
UNITED STATES DEPARTMENT OF JUSTICE AND
ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

Agreement for the Sustainability of
Custodial Informant Reforms



First DOJ Compliance Assessment Report

December 22, 2025

DOJ's COMPLIANCE ASSESSMENT REPORT
Agreement for the Sustainability of Custodial Informant Reforms

I. EXECUTIVE SUMMARY

The United States Department of Justice (“DOJ”) prepared this baseline compliance assessment report to assess whether the Orange County District Attorney’s Office (“OCDA”) has sustained its efforts to reform policies and practices on the use of custodial informants at the Orange County Jails (“Jails”) and the disclosure to criminal defendants of information related to custodial informants, pursuant to the Agreement for the Sustainability of Custodial Informant Reforms (“Agreement”). DOJ and OCDA (collectively “Parties”) 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.

DOJ finds and the Parties agree that OCDA has sustained substantial compliance with each substantive provision of the Agreement for at least 12 consecutive months. Under Paragraph 58 of the Agreement, the Parties may fully terminate the Agreement when they agree that OCDA has sustained substantial compliance with each substantive provision for 12 consecutive months, based on DOJ’s compliance assessments. Accordingly, the Parties are terminating the Agreement and, therefore, this will be the final compliance assessment report.

II. BACKGROUND

OCDA’s custodial informant program came under scrutiny starting in 2014 when multiple rounds of evidentiary hearings over the next three years in a murder case OCDA was prosecuting revealed potentially unconstitutional practices. In January 2016, while those hearings were ongoing, then-Orange County District Attorney Tony Rackauckas asked DOJ to investigate OCDA’s custodial informant practices. On December 15, 2016, DOJ initiated an investigation into the use of custodial informants to determine whether OCDA and the Orange County Sheriff’s Department (“OCSD”) engaged 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”).¹ Specifically, the investigation focused on whether OCDA failed to make disclosures to criminal defendants about custodial informants that the Fourteenth Amendment requires and whether OCDA and OCSD used custodial informants to elicit incriminating statements from individuals after they had been charged with a crime, in violation of the Sixth Amendment.

As part of its investigation, DOJ conducted a comprehensive assessment of jail records, case files, and court documents; toured the Jails; interviewed OCSD personnel and OCDA prosecutors; and obtained information from members of the Orange County community and other stakeholders involved in Orange County’s criminal justice system. On October 13, 2022, DOJ published the results of its investigation in a

¹ While DOJ’s Section 12601 investigations usually involve the conduct of peace officers and not prosecutors, the statute does not limit the term “law enforcement officers” to peace officers. Prosecutorial functions fall under the plain meaning of “law enforcement.” *See* Black’s Law Dictionary (12th ed. 2024) (defining law enforcement to include “punishment of violations of the law”). Had Congress intended to limit the scope of the term like that, it would have done so like it did in another part of the Violent Crime Control and Law Enforcement Act of 1994. *See* 34 U.S.C. § 12571 (providing that “‘law enforcement position’ means employment as an officer in a State or local police force, or correctional institution”).

findings report. As explained in the findings report, DOJ determined that it had reasonable cause to believe that, in violation of the Sixth Amendment, OCDA and OCSD used custodial informants between 2007 and 2016 to elicit incriminating statements from individuals after they 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 failed to disclose evidence about those custodial informants to criminal defendants during that same period.

On January 14, 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. On January 17, 2025, DOJ and OCSD entered a settlement agreement to the same end. The Agreement provides for the effective, timely, and transparent validation of OCDA's reforms to promote public safety and strengthen the public's trust in the Orange County criminal justice system. The Parties agree that the content of OCDA's current policies (many implemented following DOJ's findings report but before the entry of the Agreement), procedures, training, and auditing satisfy the requirements of the Agreement that relate to those areas.

The substantive provisions of the Agreement are paragraphs 13-39. Under paragraph 42 of the Agreement, substantial compliance with the Agreement's substantive paragraphs means that OCDA has (a) incorporated the requirements into policy; (b) trained all relevant personnel necessary to fulfill their responsibilities pursuant to the requirements; and (c) is consistently following and holding OCDA personnel to the requirements and standards enunciated in the Agreement. Pursuant to paragraph 43.b. of the Agreement, for each substantive paragraph, this report will, as applicable, state if OCDA incorporated it into OCDA policy, provides sufficient training for all relevant OCDA personnel, and carries it out in practice.

III. COMPLIANCE ASSESSMENT

Under the Agreement, OCDA agreed to implement measures related to policies, training, document and information systems, audits, and public information. The Parties intend these measures, set forth in Paragraphs 13 through 39 of the Agreement, to ensure that OCDA personnel continue to have the guidance, training, and tools they need to carry out their duties in a manner consistent with the Sixth and Fourteenth Amendments; OCDA's document and information systems support secure and reliable record keeping; OCDA coordinates agency responsibilities to facilitate the appropriate sharing of information; and OCDA considers stakeholder input in making improvements.

DOJ's baseline compliance assessment included reviewing OCDA's current policies and other documents, interviewing OCDA staff, and attending a virtual interactive demonstration of OCDA's new system for managing informant data. DOJ's assessment of the substantive paragraphs of the Agreement is as follows:

- 13.** OCDA shall continue to implement policies and procedures that fully incorporate the terms of this Agreement and comply with applicable law. OCDA 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 and prosecutorial standards and rules.

STATUS (13): Substantial Compliance

FINDINGS: Our review of OCDA's current policies related to custodial informants and sources of information ("SOIs") confirm that OCDA policies and procedures continue to be clear, comprehensive, and comport with applicable legal and professional standards. In June 2024, OCDA implemented its Confidential Sources Policy Manual, which is a logically organized, comprehensive policy with

detailed instructions and guidance for prosecutors, including with respect to record-keeping requirements, notification and procedural requirements, and legal obligations and restrictions for a wide variety of potential situations involving custodial informants and SOIs.

14. OCDA shall review each policy or procedure related to this Agreement at least one year after it is implemented and at least annually thereafter, to ensure that the policy or procedure provides effective direction to OCDA personnel and remains consistent with this Agreement and current law. In addition to at least annual reviews, OCDA shall review and revise policies and procedures as necessary and appropriate upon notice of a significant policy deficiency from audits or supervisory reviews.

STATUS (14): Substantial Compliance

FINDINGS: OCDA executive staff confirmed that they review policies related to this Agreement annually and identified the Orange County Index of Confidential Sources (“OCICS”) coordinator as the employee responsible for reviewing and, if warranted by a change in law or operationalization issues uncovered by a review or audit, updating those policies.

