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**SHERIFF-CORONER DEPARTMENT
COUNTY OF ORANGE
CALIFORNIA**

OFFICE OF SHERIFF-CORONER

**SANDRA HUTCHENS
SHERIFF-CORONER**

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August 4, 2008

The Honorable Nancy Wieben Stock
Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92702

Subject: Response to the Orange County Grand Jury Report, "The State of Orange County Jails"

Judge Wieben Stock:

Per your request and in accordance with California Penal Code sections 933 and 933.05, enclosed please find the Orange County Sheriff's Department response to the above referenced FY 07-08 Grand Jury Report.

If you have any questions regarding this response document, please contact Assistant Sheriff Mike James at (714) 647-1802

Respectfully,

SANDRA HUTCHENS
Sheriff-Coroner

cc: James R. Pe'rez, Grand Jury Foreman
Members, Board of Supervisors
Thomas G. Mauk, County Executive Officer

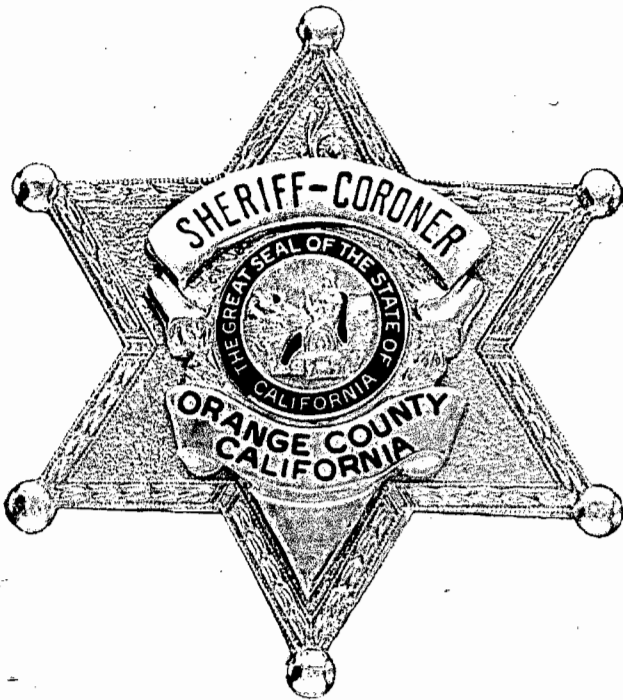
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ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER
SANDRA HUTCHENS



THE STATE OF ORANGE COUNTY JAILS
2007 / 2008 FINAL REPORT

GRAND JURY RESPONSE

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Dear members of the Grand Jury,

The Orange County Sheriff's Department (OCSD) has received and reviewed the Orange County Grand Jury report titled "The State of Orange County Jails". We have reviewed the findings in a collaborative effort with necessary personnel and have prepared the following response.

Finding1

Orange County Sheriff Department policies and procedures that could have prevented the death of John Chamberlain were not followed.

Response: Agree with the finding

A special Grand Jury was empanelled at the request of the Orange County District Attorney's office, to conduct an inquiry into the death of John Chamberlain. Testimony taken before this specially paneled Grand Jury revealed that Sheriff Deputies assigned to the Theo Lacy facility, working in the barracks where Chamberlain was murdered failed to perform their duties as directed in the Policies and Procedures manual.

Finding 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.

Response: Agree with the finding

A special Grand Jury was empanelled at the request of the Orange County District Attorney's office, to conduct an inquiry into the death of John Chamberlain.



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Testimony taken before this specially paneled Grand Jury revealed that OCSD Homicide personnel along with other investigative details conducted the Chamberlain murder investigation. The decision by OCSD to lead the investigation resulted in the District Attorney's office refusal to participate in the investigation in a secondary or back-up capacity. This was contrary to past practice and outside the guidelines of the Memorandum of Understanding between the OCSD and the District Attorney's Office.

Finding 3

Inmate "shot callers" were used by deputies to enforce rules and discipline on inmates at the Theo Lacy jail.

