

1           THERE ARE A LOT OF SIGNIFICANT ISSUES FROM AN  
2 EVIDENTIARY STANDPOINT AND A LEGAL STANDPOINT, AND THE  
3 BRIEFS FILED BY THE PARTIES WERE OF GREAT ASSISTANCE TO  
4 ME, AND THE ARGUMENTS WERE OF EVEN GREATER ASSISTANCE TO  
5 ME. SO I THANK COUNSEL FOR THEIR ACHIEVEMENT IN THAT  
6 REGARD.

7           DEFENDANTS ██████ AND ██████ ARE CHARGED IN  
8 COUNTS 1 AND 2, RESPECTIVELY, WITH PENAL CODE  
9 SECTIONS 134 AND 118.1, AND DEFENDANT ██████ SINGLY IN  
10 COUNT 1, PENAL CODE SECTION 134.

11           LET THE COURT ADDRESS THE ISSUES IN THE CASE  
12 AS FOLLOWS.

13           AS TO COUNT NUMBER 1, PENAL CODE SECTION 134,  
14 THE ELEMENTS REQUIRE THE PREPARATION OF A FALSE THING  
15 WITH THE SPECIFIC INTENT TO PRODUCE OR ALLOW PROCEDURES  
16 CHARACTERIZED AS A TRIAL, PROCEEDING, OR INQUIRY,  
17 WHATEVER AUTHORIZED BY LAW, AND WITH THE SPECIFIC INTENT  
18 OF DECEIT AND FRAUD.

19           PENAL CODE SECTION 118.1 IS THE KNOWING AND  
20 INTENTIONAL MAKING OF A FALSE STATEMENT IN A REPORT, WITH  
21 THE FURTHER ELEMENT THAT ANY SUCH STATEMENT IS NOT A  
22 STATEMENT ATTRIBUTED TO ANOTHER PARTY.

23           AS FAR AS THE ELEMENTS THEMSELVES, AS I  
24 INDICATED GOING INTO ARGUMENT, THERE HAS BEEN A GREAT  
25 DEAL OF ARGUMENT ABOUT ELEMENTS, AND SPECIFICALLY WITH  
26 REGARD TO PENAL CODE SECTION 134, A GREAT DEAL OF  
27 ARGUMENT AS TO THE CHARACTERIZATION OF "TRIAL,  
28 PROCEEDING, OR INQUIRY, WHATEVER AUTHORIZED BY LAW."

1 THE DEFENSE ATTACK HAS BEEN THAT THE  
2 PREPARATION WAS SIMPLY NOT PART OF ANY TRIAL PROCEEDING  
3 OR INQUIRY AUTHORIZED BY LAW, THAT THE NATURE OF F.I.  
4 CARDS AND WHAT FOLLOWS THEREAFTER IS SIMPLY NOT THE TYPE  
5 OF MATTER THAT FALLS WITHIN THE PURVIEW OF PENAL CODE  
6 SECTION 134.

7 AND THE DEFENSE POINTS OUT THE STATUTE IS  
8 FROM 1872 AND THERE HAVE BEEN ONLY TWO CASES INTERPRETING  
9 THE STATUTE. AND THE DEFENSE SAYS THAT THOSE CASES ARE  
10 READILY DISTINGUISHABLE FROM THIS CASE, BECAUSE THE ONE  
11 CASE, PEOPLE VERSUS MORRISON AT 191 CAL.APP.4TH 1551, HAS  
12 TO DO WITH A PROBATIONER PREPARING FALSE URINE TESTS, AND  
13 THAT IS CLEARLY PART OF A CRIMINAL PROCEEDING, AND  
14 PROBATION REVOCATION CAN AND OFTEN DOES ARISE AFTER A  
15 CRIMINAL PROCEEDING.

16 SO THE DEFENSE ATTEMPTS TO DISTINGUISH THAT  
17 CASE AND THIS CASE BY THE NATURE OF THE FORMALITY OF THE  
18 PROCEEDINGS. AND THE DEFENSE GOES ON TO CHALLENGE THE  
19 STATUTE BASED UPON ITS INTERPRETATION OF PEOPLE VERSUS  
20 CLARK AT 72 CAL.APP.3D 801 HAVING TO DO WITH TENURE AND A  
21 GRIEVANCE PROCEDURE AS AUTHORIZED BY THE EDUCATION CODE.

