



County of Orange

County Executive Office

August 25, 2015

Honorable Glenda Sanders
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "Orange County Sheriff Medical Insurance: County Failures in Negotiation, Documentation, Oversight, and Transparency"

Dear Judge Sanders:

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 Jessica O'Hare of the County Executive Office at 714-834-7250.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank Kim".

Frank Kim
County Executive Officer

Enclosure

cc: FY 2014-15 Orange County Grand Jury Foreman
Mark Denny, Chief Operating Officer, County Executive Office
Jessica O'Hare, Assistant to the COO, County Executive Office



Responses to Findings and Recommendations
2014-15 Grand Jury Report:

*“Orange County Sheriff Medical Insurance: County Failures in Negotiation,
Documentation, Oversight, and Transparency”*

SUMMARY RESPONSE STATEMENT:

On June 30, 2015, the Grand Jury released a report entitled: “Orange County Sheriff Medical Insurance: County Failures in Negotiation, Documentation, Oversight, and Transparency.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors and the County Executive Officer. The combined County of Orange response is included below.

FINDINGS AND RESPONSES:

F.1. Numerous provisions contained in the Memorandum of Understanding are ambiguous as they relate to medical insurance coverage for Association of Orange County Deputy Sheriffs active and retiree members.

Response: Disagrees partially with the finding. The County agrees that some MOU provisions in this area are ambiguous.

F.2. There are no limitations in the Memorandum of Understanding on how the Association of Orange County Deputy Sheriffs Trust’s reserves are to be used, what should be done if the reserve is over-funded, or what would happen to the funds in the Blue Cross Stabilization Fund when the agreement between the Association of Orange County Deputy Sheriffs Trust and Blue Cross is terminated.

Response: Agrees with the finding.

F.3. The County has not insisted that the Association of Orange County Deputy Sheriffs Trust have a formal anti-fraud program, accounting policy and procedure manuals, or disaster recovery plan.

Response: Agrees with the finding.

F.4. The jointly retained auditor selection process does not guarantee that the three auditor candidates are qualified, willing to do the work if selected, and will actually do the work if selected.

Response: Agrees with the finding.

F.5. The Association of Orange County Deputy Sheriffs Trust has subsidized retirees' health benefits.

Response: Disagrees partially with the finding.

The Trust is comprised of contributions from both the County, and eligible employees. Whether or not the retiree health benefits are subsidized with County contributions or AOCDS member contributions to the Trust is unclear.

F.6. Contrary to the terms of the Memorandum of Understanding, Association of Orange County Deputy Sheriffs employees are receiving health care coverage from the Association of Orange County Deputy Sheriffs Trust.

Response: Agrees with the finding.

F.7. Auditors have noted a number of internal control deficiencies related to the Association of Orange County Deputy Sheriffs Trust.

Response: Agrees with the finding.

F.8. Allowing only one Reserve study and one Administrative fee study during the entire term of the Memorandum of Understanding is inadequate.

Response: Disagrees partially with the finding.

Recent contracts with AOCDS have been for three years or less. Further analysis is required to determine what value, if any, receiving multiple reports during such short term deals will provide the County.

F.9. There is a general lack of transparency in the Memorandum of Understanding negotiation and approval process.

Response: Disagrees partially with the finding.

The County has addressed this concern through the adoption of the Civic Openness In Negotiations (COIN) ordinance last year.

RECOMMENDATIONS AND RESPONSES:

R.1. The County should retain a qualified, experienced, and independent negotiator to assist in the next negotiations between Orange County and the Association of Orange County Deputy Sheriffs and require that entity to prepare an internally consistent Memorandum of Understanding that, for example, makes it clear whether the Orange County contributions are to be used only for active employees. (F.1.)

Response: The recommendation has been implemented.

The County has contracted with the law firm Liebert Cassidy Whitmore to provide lead negotiation services on successor MOUs with each of the County's bargaining associations. The County will pursue addressing any ambiguities in the AOCDS MOU as part of the negotiations for a successor MOU once the current contract with AOCDS expires in June 2016.

R2. The County should retain a qualified, experienced, and independent negotiator to incorporate clear terms in the Memorandum of Understanding that define limitations on the use of Orange County contributions that become reserve funds, specify how to deal with over-funding, and resolve what is to become of the funds in the Premium Stabilization Fund if the Trust's agreement with Blue Cross is terminated. (F.2.)

Response: The recommendation has been implemented.

The County has contracted with the law firm Liebert Cassidy Whitmore to provide lead negotiation services on successor MOUs with each of the County's bargaining associations. The County will pursue addressing these concerns as part of the negotiations for a successor MOU with AOCDS. The current AOCDS contract expires in June 2016.

R3. The County should ensure that an anti-fraud program, accounting policies and procedures manuals, and a disaster recovery plan are developed, implemented, and maintained by the Association of Orange County Deputy Sheriffs Trust. (F.3.)

