EXHIBIT GD

DECLARATION OF BRANDEN EDWARD SHUMATE

I, Branden Edward Shumate (petitioner & complainant) declare as follows:

1. Writing this declaration under seige in the Orange County Jails was an extremely arduous and dangerous effort lasting over a year (drafted on shreds of paper and hand sharpened golf-pencils routinely stomped-on and/or confiscated by jailers and their special inmate workers). I was psycologically torchered by the former administration's **all out war** on my Right to Counsel of Choice, the Effective Assistance of Counsel, Due Process, Attorney Client Privilege (and all other "protections" of the California Evidence Code), the Right to investigate, prepare for, and assist in the defense of my life against false allegations and deep discovery fraud. Making every effort to exhaust remedies, I even submitted this complaint to the Orange County Grand Jury in April of 2017, which was rejected due it's "criminal nature."

The Organized, Sanctioned, Funded & Strategic
Orange County Sheriff Right to Counsel & Defense Camp
Communication Obstruction, Disruption & Invasion Program

BREAKDOWN OF THE RIGHT TO COUNSEL AND DEFENSE-CAMP COMMUNICATION OBSTRUCTION, DISRUPTION AND INVASION PROGRAM

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OBSTRUCTED INVADED TELEPHONE ACCESS TO COUNSEL (Part 1)

THE ORANGE COUNTY SHERIFF SANDRA HUTCHENS — WITH THE KNOWLEDGE AND APPROVAL OF COUNTY COUNSEL, AND THE ORANGE COUNTY DISTRICT ATTORNEY TONY RACKAUCKAS — HAS INTENTIONALLY BY WAY OF SANCTIONED JAILHOUSE PROGRAM ELICITED THE RECORDING AND MONITORING OF; AND BLANKET RECORDED AND SUBJECTED TO MONITORING, ALL COMPLAINANT'S ATTORNEY - CLIENT AND OTHER PRIVILEGED CONFIDENTIAL TELEPHONE COMMUNICATIONS (WHILE VARIABLY CAUSING THE SUPPRESSION OF THE SAME ALTERNATIVELY) IN ORDER TO, AND WHILE SUCCESSFULLY ACCOMPLISHING SURVEILLANCE OF, AND GAINING LONGSTANDING TACTICAL ADVANTAGE OVER THE DEFENSE CAMP, WHILE MAKING ALL OF COMPLAINANT'S THOUGHTS, WISHES, ATTEMPTS AND ACTS OF COMMUNICATING WITH COUNSEL (ET AL) AN OMINOUS, DARING AND DAMAGING ENTERPRISE CLOAKED WITH GREAT FEAR, HESITATION, DISRUPTED THOUGHT, DISRUPTED SPEECH, DISRUPTED ABILITY TO CONCENTRATE, RECOLLECT AND UNDERSTAND, WHILE CREATING SEVERE NEGATIVE IMPACT ON ALL RELATIONSHIPS WITH COUNSEL (ET AL) INCLUDING THE FORCING OF MAJOR TRUST ISSUES WITHIN THOSE RELATIONSHIPS THROUGHOUT THE ENTIRETY OF COMPLAINANT'S 5 YEAR INCARCERATION IN NEAR TOTAL CELL ISOLATION.

For five years, complainant has been isolated within a sanctioned jail environment that has at all times obstructed, disrupted and invaded his every act of and attempt to seek, screen and receive the assistance of counsel *and* to freely confer and confide with counsel confidentially. That reality, of which there has been no escape, has ruined the preparations of his defense and forced ineffective counsel upon complainant's case at every turn throughout the Pretrial and Trial process. The Sheriff's strategic intrusion / denial of complainant's Right to Counsel and Due Process involves several parts of an organized jailhouse program that has and continues to work together to successfully execute the intrusion / denial strategy. The Sheriff's zero-privacy with counsel by telephone policy inflicted upon complainant's case at all times is part of the total equation. It is addressed in this section (Part 1A) with the awareness that:

1. "Telephone communication is essential for inmate contact with attorneys" (see *In re Grimes*, 208 Cal. App. 3d 117 (1989)).

2. "Jail inmates have a constitutional right to [...] confidentially confer with counsel" (see *County of Nevada v. Superior Court* 236 Cal. App. 4th 1001, 1007 (2015)). And...

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3. "If an accused is to derive the full benefits of his rights to counsel, he must have **the assurance** of confidentiality and privacy in communication with his attorney" (see, *Barber v. Municipal Court* 24 Cal. 3d 742, 751 (1979)).

To even reach a telephone, complainant is first forced by the Sheriff to wait through a Due Process violating and inhumane ***23 to 40 hour interval of total isolation*** (see 'Reckless Pre Trial Isolation Schedule Part 3' representing another part of the total intrusion / denial equation). After each punishing 23 to 40 hour interval is inflicted upon complainant pretrial, he is then limited to the provision of only **one** hour inside a strategically designed high-echo "dayroom" where 3 to 4 telephones are mounted near a television blasting at high volume. Upon picking up the telephone handset and dialing, the *absurd dysfunctionality* of the Sheriff's *strategically impaired* [1] phone service has and continues to make it nearly impossible for complainant to connect a call with any defense service provider, government agency, and the majority of all others (detailed in Part 1B and representing another part of the Sheriff's total intrusion / denial strategy). Command presence heavy metal door slamming (5 staff doors per sector) and T.V. static bombs (caused by frequent signal interruptions) also sound off at excruciating volume levels erratically throughout the one hour high-echo "dayroom" access.

In the extremely rare event complainant was/is able to connect a call with non-public defender counsel or other private defense service professionals (or nearly anyone else), that same impairment loaded phone service approved by the Sheriff (Global Tel Link) **blanket records** and subjects to monitoring each one of those calls:

"Calls made on collect phones **are recorded** and may be monitored"

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[1] While the jail telephones may look like old payphones, their invasive, obfuscated and impairment loaded dysfunctionality **is strategic**. Not only are they strategic at the Sheriff's Research and Development level, but apparently encouraged by the July 1st, 2012 California State Legislature created, "Board of State and Community Corrections" czar — who's "mission shall reflect the principle of aligning **fiscal policy** [with...] correctional practices, including, but not limited to **prevention** [(to hinder or hold back)], **intervention** [(to come between in order to stop)], **suppression** [(also: surveillance)], **and incapacitation** [(to make incapable or unfit)], **to promote a justice [system] investment strategy** [for 'stakeholders'] that fits each county [...] through cost-effective, promising and evidence based **strategies for managing criminal justice population**." The mission of the 12 member board consisting of only one judge includes, providing "statewide leadership, coordination, and **technical assistance** to promote effective State and **local efforts** and partnerships in California's adult and juvenile criminal justice system..." (see *California Penal Code §6024*, for above quoted content).

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That statement was tendered under penalty of perjury in a May 17th, 2015 filed Declaration of Orange County Sheriff's Sergeant JASON BOGOSIAN, in complainant's case. Thus, aside from the wall-painted or wall hung call monitoring and recording notice(s) usually present (but not always) near the jail telephones, complainant's claim that all of his calls have and continue to be monitored and blanket recorded, is **not** a "prove it" situation. All 'collect' calls made from the Orange County Sheriff's jail telephones **"are recorded."** That being settled, at least two questions must be asked by any civilized society claiming its accused pretrial detainee is being provided a Fair Trial process:

1. Is the accused in near total isolation able to seek, screen and receive the assistance of professional representation (attorneys, etc.) by telephone *without* having every idea, fact goal and strategy of defense recorded by members of the prosecution team?

ANSWER: Not unless his attorney is the Public Defender (although calls to the Public and Alternate Public Defender's office may not be blanket "recorded", they are under constant posted threat of being "monitored")

2. If the accused has a reasonably accessible unrecorded telephone line not subject to monitoring, is he being provided reasonable assurance of that security, so that the threat of his adversary gaining unfair insight and tactical advantage over him upon every call does not *ruin* his every attempt by telephone to defend his life and liberty?

