



CITY OF MURRIETA

July 23, 2019

The Honorable Lorena Gonzalez
Chair, Assembly Appropriations Committee
State Capitol Building, Room 2114
Sacramento, CA 95814

**RE: AB 1600 (Kalra) Discovery: Personnel Records: Peace Officers and Custodial Officers.
Notice of Opposition**

Dear Assembly Member Gonzalez:

The City of Murrieta must respectfully oppose Assembly Bill 1600 (AB 1600), which shortens the notice requirement in criminal cases when a defendant files a motion for discovery or disclosure of peace or custodial officer personnel records—commonly referred to as a *Pitchess* motion—from sixteen days to ten days. Relatedly, this measure requires all papers opposing a *Pitchess* motion to be filed with the court at least five court days before the hearing, and all reply papers to be filed at least two days before the hearing. AB 1600 would also prohibit a court from issuing an order that limits the use of peace or custodial officer records (i.e. a protective order) if those records were obtained pursuant to the California Public Records Act. Finally, this bill removes current language exempting from disclosure the records of peace or custodial officers who either were not present during the arrest or had no contact with the party seeking disclosure from the time of the arrest until the time of booking, or who were not at the time the conduct is alleged to have occurred within a jail facility.

With respect to the proposed expedited timeframe, it is already difficult for cities to sufficiently prepare for *Pitchess* motions within the current sixteen-day timeframe. Once a city receives a defendant's *Pitchess* motion, several procedural steps are taken. The officer(s) are notified, the custodian has to make arrangements to be present, and a diligent search for records has to occur. Importantly, a city attorney's office must also write any written objections and oppositions within the prescribed timeframe. In many cases, defendants' motions are overbroad and seek information to which parties are not entitled, which makes these oppositions imperative. Shortening this notice requirement from ten court days to five court days would make it far more difficult to pull together all of these necessary items, and would thereby reduce cities' opportunity to prepare a meaningful and appropriate opposition to a *Pitchess* motion.

While we recognize that many public defenders carry heavy caseloads, creating an unworkable timeframe for custodians of records and/or city attorneys to meaningfully respond is not the solution, especially considering the important interests that are balanced in the *Pitchess* motion process (i.e. a defendant's right to a fair trial versus a peace or custodial officer's right to privacy).

With regard to the proposed limitation on a court's issuance of a protective order for records obtained under the Public Records Act, it is unclear why the author views this as a "needed alignment correction to the changes made in SB 1421." To the contrary, the proposed limitation

does not make sense. If the records are obtained through a Public Records Act request, there is no need to file a Pitchess motion and thus, no judge involved and no one to issue a protective order. If the records are obtained through a Pitchess motion because they do not fall within the categories specified in Penal Code section 832.7, subsection (b), and a finding is made that those particular records are relevant to that particular criminal or civil matter, then it is appropriate to have a protective order preventing their use in a case for which that finding was not made.

Finally, there is no reason given for why the records of officers should be made available through a Pitchess process if they were not involved in the arrest or interaction with the defendant. This proposed change could encourage defendants to file Pitchess motions that cast a much wider net than necessary for their criminal case, implicating officers who had nothing to do with the incident in question. Such overly-broad Pitchess motions would pose administrative difficulties, especially for small departments who have limited resources to meaningfully oppose such overly-broad Pitchess motions.

For the reasons stated above, the City opposes AB 1600. If you have any questions, please contact Louie Lacasella, City Manager's Office at (951) 461-6008 or llacasella@MurrietaCA.gov.

Sincerely,



Kelly Seyarto
Mayor

Cc. Murrieta City Council
Senator Jeff Stone
Assembly Member Melissa Melendez
Erin Sasse, League of California Cities Public Affairs Manager
David Jones, Emanuels Jones & Associates