

GENERAL OFFICE MEMORANDUM 20-087

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM:  JOSEPH P. ESPOSITO  
Chief Deputy District Attorney

SUBJECT: PROTOCOL FOR ADDRESSING DEFENSE-INITIATED  
PROSECUTORIAL MISCONDUCT MOTIONS AND/OR CONTEMPT  
FINDINGS AGAINST DEPUTY DISTRICT ATTORNEYS

DATE: JUNE 24, 2020

This General Office Memorandum addresses the handling of defense-initiated prosecutorial misconduct motions for sanctions and/or contempt findings against deputy district attorneys (deputies) made prior to conviction and sentencing.

The office has seen a recent increase in defense-initiated motions accusing deputies of misconduct. The motions seek sanctions and/or contempt findings based on a variety of legal grounds. For example:

- A motion pursuant to California Code of Civil Procedure (CCP) §§ 56.10 through 56.16, accusing the deputy of having violated the defendant's medical right to privacy;
- A motion pursuant to Penal Code § 1424.5 (deliberate and intentional withholding of relevant, material exculpatory evidence or information) and *Brady*;
- A motion pursuant to Welfare and Institutions Code § 827, California Rules of Court, rules 5.552, subdivisions (c) through (e), CCP section 2023.30, and Los Angeles Superior Court Rules of Court, local rule 7.2, accusing deputies of unauthorized disclosure of the petitioner's juvenile records.

Defense-initiated prosecutorial misconduct motions made against a deputy shall be litigated by the branch or area office or division where the motion was filed. The Office's Professional Responsibility Advisor is available for assistance.

The Assistant Head Deputy (AHD) of the Habeas Corpus Litigation Team (HABLIT) shall continue to litigate all court-initiated motions and/or hearings for contempt and/or sanctions against deputies.

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