RESPONSE TO THE GRAND JURY

CITY COPS SHARING INFORMATION – WHY NOT THE COUNTY?

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CITY COPS SHARING INFORMATION – WHY NOT THE COUNTY?

RESPONSE TO FINDINGS:

Finding 6.1: *"County agencies have not signed an Integrated Law & Justice Joint Powers Agreement"*.

The Sheriff agrees with the finding.

While it is true that County agencies have not signed an Integrated Law & Justice (ILJ) Joint Agreement, there are reasons why this is the case.

    <u>First</u>, For almost five years, the County Executive Office as well as other County agencies requested a budget for ILJ. However, not until the Grand Jury began to review the ILJ, did the County receive a budget for what it will cost the County and OCSD to participate in ILJ.

    <u>Second</u>, It is questionable whether the County and OCSD actually need to sign the ILJ Joint Agreement to participate in the ILJ programs such as COPLINK®, which the OCSD, the Probation Department, and District Attorney are currently in the process of evaluating.

    <u>Third</u>, There are Information Technology (IT) security matters that still need to be addressed as far as how County agencies can participate and share data. It should be understood that the County IT system receives approximately 150,000 cyber-terrorism hits <u>per day</u>, and 1,000 – 2,000 new types of viruses and "worms" per month, and must be absolutely confident that the methodology used to access data under the ILJ programs does not compromise the County's IT security.

    <u>Fourth</u>, County Counsel has had concerns about the ILJ, JPA and COPLINK® documents and processes, including concerns about the enforceability of contract documents already executed without prior governing body approvals, the lack of an executed security agreement for the system, the failure to make the COPLINK vendor a party to the security agreement, the need to address the County's security needs in the agreement, and the lack of an adequate audit trail for release of COPLINK data that existing case law indicates is restricted criminal history information. Until these and all of the other concerns are addressed to the Sheriff and County Counsel's satisfaction, the Sheriff will not recommend participation in ILJ or COPLINK

Finding 6.2: *"County criminal justice agencies do not participate in sharing and using critical criminal justice information"*.

The Sheriff disagrees with the finding.

The Orange County Sheriff's Department does participate in information sharing through a variety of networks that were discussed with the Grand Jury. While the Orange County Sheriff's Department is not currently participating in Coplink, we continue to provide information to other County and all city agencies through our ELETE and California Law Enforcement

Telecommunications System (CLETS), systems that are maintained and operated by the Orange County Sheriff's Department. In the past year, we formed a CLETS users group to support all of the agencies in the County that use CLETS and ELETE. All of the Orange County Sheriff's Department jail booking information is available on line as are all of the mug shots taken at the Orange County Jail.

The ELETE application was designed to provide an interface to various information systems including Local (OCATS: Orange County Automated Telecommunications System), State (CJIS: California Justice Information Systems), California DMV, and Federal (NCIC: National Crime Information Center, NLETS: National Law Enforcement Telecommunication System). It is also the launching point for criminal justice web-enabled applications.

Below is a listing of some examples of information users can access via ELETE. This is not a complete listing, just some of the major systems:

OCATS (local) Systems: LARS (Local Arrest Records), AWSS (Automated Warrant Service System), AJS (Automated Jail System).

CJIS (state) Systems: CHS (Criminal History System), MUPS (Missing & Unidentified Persons System), WPS (Wanted Persons System), SVS (Stolen Vehicle System).

DMV: Vehicle Registration Database, Driver's License and Identification Card Database, DMV Photo.

NCIC (nationwide): Wanted Persons File, Vehicle File, Interstate Identification Index (nationwide criminal history file), Gun File.

NLETS(out of state): Out of State DMV, Out of State Criminal History, Administrative Messaging and All Points Bulletin Capabilities.

Web Applications: CCHRS (Los Angeles County Consolidated Criminal History Reporting System), Megan's Web (California sex offender photos and information), Cal-Gang (California gang information and photos), Cal-Photo w/DMV Lineup (inmate photos from various agencies throughout the state as well as DMV photo lineup capabilities), VISION (Orange County Superior Court database).

ELETE is available to all Orange County Law Enforcement agencies (police departments, school police, as well as county, state, and federal agencies).

RESPONSE TO RECOMMENDATIONS

Recommendation 7.1: *"County Inclusion in a JPA"*: The County Executive Office and the OCSD should reconsider and revisit the issue of becoming listed members of a JPA for Integrated Law and Justice by the second quarter 2006.

The recommendation has been implemented.

The OCSD has revisited the issue of becoming a listed member of the Integrated Law and Justice JPA. The Department still believes that the JPA form of governance is not equitable. The majority of the information that would pass through Coplink comes from Sheriff Department data bases. Also, the Department provides contracted police services to 12 cities and therefore would be a major user of the system. However, the proposed JPA structure only gives the Sheriff's Department one vote when deciding issues related to cost allocation formulas and other operational features of the system. Also, the Sheriff's Department has several concerns about Coplink that are discussed below in the response to Recommendation 7.2. Until those issues are settled, it is premature to agree to any type of governance structure.

Recommendation 7.2: *"County participation in COPLINK"*: The OCSD, Probation Department, and the District Attorney should determine whether the concerns given for not participating in Coplink still exist by the fourth quarter, 2006.

In regards to OCSD, the recommendation has been implemented.

The Sheriff's Department has determined that the concerns for not participating in Coplink still exist. Those concerns are:

> Confidentiality of Summary Criminal History Information
> By law, the Sheriff's Department is required to protect the confidentiality of summary criminal history information. It is currently unclear if the information that would be shared by Coplink users is classified as summary criminal history. A deputy attorney general gave an informal opinion that the COPLINK information is not summary criminal history, but OCSD and County Counsel believe the issue is too important to resolve by an informal opinion. Case law appears to contradict the informal opinion, and if the information is not summary criminal history data, it may be subject to release to the public, in which case OCSD would have significant concerns about the integrity of the COPLINK system. The Attorney General's Office currently has pending a request by the Los Angeles District Attorney for a formal opinion, seeking clarification whether similar information in the Los Angeles District Attorney's files is confidential summary criminal history or subject to public release under the Public Records Act. If it is determined that the information is summary criminal history, Coplink, if it is not changed, would not be an adequate system for storage and transmission of such information because it lacks an appropriate audit trail to protect the information from access for improper purposes.

Cost Sharing Allocation

A large percentage of the information that would be shared through Coplink is data that resides in the Sheriff's mainframe computers and can be accessed by the Sheriff's Department at no cost. The Integrated Law and Justice Committee has proposed a cost sharing formula that would require the County of Orange to pay a large percentage of the cost for servers, and related support costs. While the Sheriff's Department supports sharing information, it does not appear equitable that the Sheriff's Department should pay the majority of the cost to share its own information.

Alternate Information Sharing Systems

While the Sheriff's Department and County Counsel have been awaiting clarification on the sharing of summary criminal history information, the Sheriff's Department has been evaluating other information sharing systems. We are currently working with the United States Attorney to implement a National LiNX system in the Southern California Region. This system would include participation by the Los Angeles Police Department and the Los Angeles County Sheriff's Department. This regional system contains much more criminal information and should prove to be far more valuable to law enforcement agencies in Orange County. The system complies with all Department of Justice audit requirements and is compatible with Coplink. City police departments and other law enforcement agencies that choose to use Coplink would be able to access more information than is currently available. There is also no cost involved with utilizing the National LiNX system.

The Orange County Sheriff's Department is committed to sharing information and will continue to participate in the County Wide Integrated Law and Justice group to seek a legal, cost effective, and fair ways to address regional information sharing.