Response: Agree with the finding

A special Grand Jury was empanelled at the request of the Orange County District Attorney's office, to conduct an inquiry into the death of John Chamberlain. Testimony taken before this specially paneled Grand Jury revealed that Sheriff Deputies assigned to the Theo Lacy facility working in the barracks where Chamberlain was housed utilized inmates known as "shot callers" to enforce rules and discipline on other inmates.

Finding 4

Access to information on inmate booking charges is available to the public.

Response: Agree with the finding

The California Public Records Act, Government Code 6254 (f)(1) requires the following information related to inmates be available to the public.

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair,



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*sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, **and all charges the individual is being held upon**, including any outstanding warrants from other jurisdictions and parole or probation holds.*

As prescribed by the California Government Code the OCSD provides this information to the public.

Finding 5

The Orange County Sheriff Department does not compile or report comprehensive statistics on inmate-on-inmate sexual assaults in jails.

Response: Agree with the finding

At this time, the OCSD does not compile statistics related to inmate on inmate sexual assaults. If an incident of this nature occurs, a crime report is generated. If information regarding sexual assaults is needed for review and/or informational purposes the reports can be accessed through our records division.

Finding 6

The Orange County Sheriff Department does not track recidivism rates for former inmates.

Response: Agree with the finding

For the past 12 months the Inmate Services Division has collected data related to inmate programming participation. We anticipate using this information to track and assess inmate recidivism. A research analyst has recently been hired to



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work along with the UCI School of Criminal Justice Graduate program to develop appropriate and meaningful guidelines for gathering and analyzing this data.

Finding 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.

Response: Agree with the finding

A special Grand Jury was empanelled at the request of the Orange County District Attorney's office, to conduct an inquiry into the death of John Chamberlain. Testimony taken before this specially paneled Grand Jury revealed that Sheriff Deputies at Theo Lacy assigned to F Barracks were seen by other staff members watching television, full-length movies, chatting online, and sleeping with the lights out.

Finding 8

The number of dogs in the Correctional Narcotics Canine Program is insufficient.

Response: Agree with the finding

Initially, the Jail Operations Canine Unit consisted of two Canine Teams; one from the Theo Lacy Facility and one from the Central Jail Complex. The success of the program led to the James A. Musick Facility adding a Canine Team.

The three canine teams currently in place work throughout the jail facilities to assist with searches and other functions within their scope of responsibility. Additionally, team members participate in FEMA programs and two of the teams are part of Orange County FEMA Task Force-5. Should a disaster event warrant national support and Task Force-5 is deployed, our canine teams will support state and local emergency responders in their efforts to locate victims.



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With this in mind additional canine teams should be added to compliment the current group in the instance a team is deployed to an emergency incident away from the facility.

Finding 9

James A. Musick facility did not have a full-time computer lab instructor.

Response: Agree with the finding

Currently, the James A. Musick facility does not have a full-time computer lab instructor nor space to hold the class.

Finding 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.

Response: Agree with the finding

The James A. Musick facility has a walk-through (Garrett MT-5500) installed in a semi-permanent location near the East Watch. All inmates who are returning from other jail facilities and/or returning from their assigned work locations are required to walk through the device. In addition to the walk-through, this facility also possesses several hand-held devices (Garrett model #165180). The deputies use these devices to search inmates, clothing and mattresses on a random basis. Currently, the metal detectors in place provide necessary security for the purpose that it is utilized. However, more walk-through metal detectors could be utilized to increase security protocols at the James A. Musick facility.



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Finding 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.

Response: Disagree with the finding

Although, this could be considered as a last resort possibility, it is not practical for permanent planning or use in the event of an emergency evacuation. Large animals require care and maintenance on a regular basis. Because these types of events are unpredictable, resources (staffing, feed, veterinary services) cannot be guaranteed for utilization during a major incident or natural disaster. The OCSD could incur significant liability by providing care such as medical treatment, food, and the handling of large animals that do not belong to the County. Additionally, employees who are not familiar with such animals could be injured while trying to maintain large animals they are not accustomed to handling.

