



County of Orange

County Executive Office

August 23, 2022

Honorable Erick L. Larsh
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "How Independent is the Office of Independent Review?"

Dear Judge Larsh:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors and the County Executive Office.

If you have any questions, please contact Lala Oca Ragen of the County Executive Office at 714-834-7219.

Sincerely,

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
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c=US
Date: 2022.08.25 13:42:31 -07'00'

Frank Kim
County Executive Officer

Enclosure: Responses to Findings and Recommendations 2021-22 Grand Jury Report

cc: Orange County Grand Jury
Lilly Simmering, Deputy County Executive Officer
Lala Oca Ragen, Director, Performance Management and Policy
Elizabeth Guillen-Merchant, Director, Performance Management and Policy



Responses to Findings and Recommendations
2021-22 Grand Jury Report:

“How Independent is the Office of Independent Review?”

SUMMARY RESPONSE STATEMENT:

On June 30, 2022, the Grand Jury released a report entitled “How Independent is the Office of Independent Review?” This report directed responses to findings and recommendations to the Orange County Board of Supervisors. The responses are below:

FINDINGS AND RESPONSES:

- F1. The Orange County Sheriff's Department reacted to the Office of Independent Review's Investigation of OCSD Use of Force Policies and Practices report by publicly and privately lobbying the OC Board of Supervisors to discount the findings of said report.

Response: *Disagree wholly with the finding.* Sheriff Barnes stated in his letter to the Presiding Judge dated July 6, 2022, that he did not lobby the OC Board of Supervisors to discount the findings in the report. The Board received a copy of the August 21, 2021, letter from Sheriff Barnes regarding his perspective and concerns about the Review of Use of Force Policies and Practices Report by the OIR.

- F2. A prominent member of the BOS reacted to the OCSD's dispute with the findings of the Investigation of OCSD Use of Force Policies and Practices by unilaterally directing the office of the Orange County CEO to initiate a hiring freeze despite a previously budgeted OIR staff expansion.

Response: *Disagree wholly with the finding.* The CEO put a pause on the recruitment process for the two new positions for the OIR. The Board of Supervisors, County Executive Office, and Office of Independent Review discussed general work practices of the OIR as guided by the ordinance. Once those discussions were completed, the selection interviews resumed, and two OIR staff were hired. A budgetary hiring freeze was not placed on those positions.

F3. The hiring freeze, following so closely to the publication of the OIR report and the OCSD's objections, precipitated the viewpoint that the independence of the OIR was marginalized.

Response: *Disagree wholly with the finding.* A hiring freeze is a budgetary action taken when necessary to address concerns with the budget. A hiring freeze was not put in place for the positions referenced. Please see response to F2. At no time did the County marginalize the OIR. The County is not aware of and therefore unable to respond to the assertion by the Grand Jury as to any alleged "viewpoint" regarding that the independence of the OIR was marginalized at any time.

F4. Until the BOS appoints an Executive Director with sufficient staffing, OIR is limited in its ability to investigate complaints and challenges to ongoing investigations and those in the planning stages.

Response: *Disagree wholly with the finding.* After the resignation of Sergio Perez, the Board of Supervisors initiated a recruitment for a new director and hired an interim director to ensure that the OIR can continue to investigate complaints and challenges to ongoing investigations. The County believes that the current staffing is sufficient for the workload. If the workload changes, the staffing will be reviewed at that time.

RECOMMENDATIONS AND RESPONSES:

R1. The BOS should appoint a qualified Executive Director so that the OIR can respond to complaints it receives and continue with its investigations, both ongoing and in the planning stages. (F4)

Response: *The recommendation has not yet been implemented but will be implemented in the future.* After the resignation of Sergio Perez, the Board of Supervisors initiated a recruitment for a new director and hired an interim director to ensure that the OIR can continue to investigate complaints and challenges to ongoing investigations and those in the planning stages. The recruitment has closed and applications are being reviewed.

R2. By October 1, 2022, the BOS should approve the number of staff for the OIR that the Executive Director "recommends are necessary" in accordance with OCCO Section 1-2- 226. (F3, F4)

Response: *The recommendation has already been implemented.* The County Executive Office already works with all departments on an ongoing basis to determine necessary staffing levels and associated positions and allocates them accordingly through the budget process.

R3. By October 1, 2022, to maintain the integrity and independence of the OIR, the BOS should adopt a policy that requires all members of the BOS to publicly vote on any alteration to the OIR budget. (F1, F2)

Response: *The recommendation has already been implemented.* The County already has a policy by which members of the Board publicly vote on any alterations to the County budget, including the OIR budget. The County had this policy in place well before the Grand Jury made this recommendation.