IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

Association for Los Angeles Deputy Sheriffs, Petitioner, v. Superior Court of the State of California, County of Los Angeles, Los Angeles County Sheriff's Department, et al., Real Parties in Interest.	Docket No. S243855

Second Appellate District, Div. Eight, No. B280676
L.A. Superior Court No. BS166063
Honorable James C. Chalfant, Judge

AMICUS BRIEF OF CALIFORNIA PUBLIC DEFENDERS ASSOCIATION AND LAW OFFICES OF THE PUBLIC DEFENDER FOR THE COUNTY OF RIVERSIDE ON BEHALF OF REAL PARTIES IN INTEREST

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IN THE SUPREME COURT OF THE CALIFORNIA

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TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

California Public Defenders Association ("CPDA") and the Law Offices of the Public Defender for the County of Riverside ("LOPD") respectfully submit the following brief in support of Real Parties in Interest, Los Angeles County Sheriff's Department and the County of Los Angeles.

INTRODUCTION

It is extremely troubling that, in 2018, in the State of California, we are still struggling with a concept that has been well-understood by the high courts of other states for over a century. In a criminal proceeding,

> [t]he state has no interest in interposing any obstacle to the disclosure of the facts, unless it is interested in convicting accused parties on the testimony of untrustworthy persons. But surely the state has no such interest; its interest is that accused parties shall be acquitted, unless upon all the facts they are seen to be guilty; and if there shall be in the possession of any of its officers information that can legitimately tend to overthrow the case made for the prosecution,

> or to show that it is unworthy of credence, the defense should be given the benefit of it.

(*People v. Davis* (1884) 52 Mich. 569, 573-574.)

It is also troubling that California law enforcement officers are permitted to continue playing hide-the-ball when, as long ago as 1957, this court recognized that "the state has no interest in denying the accused access to all evidence that can throw light on issues in the case," and in particular, "has no interest in convicting on the testimony of witnesses who have not been as rigorously cross-examined and as thoroughly impeached as the evidence permits." (*People v. Riser* (1956) 47 Cal.2d 566, 486; see also *Gordon v. United States* (1953) 344 U.S. 414, 419 [upon a good cause showing being made by a criminal defendant, the government must disclose documents or information in its possession tending to impeach a prosecution witness as to important and material matters directly bearing on the issue of guilt].)

While an exception has always existed for information which *must* "be kept confidential for the purposes of effective law enforcement," (*Riser, supra,*, at p. 486), in California, one exception seems to have eclipsed the rule – the exception pertaining to peace officer personnel records, codified in Penal Code[1] section 832.7. It is the hope of amici that, with this case, this court will once again clarify that state statutes creating privileges and granting confidentiality rights to material prosecution witnesses in criminal proceedings do not take precedence over the

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[1] Subsequent statutory references are to the Penal Code unless otherwise specified.

Due Process Clause of the United States Constitution and *never* outweigh the right of a criminally accused man, woman, or child, to receive a fair trial.

ARGUMENT

WITHOUT THE AVAILABILITY OF *BRADY* LISTS, CALIFORNIA'S *PITCHESS* STATUTES ARE UNCONSTITUTIONAL, BECAUSE THEY ELEVATE STATE-CREATED CONFIDENTIALITY RIGHTS OF PEACE OFFICERS OVER THE DUE PROCESS RIGHTS OF THE CRIMINALLY-ACCUSED AND, IN PRACTICE, RESULT IN SYSTEMIC CONCEALMENT OF FAVORABLE AND EXCULPATORY EVIDENCE

Before section 832.7 was enacted, an accused in a criminal prosecution could compel disclosure of privileged or confidential official information possessed by the government by demonstrating "that the requested information [would] facilitate the ascertainment of the facts and a fair trial" and that he could not " 'readily obtain the information through his own efforts.' " (*Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 537 ("*Pitchess*"), citing *Cash v. Superior Court* (1959) 53 Cal.2d 72, 75, *Powell v. Superior Court* (1957) 48 Cal.2d 704, 707, *Traynor, Ground Lost and Found in Criminal Discovery* (1964) 39 N.Y.U.L. Rev. 228, 244, *Hill v. Superior Court* (1974) 10 Cal.3d 817, 819, and *Ballard v. Superior Court* (1966) 64 Cal.2d 159, 167.) Where claims of "official privilege" (Evid. Code, §§ 1040, 1041) were invoked to deprive a criminally accused of information regarding a material witness as to the issue of the defendant's guilt, if it could be shown that the information may be helpful to the defendant and that nondisclosure would deprive him of a fair trial, dismissal was required. (*Pitchess*, *supra*, 11 Cal.3d 531 at p. 539, citing *United States v. Reynolds* (1953) 345 U.S. 1,

