



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

**SANDRA HUTCHENS
SHERIFF-CORONER**

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**COMMANDERS
MARK BILLINGS
LEE TRUJILLO
W. DAVID WILSON**

OFFICE OF SHERIFF-CORONER

550 N. FLOWER STREET
P.O. BOX 449
SANTA ANA, CA 92702-0449
(714) 647-7000

July 21, 2010

Dennis L. Evans, Foreperson
2009-2010 Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, California 92701

Subject: Response to Orange County Grand Jury Report "DNA: Whose Is It,
Orange County Crime Lab's or the District Attorney's?"

Dear Mr. Evans:

In accordance with Penal Code 933.05 (a) and (b), enclosed please find my response to the FY2009-2010 Orange County Grand Jury Report.

The Sheriff's Department appreciates the effort and the detail of review performed by the Grand Jury. Their continued efforts to improve the lives and conditions in the County of Orange are an outstanding example of volunteerism to the county and its residents.

If you have any questions, please contact me at (714) 647-1800.

Sincerely,

Sandra Hutchens
Sheriff-Coroner

PROUDLY SERVING THE UNINCORPORATED AREAS OF ORANGE COUNTY AND THE FOLLOWING CITIES AND AGENCIES:

ALISO VIEJO • DANA POINT • LAGUNA HILLS • LAGUNA NIGUEL • LAGUNA WOODS • LAKE FOREST • MISSION VIEJO
RANCHO SANTA MARGARITA • SAN CLEMENTE • SAN JUAN CAPISTRANO • STANTON • VILLA PARK
OC PARKS • DANA POINT HARBOR • JOHN WAYNE AIRPORT • OCTA • SUPERIOR COURT

**DRUG USE
IS
LIFE ABUSE**

DNA: WHOSE IS IT, ORANGE COUNTY CRIME LAB'S OR THE DISTRICT ATTORNEY'S?

FINDINGS

In accordance with California Penal Code 933.05 (a) and (b), responses are required to all findings and recommendations. The 2009-2010 Orange County Grand Jury arrived at the following findings and recommendations, which cite the Sheriff-Coroner. Beneath each is the Sheriff-Coroner's response to those findings.

F4: *Because of political unrest in the Sheriff's Department in 2007-08, the management structure of the Orange County Crime Lab changed from being solely the Sheriff's responsibility to a temporary shared management structure, known as the Cooperating Department Head Structure, composed of the Sheriff, the District Attorney, and the county CEO. Despite the unsettled management structure and the recent loss of the OCCL lab director, resulting in lowered morale, the crime lab has been able to meet its overall goals of reducing backlogged DNA requests and turnaround times while remaining the leader in submitting the largest number of DNA profiles and having the largest number of DNA cold hits than any other California lab.*

The Sheriff-Coroner differs, in part, with the Grand Jury's finding.

First, I would like to acknowledge the excellent work done by the men and women who comprise the Orange County Crime Lab. The Orange County Crime Lab has been a leader within the forensic community and a leader in the expansion of DNA evidence. The OCCL employs over 150 individuals in a variety of technical and support positions that provide a myriad of forensic services countywide. Housed in a state-of-the-art facility, the laboratory serves a population of approximately three million residents. The OCCL, the only full-service internationally accredited crime lab, provides services to over 100 local, state, and federal criminal justice agencies operating within Orange County, including toxicology, forensic alcohol, controlled substances, firearms, document examination, DNA, trace evidence latent fingerprint comparison and processing, crime scene investigation and automated fingerprint identification.

I disagree with the assertion, "Because of political unrest in the Sheriff's Department in 2007-08, the management structure of the Orange County Crime Lab changed from being solely the Sheriff's responsibility to a temporary shared management structure," More specifically, I disagree with the implication that the change was made solely because of "political unrest in the Sheriff's Department". A number of factors contributed to the change in management structure.

By way of history, The OCCL was formerly the Forensic Science Services Division within the Sheriff's Office. In January and February of 2008, the Office of the Performance Auditor studied the DNA lab expansion issue and issued a report to the Board on its findings. At the June 3, 2008 meeting of the Board of Supervisors, the District Attorney requested a change in the reporting relationship of the DNA

section of the Sheriff Department's Forensic Science Services Division to the Office of the District Attorney. The Board directed the CEO to "oversee the study of the project in cooperation with the DA, Sheriff and Public Defender as to this proposal and where best to locate the Lab and return to the Board with recommendations." As a result of this Board directive, the "Stakeholders Panel on DNA Testing was formed.

I was appointed Sheriff-Coroner on June 10, 2008 and took part in all eight of the Stakeholders Panel meetings between July 2nd and September 18th, 2008. A report was prepared by CEO's office and distributed to the Board and the participants on the Stakeholders Panel.

The Executive Summary of that report reads as follows:

"The County Executive Officer (CEO) recommends that a new high volume capability be added to the existing DNA testing facilities at the Sheriff's Forensic Science Services (FSS) lab. This expansion of DNA testing is intended to address the need for high volume testing of DNA evidence from property crimes as outlined by the District Attorney in previous presentations to the Board of Supervisors.

The CEO will work with the Sheriff and the District Attorney to jointly undertake the following ongoing responsibilities:

- ***The direct supervision of the director of the FSS laboratory;***
- ***The interviewing, hiring and supervision of an individual to oversee the expansion and operation of the DNA portions of the FSS laboratory; and***
- ***The oversight of all policies and protocols of the FSS laboratory that directly or indirectly impact the development of evidence to be used in court.***

This organizational structure is designed to facilitate an improved level of cooperation and coordination among the law enforcement agencies of Orange County."

While there were, and remain, issues associated with morale and overall management of OCCL, this new organizational structure, while unique and unprecedented, has served the criminal justice efforts and the Orange County citizens well. That being said, the men and women of the OCCL are professionals and continue to provide a superior level of service. Given the circumstances at the time, this was a reasonable course of action to undertake. We have experienced an "improved level of cooperation and coordination" with respect to forensic science issues, particularly the expansion of DNA to property crimes.

The Cooperating Department Head structure, albeit a "temporary" management structure, should remain in place until a more suitable management structure can be configured.

R.5: *The management of the Orange County Crime Lab should revert to its prior status under the Orange County Sheriff-Coroner.*

Although the Sheriff-Coroner agrees in principle with the Grand Jury's recommendation, there is no compelling argument in their report to support this recommendation.

More work will be necessary before a "permanent" management structure can be established.