22 THE PEOPLE POINT OUT BOTH OF THOSE CASES AND  
23 ARGUE STRONGLY THAT THIS CASE DOES FALL WITHIN THE AMBIT  
24 OF THOSE CASES, AND MOST PARTICULARLY PEOPLE VERSUS  
25 CLARK, BECAUSE IT IS A MATTER INVOLVING THE PREPARATION  
26 OF A FALSE THING, THE PEOPLE WOULD ARGUE, THE FALSE  
27 F.I. CARD, AND THE NATURE OF THE PROCEEDING, WHICH THE  
28 DEFENSE SAYS IS ABSOLUTELY PURELY DATABASE WITH NO

1 SIGNIFICANCE BEYOND THAT.

2 THE PEOPLE ARGUE THIS IS WITHIN THE PURVIEW  
3 OF THE SECTION BECAUSE, FIRST OF ALL, A DATABASE IS NOT  
4 JUST SOMETHING CREATED OUT OF WHOLE CLOTH; IT HAS A  
5 STATUTORY FOUNDATION AND THERE IS NECESSARILY A GRIEVANCE  
6 PROCEDURE SET OUT WITHIN THE NATURE OF PENAL CODE  
7 SECTION 186.34 (E) WHICH ALLOWS SOMEONE WHO CLAIMS TO BE  
8 AGGRIEVED TO PETITION THE COURT FOR INVOLVEMENT.

9 AND THE PEOPLE POINT OUT THAT'S VERY MUCH ON  
10 POINT WITH PEOPLE VERSUS CLARK.

11 I AGREE WITH THE PEOPLE'S POSITION IN THIS  
12 REGARD AS TO PENAL CODE SECTION 134. IT IS NOT LIMITED  
13 TO SOMETHING CONTAINED IN AN ACTUAL COURT CASE OR AN  
14 ACTUAL PROCESS SO LIMITED BY THE NATURE OF THE STATUTE  
15 CREATING THE CALGANG SYSTEM, AND BY THE NATURE OF THE  
16 GRIEVANCE PROCEDURE AND THE RIGHT TO PETITION, IT BRINGS  
17 INTO PLAY WHAT CAN BE CHARACTERIZED AS A PROCEEDING OR  
18 INQUIRY AUTHORIZED BY LAW.

19 NOW, WITH REGARD TO THOSE ELEMENTS, THE  
20 PEOPLE HAVE SET ASIDE THEIR BURDEN. AND PLEASE NOTE AND  
21 EMPHASIZE THAT THE BURDEN, AS WE KNOW, IS PROBABLE CAUSE,  
22 NOT ANY OTHER HIGHER STANDARD.

23 WITH REGARD TO PENAL CODE SECTION 118, AS TO  
24 THAT PARTICULAR STATUTE, THE DEFENSE TALKS ABOUT AND  
25 CHALLENGES THE PEOPLE'S FILING BY DISPUTING FALSE  
26 STATEMENTS IN A REPORT BY SAYING THAT THE F.I. CARDS ARE  
27 NOT SOMETHING THAT CAN BE CHARACTERIZED AS A REPORT --  
28 THE STATEMENTS ARE NOT FALSE -- AND THE DEFENSE SAYS THE

1 STATEMENTS CANNOT BE RECEIVED BECAUSE THEY ARE  
2 ATTRIBUTABLE TO ANOTHER PERSON.

3 THERE ARE IN THIS CASE STATEMENTS ATTRIBUTED  
4 TO OTHER PERSONS OTHER THAN THE PARTICULAR NAMED  
5 DEFENDANT, BUT THE ANALYSIS DOESN'T STOP THERE. THE  
6 QUESTION IS, WITHOUT SUCH STATEMENTS THAT MAY BE  
7 ATTRIBUTED TO THE TARGETS OF THE F.I. CARD, WHETHER THERE  
8 IS SUFFICIENT EVIDENCE TO ESTABLISH THE EXISTENCE OF A  
9 REPORT AND STATEMENTS.

