

# CITY OF COSTA MESA

CALIFORNIA 92628-1200

P. O. BOX 1200

FROM THE POLICE DEPARTMENT

August 8, 2006

Nancy Wieben-Stock, Presiding Judge  
Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, California 92701-4045

**Re: Orange County Grand Jury Report**

Dear Judge Wieben-Stock:

Please accept the following responses in accordance with California Penal Code §933 and §933.05 to the *"Orange County Grand Jury Report: Oversight of Orange County Law Enforcement Agencies, Resolving a Dichotomy!"*

I reviewed the provided material with great interest. There were substantial discussions among the municipal police chiefs in the county about the recommendations.

**6.1 Best practices goal:** *"Current practices for improving county and city law enforcement agencies (LEA) polices and procedures may not ensure that these policies and procedures are evolving to a level of best practices."*

I totally disagree. It is possible that the members of the Jury are unaware of how unique Orange County is in this regard, as well as the California municipal policing. The frequent interaction with the larger and smaller agencies, along with the development of countywide guidelines, insures regular review of operational procedure and policy development. We have had active coordination and communication since our first joint radio system came on line in the mid-1930's and it's been developing and growing ever since. The active development and research of policy and procedures by the Cal Chiefs, IACP and the private attorneys dictate regular review and comparison against an ever evolving higher standard set. Generally, we are the "Best Practices" the Jury seeks to install.

**6.2 Independent reviews of LEAs:** *"The use of independent reviews of LEAs' practices is limited to unique reviews rather than periodic reviews of police procedure and compliance."*

Again, I disagree with this conclusion. Every arrest, every complaint against an employee, every audit by supervisors, and every news article in the local or regional press is a review. Agencies frequently have consultants do audits and organizational development work which challenges these same policies and procedures against the high standards of the profession.

**6.3 Orange County is changing:** *“Orange County and city LEAs will face new challenges as the number of crimes increase, reflecting those of surrounding counties.”*

There is no evidence that communities within the County of Orange will face the amount or type of criminal activity that has affected our surrounding counties. One cannot draw conclusions comparing Orange County with major cities in Los Angeles and San Diego counties. Orange County has 26 suburban cities, none of which have a population over 400,000—and none of which are subject to the same social, political or infrastructure concerns of those surrounding major urban areas.

Naturally challenges will occur as municipal police departments work together with their communities to maintain low crime rates and build toward greater community success. The development of the COMMUNITY POLICING AND PROBLEM SOLVING (COPPS) for each municipality will result in continued growth for Orange County departments, and will be the foundation for safe and secure communities for years to come. Some of the great challenges we will face are not only issues of demographic diversity, but also issues of the development of high-rise residential living and other configurations which create substantially different operational challenges.

I agree and disagree with the Jury conclusions.

**6.4 LEA self-assessment:** *“Using public/private sector management techniques such as best practices, self-assessment, and independent audits would improve LEA monitoring.”*

Many Orange County law enforcement organizations engage in ongoing self-assessments to ensure that their organizations are achieving their missions. Furthermore, many departments contract with independent firms to conduct periodic reviews on internal operations. This is to ensure that the Orange County Grand Jury recommendations are taking place through sound management practices, rather than through an external unfunded mandate. Some of the best leadership and management training for Law Enforcement leaders is taught in California, i.e., West Point Leadership Program, SLI, Command College, National Academy (FBI), and many internal programs. These programs review leadership, audit, management, and developmental skills.

I agree conceptually with the Jury conclusions, but as noted, much of what they wish to have accomplished is already in place.

**7.1 Best practices guidelines:** *“The Orange County municipal police departments should consider adopting or developing best practices guidelines appropriate for inclusion in the (LEA) agencies goals and objectives. An example would be the publication of a best practice document as a self-assessment guide to handling resident’s complaints.”*

Costa Mesa Police Department, along with other agencies, investigates all complaints against their sworn and non-sworn employees, as well as incidents within the community. The Department’s complaint process is guided by legislative law, court decisions, and directions from outside attorneys. Constant training of police personnel in charge of investigating these complaints assures that high standards are met. Proactive supervision and a support system monitors potential precursors to future complaints, and this helps prevent incorrect behavior by officers and employees. The Grand Jury notes that “we may not ensure that these policies and procedures are evolving to a level of best practices” but of course, the reverse is also true. In my experience, if you look carefully at the shortcomings of your own employees as well as other agencies (Rampart – Tiasa Miller - Richard Parker) you can be assured that there are lessons learned from each incident and thus it becomes a best practice. In reference to the Jury’s comments that we should “handle resident complaints - 7.1,” the reality is that our service population is not just residents but everyone in our jurisdiction.

I think in the final analysis, I both agree and disagree with the Jury findings on this issue.