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

STATUS (15): Substantial Compliance

FINDINGS: OCDA has implemented a system to ensure it implements all updates to its policies and training materials required under paragraph 15 of the Agreement. The OCICS coordinator is responsible for monitoring relevant case law, statutes, and rules of professional conduct for any changes and, when appropriate, alerting the OCDA policy committee of any changes to OCDA policies and training that OCDA needs to make. The policy committee is then responsible for making recommendations to the executive management team, which includes the District Attorney, Chief Assistant District Attorney, and the four Senior Assistant District Attorneys. OCDA’s June 2024 Confidential Sources Policy Manual, which updated and replaced its 2019 Informant Policy Manual, included revisions expanding the definition of “benefit” to include benefits that the inmate received in custody and expanding prosecutors’ discovery obligations relating to SOIs, as defined in the Agreement.

16. OCDA shall 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. OCDA shall advise relevant personnel that taking law enforcement or prosecutorial action in violation of approved policies and procedures may subject personnel to discipline, possible criminal prosecution, civil liability, and/or professional sanctions.

STATUS (16): Substantial Compliance

FINDINGS: OCDA requires relevant personnel to sign and submit a document confirming that they (1) received the June 2024 Confidential Sources Policy Manual and other pertinent policies and procedures; (2) understand they are responsible for reading and complying with them; and (3) understand that violating any of the policies may result in disciplinary action.

17. OCDA shall ensure that appropriate action is taken in response to 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 (17): Substantial Compliance

FINDINGS: To date, OCDA is unaware of any sustained violations of relevant policies and procedures. A comprehensive audit OCDA conducted of the work of its OCICS coordinators showed that they timely and accurately determined matches between case witnesses and individuals in OCICS and timely provided the required notification and information to the appropriate personnel when they determined a possible match between a case witness and an individual in OCICS was a true match. The audit revealed only minor errors, namely one instance where a physical file was not created from an OCICS entry and a few instances where the OCICS entry was not updated with case number information that was updated in the corresponding physical file. Such errors did not compromise the integrity of the relevant procedures and OCDA promptly corrected them.

18. OCDA agrees to submit proposed changes to relevant policies, procedures, protocols, manuals, training materials, and any other administrative orders, directives, and bulletins related to this Agreement to DOJ for review and commentary for the duration of the Agreement.

STATUS (18): Substantial Compliance

FINDINGS: Although OCDA did not make changes to relevant policies, training materials, or other documents since the Effective Date of the Agreement, OCDA submitted to DOJ such changes that occurred before the Effective Date. For example, OCDA submitted the Confidential Sources Manual, which was a revision of its Informant Policy Manual, to DOJ for review and comment prior to its June 1, 2024, effective date.

19. OCDA shall continue to implement integrated, consistent, and comprehensive policies and procedures addressing the use and disclosure 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, legal, and professional responsibility 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 identified by OCSD from 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 prosecution;
 - e. matching individuals in Orange County Index of Confidential Sources (OCICS) and OCDA's case management system and notification to case prosecutors and supervisors;
 - f. disclosure obligations for testifying and non-testifying Custodial Informants;
 - g. the scope of the "prosecution team;" and

- h. the duty to locate and preserve material possessed by OCSD for production to OCDA to determine whether disclosure to a criminal defendant may be required by *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny.

STATUS (19): Substantial Compliance

FINDINGS: OCDA's Confidential Sources Policy Manual, which replaced its Informant Policy Manual, went into effect June 1, 2024. OCDA provided it to OCDA attorneys, paralegals, and investigators by email on March 15, 2024, and made it available on OCDA's intranet. It addresses all issues required under subparagraphs 19a-g of the Agreement. Sections 3-1 and 1-9 address subparagraph 19a. Sections 1-6 and 1-8 address subparagraph 19b. Sections 2-10B-C and the preamble of Section 3 address subparagraph 19c. Section 2-2B addresses subparagraph 19d. Section 6-6B addresses subparagraph 19e. Sections 6-13 and 1-9 address subparagraph 19f. Section 1-9A addresses subparagraph 19g. Sections 1 and 4 of OCDA's Discovery and Brady Obligations Manual address subparagraph 19g with a more detailed explanation of the scope of the prosecution team. Sections 1, 4, and 7 of OCDA's Discovery and Brady Obligations Manual address subparagraph 19h.

20. OCDA policies and procedures shall continue to encompass any situation reported to OCDA by OCSD in which an individual incarcerated at the Jails qualifies as a Custodial Informant or a Source of Information. OCDA policies and procedures shall continue to employ a consistent approach to documentation, record preservation, coordination, and communication, as appropriate, in any instance in which an individual in custody who is identified to the OCDA qualifies as a Custodial Informant or Source of Information.

STATUS (20): Substantial Compliance

FINDINGS: Section 2-2 of OCDA's Confidential Sources Policy Manual describes the documentation, record preservation, coordination, and communication protocols for when OCSD identifies a custodial informant or SOI, including that OCSD is obligated to submit a notification card to the OCICS coordinator, who is then required to include certain information about the custodial informant or SOI in OCICS regardless of whether OCDA initiates a prosecution or the custodial informant or SOI is a witness in a prosecution.

21. OCDA shall continue to implement policies and procedures to identify all cases involving criminal defendants in which a witness has a current or prior relationship with law enforcement as a Custodial Informant or Source of Information at the Jails. The policies and procedures shall continue to require that prosecutors ascertain whether evidence exists in cases involving Custodial Informants and Sources of Information at the Jails that must be disclosed under the Sixth and Fourteenth Amendments. The policies and procedures shall provide that prosecutors make legally required disclosures to the defense as early as possible. Convictions tainted by violations of the policies and procedures shall be addressed by OCDA timely and appropriately.

STATUS (21): Substantial Compliance

FINDINGS: Section 1-9D-E of OCDA's Confidential Sources Policy Manual requires deputy district attorneys ("DDAs") responsible for handling a case a custodial informant or SOI generated or helped with to disclose to the defendant any prior or current relationship between the custodial informant or SOI witness and law enforcement. Section 1-9F requires prosecutors to ascertain whether there is evidence in cases involving custodial informants or SOIs that they must disclose to the defendant under the Sixth Amendment or Fourteenth Amendment. Section 6-1 requires prosecutors to provide to the defense "at the earliest opportunity" any discovery the defense is entitled to, including "any information

bearing on the credibility of the informant.” Sections 1-9, 2-2, 2-10B, and 3-4 set forth the material that DDAs must discover to the defense to comply with *Brady* requirements.

22. OCDA shall continue to implement policies and procedures on the responsibilities of OCDA supervisors regarding legally required disclosures to the defense and the use of Custodial Informants and Sources of Information at the Jails. OCDA shall hold supervisors accountable for the quality of their supervision of prosecutors’ compliance with the Sixth and Fourteenth Amendments.

