

THE STATE OF ORANGE COUNTY JAILS

SUMMARY

California Penal Code Section 919 (b) states that “the grand jury shall inquire into the condition and management of the public prisons within the county.” In compliance with this section, the 2007-2008 Orange County Grand Jury inspected jail facilities.

The past year and a half has been a tumultuous time for the management of the Orange County Sheriff Department. In addition to the turmoil in the Orange County jails, Sheriff-Coroner Michael Carona was indicted by a Federal Grand Jury on seven counts of public corruption and subsequently retired. On the evening of October 5, 2006, inmate John Chamberlain was beaten to death by inmates at the Theo Lacy Facility. That event marked the beginning of a series of investigations and revelations regarding the Orange County Sheriff Department’s operation of Orange County jails. While the 2007-2008 Orange County Grand Jury was not the entity responsible for the investigation of the Chamberlain death (a special Grand Jury was impaneled by the Superior Court for this purpose), information published by the District Attorney and extensive news coverage raised many concerns which caused the Grand Jury to conduct an independent investigation regarding Orange County jails.

The Grand Jury was informed of the substantial lack of management control at the Theo Lacy Facility. Contrary to state law and the department’s own internal policies and procedures, the Orange County Sheriff Department has allegedly allowed the jail to be run by inmates who organize themselves into ethnic groups and who are dominated by selected inmates referred to as “shot callers.” The shot callers are reported to have imposed discipline through instructions from Orange County Sheriff Department deputies in the jails. Further, Orange County Sheriff Department deputies were derelict in supervising inmates. They watched television, played computer games, used cell phones and even slept while on duty.

The Grand Jury is very concerned about the number of deaths involving the use of tasers by law enforcement personnel. Recently two inmates and one suspect have died after being tased by deputies or city police officers. The Grand Jury recommends the formation of a panel of experts to study the cause and effect of the use of tasers as the potential cause of death.

The Orange County Sheriff Department does not keep statistics for recidivism rates or the number of inmate-on-inmate sexual assaults. Nor does it keep statistics on the effectiveness of its programs to prepare inmates for jobs outside of jail.

The Orange County Grand Jury makes 14 recommendations to improve the conditions in the jails. These recommendations include abolishing the use of shot callers, prohibiting the use of televisions and other electronic devices by deputies while on duty, installing closed circuit television cameras in all blind areas of the jails, adding two additional narcotics-trained dogs and suspending the use of tasers if alternative measures are available.

These recommendations, along with the formation of the Office of Independent Review (OIR) by the Board of Supervisors, should contribute to long needed improvements in Orange County jails.

In spite of numerous problems, the Grand Jury found that there are many dedicated jail deputies and excellent programs that benefited inmates.

REASON FOR THE INVESTIGATION

California Penal Code Section 919(b) states that “the grand jury shall inquire into the condition and management of the public prisons within the county.” In compliance with this section, the 2007-2008 Orange County Grand Jury inspected jail facilities.

METHOD OF THE INVESTIGATION

The Grand Jury conducted multiple site inspections, utilized written questionnaires, interviews, news accounts, Internet research and reviewed various inspection reports to evaluate the condition and management of the jails. The five adult jails managed by the Orange County Sheriff Department, as well as some city jails, were inspected. Court holding facilities at the Central Justice Center and medical holding facilities were also inspected. Juvenile facilities are the subject of a separate 2007-2008 Orange County Grand Jury report.

BACKGROUND AND FACTS

Statewide, there are many different types of jail facilities.¹ Orange County city jails are typically Type I, or “lockup” facilities. The five Orange County Sheriff Department (OCSD) jails are Type II jails, and are listed below:

- Intake Release Center or IRC (Santa Ana)
- Central Men’s Jail (Santa Ana)
- Central Women’s Jail (Santa Ana)
- Theo Lacy (City of Orange)
- James A. Musick (adjacent to Irvine)

¹ **Type I**-Holds inmates up to 96 hours. **Type II**-Pending arraignment, during trial and upon sentence. **Type III**-Only convicted and sentenced inmates. **Type IV**-Work furlough facility. **Temporary Holding Facility**-Up to 24 hours. **Court Holding Facility**-Located in a courthouse-used to hold for a court appearance not more than 12 hours. **Lockup** -Locked room/secure enclosure under the control of a peace officer or custodial officer-primarily for the confinement of adults who have recently been arrested.

All jails in California are under the authority of the California Department of Corrections and Rehabilitation (CDCR) and are inspected every two years by the Corrections Standard Authority (CSA), a division of CDCR. In addition to CSA, Orange County Sheriff Department jails are also routinely inspected for fire safety, physical plant condition, medical/mental health care, nutritional health issues and by the Grand Jury. These inspection reports were reviewed and were not found to contain any noteworthy deficiencies.

Statistical Information for OCSD Jails

The following data was provided by the OCSD on February 25, 2008.

Average daily inmate population in OCSD Jails:

YEAR	DAILY POPULATION
2003	5,245
2004	5,842
2005	6,388
2006	6,365
2007	6,545

Total yearly bookings in OCSD jails:

YEAR	ANNUAL BOOKINGS
2003	62,630
2004	65,794
2005	66,330
2006	66,437
2007	65,987

Race/ethnicity of inmates:²

RACE/ETHNICITY	PERCENTAGE
White	36.1%
Hispanic	50.1%
Black	6.2%
Asian	3.0%
Other	4.6%

² The OCSD does not maintain past statistics on average racial/ethnic makeup. Listed in the table is a “snap shot” of the racial/ethnic makeup on February 4, 2008.