ANSWER: The Sheriff provides **absolutely no assurance** to the complainant in its 'Snitch Tank' jails that his telephone communications (regardless of who's being called) will be secure, not recorded and not subjected to monitoring. On the contrary, Sheriff's jailer Sgt. BOGOSIAN in the same declaration (cited previously) represents falsely that the Sheriff is *not* invading and obstructing the defendant's ability to seek, screen and receive the assistance of counsel:

> "An inmate's right to have privileged communication with counsel is protected because **the collect phones are pre-programmed [2] with phone numbers of attorney's in the community**, including the Public Defender's Office numbers. When one of the preprogrammed numbers is dialed, the automatic recording

[2] **The 4th District Court of Appeal, Division 3 does not agree that a Sheriff's use of any preprogrammed list or opt-out system (such as the Orange County Sheriff's) protects or preserves the attorney-client privilege. See, *People v. Medina* (2009) WL882646. This case is not cited as law, but to show Global Tel Link's knowledge of the above courts "profound disappointment with the government's violation of the attorney-client privilege" in a nearly identical situation in Riverside County**

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mechanism is disabled so inmates may have privileged conversations with their counsel".

But the defendant has only ever been able to verify three telephone numbers exist on the sheriff's 'pre-programmed' list — two main office numbers of the Public Defender, and **one** private attorney phone number. Defendant realized the Sheriff's threatening and lengthy pre-recorded call monitoring and recording notification **does not sound off** upon connecting calls to either of the Public Defender's numbers, but that it always sounds off when connecting a call to any other phone number. With that, and declaratory proof of the Sheriff's blanket call recording practice, defendant was finally able to persuade a private attorney to demand inclusion on the Sheriff's ***preferred counsel list*** at a Superior Court hearing with one of the Sheriff's attorney's (Liz Pejeau [3]) present. Mrs. Pejeau quietly agreed to put the private attorney's phone number on *the list* with no objection. Soon after that hearing, the sheriff's threatening pre-recorded call monitoring and recording notification stopped sounding off upon connecting calls only to the one number Mrs. Pejeau agreed to add to the Sheriff's friend list. This only further confirmed that every Global Tel Link communication defendant has ever made to all other licensed defense service providers in five years time (in a case based on words fabricated) has been strategically and illegally invaded by the same law enforcement agency who not only severely cheated to have defendant's case to begin with, but the same agency that has become nationally recognized [4] during the same timeframe for illegally invading defense camps *in a different way* by strategically misusing jailhouse informants and withholding evidence to have cases and "win" convictions. **Defendant's tenacious efforts to stop the Sheriff's use of Global Tel Link (inter alia) to rob him of his Right to Counsel during that same timeframe resulted in a despicable years long campaign of systemwide retaliation meant to bully the defendant into silence and drive the defense of his life into the ground.**

[3] Mrs. Pejeau assisted the Orange County Sheriff's Department in "perpetuating fraud" with regard to the Sheriff's constitutional informant program (see footnote 4).

[4] See April 7th, 2017 'Snitch Box' filing in unrelated case 12ZF0128 titled, "Supplemental Brief In Support Of Request To Dismiss Death Penalty. 2) Offer Of Proof In Support of Release Of Subpoenaed Materials. 3) Requested Order That OCSD Not Destroy Housing / Floor Logs, Sergeant's Activity Logs And Briefing Logs. 4) Request To Unseal Brief, Amendment #1."

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Further demonstrating the preprogrammed privacy list has never come close to being effective in momentarily stalling the Sheriff's own strategically integrated defense-camp invasion and suppression mechanism, **no formal or informal process has ever existed for complainant to apply to have phone numbers of defense service providers, agencies or counsel of his choice added to any alleged privacy list.** [5] But even if the Sheriff had provided a Right to Counsel Safe-Zone at anytime, it would be incorrect to assume that complainant (who was extradited to California from Hawaii with zero knowledge of any criminal justice system), somehow had a way of knowing who to begin contacting in order to personally seek, screen and assemble **a defense team of his own choice** immediately following (and at all times thereafter) the crisis of unexpected incarceration, in near total cell isolation. The Sheriff did not provide or allow complainant access to attorney contact information lists, what or where those attorneys may practice, and even worse, no ability to personally communicate by telephone with attorney referral services, or State and Local Attorney Bar Associations (in either California or Hawaii). Thus, the Sheriff who alleges to have a "pre-programmed [list] with phone numbers of attorneys in the community", is the same sheriff who does not and has not from the beginning provided or allowed complainant to access attorney contact information, etc. or referral services from the quarters of his confinement in near total cell isolation.

Moreover, attorneys and other defense service providers nationwide, statewide, or countywide are NOT required by any of their governing boards to report to the Orange County Sheriff's Department (on a regular basis or at anytime) the phone numbers they use to assist their clients or prospective clients. In reality, **the Sheriff's system has never protected or preserved any of complainant's rights or his defense camp from adversary invasion because:**

1. At no time has the system told complainant by pre-recorded message or posted notification when it was, or is, safe to communicate with any form of counsel, etc. (the threat of "may be" recorded monitored is a visual constant that chills

[5] Complainant's great number of attempts to obtain opportunity for confidential communications with counsel, investigators, experts, etc. (retained and not retained) by way of the Sheriff's grievance system, inmate/detainee request forms (called "snivels" by staff) and verbally have been met with frightening adversity, severe harassment, endless destructive legal document attacks, frivolous "major write-up" attacks, the covert and non-covert removal of multifarious copies of submitted grievances / message slips / personnel complaints, service complaints, and complainant's ledgers helping him track his longstanding efforts to exhaust remedies on every complaint raised in this complaint; and persistent jailer bad-mouthing of the complainant directly to complainant's Trial Judge, case bailiff, case prosecutor, case clerk and county counsel.

complainants communications with the Public Defender, Alternate Public Defender and Private Counsel).

2. **The system threatens recording and monitoring of call connections via pre-recorded message.**

3. At no time was a defense attorney able to tell complainant when it was safe to communicate with him or her.

4. Complainant standing near any collect telephone within his confined quarters has been and is **continually bombarded by posted notices that threaten recording and monitoring** of every attempted / connected telephone call.

5. **The system has never told complainant or attorney *when to ignore* posted notices threatening the recording and monitoring of his telephone calls.**

6. **Complainant has never signed any document consenting to any monitoring or recording of his phone or visiting communications with anyone, nor has he or any of his call recipients ever consented verbally or in writing to any call recording or monitoring.**

7. All of complainant's submitted grievances, appeal grievances, message slips and multiple Service Complaint submissions to the Orange County Sheriff's Department (in order to stop the monitoring and recording of his calls and visits with counsel et al, and to obtain clearance for the opportunity to have confidential private conversations by telephone and visiting with counsel et al) have produced no remedy whatsoever, have been met with extreme retaliation (including vindictive prosecution), persistent failure by staff to process written responses, and threats that any further attempts to exhaust remedies on those issues with the Sheriff will result in major - write ups for supposedly abusing the grievance system. [6]

[6] See "The Intentionally Broken Orange County Grievance System Part: 5"

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The grim reality is that the Sheriff has trapped complainant for nearly five years within a designed environment that has **forcibly denied him any safe harbor** whatsoever in which to seek, screen or receive the assistance of attorneys, investigators, experts, physicians, religious advisors, spouse, and more confidentially or privately to save his life. **Opportunity itself has been extinguished!** The strategic jail operating policy is comparable to a Twilight Zone where The Garden of Eden has no safe alternative to the forbidden fruit tree (eat and die, or die of starvation), with "NOTICE" posted. The analogy is truly comparable to the Sheriff's strategic policy in that she has at all times isolated complainant within the likes of a Right to Counsel Torture Chamber that only ever afforded him three unconstitutional options in which to defend his life and liberty:

OPTION 1: Seek, screen and assemble a defense team of personal choice while communicating the preparation of a "defense" (by speaking in order to do so) and having his entire play-book recorded and made available to Orange County Police and Prosecutors at their fingertips in violation of complainants constitutional right to a Fair Trial process (Due Process).

