SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

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| BRANDELL SAMPSON, an individual,  Plaintiff,  v.  SACRAMENTO COUNTY, a municipal corporation, Deputy S. WRIGHT, an individual, Sgt. TIM MULLIN, an individual, and DOES 3 through 15, inclusive,  Defendants. | Case No.: 34-2021-00297987  **[PROPOSED] ORDER ON PLAINTIFF’S MOTION FOR AN ORDER COMPELLING DISCOVERY AND DISCLOSURE OF PEACE OFFICER RECORDS (*PITCHESS*)**  Date: XX-XX-XXX  Time: XX:XX  Judge: Hon.  Dept.: 53 or 59 |
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Before the court is Plaintiff BRANDELL SAMPSON’s motion for an order compelling discovery and production of peace officer records of Defendants TIM MULLIN and S. WRIGHT pursuant to Penal Code sections 832.5 and 832.7, and Evidence Code sections 1043 and 1045. Plaintiff has set forth 9 categories of documents in their Notice of Motion, supporting Memorandum of Points and Authorities supporting their Motion, and Declaration of Douglas S. Gilliland. Those categories of documents are as follows:

1. All investigative reports regarding the March 10, 2020, incident including photographic, audio, and video evidence, notes, transcripts and recordings of interviews.
2. All materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against Mr. SAMPSON in connection with the March 10, 2020, incident.
3. All records showing whether defendants MULLIN’s or WRIGHT’s actions were consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
4. Documents setting forth findings or recommended findings, and copies of disciplinary records relating to the March 10, 2020, incident, including any documents showing the intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance processes, and all documents indicating final imposition of discipline or other documentation reflecting implementation of corrective action.
5. All records relating to the March 10, 2020, incident if defendant WRIGHT resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.
6. The Internal Affairs report regarding the March 10, 2020, incident with BRANDELL SAMPSON.
7. All records involving prior complaints against Defendants MULLIN and WRIGHT alleging unnecessary or excessive acts of violence and any complaints of racial prejudice or racially insensitive words or conduct.
8. All records relating to any complaint(s) alleging unreasonable or excessive force against Defendants MULLIN and/or WRIGHT in the five years preceding the March 10, 2020 incident, including any investigation(s) into such complaint(s) and reports from that investigation, which resulted in a sustained finding.
9. All records relating to any incident(s) in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by Defendants MULLIN or WRIGHT directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by another peace officer or custodial officer, including but not limited to, false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

Good cause for compelling disclosure of confidential peace officer records requires that Plaintiff establish that the requested information is “material” to the issues to be tried, and Plaintiff has a “reasonable belief that the governmental agency has custody and control of the records or information from the records.” (*City of Santa Cruz v. Municipal Court*, 49 Cal.3d 79, 90). “Information is ‘material’ if it ‘will facilitate the ascertainment of the facts and a fair trial.’” (*Haggerty v. Superior Court* (2004) 117 Cal.App4th 1079, 1086). Under the *Pitchess* statutes, relevant information “is not limited to facts that may be admissible at trial but may include facts that could lead to the discovery of admissible evidence.” *Haggerty*, *supra*, 117 Cal.App.4th at 1087. A showing of reasonable belief that SACRAMENTO COUNTY has the records can be established by a declaration “on information and belief.” The California Supreme Court specifically addressed the argument that personal knowledge is required and rejected that argument. *City of Santa Cruz*, *supra*, 49 Cal.3d at 91.

As to categories 1-7, the supporting good cause declaration of Douglas S. Gilliland, Esq., establishes both materiality and a good faith belief that SACRAMENTO COUNTY has the records sought. (See Gilliland declaration, ¶¶ 6, 7, and 8).

As to categories 8 and 9, Plaintiff argues that this information is not deemed confidential under the statute. Penal Codes section 832.7(b) identifies what information is considered non-confidential under the *Pitchess* statutes. One category of non-confidential information under the statute is information regarding “a sustained finding involving a complaint that alleges unreasonable or excessive force.” Penal Code section 832.7(b)(1)(A)(iii). This applies to request 8. A second category of non-confidential information under the statute is information regarding “any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by another peace officer or custodial officer, including but not limited to, false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.” Penal Code § 823.7(b)(1)(C). This applies to request 9. These records in categories 8 and 9 are not deemed confidential pursuant to statute, and Plaintiff has shown they are relevant and/or could lead to the discovery of admissible evidence. (See Gilliland declaration, ¶¶ 9 and 10).

The “relatively relaxed standards” to trigger an in camera review serve to ensure that “all potentially relevant documents” are produced for the trial court’s independent *in camera* review. *Warrick,* *supra,* 35 Cal.4th at 1016. Therefore, the custodian of the records shall bring to the court all documents that are *potentially relevant* to the motion. *People v. Mooc* (2001) 26 Cal.4th 1216, 1226.

GOOD CAUSE APPEARING THEREFOR,

IT IS HEREBY ORDERED that SACRAMENTO COUNTY, by its custodian of records or any other person authorized to handle peace officer personnel records, is ordered to produce the records set forth in Plaintiff’s Notice of Motion, categories 1-9, in their entirety. This includes all documents that are “potentially relevant” to categories 1-9. The records shall be produced only to this Court within five (14) calendar days of this order. The Court will conduct an in camera review and issue an order regarding production thereafter.

DATED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge of the Superior Court