STATUS (22): Substantial Compliance

FINDINGS: The responsibility of OCDA supervisors with respect to legally mandated disclosures about custodial informants and SOIs to the defense is set forth in the Confidential Sources Policy Manual. Specifically, the “Quick Reference Guide,” section 3 introduction, and sections 3-4, 5-1, 6-1, 6-9H, and 6-10 describe the situations that require prosecutors to notify their supervisor. Section 6-1 requires a prosecutor’s unit’s Assistant District Attorney (“ADA”), upon “receiv[ing] notice from the OCICS coordinator that a witness in that case matches the identity of an informant or SOI contained in the OCICS database,” to meet with the prosecutor “to review the informant or SOI materials and make appropriate determinations as to what should be discovered to the defense.” OCDA is not aware of any instances of non-compliance by supervisors.

23. OCDA shall continue to implement policies and procedures that require prosecutors to notify immediately their supervisor when prosecutors become aware that a potential Custodial Informant has come forward to offer information to OCDA or other law enforcement agency. The policies and procedures shall continue to require prosecutors to direct all cases, issues, and questions regarding the use of Custodial Informants to the Cooperating Informant Review Committee (“CIRC”). CIRC shall be made up of the District Attorney, senior leadership and supervisors from OCDA, and OCICS Coordinator. The policies and procedures shall also continue to require the approval of the District Attorney through CIRC prior to the use of a Custodial Informant at the Jails in any criminal proceeding including but not limited to preliminary hearings, grand jury proceedings, pretrial hearings, or trial. If a prosecutor elects not to seek permission from CIRC to use a Custodial Informant, the prosecutor shall notify the Court and the criminal defendant’s counsel in writing that they will not use the informant even if the criminal defendant elects to proceed to trial. All CIRC decisions regarding the use of Custodial Informants shall be documented in an auditable form.

STATUS (23): Substantial Compliance

FINDINGS: OCDA has continued to implement the policies and procedures required in paragraph 23 of the Agreement since at least June 2024. The “Quick Reference Guide” at the beginning of OCDA’s Confidential Sources Policy Manual states that “a prosecutor must notify their supervisor and comply with their *Brady* obligations” in five scenarios, including when the “[i]nformant is an in-custody informant...” It also states that prosecutors must obtain CIRC’s approval before using in-custody informants and directs prosecutors to contact CIRC for assistance with issues involving the use of informants. Section 1-10 of the Confidential Sources Policy Manual clearly explains the role of CIRC and reiterates that “DA Approval, through the CIRC process, is mandatory in order to use an in-custody informant in any manner” and that “CIRC members are ... available for consultation to any DDA” The requirement to obtain CIRC approval for use of in-custody informants is emphasized throughout the Confidential Sources Policy Manual, including section 2-1A, which states that “ANY use of an in-custody informant, as defined in Section 1-6 D, MUST be preapproved by the DA through the CIRC process,” and Section 5, which states “[n]o in-custody informant will be utilized in the prosecution of a case without the prior approval of the DA through the CIRC process.” Section 5 also identifies the CIRC members, who are all senior leaders at OCDA: the District Attorney, the OCICS coordinator, the

Chief ADA, two Senior ADAs, and two ADAs. A February 6, 2020, memo from the District Attorney to all OCDA staff requires that, if a prosecutor does not seek permission from CIRC to use a custodial informant's testimony, the prosecutor must, prior to a guilty plea or trial, use a prescribed form to place on the record, in writing, that OCDA will not use the informant even if the defendant decides to proceed to trial. Finally, Section 5-3 of the Confidential Sources Policy Manual states that "CIRC will notify the responsible DDA of its recommendation and the DA's decision in writing." OCDA created a form for submitting requests to CIRC and a form for CIRC to document its decisions.

24. OCDA shall continue to implement policies and procedures that require the Conviction Integrity Unit, made up of senior staff, to review cases when there are claims of factual innocence or wrongful conviction, including alleged violations of the Sixth and Fourteenth Amendments. The Conviction Integrity Unit shall continue to operate as a stand-alone unit of OCDA that reports directly to the OCDA executive management team. The Conviction Integrity Unit shall accept cases for review from prosecutors, other law enforcement agencies, defense attorneys, and criminal defendants. The Conviction Integrity Unit shall screen all applications for case reviews and investigate eligible claims, as appropriate. The findings of the completed investigation shall be reported to the Conviction Review Committee. The Conviction Review Committee shall be made up of senior leadership of OCDA and a member of the criminal defense bar in good standing or a former judicial officer. All decisions about disclosure and case resolution by the Conviction Review Committee shall be documented in writing.

STATUS (24): Substantial Compliance

FINDINGS: DOJ reviewed the Conviction Integrity Unit ("CIU") Case Review Policy (publicly available on OCDA's website), Case Review Intake Form (publicly available in English, Vietnamese, and Spanish on OCDA's website), Case Review Intake Form Instructions, templates for letters to inmates or others who request review of a conviction by CIU, and the Conviction Review Committee ("CRC") recommendation form that documents decisions about case resolution in writing. The CIU Case Review Policy, as revised in 2023, defines "wrongful conviction" to include "cases involving potential violations of the Sixth and Fourteenth Amendments to the United States Constitution." Based on input from DOJ, OCDA also updated the Case Review Intake Form and Case Review Intake Form Instructions to explicitly state that wrongful convictions include convictions resulting from a violation of Sixth or Fourteenth Amendment rights. In qualifying cases, CIU attorneys review convictions and write a memo to the CRC summarizing and analyzing the facts and making a recommendation as to whether there should be a loss of confidence in the conviction. The CRC reviews the case and then makes a final recommendation to the District Attorney. The CRC recommendation form shows that there are four members of the CRC, namely the Chief ADA, two Senior ADAs, and a member of the Orange County Defense Bar. DOJ also reviewed a list of attorneys assigned to the CIU and an OCDA organization chart that shows where CIU fits into the OCDA's Prosecutorial Division and that a Senior ADA oversees it. OCDA confirmed that most of the attorneys assigned to CIU each have decades of criminal law practice experience. To date, CIU has not received any qualifying requests to review a conviction based on a potential violation of the defendant's Sixth or Fourteenth Amendment rights.

25. OCDA shall continue to implement policies and procedures on the transfer of cases from one prosecutor to another that require the transferring prosecutor to submit a formal memorandum in qualifying cases detailing case status, disclosures made to the defense, any contemplated use of Custodial Informants or Sources of Information at the Jails, and any discussions with defense counsel about possible settlement. The cases that require a transfer memorandum include the prosecution of a felony case assigned to the felony panel or a vertical unit; the prosecution of any case involving the actual or contemplated use of a Custodial Informant; or the prosecution of a case involving a violation of the law alleged to have been committed within the Jails and which involved an inmate witness, including but not limited to, a Source of Information.

