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7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF

8 THE PEOPLE OF THE STATE OF ) Case No.  
CALIFORNIA, )  
9 )  
Plaintiff, ) POINTS AND AUTHORITIES IN  
10 ) SUPPORT OF THE ADMISSIBILITY  
OF )  
11 vs. ) PORTIONS OF A POLICE REPORT  
12 ) CONTAINING PRIOR INCONSISTENT  
13 HIS ) STATEMENTS WHEN THE AUTHOR IS  
Defendant. ) UNAVAILABLE TO AUTHENTICATE  
14 ) REPORT  
15 ) Date:  
16 ) Time:  
17 ) Dept:

18 I.

19 **FACTUAL BACKGROUND**

20 (Set forth a brief discussion of what prior inconsistent  
statements you wish to elicit from the police report)

21 II.

22 **ISSUE:**

23 **MAY A POLICE REPORT BE ADMITTED TO DEMONSTRATE  
PRIOR INCONSISTENT STATEMENTS OF A WITNESS WHEN THE  
AUTHOR OF THE REPORT IS UNAVAILABLE AT TRIAL?**

24 **Evidence Code § 1280** permits evidence of a writing made as a  
25 record of an act, condition, or event admissible when offered to  
26 prove such act, condition, or event **if:**

27 (a) the writing was made by and within the scope of duty of  
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1 public employee;

2 (b) the writing was made at or near the time of the act,  
3 condition, or event; and

4 (c) the sources of information and method and time of  
5 preparation were such as to indicate its trustworthiness.

6 Police reports fall within this hearsay exception.

7 (**Nissel v. Certain Underwriters of Lloyd's of London (1998) 62**

8 **Cal.App.4th 1103, 1107, fn.4; Ganian v. Zolin (1995) 33**

9 **Cal.App.4th 634, 639.**) Portions of a police report may (without

10 the testimony of the report's author) be introduced into evidence

11 to impeach a witness, although it would be improper for an

12 "uncleansed" police report to be sent into the jury room.

13 (**People v. Dasher (1988) 198 Cal.App.3d 28, 39.**)

14 Dated:

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Attorney for Defendant

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