12, *Price v. Superior Court* (1970) 1 Cal.3d 836, 842-843, *Honore v. Superior Court of Alameda County* (1969) 70 Cal.2d 162, 167-168; *People v. McShann* (1958) 50 Cal.2d 802, 806-811, and *People v. Superior Court* (*Biggs*) (1971) 19 Cal.App.3d 522, 533.) Additionally, since 1965, a trial judge, when sustaining a claim of official privilege, has been required to make a finding of fact adverse to the prosecution with regard to any issue to which the privileged information is material. (Evid. Code, § 1042, subd. (a); *Kelvin L. v. Superior Court* (1976) 72 Cal.App.3d 823, 830.) The enactment of section 832.7 and Evidence Code sections 1043, 1045, and 1046 changed all that with regard to one type of official record, citizens' complaints of misconduct by California peace officers.

Section 832.5, enacted in 1974, requires law enforcement agencies to investigate and maintain records of citizens' complaints against peace officers for a period of at least five years. (§ 832.5, subd. (a) (2), (b).)[2] Section 832.7, enacted four years later, makes these records "confidential" and not subject to disclosure, even in a criminal proceeding and even to prosecutors, "except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code." (§ 832.7, subd. (a);

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[2] This mandatory five-year minimum period for preserving complaints was not in the original version of section 832.5 enacted in 1974. The statute soon had to be amended by Senate Bill No. 1436, enacted in 1978, because law enforcement agencies were routinely throwing away citizen complaints and related agency reports and findings at the conclusion of the investigation. (*City of Los Angeles v. Superior Court* (2002) 29 Cal.4th 1, 11, citing Assem. Com. On Criminal Justice, Analysis of Proposed Drat of Sen. Bill No. 1436 (1977-1978 Reg. Sess.) Aug. 28, 1978, p. 6 [five-year retention period intended to "conform" to the five-year "period of discovery"].)

People v. Superior Court (*Johnson*) (2015) 61 Cal.4th 696, 714 ["prosecutors, as well as defendants, must comply with the *Pitchess* procedures if they seek information from confidential personnel records"].)

It is undeniable that, since 1978, an unhealthy tension has existed between the *Pitchess* statutes and the due process principles underlying *Brady v. Maryland* (1963) 373 U.S. 83 ("*Brady*") and its progeny[3]. On numerous occasions this court has been asked for guidance. The issue was first presented to this court in *City of Los Angeles v. Superior Court* (*Brandon*) (2002) 29 Cal.4th 1 ("*City of Los Angeles*"), in which this court explained that the *Pitchess* scheme and the *Brady* scheme "employ different standards of materiality" (*City of Los Angeles v. Superior Court*, *supra*, 29 Cal.4th at p. 7.) The *Pitchess* procedures, which come into play prior to trial, create "both a broader and lower threshold for disclosure than does the high court's decision in *Brady*" and, unlike with *Brady*, the *Pitchess* discovery scheme entitles a defendant to information that will "facilitate the ascertainment of the facts" at trial [citation], that is, 'all information pertinent to the defense.' " (*Id.*, at p. 14.) Notably, in *City of Los Angeles,* this court expressly declined to address "whether Penal Code section 832.7, which precludes disclosure of office records 'except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code,' would be constitutional if it were applied to defeat

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[3] Amici respectfully directs the court to the briefs of the parties and other amici for a thorough discussion of *Brady* and other cases of the United States Supreme Court addressing the right of a criminally accused to disclosure of favorable material evidence possessed by the prosecution team.

the right of the prosecutor to obtain access to officer personnel records in order to comply with *Brady*." (*Id.*, at p. 12, fn. 2.)

