

Case No. S243855

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

ASSOCIATION FOR LOS ANGELES DEPUTY SHERIFFS,
Petitioner

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE
COUNTY OF LOS ANGELES
Respondent

SUPREME COURT
FILED

JUN 22 2018

Jorge Navarrete Clerk

Deputy

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, et al.,
Real Parties in Interest

*On Review from the Court of Appeal for the Second Appellate District,
Division 8, Case No.: B280676*

*After an Appeal from the Superior Court of Los Angeles County
The Honorable James C. Chalfant presiding, Case No.: BS166063*

**APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF
AND *AMICUS CURIAE* BRIEF OF THE CALIFORNIA
ATTORNEYS FOR CRIMINAL JUSTICE IN SUPPORT OF REAL
PARTIES IN INTEREST, THE LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT; FILED CONCURRENTLY WITH
AMICUS' MOTION REQUESTING JUDICIAL NOTICE**

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APPLICATION TO FILE BRIEF OF *AMICUS CURIAE*

TO THE HONORABLE TANI G. CANTIL-SAKAUYE, CHIEF JUSTICE
OF THE SUPREME COURT OF CALIFORNIA:

Pursuant to California Rules of Court, rule 8.520 (f), non-profit organization California Attorneys for Criminal Justice (“CACJ”) respectfully request leave to file the attached *amicus* brief in support of Real Parties in Interest, the Los Angeles Sheriff’s Department et al. This brief is timely, as it is filed within 30 days after the last reply brief was filed.

STATEMENT OF INTEREST

California Attorneys for Criminal Justice is one of the two largest statewide organizations of criminal defense lawyers associated with the National Association of Criminal Defense Lawyers. CACJ has as part of its bylaws “the defense of the rights of persons as guaranteed by the United States Constitution.” To the extent that criminal defendants’ constitutional rights are at issue here, CACJ has a compelling interest in the matter before the Court. Further, because California based criminal defense lawyers regularly engage in litigation to obtain necessary case-related information held in peace officers’ personnel files and are regularly stymied in those efforts, this matter is of significance to CACJ. CACJ has often appeared in this Court to address issues of concern to its membership like those presented in this case.


Amicus’ proposed brief presents arguments that expose how the *Pitchess* process has become a promise unfulfilled. The brief will provide clear examples of the procedural injustices faced by criminal defendants when attempting to access *Brady* material in police officers’ personnel files. These injustices frustrate the discovery process, interfere with defendants’ speedy trial rights, and undermine the opportunity for a full and fair

litigation of criminal cases. These issues are of continuing concern to the lawyer-members of CACJ who seek to defend their clients and protect the constitutional rights of individuals by ensuring fair and fully useful criminal case litigations. These concerns establish CACJ's interest in the question presented to the Court in this case.

For the foregoing reasons, *amicus* respectfully request that the Court grant this application, and permit the below brief on the merits to be filed with the Court.¹

Dated: May 2, 2018

Respectfully submitted,
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¹ No party or counsel for any party, other than counsel for *Amicus*, have authored the proposed brief in whole or in part or funded the preparation of the brief.

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I. INTRODUCTION

When this Court contemplated the issue of whether a criminal defendant can request discovery from peace officers' personnel files in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*), the answer from the Court was a resounding "yes". The decision of the Court seemed to comport with *Brady v. Maryland* (1963) 373 U.S. 83 (*Brady*) and *Giglio v. United States* (1972) 405 U.S. 150 (*Giglio*) in that material discovered from peace officers' personnel files that is also *Brady* material must be turned over to a defendant to fulfill the defendant's Federal due process right to such evidence. While the *Pitchess* case protected that defendant's due process rights, later statutory provisions rendered this protection largely illusory because they condition defendants' due process rights on other competing interests. (Pen. Code, §§ 832.7-832.8; Evid. Code, §§ 1043-1047.)²

In *People v. Superior Court (Johnson)* (2015) 61 Cal.4th 696, the Court recently described a consensus that the *Pitchess* process is working and working in tandem with *Brady*. The Court stated that the relaxed standard of "good cause" required by the *Pitchess* process, "...[i]nsure[s] the production for inspection of all potentially relevant documents." (*Id.* at p. 711.) The Court goes on to state that, "[t]he *Pitchess* procedures the Legislature established long ago can protect defendants' interests without unduly infringing on police officers' privacy interests." (*Id.* at p. 714.)

