

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

**MICHAEL S. CARONA  
SHERIFF-CORONER**

550 N. FLOWER STREET  
P.O. BOX 449  
SANTA ANA, CA 92702-0499  
(714) 647-7000

OFFICE OF SHERIFF-CORONER

ASSISTANT SHERIFFS  
STEVE BISHOP  
JO ANN GALISKY  
KIM MARKUSON  
CHARLES L. WALTERS

May 30, 2007

Honorable Nancy Wieben Stock  
Presiding Judge of the Superior Court of California  
700 Civic Center Drive West  
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "Newport Harbor Moorings: Are They Held in the Public Trust or for Private Profit?"  
May, 2007

Dear Judge Stock:

In accordance with Penal Code 993, enclosed please find my response to the FY 06-07 Grand Jury Report. If you have any questions, please contact Assistant Sheriff Jack Anderson (Operations) at 714-647-1815 or Captain Deana Bergquist (Harbor Patrol) at 949-673-0933

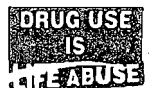
Respectfully,

  
Michael S. Carona  
Sheriff-Coroner

Cc: THOMAS G. MAUK, County Executive Officer  
MIKE PENN, Foreman, OC Grand Jury

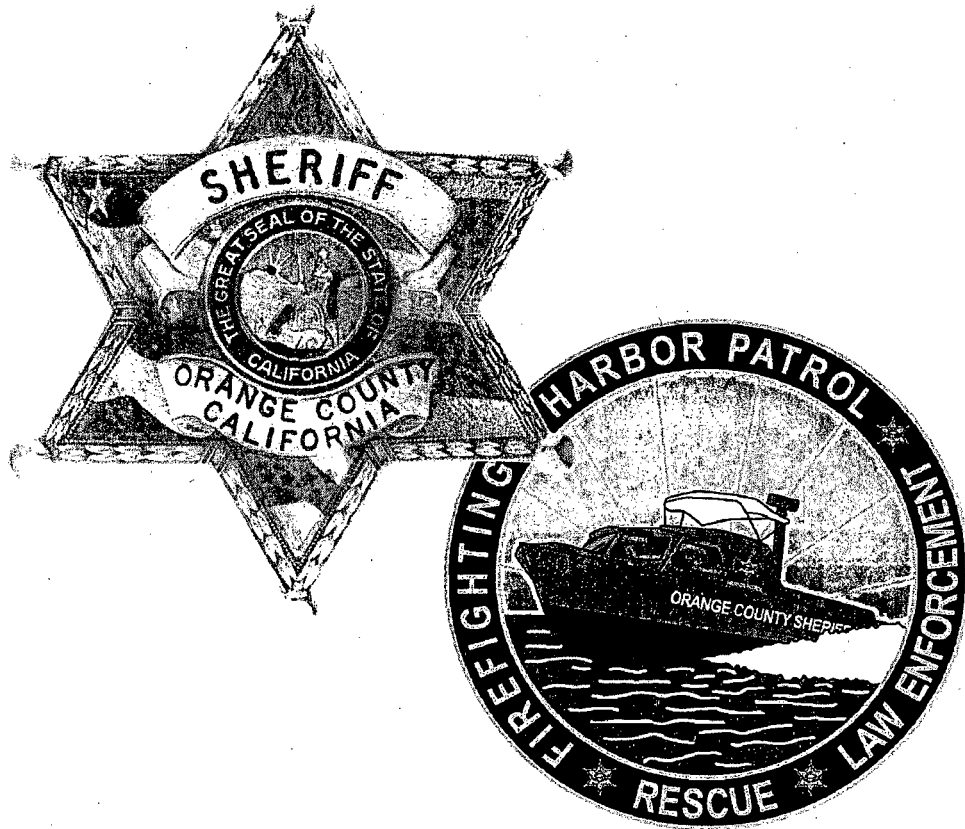
**PROUDLY SERVING THE UNINCORPORATED AREAS OF ORANGE COUNTY AND THE FOLLOWING CITIES AND AGENCIES:**