The following year, in *Alford v. Superior Court* (2003) 29 Cal.4th 1033, this court, after concluding that peace officer personnel records retain their confidentiality vis-a-vis the prosecution, declined to address whether a prosecutor's receipt of this information would create an obligation under *Brady*, in future cases where the officer is a material witness, to provide the defense with disclosed information which bears on the officer's credibility or which is significantly exculpatory. (*Id.*, at p. 1046, fn. 6.)

In *People v. Gaines* (2009) 46 Cal.4th 172, this court once again clarified that the "weighing process for screening out unwarranted discovery requests is *not* akin to the inquiry into whether a particular error in denying discovery was prejudicial" and held that a convicted defendant, seeking relief based on the trial court's erroneous denial of his pre-trial *Pitchess* motion, must demonstrate a reasonable probability of a different outcome had the evidence been disclosed. (*Id.*, at pp. 182.)

Most recently, in *People v. Superior Court* (*Johnson*) 61 Cal.4th 696 ("*Johnson*"), this court again declined to decide whether a district attorney is required, under *Brady*, to disclose to the defendant information contained in the investigating law enforcement agency's personnel files, holding that such information is equally accessible to the defendant, under the *Pitchess* procedures. (*Johnson*, *supra*, 61 Cal.4th at p. 715.)

> Because a defendant may seek potential exculpatory information in those personnel records just as well as the prosecution, the prosecution fulfills its Brady obligation if it shares with the defendant any information it has regarding whether the personnel records contain *Brady* material, and then lets the defense decide for itself whether to file a *Pitchess* motion. In this case, this means the prosecution fulfilled its obligation when it informed defendant of what the police department had told it, namely, that the personnel records of the officers in question might contain *Brady* material, and that the officers are important witnesses.

(*Id.*, at p. 716.) In *Johnson*, this court rejected the defendant's argument that the *Pitchess* procedures are inadequate to protect his rights, noting that the procedures have coexisted with *Brady* for a long time and expressing confidence "that trial courts employing *Pitchess* procedures will continue to ensure that defendants receive the information to which they are entitled." (*Johnson*, *supra*, at pp. 719-720.) Based on the experience of your amici, this court may have dismissed too quickly the defendant's argument that the *Pitchess* procedures are inadequate to protect the fundamental constitutional rights of the criminally accused in California's courts.

In practice, the process of obtaining *Pitchess* discovery is very labor-intensive and time-consuming, undeniably necessitating lengthy delays in criminal proceedings that compromise a defendant's statutory and constitutional speedy trial rights. The process begins, of course, with the filing of a written motion, identifying the proceeding in which discovery is sought, the party seeking discovery, the name of the peace officer whose records are requested, and a description of the type of records sought, supported by affidavits showing good

cause for the sought discovery and setting forth the materiality thereof to the subject matter of the pending litigation. (Evid. Code, § 1043, subd. (a), (b).) If the motion seeks disclosure of allegations involving excessive force by one or more officers, the movant must include a copy of all arrest reports showing the circumstances under which the person was stopped and arrested. (Evid. Code, § 1046.) And, unlike with any other type of motion in a criminal proceeding, the movant must serve the motion on the law enforcement agency within the time period prescribed for service of motions in civil, rather than criminal, cases, at least sixteen court days prior to the hearing. (Evid. Code, § 1043, Code Civ. Proc., § 1005, subd. (b).)

The law enforcement agency cannot be ordered to produce any records, even for judicial review, unless the court first finds that the moving party has made the requisite showing of "good cause". When the motion is brought by counsel for a defendant in a criminal proceeding, this requires, at minimum, a declaration of counsel setting forth a defense to the pending charges and explaining how the discovery sought might lead to relevant evidence, or, itself, be admissible at trial. (*People v. Hustead* (1999) 74 Cal.App.4th 410, 417.) The declaration must describe a "specific factual scenario of officer misconduct that is plausible when read in light of the pertinent documents." (*Warrick v. Superior Court* (2005) 35 Cal.4th 1011, 1026 ("*Warrick*").)