The question before the Court in this case is narrowly focused on whether a law enforcement agency can turn over to the prosecution the name of an officer from a Brady list when that officer is a potential witness

² These statutes govern the procedure that criminal defendants must follow in order to gain access to evidence relevant to their case that is contained in peace officer personnel files. Hereinafter these procedures will be referred to as the *Pitchess* process.

in a pending criminal prosecution. This brief supports the release of officers' names in this fashion and argues that it is a step in the right direction because currently the *Pitchess* process thwarts criminal defendants' ability to obtain *Brady* material in peace officers' personnel files, guaranteeing that in practice criminal defendants' due process right to *Brady* material remains unfulfilled.

While countless *Pitchess* motions are filed in criminal courts throughout the state, defendants often do not receive the *Pitchess* product in a timely manner, forcing defendants to waive their speedy trial rights and leaving them with incomplete discovery. This prevents a defendant from employing *Pitchess* product to impeach key witnesses in a case, something that *Brady* and its progeny are meant to protect. Finally, the delays caused by the *Pitchess* process impede informed decision-making by the defense and prosecution, which can negatively impact the efficiency and most importantly fairness of the criminal legal system. In sum, *Pitchess* has devolved into a process in which peace officers' personnel files are enshrined in a shroud of secrecy that often undermines criminal defendants' right to a fair trial.

II. ARGUMENT

A. THE *PITCHESS* PROCESS FORCES DEFENDANTS TO CHOOSE BETWEEN THEIR SPEEDY TRIAL AND DUE PROCESS RIGHTS

The *Pitchess* process creates a conundrum in which criminal defendants must choose between two constitutionally protected rights: 1) the right to a speedy trial and 2) a due process right to access *Brady* material.

The right to a speedy trial is given to every criminal defendant in California by the Sixth Amendment of the United States Constitution as

well as article I, section 15 of the California Constitution. Almost every jurisdiction in the country has enacted statutes delineating what constitutes a speedy trial. The right to a speedy trial is so paramount that in California, if a defendant has asserted her speedy trial right, and her trial does not commence within the statutorily allotted time, the court *shall* order dismissal of the case. (Pen. Code, § 1382 subs. (a) (2) & (3).)

In *Brady*, the U.S. Supreme Court held that when the state suppresses favorable (exculpatory) and material evidence, defendants' due process rights are violated. (*Brady, supra*, 373 U.S. 83.) The type of evidence considered exculpatory has expanded to include impeachment evidence in the category of favorable evidence. (*Giglio, supra*, 405 U.S. 150.) In discussing *Brady* evidence, this Court has explicitly stated that “[t]he prosecution has a duty under the Fourteenth Amendment's due process clause to disclose [*Brady*] evidence to a criminal defendant.” (*In re Sassounian* (1995) 9 Cal.4th 535, 543.)

A criminal defendant is entitled to both her speedy trial and due process rights—as these are two cornerstones of a fair trial. One of these rights cannot outweigh or take precedence over the other. Yet, the *Pitchess* process often forces criminal defendants to choose between these rights.³ The following procedural obstacles codified in the *Pitchess* statutes create this situation: 1) the 16 days' notice requirement and 2) the limitation that only names, phone numbers, and addresses of witnesses are turned over pursuant to an initial *Pitchess* motion.

³ This court has recognized similar conundrums in other instances. See, e.g., *Garcia v. Superior Court* (2007) 42 Cal.4th 63, 77 (“[a] criminal defendant should not be forced to choose between pursuing discovery efforts by revealing privileged information or forgoing discovery to maintain a privilege.”).

1. The 16 days' notice requirement conflicts with defendants' speedy trial rights in misdemeanor, felony, and juvenile cases

In-custody misdemeanor, felony and juvenile defendants all have the right to a speedy trial either within 30 calendar days, 60 calendar days or 15 court days of arraignment, respectively. (Pen. Code, § 1382, subs. (a) (2) & (3); Welf. & Inst. Code, § 657 subd. (a) (1).) A *Pitchess* motion must be filed with 16 court days' notice to all parties, adding an additional five days to the notice requirement if the motion is served by mail. (Evid. Code, § 1043, subd. (a).; Code Civ. Proc., §1005, subd. (b).) The notice requirements for *Pitchess* motions conflict with defendants' speedy trial rights, extending beyond the speedy trial right of an in-custody minor, and coming close to reaching the in-custody statutory time frame for a misdemeanor case. Thus, defendants must choose whether to pursue the *Pitchess* process, or to exercise their speedy trial right and proceed to trial without the *Pitchess* discovery.

