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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE, Plaintiff and Respondent, v. CHRISTOPHER JOHN DOLAN, Defendant and Appellant.	B231619 (Los Angeles County Super. Ct. No. GA079704)

APPEAL from a judgment of the Superior Court of Los Angeles County, Laura F. Priver, Judge. Reversed and remanded.

Gail Ganaja, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, and Michael J. Wise, Deputy Attorney General.

Christopher John Dolan appeals from the judgment entered following his conviction by a jury of possession of methamphetamine with special findings by the court in a bifurcated proceeding that he had suffered three prior serious or violent felony convictions within the meaning of the "Three Strikes" law and had served eight prior separate prison terms for felonies within the meaning of Penal Code section 667.5, subdivision (b). Dolan contends the trial court prejudicially erred in denying his motion to suppress a statement he made while in custody and prior to being advised of his right to remain silent, to the presence of an attorney, and, if indigent, to appointed counsel. (*Miranda v. Arizona* (1966) 384 U.S. 436 [86 S.Ct. 1602, 16 L.Ed.2d 694] (*Miranda*).) Dolan also asks that we review the in camera proceedings conducted by the trial court to determine whether it properly concluded there was no discoverable material to which he was legally entitled under Evidence Code sections 1043 and 1045 and *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*). We reverse and remand for a new trial.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Pretrial Motions*

a. *The Pitchess motion*

Pursuant to Evidence Code sections 1043 and 1045, Dolan moved for pretrial discovery of information in the personnel records of the arresting officer, Monterey Park Police Officer Swain Wukelich, concerning any complaints or discipline involving acts of moral turpitude "including but not limited to allegations of false arrest, planting evidence, fabrication of police reports, fabrication of probable cause, false testimony, perjury, writing false police reports . . . and other acts of dishonesty and fabrication." The Monterey Park Police Department opposed the motion.

The trial court found good cause and granted the motion, limited to "situations where there were complaints of false police report[s] or false statements were made by the officer." Following its in camera review with the custodian of records, the court found there was no discoverable material to be provided to the defense.

b. *The motion to suppress Dolan's statements to Officer Wukelich*

Prior to trial Dolan moved to suppress statements he made to Officer Wukelich while in a jail cell at the Monterey Park police station following his arrest on the ground they were obtained in violation of his rights under *Miranda, supra*, 384 U.S. 436. Following Wukelich's testimony at a hearing outside the presence of the jury, the court ruled the statements were "spontaneous" and, therefore, admissible.

2. *The People's Evidence*

As part of an ongoing investigation of the area near Kings Lodge Motel in Monterey Park, Officer Wukelich learned a car in the motel parking lot was registered to Esmeralda Mejia and there was an outstanding warrant for her arrest. The motel clerk told Wukelich the occupants of Mejia's car were in room 118, which was registered to Benjamin Frescas. Wukelich determined there was also an outstanding warrant for Frescas's arrest.

Officer Wukelich walked toward Frescas's motel room and saw Dolan and Frescas leaving the room. He spoke to the men, and Dolan acknowledged he was on parole. Through the open door Wukelich saw Mejia and two other women sitting on the bed. Wukelich had the women leave the room and stand with Dolan and Frescas. Frescas, Mejia and Dolan consented to a search of the room. Two other police officers arrived at the scene and stayed with the five suspects while Wukelich searched the room. After Frescas told Wukelich there was methamphetamine in his backpack inside the room, Wukelich found a syringe and a small plastic bag containing a substance that appeared to be methamphetamine in the backpack. Wukelich then found another small plastic bag wrapped inside a tissue hidden between the mattress and headboard; it also contained a substance that resembled methamphetamine. None of the motel room's occupants saw Wukelich find the hidden bag; no one admitted ownership of it at that time.

At the request of Dolan's parole agent Wukelich arrested Dolan for a parole violation. He arrested Frescas and Mejia on their respective arrest warrants and also for possession of methamphetamine. Mejia, who was pregnant, was taken to a medical

facility. Dolan was also transported to a hospital but shortly thereafter taken to the Monterey Park Police Station where he was placed in a jail cell.