ALISO VIEJO • DANA POINT • LAGUNA HILLS • LAGUNA NIGUEL • LAGUNA WOODS • LAKE FOREST • MISSION VIEJO  
RANCHO SANTA MARGARITA • SAN CLEMENTE • SAN JUAN CAPISTRANO • STANTON • VILLA PARK  
HARBORS, BEACHES & PARKS • JOHN WAYNE AIRPORT • OCTA • SUPERIOR COURT



# Response to the Grand Jury

“Newport Harbor Moorings:  
Are they held in the Public Trust  
or for Private Profit?”  
2006 – 2007



**Michael S. Carona**  
**Sheriff – Coroner**

**ORANGE COUNTY SHERIFF'S DEPARTMENT**  
Jack Anderson, Assistant Sheriff  
Chief of Patrol Operations  
May 2007

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**The 2006-2007 Orange County Grand Jury prepared a report “to research and review the policies and procedures involved in the transfer of the public moorings located in Newport Harbor and to investigate whether private profits are being made from these transactions.”**

## **GRAND JURY FINDINGS**

Under California Penal Code §933 and §933.05, responses are required to all findings. The Grand Jury arrived at the following findings. Beneath each is the Sheriff's Department response to those finding (in red):

**F-1.** Private profits are being made from the current procedures used in transferring the mooring permits located on the public tidelands in Newport Harbor. Because the mooring equipment and the vessel currently assigned to that mooring must be sold to the same person, when a vessel on a mooring is sold, the new owner transfers that mooring permit into his or her name, rather than vacating the mooring and allowing the waiting list to proceed in order.

**F-2.** The offshore mooring areas now extend beyond the lines originally established by the United States Army Corps of Engineers in 1941.

**F-3.** Certain procedures adopted by the Newport Beach City Council regarding mooring permits are not enforceable because they are not included in the City's Municipal Code.

**F-4.** The last assessment of the fair market value of mooring permit fees took place almost ten years ago.

**F-5.** Although a mooring permit can be held in the name of one (1) person only and the permit cannot be placed in a company name, exceptions have been made for certain private yacht clubs. Additionally, vessels and moorings are now registered in family trusts. After a principal's death, the intent of a trust is to follow the vessel; however there is an unjustified perception that this also includes the mooring permit.

**F-6.** The County (1) follows State statutes and regulations concerning mooring and buoy permits and (2) along with the City of Newport Beach shares financial responsibility for funding the Harbor Patrol to provide management services; however the County performs no oversight of the City's regulations and procedures on a regular basis.

**F-7. The Harbor Patrol follows the regulations and procedures set down by the City; however, they have begun re-enforcing certain, but not all, regulations, e.g., the derelict boat rule is being enforced but abandoned moorings are allowed. The result of this is that the harbor now seems cleaner; however permittees are allowed to maintain moorings without vessels.**

**Orange County Sheriff-Coroner Response:** The respondent disagrees partially.

Since the mooring administration MOU agreement between the City of Newport Beach and the County was established, Sheriff's Harbor Patrol has enforced the established anchorage and mooring regulations.

City of Newport Beach Municipal Code, Title 17 (Harbor Regulations), Chapter 17.22 (Anchorage and Mooring Regulations), Section 17.22.200: *"Pursuant to an agreement between the County of Orange and the City of Newport Beach, the Director of Harbors, Beaches and Parks of the Orange County Harbors, Beaches and Parks District shall administer all provisions in this chapter dealing with moorings and buoys, except the revocation of permits by the City Council and collection of all fees hereafter. (Ord. 2002-18 (part), 2002)"*

Over many years, the mooring permit restriction which mandated a "vessel" must be maintained on a mooring created a dramatic increase in the number of unsightly and potentially hazardous derelict boats left unattended in the harbor. These vessels became the "target" for vandals, sea lions "hauling out", and due to their unkempt condition, quite frequently they would sink, causing potential hazards to navigation, hazardous material seeping out or in some cases, increased liability for the city and/or County.

Within the past two years, in cooperation with the City of Newport Beach / Harbor Resource Division and the Newport Mooring Association, amendments to Municipal Code Title 17 were introduced regarding the requirement of a vessel on each mooring can. Currently, those changes are being enforced.

