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## Judge: Beutel complied with Lance subpoena

By SCOTT STEEPLTON, NEWS-PRESS CITY EDITOR  
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As media pressure the city to release a report looking into allegations of misconduct by Santa Barbara police officer Kasi Beutel that were raised in a series of stories by investigative journalist Peter Lance last year in the News-Press, Officer Beutel at least can say she complied with an order to appear at a Department of Motor Vehicles hearing into the status of Mr. Lance's driver's license.

Mr. Lance faces loss of his driving privilege after being arrested on suspicion of misdemeanor DUI by Officer Beutel on New Year's Day 2011 .

He and his attorney, Darryl Genis, have tried unsuccessfully to delve into the officer's credibility during a license status hearing before DMV hearing officer Michael Windover. They also have complained that Officer Beutel has not complied with a subpoena to appear for the hearing.

In January, Ventura County Superior Court Judge Frederick H. Bysshe Jr. threatened the police officer with thousands of dollars in sanctions if she did not appear.

A contentious hearing took place Feb. 15 at a DMV office in Oxnard, with Officer Beutel on hand for questioning.

But according to the Lance team, her appearance is not enough to satisfy the judge's order.

At a status hearing Monday at the courthouse in Ventura, Mr. Genis told Judge Bysshe that intentional misuse of the rules of evidence by an assistant city attorney on behalf of the embattled police officer rendered her functionally unavailable as a witness. That attorney was Reed Gallogly .

"In terms of whether we got to cross-examine her, we didn't," said Mr. Genis.

"The net effect is we never got any answers out of her."

"She appeared, your honor," countered Assistant City Attorney Tava Ostrenger , speaking on behalf of Officer Beutel, who was present but did not address the court.

Judge Bysshe seemed sympathetic to Mr. Genis' claims that questions about credibility were not allowed by Mr. Windover, who will decide whether Mr. Lance loses his license over the DUI. That case was thrown out by a Santa Barbara County Superior Court judge on the grounds that Bruno Peterson, the Santa Barbara police officer who made the initial stop, had violated Mr. Lance's constitutional rights.

However, the judge said his courtroom was not the proper venue for the complaint. "That's not under my control, sir," he told Mr. Genis.

Ms. Ostrenger said Officer Beutel complied as ordered.

"She testified to all the questions she was required to," she told the judge. "It seems to me the counsel's beef is not with Officer Beutel. It is with the hearing administrator."

While saying he had a beef with no one, Mr. Genis did tell the judge that the DMV's actions thwarted the court order for the officer to appear, and he asked that Mr. Windover be ordered to reopen the hearing and allow the credibility questions to be asked.

"This is not in the purview of this court's authority and jurisdiction," said the judge.

"At this time, the court will conclude this hearing with a record reflecting that Officer Beutel complied with the administrative subpoena."

Mr. Lance was arrested early that New Year's Day after a Breathalyzer test administered by Officer Beutel registered Mr. Lance's blood alcohol content at .09.

Officer Peterson, who was patrolling with partner Heather Clark, initiated the stop. In the 1200 block of Santa Barbara Street the officers came upon a vehicle stopped at a red light. When the light turned green, the car didn't immediately pull forward.

Several seconds later, the driver, later identified as Mr. Lance, continued on and Officer Peterson pulled in behind.

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As the officer testified in a pre-trial hearing before Santa Barbara County Superior Court Judge Brian Hill, Mr. Lance did nothing out of the ordinary — and certainly nothing illegal — over the course of the next couple of blocks.

Still, Officer Peterson initiated a stop in the 1400 block of Santa Barbara Street.

Officer Beutel, at the time the head of Santa Barbara Police Department's Drinking Driver Team, was called to assist in a DUI investigation and she is the officer who made the arrest.

From the outset, Mr. Lance claimed his signature was forged on a form where he purportedly waived a re-testable blood sample. In the series published in the News-Press, he also brought up other alleged illegalities, including subornation of perjury and questionable practices on Officer Beutel's part. Officer Beutel admitted to some of the latter in court — for example, going into the field with DUI arrest forms in which she'd pre-filled some of the responses and observations.

