



# 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 "Kirk H. Nakamura".

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

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24 Judge of the Superior Court, County of Orange

25 **KIRK H. NAKAMURA**