TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY

ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
401 CIVIC CENTER DRIVE WEST · SANTA ANA, CA 92701 (714) 834-3636

August 10, 2006

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

Re: Orange County Grand Jury Report of June 27, 2006
"Oversight of Orange County Law Enforcement Agencies – Resolving a Dichotomy!"

Dear Judge Stock:

Our office is in receipt of the above-referenced Grand Jury report. Please find attached the Orange County District Attorney's Office response to the specific Grand Jury report.

Sincerely,

Tony Rackauckas

TONY RACKAUCKAS
District Attorney

TR:ml
Attachment

RESPONSE TO GRAND JURY REPORT 2005-2006 "OVERSIGHT OF ORANGE COUNTY LAW ENFORCEMENT AGENCIES, RESOLVING A DICHOTOMY!"

INTRODUCTION

In accordance with the requirements of law, the Office of the District Attorney herewith submits its responses to the findings and recommendations of the Grand Jury.

RESPONSE TO FINDINGS

FINDING NO. 6.5:

Addressing resident complaints: LEA and citizen oversight committees, including the grand jury face significant limitations when considering and responding to resident complaints about LEAs, including time constraints, inability to act independently, and lack of law enforcement and/or legal experience for citizen grand jury committees.

RESPONSE TO FINDING NO. 6.5:

Although various dynamics can have an impact on Law Enforcement Agencies (LEA), the grand jury or a citizen oversight committee, no particular constraint has been shown to interfere with the ability to thoroughly and fairly investigate citizen complaints.

In assigning the task of responding to citizen complaints regarding LEAs, the Legislature enacted Penal Code Section 832.5 in 1974 which mandated LEAs in the state to establish a procedure to investigate citizens' complaints against their officers. The policy underlying the statute is to encourage communication between citizens and public authorities whose responsibility is to investigate and remedy wrongdoing. Section 832.5 necessarily contemplates that citizens' complaints against police officers will be received and investigated and if misconduct is discovered, appropriate discipline will be imposed.

LEAs in Orange County have consistently demonstrated an ability to handle the volume of citizen complaints in a fair and thorough manner. In comparison to the resident's complaints statewide, Orange County LEAs sustained 12.3% of the complaints versus only 10.8% statewide.

Although District Attorney investigations of LEA officer-involved shootings, custodial deaths and other officer involved events increased in the past year, this does not necessarily represent an inability on the part of LEAs to act independently or a need for oversight. The number of District Attorney investigations varies widely from year to year and incorporates investigations of deaths in the jail with the ultimate conclusion often being the cause of death was through natural causes and unrelated to law enforcement involvement.

The grand jury also has broad authority to investigate the conduct of local public officials, including peace officers. The Penal Code empowers a grand jury in its civil watchdog function to examine any records of cities, counties, and special districts, which would include peace officer personnel records as well as citizen complaints, in the custody of these public agencies.

The District Attorney provides training for the grand jury on a wide variety of legal topics, including addressing citizen complaints, and remains open to providing any additional training requested by the grand jury.

The term of the grand jurors is statutorily limited to one year by Penal Code §901. This limitation of time does not prevent jurors from forwarding for review civilian complaints to the next grand jury. The grand jury also has available to them a wide variety of resources that includes both the district attorney and county counsel.

For the reasons indicated above, the Office of the District Attorney disagrees wholly with the finding "Addressing resident complaints."

FINDING NO. 7.4:

Strengthen grand jury: The Orange County Sheriff's Department and the District Attorney should recommend specific training to each LEA and citizen oversight committee, including grand juries, directed toward review of resident complaints about LEAs. (See finding 6.5.)

RESPONSE TO FINDING NO. 7.4:

The Orange County District Attorney (OCDA) consistently provides training for LEAs and the grand jury in a variety of areas and will provide training in other specific areas upon request.

- **LEAs Training:** Training is currently provided to LEAs in areas such as search and seizure law, narcotics, domestic violence, DNA, to name a few, in addition to regular updates on current case law. OCDA has also recently completed training videos on some of these topics to be distributed to LEAs to be shown during "roll call" at the police agencies.

  Any training directed toward review of resident complaints about LEAs is more appropriately handled by the various city attorney offices, as opposed to OCDA, given the potential impact on such areas as civil liability and police policy.

- **Grand Jury Training:** Each new grand jury is provided with initial training by OCDA during orientation dealing with areas such as the criminal justice system, investigation requests, indictment hearings, as well as citizen complaints. Subsequent to that, additional training is provided covering topics of interest such as DNA, Gangs, and Identity Theft. Training is available in any particular area upon request by the grand jury, a practice which has been in place for some time.

For the reasons indicated above, the Office of the District Attorney disagrees wholly with the findings that *the District Attorney should recommend specific training to each LEA and citizen oversight committee, including grand juries, directed toward the review of resident complaints about LEAs.*