

32400 PASEO ADELANTO
SAN JUAN CAPISTRANO, CA 92675
(949) 493-1171
(949) 493-1053 FAX
www.sanjuancapistrano.org



MEMBERS OF THE CITY COUNCIL

SAM ALLEVATO
DIANE L. BATHGATE
WYATT HART
JOE SOTO
DAVID M. SWERDLIN

Office of the Mayor

September 22, 2006

Nancy Wieben Stock
Presiding Judge of Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Ref: 2005-2006 Grand Jury Report

Dear Members of the Grand Jury,

The Orange County Sheriff's Department provides law enforcement services for the City of San Juan Capistrano. On behalf of the City of San Juan Capistrano, we concur and support the response by the Sheriff regarding the 2005-2006 Orange County Grand Jury report, "Oversight of Orange County Law Enforcement Agencies, *Resolving a Dichotomy*", in its Final Report 2005-2006.

If we can be of further service, please feel free to contact City Manager Dave Adams or myself at (949) 493-1171.

Sincerely,

David M. Swerdlin
Mayor

/attachment

cc: City Council
Dave Adams
Lt. Betzler

San Juan Capistrano: Preserving the Past to Enhance the Future

Response to the Grand Jury

**“Oversight of Orange County Law Enforcement
Agencies Resolving a Dichotomy”**

Final Report 2005-2006



Sheriff-Coroner Michael S. Carona

**Orange County Sheriff's Department
Jo Ann Galisky, Assistant Sheriff
Chief of Special Services**

August 22, 2006

Orange County Sheriff's Department Response to The Grand Jury Report

Findings:

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

Response: *Partially disagree*

The Sheriff's Department has practices in place to review and update policies and procedures on a regular basis to ensure we maintain a level consistent with best practices. To ensure Orange County Sheriff's Department staff is aware and mindful of current and emerging laws, innovative procedures, and the acknowledged best practices in the law enforcement industry, we have a process in place to conduct ongoing review of policies and procedures. Extensive and diverse training is provided to all Department members, which includes an interactive networking process with many *outside* agencies, including California Sheriffs' Association, Orange County Chiefs' and Sheriff's Association, California Commission on Peace Officer Standards and Training, and the National Sheriffs' Association. The networking process with these outside agencies has proven invaluable in maintaining our collective expertise within our industry and ensuring the pursuit of "*best practices*" within our organization.

The Orange County Sheriff's Department has always been concerned with improving the services we provide to the citizens of Orange County. Constant review and analysis of our policies and procedures has been invaluable in ensuring "*best practices*" are implemented and our Department is actually providing the best service-oriented and quality law enforcement possible.

The Sheriff's Department has established a Risk Management Bureau within its Professional Standards Division. One of the most important functions of the Risk Management Bureau is to review Departmental policies and procedures, including any about which internal or external complaints have been received. This requires Risk Management personnel to research and familiarize themselves with the various policies and procedures that have been adopted by other police agencies and/or recommended by organizations seeking to improve the quality of police work. The goal is to ensure that the Department's policies and procedures are continuously reviewed and compared to the best practices in the industry.

Finding 6.2 Independent Reviews of LEAs: *"The use of independent reviews of LEA's practices is limited to unique reviews rather than to periodic reviews, of policies, procedures, and compliance."*

Response: *Disagree*

Currently the Orange County Sheriff's Department is subject to periodic and unique reviews in the form of internal and/or external audits. The purpose of these audits (reviews) is to maintain compliance with all applicable laws and statutes and to ensure *best practices* are incorporated into our policies and procedures. Various internal as well as external/independent entities are utilized to conduct these audits. Based on their reviews of our current policies and procedures, these reviewing bodies then make recommendations for change and/or improvement.

Finding 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.*

Response: *Partially disagree*

There is no evidence that communities within the County of Orange will face the amount of criminal activity that has affected our surrounding counties. One cannot draw such conclusions by comparing counties with major cities like Los Angeles and San Diego to counties like Orange, which is made up of 34 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 as those of surrounding major urban areas.

The Grand Jury reported jail bookings increased by 10.4% between 2001 and 2005 as an example of a crime-related trend in Orange County. However, the average number of jail bookings between 1996 and 2000 was 64010 indicating the rate of bookings as a percentage of County population has actually dropped.

Certainly challenges will occur as our law enforcement departments and their communities work together to maintain low crime rates, but the efforts that our Department has made toward crime prevention, partnerships with other agencies, and problem solving will form the foundation for safe and secure communities for years to come.

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

Response: *Agree*

As indicated in the response to Finding 6.2 above, the Sheriff's Department is engaged in ongoing self-assessments to ensure that the organization is achieving its mission in

accordance with our values. Further, the Department has contracted with independent firms to conduct periodic reviews of internal systems, thereby already having put the recommendations of the Orange County Grand Jury in place through sound management practices, rather than through an external unfunded mandate. The Sheriff's Department is also subject to reviews and audits by many government agencies such as:

California Board of Corrections
California Commission on Peace Officers Standards and Training (POST)
Orange County Board of Supervisors
Orange County District Attorney
Orange County Grand Jury
Federal Bureau of Investigation
California Attorney General's Office
California State Controller's Office
Department of Homeland Security
Other law enforcement agencies

An example of outside agency review occurred in 2005 after Sheriff Carona asked the Attorney General's Office to conduct an inquiry and investigative evaluation of a recently completed internal affairs investigation. The Attorney General's Office concurred with the Sheriff Department's characterization of the incident and stated that our investigation "is robust and appears well executed".