OPTION 2: Forfeit (by not speaking) vital constitutional rights that provide guaranteed ability to seek, screen and assemble a defense team of personal choice while freely conferring without fear to receive their assistance in order to develop a meaningful defense.

OPTION 3: Attempt to seek, screen, assemble and communicate with defense team while trying to speak in some sort of code, pig latin, fragmented statements or hints in order to prepare a defense — having all that recorded and made available to Orange County Police and Prosecutors at their fingertips — and in the process of doing so, suffering a wide range of prejudice in violation of complainant's Constitutional Rights.

Although the Sheriff is the legally authorized administrator of the local detention facilities (Cal. Gov. Code §26605) [7], it does NOT give the Sheriff latitude to override the U.S. and California Constitutions with so called "evidence based strategies" (Penal Code §6024), policies or practices that have and continue to force upon complainant the ultimatum of either having all of his attorney-client and other privileged conversations recorded and made available to police and prosecutors, **or forgo communicating at all.** Not only is privacy with counsel forbidden by the Orange County Sheriff, but invasion of the attorney-client privilege is mandatory if one is to dare engage in transmitting a communication within the defense camp. Especially **under these circumstances, "incidental collection" excuses and "implied consent" arguments can't even reached the table. The isolation program is simply oppressive and immoral, a mockery of complainant's right to a fair trial process and is a daily violation of the public's trust.**

OBSTRUCTED DISRUPTED TELEPHONE ACCESS TO COUNSEL (Part 2)

In addition to flagrant disregard for the complainant's most important statutory and constitutional protections as outlined in Part 1A of this complaint, the very structure of the Global Tel Link service mandated by the Sheriff imposes yet more illegal restraints on complainant's ability to exercise constitutional rights, particularly regarding access to counsel, freedom of association, unrestrained liberty of speech and due process privacy rights. **COMPLAINANT'S TELEPHONE ACCESS IS BEING RESTRAINED, ABRIDGED AND IN MOST INSTANCES DENIED DUE TO THE FOLLOWING GLOBAL TEL LINK STRUCTURE. IT'S EASY TO SEE WHY PRIVATE COUNSEL AND OTHERS CANNOT BE REACHED:**

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[7] While the jail telephones may look like old payphones, their invasive, obfuscated and impairment loaded dysfunctionality is strategic. Not only must the telephonic restraining, abridging and invading be strategic at the Sheriff's Research and Development level, but apparently encouraged by the July 1st, 2012 California State Legislature created, "Board of State and Community Corrections" czar — who's "mission shall reflect the principle of aligning fiscal policy [with...] correctional practices, including, but not limited to prevention [(to hinder or hold back)], intervention [(to come between in order to stop)], suppression [(also: surveillance)], and incapacitation [(to make incapable or unfit)], to promote a justice [system] investment strategy [for 'stakeholders'] that fits each county [...] through cost-effective, promising and evidence based strategies for managing criminal justice population." The mission of the 12 member board *consisting of only one Judge* includes, providing "statewide leadership, coordination, and technical assistance to promote effective State and local efforts and partnerships in California's adult and juvenile criminal justice system..." (see *California Penal Code §6024*, for above quoted content).

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Wrong Caller ID:

A) The call recipient's **caller identification** either shows a Texas area code or unknown number, confusing the recipient and resulting in abrupt disconnections or blocked calls (some telephone customers have accounts that do not allow unknown numbers to even ring);

Abrupt Cost Discouragement:

B) Before the call recipient has an opportunity to find out the nature and reason of the call, he or she must decide whether to disclose his credit card information, **commit to a new account**, and pay approximately $30.00, even though the recipient may not have been expecting the call;

Voicemails To Private Counsel Not Permitted:

C) Complainant's is **unable to leave a voicemail** for an attorney other than the public defender (which treated complainant with private counsel disparately in violation of his Equal Protection rights). This has made it virtually impossible for complainant to seek an attorney or to make contact with potential counsel or other defense service providers. Leaving voicemail messages for personal contacts or receiving a voicemail is also unsupported;

Citizen Detainees Can't Pay For Their Own Outgoing Calls:

D) **Complainant has always been prohibited from purchasing prepaid phone minutes, that allow the called party to receive a call without having to commit to an account and pay $30.00, etc. Prepaid phone cards are available at the jail, but are sold only to immigration detainees, resulting in another Equal Protection violation as non-citizens who face only deportation (compared to a punitive incarceration) are afforded greater rights than the complainant who is a United State Citizen. Citizens of the United States are therefore subject to much heavier unconstitutional communication restraints than non citizens;** [add xtra line space]

GTL Is A Call Recipient Only Prepay Service, Not Collect:

E) Although the Global Tel Link system is misleadingly labeled as a "collect" call system, true collect calls are never allowed, even to called numbers that are setup to accept collect calls. Complainant is told in a recorded message that the called party does not

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accept "collect" calls regardless of whether that is accurate. **In reality, the Global Tel Link service is a prepay only service... and only the call recipient can prepay to lift communication restraints from one number (absent a non-citizen calling card).** No live operators are available to assist complainant in placing a call, or to explain to the call recipient what his or her options are, or the nature of the call (this further exacerbates the system's confusion, especially for those with limited technological experience and non-english speakers). If the called party answers the call with the mis-labeled Texas caller identification, they will only hear a robot giving the limited option of setting up a new account, or funding an existing one at approximately $30.00 (complete with fees of $8.75 to do so, which is not applied to the call time but rather an administrative fee for the "privilege" of funding the account each and every time). In addition, true collect calls do not require credit card information, setting up an account, or paying a hefty advance payment fee to remove communication restraints.

Deposits Not Accessible For Citizen Detainee's As Claimed:

F) Any call recipient who funds complainant's account is informed on Global Tel Link's website (connect-network.com) that deposited funds immediately become "property of the offender," but that is also false. Complainant has no means of using those funds to call any other numbers (unless you are a non-citizen federal detainee), nor are refund requests to the inmate or detainee honored. Prior to June 2014, Global Tel Link advertised complainant as an "offender" on their former website "offenderconnect.com" before complainant had even reached Preliminary Hearing. Complainant suffered serious retaliatory punishment for seeking to exhaust remedies on this issue. The company shortly thereafter changed their name and staff rummaged through complainant's legal files and confiscated their angry handwritten response on the matter.

Response Of The Called Party Unknown:

G) The Global Tel Link System is cumbersome to use and prevents complainant from understanding how the party being called is or has responded to the call. As of June of 2015, to make calls, complainant must first register a self chosen pin number by entering his booking number, month and day of birth (yet not the year of birth). But the process is not intuitive, is not explained well, and it is subject to frequent glitches. Complainant is then totally blocked until jail staff get around to resetting it - a process that usually takes weeks. This forces complainant to use the pin numbers of others, which are connected to other recorded names, and is an added call connection deterrent because the recipient does not recognize the caller's name, neither is there a way for the inmate to hear that recorded name. Furthermore, the inmate typically cannot hear the ringing of the

recipient's phone. (No ring issue corrected on approx 1/1/2017) All the inmate hears is a recording informing him or her that the call "was not accepted." He or she may thus assume the recipient refused the call when it actually went to voicemail (The Global Tel Link System does not leave a message, so the recipient does not know who attempted the call);

Cost Free Outgoing Calls Strictly Forbidden:

H) Each "module" (a group of 6 cell blocks with an elevated guard's station in the center of the 6) has a phone that is capable of placing direct-dialed ("non-collect") calls, but complainant is not allowed to access this phone without a court order... this policy has been strictly enforced since at least between November 1, 2012 and July 15, 2016. Court Orders for non-collect calls are known to be nearly impossible to obtain and judges routinely deny their requests (except for inmates and detainees who are self-represented). **These realities have further prevented complainant from having an opportunity to communicate with his retained counsel of record and is a further shut down of opportunity to seek, screen, retain and receive the assistance of various counsel or defense service providers of choice.** Also denied by this is complainant's ability to speak to a civil attorney about any issue - even the conditions of confinement - or contact agencies that advocate for inmate and detainee rights. Trial attorneys are much too busy picking up deposits/new cases/preparing and arguing motions, and conducting trials to deal with fighting the Sheriff's web of defense damaging policies, **so they do not**. The restriction on non-collect calls without a court order has imposed a heavy emotional burden on complainant unable to communicate with his defense team, or in the event of a family emergency... and the inability to do so in fact creates a family emergency, and is an unreasonable absurdity. Furthermore, some of complainant's family and friends do not use credit cards at all and some have been indigent and unable to pay to remove communication restraints. The strict enforcement against non-collect calling is punishing and cruel considering the only alternative is a prepay only service loaded with unreasonable connection restraints;

Attorney Referral Services Obstructed:

I) No access to a telephone book or directory listing attorneys or other defense service providers are accessible in the dayrooms, or anywhere within reach of complainant. **Attorney referral services are effective, but cannot be reached from the prepay phones.**

Strategically Disrupted Communications:

J) The dayroom environment is not conducive to telephone calls, much less confidential calls with an attorney, etc. The dayroom is approximately 60'W x 80'L x 20'H, and is constructed of concrete, steel, and glass walls at the front. The acoustics are such that noise shoots off every surface and echoes throughout the area. A television with volume at full blast is on 16 to 18 hours daily, and almost always during complainant's dayroom times. (N-MOD and I-MOD high surveillance areas especially). Those standing within 3 feet of each other can't carry on a conversation without shouting over the television volume. The phones are attached to the wall without any privacy screening a few feet from the main sector door made of heavy steal that slams very loud when opened and closed during dayroom times as deputies pass through. Complainant is expected to confer with his attorneys relay facts and help defend his life under these conditions in which telephone volumes must be as high as possible to hear even though that total volume is painful. **Needless to say, complainant's clear thinking and effective communication is impossible under these conditions. If the T.V. is turned off there is no relief, a sensitive microphone is lodged in the doorframe of <u>all</u> dayroom doors near the phones.**

Write-Ups Interpreted As Loss Of Defense Team:

K) Although disciplinary punishment due to jail write ups cannot deprive complainant of access to counsel, when suffering the disciplinary status "Loss-of-All" or "Disciplinary-Isolation," he has been denied calls to counsel since at least between November 1, 2012 and January 1, 2016. **"[i]n no case shall access to courts and counsel be suspended as a disciplinary measure." (15 CCR Section 1083(i)).** More concerning is that the revocation of communication with attorneys as punishment is a clear violation of the 1st, 5th, 6th and 14th Amendments of the United States Constitution. Contrary to what most jail staff believe, "Loss-of-All" does not mean "Loss-Of-Counsel" or "Loss of Defense Team Contact". Communication with defense team is not a privilege, **it is a right.**

The High Cost Of Purchasing Permission From The Sheriff And Global Tel Link To Communicate:

L) To even access the system, the recipient of a complainant's call must pay a fee of about $30.00 to set up an account, pay fees that amount to as high as several dollars per minute, and pay a fee of $8.75 to obtain the one time privilege to load funds that will be applied to actual calling costs. According to a October 27, 2015 Orange County Register article, "Calls from Orange County Jails inmates to family and friends just became cheaper

because of new regulations passed by Federal Communications Commission (FCC) to reduce sky-high phone rates charged at many U.S. lockups." Greg Boston, the former Sheriff's department director of inmate service is quoted stating, "the new [GTL] fees must begin within 90 days." **It wasn't until 8 months later that a change resulted in local and statewide calls costing complainant's call recipients somewhere between $2.00 to $5.00 more than before (for the same call duration of 45 minutes).** That change occurred on or about June 15, 2016, and has raised general tensions between the public and police. As previously noted, the $8.75 fee is charged each time money is added to a number, and the full cost of a 45 minute call is charged even if the GTL system disconnects after a few minutes, (a fairly frequent occurrence) or disconnection is forced prematurely by deputies simply shutting off the phones arbitrarily in retaliation or dislike of complainant (who files grievances) or by interruption of dayroom such as, for daily counts, maintenance, medicine calls, meals, etc. These examples, although program related, are often used by deputies to disconnect phone calls of individuals they dislike. Documenting these events meaningfully is made impossible because **GTL refuses to provide an itemized statement of charges, call dates, times placed, minutes elapsed, etc.** In the Register article references above, it was noted that the Orange County Sheriff receives the vast majority of the amount collected by GTL, with Sheriff's so called "commissions" producing about $4,300,000 yearly. As one can see, the jails get paid generously when its deputies make the decision to disconnect inmate and detainee phone calls, because they know reconnecting will be attempted soon after disconnection, when possible. Furthermore, the Sheriff claims this money is spent on programs (such as english classes for the 40% Hispanic population and other educational programs), and salaries for deputies who monitor inmates and detainees in cells (most, including complainant go months without being offered access to church services, and those that are offered, are sometimes inappropriate, such as Catholic Services in Spanish to English speaking Protestants.) **Similar to paying fines, these telephone charges function as a form of punishment upon complainant and his family and friends. Hundred of dollars monthly must be spent just to purchase permission to lift communication barriers for telephone access.** For some of the complainant's loved ones, they must choose between basic necessities and communicating with complainant in his support. By contract, 97% of Global Tel Link's call charge revenue is related to the Sheriff, with only 3% remaining with Global Tel Link. Greed is a factor.

Reasonable Access To Bail Bondsman Obstructed:

M) Communicating with bail bondsman is limited to the small number of them that are willing to accept paying hefty GTL fees to connect directly with an complainant, rather than a family member or friend calling on behalf of the arrestee. This helped ruin

complainant's opportunity of negotiating bail, successful bail negotiation, and encouraged violations of California Code Regulation 2068, California Insurance Code 1814.

OBSTRUCTED INVADED ATTORNEY - CLIENT VISITATION (Part 3)

There are **two types of visits at Orange County jails,** Non-Contact Visits and Contact Visits. Each style of visit setup has at all times forced upon complainant the three absurd communication options explained in **Part 1A** of this complaint. "Restricted" (R-3) and "Protective Custody" (PCM, PCS & PCO) classified detainees/inmates (and approximately 30% of the general population) experience significant and unreasonable communication barriers in all types of visits with defense teams.

1. **Non-Contact Visting** (Theo Lacy Facility & Intake and Release Center at the Central Main Jail Complex): Non-Contact Visits comprise the vast majority of all attorney visits, and occur in booths where **the parties are completely separated** by heavy glass partition. Communication is by blanket recorded telephone that can be monitored by the deputies assigned to the module (cellblock) where the visit occurs. The Non-Contact visiting booths are open on the side where the complainant sits, which allows other visiting inmates and deputies in the area below the visitation booths to clearly over-hear the inmate's side of the conversation. Behind complainant's back in a non-contact visit is a dimly-lit guard station. The interior resembles a high-tech recording studio with large sound boards, 100's of flashing LED's; ¼" sound cables, levers, flatscreens, binoculars, high-tech headphones and inmate conversations sounding from within periodically. The few non-contact visiting booths that have doors (two of nine booths in most modules) do not have any sound insulation, **encouraging complainant to accept a false sense of security** when his side of the conversation is readily overheard by anyone on the inmate/detainee side of the thick glass. These two booths with doors have wall mounted intercoms inside on the visitor side of the glass which are active. In total, several privacy breach points exist on both sides of the glass wedge (driven between complainant and counsel by the sheriff) which extend beyond the Non- Contact "telephone visit" blanket recording invasion itself.

Deceptive, Conflicting and Absent Non-Contact Visit Notification: The Sheriff's strategic use of deceptive and conflicting Non-Contact visit recording and monitoring "NOTICE" postings — in combination with **no notification** posted (of the same) — has at all times forced an unconstitutional and damaging chilling (terrifying) effect upon complainant's interactions with counsel (et al). Example of notification conflicts:

1. "NOTICE: Public Visiting Telephone Calls May Be Recorded And Monitored."