10 I ONCE AGAIN AGREE WITH THE PEOPLE'S  
11 POSITION. I BELIEVE THAT THE NOTATIONS CONTAINED IN THE  
12 F.I. CARDS AND IN SUBSEQUENT MATTERS ARE STATEMENTS.  
13 THEY ARE NOT NECESSARILY INCLUSIVE OF STATEMENTS OF  
14 ANOTHER PARTY. AND AS I SAID, ONE CAN EXCLUDE THE  
15 STATEMENTS OF THE OTHER PARTY AND STILL FIND THAT THEY  
16 ARE STATEMENTS NOT ATTRIBUTABLE TO ANOTHER PARTY.

17 SO IN TERMS OF THAT PARTICULAR COUNT, THE  
18 COURT CAN AND DOES FIND THAT THE PEOPLE HAVE MET THEIR  
19 BURDEN OF ESTABLISHING, FOR PURPOSES OF FILING,  
20 STATEMENTS AND REPORT.

21 THE OVERRIDING CONSIDERATION IN THIS CASE, AS  
22 WE ALL NOTED AT THE BEGINNING OF THE PROCEEDINGS, AND  
23 WHICH IS NO SURPRISE, IS WHETHER, IN FACT, THE OFFICERS  
24 IN THIS CASE HAD THE REQUISITE MENTAL STATE AND SPECIFIC  
25 INTENT TO DECEIVE AND ENGAGE IN FRAUDULENT ACTIVITY BY  
26 MANUFACTURING, AS THE PEOPLE WOULD SAY, THE EXISTENCE OF  
27 F.I. CARDS AND THE SUBSEQUENT ENTRIES INTO THE CALGANG  
28 SYSTEM OF INFORMATION WHICH WAS PATENTLY FALSE WITH THE

1 INTENT TO DECEIVE. AND THE PEOPLE ARGUE THAT THERE'S  
2 MOTIVATION, AND THE MOTIVATION IS BENEFIT.

3 ONE MUST NOTE AND EMPHASIZE THAT IN THIS  
4 CASE, AS TO EACH OFFICER, THE CASE INVOLVES ONE CHARGE.  
5 ONE INCIDENT. NOT A PATTERN, NOT A SEPARATE PROTOCOL,  
6 BUT ONE COUNT.

7 WHEN ONE LOOKS TO THE EVIDENCE IN THIS CASE,  
8 ONE HAS TO DEAL WITH THE OVERRIDING QUESTION OF THE  
9 APPLICABILITY AND NATURE OF THE TERMS "ADMITTED,"  
10 "SELF-ADMITTED," AND "S/A."

11 THE PEOPLE BELIEVE THAT THIS IS A VERY  
12 LIMITED, CLEARLY DEFINED DEFINITION AND IT HAS NO BROADER  
13 MEANING THAN THE ACTUAL WORDS, WHICH THE PEOPLE SAY ARE  
14 SELF-EXPLANATORY.

15 THE DEFENSE TAKES GREAT ISSUE WITH THAT  
16 CHARACTERIZATION AND SAYS THAT, BASED UPON THE CULTURE AT  
17 L.A.P.D., THE TRAINING RECEIVED BY THE OFFICERS, THEIR  
18 INVOLVEMENT WITH TRAINING OFFICERS, WITH THE PRESENTATION  
19 TO THEM OF SAMPLE F.I. CARDS AND DISCUSSIONS WITH THEIR  
20 COLLEAGUES, THAT THOSE TERMS ARE SIMPLY NOT LIMITED TO  
21 SELF-STATEMENTS OF A PARTICULAR DECLARANT VERBALLY.

22 THE DEFENSE ARGUES THAT THERE IS A MUCH MORE  
23 EXPANSIVE INTERPRETATION IN 2018; NOT TODAY, BUT IN 2018,  
24 AT THE TIME THAT ANY SUCH STATEMENTS BY THE THREE  
25 DEFENDANTS WERE AUTHORED.

