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UNITED STATES DEPARTMENT OF JUSTICE VALIDATION ASSESSMENT REPORT

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Agreement for the Sustainability of  
Custodial Informant Reforms



July 28, 2025

**I. EXECUTIVE SUMMARY**

This report, prepared by the United States Department of Justice (“DOJ”), assesses whether the Orange County Sheriff-Coroner’s (“Sheriff”) efforts to reform policies and practices on the use of custodial informants at the Orange County Jails (“Jails”) have been sustained by the Orange County Sheriff’s Department (“OCSD”), pursuant to the Agreement for the Sustainability of Custodial Informant Reforms (“Agreement”). DOJ and the Sheriff entered into the Agreement to ensure their mutual goal of protecting criminal defendants’ right to counsel under the Sixth Amendment and right to due process of law under the Fourteenth Amendment. The Agreement is also intended to strengthen public trust in Orange County’s criminal justice system and promote effective law enforcement.

OCSD has sustained compliance with each substantive paragraph of the Agreement for at least six months during the agreed-upon sustainment period of July 1, 2024, through March 1, 2025. Pursuant to Paragraph 53 of the Agreement, OCSD’s full and sustained compliance permits the parties to terminate the Agreement. Accordingly, OCSD has successfully completed the Agreement, and the Agreement is now resolved and terminated.

## II. BACKGROUND

On December 15, 2016, DOJ initiated an investigation into the use of custodial informants to determine whether OCSD and the Orange County District Attorney's Office ("OCDA") engage in a pattern or practice of unconstitutional conduct under the Sixth and Fourteenth Amendments of the United States Constitution, in violation of the Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. § 12601 ("Section 12601"). Specifically, the investigation focused on whether OCSD and OCDA used custodial informants to elicit incriminating statements from individuals after they had been charged with a crime. It is a violation of the Sixth Amendment for law enforcement officers or individuals acting on behalf of the government to elicit incriminating statements from a charged individual about the charged offense(s) outside the presence of defense counsel. *Massiah v. United States*, 377 U.S. 201, 206 (1964). The investigation also focused on whether OCDA made disclosures to defendants about the custodial informants. It is a violation of the Fourteenth Amendment for a prosecutor to fail to disclose evidence the government has that is favorable to the accused with respect to guilt or punishment, even if the accused has not requested it. *Brady v. Maryland*, 373 U.S. 83, 87 (1963).

As part of its investigation, DOJ conducted a comprehensive assessment of jail records, case files, and court documents; toured the Jails and interviewed OCSD personnel and OCDA prosecutors; and obtained information from members of the Orange County community and other stakeholders involved in the County's criminal justice system.

On October 7, 2022, DOJ announced the results of its investigation in a findings report. DOJ determined that it had reasonable cause to believe that, in violation of the Sixth Amendment, OCSD and OCDA used custodial informants between 2007 and 2016 to elicit incriminating statements from individuals outside the presence of defense counsel after the individual had been arrested and charged with a crime. DOJ also determined it had reasonable cause to believe that, in violation of the Fourteenth Amendment, OCDA prosecutors had failed to disclose evidence about those custodial informants to criminal defendants during that same period.

On January 17, 2025, the parties entered into the Agreement to resolve DOJ's investigative findings and ensure that any use of custodial informants is in accordance with the Sixth and Fourteenth Amendments. The Agreement provides for the effective, timely, and transparent validation of OCSD's reforms to promote public safety and strengthen the public's trust in the Orange County criminal justice system. The Parties also agreed that the content of OCSD's current policies, procedures, training, and auditing satisfy the requirements of the Agreement.

## III. VALIDATION ASSESSMENT

Under the Agreement, the Sheriff agreed to implement enhancement and sustainability measures in four areas: (1) policies; (2) training; (3) document and information systems; and (4) audits and public information. The measures, set forth in Paragraphs 13 through 33 of the Agreement, are intended to ensure that relevant personnel continue to have the guidance, training, and tools they need to carry out their duties; that document and information systems support secure and reliable record keeping; that agency responsibilities are coordinated to facilitate the appropriate sharing of information; and that appropriate information is published publicly to promote transparency.