According to Officer Wukelich, Dolan asked him why his girlfriend Mejia had been arrested. Wukelich responded he had arrested her for possession of methamphetamine because he found drugs near where she had been sitting inside the motel room. Immediately thereafter Dolan said the methamphetamine was his. Following this claim of ownership, Wukelich asked Dolan how the drugs had been packaged; and Dolan described the packaging of the drugs found between the mattress and the headboard (double bagged, tied in a knot and covered with a napkin). Wukelich then charged Dolan, rather than Mejia, with possession of methamphetamine.

The substance found hidden in the bed tested positive for methamphetamine. The People and Dolan stipulated that neither party had been able to locate Mejia to testify at trial.

3. *The Defense Evidence*

Dolan testified in his own defense. Dolan explained he, Mejia and the two other women had encountered Frescas, a friend of Mejia's, at a self-service laundry and given him a ride back to his motel room. Dolan did not know that Frescas had methamphetamine in his backpack or that there were drugs inside the motel room.

Dolan believed he was the father of Mejia's unborn child and was concerned because she told him she had felt "sharp contraction pains" before she was taken to the hospital following her arrest. While in the Monterey Park jail he heard Officer Wukelich tell the booking officer Mejia was experiencing complications at the hospital. He asked Wukelich about Mejia's condition, and Wukelich responded he could not provide Dolan with that information. Dolan subsequently asked Wukelich why Mejia had been arrested, and Wukelich told him for possession of methamphetamine. According to Dolan, he then asked, "If I was to say the drug was mine would you let her go?" When Wukelich responded he would not charge Mejia if Dolan admitted ownership of the methamphetamine, Dolan asked if he was serious. Wukelich responded he was, made a

telephone call and told Dolan that Mejia had been released. Dolan only described the packaging of the methamphetamine when Wukelich brought it over to him and placed it on a counter three feet away during the fingerprinting process.

It was stipulated Dolan had used methamphetamine in 2008 and had convictions for car theft, assault-related felonies and possession of marijuana for sale.

4. *Verdict and Sentence*

The jury found Dolan guilty of one count of possession of methamphetamine as charged. (Health & Saf. Code, § 11377, subd. (a).) In a bifurcated proceeding following Dolan's waiver of a jury trial on the prior conviction allegations, the court found Dolan had suffered three prior strike convictions and served eight prior separate prison terms for felonies within the meaning of Penal Code section 667.5, subdivision (b).

The court granted Dolan's motion to dismiss his prior strike convictions in part, dismissing two of the three convictions and sentencing Dolan as a second strike offender. The court also struck the prior prison term enhancement allegations in the interest of justice. (Pen. Code, § 1385.) Dolan was sentenced to an aggregate state prison term of four years (the middle term of two years doubled).

DISCUSSION

1. *Dolan's Response to Officer Wukelich's Question About the Drug Packaging Should Have Been Excluded*

Officer Wukelich's testimony at the Evidence Code section 402 hearing to consider Dolan's motion to suppress was essentially the same as his trial testimony regarding Dolan's statements. Dolan initiated the conversation while in his jail cell, asking Wukelich why his girlfriend, Mejia, had been arrested. When Wukelich responded she had been sitting where some of the drugs had been found, Dole said the methamphetamine was his. Wukelich then asked Dolan "to describe the packaging." Dolan did so, and his description was consistent with the packaging of the methamphetamine found hidden in the motel bed. There was no evidence Wukelich or any other officer had advised Dolan of his *Miranda* rights before this exchange took place.

a. *Governing law*

Miranda admonitions (advising a suspect of his or her right to remain silent, to the presence of an attorney and, if indigent, to appointed counsel) must be given and an individual in custody must knowingly and intelligently waive those rights before being subjected to either express questioning or its "functional equivalent." (*Rhode Island v. Innis* (1980) 446 U.S. 291, 300-301 [100 S.Ct. 1682, 64 L.Ed.2d 297]; *People v. Ray* (1996) 13 Cal.4th 313, 336.) Unwarned statements made during custodial interrogation, even if otherwise voluntary within the meaning of the Fifth Amendment, generally must be excluded from evidence at trial. (*Oregon v. Elstad* (1985) 470 U.S. 298, 307 [105 S.Ct. 1285, 84 L.Ed.2d 222]; *People v. Bradford* (1997) 14 Cal.4th 1005, 1033; see *People v. Sims* (1993) 5 Cal.4th 405, 440 ["[s]tatements obtained in violation of *Miranda* are inadmissible to establish guilt"].)[1]