The conflicting time frames are exacerbated by a few factors. First, many public defenders' offices do not use a vertical representation model.⁴ This means that the attorney who represents a defendant at arraignment will not be the same attorney who represents the defendant at trial (who makes

⁴"In some California counties, for example, insufficient resources prevent public defenders from providing vertical representation, whereas vertical prosecution is common because the prosecutor's office has more funding." (American Bar Association, *Information Sheet, California*, (2005) pp. 1-2 <https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_bp_ca.authcheckdam.pdf> [as of Apr. 30, 2018].) Both of the Web sites of the Sacramento and Contra Costa County Public Defender's Offices indicate that they use horizontal representation. (Sacramento County Public Defender Web site <<http://www.publicdefender.saccounty.net/Pages/AboutOurOffice.aspx>> [as of Apr. 24, 2018].); (Contra Costa County Public Defender's Office Web site <<http://co.contra-costa.ca.us/2638/About-Us>> [as of Apr. 24, 2018].)

all the strategy decisions regarding what investigation to pursue and which motions to file). For a *Pitchess* motion to be heard and follow-up investigation conducted before a defendant's statutory speedy trial date, the motion would have to be filed within one or two days after a defendant's arraignment, or for a felony case within one or two days after the preliminary hearing (assuming the attorney decided to wait until after the preliminary hearing to file the motion). When criminal defendants do not have the same attorney at arraignment as they do for the other phases of their case, it is unlikely that a defense attorney would ever be able to file a *Pitchess* motion within a few days of arraignment or preliminary hearing. Even a one week delay in filing a *Pitchess* motion essentially renders the hearing on the *Pitchess* motion and the last statutory trial date on or around the same day in a misdemeanor case, requiring a criminal defendant to waive time if she wants to obtain *Pitchess* information that could contain important *Brady* material.⁵

⁵ The California Legislature has enacted legislation in California Penal Code section 1050, subdivision (a) that explicitly discourages continuances by stating,

[c]ontinuances are generally not in the interest of any party, as the legislature has pointed out elsewhere: "The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end, the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the

Second, once a *Pitchess* motion is filed and a hearing date is set, there can be a delay between the hearing on a *Pitchess* motion, the in camera hearing, and the disclosure of *Pitchess* information.⁶ City attorneys are encouraged to ensure that the *Pitchess* hearing and in camera hearing remain a two-step process: “[s]ome judges need to be reminded that the statute requires a two-step process and that they cannot require you to bring either the files or custodian with you to the hearing on the motion.”⁷ These additional delays continue to push criminal defendants past their speedy trial dates while they pursue *Pitchess* material.

Third, there are instances in which a defense attorney must file the good cause declaration under seal with the *Pitchess* motion because the information contained within the declaration is privileged. (*Garcia v. Superior Court* (2007) 42 Cal.4th 63, 71-72 (*Garcia*)). The *Garcia* case outlined that in the instance when a declaration is filed under seal with a *Pitchess* motion, an initial in camera hearing must be conducted where the court determines whether filing under seal is the only feasible way to

prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice.

⁶ In *People v. Anthony White*, Mr. White’s defense counsel filed a *Pitchess* motion on June 24, 2014. The *Pitchess* motion was heard on July 17, 2014 and granted, and the in camera hearing was scheduled for July 24, 2014. At the in camera hearing, the court determined there were discoverable materials and ordered them turned over on August 7, 2014, over a month after the initial *Pitchess* motion was filed. See Def. *Pitchess* Mtn. and Ct. Min. Orders in the case of *People v. Anthony White* (Super. Ct. L.A. County, 2014 No. TA132661.), attached as exhibits to *amicus*’ Motion Requesting Judicial Notice.

⁷ Scott, *Fundamentals of Opposing Motions for Discovery of Peace Officer Personnel Records (Pitchess Motions)* (Feb. 2012) p. 5
<<http://www.cacities.org/getattachment/2866733c-d868-4ab2-8e17-6904f865ec78/Pitchess-Motion-Fundamentals-for-League-Webinar-Pa.aspx>> (as of April 25, 2018).

protect the privileged information. (*Id.* at p. 73.) If a court were to determine that the declaration need not have been filed under seal, defense counsel would have to re-file the *Pitchess* motion with another 16 days' notice further prolonging the process.