DOJ's assessment included reviewing multiple OCSD document productions, reviewing relevant policies and procedures, and a March 2025 site visit that involved interviews with over thirty OCSD employees. Below, we set forth each substantive paragraph of the Agreement followed by our assessment of OCSD's compliance.

13. OCSD shall ensure that it continues to implement policies and procedures that fully incorporate the terms of this Agreement and comply with applicable law. OCSD policies and procedures shall continue to be plainly written, be logically organized, use terms that are clearly defined, and comport with legal and professional custodial standards and rules.

**STATUS (13): Sustained Compliance**

**FINDINGS:**

Our review of OSCD Custodial Informant and Sources of Information (SOI) policies and procedures confirmed that OCSD policies and procedures continue to be clear, comprehensive and comport with legal and professional standards. Our site visit interviews with relevant personnel (e.g., executive staff, command staff, supervisors and deputies) demonstrated operationalization of all relevant OCSD informant policies and procedures.

14. OCSD shall continue to ensure that changes in case law, statutes, or rules that are relevant to any use of Custodial Informants are disseminated to appropriate personnel in a timely manner and incorporated, as needed, into OCSD policies, procedures, and training.

**STATUS (14): Sustained Compliance**

**FINDINGS:**

OCSD continues to timely disseminate and operationalize changes in case law, statutes or rules relating to Custodial informants. Review of OCSD document productions and interviews with relevant personnel (e.g., executive staff, command staff, supervisors and deputies) demonstrated timely operationalization of all relevant policies and procedures.

15. OCSD shall continue to document that all relevant personnel have received, read, and understand the policies and procedures that are necessary to fulfill their duties and responsibilities under this Agreement, including the obligation to report violations of agency policy or procedure to immediate supervisors or other appropriate person or entity. OCSD shall advise relevant personnel that taking law enforcement action in violation of approved policies and procedures relevant to this Agreement may subject personnel to discipline, possible criminal prosecution, civil liability, and/or professional sanctions.

**STATUS (15): Sustained Compliance**

**FINDINGS:**

OCSD has continued to document that relevant personnel have received and understand custodial informant policies and procedures. OCSD provided an acknowledgment report summary demonstrating that personnel throughout the custodial facilities had reviewed and acknowledged Informant Policy 608. Interviews with relevant personnel (e.g., executive staff, command staff, supervisors and deputies) demonstrated an understanding of all relevant policies and procedures and that violation of OCSD policies and procedures could at a minimum lead to discipline.

16. OCSD shall continue to ensure that appropriate action is taken in response to any alleged and sustained violations of relevant policies and procedures, including initiating supervisory reviews

or investigations, imposing discipline, and taking other non-punitive corrective action, such as providing remedial training or increasing supervision.

**STATUS (16): Sustained Compliance**

**FINDINGS:**

OCSD has continued to ensure that appropriate actions are taken in response to custodial informant violations of policies or procedures, including imposing discipline as warranted. For example, the 2025 joint annual OCDA and OCSD audit to reconcile the number of OCSD Informants and Sources of Information identified a discrepancy as to the number of OCSD informants. OCSD promptly resolved the discrepancy and issued appropriate discipline. OCSD also conducts daily audits as to classification decisions and provides timely, non-disciplinary corrective actions for any minor identified errors. Classification errors are typically minor and do not result in a change in classification.

17. OCSD shall continue to review and revise policies and procedures as necessary and appropriate upon notice of a significant policy deficiency from audits or supervisory reviews.

**STATUS (17): Sustained Compliance**

**FINDINGS:**

OCSD has continued to revise policies and procedures as necessary. We reviewed classification, informant, and sources of information audits. No audits or supervisory reviews that DOJ reviewed identified any significant policy deficiencies.