Average gender percentages of the OCSD jail population:³

GENDER	POPULATION PERCENTAGE
Male	85.8%
Female	14.2%

Inmate population in 2007:

	PERCENTAGE
Felonies	73.49 %
Misdemeanor	26.51 %

In 2007 the average length of incarceration for:

	NUMBER OF DAYS
Pre-Trial	157 DAYS
Post Sentencing	79 DAYS
Pre-Trial Three Strikes Offenders	276 DAYS

Data reported on deaths and assaults in the OCSD jails:

	2003	2004	2005	2006	2007
Attempted Suicides	20	19	24	17	19
Suicides	2	3	0	2	3
Natural Deaths	8	8	6	7	6
Homicides	0	0	0	1	0
Accidental Death	4	2	3	5	3
Undetermined / Pending	1	0	1	0	2
In-Custody Total Deaths	15	13	10	15	14
Inmate Assaults on Staff	40	52	47	35	17
Inmate-on-Inmate Assaults	237	319	438	393	347

No statistical information on sexual assaults in the Orange County jail system is kept by the OCSD. The Prison Rape Elimination Act of 2003 was enacted when Congress found that the number of inmates sexually assaulted in prison for the previous 20 years “likely exceed[ed] 1,000,000.”⁴ Sexual assault information is necessary for any reasonable analysis and assessment of the state of the Orange County jails.

³ The OCSD does not maintain past statistics on gender percentages. Listed in the table is a “snapshot” of the gender percentages on February 4, 2008.

⁴ http://www.nprec.us/chairmans_remarks.html.

The Grand Jury inquired about the rates of recidivism for arrestees in the OCSD jail system. The OCSD initially responded that it did not have the capability to gather statistics on recidivism for all arrestees in the OCSD jail system. However, OCSD is studying the possibility of capturing recidivism data and hopes to be able to implement such a system in the future. The Grand Jury believes that this is valuable information which would help measure the effectiveness of OCSD programs designed to help released inmates adjust and become productive members of society.

The daily expense to incarcerate a single inmate is costly. There are varying daily costs depending upon which jail facility is surveyed. The total daily cost of a single inmate at the various facilities in the OCSD jail system is as follows:

JAIL	DAILY COST
Central Men's Jail	\$70.59
Central Women's Jail	\$71.57
Theo Lacy	\$61.66
Intake Release Center	\$71.57
James A. Musick	\$52.71

OCSD in the News

Numerous headlines called attention to significant events that have had an effect on the management of the OCSD jails. The following is a chronological listing of these events:

- The beating death of John Chamberlain at the Theo Lacy Facility, October 5, 2006
- The investigation of the jail death of John Chamberlain by a Special Grand Jury, May 18, 2007
- The death of an inmate after jailers used a taser to subdue him although cause of death was listed as cardiac arrest, October 13, 2007
- Protests by jail nurses about working conditions, October, 16, 2007
- The indictment of Sheriff-Coroner Michael Carona on federal corruption charges, October 31, 2007
- The retirement of Sheriff-Coroner Michael Carona, January 14, 2008
- The appointment of Jack Anderson as Acting Sheriff-Coroner, January 14, 2008
- The settlement of a lawsuit by Orange County over the jail death of John Chamberlain for \$600,000, February 8, 2008
- The proposal by Acting Sheriff-Coroner Jack Anderson to use correctional officers in the place of deputy sheriffs, February 15, 2008
- The creation by the Board of Supervisors of an Office of Independent Review to monitor the Sheriff Department, February 27, 2008
- The release of one and the retirement of another Assistant Sheriff, March 1, 2008

- The finding by the 9th U. S. Circuit Court of Appeals that there is inadequate disabled inmate housing, March 27, 2008
- The death of a second inmate after being tasered in an Orange County jail. The cause of this inmate's death has not been determined, April 3, 2008

In-Custody Death of John Chamberlain

Inmate John Chamberlain died on the evening of October 5, 2006, in the Theo Lacy Facility as the result of a beating by fellow inmates.⁵ Chamberlain was originally arrested on September 14, 2006, for possession of child pornography and possession of an open container of alcohol. He was initially housed in the Central Men's Jail and later transferred to Theo Lacy on October 3, 2006. At Theo Lacy he was assigned to "F" Barracks West, a minimum-security location. However, due to high occupancy, this barrack was housing a more dangerous classification of inmate when Chamberlain arrived.

Inmates charged with sexual abuse crimes, especially if children are involved, are often targeted by other inmates for assault. The OCSD reported that from March 2005 to March 2006, "nearly 20% of all inmates charged with sex-related offenses had been assaulted and/or relocated as a result of other inmates learning of the nature of their charges." Inmates had been inquiring into Chamberlain's charges prior to his death. The Grand Jury was surprised to learn from the District's Attorney's report that OCSD granted anonymous callers unrestricted access to information regarding an inmate's charges, housing location and bail status. Information revealing Chamberlain's pending charges had been given to five to ten anonymous callers by OCSD. The California Public Records Act requires local law enforcement agencies to make public "the name and occupation" of the individual arrested, "the factual circumstances surrounding the arrest" and "all charges the individual is being held on", "except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation".⁶

On October 5, 2006, between 5:50 p.m. and 6:50 p.m., Chamberlain was dragged to a "blind spot" in F Barracks and was continuously beaten and kicked to death by numerous inmates during the one-hour period.