Finding 12

The Inmates Services Division Correctional Programs Unit needs five full-time Employment Specialist positions.

Response: Agree with the finding

The OCSD has completed a recruitment process to partially fill positions for this function. This resulted in several candidates being selected to begin the background process. Upon approval, the first of these positions could be filled within the next couple of months. An additional recruitment may be needed to fill the rest of these positions. Traditionally, this type of position is very difficult to



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find the appropriate candidate and could take several months to fill once recruitment is authorized.

Finding 13

There is an urgent need for more closed circuit television systems in the "blind spots" of the jail system.

Response:

In April 2008, the Board of Supervisors approved funding for closed circuit television installation in Jail Operations. Video cameras and accompanying recording devices have been installed in F, G, and H Barracks. Additional cameras will be installed throughout jail operations as the project moves forward.

Finding 14

In the last year, three deaths occurred after the use of a taser device by law enforcement personnel in Orange County.

Response: Agree with the finding

During the last twelve months, three deaths occurred in Orange County, after a Taser was used. One of these deaths involved the Anaheim Police Department and a domestic violence suspect who was not in Sheriff's Custody. The other deaths involved inmate Michael Lass, who died October of 2007 and inmate Jason Gomez, who died in April of 2008. Both inmates were in OCSD custody at the time of their death. Currently, an investigation is being conducted by the Orange County District Attorney's office into the circumstances surrounding both incidents. Further details will be forthcoming as the investigation is concluded and facts related to the incidents are released.



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Recommendation 1

The Orange County Sheriff Department strictly adhere to the existing policies and procedures for jail management.

Response: The recommendation has been implemented

The OCSD Rules and Regulations manual, Title 1 explains each deputy's responsibility to know department policy. The section states in part:

- *Title 1.2: Deputy Sheriffs, Special Officers and Sheriff Community Services Officers are expected to exercise good judgment and discretion in the accomplishment of their duties and responsibilities, and must follow departmental rules, regulations, and procedures in applicable situations. They must fulfill their responsibilities with consideration, self-control, impartiality, and honesty.*

The OCSD has reaffirmed these rules and regulations through memos and briefing training to all department personnel. In addition, each policy and procedures manual in jail operations includes a statement of personnel responsibility to review and understand all policies and procedures related to the facility they are assigned.

Recommendation 2

The Orange County Sheriff Department strictly adhere to the 1985 memorandum of understanding that the District Attorney investigate all in-custody deaths.

Response: The recommendation has been implemented

Since the John Chamberlain incident, about 20 jail related deaths have occurred. These deaths involved inmates who were in either OCSD custody or recently released from custody. Many of these deaths occurred in hospitals due to the nature of the inmate's medical condition. In each instance the Orange County



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District Attorney's (OCDA) office was notified and conducted the investigation, with the assistance of the OCSD as set out in the Memorandum of Understanding between the OCSD and the OCDA.

Recommendation 3

The practice of using inmate "shot callers" at any jail be abolished.

Response: The recommendation has been implemented

Orange County Sheriff Department Policy prohibits the use of "shot callers" to enforce inmate discipline. Additionally, the California Penal code §4019.5 prohibits such behavior. The OCSD has worked to reaffirm this policy throughout jail operations and is confident this practice will not be utilized in the future.

Recommendation 4

The Orange County Sheriff Department discontinue providing booking charges to the public if such information would affect the safety of the inmate.

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

Per the California Government Code the public is entitled to information related to arrests, including booking charges. The OCSD provides booking information to individuals who make a request in person to our Inmate Records Division. This practice allowed Support Services to remove inmate charges from the internet while abiding by the California Government Code. The OCSD will review its current practices and update or implement a department policy to ensure individuals in OCSD custody are safe. A specific date for completion is not available at this time but it is anticipated that a policy review and any necessary changes will be completed within 60 days.