Finding 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 and grand jury committees."*

Response: *Agree*

It is the practice of the Sheriff's Department to provide the Grand Jury with all the available information requested to perform their duties as Grand Jurors. (See response to recommendation 7.4) Additionally, all citizen complaints received by the Department are taken seriously. Community members have a myriad of options to seek redress if they believe that they have been treated unfairly, or that deputies have acted unlawfully or are not performing competently.

First, individual community members who believe they have been aggrieved may file a citizens' complaint with the Department. These complaints are thoroughly investigated by the Internal Affairs Division. If the allegations are sustained, appropriate corrective measures will be implemented.

Second, community members have access to their elected officials. Those officials can and do contact the Sheriff's Department if they believe that Department members are operating in an unfair, unscrupulous, or unlawful way. Like all complaints of

unprofessional conduct, complaints emanating from other officials are treated as serious matters and are thoroughly investigated.

Third, law enforcement agencies are subject to investigation and intervention by a number of state and federal agencies. Complaints of improper or unlawful actions may at a minimum draw the attention of the state or federal Department of Justice, prosecutors, the FBI, or the Equal Employment Opportunity Commission. These state and federal agencies have substantial power and authority to change local police practices as evidenced by consent decrees implemented in Los Angeles, Riverside and San Diego.

Finally, through the Public Records Act, the Sheriff's Department is subject to oversight by the media, privately funded interest groups like the American Civil Liberties Union, and independent community members. The media has the ability to bring concerns to the attention of the public and various police agencies. Private groups, through meetings or other contacts, or via civil litigation, are able to bring to the Department's attention the policies, procedures, or officer behavior that they find objectionable.

We realize the Grand Jury, the citizens of Orange County, the media and all other interested parties are anxious for information and/or a finding, but thorough and proper investigations require time and often require that the information and evidence gathered be kept confidential, particularly while the investigation is in process. Attempting to accelerate an inquiry to reach a finding or provide information could jeopardize the integrity of an investigation.

All of the above-described review systems are in place and are working effectively. The courts, elected officials, other governmental agencies, private interest groups and the community all have a vested interest in their local law enforcement. These entities provide valuable input and complement the Department's regular reviews and updates of its policies and procedures.

Recommendations:

Recommendation 7.1 ***Best Practices Guidelines:** The Orange County municipal police departments should consider adopting or developing best practices guidelines appropriate for inclusion in LEA's goals/objectives. An example would be the practice document as a self-assessment guide to handling residents' complaints. (See Findings 6.1 and 6.4.)*

Response: *This recommendation will not be implemented.*

The Sheriff's Department currently has processes/guidelines in place whereby policy and procedure are evaluated on a continual basis. (See Response to Finding 6.1.)

In addition to our ongoing analysis of best practices in the industry, the Sheriff's Department sets the standard for best practices in many areas such as the Sheriff's award-

winning Crime Lab, a nationally recognized state of the art Training Academy, and a Jail Operations Division that is recognized for having one of the lowest suicide rates in the country and a low frequency of inmate-on-staff and inmate-on-inmate violence.

The Orange County Sheriff's Department prepares an annual business plan www.ocsd.org that outlines many of the new *best practices* we plan to implement in the upcoming year. Our business plan describes the Department's goals and objectives with a detailed plan to accomplish them. The business plan is a published document that ensures we do in fact track the *best practices* in our industry from conception to implementation.

The Sheriff's Department also participates in the Orange County Chiefs of Police and Sheriffs Association, which meets monthly to discuss a variety of law enforcement-related issues, including best practices. This group meets to identify and remedy problems in law enforcement and to standardize law enforcement policies and procedures.

Recommendation 7.2 "*Near-term, Independent Review of LEA Policies, Procedures, and Compliance:* *The Orange County municipal police departments, in cooperation with the Orange County Mayors, should consider contracting for a near-term independent review of LEA's current policies, procedures, and compliance to provide current status as compared to best practices. (See Finding 6.2 and 6.3.)*"

Response: This recommendation will not be implemented.

The Orange County Sheriff's Department is subject to periodic and unique reviews in the form of internal and/or external audits. (Refer to Response to Finding 6.2.) With this in mind, the Sheriff's Department does not support the expenditure of funds for near-term independent review.

Recommendation 7.3 "*Periodic, Independent Reviews of LEA Compliance to Policies and Procedures:* *The Orange County municipal police departments, in cooperation with the Orange County City Mayors, should consider contracting for periodic, independent reviews of LEA's policies and procedures, using the best practices guidelines as criteria. (See Finding 6.2 and 6.3.)*"

Response: This recommendation will not be implemented.

The Orange County Sheriff's Department is subject to periodic and unique reviews in the form of internal and/or external audits. (Refer to Response to Finding 6.2. and Response to Recommendation 7.2) With this in mind, the Sheriff's Department does not support the expenditure of funds for periodic-independent reviews. However, the Department

currently consults with independent firms that specialize in the review of law enforcement policies and procedures.

Recommendation 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 LEA’s. (See Finding 6.5.)”*

Response: *This recommendation has been implemented.*

The Orange County Sheriff’s Department meets with each new Grand Jury and provides an overview of the Department, which includes, but is not limited to, Jail Operations, Professional Standards, the citizen complaint process and other divisions and operations as requested by the Grand Jury.

Additionally the Sheriff’s Department will provide the Grand jury and the Orange County Chiefs of Police and Sheriff’s Association with a list of courses related to the review of resident complaints.

The Orange County Sheriff’s Department offers courses on several law enforcement related topics through its nationally acclaimed training facilities. These courses are attended by most agencies throughout Orange County as well as by representatives of law enforcement agencies from across the nation. This training is constantly updated to keep pace with the ever-changing Federal, State, and local trends and mandates. The training offered can be adapted easily to meet the specific needs of the Sheriff’s Department, the local law enforcement community and the Grand Jury.