Grand Jurors inspected the barracks where the homicide occurred. The guard station for F Barracks, known as the bubble, is an elevated room giving sheriff deputies a complete view of the two-floor barracks, with the exception of a few areas where half-walls for privacy had been constructed. It was behind one of these walls in a blind spot where the assault took place.

⁵ Information about the circumstances of the Chamberlain death was obtained from the Orange County Office of the District Attorney Investigative Report from the 2007 Special Grand Jury inquiry into the Death of John Derek Chamberlain. Tony Rackauckas, District Attorney Orange County, California-April 2008 Executive Summary

⁶ California Government Code §6254

Jail policy restricts inmates from entering the sleeping area of another inmate. Inmates are allowed only in their own sleeping area or in the common areas where they may sit at tables and watch television. Sheriff personnel on duty in the guard station at the time of the attack claimed not to have seen numerous inmates congregating in an off-limits sleeping area during the assault. One deputy was reported to have been watching television, while the other two officers stated that they were facing away from the assault.

No deputy patrolled the floor at the 30-minute intervals required by jail policy. However, the guard station log contained entries for 6:00 p.m. of “barracks secure” and for 6:30 p.m. of “barracks secure no problem.” Sometime after the murder, a retroactive entry was made in the log for 2:30 p.m. stating that Chamberlain had told deputies that he was not fearful for his life.

Failure of Deputies to Follow OCSD Policies and Procedures

OCSD personnel allegedly violated several policies and procedures, which if followed, could have prevented the Chamberlain death. The events surrounding this death have brought to light many of the problems in the present jail system.⁷

Testimony taken before a specially impaneled 2007 Grand Jury to investigate the Chamberlain murder revealed that sheriff deputies at Theo Lacy routinely failed to perform their duty to guard the “security of the jail and the safety of its inmates.” Thirty-minute floor checks were seldom conducted. Deputies were seen watching “television, full-length movies, playing video games, browsing the Internet, chatting online and sleeping with the lights out.” The harmful effect of this negligent behavior on the part of certain jail deputies is exacerbated by the practice of handing control over to inmates in blatant contravention of Penal Code, Section 4019.5 and OCSD Policy.

Penal Code Section §4019.5 provides as follows:

(c) It is unlawful for any sheriff, deputy sheriff, police officer, warden or keeper of a jail to delegate to any prisoner or group of prisoners, authority to exercise the right of punishment over any other prisoner or group of prisoners in any county or city prison, jail, jail camp, or other place of detention at which any person charged with or convicted of crime is detained.

(d) It is unlawful for any sheriff, deputy sheriff, police officer, warden or keeper of a jail to knowingly permit any prisoner or group of prisoners to assume authority over any other prisoner or group of prisoners by the operation of "kangaroo courts" or "sanitary committees.”

⁷ Orange County Office of the District Attorney Investigative Report from the 2007 Special Grand Jury inquiry into the Death of John Derek Chamberlain. Tony Rackauckas, District Attorney Orange County, California-April 2008 Executive Summary

OCSD policy clearly states that “inmates will never be permitted to exercise control over other inmates” and “No inmate shall inflict punishment on another inmate.”

In violation of both state law and OCSD policy, deputies, according to the District Attorney Report, routinely used inmates called shot callers to “enforce discipline and inflict punishment on other inmates.” Deputies “summon[ed] the shot callers to instruct them to get inmates ‘back in line.’” If the inmate disregarded the shot caller’s instructions, the inmate would be assaulted or “taxed” (removal of the inmate’s belongings or the infliction of physical punishment). These actions occurred with the full knowledge of deputies. The shot callers were given extra privileges by deputies, such as “new uniforms, extra meals, and hygiene products.” If the shot caller failed to control the inmates, the deputies “tossed” the barracks with all the inmates’ belongings and bedding being thrown about the facility.

Testimony further revealed that deputies sometimes denied medical treatment to inmates so they would not have to fill out medical aid reports. “The majority of inmates requesting medical attention displayed injuries, mainly bruising, suffered as the result of inmate assaults.”⁸

One deputy was also reported to have shot “pepper balls” at inmates in F Barracks for minor infractions. Pepper balls are a less-lethal form of inmate control utilizing capsaicin, which is a severe irritant, normally used for riot control.

In May 2007, a special Grand Jury was called by the Orange County Superior Court at the request of the District Attorney to inquire into the Chamberlain death. The results of that inquiry were made public in April 2008. During the course of that special Grand Jury inquiry, OCSD failed to produce some records and redacted others. This delayed the progress of the special Grand Jury. Some OCSD personnel violated direct court orders by disclosing their testimony given before a Grand Jury to other OCSD personnel. Additionally, these same individuals subsequently gave false testimony before the special Grand Jury. A high-ranking member of OCSD admitted giving “inaccurate information regarding the investigation of previous custodial deaths” to the 2006-2007 grand jury.⁹

A memorandum of understanding, signed by the Sheriff-Coroner and the District Attorney in 1985, states that the District Attorney will lead the investigation in all jail deaths. The District Attorney’s office was initially prevented by the OCSD from investigating the Chamberlain death in violation of this memorandum. **All** previous in-custody death investigations since the signing of the memorandum had been conducted by the District Attorney’s Office.

⁸ *ibid*

⁹ This member of the Sheriff’s administration was released.