While, theoretically, this seems rather simple, in practice, it is not. Articulating a "specific factual scenario of officer misconduct" is extremely

difficult when the only person who can provide defense counsel with a "specific factual scenario of officer misconduct" is the defendant, whose intellectual functioning may be at the borderline level or below[4], or who may suffer from mental illness[5] or cognitive disabilities, or who may have been under the influence of alcohol or drugs or in a state of extremely high anxiety when the pertinent events took place. All of these conditions impair a person's ability to perceive, recall and communicate to counsel the details of a detention and arrest.[6] Without

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[4] Individuals with lower intellectual functioning continue to be disproportionately represented in custodial settings. (Freeman, James, *The relationship between lower intelligence, crime and custodial outcomes: a brief literary review of a vulnerable group*, Vulnerable Groups & Inclusion, 3:1, 14834, DOI: 10.3402/vgi.v3i0.14834, available in PDF online at https://www.tandfonline.com/doi/full/10.3402/vgi.v3i0.14834.)

[5] According to a report released by the U.S. Department of Justice, Bureau of Justice statistics in 2006, at midyear 2005 more than half of all prison and jail inmates had a mental health problem. The study revealed that 75% of females and 63% of males incarcerated in local jails suffered from mental illness. The report was based on surveys of inmates in state and federal facilities in 2004 and surveys of jail detainees in 2002. (James, Doris J. and Glaze, Lauren E., *Mental Health Problems of Prison and Jail Inmates*, Bureau of Justice Statistics Special Report, September, 2006, available in PDF online at https://www.bjs.gov/index.cfm?iid=789&ty=pbdetail.) The rate of mental illness among California's jail and prison inmates has continued to rise over the nearly twenty years since these surveys were completed. (*Confronting California's Continuing Prison Crisis: The Prevalence and Severity of Mental Illness Among California Prisoners on the Rise*, available in PDF online at https://www-cdn.law.stanford.edu/wp-content/uploads/.../Stanford-Report-FINAL.pdf.)

[6] Research indicates that anxiety biases multiple cognitive processes, including cognitive control and working memory performance. (Grant, Demond M. and White, Evan J., *Influence of Anxiety on Cognitive Control Processes.* (Dec. 2016), available online at http://psychology.oxfordre.com/view/10.1093/acrefore/9780190236557.001.0001/acrefore-9780190236557-e-74.)

meaningful input from the defendant, the *Pitchess* discovery scheme is worthless to defense counsel.

Additionally, although this court has said, time and again, that a showing of good cause is to be measured by "relatively relaxed standards" that serve to "insure the production" for trial court review of "all potentially relevant documents" (*City of Santa Cruz v. Municipal Court* (1989) 49 Cal.3d 74, 84) and that the declaration in support of the motion must provide only "a plausible scenario ... that might or could have occurred." (*Warrick, supra,* at p. 1021, 1026), in practice, the standard for review of peace officer personnel files is commonly misunderstood and misapplied in an ad-hoc manner by well-intended but often-overburdened superior court judges, resulting in arbitrary and subjective determinations of "implausibility" and denial of discovery.

The case of *People v. Thompson* (2006) 141 Cal.App.4th 1312 illustrates these points. In *Thompson,* a defendant was charged with narcotics sales based on allegations that he had been the subject of an undercover buy-bust transaction. The transaction had not been recorded, and the prosecution's entire case was based on the credibility of the officers involved. The defendant moved for disclosure of "personnel records" of the officers, dealing with complaints of false arrest, illegal search and seizure, fabrication of evidence, planting evidence, dishonesty, and other types of misconduct. The motion was supported by a sworn declaration of defense counsel, alleging that the officers had not seen the defendant offer and sell drugs to an undercover officer, had not recovered "buy money" from the

defendant, and had fabricated the statements contained in their reports. The defendant alleged that the officers had arrested him because he had been in the area where they were doing the buy-bust arrests. He alleged that any narcotics reportedly recovered from the undercover buyer were not attributable to the defendant. (*People v. Thompson, supra,* 141 Cal.App.4th at p. 1317.) The motion was denied, and, on direct appeal, the Court affirmed his conviction, holding, "the trial court could reasonably conclude that Thompson failed to show good cause for the requested discovery because he did not present a specific factual scenario that is plausible when read in light of the pertinent documents and undisputed circumstances." (*Id.* at p. 1316.) Without elaborating on what it meant by "undisputed circumstances," the Court faulted the defendant for having failed to state "a non-culpable explanation for his presence in an area where drugs were being sold" and having failed to "sufficiently present a factual basis for being singled out by the police". (*Id.* at p. 1317.) *Thompson* has been followed by other appellate courts, and it is frequently relied upon by the attorneys opposing motions brought under Evidence Code section 1043 on behalf of law enforcement agencies. (See, e.g. *People v. Sanderson* (2010) 181 Cal.App.4th 1334, 1341.) If the defendant's factual scenario is not considered both possible *and* plausible by the judge hearing the discovery motion, the motion will be denied and the records will never be reviewed by the court.[7]

