:21 61:20 67:2 72:7	<b>telling</b> 12:3,5 58:9
<b>simply</b> 52:9 63:15	<b>spin</b> 52:10,15	<b>stupid</b> 35:12	<b>tentatively</b> 53:15
<b>single</b> 22:22 24:12,13, 14 59:10	<b>spoke</b> 43:16	<b>submission</b> 71:7	<b>terms</b> 44:26 55:6 64:10, 20,21,27 67:1,25 69:4 70:27 71:6
<b>sir</b> 19:25,26 47:4 51:12, 15 55:1	<b>spreadsheet</b> 27:6 29:13,16,21 31:1 36:27	<b>submit</b> 71:23,24	<b>terrible</b> 60:10,12
<b>sitting</b> 35:22	<b>Spring</b> 30:3	<b>submitted</b> 71:18,20	<b>terrified</b> 17:22
<b>situation</b> 6:21 10:7 11:13,15 12:4 32:24 55:16	<b>staff</b> 47:10	<b>subpoena</b> 55:8 61:5 63:12	<b>Terry</b> 62:19
<b>situations</b> 6:20 65:19	<b>stand</b> 56:25	<b>subpoenaed</b> 51:24 55:7	<b>test</b> 37:24
<b>Sixth</b> 44:22 52:2	<b>standard</b> 8:9	<b>substitute</b> 59:2	<b>testified</b> 5:3 20:3 46:25
<b>small</b> 60:11	<b>standards</b> 61:17,21	<b>suggest</b> 26:16 58:2	<b>testimony</b> 44:6
<b>smart</b> 42:2	<b>star</b> 43:11	<b>summer/spring</b> 30:3	<b>testing</b> 26:5
<b>Smith</b> 35:3	<b>start</b> 44:20 56:28	<b>supervisor</b> 6:11 13:7 41:6,26	<b>That'll</b> 70:10
<b>so-called</b> 66:21	<b>started</b> 9:27 25:14 42:27	<b>support</b> 16:23	<b>theoretically</b> 34:26
<b>Solano</b> 4:8,10,15 47:20	<b>state</b> 4:3,7 5:6 20:6 46:28	<b>supposed</b> 38:8 60:17	<b>thing</b> 10:4 12:16 14:14 17:22 32:9,24 33:22 35:12 38:10 39:19 40:12 42:20 44:13 62:1, 2 63:23,27 67:5,17 68:17,18 70:7
<b>somebody's</b> 43:3	<b>stated</b> 52:19 58:28	<b>surmising</b> 60:20	<b>things</b> 15:3 20:24 33:20 45:2,10 56:23 57:13 59:3,27 60:26 61:28 63:8 64:6 65:12 66:8,15 68:7,9,15,20
<b>something's</b> 59:5	<b>statement</b> 11:25,27,28 12:2,7 65:9	<b>surprise</b> 36:23	<b>thinking</b> 43:8 46:19 71:14,16
<b>Sonoma</b> 21:1,2,5	<b>statements</b> 45:7 65:2	<b>surrounding</b> 58:22	<b>thinks</b> 65:5,6 68:2
<b>sort</b> 11:21 13:1 20:22 22:2 68:20	<b>station</b> 12:26,28	<b>suspect</b> 28:8 37:23 42:8 56:7 60:5 61:21	<b>thought</b> 12:18 13:25 17:26 18:7,8,11,18 19:8 34:10 45:5 59:24 60:28 70:10
<b>sorts</b> 33:20	<b>statute</b> 63:25 64:23 66:10	<b>suspicious</b> 26:15	<b>thoughts</b> 46:11,14 67:23
<b>sought</b> 33:3	<b>stay</b> 16:3	<b>Sustained</b> 49:10	<b>thousand</b> 57:13 59:9
<b>sounds</b> 67:22	<b>stays</b> 35:26	<b>sworn</b> 5:2 20:2 46:24	<b>thousands</b> 56:2
<b>speak</b> 13:15 21:26	<b>step</b> 44:8,9,20		<b>thread</b> 45:17
<b>speaking</b> 31:1	<b>Stephanie</b> 33:19 48:27 62:8	<hr/> <b>T</b> <hr/>	
<b>specific</b> 14:24 20:23 21:21 22:21,25 23:12, 20 39:26 42:11 63:27, 28 64:12 68:16	<b>sterling</b> 38:6	<b>takes</b> 26:5	
<b>specifically</b> 10:21 11:9,17 18:5,21 27:24 28:10,13 35:2 64:12 70:8	<b>stop</b> 45:1 56:3,4	<b>taking</b> 15:6	
	<b>stopped</b> 32:17	<b>talk</b> 18:14 43:5 49:18 50:26 55:13,26 56:27 63:3	
	<b>straddled</b> 66:18	<b>talked</b> 39:20 44:21 52:1 61:1 62:6,7	
	<b>straighten</b> 32:4 57:14	<b>talking</b> 10:21 26:28	