In the published report after the conclusion of the special Grand Jury hearing, the Orange County District Attorney states:

This report establishes that the murder of John Chamberlain need not have happened. It may have been prevented if existing policies and procedures had been followed and enforced. Our system of justice requires that those accused of crime be afforded due process and justice not only by the courts but by those charged with maintaining them in custody.

As indicated earlier in this Grand Jury report, there are five Orange County jails. The following is an assessment of each facility.

Central Jail Complex



The Central Jail Complex (CJX) is located in Santa Ana adjacent to the Sheriff's Headquarters and is comprised of three jails. The three components of the CJX are the Intake Release Center, the Central Men's Jail and the Central Women's Jail. The jails are interconnected by a system of hallways.

Central Men's Jail and Central Women's Jail

The Central Men's Jail has a capacity of 1,450 inmates and is essentially a housing unit. It is a maximum security facility with its own nursing station and pharmacy. The Central Women's Jail is also a housing unit with a capacity for 356 female inmates. It also has medical services and educational and vocational classes available to inmates, as do each of the five main jail facilities.

Intake Release Center (IRC)

The Intake Release Center is the initial stop for most newly arrested inmates with an 875-bed capacity. Medical triage and mental health evaluation are the first steps. If inmates are found to be ill or injured, they are sent to a hospital. Otherwise they continue with the booking process. The booking forms are completed after a search for weapons or contraband. All personal belongings are taken from the inmate and inventoried. Photographs and fingerprints of the inmate are taken. Chest x-rays are taken to detect potential tuberculosis infection. An Immigration and Customs Enforcement (ICE) officer determines if inmates are legally in the United States. Next, classification is done to determine the most appropriate area for the inmates to be housed. Classification is based

on several factors, all intended to help keep the inmates safe while in custody. Criteria for classification include gang affiliation, ethnicity, crimes committed and any propensity for violence. The inmates are issued colored wristbands denoting their security housing designation. The colored wristbands are described below:

CLASSIFICATION	LEVEL
Protective Custody	Level 5
Administrative Segregation	Level 4
Maximum Security Risk	Level 3
Medium Security Risk	Level 2
Minimum Security Risk	Level 1

The IRC is also a departure site for inmates scheduled for court appearances.

Theo Lacy Facility

The Theo Lacy Facility (TLF), named after a former sheriff, houses multiple classifications of jail inmates, and is located on 11 acres adjacent to the Santa Ana River in the City of Orange. The facility opened in 1960 and has been expanded to today's capacity of 3,100 inmates.¹⁰ The maximum security portion is a state-of-the-art facility with modular design allowing for close monitoring of inmates. The facility provides over 42,000 meals a week from its kitchens. Medical, dental and mental health facilities are available to inmates. It has its own intake/release and booking area.



Three special programs at TLF are the New Start Program in conjunction with Phoenix House, Community Work Program and the Correctional Narcotics Canine Program.

- Phoenix House is California's largest nonprofit substance abuse services provider. The vast majority of its work has been in long-term residential treatment for the most hard-core substance abusers, whether adults or adolescents.
- Community Work Program allows sentenced, low-risk inmates to perform community work in lieu of 24-hour incarceration.

¹⁰ Included within this number is separate housing for up to forty-six juveniles who have been charged with serious crimes such as murder, and who will be tried as adult offenders.

- Correctional Narcotics Canine Program is a program based at the Theo Lacy Facility. This program was initiated in late 2006 with two dogs trained to detect narcotics such as heroin, cocaine, marijuana, and methamphetamine. These dogs also are able to detect narcotics paraphernalia in the OCSD jail system. The highly trained dogs are handled by special deputies. A third dog has recently been added to the program. All of the dogs have been remarkably successful at finding narcotics not only in the jail housing units, but also in the lobbies, booking areas, visitor parking areas, and in the mail rooms where narcotics have been found attached to inmate mail. Since the inception of the program, the dogs have located narcotics 45 times at the Theo Lacy Facility, 29 times at the Central Jail Complex, and 32 times at the James A. Musick Facility. As the result of narcotic searches of visitor parking areas, the dogs have found three loaded handguns, a stun gun and a knife. The deterrent factor created by the dogs is undoubtedly significant.

Members of the 2007-2008 Orange County Grand Jury witnessed a simulated narcotics find, after drugs were hidden in an area of an inmate's bedding. The dog easily found the narcotics. The dogs are currently being trained for a Federal Emergency Management Agency (FEMA) program to find bodies in a disaster, and the intent is that they will be certified in the near future.

Additional dogs would be beneficial since currently three dogs must cover all five of the OCSD jails. The cost to purchase a trained dog is approximately \$7,500.

James A. Musick Facility



The James A. Musick Facility, also named for a former sheriff, is located in the southeast part of Orange County, near the cities of Lake Forest and Irvine. It is comprised of 100 acres and is known as the “Farm” because of the production of eggs and agricultural crops. These products are utilized in the OCSD jail system through

the Food Services Unit. OCSD estimates that the value of the eggs and crops produced at Musick exceeds \$750,000 per year.

Musick is a minimum security jail facility which has 1,256 beds housing both men and women charged with minor, non-violent crimes such as drug possession, driving under the influence, prostitution or failure to pay child support.

Grand Jury members toured the facility on three different occasions, noting management's positive attitude and professionalism. The facility appears to be well

managed; however, it is showing its age. Some dormitories are actually large temperature-controlled tents that still seem to function well.