STATUS (25): Substantial Compliance

FINDINGS: OCDA's Case Transfer and Case Closing Memoranda shows OCDA's ongoing compliance with paragraph 25 of the Agreement. Subsection 4.5.2 clearly sets forth under what circumstances the originating prosecutor must submit a formal memorandum to the receiving prosecutor when a case is transferred from one prosecutor to another, which tracks the circumstances required under paragraph 25 of the Agreement: the prosecution of a felony case assigned to the felony panel or a vertical unit; the prosecution of any case involving the actual or anticipated use of a Custodial Informant; or the prosecution of a case involving a violation of the law alleged to have been committed within a custodial facility and which involved an inmate witness OCSD identified as an SOI. Subsection 4.5.3 describes the required contents of the case transfer memorandum, which encompass the contents required under paragraph 25 of the Agreement: a description of the current procedural posture of the case; an accounting of discovery provided or made available to the defense; a detailed description of the actual or anticipated use of any in-custody informant in any aspect of the investigation or prosecution of the case; and a summary of any settlement discussions with defense counsel. OCDA provided DOJ with examples of such memorandums (with sensitive information redacted) to review. The examples reflect the above requirements and demonstrate effectuation of the policy.

26. The District Attorney agrees to implement the terms of a memorandum of understanding between OCDA and OCSD to facilitate the collaboration and information sharing necessary to ensure that Custodial Informants and Sources of Information at the Jails are used consistent with the Sixth and Fourteenth Amendments. As part of the memorandum, OCDA personnel shall take the following steps, consistent with OCDA policies:
- a. notify OCSD in writing when OCDA discovers that a Source of Information submitted by OCSD matches the identity of an individual who has already been entered in OCICS based on a submission by another law enforcement agency;
 - b. notify OCSD in writing when a proposed Custodial Informant is approved through CIRC, including when OCDA makes eligibility determinations and approves the use of Custodial Informants under exigent circumstances; and
 - c. coordinate discovery requests and productions with OCSD, including those circumstances when pertinent OCDA personnel shall personally inspect OCSD records and files.

STATUS (26): Substantial Compliance

FINDINGS: On January 10, 2025, OCDA executed a memorandum of understanding ("MOU") with OCSD that contains the terms required under paragraph 26 of the Agreement. Section I.A.1. of the MOU states that "[a]ll CIRC approvals will be in writing." Section I.A.3. of the MOU provides that "OCDA will accept records relating to Informants and Sources of Information provided by OCSD pursuant to the terms of this MOU and OCSD Policy 608 and make any necessary disclosures in accordance with OCDA's legal obligations in accordance with OCDA's Confidential Sources Policy Manual." Those two policies, in turn, satisfy the requirements of paragraph 26 of the Agreement. Section 608.8 of OCSD Policy 608 states that "It is essential that deputies and/or investigators inform the District Attorney's Office when a case involves an Informant or an SOI in any capacity" and therefore "OCSD shall notify OCDA of any Informants or Sources of Information by providing OCDA with the OCII card or the SOI card." Similarly, Section 2-1C of OCDA's Confidential Sources Policy Manual states "The law enforcement agency shall make personal contact with the OCICS coordinator or responsible DDA, prior to or at the time of filing, to disclose that an informant is involved in the case and complete an OCICS notification card."

27. The District Attorney agrees 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. The historical case review shall assist OCDA to identify all information that must be disclosed to criminal defendants and ensure that OCDA has complete records of past Custodial Informant activity at the Jails. The review shall encompass all Custodial Informant activity at the Jails based on OCSD and OCDA records, including information obtained from OCSD's Special Handling Log; TRED and other classification records; housing histories for Custodial Informants and investigative targets at the Jails; and OCDA and OCSD reports, memoranda, and case files related to Custodial Informants and Sources of Information at the Jails. If OCDA learns of materials relevant to their review that are no longer in existence, they should document what materials are missing, the reason that they are missing, and what efforts the agencies made to obtain the materials.

STATUS (27): Substantial Compliance

FINDINGS: See findings for paragraph 28.

28. OCDA agrees to continue using a reliable methodology to complete each project of the historical case review. The OCDA's methodology for identifying prior investigations and prosecutions involving Custodial Informants will include the following: (a) an analysis of the OCSD Special Handling Log to identify prior Custodial Informant activity, the identity of the Custodial Informant(s) and target(s); (b) an analysis of prosecutions identified by OCDA in prior case reviews for Custodial Informants; (c) an analysis of records of Sources of Information at the Jails provided by OCSD for the period of 2015 through 2022 and any associated prosecutions; and (d) an analysis of any cases involving a potential Custodial Informant that is learned through the intake process of OCDA's Conviction Integrity Unit. OCDA shall notify DOJ when it has completed each historical case review project for the duration of the Agreement. OCDA agrees to provide access to underlying materials in the historical case review to DOJ consistent with this Agreement to evaluate the results of each project; determine whether corrective action was taken in a specific prosecution case, if warranted; and determine whether corrective action was taken to improve policies, procedures, and practices at OCDA, if warranted.

STATUS (28): Substantial Compliance

FINDINGS: OCDA has developed and used a reliable methodology for each historical case review project to identify prior cases involving custodial informants and ascertain the identity of the associated custodial informant(s) and target defendant(s) and any necessary corrective action, such as disclosures to the defense. Below is a summary of OCDA's work to date on the four case review projects through which it is complying with this provision. As the parties anticipated would be the case at this juncture, OCDA is still working on this resource-intensive undertaking. However, OCDA has made substantial progress (both before and after the Agreement was executed) and has a detailed plan for completion. Given OCDA's earnest and effective efforts to date—which in some ways have gone beyond the requirements of the Agreement—and OCDA's roadmap for completion, OCDA has substantially complied with this provision. OCDA's thoroughness and attention to detail while conducting the historical case review, as described in part below, indicates that OCDA is committed to completing it. Therefore, DOJ considers this provision to be in substantial compliance.

Case Review Project 1: Special Handling Log

The OCSD Special Handling Log (SHL) is a 1,157-page document that OCSD's Special Handling Unit (SHU) at the Orange County Jail maintained from September 2008 to January 2013 with information on more than 3,300 inmates, including activities related to inmate classification, housing and security decisions, and intelligence that law enforcement received from inmates. In 2019-2021, an OCDA task force of DDAs reviewed the SHL with the end goal of identifying any evidence of *Brady* or *Massiah* violations. From among the inmates in the SHL, OCDA classified them into three tiers based on language in the SHL, with tier 1 inmates most likely to have informant-related activities and tier 3 inmates least likely to have informant-related activities. The task force reviewed all the SHL inmates to determine whether the SHL contained any information that should be disclosed to the defense. The task force wrote memorandums for all tier 1 and tier 2 inmates that summarized the applicable SHL entries, analyzed pertinent legal issues, and recommended whether more discovery or investigation was necessary. The task force DDAs, guided by legal materials and memorandums defining applicable constitutional and statutory discovery obligations and the Sixth Amendment right to counsel, used the SHL, hearing transcripts, investigative materials, case files, databases like Orange County Cooperating Individuals Index ("OCII"), and other material in OCDA's possession to write these memos. Task force DDAs prepared a memo for each of the tier 1 and tier 2 inmates with a summary of the relevant log entries, any legal analysis, and a recommendation whether discovery or further investigation was required. The task force did a targeted review of the remaining inmates and identified those that warranted a memo. An ADA reviewed and approved each memo, in some cases after sending the memo back to the drafting DDA with questions or requests for clarification or additional action.

