



ORANGE COUNTY SHERIFF'S DEPARTMENT

SHERIFF-CORONER DON BARNES

OFFICE OF THE SHERIFF

July 26, 2023

Honorable Maria Hernandez, Presiding Judge
Orange County Superior Court
Central Justice Center
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Response to 2022-23 Orange County Grand Jury report, "*Russian Roulette: Fentanyl in Orange County.*"

Dear Presiding Judge Hernandez:

In accordance with Penal Code sections 933 and 933.05, enclosed please find my response to the 2022-23 Orange County Grand Jury report, "*Russian Roulette: Fentanyl in Orange County.*"

If you have any questions, please do not hesitate to contact my office. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Don Barnes".

Don Barnes
Sheriff-Coroner

cc: Grand Jury Foreperson
Members, Orange County Board of Supervisors
Frank Kim, County Executive Officer

550 N. FLOWER STREET, SANTA ANA, CA 92703 | 714-647-1800

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Orange County Sheriff's Department
Response to Findings and Recommendations
2022-2023 Orange County Grand Jury Report
"Russian Roulette: Fentanyl in Orange County"

FINDINGS

F1.

Illicit fentanyl is sold on the streets and through social media marketed as legitimate pharmaceuticals, or as other drugs laced with fentanyl, or sold as straight fentanyl, leading to exponentially increasing fentanyl addiction and deaths in Orange County.

Response: *Agrees with finding.*

F2.

Illicit fentanyl is a pervasive problem in Orange County.

Response: *Agrees with finding.*

F3.

Drug dealers use social media to sell fentanyl and other drugs. Social media business models impede law enforcement investigations.

Response: *Agrees with finding.*

F4.

California law limits prosecution of fentanyl deaths as homicides. Fentanyl death related cases are selectively referred for federal filing consideration. The Orange County District Attorney has cross-designated one of its own senior deputy district attorneys to prosecute such cases under federal narcotics laws.

Response: *Agrees with findings.*

The Orange County Sheriff's Department refers all cases to the U.S. Attorney's Office, if a suspect has been identified and there is enough supporting evidence for a viable prosecution. It should be noted that all cases are initially referred to the Orange County District Attorney's office to review for possible state filing. As indicated in the Grand Jury's finding, these cases are declined by the OCDA due to the limits of California law.

F5.

California law does not provide for uniform admonishment of drug dealers of their potential criminal liability for drug-related deaths. Proposed legislation requiring judicial admonishments has been rejected multiple times by the California Legislature

Response: *Agrees with finding*

F6.

Under current California law, fentanyl related felonies are not subject to additional penalty for weight enhancements as are other dangerous drugs such as cocaine and heroin.

Response: Agrees with finding

F7.

Orange County will benefit by establishing a chartered multi-agency Task Force to address the fentanyl crisis in Orange County.

Response: Disagrees with finding.

There is not sufficient information provided in the report or finding regarding the nature of the task force that is proposed. The Orange County Sheriff's Department already participates in a regional task force targeting narcotics, including fentanyl. Allocating additional resources to the existing task force would help in their effort to combat the increased prevalence of fentanyl.

F8.

As long as there is a demand, producers will find ways to supply drugs. Orange County cannot law enforce its way out of the fentanyl crisis. Education, prevention, and treatment are critical to reducing demand.

Response: Agrees with finding.

Addressing the fentanyl crisis requires policy makers to address both the supply and demand for the drug.

F9.

There is a need to increase public awareness and acknowledgement of the risks of illicit fentanyl.

Response: Agrees with finding

F10.

Some educational institutions are not participating in available educational and preventive fentanyl/drug programs.

Response: Agrees with finding

RECOMMENDATIONS:

R1.

By January 1, 2024, the Orange County Board of Supervisors should charter a multi-agency Task Force to address the fentanyl crisis

Response: *This recommendation will not be implemented.*

There is not sufficient information provided in the report or recommendation regarding the nature of the task force that is proposed. The Orange County Sheriff's Department already participates in a regional task force targeting narcotics, including fentanyl. Allocating additional resources to the existing task force would help in their effort to combat the increased prevalence of fentanyl.

R2.

By July 1, 2024, the Orange County Board of Supervisors, the Orange County District Attorney, and the Orange County Sheriff should lobby the California State Legislature to add fentanyl to the list of drugs subject to penalty enhancements in felony drug convictions and to add statutory authority for judicial admonishments when drug dealers and traffickers are convicted of fentanyl-related crimes.

Response: *This recommendation has been implemented.*

The Sheriff's Department has sought legislation related to fentanyl each year since 2016.

R3.

By July 1, 2024, Orange County Law Enforcement agencies should work with social media companies to ensure law enforcement has timely access to drug related criminal activity information on their platforms.

Response: *This recommendation has been implemented.*

The Orange County Sheriff's Department continues to work with social media companies. In some instances the companies have been cooperative, but cooperation is not consistent across all platforms.

R4.

By January 1, 2024, the Orange County Sheriff's Department, Probation Department, and Orange County Health Care Agency should collaborate to evaluate the effectiveness of existing in-custody and post-custody sobriety treatment programs and determine where improvements can be incorporated.

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

By January 1, 2024, the Orange County Sheriff's Department will collaborate with the Orange County Health Care Agency's Correctional Health Services to evaluate the effectiveness of existing in-custody sobriety treatment programs and whether there are any improvements that can be incorporated into the treatment programs.