All healthy inmates are expected to work as a condition of being incarcerated at Musick. They work on-site or are transported to various OCSD work locations. The OCSD reported in 2007 that 638 inmates worked a total of 1.38 million hours. At a minimum wage of \$8 per hour, this totals over \$11 million in labor cost savings for the County and also provides the inmates valuable work experience.

On two Grand Jury visits to Musick, it was noted that the computer lab was empty due to lack of an instructor. Computer skills are a valuable asset for released inmates' job prospects.



Computer Lab

The Grand Jury observed that Musick has only one walk-through metal detector. The visitor contact area is not screened by a metal detector despite there being direct contact between inmates and visitors at this location. On one occasion, a loaded firearm was found in a vehicle in the Musick visitor parking lot as the result of a narcotics search by a canine. Inmates returning from off-site work detail can not always be screened. These inmates, although supervised during their shift, may have been working in unsecured areas previously accessible by the public. Both of these conditions suggest that metal detectors are needed at the Musick facility. Management said that four additional metal detectors would secure the facility. Metal detectors cost approximately \$3,000-\$4,000 each.¹¹

There are several very worthwhile programs provided for inmates at Musick including welding, carpentry, sewing and floral arrangement. Two exemplary programs are Angels of Love and Sew Much Comfort.

¹¹ <http://www.garrett.com/>

Angels of Love



Angels of Love is a program where inmates create beautifully hand crafted stained-glass angels edged in 24k gold. The Angels are donated to hundreds of families who have experienced tragedies in their lives. Last December, 200 angels were delivered to eight hospitals, including the Children’s Hospital of Orange County (CHOC) where children were spending their Christmas.¹²

Sew Much Comfort

Sew Much Comfort is a program where inmates volunteer to sew adaptive clothing for injured military service men and women who have suffered severe burns, loss of limbs or those who can no longer wear regular clothing due to their injuries. Sew Much Comfort¹³ creates and sews clothing to meet the unique needs of the wounded.



OCSD Mounted Enforcement Unit



Musick houses the Mounted Enforcement Unit. This unit has 13 horses stabled on the facility grounds which are cared for by inmates. The horses, along with their deputy riders, perform a variety of functions such as crowd control, search and rescue and security at many Orange County events. Security involves such assignments as patrolling the parking lot of the Orange County Fair or special events. Two staff

members operate the program at Musick with the assistance of inmates. A deputy stated that “one horse is worth ten deputies for crowd control.”

¹² <http://www.angelslove.org>

¹³ <http://www.sewmuchcomfort.org>

During the recent brush fires in the canyon areas of Orange County, evacuation and relocation of horses was a major undertaking. Since facilities necessary for boarding horses are available at Musick, the Grand Jury believes that the OCSD, in conjunction with horse owners residing in areas where a potential disaster such as fire or flood might occur, investigate the possibility of using Musick as a temporary, large animal evacuation site.

Jail Lockdown Procedures

In September 2007, a serious incident occurred at the Theo Lacy Facility and two other incidents in April 2008 at the Central Men's Jail which resulted in lockdowns. All three jail lockdowns were eventually lifted with a gradual return of privileges, without serious injury to inmates or staff.

A lockdown in the OCSD jail system is a response to a disturbance, a potential inmate-on-inmate attack, or a potential inmate-on-deputy threat. All of these incidents reportedly occurred as the result of conflict between two racial groups. The OCSD responded according to protocol by confining the inmates to their cells with loss of privileges including commissary, church services, educational programs, use of dayrooms and recreation facilities, visitations and showers. Essential services to the inmates were still allowed, such as meals, court appearances, attorney visits, bail bond agents and essential medical services, including medications.

Court Holding Facilities

Every day, hundreds of inmates are transported from jails to the various courts in Orange County. The bulk of the inmates are transported, usually in buses, to the Central Justice Court in Santa Ana. The buses enter a "sally port" which is an entrance point with a roll-up door that is closed before inmates are unloaded. Inmates then progress through a maze of basement hallways and holding cells, and are delivered to their assigned courtrooms. After court, they are returned by bus to the jail in which they are housed.

City Jails

The 2007-2008 Grand Jury inspected the larger city jails of Anaheim, Fullerton, Costa Mesa, Huntington Beach and Santa Ana. The Grand Jury was pleased to find no significant problems in the jails inspected. One exemplary jail visited by the Grand Jury was the Santa Ana City Jail. This jail facility was clean, modern and appears to be well managed. The Grand Jury spoke to inmates, both male and female, who stated that if they had to be in jail, the Santa Ana City Jail would be their choice.

Jail Expansion

According to the Pew Research Center, a national think tank, one out of a hundred Americans is currently incarcerated.¹⁴ A Board of Supervisors' needs-assessment study found that 3,217 additional jail beds will be needed by 2011. The OCSD has stated that the future expansion of jail beds in Orange County will be at Musick. The facility is being upgraded from a minimum level security to a minimum/medium level security facility.

On May 3, 2007, Governor Schwarzenegger signed AB 900, a \$1.2 billion state jail construction funding bill. On March 11, 2008, the County of Orange and the Orange County Sheriff Department submitted a grant request to the State of California, Department of Corrections and Rehabilitation, Corrections Standards Authority, for AB 900 jail construction funds in the amount of \$100 million for a new jail at Musick. The Orange County Board of Supervisors has approved an Environmental Impact Report allowing expansion at Musick to a maximum of 7,500 inmates. It will take approximately five to six years to prepare the Master Plan and to complete construction of the first phase. In May of 2008, Orange County received a conditional award of the requested \$100 million.