Miranda applies only to "custodial interrogation." (*Rhode Island v. Innis, supra,* 446 U.S. at p. 300; *Miranda, supra,* 384 U.S. at p. 444.) "By 'custodial interrogation' we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." (*Miranda,* at p. 444.) "When there is *custody* but not *interrogation*, *Miranda* does not apply." (*People v. Harmon* (1992) 7 Cal.App.4th 845, 853.) "'Interrogation' consists of express questioning, or words or actions on the part of the police that 'are reasonably likely to elicit an incriminating response from the suspect.'" (*People v. Cunningham* (2001) 25 Cal.4th 926, 993.) Whether particular questioning amounts to an interrogation depends on the "total situation," including the length, place and time of the questioning, the nature of the questions, the conduct of the police and all other relevant circumstances.

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[1] "In reviewing *Miranda* issues on appeal, we accept the trial court's resolution of disputed facts and inferences as well as its evaluations of credibility if substantially supported, but independently determine from undisputed facts and facts found by the trial court whether the challenged statement was legally obtained." (*People v. Smith* (2007) 40 Cal.4th 483, 502.)

(*People v. Terry* (1970) 2 Cal.3d 362, 383, disapproved on another ground in *People v. Carpenter* (1997) 15 Cal.4th 312, 382.)

Not all conversation between a police officer and a suspect constitutes interrogation. (*People v. Ray*, *supra*, 13 Cal.4th at p. 338 ["not all questioning of a person in custody constitutes interrogation under *Miranda*"].) "The police may speak to a suspect in custody as long as the speech would not reasonably be construed as calling for an incriminating response." (*People v. Clark* (1993) 5 Cal.4th 950, 985, disapproved on another ground in *People v. Doolin* (2009) 45 Cal.4th 390, 421, fn. 22; see, e.g., *People v. Clair* (1992) 2 Cal.4th 629, 679-680 ["interrogation" does not extend to "inquiries" limited to identifying a person found under suspicious circumstances or near the scene of a recent crime]; see also *People v. Herbst* (1986) 186 Cal.App.3d 793, 798-800 [answers to routine booking questions need not be preceded by *Miranda* warnings to be admissible].) In particular, preliminary investigative inquiries designed to obtain identifying information to confirm or dispel the suspicion of criminal conduct are outside the scope of *Miranda.* (*People v. Farnam* (2002) 28 Cal.4th 107, 180-181 [police officer's preliminary custodial inquiries, "[W]hat's your name, what's your birthday, where do you live?" were attempts to obtain information about the suspect's identity and to confirm or dispel officer's suspicions and thus were outside scope of *Miranda*]; see also *People v. Morris* (1991) 53 Cal.3d 152, 198 [asking two brief prearrest questions to learn defendant's identity and his relationship to the vehicle used in connection with criminal activity did not constitute interrogation], disapproved on another ground in *People v. Stansbury* (1995) 9 Cal.4th 824, 830, fn. 1.)[2]

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[2] The rule excluding preliminary inquiries from the scope of *Miranda* recognizes "the value of routine and nonintrusive police inquiry before arrests and accusations are made. Such inquiry serves to minimize mistakes and protect the innocent. . . . 'One of the primary purposes of preliminary questioning is to separate a group of persons possibly involved in a crime into those who should and those who should not be arrested—to decide whether all, some, or none should be charged. To turn all such questioning into custodial interrogation, requiring *Miranda* warnings in all cases, may help those eventually charged. But, it could also seriously interfere with the process of

On the other hand, comments that go beyond preliminary identification inquiries and are reasonably likely to elicit an incriminating response are within the scope of *Miranda*. (See, e.g., *People v. Morris* (1987) 192 Cal.App.3d 380, 387 [booking officer who went to defendant's cell for purpose of giving him identifying wrist band and asked him several questions for purposes of jail security, including "who he was accused of killing" engaged in custodial interrogation because questions were reasonably likely to elicit an incriminating response]; see also *People v. Davis* (2005) 36 Cal.4th 510, 554 [detective's comment to defendant, "'Think about that little fingerprint'" on the gun, implied that defendant's fingerprint had been found on the gun; "this comment was likely to elicit an incriminating response and thus was the functional equivalent of interrogation"]; *People v. Sims*, *supra*, 5 Cal.4th at p. 440 [suggestion that defendant had lured victim inside motel room was "functional equivalent" of interrogation].)

b. *Officer Wukelich's question about the packaging of the methamphetamine was custodial interrogation*

Shortly after initiating a conversation with Officer Wukelich, Dolan volunteered that the methamphetamine found in the bed near where Mejia had been sitting was his. The trial court properly found this unprompted claim of ownership was "spontaneous," rather than the product of custodial interrogation. Dolan does not challenge this portion of the trial court's ruling denying his motion to suppress.