City of Newport Beach Municipal Code, Title 17 (Harbor Regulations), Chapter 17.22 (Anchorage and Mooring Regulations), Section 17.22.100 E: *"If such mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the Harbor Resources Manager"*.

**F-8. The mooring waiting list has not been reviewed or updated for years.**

**Orange County Sheriff-Coroner Response:** The respondent disagrees wholly.

The current card system which catalogs the request list is "reviewed" frequently with names added and removed (as reported to the Harbor Patrol or Newport Harbor Resources), change of addresses or special location requests noted.

**F-9.** The majority of the current mooring permit fees fall below the Orange County Minimum Value Ordinance.

Response to Findings F-1, F-2, F-3, F-4, F-5, F-7, and F-8 are required from the Mayor of the City of Newport Beach.

Responses to Findings F-1 and F-6 are required from the Orange County Board of Supervisors.

**Responses to Findings F-7 and F-8 are required from the Orange County Sheriff-Coroner and Harbor Patrol.**

A Response to Finding F-9 is required from the Orange County Assessor.

## GRAND JURY RECOMMENDATIONS

In accordance with California Penal Code §933 and §933.05, each recommendation requires a response from 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 2006-2007 Orange County Grand Jury developed the following recommendations. Beneath each is the Sheriff's Department response to that recommendation (in red):

R-1. Tighten the regulations and procedures involved with Newport Harbor mooring permits and their transfers to ensure that all monies received which rightly belong to the public, stay within the public arena.

R-2. Consider public access to available moorings through adopting a more effective waiting list.

R-3. Reestablish the original mooring boundaries.

R-4. Independently analyze and reestablish the City's Municipal Code concerning the Harbor Regulations on moorings; have new procedures match corrected regulations rather than codifying, without review, what has become embedded as established practice.

**R-5. Review the Municipal Code on a regular basis to be sure that it incorporates the revised ordinances and procedures to allow uniform enforcement.**

**The recommendation has been implemented.**

Sheriff's Harbor Patrol works in close cooperation with the City of Newport Beach Harbor Resources Division to establish, modify and enforce city Municipal Codes relating to harbor mooring functions, procedures and regulations.

R-6. Establish a regularly scheduled independent appraisal for the fair market value of mooring permit fees, e.g., based on a percentage of the cost of a slip.

R-7. Review the inclusion of yacht clubs and trusts as mooring permittees.

R-8. The City of Newport Beach and the County of Orange should review their ordinances to make sure that they are consistent with each other.

**R-9. Review and update the mooring waiting list.**

**The recommendation requires further analysis.**

Working cooperatively with the City's Harbor Resources Division, a determination will be made regarding follow-up contact (on a periodic basis) with the mooring requestors. A fair procedure should be established and implemented to "purge" or update old (possibly containing obsolete information) files.

R-10. The Assessor Department should coordinate with the city to review the value of mooring permit fees on a regular basis to see if they rise above the Orange County Minimum Value Ordinance.

Responses to Recommendations R-1 through R-9 are required from the Mayor of the City of Newport Beach.

Responses to Recommendations R-1, R-2, R-6, R-8, and R-9 are required from the Orange County Board of Supervisors.

**Responses to Recommendations R-5 and R-9 are required from the Orange County Sheriff-Coroner Harbor Patrol.**

A Response to Recommendation R-10 is required from the Orange County Assessor.



May 30, 2007

Mike Penn, Foreman  
Orange County Grand Jury  
700 Civic Center Drive West  
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "Newport Harbor Moorings: Are They Held in the Public Trust or for Private Profit?"  
May, 2007

Dear Mr. Penn,

Per your request and in accordance with California Penal Code §933 and §933.05, enclosed please find my response to the FY 06-07 Grand Jury Report. If you have any questions, please contact Assistant Sheriff Jack Anderson (Operations) at 714-647-1815 or Captain Deana Bergquist (Harbor Patrol) at 949-673-0933

Respectfully,

Michael S. Carona  
Sheriff-Coroner

Cc: THOMAS G. MAUK, County Executive Officer  
NANCY WIEBEN STOCK, Presiding Judge, OC Superior Court

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