Projected construction costs are summarized in the following tables:

LINE ITEM	STATE FUNDS	COUNTY FUNDS	IN-KIND MATCH
Construction	\$100,000,000	\$105,200,000	
Architectural		\$16,500,000	
Construction Management		\$4,100,000	
Site Acquisition			\$11,000,000
TOTAL PROJECT COSTS	\$100,000,000	\$125,800,000	\$11,000,000

FUND SOURCE	AMOUNT	% OF TOTAL
State Funds Requested	\$100,000,000	42.30%
Cash Match	\$125,800,000	53.10%
In-Kind Match ¹⁵	\$11,000,000	4.60%
TOTAL ELIGIBLE PROJECT COSTS	\$236,800,000	100.00 %

The expanded new bed space in the initial phase will be 1,536 beds. The calculated construction cost less "in-kind" matching funds is \$147,005 per bed.

¹⁴ <http://pewcenteronthestates.org/report>

¹⁵ In-Kind Match refers to the \$11 million value of the Musick property which is owned by Orange County.

Overcrowding

The Grand Jury noted that there is an apparent contradiction as to whether Orange County jails are currently overcrowded. The State of California Correction Standards Authority (CSA) rates the Orange County jail system at 129% of capacity based upon inmate to space ratios.¹⁶ According to OCSD figures, the total capacity of the current jail system is 7,074 beds, within five facilities.¹⁷ The daily average population of inmates has never exceeded 6,545 inmates.

Currently, OCSD has available beds to meet the demand for inmate space, but projections indicate that demand for additional beds will increase. Inmates are housed on the basis of availability of beds and security classification level. The classification deputies at the IRC check openings at Theo Lacy and Musick. Typically, Musick has available bed space but is limited to housing minimum security inmates.

Post-Release Inmate Services

OCSD provided the following post-release inmate services information:

The Orange County Sheriff's Department Inmate Services Division, Correctional Programs Unit, offers a variety of classes, all designed to help inmates learn the proper skills needed to become employable upon release. Some of those classes include Job Development Skills, Workforce Preparation, Computer Business Skills, and Food/Culinary Services. Computer Business Skills provides inmates with a certificate upon completion from Rancho Santiago Community College. Upon completion of the Food/Culinary Services class, inmates have the opportunity to take the National ServSafe Food Protection Manager Certificate exam, which they can present to potential employers in an interview setting.

The Inmate Services Division also offers vocational trade classes for inmates housed at the James A. Musick Facility. These classes include Painting, Cabinetry, Welding and Sewing. Instructors provide inmates with the basic skills needed to obtain employment upon release.

All inmates participating in the Great Escape Pre-Release Program receive a pre-release planning session thirty (30) days prior to release. In this one-on-one planning session, staff has the opportunity to identify each inmate's specific needs. If employment is a concern, staff can contact one of the many Community Based Organizations which have made prior commitments to serve the inmate population. Some of the Community Based Organizations that assist inmates immediately upon release with

¹⁶ The difference is partially explained by protective security measures necessitating the placement of some inmates in single cells containing two beds.

¹⁷ Orange County Sheriff's Department 2007 Business Plan, pg.21

employment are the Santa Ana Work Center, One Stop Centers, Taller San Jose, Templo Calvario, Women Helping Women, and Warehouse Demo Services. All of the aforementioned Community Based Providers have designated staff waiting to assist inmates with their employment upon release.

In the future, the Inmate Services Division Correctional Programs will be exploring the possibility of adding full time Employment Specialist Positions. These positions will be established in all five (5) jails and will work with both inmates and potential employers to find inmates employment immediately upon release.

Orange County Sheriff Department Jail Budget

According to the OCSD, the total FY 2007-2008 OCSD jail budget is \$148 million in contrast to \$145 million for FY 2006-2007. However, the total 2007-2008 Sheriff Department budget¹⁸ is \$466,366,788. Funding sources for the jails as reported by the OCSD are as follows:

- 75% Proposition 172 (half-cent sales tax rate increase in 1993)
- 23% County of Orange general funds
- 1% charges for services
- 1% other financial sources

Deputy Overtime in the OCSD Jail System

The Grand Jury examined the Sheriff-Coroner Department overtime costs for the last five fiscal years. Although overtime costs have increased during this timeframe, the increases have been proportionate to salary increases averaging 9% of salary and employee benefit costs. The Sheriff-Coroner Department has been under total budget for each of the last five fiscal years.

Immigration and Customs Enforcement (ICE)

Immigration and Customs Enforcement (ICE) was established on March 1, 2003, as part of the Department of Homeland Security (DHS). The function of the ICE program is to screen jail arrestees for immigration status. The OCSD has 12 crossed-trained (trained as deputies and ICE agents) deputies at the Intake Release Center.¹⁹ The Costa Mesa jail, Anaheim jail and Huntington Beach jail have either a full-time or part-time ICE agent. The arrestees are interviewed when they are brought into the respective jail facilities and their immigration status is checked through the ICE database. Patrol and investigative units at these agencies do not have access to the database, so the immigration checks are only done during the arrest/intake process. The majority of police agencies in Orange

¹⁸ Schedule 9, County Form, 2007-2008

¹⁹ This program has not been directly funded but is paid for through the OCSD Jail Operations "overtime budget"

County leave it up to the OCSD jail staff to question foreign-born nationals about their immigration status during the intake process. From January 19, 2007, to January 20, 2008, there were 6,469 ICE interviews of foreign-born nationals booked into the OCSD jails.²⁰