18. OCSD shall continue to implement integrated, consistent, and comprehensive policies and procedures addressing the use of Custodial Informants consistent with the Sixth and Fourteenth Amendments and applicable rules of professional conduct. The policies and procedures shall continue to address the following issues:
  - a. constitutional and legal requirements regarding the use of Custodial Informants and Sources of Information at the Jails;
  - b. definitions of Custodial Informants, Sources of Information at the Jails, and benefits offered to or received by Custodial Informants (including benefits in a custodial setting);
  - c. screening and vetting of potential Custodial Informants and Sources of Information at the Jails;
  - d. records and other documentation that must be created and maintained when Custodial Informants and Sources of Information at the Jails are used in a criminal investigation or provided in discovery;
  - e. the concept of the “prosecution team”; and
  - f. the duty to locate and preserve material possessed by OCSD for production to OCDA or other prosecuting agency to determine whether disclosure to a criminal defendant may be required by *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny.

**STATUS (18): Sustained Compliance**

**FINDINGS:**

OCSD has continued to implement comprehensive policies and procedures addressing the use of Custodial Informants and Sources of Information consistent with the Sixth and Fourteenth Amendments. Our review of training materials revealed a robust and comprehensive training program. OCSD Policy 608.1.1 defines “source of information” and informant. OCSD Policy 608.3.1 defines “in-custody informant.” OCSD Policy 608.9 delineates the in-custody informant screening process. OCSD Policy 608.2.1 and 608.2.3 detail, respectively, what records and other documentation must be created and maintained as to Custodial Informants and Sources of Information. OCSD Policy 608.8 makes clear that OCSD is part of the OCDA prosecution team and shall make timely notification to the OCDA as to Informant and Sources of Information usage. As to fulfilling the discovery requirement, OCSD’s discovery bureau tracks and processes all discovery requests and maintains an audit trail.

19. OCSD policies and procedures shall continue to encompass any situation in which an individual incarcerated at the Jails assists law enforcement by providing information to OCSD regarding criminal activity or jail security. OCSD policies and procedures shall continue to employ a consistent approach to documentation, record preservation, coordination, and communication, as appropriate and regardless of whether an individual is seeking a benefit or consideration in exchange for the information, is a co-defendant of the investigative target, or is expected to testify.

**STATUS (19): Sustained Compliance**

**FINDINGS:**

Our review of OCSD policies and procedures demonstrated that OCSD continues to utilize a comprehensive approach to documentation, record preservation, coordination and communication regardless of the status of the informant.

20. OCSD shall continue to implement its policies and procedures requiring sworn personnel at the Jails to refer requests or information from incarcerated individuals who are Sources of Information or potential Custodial Informants to their immediate supervisor and the Custody Intelligence Unit (CIU) for screening and vetting. CIU supervisors shall evaluate the request or information in consultation with the Investigations Division Commander and Executive Command at OCSD to determine whether to use the incarcerated person as a Custodial Informant. Decisions to use a Custodial Informant must be approved by the Sheriff prior to use of the informant. If the Sheriff is unavailable and exigent circumstances exist, then the Undersheriff may approve the use of the Custodial Informant. The Undersheriff must notify the Sheriff of the approval as soon as practicable.

**STATUS (20): Sustained Compliance**

**FINDINGS:**

Our review of OCSD policies and procedures and interviews of OCSD personnel confirmed that OCSD has operationalized OCSD Policy 608.9 (in-custody informant screening) which mandates that requests or information from incarcerated individuals

who are either Sources of Information or potential Custodial Informants be referred to their immediate supervisor and the Custody Intelligence Unit (CIU) for screening and vetting. Policy 608.9 mandates that the “Criminal Investigations Bureau Captain will consult with the Investigations Division Commander and Executive Command. The Sheriff must approve the decision to utilize an Informant within the jail prior to the use of an Informant. If the Sheriff is unavailable, and approval is immediately required due to an exigent situation, then the Undersheriff may approve the use of the Informant. In that case, the Undersheriff must notify the Sheriff at the earliest possible opportunity.”