While Mr. Lance was able to air his claims before Judge Hill, they were never tested legally because the case never went to trial. In November 2011, the judge ruled that Officer Peterson violated Mr. Lance's Fourth Amendment rights and dismissed the case.

Such rulings have no real effect on the DMV's goal to keep drunken drivers off the road, and since Mr. Lance was arrested on suspicion of misdemeanor DUI, his license still hangs in the balance.

He and his attorney hope the hearing officer takes a cue from Judge Hill and tosses the matter out.

But that hasn't happened.

Mr. Lance and his attorney continue trying to shine light on Officer Beutel's credibility. It's a subject she doesn't want to discuss — not even with media accredited by her own department seeking to ask about it.

Arriving for a June 2011 Lance hearing at the DMV's Ventura office, the News-Press asked Officer Beutel whether her credibility was a drag on the Police Department. In the face of a yellow SBPD-issued press pass, Officer Beutel responded, "Please don't follow me sir, you're standing so close to me that I consider it a safety issue."

Asked again about her credibility, she replied: "Sir, I'd like you to step away from me because again I'm considering it a safety issue. Step away from me as I'm concerned you're being threatening toward me right now."

Another issue that the Lance team has been trying to address is Officer Beutel's unwillingness to correct the record when it comes to his arrest.

When she flubs something involving a colleague, Officer Beutel seems more than happy to note an error. For example, at that June 2011 hearing before Mr. Windover, Mr. Genis had her read from the narrative she wrote regarding Mr. Lance's arrest.

"I was requested by Officer Peterson and Officer Clark to assist with a DUI investigation," she said, reading from the document. "I had Peterson step out of the vehicle and onto the sidewalk. I noted, as he walked on the sidewalk that he was very unsteady on his feet. I held ... that he did not fall."

Mr. Genis replied: "So Officer Peterson was so drunk that you had to support him as he got out of his patrol vehicle?"

Mr. Windover said, "I think that misstates the evidence Mr. Genis."

Officer Beutel, laughing, replied, "I think it does too."

But Mr. Genis pressed on.

"In your narrative you tell us that you had to hold Peterson up. Is that not correct?"

"No. That's not correct," replied Officer Beutel. "I'm referring to Mr. Lance. I simply put Mr. Peterson's name — correct — Officer Peterson's name in there in error."

She is, however, less than eager to correct the record when it comes a document, known as a DS 367, she prepared that was submitted to the DMV regarding the probable cause for the Lance stop.

"Lance was stopped for failing to drive on a green and unsafe turning movements," she wrote.

But as the News-Press reported, the portion about the "unsafe turning movements" is an error.

In Oct. 2011 during a hearing before Judge Hill, Mr. Genis asked Officer Peterson, "Did you tell Kasi Beutel you stopped Peter Lance for making an unsafe turning movement?"

"I don't recall telling her that, no," replied the officer.

Officer Peterson also testified that Officer Beutel later told him the reference to unsafe turning movements was an error.

"I know that was not what I told her," he said, adding he couldn't understand why Officer Beutel would write down something he didn't tell her, unless it was a mistake.

Officer Peterson told the judge that he observed no unlawful driving on Mr. Lance's part from the time he first came upon him at the green light to the time he made the stop.

So why stop Mr. Lance in the first place?

"I wasn't sure if he was dozing off, text messaging, suffering from a medical emergency," replied Officer Peterson, referring to a claim that Mr. Lance was looking down when the light turned green.

Whatever the reason, it clearly had nothing to do with turning movements, unsafe or otherwise.

To this day, however, Officer Beutel has made no effort to correct her error — and testimony from the June 2011 hearing before Mr. Windover indicates she might not understand, or is trying to dodge, questions about why she let the error stand.

"Have you filed any subsequent documentation with the Department of Motor Vehicles that would be in any way different from this document (DS 367) under penalty of perjury?" Mr. Genis asked.

