



## CITY OF FULLERTON

Police Department

Patrick E. McKinley Chief of Police

August 28, 2006

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

RE: Response to Grand Jury Oversight of Orange County Law Enforcement Agencies

Dear Judge Wieben Stock,

I have reviewed the Orange County Grand Jury's report, "***Oversight of Orange County Law Enforcement Agencies, Resolving a Dichotomy!***" In a letter from Ms. Bette Flick, dated June 22, 2006, the Fullerton Police Department was identified as one of the agencies required to respond to findings and recommendations extracted from that report. The following paragraphs contain our responses to cited findings and recommendations:

### 6.0 Findings

In accordance with California Penal Code §933 and §933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2005-2006 Orange County Grand Jury has arrived at the following findings:

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

We strongly disagree. The Fullerton Police Department's policy for investigating community allegations of misconduct are based upon legal, procedural and ethical issues. Our practices have been subject to legal review through City and contracted attorneys; peer review through local and state organizations such as the Orange County Chiefs and Sheriffs Association (OCCSA) and the California Commission on Peace Officers Standards and Training (POST); as well as review of research submitted by other professional organizations such as the International Association of Chiefs of Police (IACP). The members of our Professional Standards Bureau who are responsible for investigating these



matters receive regular training in this area and frequently bring to my attention current trends, legal decisions and ethical issues that allow us to continually evaluate our policies and practices. We believe this process has allowed us to establish and maintain best practices; we simply refer to them as protocols.

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

We strongly disagree. The Fullerton Police Department remains committed to accepting and investigating allegations of misconduct in an impartial and professional manner. Community allegations of illegal behavior, misconduct or incompetence are taken seriously. Community members are also advised of findings and dispositions resulting from investigations. With these findings, individuals have the rights and abilities to seek other means of review.

The actions of municipal and county law enforcement officers can be brought to the attention of local politicians including City Councils and County Supervisors. Each of these bodies has significant influence over the manner in which law enforcement agencies under their oversight are operated. They also have the authority to intervene on personnel matters if warranted.

The actions of municipal and county law enforcement officers can also be brought to the attention of other county, state and federal law enforcement agencies having jurisdiction over both criminal and civil matters. Entities such as the County District Attorneys Office, State Department of Justice and Federal Bureau of Investigation provide oversight through statute and protocols. These agencies have both investigative resources and legal authorities such as the power of subpoena. Each of these agencies has significant control over the actions and behaviors of both individual law enforcement personnel and law enforcement organizations through criminal and civil remedies.

Privately funded civil liberties groups such as the American Civil Liberties Union also provide a means by which law enforcement agencies are monitored. Many of their efforts are spawned through media information or direct contact by community members. These two combined resources, private civil liberties groups and the media, can bring inappropriate behavior to the forefront of the public's eye which can result in individual or organizational change through public opinion or court imposed sanctions.

Members of the community also have legal resources available to them in the forms of private civil liberties attorneys, class action law suits and Grand Jury inquiries.

With all of these systems in place, law enforcement agencies within the county and across the land are under continual review as it pertains to oversight and operation of law enforcement related functions.

*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.*

We moderately agree. Orange County is changing at a rate and in a direction no different than surrounding counties. Admitting to change does bring with it the notion that new issues will arise and challenges will present themselves. The law enforcement agencies within Orange County have faced change throughout the years and there has been no obstacle that has not been overcome. We believe our law enforcement agencies are among the finest in the nation and will address new issues with the same intuition and professionalism as has been displayed in the past. Orange County law enforcement agencies are well prepared to respond to the needs of our communities to preserve their safety and security while promoting an environment that allows for peace of mind.

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

We moderately agree. The Fullerton Police Department maintains a Command Staff of well-educated professional law enforcement leaders. Many of our practices have been derived from concepts and principles prevalent in the private sector. It is worth noting that many private sector practices and procedures cannot be directly applied to the public sector and especially in law enforcement. Our Department is continually assessing operational protocols, practices and procedures to ensure we provide our community with service-oriented and professional Police Department.

## **7.0 Recommendations**

In accordance with California Penal Code §933 and §933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2005-2006 Orange County Grand Jury makes the following recommendations:

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

This recommendation has been implemented. The Fullerton Police Department has a Policy Manual that dictates the manner in which members of this agency conduct themselves and identifies areas where discipline may be warranted. In addition, the Department has published an "Administrative Investigation Guide" that identifies the Department's expectations for personnel matters originating within this agency. This manual describes the purpose and intent of personnel investigations as well as procedural guidelines to ensure thoroughness and impartiality.

The Fullerton Police Department remains vigilant in monitoring trends and case law so as to remain contemporary in its response to community complaints. We readily rely upon such resources as the OCCSA, POST, City Attorney and other legal counsel. We believe there could be value in a comprehensive protocol if facilitated by a credible body with statewide research capabilities such as POST.

*7.2 Near-term, independent review of LEA policies, procedures, and compliance: The Orange County municipal police departments, in cooperation with the Orange County City Mayors, should consider contracting for a near-term independent review of LEAs' current policies, procedures, and compliance to provide current status as compared to best practices (See Findings 6.2 and 6.3)*

This recommendation will not be implemented at this time. The Fullerton Police Department interacts at all levels with counterparts in the law enforcement community. In this manner, protocols are continually assessed and modified. This is a proactive and continuing process. Law enforcement policies and procedures are also under continuous ethical and legal review from a reactive perspective. After-the-fact review of actions associated with individual officers and their organizations are evaluated by the courts and other entities in a reactive manner. The cost associated with contracting for independent review is not justified. It is also questionable as to whether or not there exists an individual or entity with sufficient expertise to provide review beyond what already occurs with current checks and balances.

There has been no evidence presented in the Grand Jury report that Orange County Law Enforcement agencies are suffering from inadequate or otherwise compromised protocols. In fact, in the Grand Jury report, Section 5, Page 8, the information provided suggests that Orange County Law Enforcement agencies sustain a higher number of resident complaints (12.3%) than the state average (10.8%).

*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 LEAs' policies and procedures, using best practices guidelines as criteria. (See Findings 6.2 and 6.3)*

This recommendation will not be implemented at this time. Refer to the response provided in Section 7.2.

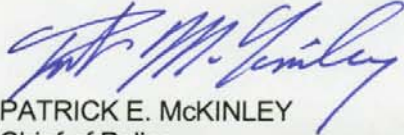
The Department applauds the efforts of the Grand Jury for their comprehensive research, findings and recommendations. In preparing this letter we have had the opportunity to reflect on the manner in which the Fullerton Police Department and other Orange County agencies address community complaints. We are proud of the professionalism with which law enforcement officers conduct themselves in Orange County. We believe this is due, in large part, to the professionalism of each individual agency as they continually review their policies, compliance and procedures.

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The Department appreciates this opportunity to respond and hopes we have adequately addressed the issues raised in the Grand Jury report. If you require any additional information please contact Captain Greg Mayes at (714) 738-6840 or [GMayes@FullertonPD.org](mailto:GMayes@FullertonPD.org). He will gladly assist you.

With best regards,



PATRICK E. MCKINLEY  
Chief of Police

PEM:gem

cc: Orange County Grand Jury  
City Manager  
City Council