

STATEMENT OF ASSISTANT PUBLIC DEFENDER SCOTT SANDERS REGARDING
THE ORANGE COUNTY GRAND JURY'S INFORMANT REPORT - June 13, 2017

The Orange County Grand Jury states there is “no evidence to support claims of a systemic, widespread informant program, and reports of such have been exaggerated in the press.” **As will be discussed below, the grand jurors themselves never closely examined allegations of long term informant evidence concealment.**

Having analyzed these issues extensively over the course of several years—supported by thousands of pages of motions and exhibits—I anticipated detailed questioning by the Grand Jury, likely occurring over a number of days. But such questioning never took place. Approximately six months after they began their analysis, I was asked to appear before the informant committee. It was immediately apparent that the committee had spoken with and relied upon the word of numerous prosecutors and members of law enforcement—and was fully prepared to embrace their narrative in place of a meaningful, independent investigation.

Rather than beginning its questioning by honing in on the facts of individual cases or allegations of misconduct, the group chose instead to challenge my litigation history with prosecutors and suggest possible overreaching by Judge Goethals and the Court of Appeal. When I attempted to turn the discussion to the thirty-year history of misconduct detailed in a 750 page motion in the *Wozniak* case, where we were never afforded a hearing, the foreperson's response was troubling, suggesting that the working group lacked a basic understanding of the cases at issue. She insisted that “even” Judge Goethals had already rejected arguments of multi-decade misconduct, borrowing from a misstatement by Judge Conley. (Neither evidence nor allegations of long-term misconduct were ever presented to Judge Goethals—rather he examined misconduct covering approximately a three year period.) It was clear that the Grand Jury believed that the motions in *Dekraai* and *Wozniak* were essentially the same, and therefore they never meaningfully reviewed the hundreds of pages of analysis and more than ten thousand pages of exhibits in *Wozniak*, which set forth in detail allegations of long-term misconduct. When I attempted to discuss the cases of specific defendants and

informants that were critical to my analysis of what occurred between 1982 and 2009, it was clear the Grand Jury had no idea what I was talking about. Likewise, any meaningful analysis of long-term misconduct by the OCDA would require a study of our allegations of withholding of the DA's Orange County Informant Index. Again, as I raised what we had detailed in the motion, it was clear that jurors had no idea to what I was referring. It is unrealistic to believe that grand jurors in January initiated a new study of long-term misconduct after I appeared in January—and, if they had, common sense says they would have had to question me extensively. That never occurred.

While the Grand Jury suggests in its report that it engaged in an inquiry in which it developed a comprehensive understanding of the relevant evidence and simply let that evidence lead it to its conclusion, the reality (admitted in the report) is that the grand jurors relied principally on a former Deputy Attorney General to answer many of the most important questions. It should also come as no surprise that the Grand Jury adopted the narrative of Sheriff's Department leaders that their evidence disclosure problems lie overwhelmingly in the hands a few bad apples. But their decision to present such findings while these issues are currently being litigated—with evidence emerging that their conclusion may be incorrect—demonstrates that the Grand Jury long ago set upon certain paths that would not be altered by contrary facts. Their claim that there is no jail informant program because there is “no formal training, no dedicated budget, no codified job descriptions, no calendaring of events, no advance scheduling of activities nor any approved recruitment material of OCSD personnel for a jailhouse informant program,” is particularly revealing of a pre-ordained inquiry and is particularly embarrassing considering the rulings of Judge Goethals and the Court of Appeals, as well as admissions in Sheriff's Department documents that they have indeed cultivated hundreds of informants. One wonders if any Sheriff's Department in the United States would have a jail informant program under the criteria arbitrarily created by the Grand Jury.

Finally, it appears that the committee's knowledge of the history of informant misconduct is actually so limited that they missed the irony of the decision to minimize informant misconduct at a press conference held

in the Santa Ana Police Department (“SAPD”). During both the original *Dekraai* hearings and those that continue presently, the SAPD’s tremendous role in jail informant misconduct has continued to come to light. The report fails to reference, for example, that for five years SAPD recordings capturing serial informant/murderer Oscar Moriel’s efforts to trade improved memories for a sentence reduction were hidden from seven defendants who faced life in prison—and only came to light because of evidentiary hearings permitted in *Dekraai*. Nor does the report explain why the public should not be gravely concerned that other informant evidence favorable to defendants remains hidden in the agency where the “myth” of systemic jail informant misconduct was alleged.

While the report represents a failure of those who could have delivered a positive contribution to justice in Orange County, there is far too much truth already known for an inadequate study by any entity to stop the movement forward. However, if anything, this report provides more proof of what we knew already: that a thorough, independent evaluation is needed.