2. "NOTICE: Visitors and Inmates In This Area Are Being Monitored and Recorded On Video And Audio Tape."

3. Regularly Conflicting Verbal Notifications Given By Orange County Jail Staff.

4. No Notification Posted.

Visiting attorneys and their staff (investigators, paralegals etc.) have warned complainant to be cautious about revealing defense strategy in Non-Contact visits, which has an obvious **chilling effect** on the complainant's right to communicate facts and participate in his own defense. **During complainant's Non-Contact visits, there is no privacy and there is no assurance of privacy. Periodically staff will deny non-contact visits and not bother to inform complainant. Confidentiality with counsel is completely disrespected during all Non-Contact visits.**

2. CONTACT VISITING (Theo Lacy Facility & Central Main Jail at the Central Jail Complex): Contact visits are not available for inmates with the above classification with the exception of attorney visits, and then only with arbitrarily required court orders (which are time consuming for attorneys to obtain). Attorney's who have court orders may have Contact Visits, but they must wait longer for complainant to be escorted to the contact visiting area, and at Theo Lacy jail, complainant's Contact Visits with counsel occur in booths with only half-separators of glass, **but microphones embedded within long black boxes are mounted right in front of parties torsos on both sides.** These black boxes are always activated during visits as they emit static sounds periodically, and deputies monitoring these visits force the removal of any clothing that the attorney or complainant may try to use to cover them. Wait times for contact visits often exceed an hour and have been as long as 3-4 hours in complainant's case. **FURTHERMORE, THE CONTACT VISITING AREA IS CLOSED TO ATTORNEY'S VISITS AT THEO LACY ON FRIDAY THROUGH INCLUDING MONDAY EFFECTIVE JANUARY 8TH, 2016** (which corresponds to all the days an attorney would typically not be in trial and would have an opening in their schedules to visit complainant.) **CONTACT VISITS WITH COUNSEL ARE STRONGLY DISCOURAGED BY THE ORANGE COUNTY SHERIFF.**

The Contact Visiting area at Main Jail in the Central Jail Complex (CJX, Santa Ana) is also completely un-private and therefore unconstitutional. The area consists of five very thinly "enclosed" booths (A-E) which are connected to each other in a row by large yet very thin plexiglass panels all the way around each booth. Additionally, each booth is equipped

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with a listening device wired to the guard station. Deputies communicate with complainant in these booths using each booths listening device inside the booths, and a and loudspeaker which is outside of the booths. Deputies never advise that the listening device is deactivated for visiting. Complainant sitting in one booth can easily overhear conversations in not only the neighboring booth(s), but the second and even third booth away. Thanks to the large thin plexiglass separators, occupants in a neighboring booth cannot only hear their neighbors clearly, they can mingle and look at each other (and their materials) as if the silly "partitions" were not even there. For years Orange County Sheriff's Jailers have placed complainant into these booths next to occupied booths, when in fact the option remained available throughout the visits to space occupied booths apart from each other (the same occurs routinely at Theo Lacy). Many times this occurred when only one person was occupying complainant's neighboring booth — a situation where that individual has no option not to completely invade the defense camp, because he or she is not conversing with a visitor and has no option but to sit and be bombarded with clearly intelligible privileged and confidential defense camp communications (this problem has also plagued complainant on and off for years at Theo Lacy). All these factors have had severe negative impact on complainant's right to counsel, including in addition to calculated and long term off-record retaliation by jailers in return for peacefully seeking remedy to these issues. Complainant was issued approximately 20 days in disciplinary isolation for simply exposing confidentiality issues (re: attorney visits) using the grievance system according to jails rules. **Orange County Sheriff jail rules are purposely constructed so vaguely, they can be arbitrarily interpreted to mean or prohibit almost anything. Staff takes full advantage of this when it comes to retaliation. AS OF JANUARY 5TH, 2018 THERE ARE NO JAIL RULES, ALL POSTINGS HAVE BEEN REMOVED AND ARE NOT AVAILABLE UPON REQUEST.**

AGGRESSIVE RELENTLESS LEGAL DOCUMENT ATTACKS (Part 4)

The Orange County Sheriff's Department has embarked on a prolonged pattern of aggressively harassing complainant during his near five year incarceration which has violated his 6th Amendment rights to access the Court and Counsel. As a member of the prosecution team who withheld evidence and created false evidence to have complainant's case, the Sheriff has used it's intentionally vague jail operating policies and lack of record keeping [8] regarding cell "searches" as a cover to persistently data-mine, steal and utterly

[8] In a scathing June 2017 ACLU report criticizing the Orange County Sheriff's jail operation as "unconstitutional", the report points out that a California Public Records Act response claimed the Orange County Sheriff" does not keep statistics responsive to the number of searches conducted annually from 2010 to 2016." (see ACLU report section 4, "searches").

terrorize complainant's privileged legal documentation and fair opportunity to be and stay organized, and to effectively assist in his defense (whether represented by counsel or self-represented).

In Cell Attacks On Defense: Complainant has suffered over 75 destructive legal document attacks where members of the prosecution team [9] raid his cell and hopelessly separate 1000's of his individual privileged legal documents by intentionally dumping them and mixing them in the process of kicking and stomping on them recklessly. Liquids such as coffee and Orange Juice are often splashed onto the heaps of complainant's legal documentation left behind by Sheriff's deputies as nothing more than trash. Usually before complainant is even allowed to return to see the defense of his life left purposely mangled (obstructed, disrupted, invaded) on the ground, inmate workers of adverse classfication surround the aftermath with large trash bags deciding what should stay and what should go. Complainant is never allowed to inspect the filled trash bags that leave the scene of these repeatedly executed and reckless acts of war on his defense.

Attacks On The Defense While In Transit: Before the Department of Justice launched its investigation of OCSD and OCDA on December 15th, 2016, Sheriff's deputies had a special routine for complainant who they often ridiculed as a "jailhouse" lawyer. They would remove any organizational items (including cardboard notepad backings that held notepad pages and ledgers together) used to group complainant's legal documentation in a useful order. Then while rummaging through reading his privileged documents arbitrarily, they would make sure to shuffle them up before smashing them back into complainant's folder. This occurred regularly to and from court, chow hall, official visits and even in the so called "dayroom". Many times complainant was forced to sit with his legs crossed, on the ground and facing the wall while these so called "searches" went on at the hands of those responsible for investigating complainant's case.

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[9] In every prosecution there exists an entity that the courts call the "prosecution team" and "includes both investigative and prosecutorial personnel," (In re Brown 17 Cal. 4th 873, 879, 72 Cal. Rptr. 2d 698, 952 P. 2d 715 (1998)). The prosecutor has a duty to search and inquire within the "prosecution team" to locate exculpatory evidence. "[T]he individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including police" (Kyles v. Whitley, 514 U.S. 419, 437-438, 115 S.ct. 1555, 131 L. Ed 2d 490 (1995)). This includes law enforcement agencies located in other jurisdictions and outside administrative agencies which participated in the investigation. (Strickler v. Greene, 527 U.S. 263, 119 S.ct. 1936, 144 L. Ed. 2d (1999)); People v. Superior Court 80 Cal. App. 4th 1305, 1315, 96 Cal. Rptr. 2d 264 (2000)). The discovery statutes underscore the concept of a prosecution team by authorizing the defendant to demand discovery from the prosecuting attorney, the law enforcement agencies that prepared the case and any other person or agency the prosecuting or investigating agency employed (Pen C §1054.5(a)).

The Orange County Sheriff's relentless attacks on complainant's legal documents are more than just another example of the Department's complete disregard for the attorney-client privilege; destroying complainant's ability to effectively prepare and assist in his defense has clearly been the official goal paralleling the scouring of his privileged documents for information. On Wednesday, July 5th, 2017, Sheriff Sandra Hutchens testified that, "[she] wouldn't be surprised that [her] Sergeants would be evaluating deputies on their ability to get information."