Dolan's description of the manner in which the methamphetamine was packaged, in contrast, was given in direct response to a question by Officer Wukelich. At the time Dolan had already been arrested and was in custody at the Monterey Park jail. In addition, he had just admitted the unlawful possession of a controlled substance. Under these circumstances asking Dolan to describe the method of packaging of the methamphetamine cannot fairly be characterized as a either a preliminary investigative

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information gathering and on occasion force the police to cast their net of arrest too wide, significantly interfering with the liberty of the innocent.'" (*People v. Morris*, *supra*, 53 Cal.3d at p. 198.)

inquiry or a routine booking question. Rather, this was custodial interrogation; and the question was reasonably likely to elicit an incriminating response from Dolan, as it in fact did. (See *People v. Cunningham, supra*, 25 Cal.4th at p. 993 ["'[t]he police may speak to a suspect in custody as long as the speech would not reasonably be construed as calling for an incriminating response'"]; *People v. Clark, supra*, 5 Cal.4th at p. 985.)

To be sure, as the Attorney General explains, if Dolan had not known how the drugs were packaged, this lack of knowledge would belie his claim the methamphetamine belonged to him, not Mejia. But the possibility a suspect may respond to questions posed during custodial interrogation with exculpatory statements, rather than incriminating ones, does not remove the questioning from the scope of *Miranda*.[3]

2. *The Improper Admission of Dolan's Description of the Drug Packaging Was Not Harmless Beyond a Reasonable Doubt*

Error in admitting statements obtained in violation of a defendant's *Miranda* rights is reviewed under the *Chapman* beyond-a-reasonable-doubt harmless error standard (*Chapman v. California* (1967) 386 U.S. 18, 24 [87 S.Ct. 824, 17 L.Ed.2d 705]) to determine whether the conviction may nonetheless be affirmed. (*People v. Cunningham, supra,* 25 Cal.4th at p. 994; *People v. Bradford* (2008) 169 Cal.App.4th 843, 855 ["[w]e must reverse a conviction that rests on evidence from an interrogation conducted in violation of *Miranda* unless admission of the evidence was harmless beyond a reasonable doubt"].) "The beyond-a-reasonable-doubt standard of *Chapman* 'requir[es] the beneficiary of a [federal] constitutional error to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.' [Citation.] 'To say that an error did not contribute to the ensuing verdict is . . . to find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record.' [Citation.] Thus, the focus is what the jury actually decided and whether the

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[3] Even if Officer Wukelich's subjective motivation were relevant, there is no basis in the record for the Attorney General's assertion this question "was specifically designed to elicit a 'non-incriminating' response." Wukelich did not testify why he asked the question.

error might have tainted its decision. That is to say, the issue is 'whether the . . . verdict actually rendered in this trial was surely unattributable to the error.'" (*People v. Neal* (2003) 31 Cal.4th 63, 86; see *People v. Mower* (2002) 28 Cal.4th 457, 484 [*Chapman* standard requires the People, in order to avoid reversal of the judgment, to "prove beyond a reasonable doubt that the error . . . did not contribute to the verdict obtained"].)