26 IT IS INTERESTING THAT THE PEOPLE FIND  
27 THEMSELVES IN A DIFFICULT AND TENUOUS POSITION OF  
28 ATTACKING THE CREDIBILITY OF THEIR OWN WITNESSES,

1 BECAUSE, AS HAS BEEN NOTED, NOT ONE WITNESS, NOT ONE  
2 WITNESS FOR THE DEFENSE AND NOT ONE WITNESS FOR THE  
3 PEOPLE, HAS INDICATED A CLEAR DEFINITION OF THOSE TERMS,  
4 "ADMITTED," "SELF-ADMITTED," AND "S/A." ALL THE  
5 WITNESSES ACKNOWLEDGED THAT THERE ARE A GREAT NUMBER OF  
6 VARYING INTERPRETATIONS -- "VARIANCE" IS THE KEY WORD --  
7 THAT THE OFFICERS WERE ACTING UNDER THE GRANT OF  
8 AUTHORITY WHICH THEY RECEIVED FROM THE HIGHEST RANKINGS  
9 OF L.A.P.D. AND ALL DOWN THE LINE, TO TRAINING OFFICERS,  
10 TO SUPERVISORIAL PERSONNEL, AND TO COLLEAGUES.

11 AND THE DEFENSE ARGUES THAT THE OFFICERS WERE  
12 ENCOURAGED TO LOOK BEYOND WHAT THE PEOPLE SAY ARE THE  
13 EXPRESS DECLARATIONS OR EVEN FURTHER STATEMENTS OF THE  
14 TARGETS.

15 I DO NOT ACCEPT THAT PROPOSITION ADVANCED BY  
16 THE PEOPLE IN THIS CASE. I BELIEVE, THROUGH THE  
17 PRESENTATION OF ALL THE EVIDENCE IN THIS CASE AND THE  
18 REASONABLE INTERPRETATIONS OF THE EVIDENCE, THE  
19 OVERWHELMING EVIDENCE SUPPORTS THIS COURT'S CONCLUSION  
20 THAT THE OFFICERS DID NOT HAVE THE SPECIFIC INTENT TO  
21 MAKE FALSE STATEMENTS AND DID NOT MAKE FALSE STATEMENTS  
22 AND DID NOT HAVE A FRAUDULENT OR DECEITFUL PURPOSE.

23 THEY WERE ACTING UNDER THE CURRENT STATE OF  
24 AFFAIRS. AND THE DERELICTION, IF THERE IS ONE, DOES NOT  
25 LIE WITH THEM. IT LIES HIGHER UP IN THE COMMAND  
26 STRUCTURE, PERHAPS TO THE HIGHEST LEVELS.

27 THE PEOPLE HAVE QUOTED NIETZSCHE IN THE FIRST  
28 SECTION OF THEIR ARGUMENT. THIS COURT BELIEVES IT'S

1 APPROPRIATE TO QUOTE SHAKESPEARE: "A ROSE BY ANY OTHER  
2 NAME IS JUST AS SWEET." AND THAT CAN MEAN THAT THE TERMS  
3 IN THIS CASE OF "ADMITTED," "SELF-ADMITTED," AND "S/A"  
4 ARE OTHER NAMES AND THERE ARE OTHER CONCLUSIONS,  
5 GOOD-FAITH CONCLUSIONS WHICH CAN BE DRAWN FROM THEM.

6 ONE CAN ALSO QUOTE THE POET GERTRUDE STEIN  
7 FOR HER FAMOUS LINE: "ROSE IS A ROSE IS A ROSE." AND  
8 THAT CAN MEAN, AND DOES MEAN, THAT THERE ARE VARIOUS  
9 ASPECTS OF INTERPRETATION WHICH CAN FORM THE GOOD-FAITH  
10 CONCLUSION OF AN INDIVIDUAL.

11 THE OFFICERS IN THIS CASE, UNLIKE THE  
12 INTERPRETATIONS PLACED UPON THEM BY THE PEOPLE, DID NOT  
13 ACT AS ROGUE OFFICERS MANIPULATING THE SYSTEM TO GAIN A  
14 BENEFIT.

15 NOW, THERE HAS BEEN TESTIMONY THAT THAT WAS A  
16 MOTIVATION FOR OFFICERS TO BE CREATIVE IN TERMS OF THEIR  
17 PRESENTATION OF F.I. CARDS. WE HAVE NOT HEARD, AS TO ANY  
18 ONE OF THE THREE OFFICERS IN THIS CASE, AS TO ANY  
19 SPECIFIC BENEFIT RECEIVED BY THEM. ONE COULD SAY, WELL,  
20 IT'S SELF-EVIDENT; YOU PRODUCE MORE, YOU ARE GOING TO BE  
21 MORE WELL-RESPECTED, AS WAS ADVANCED BY THE PEOPLE'S  
22 FIRST WITNESS.