RECKLESS PRETRIAL ISOLATION SCHEDULE (Part 5)

Complainant is housed in cells with "restricted" (R-3) or "protective custody" (PCS, PCM or PCO) classified detainees / inmates and is limited to only one hour or less of "dayroom" access per 23 to 40 hour interval. Complainant has been forced to cope with the oppressive schedule for nearly five years while at the same time attempting to prepare a defense with counsel. Such isolation periods are punishing, cruel and have substantially damaged his defense (forced ineffective counsel), his health and well being, and his supportive relationships.

In addition to the oppressive isolation schedule, **dayroom is the complainant's only access** to a telephone (which is loaded with unreasonable connection barriers), to a shower (which inmates and detainees don't want to clean because doing so shortens their dayroom), to a pencil sharpener (which is in disrepair at all times and is supposed to support the daily written communication needs about of 96 people, and requires waving down a deputy to get to its location outside the dayroom), to hot water (which also requires getting to a location outside the dayroom), to Law Library Request forms / Inmates Messages Slips and Grievance forms (which also requires getting to a location outside the dayroom where forms are regularly out of stock), and others discussed later herein.

Whether it was complainant seeking to prepare a meaningful defense before trial, *or complainant* seeking to meaningfully prepare with counsel post trial motions, complainant is suffering a variety of substantial Constitutional rights violations that **stem from the dayroom time limit**, and what cannot be accomplished from a dayroom once it is reached. The issues are not only violating complainants most important constitutional rights, **they are of moral concern**. The result is that complainant's defense preparations have and continue to be unfairly suppressed and run a ground by unreasonable jail operation policies and practices.

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Dayroom Scheduling: One hour dayrooms are allocated to a maximum_of four people (from two cells) in a daily rotation between 16 different cells. The result is eight dayrooms per day. The 1st dayroom begins at 6:00am and the last at about 10:00pm. Those who have 1st dayroom end up rotated to last dayroom (8th) the next day, thus the 40 hour isolation interval occurs once a week. A group that has 8th dayroom will have 7th the next day, 6th the next, and soon down to 1st. Besides the 40 hour interval once a week, all other intervals without relief are 23 to 35 hours unpredictably (**ending opportunity to schedule phone appointments even one day in advance**). But if housed at the Central Jail Complex's (CJX) Intake and Release Center (IRC), dayroom rotation is completely erratic therefore exacerbating the already intensely punishing situation.

On a daily basis, jail staff merges "dayroom" with a different activity called, "dayroom cleanup". The result is that 1st dayroom is never one hour, it is approximately only 30 minutes. **That translates to only about 30 minutes of dayroom (at 6:00am) within a 63 hour isolation period**. Complainant is not constitutionally responsible for cleaning the facility dayroom areas. Even if he were, clean up time does not constitute dayroom time. Merging the two also greatly reduces the sanitation quality of the entire module because cleaning is rushed in place of trying to get the phones, T.V. and showering etc. started before dayroom is already close to end (1st dayroom is supposed to clean their cells and a dayroom consisting of usually 2 showers, 8 tables, 3-4 telephones - while also sweeping and then mopping up and downstairs. Cleaning supplies are only available during 1st dayroom). It's not that inmates and detainees necessarily object to cleaning the facility, it's that cleaning time is not dayroom time, therefore jailers should not merge the two – especially given that dayroom time is the time when one must be mentally prepared and with necessary documents and notepad in hope of reaching outside support such as defense attorney, etc.

Because dayroom is the only time complainant can exercise various constitutional rights, one hour in the dayroom is insufficient time to exercise such rights, period. Examples of complainant's rights being violated are: The 6th Amendment right to counsel and its right to a reasonable opportunity to seek, screen, and receive the assistance of one or more attorneys and other defense service providers of choice. The 1st Amendment right to freedom of association with non-attorney support such as family and friends. The right of Access To the Courts and the 1st, 6th, and 14th Amendments which require complainant be provided unrestrained writing opportunity to petition government and seek redress of grievances, and to communicate with counsel, family, friends and other forms of defending one's life and liberty, Freedom to avoid cruel and unusual punishment by getting reasonable opportunities to shower, etc..

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Moreover, complainant's one hour dayrooms are many times interrupted and therefore split into 2 to 5 separate time periods, further impinging on complainant's rights. For example, since at least between November 15, 2012 and June 15, 2016, the recipient of complainant's local calls are charged a flat fee around $8.00 for a 45 minute call, which is incurred each time the call is placed regardless of call duration. If staff splits dayroom even once, the cost to complete the same amount of phone time as can be completed without a split dayroom, **is doubled**. Jailer's never allow complainant to know how long the dayroom interruptions may be, therefore it's impossible to know whether or not to end a call or inform the call recipient to hold while the phone hangs in the dayroom connected.

Complainant's dayroom activities necessarily include but are not limited to: trying to get the telephones turned on by waiving down deputies through very dark tinted glass from 30' away (use of the available intercom in the dayroom to place request is not allowed); Using the phone to contact someone who might be able to try, find and convince reputable defense service providers (including attorneys) to visit complainant at the jail for possible retainer; trying to use the phone to raise funds via family and friends as needs for initial or replacement counsel and other defense service providers present themselves; trying to use the phone to make progress in the preparation of a defense with attorney of record; trying to use the phones to seek, screen and receive the assistance of initial or replacement defense service providers such as investigators, psychologists, expert witnesses, paralegals, legal runners, copy making services, etc (of personal choice), and attorneys (of personal choice); trying to use the phones to communicate with family and friends about issues and decision making related to choosing and retaining attorneys, etc., and to communicate with the same concerning personal, familial, religious, financial, and personal or family business matters and decision making (all of which the Constitution guarantees complainant a reasonable opportunity to, on a continued basis); Sharing legal documents and research with other inmates and detainees or otherwise associating socially to stay healthy and engaged *(there is no physical law library access for those with "restricted" or "protective custody" classifications - complainant must somehow know the citation to the desired document. Use of message slips (one request per slip) to access law library is currently comparable to running one online search and having to wait 3 months for one response, which may not even return a response at all, unless complainant's query was accurate to the letter and number of the case law citation, yet it is a mystery how complainant is supposed to meet such a rigid requirement without some type of directory of case law citations to start with).* Walking around the dayroom and treading the stairs for exercise; Using the hair clippers without access to a mirror or any attachments, resulting in choosing between bald or unkempt (hair clipper use for pretrial detainees from at least between approximately November 2012 and June 2015 was nearly completely unavailable); attempting to sharpen a pencil and get hot water by waiving a deputy down,

accessing a newspaper (not allowed in cell), book exchanging, etc. **Even if the function of the dayroom phones and other facilities were able to be used without unreasonable obstructions, invasions and burdens, one hour or less time in the dayroom would still be clearly insufficient for complainant to carry out necessary daily dayroom activities adequately, meaningfully, and effectively. Therefore, complainant's Due Process is violated.**

LEGAL RUNNER, NOTARY & PRIVATE INVESTIGATOR ACCESS (Part 6)

Inmates and detainees both have a Constitutional right to access a Legal Runner, Law Clerk, or Notary while in custody, yet visits from these vital defense preparation assistants are routinely denied arbitrarily with reasons such as, "too many legal documents" (30 pages), "your runner looked shady (professional with college degree, married with children)","the complainant is being disciplined and cannot have visits, etc." Denials occur despite of the individual having a valid security clearance on file with the Sheriff and Court order indicating case number, and name of the individual visitor. Filing grievances about these denials (although required by the Prison Litigation Reform Act in order to seek remedy and compensation for damages) routinely produces retaliation by jail staff which usually translates into the issuance of "Major Rule Violations" (major write-ups), resulting in loss of family visiting privileges, commissary, access to the telephone, and disciplinary isolation for weeks or months at a time. Published information on how to obtain security clearance, or understand the official visiting rules do not seem to be readily available. The Sheriff absolutely forbid complainant from accessing notary and legal runner services in 2012, 2013 and 2014.