While reviewing the SHL, OCDA noticed that there were references to OCSD conducting "communication covers," which involve recording, copying, or monitoring an inmate's non-legal mail and non-official phone calls. OCDA reviewed these references and its case files to ensure that the affected defendants had received any recordings or documents that they were legally entitled to. If OCDA did not have such material, OCDA requested it from the investigating law enforcement agency. If OCDA could not confirm that the defendant had received all such materials, OCDA disclosed such materials as required.

If a task force DDA determined that the SHL contained some reference to at least one of several broad circumstances (e.g., a deputy interviewed the inmate, another law enforcement agency asked to meet with the inmate, a law enforcement agency interviewed the inmate, or the SHL referred to the inmate using one or more of certain terms), they added the inmate and that information to OCII. If the inmate had an OCII file, OCDA supplemented it. If the inmate did not have an OCII file, OCDA created an OCII file for the inmate. OCDA generated a list of every inmate it created an OCII entry or supplemental entry for during this process, which totaled all the known inmates.

OCDA then compared the remaining tier 1 inmates with OCII to find name matches, which the OCII coordinator reviewed to determine which name matches were true matches and, for each true match, whether the individual had informant activity prior to the time the SHL was active (i.e., before 2014). OCDA identified more tier 1 inmates who had an OCII entry for informant activity before 2014, for a revised total of known inmates. Using the SHL, the memos that the task force wrote, TRED records, inmate housing histories, and disciplinary records, case files, and court records, OCDA identified inmates for which there was evidence of custodial informant activity. OCDA analyzed those inmates using the same sources to determine any targets of their custodial informant activity.

Separately, there were inmates in the SHL that OCDA could not identify because the SHL referred to them by moniker or last name alone. OCDA asked OCSD to identify these inmates. OCSD was able to identify a portion of those inmates. OCDA determined that some of these inmates needed original or supplemental

review because OCDA had not previously identified and fully reviewed them. OCDA, after original or supplemental review, made OCII entries for some of those inmates requiring one. OCDA then determined whether any of these few inmates were custodial informants for which a target could be identified. OCDA then compared the resulting list of inmates with those identified in case review project two (described below) and, for any overlapping inmates, intends to conduct further review in case review project two. For all other inmates and their identified targets, OCDA will complete the analysis under the scope of case review project one to determine whether OCDA has a statutory or constitutional duty to provide any further discovery to their targets and whether there are any legal and ethical remedial actions OCDA should take.

Case Review Project 2: Previously Identified Custodial Informants

Independent of case review project one, in April 2017 and April 2021, OCDA solicited every prosecutor to affirmatively identify every case assigned to them that was active or adjudicated after January 1, 2007, and involved a custodial informant. To determine the identities of the informants and targets involved, OCDA did a secondary review of each identified case to determine whether the case involved a suspected custodial informant at Orange County Jail and, if so, the identity of the custodial informant and their target(s). OCDA identified a number of cases with at least one custodial informant and target. OCDA requested access from OCSD to relevant records relating to each identified individual (e.g., TRED records, classification records, disciplinary records, housing history, etc.). Task force prosecutors are analyzing the underlying prosecutions to determine what discovery OCDA provided to the target, whether OCDA has a constitutional or statutory duty to provide more discovery to the target and, if so, what remedial actions to take. For the cases that task force prosecutors have finished processing, OCDA memorialized the findings and updated the case file and the CMS and OCICS databases and provided any additional discovery. OCDA will continue to do so for each case as task force prosecutors complete their review.

Case Review Project 3: OCSD Sources of Information Records

Section 608.8 of OCSD Policy 608 requires OCSD to submit a record to OCDA for each inmate who qualifies as an SOI within five business days of identifying the inmate as an SOI. OCSD and OCDA refer to these records as SOI cards. OCSD has been providing new SOI cards to OCDA since 2023 but has been creating SOI records since 2015. Therefore, OCDA obtained a copy of all OCSD's SOI records from the period 2015-2022. By June 30, 2023, OCDA finished entering the information from each such historical SOI card into OCII just as it does for new SOI cards. From June 30, 2023, onward, whenever OCDA inputs cases into its case management system (CMS), the names of case witnesses are automatically run against the SOIs in OCII. OCDA reviewed cases created in CMS between January 1, 2015, and June 30, 2023, to identify cases where an SOI assisted with an investigation that led to a prosecution or was a witness in an unrelated prosecution after having been an SOI in a prior case.

To identify active and adjudicated SOI-assisted prosecutions during that time, OCDA used the OCSD report number on the SOI card to find if there was any related prosecution in CMS. For any such active prosecutions, OCDA notified the assigned DDA and instructed them to request relevant discovery materials from OCSD. To identify active and adjudicated prosecutions during that time where an SOI from a prior unrelated case was a witness, OCDA used an automated function to match names of SOIs with names in CMS and then used OCII to determine which name matches were actual matches. For any actual matches where the SOI was a witness in a case after being an SOI and that case was still active, OCDA requested relevant discovery from OCSD. OCDA thoroughly reviewed adjudicated cases of both types (i.e., SOI-assisted prosecutions and prosecutions where an SOI from a prior case was a witness) and provided additional discovery to the defense in cases where OCDA determined it was warranted using criteria that exceeded OCDA's constitutional discovery obligations.

Case Review Project 4: Externally Identified Cases

As explained in the findings for paragraph 24 of the Agreement, OCDA's CIU reviews cases involving potential wrongful convictions, which, as defined in its Case Review Policy, includes "cases involving potential violations of the Sixth and Fourteenth Amendments to the United States Constitution." CIU accepts petitions to review an allegedly wrongful conviction from law enforcement agencies, judicial officers, defense counsel, or defendants themselves. OCDA has taken significant steps to widely publicize the availability of this process, including by publishing the case review intake form in English, Spanish, and Vietnamese and the Case Review Policy on its website. OCDA has also contacted the warden of every prison in California and the Assistant Sheriff overseeing Custody Operations at the Orange County Jail to request that those facilities make the case review intake forms and an instruction sheet in English, Spanish, and Vietnamese available to their inmates. To date, OCDA has not received a case review intake form alleging a wrongful conviction based on a *Brady* or *Massiah* violation, but OCDA has demonstrated that it has in place a robust process for carefully reviewing any such intake forms it receives in the future.

