

Discovery Requests

814.1 INTRODUCTION

Legal discovery is the investigative phase of the pre-trial process that allows opposing parties to obtain information to help them build their claims or defenses. Discovery often involves an order for “document production,” broadly defined as a request for records in paper or electronic formats.

The United States Supreme Court has long held that evidence, which can possibly assist in the defense of an individual accused of a crime, must be disclosed to the attorney representing that individual. Failure to provide that information can result in the overturning of a conviction and for extreme violations of the rule, prosecution of violators of that rule.

The duty to make disclosure rests primarily with the prosecuting attorneys, but the Supreme Court has also held that information known to law enforcement agencies but never disclosed by those agencies to the district attorney, must nevertheless be imputed to the prosecution. *Brady v. Maryland* (1963), *Giglio v. United States* (1972), and Penal Code section 1054.5(b).

814.2 DUTIES OF PERSONNEL RESPONSIBLE FOR PROVIDING DISCOVERY

Orange County Sheriff's Department (OCSD) personnel charged with responding to discovery requests from the District Attorney's (DA) Office shall document and disclose all records that are requested, including potentially exculpatory information and witness credibility information, to the DA's office within 15 days. The only exceptions to this disclosure are personnel records. A *Pitchess* motion is required for sworn Member's personnel records unless the personnel records are subject to disclosure under Penal Code section 832.7(b) (see Policy 805). A subpoena is required for professional staff Member's personnel records. County Counsel shall be consulted prior to the release of any personnel records pursuant to a *Pitchess* motion or subpoena.

It is the role and responsibility of prosecutors and not OCSD personnel to reach conclusions regarding what shall be disclosed to a criminal defendant in the discovery process. However, OCSD personnel shall not, by either action or inaction, withhold material related to a case from a prosecutor responsible for that case.

814.3 USE OF DISCOVERY TRACKER APPLICATION

All discovery requests received from the DA's office, in any format, must be processed using the Discovery Tracker application, located on OCSD's Intranet, under *Services*. There are no exceptions.