



Superior Court of California County of Orange

Chambers of
KIRK H. NAKAMURA
PRESIDING JUDGE

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

Administrative Order No 20/24 **Procedure for Disclosure of Evidence Audit Records**

This Order establishes the procedure for the disclosure of evidence audit records in relation to a criminal proceeding.

The Court adopts the stipulation entered by the Orange County Sheriff's Department, by and through its attorneys, the Orange County Counsel's Office, the Orange County District Attorney, and the Orange County Public Defender regarding disclosure of documents pertaining to the Orange County Sheriff's Department "Evidence Audit" records, Remedy system printouts, and Orange County Sheriff's Department reports ("DRs") associated with entries in the Evidence Audit Records and incorporates it by reference into this Order ("the Stipulation"). The process described in the Stipulation is equally available to other defense counsel upon agreement to be bound by the terms of the applicable protective order as set forth by the stipulation. A copy of the Stipulation is attached hereto.

This Order does not prevent any party from seeking records otherwise permitted under law.

This Order may be considered a "standing order" and is applicable to all criminal proceedings in the Orange County Superior Court. This Order is effective immediately and shall remain in effect until modified by further Order of the Court.

IT IS SO ORDERED.

10/15/20

Date

A handwritten signature in black ink, appearing to read "K. H. Nakamura", written over a horizontal line.

Kirk H. Nakamura
Presiding Judge

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

STIPULATION AND ORDER
REGARDING DISCLOSURE OF
EVIDENCE AUDIT RECORDS,
REMEDY RECORD PRINTOUTS
AND ASSOCIATED REPORTS

STIPULATION

1. This stipulation is entered into between the Orange County Sheriff’s Department, by and through its attorneys, the Orange County Counsel’s Office, the Orange County District Attorney and the Orange County Public Defender. The process described herein, however, is equally available to other defense counsel upon agreement to be bound by the terms of the applicable protective order below.

2. This stipulation covers documents pertaining to the Orange County Sheriff’s Department “Evidence Audit” records, Remedy system printouts, and Orange County Sheriff’s Department reports (“DRs”) associated with entries in the Evidence Audit Records.

3. This stipulation is intended to streamline the process for parties to criminal proceedings to obtain these records while still meeting each signatory’s respective legal obligations and protecting confidential information produced via this stipulation.

- 1 4. In lieu of the Sheriff's Department requiring a *Pitchess* motion from the District
2 Attorney's Office or Public Defender's Office (including Alternates and Associates) for
3 the Evidence Audit Records, the parties stipulate to the following process:
- 4 a. As a case arises for which the District Attorney would have reason to disclose
5 Evidence Audit Records, Remedy system printouts and DRs, including pursuant to
6 Penal Code section 1054, *et seq.*, they may provide notice of the same to the
7 Orange County Sheriff's Department at a designated contact with information
8 sufficient to identify the peace officer or officers.
- 9 b. Upon receipt, the Orange County Sheriff's Department will compile Evidence
10 Audit Records, Remedy system printouts, and DRs associated with the Evidence
11 Audit Records entries related to the peace officer or officers specifically identified
12 by the District Attorney's Office.
- 13 c. The Orange County Sheriff's Department will provide responsive Evidence Audit
14 Records, Remedy system printouts, and associated DRs to the requesting District
15 Attorney representative. The District Attorney shall then disclose the records to
16 the defense under Penal Code section 1054, *et seq.*, as required. The disclosure of
17 confidential information is prohibited by Penal Code section 1054.2.
- 18 d. After the District Attorney's Office provides the notice in a case pursuant to
19 subdivision (a) above, and the Sheriff's Department provides responsive Evidence
20 Audit Records, Remedy system printouts, and DRs related to a peace officer to the
21 District Attorney's Office pursuant to subdivision (c), the District Attorney's
22 Office may disclose these records to the defense in other cases under Penal Code
23 section 1054, *et seq.* The parties agree that the terms of this stipulation will apply
24 to the disclosure of these records in other cases. Disclosure of these records to
25 anyone beyond those to whom initially disclosed within this stipulation shall be by
26 further order of the Court.
- 27 5. It is the Sheriff's Department's position that the Evidence Audit Records are peace
28 officer personnel records subject to the *Pitchess* process (Evidence Code sections 1043-

1 1046, *Pitchess v. Superior Court* (1974) 11 Cal.3d 531); however, this stipulation is not
2 an agreement by the other parties that the Evidence Audit Records are “peace officer
3 personnel records” within the meaning of Evidence Code section 1043-1046 nor *Pitchess*
4 and its progeny. Furthermore, even though the Public Defender does not agree that the
5 Evidence Audit Records are “peace officer personnel records”, the Public Defender does
6 agree, for purposes of this stipulation only, that the Evidence Audit Records shall be
7 subject to the following protective order:

8 **Evidence Audit Records disclosed in relation to a criminal proceeding may**
9 **not be used for any purpose other than the court proceeding in which they**
10 **were obtained pursuant to applicable law.**

11 6. Personal identifying information contained in the reports shall not be disclosed to
12 a defendant or member of the defendant’s family, nor disseminated outside of the defense
13 team, and may not be used for any purpose other than the court proceeding in which they
14 were obtained pursuant to applicable law. For purposes of this order, “Personal
15 identifying information” means a person’s address, telephone number, driver’s license
16 number, social security number, place of employment, employee identification number,
17 mother’s maiden name, protected health information, deposit account number, savings
18 account number, or credit card number.

19 7. The parties stipulate that this Order may be considered a “standing order” and is
20 applicable to all criminal proceedings in the Orange County Superior Courts. The
21 Protective Order applies to the Evidence Audit Records, but not Remedy system printouts
22 nor DRs.

23 8. This stipulation does not prevent any party from seeking records otherwise
24 permitted under law. Any further requests would need to proceed in the normal course
25 under law (i.e., discovery request, good cause showing for *Pitchess*, Subpoena *duces*
26 *tecum*, Public Records Act request, etc.).

27 9. This Stipulation and Order will be effective upon signing by the appropriate
28 judicial officer.

1 **SO STIPULATED:**

2 Dated: October __, 2020

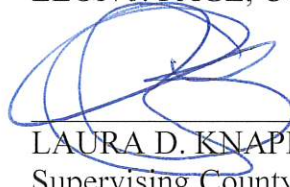
MARTIN SCHWARZ
Interim Public Defender

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5 MARTIN SCHWARZ
6 Interim Public Defender

7 Dated: October 6, 2020

LEON J. PAGE, COUNTY COUNSEL

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10 LAURA D. KNAPP
11 Supervising County Counsel

12 Dated: October __, 2020

TODD SPITZER, DISTRICT ATTORNEY

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15 ROBERT MESTMAN
16 Assistant District Attorney

17 **ORDER**

18 The Court adopts the stipulation and makes it the Court's Order. The Court finds good
19 cause for the disclosure of these records. This Order shall remain in effect until modified by
20 stipulation or further Order of the Court.

21 **SO ORDERED.**

22 Dated: 10/13/20

23 

24 Judge of the Superior Court, County of Orange

25 **KIRK H. NAKAMURA**