21. OCSD shall continue to make classification, housing, and placement decisions at the Jails based on objective and valid criteria in accordance with approved policies and procedures that are consistent with generally accepted correctional practices and applicable law. OCSD shall hold classification supervisors accountable for the accuracy, reliability, and integrity of the classification assessments and housing assignments made by personnel under their supervision.

**STATUS (21): Sustained Compliance**

**FINDINGS:**

OCSD has continued to make objective classification, housing, and placement decisions based on objective criteria consistent with generally accepted correctional practices and applicable law. OCSD holds classification personnel accountable and conducts daily classification audits and provides timely counseling as needed as to any identified deficiencies or errors.

22. OCSD shall continue to maintain organizational and operational separation between CIU’s handling of Custodial Informants and the Jails’ decision-making processes concerning classification, housing, and placement of incarcerated individuals.

**STATUS (22): Sustained Compliance**

**FINDINGS:**

Our review of OSCD informant policies and procedures, and interviews of OCSD personnel confirm that OSCD has continued to maintain organizational and operational separation between CIU’s handling of Custodial Informants and the Jails’ decision-making processes concerning classification, housing, and placement of incarcerated individuals.

23. The Sheriff agrees to adhere to practices covered by a Memorandum of Understanding (MOU) executed between the Sheriff and the District Attorney to ensure interagency collaboration and appropriate exchanges of information as recommended by DOJ in its October 2022 Report. OCSD personnel shall continue to take the following steps, consistent with OCSD policies and the MOU:

- a. notify OCDA in writing when a case involves a Custodial Informant or Source of Information at the Jails in any capacity at the earliest possible time, by submitting an

Orange County Index of Confidential Sources (OCICS) card (a form detailing information that must be entered in OCICS) to the OCICS Coordinator;

- b. notify OCDA in writing when a Custodial Informant has previously provided information to assist law enforcement as a Source of Information at the Jails;
- c. notify OCDA in writing when OCSD makes eligibility determinations regarding potential Custodial Informants by the Undersheriff in exigent circumstances and when a Custodial Informant is inactivated; and
- d. coordinate discovery requests and productions with OCDA, including those circumstances when pertinent OCDA personnel shall personally inspect OCSD records and files.

**STATUS (23): Sustained Compliance**

**FINDINGS:**

Our review of OCSD informant policies and procedures show that OCSD timely submits notification of Custodial Informants and Sources of Information to OCDA. OCDA and OCSD participate in joint annual audits reconciling the number of Informant and/or Sources of Information. To date, while OCSD policy permits the Undersheriff to make Custodial Informant eligibility decisions in exigent circumstances, neither the Sheriff nor the Undersheriff have approved any CIU Custodial Informant. Our interviews and review of the discovery bureau revealed a well-executed discovery system complete with audit trails.

- 24. OCSD has assisted and agrees to continue assisting OCDA, as necessary, to complete a comprehensive historical case review to identify and review prior investigations and prosecutions involving Custodial Informants or Sources of Information at the Jails to determine whether any remedial or corrective action is necessary under the Sixth and Fourteenth Amendments. OCSD agrees to provide any additional and available OCSD documentation and information to OCDA, upon request, for OCDA to complete the historical case review. OCSD agrees to provide access to the underlying materials in the historical case review provided to OCDA to DOJ to evaluate the results of the historical case review.

**STATUS (24): Sustained Compliance**

**FINDINGS:**

OCSD has provided all historical case review documents requested by OCDA and has committed to providing any additional relevant and responsive historical documents.