**7.2 Near-Term, Independent reviews of LEAs policies, procedures, and compliance:** *“The Orange County municipal police departments, in cooperation with Orange County City Mayors, should consider contracting for a near-term independent review of the LEA’s current policies, procedures and compliance to provide current status as compared to best practices.”*

The Orange County Mayors, with few exceptions, do not act as independent decision makers, but as political leaders of the body of decision makers. Thus it would seem imprudent to ask them alone to consider contracting.

Police departments frequently evaluate the performance of their employees. Evaluations can be formal or informal, and they are a part of good, routine management practice.

Additionally, police department practices are continually subjected to independent reviews by the communities that they serve. Besides complaining to the law enforcement agency itself, community members may seek redress if they believe they have been treated unfairly, or the police officers acted unlawfully or performed incompetently.

1. Community members have access to their elected officials, and those officials have the ability to intercede if they believe their police departments are operating in an unfair, unscrupulous, or unlawful way. City Councils have the ultimate power to oversee and change police practices in their local jurisdictions. All police chiefs in the county are “at will” employees who serve at the discretion of

the Council and/or City Manager (who also serves at the discretion of the Council) and this relationship mandates that the police chief respond to Council actions and concerns. From a personal perspective, I address one or two concerns every week that come from Council members.

2. Law enforcement agencies are subject to investigation and intervention by a number of state and federal agencies. Complaints of improper or unlawful actions routinely draw the attention of the State of California, Federal Department of Justice, FBI, and the Equal Employment Opportunity Commission. Law enforcement agencies and their cases are monitored by state and federal agencies. The California Department of Justice civil rights section provides formal and informal oversight to law enforcement agencies in a number of ways. State and federal agencies have the authority to change local police practices as evidenced through Consent Decrees implemented in Los Angeles, Riverside and San Diego counties. During my tenure as Director of the Division of Law Enforcement in the California Department of Justice, I accompanied the Senior Assistant Attorney General in charge of the Civil Rights section on complaints from community members about agencies. We conducted formal and informal reviews. Often such reviews were requested by the agency leader. These reviews were taken seriously by the Attorney General and his personnel as well as the agencies being reviewed.
3. Because of the open records acts, police departments are subject to oversight by the media, privately funded interest groups like the American Civil Liberties Union, the NAACP, LULAC and individual community members. All police department policies and procedures, with the exception of tactical procedures, are available to the public for review. The media has the ability to bring concerns to the public's attention, and private groups have the ability and funds to bring civil actions seeking change. Law firms who specialize in representing management of police agencies also provide a policy and procedure review service to insure that policy and procedure meets professional standards and legal mandate. Given the legal restrictions, Costa Mesa Police Department and other law enforcement agencies pride themselves on being as transparent and open as possible. We welcome the opportunity to share information about the conduct of our professional activities. It should also be noted that there is no shortage of media outlets willing to do stories, and expose agencies that are not transparent.
4. Municipal police agencies and their leadership are additionally directed by a strong set of ethical standards which are directed at departments, chiefs and individual officers.
5. Individual community members who believe they have been aggrieved may access the court system, the District Attorney, the State Attorney General Office of Civil Rights, the Federal Department of Justice, or the Grand Jury who has subpoena and investigatory powers.

All of the review systems are working effectively. The courts, elected officials, other governmental agencies, private interest groups, and the community all have a vested interest in their local police agencies. Together they conduct periodic external reviews of police department policies, procedures, and compliance.

I see no reason to expand this extensive system and disagree with the Jury.

**7.3 Periodic, independent reviews of LEA compliance to policies and procedures:**

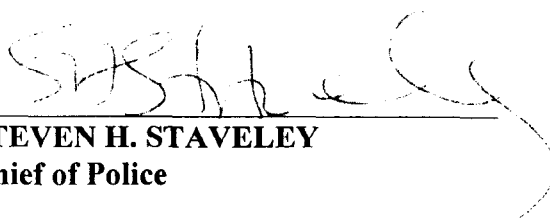
*"The Orange County municipal police departments, in corporation with the Orange County Mayors, should consider contracting for periodic, independent reviews of LEAs' police and procedures, using the best practices guidelines as criteria."*

I agree, and since I do this work as part of my consulting enterprise, it's something that I have a very vested interest in. On a regular basis, agencies review their policy and procedures against legal and professional standards. This is on-going project which is very time consuming. If more frequent reviews are required outside the normal audit process, the City would have to come up with new funding or drop some of the Police Department's functions. So the bottom line is who is going to pay for this?

I find that I do not agree with the Jury.

I believe this to be a useful discussion but frankly the Jury appears to be trying to solve a problem that does not exist.

Sincerely,

  
**STEVEN H. STAVELEY**  
**Chief of Police**