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[7] At that point, the defendant, who is typically incarcerated due to his inability to afford the scheduled bail amount, has a decision to make. He can either waive his

If the motion is granted, the records brought by the agency's custodian are provided to the judge who conducts an in-camera review. There is no way for the defendant ever to know whether the law enforcement agency has produced all existing complaints and related reports and findings or merely those which, on the date set for the hearing, happen to be contained in the officer's general personnel file.[8] After conducting an in camera review and balancing the defendant's need for disclosure of relevant information against the officer's expectation of privacy in his personnel records, the judge is permitted to order release of the records. (§ 1045, subd. (b), *People v. Mooc* (2001) 26 Cal.4th 1216, 1220, 1226.) The court is required to issue a protective order with regard to any records disclosed (§ 1045, subd. (e)), and is prohibited from disclosing any information concerning conduct occurring more than five years prior to the officer's alleged misconduct in the

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statutory rights to a speedy trial in order to pursue writ relief, which can take months, or even years, and which may or may not be fruitful, or he can proceed to trial without discovery of whatever impeachment information the investigating law enforcement agency may possess about any of the prosecution's material peace officer witnesses.

[8] It is not uncommon for the agency's custodian of records to produce only the records contained in the officer's "general personnel file", and not those complaints, reports and findings maintained in other separate files, which are also deemed "personnel records" for purposes of section 1043. (§ 832.5, subd. (c).) This problem is compounded by the fact that, due to procedural safeguards unique to police officers being investigated for misconduct, "it may take months, if not years" for investigation of a citizen complaint to be completed. (*City of Los Angeles v. Superior Court*, *supra*, 29 Cal.4th at p. 22.) When this occurs, records pertaining to ongoing investigations are not produced for the court's in-camera review and, accordingly, are never disclosed to the defendant.

defendant's case[9], the conclusions reached in any agency investigations of the complaints of misconduct[10], and any facts that are "so remote as to make disclosure of little or no practical benefit." (§ 1045, subd. (b).) Although nothing in the statute requires this, trial courts, at the urging of the agency's attorney and in reliance on dicta in *City of Santa Cruz v. Municipal Court*, *supra*, 49 Cal.3d at p. 84, quoted with approval in *Alford v. Superior Court* (2003) 29 Cal.4th 1033, 1039 and *Warrick v. Superior Court*, *supra*, at p. 1019, typically refuse to disclose any of the actual complaints, reports, or records in the officer's personnel file, ordering instead that the agency reveal only the name, address and phone number of the prior complainants and witnesses and the dates of the incidents in question. (See, e.g. *Alvarez v. Superior Court* (2004) 117 Cal.App.4th 1107, 1112; *Chambers v. Appellate Div. of Superior Court* (2007) 42 Cal.4th 673, 680.)

The defendant, having prevailed in his motion hearing, typically walks away from his *Pitchess* victory with nothing more than incident dates and names, addresses and phone numbers of complainants and witnesses, which may or may not be accurate[11] given that people marry, divorce, move, and change phone

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[9] If it takes the agency more than five years from the date of the incident to complete its investigation of the complaint, the complaint and reports and findings *are never discoverable* under Evidence Code section 1045, even to a criminal defendant.

[10] This exclusion applies only in criminal proceedings.

[11] Never, is the agency ordered to conduct any sort of records check and provide *current* names, addresses and phone numbers of the prior complainants and witnesses. They are only required to disclose the names, addresses, and phone numbers as they appear on the documents contained in the officer's personnel file.

numbers with alarming regularity. The next step is to try to track down and interview these people with nothing more than this information. This is extremely difficult, and, in many cases, impossible. Even when the prior complainants and witnesses are located, they sometimes refuse to cooperate with investigators, fearing retaliation or out of concern that they might be inconvenienced by a subpoena. Those who are located and are willing to be interviewed often have failures of memory as to details of the incident.