29. OCDA shall implement a training program that includes Custodial Informants, Sources of Information at the Jails, *Brady*, and *Massiah* that reflect the policies of OCDA. The training program shall incorporate adult learning methods, written curricula, and mechanisms for obtaining feedback from trainees on the quality of the trainings in accordance with generally accepted training practices. OCDA shall provide training on *Brady* and *Massiah* to prosecutors, investigators, and other relevant personnel who are hired after the Effective Date within the first year of hire. OCDA shall provide training on *Brady* and *Massiah* to all prosecutors, investigators, and other relevant personnel every three years consistent with the Minimum Continuing Legal Education cycle in California. OCDA shall review and reconcile its training curricula on *Brady* and *Massiah* with OCSD before any training occurs.

STATUS (29): Substantial Compliance

FINDINGS: In 2019, OCDA established a professional responsibility and training unit, which is dedicated to administering training and professional development programming for OCDA staff. OCDA has designed and implemented robust and thorough training programs for prosecutors on the topics of discovery (including *Brady* obligations), questioning of defendants (including the *Massiah* rule), custodial informants, and SOIs. In addition to the Sixth and Fourteenth Amendments of the U.S. Constitution, these training programs also cover relevant OCDA policies and California-specific statutory rights and ethical rules. These trainings include the use of PowerPoint presentations, practical exercises with realistic hypothetical scenarios incorporating the principles of the lesson, flowcharts, and example documents (e.g. police reports, discovery forms, etc.). OCDA provided DOJ copies of training materials for trainings that occurred in June 2024 and June 2025. After the trainings, OCDA obtains feedback about the trainings from trainees through anonymous surveys, which ask trainees whether the course informed them of their legal responsibilities and provided them with substantive materials, among other questions. The survey also asks attendees to rate the teaching effectiveness and knowledge of the instructors and includes a field for comments and suggestions for improvement of the course.

OCDA recently enacted similar standardized training programs for its investigators and paralegals, which replaced its prior, more fragmented, training system. In July and August 2025, OCDA held separate annual trainings for its investigators and paralegals, respectively, under its new training program that covered *Brady* and *Massiah* obligations. OCDA provided DOJ a copy of the course materials it used for these courses and attendance records to confirm compliance with the requirements of the Agreement.

Furthermore, OCDA and OCSD have established written procedures for comparing and reconciling discrepancies in their training programs on an ongoing basis. On August 11, 2023, OCSD submitted its “Constitutional Rights: Brady, Informants, and Peace Officers” training materials to OCDA for review. OCDA’s September 10, 2024, response noted that, with a few exceptions, OCDA found the materials consistent with applicable legal authority and OCDA’s policy. OCDA’s response proposed some modifications to address the discrepancies. Although OCSD had already used its training materials before receiving OCDA’s feedback, on April 29, 2025, OCSD provided to OCDA for review training materials with edits OCSD made in response to OCDA’s feedback. On September 13, 2024, OCDA provided its training materials to OCSD for review.

These steps show OCDA is in substantial compliance with paragraph 29.

30. As part of its training program, OCDA shall implement training on the proper maintenance of case files involving Custodial Informants and Sources of Information at the Jails and the transfer of cases from one prosecutor to another that is consistent with approved policies and procedures. The training shall also cover the information and materials that must be maintained in OCICS.

STATUS (30): Substantial compliance

FINDINGS: The lesson plans, handouts, and other materials for OCDA’s relevant trainings since June 2024 show that those trainings included instructions on proper maintenance of information involving custodial informants or SOIs. The instructional materials for OCDA’s course on handling confidential sources, which references the Confidential Sources Policy Manual, describe what information and materials must be maintained in OCICS. The course includes a section called “How we Document Informants = OCICS.” That lesson teaches that records related to an informant, including those the arresting officer or other involved agencies possess, must be kept in OCICS. Such records may include OCDA documentation, the OCICS notification card that law enforcement agencies are required to submit for all informants and/or SOIs, and documentation in possession of the law enforcement agency, including behavior contract, contact/activity log, and consideration benefit log.

Whenever the OCICS coordinator determines that a potential match between an individual involved in a case and an informant or SOI that OCICS finds when it runs its nightly comparison with OCDA’s case management system is a true match, the OCICS coordinator completes a series of steps in a checklist. These steps include providing the pertinent OCICS record to the ADA who supervises the unit where the case arose, along with a copy of a three-page instruction sheet about what to do next, starting with pre-assigning the case to a DDA to handle. The instructions for the pre-assigned DDA explain where different documents related to OCICS should be kept in the file and what steps to take next. The instructions also provide to the ADA the steps for reassigning the case to another DDA if necessary, including thoroughly explaining the circumstances and any actions taken or decisions made about the case to the replacement DDA.

31. OCDA shall implement training for supervisors as part of its training program that reflects its policies and procedures on Custodial Informants and Sources of Information at the Jails. OCDA shall provide comprehensive training to new supervisors and annual in-service training to existing supervisors.

STATUS (31): Substantial compliance

FINDINGS: OCDA supervisors received training throughout April 2024 and May 2024 on OCDA’s Confidential Sources Policy Manual, which went into effect in June 2024. On July 10, 2025, OCDA held the second annual Confidential Sources Policy Manual training for supervisory prosecutors. OCDA confirmed that all supervisors, including those appointed after the 2024 training, attended the July 10, 2025,

training. OCDA provided the attendance records and course materials to demonstrate that its training for supervisors complies with the requirements of this Agreement. OCDA intends to continue to provide an annual in-service training course for new and existing supervisors.

- 32.** OCDA shall develop and implement policies and procedures on the proper organization and content of case records involving Custodial Informants and Sources of Information. The policies and procedures shall provide that all required information and materials for a case in the possession of prosecutors, investigators, paralegals, and support staff must be maintained in the case file and stored in OCICS. The policies and procedures shall require that case files and OCICS include documentation of all instances in which OCDA learns of an individual in custody that qualifies as a Custodial Informant or Source of Information in an investigation or prosecution, any information that the individual provides, any benefits that the individual seeks or receives, and all information in the possession of the prosecution team bearing on the individual's reliability or credibility. The policies and procedures shall also require prosecutors to document all decisions regarding disclosure to the defense and to maintain a copy of all disclosures made to the defense.