- 25. OCSD shall continue to deliver training programs reviewed by OCDA to new and existing sworn personnel that include requirements on Custodial Informants, Sources of Information at the Jails, *Brady*, and *Massiah v. United States*, 377 U.S. 201 (1964), in consultation with its Constitutional Policing Advisor, that reflect the policies of OCSD and OCDA. Training programs shall incorporate adult learning methods, written curricula, and mechanisms for obtaining feedback from trainees on the quality of the training in accordance with generally accepted training practices. OCSD's training programs on Custodial Informants and Sources of Information at the Jails shall continue to include:

- a. pre-service training on informants to new sworn personnel at the Academy;
- b. supplemental training to new sworn personnel who graduate from the Academy and enter the Jail Academy on Custodial Informants and Sources of Information at the Jails;
- c. annual in-service training to all sworn personnel assigned to Custody Operations on Custodial Informants and Sources of Information at the Jails; and
- d. supervisor training to new sworn supervisors assigned to Custody Operations on Custodial Informants, Sources of Information at the Jails, and supervisor liability prior to or within six months of assuming supervisory responsibilities.

**STATUS (25): Sustained Compliance**

**FINDINGS:**

Our review of OSCD training materials, curriculum, and training confirmation documentation demonstrates that OSCD has continued to timely deliver all required training programs to new and existing sworn personnel, including training on requirements on Custodial Informants, Sources of Information at the Jails, *Brady*, and *Massiah*, and has implemented mechanisms for obtaining feedback from trainees on the quality of the training in accordance with generally accepted training practices.

- 26. OSCD agrees to provide any new proposed changes to its training curricula on *Brady* and *Massiah* during the duration of this Agreement to OCDA for review and input.

**STATUS (26): Sustained Compliance**

**FINDINGS:**

Our review of OSCD's training curricula on *Brady* and *Massiah* demonstrates that OSCD has submitted all relevant training curricula to OCDA for review and input.

- 27. OSCD through CIU shall continue to maintain a separate and secure file for each Custodial Informant and Source of Information at the Jails. The file shall include a complete set of records about the information provided by the Custodial Informant or Source of Information, including OSCD reports and records generated because of information provided by the Custodial Informant or Source of Information. The files shall also include all previous instances in which the Custodial Informant or Source of Information sought to assist OSCD, all benefits that the Custodial Informant or Source of Information sought or received, and all information related to the reliability and credibility of the Custodial Informant or Source of Information.

**STATUS (27): Sustained Compliance**

**FINDINGS:**

Our review of the relevant policies and procedures, 2024 SOI files, and interviews with relevant CIU personnel demonstrates that CIU has continued to maintain a separate and secure file containing all required records for each Source of Information at the Jails. As there were no CIU authorized Custodial Informants authorized during the assessment period, there were no CIU Informant files to review.



28. OCSD policies and procedures on files for Custodial Informants and Sources of Information at the Jails shall continue to provide guidance on the organization, content, access, and retention of files. The policies shall also specify the circumstances for closing, preserving, and reactivating files for Custodial Informants and Sources of Information at the Jails to ensure that current and updated files are disclosed to OCDA, as appropriate. OCSD shall prohibit its personnel from maintaining databases, files, logs or documents on Custodial Informants and Sources of Information at the Jails that are not stored and preserved in the OCSD official file. OCSD policies shall indicate that OCDA shall have copies of, or access to, all information and records on Custodial Informants and Sources of Information at the Jails that are in the possession of OCSD.

**STATUS (28): Sustained Compliance**

**FINDINGS:**

Our review of policies and procedures confirms that OCSD policies specify the circumstances for closing, preserving, and reactivating files for Custodial Informants and Sources of Information at the Jails to ensure that current and updated files are disclosed to OCDA, as appropriate. OCSD policies indicate that OCDA shall have copies of, or access to, all relevant information and records on Custodial Informants and Sources of Information at the Jails that are in the possession of OCSD.

29. OCSD shall continue to conduct regular audits of OCSD files on Custodial Informants and Sources of Information at the Jails to determine whether OCSD has consistently updated the files with required entries and materials in accordance with relevant policies and procedures. Errors or other significant findings revealed by the audits shall be documented and corrected promptly. The OCSD audits shall take place on at least a quarterly basis.