THE INTENTIONALLY BROKEN ORANGE COUNTY JAIL GRIEVANCE SYSTEM (Part 7)

The Office Of Independent Review: The Orange County Office of Independent Review (O.I.R.) was defunded and or abolished circa late 2015 over concerns of ineffectiveness, apparent conflicting interests and cost (around a time when salaries for Orange County jailers were being increased). The O.I.R. provided a critically important service to the incarcerated — the monitoring of jail staff in their handling of jailhouse grievances. Candidly, once the O.I.R. logged an inmate/detainee grievance into their tracking software, the psychologically draining and oppressive ruse jailers routinely make out of the grievance system, would become somewhat diminished. Therefore, with the O.I.R. it was

not **absolutely impossible** to get a grievance up the chain of command as it has always been AT ALL OTHER TIMES. But there were at least four significant problems:

1. The O.I.R was not setup to automatically log and begin tracking the handling of a grievance upon its submission. The complainant would have to call or write to the O.I.R. and request the grievance be entered into their system.

2. Complainant had no idea the office even existed or that a service was even available that could slightly stunt the complete and utter madness of unmonitored Orange County Jailer grievance handling.

3. The attorney(s) actively running O.I.R. had an attorney - client relationship with the Sheriff (duplicating the 'fox guarding the hen-house' situation already in place where jailers are in charge of handling, investigating and processing complainant grievances).

4. The Sheriff's approved Global Tel Link telephone system *blanket recorded any and all communication* inmates/detainees made to the office (if by chance one learned it existed, what it was for and what its telephone number was).

The O.I.R. was reportedly created after Orange County jailers initiated, if not intentionally allowed (see People v. Guillen (2014) 227 Cal. App. 4th 934, 1007) the fatal beating and torture of one of its inmates. **Since the O.I.R. was put away, no alternative safeguard has been made available to the incarcerated, yet even if it had, would anyone who needed it get to know about it?** The O.I.R. phone number can no longer be reached from the dayroom. Complainant only learned about the O.I.R. by accident soon before it was shut down. A deputy sexually assaulted / humiliated complainant (finger forced to anus thru clothing causing complainant to jump and shout in pain while pinned to a wall by deputy PETTIT and SPRAUGE of IRC **while being cursed at to stop filing grievances**). Complainant at his first opportunity called the jail's sexual assault hotline number posted in a "Break The Silence" transparency (8.5" x 11") in a dayroom. Nobody answered. Complainant called several more times with no answer. Returning to the transparency to check the number, complainant noticed a phone number printed small near the giant print sexual assault hotline number. Upon calling the diminutive number, complainant became aware of the O.I.R. by accident.

The Illusive And Intentionally Broken Orange County Jail Grievance System:
The jail purportedly affords inmates and detainees a grievance system in which a sergeant

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reviews and is supposed to respond to an inmate/detainee grievance form, with an appeal to a Lieutenant available. The system is governed by Jail Rule 1600.5, which gives examples of subjects about which inmates may grieve (medical, classification, programs, telephones, mail, visitation, food, clothing/bedding, and disability discrimination), but makes it clear that grievances are not limited to these subjects. According to the rule, when an complainant requests a grievance form, jail staff are to provide it as soon as practicable, but in no event by the end of the shift. *See* [10]. Grievance forms are supposed to be copied and provided to the inmate, along with a receipt by the staff who gets it. The grievance (original) goes into a locked box and is picked up by the next shift sergeant. These boxes are on the wall in a lobby-type area visible from the cell-blocks ("sectors") or on dorm walls. Inmates/detainees in cells have access to the boxes when passing through the lobby area ("the beach" according to deputies).

In practice, copies of completed grievances are never provided to inmates or detainees. The only method of submitting grievances is making certain that they get in the lock box, although that does not necessarily mean that the complainant will receive any response. Many grievances that are placed in the lockbox are never responded to at all. If a receipt is issued-which apparently means that the sergeant who removed it from the lockbox had the grievance scanned into the system - the complainant will receive it days later. If no receipt issues, usually the grievance is never responded to. Once in awhile, the only response will be a semi-substantive response to the grievance.

When complainant's grievances are not placed in the trash by jailers, many sergeants will either call the inmate out of his living quarters to discuss it, or do it over the intercom. In the vast majority of cases, this is only response the inmate will receive, and the grievance is effectively denied. Sometimes the sergeant will give the grievances to the line deputy and have the rejection delivered without ever contacting the complainant. In most cases of oral or spoken disposition (closing out the issue verbally), the complainant never sees his grievance again. Once in a great while, sergeants will respond to a grievance by checking off a box at the bottom of the complainants grievance form which states, "Handled As Inmate Request". Usually that request is refused, or the sergeant agrees to do it later but

[10] **The different jail facilities have different ways of frustrating an inmate or detainees attempts to get a grievance heard. At the IRC (Intake and Release Center), requests to jail staff for grievance forms are routinely ignored, regardless of whether they are oral or written. At Theo Lacy, grievance forms are plentiful and readily available on top of the grievance submission lockbox, but most are simply ignored after submission. The later method is especially effective, as the inmate gets the clear message that his completing a grievance is a wasted effort. Also, deputies (who do not want to be the subject of a grievance because they will end up in the deputy's personnel file if properly processed) will tell inmates that they "draw attention" to themselves and their living quarters by submitting grievances. Retaliation follows; see fn. 3, infra.**

the complainant never sees his completed grievance again, unless he can persuade the sergeant holding the copy to give up that copy.

If the grievance is actually scanned into the grievance system, the processing sergeant briefly summarizes the grievance as part of the receipt-issuing process. These "summaries" almost always misrepresent the grievance or omit critical facts, so that when the substantive denial issues later, the denial will appear justified. If a substantive response issues, it contains no date of issuance. The response may never be received, but if it is, usually weeks have passed since the grievance was submitted.

Under rule 1600.5, an appeal of a grievance must be made within a specified number of days (the rule is NOT posted in most living quarters, making it impossible to know the current version). *See* [11]. But grievance appeals are nearly impossible for two reasons. First, most sergeants, if asked, will say that there is no such thing as a grievance appeal. Some will agree to send the appeal to a Lieutenant, but tell the inmate that he should not expect a response. From March 2013 to July 2016, out of 24 appeals of grievances, one inmate received a response once. That was when he was able to get the name of a specific "administrative" Lieutenant, and he directed the appeal specifically to him. Putting grievance appeals in the lockbox almost never generates a response. The rule is silent as far as how appeals are to be submitted. The grievance rules are transparently designed to create the illusion of a functional system for airing grievances, that inmates must follow, to exhaust administrative remedies pre-suit (see, e.g., 42 U.S.C. Section 19083, the Federal Statute allowing civil rights suits to be made against State and Local officials and Private Contractors). But the reality is that the grievance process is illusory. Inmates and detainees almost always lose, and the chance of getting a grievance all the way through appeal with proper documentation of the outcome is effectively nil. **The risk of submitting a grievance is substantial.** Deputies, especially those with abusive attitudes, seek to avoid grievances that could (but unlikely to) impact their career, assignments, etc. Thus, they remain observant of complainant putting grievances in the lockbox, or they are told by Sergeants and other deputies, CSA's or CST's who is filing grievances. Retaliation for grievance filers is often case damaging and includes punitive, targeted cell "searches" in which legal documents, handwritten past grievance copies, and other property is either stolen, broken, flushed or covered with orange juice or coffee. Also, since deputies realize that all inmates and detainees who receive write-ups (for any alleged jail rule violation),

[11] An inmate usually has no way to access this rule if it is not posted in the living quarters. Although the rules may have been posted years ago, in most cases only fragments remain. Requests to law library for the rules - including disciplinary rules - are responded to with "see housing deputies." Housing or Module deputies do not and will not provide any such rules when asked.

will always be found guilty by their co-workers (via sham due-process hearings), staff retaliation in the form of continual major write up harassment is status normal. Major write up retaliation is a way for staff to quickly build a false and or extremely exaggerated negative record on anyone who dares to peacefully challenge the jails multitude of anti-defense preparation policies and other constitutional violations which are driving defenses and fair trial opportunity into the ground. Major write ups also include in the complainant file (called a "jacket") a report or statement of facts as to why the write up was supposedly issued. The inmate (detainee never gets to view that report and has no way of rebutting what was said). Judges access this information and deputies are aware their reporting has the power to do serious damage in this regard. AS OF JANUARY 5TH, 2018, THE ORANGE COUNTY SHERIFF HAS NO GRIEVANCE SYSTEM — ALL GRIEVANCE PROCEDURE DOCUMENTATION HAS BEEN REMOVED AND IS NOT AVAILABLE UPON INMATE / DETAINEE REQUEST. On Tuesday, March 31st, 2018, the Orange County Board of Supervisors took steps toward re-toward re-opening the Office of Independent Review under new lendership.