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Recommendation 5

The Orange County Sheriff Department annually compile and report statistics on all inmate-on-inmate sexual assaults.

Response: The recommendation will not be implemented because it is not warranted

Currently, the OCSD is not required to provide this type of information to any entity related to jail statistics reporting. Inmate on Inmate sexual assault reports are maintained within the OCSD records division and are available upon request.

Recommendation 6

The Orange County Sheriff Department compile and report data on the recidivism rates for former inmates enrolled in in-custody rehabilitation programs.

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

The Inmate Services Division's Research Analyst will work with the UCI School of Criminal Justice Graduate program to develop appropriate and meaningful guidelines for gathering and analyzing recidivism data, as it is collected. We estimate it may take 9 to 12 months to develop criteria, analyze, and give a preliminary report on recidivism rates of former inmates enrolled in in-custody rehabilitation programs.

Recommendation 7

Orange County Sheriff Department prohibit the personal use of all television sets and other electronic devices in all jail guard stations.



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Response: The recommendation has been implemented

All televisions have been removed from Jail Operations in accordance with a directive issued to all Jail personnel. Additionally, the use of other electronic devices and the use of personal communications devices have been restricted.

Recommendation 8

The Orange County Sheriff Department purchase two additional trained narcotics dogs.

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

The use of the Jail Operations Canine Teams has shown to be a practical, safe, and efficient way of detecting narcotics. The canines have detected drugs that normally would have gone undetected and the program has had a positive effect on morale amongst the jail personnel. Because only three teams are assigned to Jail operations it would be beneficial to compliment the current staff with two additional teams. For this to occur, an analysis of cost, canine availability, and personnel availability would be required. A cost analysis has begun, the initial estimates are approximately \$40,000.00 for the canine and vehicle and annual maintenance cost of \$20,000.00. This does not include the cost and training for the handler. Once the cost analysis is complete, if approved a selection process for the handler along with subsequent training will be required. At this stage of the project, a timeframe for implementation cannot be accurately stated.

Recommendation 9

The Orange County Sheriff Department hire a full-time computer instructor to staff the computer lab at the James A. Musick facility.



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

This type of position has traditionally been very difficult to find the appropriate candidate and could take up to 12 months to fill after the recruitment is authorized. In addition, analysis of available classroom space is in the process.

Recommendation 10

The Orange County Sheriff Department purchase four additional walk-through metal detectors for the James A. Musick facility.

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

The use of metal detector screening devices would serve as an excellent supplemental tool to our already existing search methods. A proposal for the purchase of metal detectors has been submitted and is in the approval process. Once approved the items will be purchased and implemented throughout jail operations. At this stage of the project, a timeframe for implementation cannot be accurately stated.

Recommendation 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.

Response: The recommendation requires further analysis

A plan to evacuate large animals, during an emergency, to the James A. Musick Facility most likely would require coordination with the County of Orange Emergency Operations Plan and involve working with Emergency Management,



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Orange County Health Care Agency, and Animal Control. Areas of consideration would included, cost, feed, spread of disease, space, staffing, and animal abandonment. Because this assessment has not begun a timeframe for the analysis or subsequent implementation cannot be accurately stated. Currently, large animals are evacuated to the OC Fairgrounds. They have over 400 private stalls and have a payment scheme in place for such an event. For the OCSD to act as a large animal evacuation site an assessment would be required to evaluate the plausibility of an endeavor such as this.

Recommendation 12

The Orange County Sheriff Department hire five Employment Specialist positions in the Orange County jails.

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

After the completion of the selection process, the first of these positions could be filled within the next few months. An additional recruitment is required to fill the remaining vacant positions. This type of position has traditionally been difficult to fill with the appropriate candidate and could take up to 12 months to fill after the recruitment is authorized.

Recommendation 13

Orange County Sheriff Department install closed circuit television cameras in all "blind" areas of the jails.

