



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

**MICHAEL S. CARONA
SHERIFF-CORONER**

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September 23, 2004

The Honorable Frederick Horn
Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92702

Re: Response to Orange County Grand Jury Report, "A Tempest in a Teapot or a Violation of Public Trust?"

Dear Judge Horn:

Per your request and in accordance with California Penal Code Section 933 and Section 933.05, please see my attached response to the FY 03-04 Grand Jury Report. If you have any questions, please contact Assistant Sheriff Doug Storm at 647-1803.

Respectfully,


Michael S. Carona
Sheriff-Coroner

cc: B. Lewis Avera, Jr., Grand Jury Foreman
Jim Ruth, County Executive Officer

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
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Response to the Grand Jury
“A Tempest in a Teapot or a Violation of Public
Trust?”
Final Report 2003 – 2004



Sheriff – Coroner Michael S. Carona

ORANGE COUNTY SHERIFF'S DEPARTMENT
Jo Ann Galisky, Assistant Sheriff
Chief of Investigations/Communications
Santa Ana, California
September 2004

A TEMPEST IN A TEAPOT OR A VIOLATION OF PUBLIC TRUST?

FINDINGS

Under California Penal Code Section 933 and Section 933.05, responses are required to all findings. The 2003-2004 Orange County Grand Jury arrived at the following findings. Beneath each is the Orange County Sheriff-Coroner Department's response to that finding:

1. **The District Attorney concluded that, as to the crime of filing a false police report [*Penal Code Section 118.1*], there was no violation of the law, since a prosecution under that statute requires proof of a false statement and not simply an omission on the part of the peace officer.**
 1. The Sheriff-Coroner agrees with the Grand Jury finding.

2. **As to the crime of conspiracy to obstruct justice [*Penal Code Section 182(5)*], the District Attorney concluded that there was insufficient evidence to prove a violation of the statute beyond a reasonable doubt.**
 2. The Sheriff-Coroner agrees with the Grand Jury finding.

3. **Some Orange County Sheriff's Department managers were not forthright in explaining the true facts of the incident to the public and to other governmental agencies.**
 3. This finding requires further analysis. The Sheriff-Coroner was asked by the District Attorney to suspend any internal investigation into this matter until the Grand Jury had completed its investigation. Subsequent to the completion of the Grand Jury investigation, the Sheriff-Coroner has directed that an internal affairs investigation be conducted regarding any possible policy or procedure violations.

RECOMMENDATIONS

In accordance with California Penal Code Section 933 and Section 933.05, each recommendation requires a response from the governmental entity to which it was addressed. Based on the findings, the 2003-2004 Orange County Grand Jury developed the following recommendation. Beneath the recommendation is the Orange County Sheriff-Coroner Department's response to that recommendation:

1. To avoid public perceptions of conflict of interest, the Orange County Sheriff-Coroner Department use an outside law-enforcement agency to conduct an independent investigation of this incident, either separate from or parallel to the Sheriff's Department internal-affairs investigation. (Findings 1, 2, and 3).
 - This recommendation has been implemented.
The Sheriff-Coroner has directed that an internal affairs investigation be conducted regarding any possible policy or procedure violations.
 - In addition, the Sheriff-Coroner has asked the California Attorney General to have his office conduct an independent investigation of the incident. The Sheriff has requested the Attorney General examine the department's management structure and policies and procedures, and provide recommendations how they could be changed to prevent similar questionable actions by department personnel in the future. The Attorney General has agreed to review the Sheriff's Department's investigation and to provide policy and procedure recommendations as necessary