23 BUT AS TO THESE OFFICERS, THERE'S NO EVIDENCE  
24 TO SUPPORT THAT CONCLUSION, NOR IS THERE EVIDENCE TO  
25 SUPPORT THE NOTION THAT THEY'RE ACTING AS ROGUES, NOT  
26 BOUND BY THE STRICTURES OF LAW.

27 THE TERMS, AS INTERPRETED IN 2018, ARE  
28 EXTRAORDINARILY SUBJECT TO INTERPRETATION BY INDIVIDUAL

1 OFFICERS, AND THE OFFICERS WERE ENCOURAGED BY TRAINING  
2 OFFICERS AND COLLEAGUES AND SUPERVISORS TO UTILIZE THEIR  
3 EXPERIENCE AND THEIR KNOWLEDGE FROM TRAINING AND THEIR  
4 EXPERTISE AND THEIR ACCESS TO SOCIAL MEDIA AND RESEARCH  
5 TO GO BEYOND THE LIMITED NATURE OF EXPRESS VERBAL  
6 STATEMENTS. AND AS FAR AS THIS COURT IS CONCERNED,  
7 THAT'S WHAT ALL THREE OFFICERS DID IN THIS PARTICULAR  
8 CASE.

9           HOWEVER REGRETTABLE IT MAY SEEM, THERE'S A  
10 NOTION OF TRICKLE-DOWN RESPONSIBILITY IN THIS CASE;  
11 NAMELY, THAT THE RANK AND FILE OF METRO OFFICERS ARE  
12 BEING PROSECUTED BASED UPON INTERPRETATIONS IN LATER  
13 YEARS THAT WERE, IN FACT, MADE AND ENCOURAGED BY  
14 HIGHER-RANKING INDIVIDUALS AT L.A.P.D., AND, AS SUCH,  
15 THEY ARE NOT CULPABLE IN TERMS OF ANY COUNT IN THIS CASE.

16           THE DEFENSE MOTION TO DISMISS AS TO EACH  
17 DEFENDANT ANY AND ALL COUNTS CHARGED AGAINST THAT  
18 DEFENDANT IS GRANTED.

19           PURSUANT TO THE PROVISIONS OF PENAL CODE  
20 SECTION 871, IT DOES NOT APPEAR TO ME, FROM THE EVIDENCE  
21 PRESENTED, THAT THE OFFENSES IN COUNT 1 AND COUNT 2, AS  
22 TO DEFENDANTS ██████ AND ██████, NAMELY, PENAL CODE  
23 SECTIONS 134 AND 118.1, AND DEFENDANT ██████ IN COUNT 1,  
24 PENAL CODE SECTION 134, HAVE BEEN COMMITTED, AND THE  
25 COURT DOES NOT FIND THAT THERE EXISTS PROBABLE CAUSE TO  
26 HOLD ANY OF THE DEFENDANTS TO ANSWER.

27           THE COURT GRANTS EACH DEFENDANT'S MOTION TO  
28 DISMISS. ALL COUNTS ARE DISMISSED AS TO EACH DEFENDANT,



1 AND EACH DEFENDANT IS DISCHARGED.

2 NOW, WITH REGARD TO EXHIBITS, SINCE THERE IS  
3 NO EXISTING COURT PROCEEDING, THE COURT IS GOING TO HAVE  
4 RETURNED TO THE PARTIES THEIR INDIVIDUAL EXHIBITS. AND I  
5 BELIEVE THAT CERTAIN TRANSCRIPTS WERE PROVIDED AS PART OF  
6 THE EXHIBITS, AND THOSE TRANSCRIPTS THAT WERE SEPARATELY  
7 PROVIDED BY COUNSEL TO THE COURT IN TERMS OF ANY MOTION  
8 ARE TO BE RETURNED TO COUNSEL.