Finally, it is often the case that defense counsel must wait for other discovery before filing a *Pitchess* motion. In order for defense counsel to carry the burden of showing good cause for a *Pitchess* motion, counsel must allege a specific factual scenario establishing a "plausible factual foundation" for alleged misconduct connected to the defendant. (*City of Santa Cruz v. Municipal Court* (1989) 49 Cal.3d 74, 85-86.) This plausible factual foundation is a "...scenario of officer misconduct...that might or could have occurred" suggesting that defense counsel must allege specific facts, and not only a mere denial of what is in the police report. (*Warrick v. Superior Court* (2005) 35 Cal.4th 1011, 1026.) The specific factual scenario that contradicts or supplements a peace officer's report is often supplied to defense counsel by her client or it may be clear from the police report. However, there are times when a criminal defendant might not remember or may not recognize when misconduct or an unlawful action has occurred. This then would require defense counsel to conduct independent investigation of percipient witnesses and to review any body-worn camera, dashboard cameras, and other documentation of an incident. The latter category is discovery that is provided to the defense by the prosecution and it is rare that defense counsel would receive such discovery at arraignment.⁸

⁸ The San Diego County Public Defender's Web site indicates that "[w]ithin a day or a few days after the arraignment, the prosecutor usually starts sending to our office some of the police reports, laboratory reports, and copies of evidence items regarding your case. These reports and evidence items are called "discovery". Sometimes it takes a long time to get all the discovery." (San Diego County Public Defender Web site

Thus, defense counsel would have to wait for the discovery to be turned over by the prosecution, review the discovery (often times it is hours of body-worn camera or dashboard camera footage) and then write a *Pitchess* motion providing the 16 days' notice. Again, this would push many criminal defendants past their speedy trial date.

2. The limited initial *Pitchess* disclosures require extensive and time-consuming follow-up investigation that exceeds defendants' speedy trial rights

It is common practice for courts, pursuant to an initial *Pitchess* motion, to only turn over the names, phone numbers, and addresses of complaining or percipient witnesses.⁹ City attorneys encourage this limited disclosure as they see it as their duty to uphold the privacy of the officers, and thus tend to oppose the release of anything other than the names, telephone numbers, and addresses of witnesses.¹⁰

<https://www.sandiegocounty.gov/content/sdc/public_defender/arrested.html> [as of Apr. 24, 2018].)

⁹ See, e.g., *City of Azusa v. Superior Court* (1987) 191 Cal.App.3d 693, 696 (stating that pursuant to an initial *Pitchess* motion "...plaintiffs were entitled, at most, to the names and addresses of other persons who complained the two officers had used excessive force in the course of arrests within five years preceding the plaintiffs' arrest"); see also *City of Santa Cruz v. Municipal Court* (1989) 49 Cal.3d 74, 84 ("[a]s a further safeguard, moreover, the courts have generally refused to disclose verbatim reports or records of any kind from peace officer personnel files, ordering instead (as the municipal court directed here) that the agency reveal only the name, address and phone number of any prior complainants and witnesses and the dates of the incidents in question.").

¹⁰ Scott, *Pitchess Motions and Brady Disclosures, How Hard Can You/Should You Push Back?* (2005) pp. 10, 12 ("...there is still one more challenge to be made by you, and that is to the scope and extent of materials and/or information which can/should be released to the defendant...", "[i]t is the city attorney's role in these proceedings to protect the officers' privacy interests...").

Once defense counsel receives the witnesses' basic information, they must then locate and attempt to talk with these witnesses.¹¹ If the defense team is unable to find a witness, a witness fails to remember the details of the alleged misconduct, or a witness refuses to talk with the defense team, a subsequent *Pitchess* motion must be filed seeking further discovery.¹² A defense attorney is required to give the same 16 court days' notice for the subsequent *Pitchess* motion, supplemented by another declaration asserting good cause. (*City of Tulare v. Superior Court* (2008) 169 Cal.App.4th 373.)