STATUS (32): Substantial compliance

FINDINGS: OCDA's policies and procedures comply with these requirements. Section 6-9G of the Confidential Sources Policy Manual requires "[a]ll documentation regarding the informant's status and performance [to] be maintained in the OCICS." Section 6-14 requires that, after an informant testifies, the responsible DDA submit to the OCICS coordinator the informant's name, the name of the case, relevant case numbers, date of testimony, summary of the testimony, credibility evaluation, and a description of any benefits the informant received for their testimony. Section 2-2 requires that law enforcement agencies submit a notification card to the OCICS coordinator for all informants and SOIs so that they can be included in OCICS. It makes clear that all custodial informants and SOIs must be entered into OCICS, even if OCDA does not prosecute the case or the custodial informant or SOI does not testify. The instructional memo DDAs receive when assigned a case with a confirmed match between an individual involved in the case and OCICS records contains instructions requiring the DDA to write a memo, a copy of which remains in the case file, documenting decisions regarding disclosure of OCICS information to the defense.

- 33.** OCDA shall develop or acquire an updated electronic case management system ("CMS") with the assistance of a capable information technology entity to securely maintain and preserve all OCDA case files in digital format that is consistent with approved OCDA policies and procedures. OCDA's comprehensive, agency-wide needs assessment shall inform OCDA's decision to develop or acquire its case management system. The electronic case management system shall permit OCDA to match identities of individuals with records in OCICS of Custodial Informants and Sources of Information at the Jails. Substantial compliance with this paragraph shall require that OCDA demonstrate a future state capacity to implement the terms of this paragraph and shall not require implementation of the updated electronic case management system. Accordingly, OCDA agrees to provide access to DOJ to any relevant requirements list, solicitation document, contract material (such as a statement of work), or project charter as proof of practice of its future state capacity.

STATUS (33): Substantial compliance

FINDINGS: OCDA has demonstrated future state capacity to implement a CMS with all the capabilities required under paragraph 33. OCDA has already made significant progress toward that goal, starting with its June 27, 2023, contract for a comprehensive, agency-wide needs assessment of OCDA's current CMS that analyzed eight factors, namely architecture, performance and reliability, extensibility, security, functional stability, usability, reporting and analytics, and disaster recovery/business continuity. This

comprehensive assessment involved numerous workshops with OCDA's executive staff, IT staff, attorneys, investigators, paralegals, and clerical staff and resulted in a detailed system requirements matrix. OCDA executed a second contract on March 26, 2024 for external solicitation and evaluation of vendor proposals for the new CMS. OCDA received eight proposals. OCDA, along with its contractor, evaluated these proposals using the previously developed criterion and scoring mechanisms for evaluating vendor proposals and provided a comparative review of each proposal that met the minimum qualifications. OCDA selected three finalist proposals. The companies who submitted the three finalist proposals each did a full-day presentation for OCDA on December 3-5, 2024, during which they demonstrated their proposed systems and answered questions. OCDA selected its preferred proposal and made the necessary budget requests from Orange County, which the County granted in November 2025. OCDA has negotiated a contract with the selected vendor and begun implementing the new CMS. Given that OCDA has secured funding and a contract with a vendor who is able to provide a CMS that fulfills the terms of paragraph 33, OCDA has demonstrated its future state capacity to implement the terms of paragraph 33.

34. OCDA shall replace the Orange County Informant Index (OCII) with OCICS to improve OCDA's capability to store, search, retrieve, and share records on informants and Sources of Information in a secure, efficient, and effective manner. OCICS shall facilitate information sharing and joint auditing with OCSD to ensure that cases and witnesses are effectively identified and matched to assist OCDA prosecutors in meeting their disclosure obligations under the Sixth and Fourteenth Amendments. A coordinator from OCDA shall be responsible for operating and maintaining OCICS.

STATUS (34): Substantial Compliance

FINDINGS: OCDA has completed the transition from OCII to OCICS, which is a flexible and versatile database that the two OCICS coordinators are responsible for operating and maintaining. All legacy (i.e., OCII) records are accessible and searchable within OCICS. Whenever the OCICS coordinators search for a name, the results include any responsive legacy records, which the OCICS coordinator can then choose to import into OCICS, if appropriate. Each record includes tabs to input or review agencies, contact information, government IDs, associates, benefits, vehicles, attachments, and notes, among other tabs, related to the custodial informant or SOI. This allows OCDA to keep all pertinent information about that individual—including any related documents—in a centralized location with controlled access. Individuals with administrator access (e.g., the OCICS coordinators) can view the access log and user activity log for the whole database or an individual record. Every night, OCICS automatically compares its records to those in OCDA's CMS to find potential matches between the individuals in OCICS and individuals involved with OCDA's cases. The OCICS coordinator reviews all potential matches to determine if they are true matches or not. If the OCICS coordinator finds a true match, he initiates an email to the appropriate ADA and provides the pertinent OCICS record and instructions to the ADA for how to proceed, including instructions to add a copy of the OCICS record to the case file. Section 6-1 of OCDA's Confidential Sources Policy Manual explains the next required steps: "When the ADA for a unit assigned to prosecute a case receives notice from the OCICS coordinator that a witness in that case matches the identity of an informant or SOI contained in the OCICS database, the ADA will meet with the responsible DDA to review the informant or SOI materials and make appropriate legal determinations as to what should be discovered to the defense."

35. All Custodial Informants and Sources of Information at the Jails that have been identified to the OCDA shall be entered in OCICS. Entry into OCICS shall not depend on the testimony of the Custodial Informant or Source of Information. Entry shall be required whenever a member of the OCDA learns that a Custodial Informant or Source of Information is involved in an investigation, including cases that are not filed and prosecutions where the information is not used.

STATUS (35): Substantial Compliance

FINDINGS: Section 6-7 of OCDA's Confidential Sources Policy Manual states that "[a]ll informants must be in the OCICS" and that such entry "is not dependent upon the informant's testimony" but rather "is required whenever an informant is involved in an investigation, including cases that are not filed and prosecutions where the informant is not used." Furthermore, Section 6-6A requires that "[u]pon receipt of an OCICS notification card from a law enforcement agency," submitted per Section 2-10E, OCDA's OCICS coordinators "ensure the completeness of OCICS records ... and enter the informant or source of information into the OCICS database." The OCDA's Informant Policy Manual, which was adopted in 2016 and is the predecessor to the Confidential Sources Policy Manual, contained similar requirements with respect to the OCII, which OCDA has since replaced with OCICS.

On January 9, 2024, and January 8, 2025, OCDA and OCSD conducted annual joint audits of their custodial informant and SOI files for the years 2023 and 2024, respectively, to ensure compliance with Sections 6-6A and 6-7 of OCDA's Confidential Sources Policy Manual and Section 608.8 (Notification and Information Sharing with the District Attorney's Office) of the OCSD Policy Manual. The documentation from this audit shows that OCDA entered into the OCICS database all custodial informants and SOIs that OCSD identified to OCDA, regardless of whether the investigation involving the individual resulted in a prosecution or the individual testified. The audit documentation showed that OCSD did not submit any custodial informants to OCDA in 2023 or 2024, but submitted SOIs OCSD established in 2023 and SOIs OCSD established in 2024.