9 WOULD COUNSEL LIKE TO BE HEARD AS TO ANYTHING  
10 IN PARTICULAR? MR. [REDACTED]? MR. [REDACTED]?

11 MR. [REDACTED]: YES, YOUR HONOR.

12 THE COURT: ANYTHING YOU'D LIKE TO ADDRESS?

13 MR. [REDACTED]: NOT FROM ME, YOUR HONOR.

14 THE ONLY THING I WOULD POINT OUT IS WE HAVE A  
15 PARALEGAL AVAILABLE TODAY. MAY SHE PLEASE PHOTOGRAPH THE  
16 EXHIBITS HERE IN COURT BEFORE ANY OF THE EXHIBITS ARE  
17 RETURNED? WE JUST WANT TO MAKE SURE WE HAVE A COMPLETE  
18 SET.

19 THE COURT: YOU MEAN THE EXHIBITS THAT WERE  
20 RECEIVED IN EVIDENCE AND ALSO THE EXHIBITS YOU USED FOR  
21 PURPOSES OF ARGUMENT?

22 MR. [REDACTED]: WHATEVER HAS BEEN MOVED INTO EVIDENCE.  
23 SHE'S HERE TO PHOTOGRAPH THOSE JUST SO WE HAVE A RECORD  
24 OF THOSE.

25 THE COURT: WILL THERE BE ANY OBJECTION, MR. MASON?

26 MR. [REDACTED]: NO, I HAVE NO PROBLEM WITH THAT.

27 THE COURT: THAT REQUEST IS GRANTED.

28 MR. [REDACTED]: THANK YOU VERY MUCH.

1           **THE COURT:** AND THE PEOPLE WILL BE GIVEN THAT  
2 OPPORTUNITY, WHICH MAY MEAN THAT ALL OF THOSE MATTERS MAY  
3 NOT BE AVAILABLE IN A MOMENT'S NOTICE.

4           **MR. ██████:** WE SEE AN OBLIGATION TO POSSIBLY TURN  
5 THEM OVER TO THE OTHER RELATED CASES IN DISCOVERY.

6           **THE COURT:** YOU HAVE RESPONSIBILITIES, CERTAINLY,  
7 AND I ACKNOWLEDGE THEM.

8                         MR. FATURECHI, DO YOU HAVE ANYTHING?

9           **MR. ██████:** NO, YOUR HONOR.

10          **THE COURT:** MR. MASON, HAVE YOU --

11          **MR. ██████:** WOULD THE COURT GIVE ME ONE MOMENT TO  
12 CONFER?

13          **THE COURT:** WITH THE PEOPLE?

14          **MR. ██████:** YES.

15          **THE COURT:** OF COURSE.

16  
17                         (COUNSEL CONFERRED SOTTO VOCE.)

18  
19          **MR. ██████:** THANK YOU, YOUR HONOR. I WANTED TO  
20 CONFER WITH RESPECT TO PENAL CODE SECTION 851.8 RELIEF,  
21 AND THAT'S WHAT I WANTED TO CONFER WITH -- ABOUT, AND WE  
22 CAN TAKE THAT UP AT ANOTHER TIME.

23          **THE COURT:** OKAY.

24                         BY ITS NATURE, A PRELIM OR A TRIAL MAY HAVE  
25 INDIVIDUALS WHO ARE SATISFIED WITH THE DECISION AND  
26 INDIVIDUALS WHO ARE DISSATISFIED WITH THE DECISION.

27                         IT IS THE RESPONSIBILITY OF A COURT TO CALL  
28 IT AS IT IS, HOWEVER TASTEFUL OR DISTASTEFUL THE DECISION

1 MAY BE, AND THE COURT ACTS IN GOOD FAITH IN DOING THAT  
2 AND ACKNOWLEDGES THAT THERE MAY BE VERY COMPLICATED  
3 ISSUES AND EVERYONE MAY NOT NECESSARILY AGREE. BUT  
4 THAT'S THE NATURE OF THE PROCEEDING.

5 I WISH ALL THREE DEFENDANTS GOOD LUCK. I  
6 WISH COUNSEL AND THE SERGEANT GOOD LUCK AS WELL.

7 THESE PROCEEDINGS ARE CONCLUDED.

8 THANK YOU.

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10 (THE PROCEEDINGS WERE CONCLUDED.)

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