Her reply: "I'm not sure what you're referring to."

Mr. Genis tried to clarify: "Have you filed a document that states the reason for the stop differently than it is stated right here?"

"Filed a document with whom, Mr. Genis?" she replied.

Later in the hearing Mr. Genis tried another angle: "Would your testimony change if you were to learn that on Friday afternoon last, Officer Peterson registered surprise when he heard Mr. Windover read this statement into the record and he testified that there was never an unsafe turning movement? And furthermore, (he testified) he never told you that."

"The information that I have here was the information that I was given or that I believed to be given at the time that I filled out this form or at the time of the traffic stop," she replied.

Again trying to make it as clear as possible for the officer, Mr. Genis asked: "How did you conclude that Mr. Lance made an unsafe turn?"

Her testimony in response is anything but clear.

"The information that I was," Officer Beutel began, "that I put down in my report ... When I fill out my report, it's to the best of my recollection at the time."

It's not clear whether Mr. Genis and Mr. Lance will ever get the answer they're looking for. Mr. Windover, while stating in the June 2011 hearing that "credibility is an important factor," has seemingly blocked the Lance camp's attempts at almost every turn.

One person who is singing the praises of Officer Beutel, who on Jan. 28 took over as a beat coordinator, is Police Chief Cam Sanchez, though he himself faces credibility problems after taking part in a highly publicized interview for the police chief's post in San Bernardino. The job ultimately went to someone else.

At the Feb. 28 City Council meeting, as part of a series of reports he was ordered to give in the wake of the Lance matter, the chief had this to say about Officer Beutel: "She's doing a tremendous job on the (State Street) corridor. She's got it down."

The chief continued, "One of the biggest issues, and it is an issue in our community, (is) skateboarders, bicycles on the sidewalk on State Street. It creates a problem, and she has cited, I believe, more people in one month than we did as a department in a year."

Meanwhile, the News-Press and others have filed public records requests for copies of a report by the Sintra Group that looked into allegations raised by Mr. Lance in the News-Press.

So far, the city has refused for a variety of reasons.

Steve Wiley, the city attorney, told the News-Press it would not grant the paper's initial request because the report "was prepared for use by the city attorney's office in advising the City Council, the city administrator, the chief of police and, as a result, it is exempt from disclosure under the state Public Records Act."

Mr. Genis filed a request of his own, and was told by Ms. Ostrenger that the report is exempt from disclosure because it constitutes part of a police officer's personnel file, is protected by attorney-client privilege and was prepared in anticipation of threatened litigation against the city.

The city also cites the fact that Officer Beutel's address is in the report. However, a public document from the Ventura County Superior Court — where Officer Beutel is being sued by a man who says she backed into his car in a Westlake Village parking lot in October 2010 — includes the address of the home she shares with Officer Mark Corbett.

"The fact that (the Sintra report) has a cop's address in it is pure nonsense," said Mr. Genis. "That can be blacked out. The fact that they voluntarily chose to file it in her personnel file is also (nonsense)."

"It was not prepared for that purpose, and does not need to go into her file, unless it is negative," he said.

Upon receiving the city's response on Friday, Mr. Lance told the News-Press, "By now it's clear that Steve Wiley, Tava Ostrenger and Reed Gallogly have moved beyond the vigorous representation of the city's interests to the point of obstructing justice — which is a crime. What is truly in the interests of the citizens of Santa Barbara is a full, unbiased independent investigation of my allegations."

"There is little doubt that the Sintra report — conducted by former police officers — was a sham because no one contacted me to ask me to substantiate a single one of my findings," he added. "But at a minimum that report should be made public and if Mayor (Helene) Schneider, (City Administrator) Jim Armstrong and the members of the City Council have a conscience they should demand that the report be released. As Justice Brandeis said, 'Sunlight is the best disinfectant.'"

The News-Press has, through its attorney Dugan Kelley, filed a subsequent request for the report.

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