
California Court of Appeal Reinforces Public's Right to Peace Officer Personnel Records Under the California Public Records Act

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In a recent decision, California's Second District Court of Appeal reinforced its stance favoring transparency as it relates to requests for public records, holding that a protective order cannot be used as a shield to withhold records subject to disclosure under the California Public Records Act (CPRA). (*Banuelos v. Sup. Ct. of Los Angeles Cnty.* (2024) 106 Cal.App.5th 542.)

In *Banuelos v. Superior Court of Los Angeles County*, after Manuel Banuelos was charged with murder, the prosecution notified Banuelos's defense counsel that one of the investigating officers received a sustained finding of dishonesty. Consequently, defense counsel submitted a CPRA request to the police department seeking records related to the officer's sustained finding of dishonesty. While the request was pending, Banuelos filed a type of motion, known as a *Pitchess* motion, seeking additional personnel records concerning the investigating officer. Until recently, law enforcement personnel records were categorically exempted from disclosure under the CPRA and access to those records was only permitted through a *Pitchess* motion. That rule changed in 2019 when California adopted Senate Bill 1421 and rendered certain types of law enforcement personnel records nonconfidential and subject to disclosure under the CPRA.

Under *Pitchess* statutes, litigants who make a showing of good cause are given limited access to confidential personnel records to use in the preparation of their defense. (See *Long Beach Police Officers Assn. v. City of Long Beach* (2014) 59 Cal.4th 59, 68; *Chambers v. Sup. Ct.* (2007) 42 Cal.4th 673, 679.) When granting a *Pitchess* motion, the trial court must impose a protective order providing that the records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law.

After conducting an in-camera review, the trial court in this case ordered the police department to disclose the records related to the sustained finding of dishonesty against the investigating officer. However, in ordering the disclosure of records, the trial court also issued a protective order prohibiting Banuelos's defense counsel from sharing the records outside the defense team. Banuelos sought an extraordinary writ of mandate to vacate the protective

order, arguing that the records were nonconfidential and subject to public inspection under Penal Code section 832.7(b)(1)(C).

The Court of Appeal granted the writ and held that the trial court erred in granting a protective order limiting counsel from sharing public records about a finding of dishonesty against an officer. Specifically, the Court reasoned that the material sought to be shielded by the protective order consisted only of records concerning the officer's sustained finding of dishonesty, which were nonconfidential pursuant to Penal Code section 832.7(b)(1)(C), as amended in 2019 by Senate Bill 1421, and as such, a protective order should not have been ordered as there were no confidential law enforcement records to protect.

Takeaways

This case highlights the interplay between the CPRA and the *Pitchess* statutes and demonstrates that records which are subject to disclosure under the CPRA cannot be rendered confidential under the Evidence Code. This case further demonstrates that when it comes to CPRA requests, courts favor transparency. Public agencies should be wary of attempting to use legal means, such as a protective order, to shield public records from disclosure, when the records do not contain confidential information, and adhere to the obligation to provide public records in accordance with the CPRA.

If you have any questions about the California Public Records Act, please contact the authors of this Client News Brief or any attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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