So, now, the defendant must return to court after filing and serving a *supplemental* motion for Evidence Code section 1043 discovery, supported by another declaration establishing good cause for release of *more* information, and providing the same sixteen court-days of notice. (*City of Tulare v. Superior Court* (2008) 169 Cal.App.4th 373, 383.) This time the defendant must establish that the previously released information was insufficient and that he must have the actual complaints and reports disclosed, because the witnesses and complainants cannot be located to be interviewed, or because they were located but refused to cooperate, or because they were located but do not remember all the details, which, all along, have been memorialized in the documents possessed by the law enforcement agency. (See, e.g. *Alvarez v. Superior Court*, *supra,* 117 Cal.App.4th at p. 1113; *Kelvin L. v. Superior Court*, *supra*, 62 Cal.App.3d at p. 829; *Carruthers v. Municipal Court* (1980) 110 Cal.App.3d 439, 442.)

None of this should be necessary. While it is true that the *Brady* standard of materiality cannot, practically speaking, be applied in the pretrial discovery

context, the type of information shielded by the *Pitchess* statutes is precisely what *Brady* and its progeny are concerned about – deliberate *concealment* of relevant favorable information regarding key prosecution witnesses which is possessed by the prosecution team. And the burden of getting that information disclosed cannot, constitutionally, be borne entirely by the defendant.

CONCLUSION

For over a half-century, the State of California has allowed law enforcement agencies to systemically conceal from criminal defendants citizens' complaints of peace officer misconduct possessed by the prosecution team – information which is relevant, favorable and exculpatory and pertains to material prosecution witnesses. This must change. Despite the best efforts of ethical prosecutors, diligent defense attorneys and conscientious judicial officers, the *Pitchess* procedures governing citizens' complaints regarding peace officers, in practical application, are an affront to Due Process. Amici urge this court to breathe life back into the principles underlying *Brady* and its progeny and to hold that, unless local prosecutors are given the ability to utilize *Brady* lists and provide limited disclosures with regard to material witnesses in pending state court criminal cases, Penal Code section 832.7 and Evidence Code sections 1043, 1045, and 1046 are unconstitutional.

Dated: May 3, 2018

Respectfully submitted,

Deputy Public Defender
Attorney for Amici

CERTIFICATE OF WORD COUNT

I, LAURA ARNOLD, do hereby certify that, according to the computer program used to prepare the instant petition and accompanying memorandum, including headings and footnotes, the length of the foregoing brief of amici curiae is 4272 words.

I declare the foregoing to be true under penalty of perjury. Executed this 3rd of May, 2018, at Murrieta, California.

Proof of Service

I, LAURA ARNOLD, declare that I am over the age of eighteen years and not a party to the cause described herein. My electronic service address is LOPDAppellate-Unit@rivco.org and my business address is 30755-D Auld Rd., Ste. 2200, Murrieta, CA 92563. I am employed by the Law Offices of the Public Defender and am readily familiar with the Office's practice of collection and processing correspondence for mailing. Under that practice, outgoing mail is deposited with the U.S. Postal service, with postage thereon fully prepaid, at Murrieta, California, each day in the ordinary course of business, with the exception of federal and county government holidays and weekends.

On May 4, 2018, I served the foregoing *Amicus Brief Of California Public Defenders Association And Law Offices Of The Public Defender For The County Of Riverside On Behalf Of Real Parties In Interest* by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Law Offices of the Public Defender at 30755-D Auld Rd., Ste. 2233, Murrieta, CA 92563, addressed as follows:

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In addition, on May 3, 2018, at approximately 11:00 p. m., I electronically served the foregoing *Amicus Brief Of California Public Defenders Association And Law Offices Of The Public Defender On Behalf Of Real Parties In Interest* as follows:

The California Attorney General to electronic serving address of sdagdocketing@doj.ca.gov,

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Geoffrey Sheldon, James Oldendorph, and Alexander Wong to electronic serving address awong@lcwlegal.com, and

The Second District Court of Appeal, through Truefiling, docket number B280676.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, and this Declaration was executed at Murrieta, California on May 4, 2018.

LAURA ARNOLD