Of these:

- 4,683 were detained by ICE for immigration violations
- 327 were arrested for aggravated felonies
- 2,968 were arrested for felonies
- 1,715 were arrested for misdemeanors
- 300 were arrested for gang activities

Some of the city jail ICE information that the Grand Jury was able to obtain is as follows:

In the Costa Mesa City Jail 2,045 arrestees were interviewed by ICE agents in calendar year 2007.²¹ Of the 520 eligible for deportation:

- 360 were actually deported
- 114 are still involved with proceedings or on Federal hold
- 46 are currently in County jail or prison

Anaheim Police Department does not keep statistics on foreign-born nationals booked into its jail. ICE agents placed immigration “holds” on 854 persons who were booked into the Anaheim City Jail during calendar year 2007.²² Some of these charges include:

- 168 outstanding warrants and/or parole violations
- 150 narcotics violations
- 94 driving under the influence
- 70 spousal abuse
- 39 burglary
- 37 weapons violations
- 17 auto theft
- 13 sexual abuse
- 10 robbery
- 8 homicide

Use of the Taser by law enforcement

The taser is used by law enforcement as an electronic control device (stun gun). According to its manufacturer it operates as follows:

The TASER X26 uses a replaceable cartridge containing compressed nitrogen to deploy two small probes that are attached to the TASER X26 by insulated conductive wires with a maximum length of 35 feet (10.6 meters). The TASER X26 transmits electrical pulses along the wires and into the body affecting the sensory and motor functions of

²⁰ Orange County Sheriff Department 287 (g) Cross Designation Program April 9, 2008

²¹ Article Daily Pilot Newspaper December 29, 2007

²² Anaheim Police Department ICE Report to the Grand Jury, February 27, 2008

the peripheral nervous system. The energy can penetrate up to two cumulative inches of clothing, or one inch per probe.

The probes conduct a high voltage shock incapacitating the target.

According to OCSD policy:

- Tasers should be deployed in cases in which an inmate exhibits the intent to violently resist, harm others, or harm him/herself, and it is apparent that the use of force by staff may be necessary.
- Given that the taser causes no permanent or serious injury, it may be appropriately deployed on persons who are already restrained in some fashion, but are still resisting, are capable of causing harm to others or themselves, or could cause damage to jail operations property.
- The sergeant or deputy shall determine if the use of a taser is reasonable and appropriate under the circumstances.

The OCSD reported that, in its five jails for the years 2004-2007, the taser was used on 437 inmates. The number of times the taser was used per person, the method of discharge and the duration of the shocks were not reported.

Three recent Orange County deaths following tasing by law enforcement officers are of concern to the Grand Jury. Two deaths were categorized as accidental by the County Coroner, while the third is pending a Coroner's review.

The first death occurred when an inmate at the Central Men's Jail confronted deputies and refused to return to his cell. He was tasered by deputies who were attempting to restrain him. He became unconscious, stopped breathing and was pronounced dead after being transported to a local hospital.

The second incident involved an inmate in the Intake Release Center who reportedly assaulted a jail nurse. During an altercation with the inmate, deputies used a taser to control him. He was taken to a local hospital and was declared "brain dead." He died six days later.

The third death occurred when Anaheim police were called to investigate a domestic violence complaint. When the suspect did not respond to officer directions to submit to handcuffing, he was tasered repeatedly. One electrical impulse was applied for almost three minutes. The suspect eventually collapsed and died at the scene.

These incidents, in which those being tasered subsequently died in jails or elsewhere, are a cause of alarm. There is a major debate amongst experts as to whether the use of the Taser may cause heart failure and death.

Closed Circuit Television Cameras in the Jails

The investigation of the in-custody death of John Chamberlain revealed that there are “blind” areas in the Theo Lacy Facility that are not visible from the guard station or by a closed circuit television (CCTV). The OCSD informed the Grand Jury that the five jail facilities have not installed any new CCTV systems. However, Theo Lacy is working in collaboration with Sheriff’s Communications to design a camera and recording system for their facility. The Central Jail Complex and Theo Lacy Facility are currently working toward installing a digital CCTV recording system. The lack of CCTV capabilities is troubling to the Grand Jury. It is understandable that there would be a significant cost to install this technology; however, the value to the safety of the inmates should overshadow the costs.

On March 30, 2008, the Acting Sheriff reported that the Board of Supervisors approved the expenditure of \$4.4 million to increase the number of cameras in the jail system. On April 15, 2008, the Orange County Board of Supervisors approved emergency funding in the amount of \$370,000 to install surveillance equipment in Barracks F, G, and H at the Theo Lacy Facility, as well as cameras in the guard stations to record guard activity.

CONCLUSION

During the term of this 2007-2008 Grand Jury, the Orange County Sheriff-Coroner Department has suffered disgrace and embarrassment. The retirement of the Sheriff, because of his alleged misconduct and criminality, and the subsequent retirement and release of two of his assistant sheriffs after allegations of a cover-up in the death of inmate John Chamberlain, have brought dishonor and mistrust to this department.

The Grand Jury recognizes that some reassignments have been made in an effort to improve the management performance in the jails. The new Acting Sheriff has vowed to investigate all allegations of criminality committed by members of this department and to deal with them appropriately. The newly stated goal is to make the actions of the department “transparent” to the public.

The Grand Jury finds that there are thousands of men and women working at the Orange County Sheriff Department who are honest, hardworking, and who put their “lives on the line” daily to protect and to serve the citizens of Orange County. We thank them for their service.

