

CLIENT NEWS BRIEF

AB 1600 Modifies *Pitchess* Motion Filing Deadlines and Expands Potential Access to Peace Officer Personnel Records

Assembly Bill (AB) 1600, which took effect on January 1, 2020, shortens the filing timelines for *Pitchess* motions in criminal matters and renders the personnel records of supervisory officers potentially discoverable.

Background

Pitchess motions are written requests for the discovery of peace officer or custodial officer personnel records. Prior to the passage of AB 1600, Evidence Code section 1403 required that a criminal defendant file written notice of a *Pitchess* motion at least 16 court days before hearing. AB 1600 amended this provision to allow a *Pitchess* motion in a criminal matter to be filed as little as 10 court days before the hearing. Moreover, *Pitchess* motion oppositions must now be filed no less than five court days before hearing, and reply papers must be filed no less than two court days before hearing. It is notable that these timelines refer to "court" days, not calendar days, so court holidays and weekends do not count as "days" for the purposes of these timelines. The timelines for *Pitchess* motions in civil matters remain unchanged.

Another significant change made by AB 1600 is with respect to discovery of the personnel records of supervisory officers. Before the enactment of AB 1600, Evidence Code section 1047(a) prohibited the disclosure of personnel records of supervisory officers or other peace officers or custodial officers who were not present during the arrest, had no contact with the party seeking disclosure from the time of arrest until the time of booking, or who were not present at the time the conduct at issue occurred within a jail facility. However, AB 1600 added a significant exception to this rule: the personnel records of a supervisory officer who had direct oversight of a peace officer or custodial officer and who issued command directives or had command influence regarding the circumstances at issue are discoverable if the supervisory officer was supervising a peace officer or custodial officer who: (1) was present during the arrest, (2) had contact with the party seeking disclosure from the time of arrest until the time of booking, or (3) was present at the time the alleged conduct occurred within a jail facility.

AB 1600 is only the latest in a number of sweeping legislative and judicial changes promoting the accessibility of peace officer and custodial officer records. For example, SB 1421, which became effective on January 1, 2019, rendered personnel records related to officer misconduct disclosable pursuant to the California Public Records Act. (See [2018 Client News Brief No. 60](#) and

January 2020
Number 7



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[2019 Client News Brief No. 24.](#)) And, in *Association for Los Angeles Deputy Sheriffs v. Superior Court*, the California Supreme Court opined that officer information may be disclosable under *Brady v. Maryland* if an officer is a potential witness in a pending criminal prosecution. (See [2019 Client News Brief No. 60.](#))

Takeaways

By shortening the filing timelines for *Pitchess* motions in criminal matters, public agencies will receive notice of the filing closer to the hearing date and will have fewer days to prepare and file their opposition to the motion. To avoid potentially waiving any opposition or other objections, public agencies will need to move quickly when in receipt of a *Pitchess* motion. Additionally, AB 1600 significantly expands the scope of *Pitchess* motions and renders the personnel records of supervisory officers—which were previously shielded from disclosure—discoverable.

If you have any questions about AB 1600 or *Pitchess* motions generally, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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