<b>throwing</b> 46:7	59:28 62:21,23	56:7,11 57:9,11,15 59:8 61:8 66:3	<b>wind</b> 49:15
<b>tied</b> 12:14	<b>true</b> 60:5 68:23		<b>wiser</b> 46:2
<b>tightening</b> 56:23	<b>turned</b> 41:5	<b>vehicle</b> 7:1	<b>wit</b> 4:17
<b>time</b> 5:24 6:7,11 7:23 8:3,4,9 9:14,26 10:5,11 11:6 13:19,23 14:9,11, 12,14,17,24 17:23 18:5, 18 19:11,14 26:9,26 27:8,18,25 34:5 36:11 37:27 39:22 40:16 42:11 46:5 49:8 51:7 53:16,17 54:26 55:17 56:4,22 57:21 60:18 61:24 67:26,28 68:4,16 71:6,25 72:4	<b>type</b> 21:22	<b>verbal</b> 7:18	<b>witnesses</b> 3:2 45:3 51:24 53:9 55:24 63:10
<b>times</b> 34:17 35:28 52:3 69:9	<b>types</b> 31:12	<b>verify</b> 35:21,28 38:20, 21,25	<b>woman</b> 27:28 28:2
<b>timing</b> 71:6	<b>typically</b> 29:2	<b>version</b> 22:13 36:28 37:1 38:1,10	<b>wondering</b> 34:4
<b>tip</b> 40:13 42:6	<hr/> <b>U</b> <hr/>	<b>versions</b> 26:12	<b>Woody</b> 60:8
<b>today</b> 67:2 68:1	<b>ultimate</b> 35:23 67:3	<b>versus</b> 4:3 42:6	<b>wool</b> 13:12,13
<b>told</b> 10:10 13:7 14:3 15:4 26:2 40:2,10,24 41:1	<b>ultimately</b> 33:22	<b>victim</b> 69:10	<b>word</b> 54:14
<b>topic</b> 51:3	<b>unable</b> 44:3	<b>video</b> 23:21 47:9	<b>words</b> 28:15,16 41:22
<b>torn</b> 70:5	<b>unbecoming</b> 21:23	<b>violation</b> 17:25 21:22, 26	<b>wore</b> 13:16 40:15 43:11
<b>torpedoing</b> 45:13	<b>unbent</b> 25:27	<b>violations</b> 21:22	<b>work</b> 5:18 8:15 14:4 16:10,12 20:15,16,18 23:23 31:20 47:23,25, 27 70:18 71:28
<b>totally</b> 70:11	<b>uncover</b> 37:26	<b>violence</b> 64:5,16,22	<b>worked</b> 5:16 7:19 9:25 14:9 21:3,4 29:1,17
<b>touch</b> 10:15	<b>undermined</b> 43:14	<b>VPOA</b> 61:5	<b>working</b> 30:16 36:22 54:22 60:16
<b>TRACY</b> 4:10	<b>understand</b> 12:14,16 21:18 29:6 33:24 34:8,9 35:18 37:13 41:20,22 43:7 46:10 53:1 64:28 69:21,23	<hr/> <b>W</b> <hr/>	<b>works</b> 20:23
<b>trade</b> 54:22	<b>understanding</b> 7:9 18:4 27:23 28:27 31:24 36:7 37:17 38:27	<b>wait</b> 63:6	<b>worms</b> 69:26
<b>trail</b> 42:3	<b>uniform</b> 13:13,14,15,16 18:8 38:12	<b>walk</b> 9:10	<b>worried</b> 42:22,24
<b>trained</b> 23:18	<b>unintended</b> 45:11,20	<b>walked</b> 9:9	<b>worth</b> 31:20
<b>training</b> 68:17	<b>united</b> 45:11,20	<b>wanted</b> 18:8 22:21,25 31:22 32:12 58:23 62:13 70:1	<b>wrap</b> 43:22
<b>transactions</b> 41:24	<b>units</b> 21:6	<b>wear</b> 13:12 38:1,8,12 40:26	<b>writing</b> 62:25 71:15
<b>transcript</b> 12:10	<b>unnecessary</b> 63:13	<b>wearing</b> 13:15 40:20	<b>written</b> 36:15
<b>transcripts</b> 33:21 59:22,23 63:21 65:23, 27 66:22	<b>utility</b> 13:15	<b>week</b> 70:16	<b>wrong</b> 22:1
<b>trial</b> 64:19 65:11 69:5 72:7	<hr/> <b>V</b> <hr/>	<b>weeks</b> 71:12,21	<hr/> <b>Y</b> <hr/>
<b>Tribble</b> 6:10,23,27 7:4, 10,17,25 8:15 9:14,15, 16,20 11:2,9 12:3,16 18:1 19:10,14 40:17,18	<b>Vallejo</b> 4:11 5:15,26 7:16 9:7 14:21 19:14 21:8 22:22 26:9,13,19, 24 27:5,7,8,12,14,24 28:19,20,23,28 29:6,11, 15 30:25 31:13,22,26, 28 32:5 34:24,25,26 36:27,28 37:28 38:4,28 39:2,7,14 41:16,20,28 42:16 44:24,25 47:26, 27 48:10,14 50:3,5 51:6 52:5,11,27 54:6,17	<b>weird</b> 13:5 18:17	<b>year</b> 24:3,4 35:4 47:22 48:7 57:15,18
		<b>WESNER</b> 4:13	<b>years</b> 5:17 14:4 19:2 20:28 26:14 28:22 39:4 47:28
		<b>west</b> 69:22	<b>yesterday</b> 32:13 33:7 35:10 44:19 45:5 53:2 62:8 63:23 69:24
		<b>Whitney</b> 42:21 55:6 60:5 61:7 62:7,10 63:3	
		<b>wide</b> 32:13	
		<b>wild</b> 69:22	
		<b>Williams</b> 30:19 36:8,17 37:5	

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**Z**

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**Zack** 16:22 48:26