



# ORANGE COUNTY SHERIFF'S DEPARTMENT

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SHERIFF-CORONER  
SANDRA HUTCHENS

## OFFICE OF THE SHERIFF

August 1, 2017

Honorable Charles Margines  
Presiding Judge of the Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

Subject: Response to Orange County Grand Jury 2016-2017 report, "The Myth of the Orange County Jailhouse Informant Program."

Dear Judge Margines:

In accordance with Penal Code sections 933 and 933.05, enclosed please find the response to the FY 2015-2016 Orange County Grand Jury report, "The Myth of the Orange County Jailhouse Informant Program."

If you have any questions, please contact Assistant Sheriff Adam Powell at (714) 647-1833.

Sincerely,

A handwritten signature in blue ink that reads "Sandra Hutchens".

Sandra Hutchens  
Sheriff-Coroner

cc: Mr. Bob Niccum, Grand Jury Foreperson  
Members, Board of Supervisors  
Frank Kim, County Executive Officer

**Orange County Sheriff's Department**  
**Response to Findings and Recommendations**  
**2016-2017 Orange County Grand Jury Report**  
*"The Myth of the Orange County Jailhouse Informant Program"*

**FINDINGS**

**F.1**

**The myriad definitions and nuances of what constitutes an "informant" have caused confusion and may have contributed to the current controversy and unnecessary erosion of trust.**

**Response:** *Agrees with the finding*

OCSD incorporated specific and detailed policies relating to informant use. OCSD issued a department-wide policy in September 2014 addressing confidential informant use. In December 2014, the department issued policy specific to custody related informants. Both policies include language defining different types of informants and sources of information. These definitions are specific and reflect current statutory and case law.

**F.2**

**There is no structured jailhouse informant program operating in the Orange County Jails. The existence of informants in the Orange County jails does not constitute a program. The use of an in-custody informant is generally organic in nature, and narrowly focused.**

**Response:** *Agrees with the finding*

As noted in the report there was no formal, structure or authorized jailhouse informant program. However, individual information sources were contacted and interviewed in the custody environment. Current policy and protocols have been established to ensure proper informant use within the jail system.

**F.3**

**Violations in discovery and/or Brady disclosure in the Dekraai case are limited to the actions of a few members of the OCDA and a few OCSD personnel. This does not represent a conspiracy between the OCSD and OCDA.**

**Response:** *Agrees with the finding*

The OCSD recognizes their responsibility as it relates to discovery obligations and subpoena response. While investigations into potential Brady violations are in progress at various levels, there was never an arrangement with any prosecutorial agency to violate any constitutional law. OCSD has incorporated new protocols, tracking systems and policy that specifically address discovery and subpoena responses.

**F.10**

**Mistakes were made by personnel in the OCS D and the OCDA. In response to internal investigations, the OCS D has taken disciplinary action to the extent it is able to do so at this time. There appears to have been minimal consequences for personnel in the OCDA.**

**Response:** *Agrees with the finding*

OCS D has a number of internal investigations open involving numerous department members to determine any policy violations. Most of these investigations have included document review and collection of relevant information. However, the investigations have been tolled pending the conclusion of the California Attorney General's criminal investigation.

**F.11**

**Both the OCS D and the OCDA need updated technology and record keeping systems.**

**Response:** *Agrees with the finding.*

OCS D has developed a new tracking system for case discovery throughout the department. The same type of system is being developed to track and respond to subpoenas. As it relates to records within the jail system, previously disparate filing and storage systems have been centralized.

**F.12**

**In spite of no official completed investigations, the OCS D has proactively made structural and organizational changes to address the issues that arose as a result of the informant controversy.**

**Response:** *Agrees with finding.*

Specific organizational changes occurred with custody and the classification unit. The Special Handling Unit, previously staffed by Deputy Sheriff's assigned to custody/classification, has been reorganized. The reorganization consisted of experienced investigative staff, including a Lieutenant, Sergeant, Investigators and Investigative Assistants which formed the Custody Intelligence Unit (CIU). Individual operations or investigations that may have some type of potential custody informant nexus will be handled and documented by the CIU.

**F.13**

**The current promotion process in the OCS D that requires patrol officers to be reassigned to the jail contributes to a culture of inadequate supervision of long-term jail personnel.**

**Response:** *Disagrees with finding.*

Newly promoted sergeants come out of all areas of the department including, training, investigations, Homeland Security and Field Operations (patrol). Sergeants receive POST required supervisory training and additional supervisor training that is department and custody specific. As it relates to the advanced investigative process of informant use within custody, the new Custody Intelligence Unit will be staffed by supervisors with specific background in this area.

## **RECOMMENDATIONS:**

### **R.9**

**The OCSD should standardize and consolidate jail activity records that have potential discovery repercussions, and minimize multiple filing systems for recording potentially discoverable material within the jail management system.**

**Response:** *This recommendation has been implemented.*

OCSD has consolidated jail records into central areas that are searchable and available for all discovery and subpoena requirements. Additionally, a new department-wide discovery tracking system, along with pertinent policy, has been adopted to address disparate discovery protocols. Finally, a department-wide subpoena response system is being developed to address document production subpoenas in a formal organized system.

### **R.10**

**The OCSD should improve supervisor training for newly promoted sergeants that includes demonstrated supervisory skills before rotation back to the field.**

**Response:** *This recommendation has been implemented.*

OCSD requires all potential sergeants currently on the promotion list to attend a 40-hour "Custody Incident Management Course" that provides new sergeants the tools to supervise successfully in the jails. Once the employee is promoted to sergeant, they attend an 80-hour POST approved Supervisor Training. In addition, other training available to sergeants include Incident Command (ICS), critical incident training and various leadership training. Finally, prior to transferring back to operations custody sergeants attend "Sergeant Patrol Transition Course", which provides legal updates, investigation updates and critical incident training.