In order to show good cause to obtain further discovery, the defense team must include in their declaration facts to indicate to the court that the original disclosures were inadequate. The diligent investigation required to show that the original *Pitchess* disclosures were inadequate results in an intervening time period between the two *Pitchess* motions. If two *Pitchess* motions are required to obtain *Pitchess* material, the time required for the two motions would far exceed an in custody *and* out of custody misdemeanor defendant's speedy trial right, can often exceed felony in custody speedy trial rights and thus forces defendants to waive their speedy trial right in order to access *Pitchess* discovery. Such a scenario would also leave a minor in custody at least 17 court-days past the speedy trial date

¹¹ See *Strickland v. Washington* (1984) 466 U.S. 668, 680, (“[t]he court agreed that the Sixth Amendment imposes on counsel a duty to investigate, because reasonably effective assistance must be based on professional decisions and informed legal choices can be made only after investigation of options.”).

¹² See, e.g., *Kelvin L. v. Superior Court* (1976) 62 Cal.App.3d 823, 828-829 (stating that if the initial information about witnesses proves inadequate that a defendant may move for further discovery); see also *Alvarez v. Superior Court* (2004) 117 Cal.App.4th 1107, 1113 (stating, “...petitioner’s ability to investigate...has been stymied by Deputy Summer’s refusal to cooperate. The only way petitioner can effectively investigate this matter *before trial* is to be given the deputy’s statements.”).

afforded her by statute.¹³ The Los Angeles County Bar Association Task Force on the State Criminal Justice System highlighted this as an issue in a 2003 report, “[b]y the time the second *Pitchess* motion is noticed and heard, and the information finally obtained, defendants may have very little time in which to review the information before the start of trial.”¹⁴

The procedural hurdles of *Pitchess* frequently require defendants to waive their speedy trial rights, as laid out above. The evidence sought via *Pitchess* motions is known to law enforcement, is potentially *Brady* material, and could be provided to the prosecution or defense up front. Providing the prosecution with Brady lists is a more limited way of making disclosures at the initiation of a case. However, currently both Brady alerts and the substantive *Brady* evidence are withheld, setting into motion a process that is so time-consuming and riddled with obstacles that defendants are forced into choosing between two rights fundamental to a fair trial. This forced choice does not constitute the protection of a defendant’s due process interests as considered by *Pitchess* and reiterated in *Johnson*, particularly when it leads to defendants accepting plea offers because they do not wish to wait for the entire *Pitchess* process to be completed.¹⁵

¹³ Studies of the harm of juvenile detention have shown the increased rate of suicide for detained youth, diminished future earnings and ability to remain in the workforce once youth are incarcerated, and that incarceration of youth is linked to higher recidivism rates. (Holman & Ziedenberg, *The Dangers of Detention; The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (2006), < http://www.aecf.org/m/resourcedoc/aecf-dangers_of_detention_report-2007.pdf> [as of Apr. 27, 2018].)

¹⁴ L.A. County Bar Assn. Task Force on the State Crim. Justice System, *A Critical Analysis of Lessons Learned, Recommendations for Improving the California Criminal Justice System in the Wake of the Rampart Scandal* (Apr. 2003) p. 11 <<https://web.archive.org/web/20120610055949/http://www.lacba.org/Files/Main%20Folder/News/HomepageArticles/Files/LACBA%20Task%20Force%20Report1.pdf>> (as of Apr. 30, 2018).

¹⁵ See Exhibit A, Declaration of Harvey Sherman, Deputy Public Defender IV, Los Angeles County Public Defender’s Office (“[f]requently, because

B. THE *PITCHESS* PROCESS INTERFERES WITH A DEFENDANT’S ABILITY TO OBTAIN *BRADY* EVIDENCE THAT CAN HAVE A MATERIAL IMPACT ON HER CASE

The due process rights afforded to criminal defendants by *Brady* and its progeny are not simply that a defendant has the right to know whether or not a given witness has impeachment or other exculpatory material related to them, but to actually be able to obtain the *substance* of that evidence. *Brady* itself made that very clear when it stated that “suppression of this confession was a violation of the Due Process Clause of the Fourteenth Amendment.” (*Brady, supra*, 373 U.S. at p. 86.) The confession referenced, was that of Brady’s co-defendant, which Brady was not made aware of until “after he had been tried, convicted, and sentenced, and after his conviction had been affirmed.” (*Id.* at p. 84). The *Brady* decision clearly refers to the content of the confession and not simply the fact of the existence of the confession. It is only the content that could ever be considered material in order to find a *Brady* violation if such evidence was suppressed.