ACKNOWLEDGEMENTS

2008 Medal of Valor Recipients
Jail Operations

Sergeant Russell M. Moore
Deputy Daniel S. Douthitt
Deputy Daniel Flores

Saved the life of a Cardiac Arrest Victim

On December 26, 2007, Sergeant Russ Moore, and Deputies Dan Douthitt and Daniel Flores, working at the James Musick Facility, responded to an inmate who was unresponsive and without a pulse. They administered CPR and chest compression until the arrival of paramedics who used shock treatments to restart the man's heart. Emergency authorities credited Moore, Douthitt and Flores with saving the man's life.

The 2007-2008 Orange County Grand Jury congratulates and praises these three 2008 Medal of Valor Recipients for Jail Operations.

COMMENDATION

The Grand Jury commends and thanks those members of the OCSO and city police agencies that were contacted for this report. Special commendation to the following:

- Correctional Narcotics Canine Program (CNCP)
- Angels of Love Program
- Sew Much Comfort Program
- OCSO Mounted Enforcement Unit
- Jerry Manson and Reyner Guererro (OCSO personnel providing photographs)

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2007-2008 Orange County Grand Jury has arrived at the following findings:

- F-1 Orange County Sheriff Department policies and procedures that could have prevented the death of John Chamberlain were not followed.
- F-2 Orange County Sheriff Department personnel conducted the initial investigation of the John Chamberlain death, contrary to a 1985 memorandum of understanding that the District Attorney investigate all in-custody deaths.

- F-3 Inmate “shot callers” were used by deputies to enforce rules and discipline on inmates at the Theo Lacy jail.
- F-4 Access to information on inmate booking charges is available to the public.
- F-5 The Orange County Sheriff Department does not compile or report comprehensive statistics on inmate-on-inmate sexual assaults in jails.
- F-6 The Orange County Sheriff Department does not track recidivism rates for former inmates.
- F-7 Personnel in the guard station at Theo Lacy in the F Barracks watched television, played video games, chatted online and slept while on duty.
- F-8 The number of dogs in the Correctional Narcotics Canine Program is insufficient.
- F-9 James A. Musick facility did not have a full-time computer lab instructor.
- F-10 James A. Musick facility does not have any walk-through metal detectors in the visiting area where inmates and visitors have direct contact, or for some inmates returning from work sites.
- F-11 In an emergency evacuation situation, the James A. Musick facility has the capacity to accommodate large animals and provide for stabling, food, water and caretakers.
- F-12 The Inmates Services Division Correctional Programs Unit needs five full-time Employment Specialist positions.
- F-13 There is an urgent need for more closed circuit television systems in the “blind spots” of the jail system.
- F-14 In the last year, three deaths occurred after the use of a taser device by law enforcement personnel in Orange County.

Responses to Findings F-1 through F-14 are required from the Orange County Sheriff-Coroner.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings of this report, the 2007-2008 Orange County Grand Jury recommends that:

- R-1 The Orange County Sheriff Department strictly adhere to the existing policies and procedures for jail management.
- R-2 The Orange County Sheriff Department strictly adhere to the 1985 memorandum of understanding that the District Attorney investigate all in-custody deaths.
- R-3 The practice of using inmate “shot callers” at any jail be abolished.
- R-4 The Orange County Sheriff Department discontinue providing booking charges to the public if such information would affect the safety of the inmate.
- R-5 The Orange County Sheriff Department annually compile and report statistics on all inmate-on-inmate sexual assaults.
- R-6 The Orange County Sheriff Department compile and report data on the recidivism rates for former inmates enrolled in in-custody rehabilitation programs.
- R-7 Orange County Sheriff Department prohibit the personal use of all television sets and other electronic devices in all jail guard stations.
- R-8 The Orange County Sheriff Department purchase two additional trained narcotics dogs.
- R-9 The Orange County Sheriff Department hire a full-time computer instructor to staff the computer lab at the James A. Musick facility.
- R-10 The Orange County Sheriff Department purchase four additional walk-through metal detectors for the James A. Musick facility.
- R-11 The Orange County Sheriff Department formulate a plan for the use of the James A, Musick as a temporary large animal evacuation site, for use in the event of a natural disaster such as fire or flood.
- R-12 The Orange County Sheriff Department hire five Employment Specialist positions in the Orange County jails.

- R-13 Orange County Sheriff Department install closed circuit television cameras in all “blind” areas of the jails.
- R-14a The Orange County Sheriff Department suspend the use of tasers in all situations where an alternative form of control can be effectively used.
- R-14b The Orange County Sheriff Department convene an independent panel of experts to examine the use of tasers as it relates to deaths after their use.
- R-14c The Orange County Sheriff Department review the use-of-force policy that allows the use of tasers on persons who are already restrained.
- R-14d The Orange County Sheriff Department compile and maintain records on the number of times an inmate is tased and the duration.

Responses to recommendations R-1 through R-14 are required from the Orange County Sheriff-Coroner.

REQUIRED RESPONSES:

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in this report. The specific sections are quoted below:

933.05(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person of entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented actions.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore

APPENDIX

LAW ENFORCEMENT CODE OF ETHICS

Members of OCSD are bound by a clearly stated Code of Law Enforcement Ethics: “As a Law Enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional Rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life. I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals. I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force of violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and accept it, as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession, law enforcement”.²³

²³ Orange County Sheriff-Coroner, Manual of Rules and Regulations 2002