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



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The Board of Supervisors approved funding to purchase and install closed circuit television cameras throughout Jail operations. This project was started at the Theo Lacy facility and planned for phased completion. The first phase, consisting of CCTV equipment being installed in F, G, and H Barracks, has been completed and recording in these locations began July 2008. Currently, a facilities study is underway to ensure each Jail facility can accommodate the equipment associated with the installation of CCTV. It is anticipated that the project will move forward, upon completion of the study in March of 2009. This project will encompass all jail facilities and includes increasing the number of CCTV cameras and changing the equipment from analog to digital.

Recommendation 14a

The Orange County Sheriff Department suspend the use of tasers in all situations where an alternative form of control can be effectively used.

Response: The recommendation has been implemented

Prior to this recommendation, the current practice of the OCSD during a use of force situation is to consider all alternatives before any actions are taken. Each incident of Taser use is evaluated before, during, and after to determine if the method of control used is appropriate for the situation. Prior to the deployment of a Taser, alternative methods are considered and when appropriate, utilized to gain control of an inmate who is exhibiting behavior that is inconsistent with jail rules and unsafe for the environment. During an incident where a Taser may be deployed an inmate is given an opportunity to comply with verbal commands and consideration is given to the use of control holds. If an inmate can be controlled with verbal commands and/or control holds that will not result in injury to the inmate or personnel involved, then that alternative is utilized to control uncooperative inmates. However, if an inmate's uncooperative behavior is violent



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and non-compliant with verbal commands and on scene personnel determine that the use of physical restraint methods such as control holds are impractical as they could result in injuries to the inmate or staff then the Taser is deployed in compliance with the department Taser use policy.

Recommendation 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.

Response: The recommendation will not be implemented because it is not warranted

The U. S. National Institute of Justice has already impaneled a group of experts and recently released their interim report on this issue. In this interim report (June 2008) titled, *Study of Deaths following Electro Muscular Disruption* the panel explained in their findings several factors that may contribute to an individual's death after a Conductive Energy Device (CEDs) is used. They stated, "Although exposure to CED is not risk free, there is no conclusive medical evidence within the state of current research that indicates a high risk serious injury or death from the direct effects of CED exposure. Field experience with CED use indicates that exposure is safe in the vast majority of cases. Therefore law enforcement need not refrain from deploying CEDs, provided the devices are used in accordance with accepted national guidelines."¹ Taser is the manufacture of the CED that is most used by law enforcement. The study did not observe any deaths occurring immediately after CED use that might suggest that the CED

¹ National Institute of Justice; Study of Deaths Following Electro Muscular Disruption: Interim Report/Jun 08



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directly affected a suspect's heart rhythm. This does not rule out the possibility of such events but the frequency of such an event is very low².

Recommendation 14c

The Orange County Sheriff Department review the use-of-force policy that allows the use of tasers on persons who are already restrained.

Response: The recommendation has been implemented

Prior to this recommendation, the OCSD implemented an updated Taser policy that prohibits the use of Taser on a handcuffed or restrained person absent any other overt actions by the restrained individual. Specifically, section IV states:

The Taser is prohibited from being used:

- 2. On a handcuffed/secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.*

If a person is handcuffed/secured and still attempting to hurt him/her self or others and cannot be controlled in any other manner a Taser may be appropriate to subdue this individual. The decision to use a CED (Taser) or another force option is based on the specific incident occurring, the resources available to control the individual, and the tactical judgment of the OCSD personnel at the scene.

Recommendation 14d

The Orange County Sheriff Department compile and maintain records on the number of times an inmate is tased and the duration.

² National Institute of Justice; Study of Deaths Following Electro Muscular Disruption: Interim Report/Jun 08



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Response: The recommendation has been implemented

Prior to this recommendation, the OCSD implemented an updated Taser policy that requires collection of the duration and the number of times a person is Tased. This information is maintained for a period of two (2) years which is consistent with our records retention policy. All Taser operators or a Division designee are required to download all assigned Taser's to a Department maintained database. This Taser download documents all Taser activations, time of activation, and the duration of each activation. This information is centralized and available upon request.