The People advance two arguments—both centered on Dolan's admission the methamphetamine belonged to him—to demonstrate any error in admitting Dolan's description of the drug packaging was harmless beyond a reasonable doubt. First, they contend Dolan had to testify to present his defense he had falsely claimed ownership of the methamphetamine to protect his pregnant girlfriend. As a result, his unwarned statement describing the drug's packaging would have been admitted in any event to impeach his testimony. (See *People v. DePriest* (2007) 42 Cal.4th 1, 32 [voluntary confession obtained in violation of *Miranda* admissible for purpose of impeachment]; but see *People v. Johnson* (1989) 211 Cal.App.3d 392, 394, fn. 1 [when there is no testimony on direct or cross-examination opening the door to impeachment, "it would clearly be impermissible for the prosecutor to ask a broad question eliciting a denial and then impeach the defendant with illegally obtained evidence"].) Second, since it was undisputed Dolan was inside the motel room when Officer Wukelich arrived at the scene and his admission the methamphetamine belonged to him was properly introduced into evidence, his "collateral statement" describing the drug packaging did not materially contribute to the jury's guilty verdict. (The Attorney General also suggests the credibility of Dolan's claim he did not know there was methamphetamine in the motel room was seriously undermined by his admission he had numerous prior convictions, including a drug-related one.)

The premise for the People's initial contention is incorrect. Officer Wukelich testified during the People's case-in-chief Mejia appeared to be pregnant and, following her arrest, she had stated she had a medical problem and was taken to a hospital to be treated. Wukelich also testified he believed Mejia and Dolan were "boyfriend-

girlfriend." Finally, Wukelich explained, in response to Dolan's question, he told Dolan Mejia had been arrested because she was physically close to the bag with methamphetamine found inside the motel room. Only at that point did Dolan say the methamphetamine was his.

Even without Dolan's somewhat more expansive description of this sequence of events,[4] Officer Wukelich's testimony alone was sufficient for defense counsel to argue Dolan was attempting to protect his pregnant girlfriend by falsely claiming ownership of the methamphetamine. Dolan did not need to testify to offer this defense. (Cf. *People v. Neal, supra*, 31 Cal.4th at p. 87 ["[w]ithout the confessions, defendant would not have been impelled to testify"].) Accordingly, as our colleagues in the First Appellate District explained in rejecting a similar argument that a voluntary confession obtained in violation of *Miranda* would have been admitted in any event to impeach defendant's testimony, whether Dolan would have testified at all and, if so, whether defense counsel could have structured her direct examination to avoid impeachment through use of his unwarned description of the drug's packaging, "requires us to engage in speculation about the parties' tactical choices. Because it is impossible to determine what might have happened had the trial proceeded differently, we conclude that prejudice should be evaluated on the basis of the evidence actually presented, while excluding the improperly admitted confession." (*People v. Bradford, supra*, 169 Cal.App.4th at p. 855.)

As to the People's second contention, on this record it is not possible to say beyond a reasonable doubt Dolan's conviction for possession of methamphetamine was "surely unattributable" to the trial court's erroneous admission of his description of the methamphetamine packaging. Dolan's knowledge of the peculiar packaging method used (double bagged, tied in a knot and covered with a napkin) before the drugs were hidden in the motel room bed eviscerated his claim he did not know any

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[4] Dolan testified, for example, he had asked Officer Wukelich about Mejia's condition before inquiring why she had been arrested. During cross-examination Wukelich said he could not remember whether Dolan had asked that question.

methamphetamine was present in the room and had asserted the drugs were his simply to protect his girlfriend. Indeed, in closing argument the prosecutor specifically addressed this point, "Also if he did not possess it and knew of its presence, he would not have known how it was packaged because it was in an area of the motel room, the headboard near the top of the bed, where if he didn't know about the methamphetamine, he would not have been in a position to see it and say that it was in fact his." Thus, Dolan's description of the packaging was central to the prosecutor's case, not "collateral" as the People now argue, and was not duplicative of any other evidence at trial. Nor was the evidence of Dolan's guilt otherwise overwhelming. (Cf. *People v. Bradford, supra*, 14 Cal.4th at p. 1038 [finding *Miranda* error harmless under *Chapman* standard because inadmissible statement "was essentially duplicative of defendant's [properly admitted] statement" to police officer and "evidence of defendant's guilt for Kokes's murder was overwhelming"].)