The substance of the *Pitchess* material is important because it can be used to impeach prosecution witnesses. California case law and statutes impress upon all parties in the criminal justice system how important witness credibility is, suggesting that the ability to ascertain, impeach, or bolster a witnesses’ credibility is fundamental in our adversarial system.¹⁶

of the length of time it takes to file *Pitchess* motions and investigate *Pitchess* disclosures, my clients will decide that they do not want to wait for the outcome of the investigation and they accept a plea offer.”).

¹⁶ See, e.g., *People v. Wheeler* (1992) 4 Cal.4th 284, 295 (the Court acknowledged that witnesses can be impeached by conduct as “[m]isconduct involving moral turpitude may suggest a willingness to lie.”); see also, *Giglio supra*, 405 U.S. at p. 154 (where the Court held that *Brady* material encompassed impeachment evidence because of its use in

And yet due to the *Pitchess* process and the in camera limitation of a review of an officer's personnel file at the moment of the hearing, a defendant may not be able to obtain the substance of important *Brady* evidence that exists for a given peace officer.

1. There is no mechanism to ensure that all *Brady* material is turned over for the in camera hearing

When a civilian complaint is lodged or an internal affairs investigation takes place regarding a particular peace officer, it is unclear at what point the documents involving the investigation are considered part of a personnel file that would then be brought to court for the in camera review pursuant to a *Pitchess* motion.¹⁷

If a *Pitchess* motion is filed after the alleged misconduct of an officer, but before the close of an investigation into the misconduct, the records regarding the internal affairs investigation may not be presented by the custodian of records to the court in an in camera review. Yet, the very fact that an investigation was taking place, supplemented by a witnesses' testimony regarding an officer's misconduct is *Brady* material. It is admissible information that could be used as impeachment of the officer's

calling into question the testimony of a witness upon whom "the Government's case depended almost entirely..."). Further, Evidence Code section 786 allows for evidence of a witness's dishonesty, in the form of conduct, to be introduced against that witness, and Evidence Code section 788 allows for felony convictions to be introduced to attack a witness's credibility.

¹⁷ In *People v. Mooc* (2001) 26 Cal.4th 1216, the trial court did not order disclosure after an in camera review of police officer personnel files prompted by defense counsel's *Pitchess* motion. However, when the Court of Appeal ordered the production of the officer's entire personnel file, the court commented that "[n]ot surprisingly, more than one reference was found in the *complete* file which a court could deem to be potentially relevant." (*Id.* at p. 1224.)

credibility if she were testifying in a criminal case. It does not matter to a criminal defendant whether or not the investigation has been completed with internal affairs. The conduct alone could be used for impeachment and any documents related to a civilian complaint and/or an ongoing investigation should be included in the personnel file brought to the in camera hearing. However, the instances below indicate that it is often untrue that *Pitchess* functions to “...[i]nsure the production for inspection of all potentially relevant documents”. (*Johnson, supra*, 61 Cal.4th at p. 711.)

The Los Angeles Times uncovered Los Angeles Sheriff Department (“LASD”) internal investigations documents that illustrate that investigations of officers’ misconduct sometimes went on for years after the initial incident.¹⁸ A 2006 report completed by an Independent Monitoring Team of the Oakland Police Department (“OPD”) found that “[t]he overwhelming majority of OPD’s internal investigations are not being completed within the 120-day (150-day for Division Level Investigations) deadline for completion of the investigative process...”¹⁹ Ten years later in the 31st report of the Independent Monitoring Team, it found that 60% of investigations for a certain class of complaint were being completed within

¹⁸ For example, Deputy Andrea Cecere of the Los Angeles Sheriff’s Department was found to have made false statements about an incident involving use of force. The use of force occurred on August 3, 2009, immediately after which Deputy Cecere wrote a report documenting the incident. The Department’s Internal Investigations made a finding on March 16, 2011, almost two years later, that the report filed by Deputy Cecere in August 2009 contained false statements. (Los Angeles Sheriff’s Department, letter to Deputy Andrea Cecere (Dec. 19, 2011) p. 1, at <<http://documents.latimes.com/andrea-cecere-letter-discipline>> [as of Apr. 20, 2018].)

¹⁹ *Eighth Status Report of the Independent Monitor, Delphine Allen v. City of Oakland* (May 30, 2006) Westlaw, 2006 WL 2189274.