- 36.** OCDA shall continue to implement regular audits of OCDA case files on Custodial Informants and Sources of Information at the Jails to determine compliance with relevant policies and procedures. The OCDA audits shall take place on at least an annual basis. Errors or other significant findings revealed by the audits shall be documented and corrected promptly.

STATUS (36): Substantial Compliance

FINDINGS: In addition to the joint annual audits OCDA conducts with OCSD regarding the accuracy and completeness of the information in OCICS, which is discussed in the findings for paragraphs 35 and 38, OCDA has conducted regular audits to ensure compliance with applicable policies and procedures. Those audits evaluate the accuracy of the OCICS coordinator's match determinations regarding whether a potential match between a name in OCICS and a case file is a true match, determine whether the OCICS coordinator followed the proper protocol to notify the appropriate ADA of a true match and provide that ADA with instructions and relevant information from OCICS, determine whether DDAs assigned to a case to which the OCICS coordinator determined there was a true match reviewed such information to determine what OCDA must disclose to the defense, and determine whether the DDA made the required disclosure(s) to the defense.

OCDA provided a detailed report about the methods the audits use as well as the results of the most recent audits that examined 2024 data. For the audit of the OCICS Coordinator's match determinations, the auditor reviewed a randomly-selected sample of about 20% of OCICS potential matches to determine if the OCICS coordinator made the correct determination as to whether the match was a true match or not. The audit did not find any errors. OCDA reviewed all potential matches that the OCICS determined were actual matches between case witnesses and individuals with records in OCICS to ensure the OCICS Coordinator properly updated the OCICS record to reflect the match, notified the relevant ADA, and provided the ADA with the relevant information from OCICS. None of the matches involved individuals with custodial informant

backgrounds, but two of the matches involved individuals with SOI backgrounds. The audit determined that the OCICS Coordinator performed these steps for each of the actual matches, though as explained in the findings for paragraph 17, there was one instance where a physical file was not created from an OCICS entry and a few instances where the OCICS entry was not updated with case number information that was updated in the corresponding physical file. OCDA promptly corrected these minor errors, which did not compromise the integrity of the relevant procedures.

37. OCDA shall continue to implement regular audits of OCICS records to determine whether OCDA has consistently updated the records 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. OCDA agrees to send proposed changes to its methodology for audits required by this Agreement to DOJ for review and approval.

STATUS (37): Substantial Compliance

FINDINGS: As explained in the findings for paragraph 36, OCDA conducts regular audits of OCICS records to ensure the OCICS Coordinator consistently updates them as OCDA policy requires. Except for the minor issues explained in the findings for paragraph 17 that OCDA quickly corrected upon discovery, the audit did not reveal any issues. Therefore, OCDA has complied with the auditing requirements of the Agreement.

38. OCDA shall continue to participate in joint audits with OCSD to ensure records on Custodial Informants and Sources of Information at the Jails are complete and consistent across the agencies. 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. OCDA agrees to submit completed joint audits and the methodology applied to each audit to DOJ for review and comment.

STATUS (38): Substantial Compliance

FINDINGS: Section 2.2B of OCDA's Confidential Sources Policy Manual requires OCDA and OCSD to conduct a joint audit of informant and SOI records annually by January 15. The joint audit covers the preceding year. The agencies created joint audit procedures and forms, including the OCSD and OCDA Joint Informant and Sources of Information Audit Procedures and the Joint Annual Informant and Sources of Information Audit Form, to support the implementation of their respective audit policies. The Confidential Sources Policy Manual designates the OCICS Coordinator as the OCDA employee responsible for the joint audit. It requires the OCICS coordinator to identify any inconsistencies in the two agencies' records and work with OCSD to reconcile such inconsistencies within 10 business days. When the audit is complete, the OCICS coordinator is responsible for signing the Joint Annual Audit Form and delivering it to OCSD for the Special Investigations Bureau captain to sign it. OCDA provided documentation showing that it and OCSD completed audits for the years 2023 and 2024, including completed Joint Annual Informant and Sources of Information Audit Forms and accompanying memorandums explaining any errors or discrepancies discovered between the records of the agencies and what they did to resolve those errors or discrepancies.

39. OCDA agrees to convene at least one stakeholder meeting in consultation with DOJ by inviting selected representatives of the Orange County Superior Court, the Orange County Sheriff's Department, the Public Defender's Office, and the private criminal defense bar to discuss changes to policies, training, and practices related to this Agreement. The participation of the representatives in this stakeholder

meeting is voluntary. OCDA shall solicit feedback from the participants of the meeting and will consider additional changes and improvements, as necessary, to further the objectives of this Agreement.

STATUS (39): Substantial Compliance

FINDINGS: On July 8, 2025, OCDA sent a written invitation to members of the Orange County Superior Court, the Orange County Sheriff’s Department, the Orange County Public Defender’s Officer, and the Orange County Criminal Defense Bar Association to attend a two-hour listening session on July 25, 2025, during which they could share with OCDA “any observations or recommendations ... regarding the policies, practices, or training of the OCDA—particularly those concerning discovery, suspect interviews, or informant-related issues.” The invitation also welcomed any written commentary the invitees wished to submit. All invitees acknowledged receipt of the invitation. The Orange County Superior Court and OCSD respectfully declined the invitation. OCSD explained that its ongoing collaborative relationship with OCDA lessened the need for its participation in the listening session, but reaffirmed its commitment to “continual evaluation and improvement” and openness to “future opportunities for constructive coordination.” The Orange County Criminal Defense Bar did not attend the listening session. The Orange County Public Defender’s Office accepted the invitation and attended the listening session, during which the Orange County Public Defender and Orange County District Attorney discussed a variety of topics related to this Agreement, including OCDA’s plans for a new case management system, its file retention policies, and the existence and accessibility of OCDA policies. The Orange County Public Defender did not share any suggestions for changes or improvement related to the Agreement during the meeting.

IV. CONCLUSION

On January 14, 2025, the parties entered into the Agreement to resolve DOJ’s investigative findings and ensure that any use of custodial informants by OCDA complies with the Sixth and Fourteenth Amendments. This assessment, which the Agreement mandates, has demonstrated OCDA’s commitment to sustaining systemic reforms that promote public safety and strengthen the public’s trust in the Orange County criminal justice system. Given OCDA’s sustained substantial compliance with all the provisions, for the reasons explained above, this will be the final compliance assessment that DOJ publishes under the Agreement.