**STATUS (29): Sustained Compliance**

**FINDINGS:**

Our review of SOI files demonstrates that OCSD conducts quarterly audits of OCSD files on Sources of Information at the Jails and that OCSD documents and promptly corrects errors that the audits reveal. There were no CIU informants authorized during the assessment period.

30. OCSD shall continue to conduct regular audits of its classification assessments for custody and special populations, including initial assessments and reclassification assessments, to ensure their reliability, accuracy, and compliance with approved OCSD policies and generally accepted custodial standards. The audits shall determine whether incarcerated individuals are housed according to their custody/risk assessments and any special population status(es), disciplinary history, administrative segregation status, and medical and mental health needs. Classification supervisors shall conduct monthly audits that include all classification levels. Errors or other significant findings revealed by the audits shall be documented and corrected promptly. Results of classification audits shall be forwarded to the Division Commander overseeing the Special Services Bureau and the Assistant Sheriff of Custody Operations for review and corrective action, if warranted.

**STATUS (30): Sustained Compliance**

**FINDINGS:**

Our review of classification and housing records and interviews with classification and housing personnel confirms that OCSD has continued to conduct regular audits of its classification assessments for custody and special populations, including initial assessments and reclassification assessments, to ensure their accuracy and compliance with approved OCSD policies and generally accepted custodial standards. The daily classification audits continue to determine whether incarcerated individuals are housed according to their custody/risk assessments. Errors revealed by the daily audits, which typically do not change classification status, are promptly corrected.

31. OCSD shall continue to participate in joint audits with OCDA to ensure records on Custodial Informants and Sources of Information at the Jails are complete and consistent across the agencies. OCSD shall provide lists of all files on Custodial Informants and Sources of Information at the Jails opened during the preceding year to OCDA to facilitate a joint annual audit with OCDA. Errors or other significant findings revealed by the audits shall be documented and corrected promptly. The joint audits shall take place on at least an annual basis.

**STATUS (31): Sustained Compliance**

**FINDINGS:**

OCSD has continued to participate in joint annual audits with OCDA, including most recently in January 2025, to ensure records on Sources of Information at the Jails are complete and consistent across the agencies. OCSD has documented and promptly corrected errors or other significant findings that the audits revealed.

32. OCSD agrees to solicit feedback from selected representatives of the Orange County Superior Court, the Public Defender's Office, and the private criminal defense bar by providing access to materials reflecting OCSD's systemic reforms and relevant policies. The participation of the representatives in providing feedback is voluntary. OCSD, through County Counsel and OCSD's Constitutional Policing Advisor, agrees to review and consider any feedback received within 45 days of the Sheriff's feedback solicitation letter.

**STATUS (32): Sustained Compliance**

**FINDINGS:**

OCSD has solicited feedback from the Orange County Superior Court, the Public Defender's Office, and the private criminal defense bar by providing public access to materials reflecting OCSD's systemic reforms and relevant policies, available on [OCSD's website](#).

33. OCSD agrees to develop and implement a repository for documents and information related to this Agreement on its website for the public, with appropriate safeguards for law enforcement sensitive or other legally protected material, to inform the public about the Agreement and OCSD's progress in satisfying the Agreement's terms.

**STATUS (33): Sustained Compliance**

**FINDINGS:**

OCSD has implemented a publicly accessible repository for documents and information related to this Agreement, with appropriate safeguards for law enforcement sensitive or other legally protected material, available on [OCSD's website](#).

**IV. CONCLUSION**

On January 17, 2025, the parties entered into the Agreement to resolve DOJ's investigative findings and ensure that any use of custodial informants by OCSD is in accordance with the Sixth and Fourteenth Amendments. Our assessment of OCSD's compliance with that Agreement has demonstrated OCSD's commitment to sustaining systemic reforms that not only promote public safety but strengthen the public's trust in the Orange County criminal justice system.