

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

CITY OF EUREKA,

Defendant/Appellant,

v.

THE SUPERIOR COURT OF
HUMBOLDT COUNTY,

Respondent,

THADEUS GREENSON,

Real Party In Interest.

Case No: A145071

Super. Court No.: JV140252

Appeal from the Order Requiring Disclosure of *Pitches* Material Issued by
The Superior Court of California, County of Humboldt
Entered on May 20, 2015
By Judge Christopher G. Wilson

APPELLANT'S BRIEF

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Appeal from the Order Requiring Disclosure of *Pitchess* Material Issued by
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APPELLANT'S BRIEF

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

TO BE FILED IN THE COURT OF APPEAL

<p>COURT OF APPEAL, First APPELLATE DISTRICT, DIVISION Five</p> <p>Court of Appeal Case Number: A145071</p>		<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Cyndy Day-Wilson, SBN135045 City Attorney, Eureka 531 K Street Eureka, CA 95551</p> <p>TELEPHONE NO.: 707-441-4147 FAX NO. (Optional): 707-441-4148 E-MAIL ADDRESS (Optional): cday-wilson@ci.eureka.ca.gov City of Eureka ATTORNEY FOR (Name):</p>	
<p>RESPONDENT/REAL PARTY IN INTEREST: Superior Court of Humboldt County</p>		<p>APPELLANT/PETITIONER: City of Eureka</p>	
<p>CERTIFICATE OF INTERESTED ENTITIES OR PERSONS</p> <p>(Check one): <input checked="" type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE</p>			
<p>Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.</p>			

1. This form is being submitted on behalf of the following party (name): City of Eureka
2. a. There are no interested entities or persons that must be listed in this certificate under rule 8.208.
 b. Interested entities or persons required to be listed under rule 8.208 are as follows:

<p>Full name of interested entity or person</p>	<p>Nature of interest (Explain):</p>
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- (1) Adam Laird
 Former EPD Officer - subject of the media's request
- (2) County of Humboldt
 Probation Department
- (3) District Attorney, Humboldt County
 prosecutor

Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: October 26, 2015

Cyndy Day-Wilson, Esq.
 (TYPE OR PRINT NAME)

Cyndy Day-Wilson
 (SIGNATURE OF PARTY OR ATTORNEY)

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APPELLANT'S BRIEF

I. INTRODUCTION

Police officers' confidential personnel records are subject to substantial protection. In order to protect police officers; confidential personnel records; the Legislature has carefully crafted several statutes to ensure that the information is not disclosed without a proper showing of good cause. These statutes are commonly referred to as the *Pitchee* statutes.

Mr. Greenson has attempted to circumvent the Legislature's carefully crafted *Pitchee* protections to access confidential personnel records contained in a juvenile case file by instead filing a Request for Disclosure of Juvenile Case File (JV-570). Both Welfare and Institutions Code section 827(a)(3)(A) and established case law clearly indicate that *Pitchee* procedures must be complied with in these types of situations. Despite *Pitchee* law protecting the information requested, Mr. Greenson did not make the required showing of good cause necessary under Evidence Code section 1043(b)(3). As such, the lower court erred when it granted Mr. Greenson's disclosure request without first following *Pitchee* procedure. By failing to conduct the required *Pitchee* hearing, the privacy interests of the individual officer has been compromised, and clearly established law has been undermined.

II. STATEMENT OF THE CASE

A. The Underlying Alleged Officer Misconduct

On December 6, 2012, Eureka City Police Sergeant Adam Laird, along with several other officers, arrested Horacio M., a minor. (CT2, 272, ¶ 6.)¹ A Welfare and Institutions Code section 602 delinquency petition was filed against the minor. This incident resulted in a citizen complaint and misdemeanor charges against Sergeant Laird. In addition to the citizen complaint and criminal charges, an Internal Affairs investigation into the actions of Sergeant Laird was initiated. During that investigation, the Eureka Police Department pulled a recording of the incident, which was captured on a camera installed on the dashboard of a patrol car. This video served as the backbone of the Internal Affairs investigation and was intimately relied upon by the investigating officers. Ultimately, the District Attorney dismissed the criminal charges against Sergeant Laird and the delinquency petition against the minor was withdrawn.

B. Subsequent Disclosure Requests and Proceedings

On or about August 19, 2014, Mr. Greenson made a Public Records Act request for “any and all records . . . associated with the investigation, arrest and prosecution of former Eureka Police Department Sergeant Adam Laird . . . [including] copies of all video and audio files associated with the investigation, including . . . the dash cam video.” On September 12, 2014, the City informed Mr. Greenson that disclosure was prohibited pursuant to Government Code section 6254, Penal Code sections 832.5 and 832.7, and

¹ Citations to the Clerk’s Transcript, Volume 1 and Volume 2 are noted as “CT1” and “CT2” followed by the page number and line numbers or paragraph numbers. Citations to the Reporters’ Transcript are noted as “RT” followed by the page number and line numbers.