3. *The Trial Court Must Conduct a More Thorough Examination of the Custodian of Records in Ruling on Dolan's Discovery Request for Officer Wukelich's Personnel Records*

"For approximately a quarter-century our trial courts have entertained what have become known as *Pitchess* motions, screening law enforcement personnel files in camera for evidence that may be relevant to a criminal defendant's defense." (*People v. Mooc* (2001) 26 Cal.4th 1216, 1225 (*Mooc*) (fn. omitted); see *Pitchess, supra,* 11 Cal.3d 531.) To balance the defendant's right to discovery of records pertinent to his or her defense with the peace officer's reasonable expectation that his or her personnel records will remain confidential, the Legislature has adopted a statutory scheme requiring a defendant to meet certain prerequisites before his or her request may be considered. (See Pen. Code, §§ 832.5, 832.7 & 832.8; Evid. Code, §§ 1043-1047 [statutory scheme governing *Pitchess* motions].) Specifically, a defendant seeking discovery of a peace officer's confidential personnel record must file a written motion describing the type of records or information sought (Evid. Code, § 1043) and include with the motion an affidavit demonstrating "good cause" for the discovery and the materiality of such evidence

relative to the defense. (*Mooc*, at p. 1226; see also *Warrick v. Superior Court* (2005) 35 Cal.4th 1011, 1019.) The information must be requested with "sufficient specificity to preclude the possibility of a defendant's simply casting about for any helpful information." (*Mooc*, at p. 1226.)

Once the trial court concludes the defendant has satisfied these prerequisites, the custodian of records is obligated to bring to court all documents "potentially relevant" to the defendant's motion. (*Mooc*, *supra*, 26 Cal.4th at p. 1226.) The trial court must then examine the information in chambers, outside the presence of any person except the proper custodian "and any other persons as the person authorized to claim the privilege is willing to have present." (Evid. Code, §§ 915, subd. (b), 1045, subd. (b); see *Warrick v. Superior Court*, *supra*, 35 Cal.4th at p. 1019.) Subject to certain statutory exceptions and limitations not pertinent here, the trial court must then disclose to the defendant "'such information [that] is relevant to the subject matter involved in the pending litigation.'" (*Mooc*, at p. 1226; *Warrick*, at p. 1019.) "A trial court's ruling on a motion for access to law enforcement personnel records is subject to review for abuse of discretion." (*People v. Hughes* (2002) 27 Cal.4th 287, 330.)

Dolan sought pretrial discovery of material from Officer Wukelich's personnel files relating to allegations of dishonesty and fabrication of evidence. As discussed, the court granted the motion in part and, following an in camera review of the material presented by the custodian of records, found nothing relevant to disclose to Dolan. We have examined the sealed transcript of the in camera proceedings and agree no discoverable material was presented by the custodian of records. Nonetheless, the trial court failed to determine that the custodian had made a proper search for potentially responsive documents as required by *Pitchess*, *supra*, 11 Cal.3d 531, and *Mooc*, *supra*, 26 Cal.4th 1216.

Penal Code section 832.8 defines peace officer personnel records as "any file maintained under the individual's name by his or her employing agency and containing records relating to any" of a list of enumerated categories of information, including

"[e]mployee advancement, appraisal, or discipline" and "[c]omplaints or investigations of complaints, concerning an event or transaction in which he or she participated . . . and pertaining to the manner in which he or she performed his or her duties." (Pen. Code, § 832.8, subds. (d), (e).) Those records all may be kept in files labeled "personnel file," but they may also be maintained in administrative files under a variety of other names, including internal affairs files, human resources files or risk management files. (See Pen. Code, § 832.5, subd. (b) [complaints and reports or findings relating to complaints shall be retained for at least five years in the peace officer's "general personnel file or in a separate file designated by the department or agency, as provided by department or agency policy"].)

It is the trial court's obligation to ensure through appropriate questioning that the custodian has produced all potentially responsive documents, beginning with an inquiry into where the custodian has searched and a description of the nature of the information typically found in each different set of files. If some of those files were not provided to the court, the custodian should be asked to explain that decision. (See *Mooc, supra,* 26 Cal.4th at p. 1229.) Here, the court failed to ask, as required, where the custodian had looked for responsive documents; and the custodian stated only that he had brought with him a "general background packet" containing "basic background information, medical information and so forth" in addition to two specific items that the court actually reviewed. There was simply no description of where the custodian had looked. Accordingly, on remand the trial court must conduct a further in camera review of Officer Wukelich's complete personnel records, as those records are defined by Penal Code section 832.8, to determine if there is any relevant material responsive to Dolan's allegations of false police reports or false statements by the officer.

DISPOSITION

The judgment is reversed, and the matter remanded for further proceedings not inconsistent with this opinion.

PERLUSS, P. J.

We concur:

WOODS, J.

JACKSON, J.