LAW LIBRARY (Part 8)

Although the Supreme Court in *Bounds v. Smith* (1977) 430 U.S. 817, 822, 97 S.Ct. 1491, held that prison authorities have affirmative obligation to "assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law", complainant who has a "restricted" or "protective custody" classification in the O.C. jails has **no physical access to law library** - instead the Sheriff operates a "paging system" of the type found unconstitutional in *Toussaint v. McCarthy* (9th Cir. 1990) 926, F.2d 800, 803-04.

Under the Sheriff's law library paging system, inmates and detainees must know the exact citation to the document or book requested, write it on an "inmate message slip" addressed to law library, and turn it in for collection Monday through Friday at 5:00am.

In general, courts have decided that physical access to the law library is required. *See* [12] Segregation inmates may be excluded from physical access on security grounds, but their

[12] *Toussaint v. McCarthy* (9th Cir. 1986) 801 F.2d 1080, 1108-10; *Green v. Ferrell* (5th Cir. 1986) 801 F.2d 765, 722; *Williams v. Leeke* (4th Cir. 1978) 584, F.2d 1339; *Wolfish v. Levi* (2d Cir. 1978) 573 F.2d 118, 33, reversed on the other grounds sub nom. *Bell v. Wolfish* (1979) 441 U.S. 520, 99 S.Ct. 1861; *Hooks v. Wainwrights* (M.D. Fla. 1982) reversed on other grounds, 775 F.2d 1433 (11th Cir. 1985).

court access rights must remain "**undiminished.**" [13]A number of decisions hold that if segregation inmates are denied physical access to the library, they must receive additional assistance - either a basic law library on the housing unit or assistance from legally trained persons. Complainant has filed this complaint several times with the Orange County Sheriff's Internal Affairs Unit (since August 2016). No response has ever been received. On June 9, 2017, prior to reprinting this complaint for another filing, a rare opportunity to speak with a staff member associated with "Law Library" occurred. The staff member who was delivering materials in a hurry was asked by complainant (at IRC, J-5-5) why his requests have returned no response in about 3 weeks time. The staff member said "if you are not pro per, expect 3 months for a response, we are 1,500 message behind [on processing]."

[14] Courts have also recognized that a "cell delivery" or "paging" system, by itself, does not provide adequate court access because prisoners who cannot visit the library will not know

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[13] *Peterkin v. Jeffes* (3d Cir. 1988) 855 F.2d 1021, 1038; see *Harris v. Thigpen* (11th Cir. 1991) 941 F.2d 1495, 1527 (segregated HIV positive prisoners retained court access rights); *Abdul-Akbar v. Watson* (D. Deli 1991) 755 F.Supp. 735, 748 (alternative to direct access "must be of at least equal caliber" to direct access).

[14] *Knop v. Johnson* (6th Cir. 1992) F.2d 996, 1005-08 (paralegal assistance required); Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800, 803-04 (provision of a separate library for administrative segregation inmates met constitutional standards); *Wood v. Housewright* (9th Cir. 1990) 900 F.2d 1332, 1335 (system of "satellite" libraries and inmate law clerks satisfied constitutional requirements); *DeMallory v. Cullen* (7th Cir. 1988) 855 F.2d 442, 447 (cell delivery system is adequate only when prisoners have "starter" or "basic" libraries or "assistance by trained, skilled and independent legal personnel"); *Toussaint v. McCarthy*, 801 F.2d at 1108-10 (documented security risks could be excluded from the library but must receive "research assistance" as well as cell delivery); *Campbell v. Miller* (7th Cir. 1986) 787 F.2d 1, 5-7 (satellite law library required in segregation unit); *Abdul-Akbar v. Watson* 775 F.Supp. at 752 ("an expanded paging system, if properly supplemented by real legal research assistance from paralegals and a library containing a full and updated set of digests or treatises from which citations may be located" could meet constitutional standards); *Gluth v. Kangas* (D.Arizona 1998) 733 F.Supp. 1309, 1311 (untrained inmate legal assistants did not provide adequate access), affirmed, 951 F.2d 1504 (9th Cir. 1991) *Griffin v. Coughlin* (N.D.N.Y. 1990) 743, F.Supp. 1006, 1019-25 (cell delivery system limited to two books a day, supplemented only by written communication with clerks, some of whom were untrained, was inadequate in protective custody unit); *Waston v. Norris* (M.D.Tenn. 1989) (protective custody inmates who had to depend on jailhouse lawyers who had sole discretion whether to help a particular inmate were denied adequate court access); *Tillery v. Owens* (W.D.Pa. 1989) 719 F.Supp. 1256, 1282-84, affirmed on other grounds, 907 F.2d 418 (3d Cir. 1990) (restrictive housing inmates who lacked physical access and had no assistance by legally trained persons were not provided adequate court access); *Reutcke v. Dahm* (D.Neb. 1988) 707 F.Supp. 1121, 1130 (where inmates are barred from physical access, "the state must provide research assistance in the form of persons trained in the law"); *Long v. Beyer* (D.N.J 1988) 676 F.Supp. 75, 76-77 (cell delivery system must be supplemented by access to inmate paralegals, a logging system and a deadline for delivery, or else a small library on the unit); *Kendrick v. Bland* (W.D.Ky. 1984) (access to attorneys and paralegals required); *Johnson v. Galli* (D.Nev. 1984) 596 F.Supp. 135, 138 (physical access or expert assistance required); *Knight v. Superior Court* (Ariz. App. 1989) 161 Ariz., 551, 779 P.2d 1290, 1293 ("paging" system is adequate for a criminal defendant only if "adequate advisory counsel assistance" is provided; a paralegal was adequate)

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what to ask for. [15] Circa September 20th, 2017, Law Library personnel again began refusing to collect Law Library request forms (paging slips) from inmates. Law Library personnel claim "the deputies need to track all the requests." This of course is yet another absurd and ongoing jailer invasion because it amounts to no less than forcing inmates to submit every legal research motivation, aim and goal to members of the prosecution team. The only time frame the absurd practice stopped was when the Department of Justice was actively investigating merited allegations that the Sheriff and District Attorney were illegally invading defense camps in other ways.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING ALLEGATIONS AND STATEMENTS ARE TRUE AND CORRECT, EXCEPT AS TO THOSE MATTERS THAT ARE STATED ON MY INFORMATION AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

Date Signed: Sept. 18, 2022

x _____
BRANDEN EDWARD SHUMATE

[15] Knop v. Jonson, 997 F.2d at 1006-07; *DeMallory v. Cullen*, 855 F.2d at 446-47; *Kaiser v. City of Sacramento* (E.D.Cal. 1992) 780 F.Supp. 1309, 1316; *Nolley v. County of Erie* (W.D.N.Y. 1991) 780 F.Supp. 48, 50; *Maillett v. Phinney* (D.Me.1990) 741 F.Supp. 288, 292; Johnson v. Galli, 596 F.Supp. at 138; *Martino v. Carey* (D.Or.1983) 563 F.Supp. 984, 1003-04; see *LaPlante v. Pepe*, 307 F.Supp.2d 219, 220-21 (D.Mass. 2004) (noting court's previous findings that excluding plaintiff from the law library and requiring him to designate needed materials by citation violated the right of court access).