Response: The recommendation requires further analysis.

The County reviews the annual audit reports and findings related to the Trust and has worked with AOCDS regarding compliance with the Trust elements currently identified in the MOU. The County cannot unilaterally implement such a change without first negotiating with AOCDS. The current contract with AOCDS expires in June 2016 and successor negotiations will occur in approximately March 2016.

R4. The County should require the County and the Association of Orange County Deputy Sheriffs Trust to have each of the three-candidate auditor firms sign a firm commitment that the nominees meet specified qualifications, want the business, and will do the business, if selected. (F.4.)

Response: The recommendation has not yet been implemented but will be implemented in the future.

On July 23, 2015 the County instructed AOCDS to have each of the three candidate auditor firms sign a firm commitment that they meet the qualifications, want the business, and will do the business if selected for the 2014/2015 Fiscal Year Trust Audit.

R5. If the County is convinced that Sheriff retirees should not be benefiting from monthly County contributions to the Trust, the County should seek reimbursement from the Association of Orange County Deputy Sheriffs Trust for funds that the County believes are inappropriately used, e.g., Trust funds used to subsidize retirees medical insurance premiums. (F.5)

Response: The recommendation requires further analysis.

The Trust is comprised of contributions from both the County and eligible employees. It is not clear that AOCDS retirees are benefiting from County contributions to the Trust. The County will pursue greater transparency into the contributions and uses of the Trust as part of negotiations for a successor MOU in approximately March 2016.

R6. The County should seek reimbursement from the Association of Orange County Deputy Sheriffs Trust for funds that the County believes are inappropriately used, e.g., Trust funds used to pay for Association of Orange County Deputy Sheriffs employees' medical insurance. (F.6)

Response: The recommendation requires further analysis.

There is confirmation that AOCDS employees are receiving health care coverage through the AOCDS Trust health plans; however, the County is unable to determine if Trust funds were used to pay for the coverage. On June 15, 2015 Human Resource Services (HRS) formally requested that AOCDS provide detailed

information pertaining to its employees enrolled in the Trust health plans. During a meeting with HRS on July 23, 2015 AOCDS verbally identified that they have seven employees and four retirees enrolled but stated that AOCDS is paying 100% of the premium and the coverage is not being paid for by the Trust. AOCDS does not agree that these employees are ineligible for coverage under the Trust plans and has requested the County identify a list of concerns related to this practice so the AOCDS Board may consider the issue. The results and recommendations will be reported to the CEO no later than December 2015.

R7. The County should seek to include terms in the next Orange County and Association of Orange County Deputy Sheriffs Memorandum of Understanding that require that the Association of Orange County Deputy Sheriffs Trust have specific additional appropriate and necessary controls in place, and require that the Trust fully implement and maintain the Memorandum of Understanding controls the Trust currently has. (F.7.)

Response: The recommendation has not yet been implemented but will be implemented in the future.

The County will seek to include as part of the negotiations for a successor MOU terms that require the AOCDS Trust have specific additional appropriate and necessary controls in place and that the Trust fully implement and maintain the MOU controls the Trust currently has. The current contract with AOCDS expires in June 2016.

R8. The County should seek to include provisions in the next Orange County and Association of Orange County Deputy Sheriffs Memorandum of Understanding, requiring that Administrative Fees Assessments and Reserve Studies be performed more often than once a term and contain specifications and guarantees of active, equal control/access/involvement by Orange County. (F.8.)

Response: The recommendation requires further analysis.

Recent contracts with AOCDS have been for a period of three years or less. Further analysis is required to understand the industry standards on how often such assessments should take place and the value of obtaining the information more frequently vs. the associated time/cost factor. The analysis and resulting recommendations will be reported to the CEO no later than December 2015.

R9. The County should support and take full advantage of Orange County's Civic Openness in Negotiations - "COIN" ordinance in future Orange County and Association of Orange County Deputy Sheriff's Memorandum of Understanding negotiations and approval processes. (F.9.)

Response: The recommendation has been implemented.

The County has adopted the COIN ordinance; however, given the recent Public Employee Relations Board (PERB) ruling, the County is considering whether to temporarily suspend its implementation until the outcome of an appeal at the August 25, 2015 Board meeting.

R10. **The County, at the conclusion of the term of the current Memorandum of Understanding, should seriously consider discontinuing its agreement with the Association of Orange County Deputy Sheriffs and instead take back its rightful responsibility for administering the medical insurance program(s) for all qualified County of Orange employees. (F.1. through F.9.)**

Response: The recommendation requires further analysis.

County staff from Human Resource Services, the County Budget Office, and the County Executive Office will analyze the feasibility and impact of administering the medical program for AOCDS members. Areas to be considered include, but are not limited to, impacts to County budget, actuarial liability, and liability under the Affordable Care Act. The analysis and resulting recommendations will be reported to the CEO no later than December 2015.