



County of Orange

County Executive Office

September 12, 2023

Honorable Maria D. Hernandez
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: "Russian Roulette: Fentanyl in Orange County" Grand Jury Response

Dear Judge Hernandez:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors and the County Executive Office.

If you have any questions, please contact Liz Guillen-Merchant of the County Executive Office at 714-834-6836.

Sincerely,

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2023.09.12 15:17:56 -07'00'

Frank Kim
County Executive Officer

Enclosures

cc: Orange County Grand Jury
Lilly Simmering, Deputy County Executive Officer
Liz Guillen-Merchant, Director, Performance Management and Policy



Responses to Findings and Recommendations
2022-23 Grand Jury Report:

“Russian Roulette: Fentanyl in Orange County”.

SUMMARY RESPONSE STATEMENT:

On June 21, 2023, the Grand Jury released a report entitled “Russian Roulette: Fentanyl in Orange County.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors. The responses are below:

FINDINGS AND RESPONSES:

- F1. Illicit fentanyl is sold on the streets and through social media marketed as legitimate pharmaceuticals, or as other drugs laced with fentanyl, or sold as straight fentanyl, leading to exponentially increasing fentanyl addiction and deaths in Orange County.

Response: *Agrees with the finding.*

- F2. Illicit fentanyl is a pervasive problem in Orange County.

Response: *Agrees with the finding.*

- F3. Drug dealers use social media to sell fentanyl and other drugs. Social media business models impede law enforcement investigations.

Response: *Agrees with the finding.*

The Board of Supervisors agrees with the finding and add that current federal laws also impede investigations.

- F4. California law limits prosecution of fentanyl deaths as homicides. Fentanyl death related cases are selectively referred for federal filing consideration. The Orange County District Attorney has cross-designated one of its own senior deputy district attorneys to prosecute such cases under federal narcotics laws.**

Response: *Agrees with the finding.*

The County agrees with the finding that “California law limits prosecution of fentanyl deaths as homicides” and defers to the District Attorney’s response on the referral of cases to the United States Attorney.

- F5. California law does not provide for uniform admonishment of drug dealers of their potential criminal liability for drug-related deaths. Proposed legislation requiring judicial admonishments has been rejected multiple times by the California Legislature.**

Response: *Agrees with the finding.*

- F6. Under current California law, fentanyl related felonies are not subject to additional penalty for weight enhancements as are other dangerous drugs such as cocaine and heroin.**

Response: *Agrees with the finding.*

- F7. Orange County will benefit by establishing a chartered multi-agency Task Force to address the fentanyl crisis in Orange County.**

Response: *Agrees with finding.*

The County has either already established or currently participate on multi-agency task forces to address fentanyl. Each of these taskforces are designed to address the fentanyl crisis from all angles- public health, public safety, and mental health. The County currently participates in two such community groups, one that is Opioid focused and one that is Fentanyl specific. The Opioid Task Force includes representatives from the Health Care Agency (HCA) Correctional Health Services and Public Health Department, Orange County Sheriff Department (OCSD) and Orange County Probation Department (Probation) along with outside stakeholders. The Fentanyl group consists of subject matter experts from the provider community, those with lived experience and harm reductionists. These groups help inform how Opioid dollars will be used to prevent, treat & support recovery for individuals under MHRS Substance Use Disorder (SUD) programs.

- F8. As long as there is a demand, producers will find ways to supply drugs. Orange County cannot law enforce its way out of the fentanyl crisis. Education, prevention, and treatment are critical to reducing demand.**

Response: *Agrees with the finding.*

Addressing the fentanyl crisis requires policy makers to address both the supply and demand for the drug. Education, prevention, and treatment are critical, as well as legal mechanisms to hold producers and sellers accountable. On March 3, 2022, Supervisor Katrina Foley and Supervisor Doug Chaffee held the Orange County Fentanyl Hearing to allow the public to hear from local law enforcement agencies, public health experts, and Orange County leaders about the dangers of fentanyl and the steps taken to curb the use of the deadly drug. Furthermore, on August 8, 2023, the County Board of Supervisors unanimously approved Chairman Wagner's allocation of \$1.7 million to support OCSD's work in confronting the fentanyl crisis in Orange County. The funds will serve to enhance OCSD's substance use prevention program and narcotics enforcement efforts.

F9. There is a need to increase public awareness and acknowledgement of the risks of illicit fentanyl.

Response: *Agrees with the finding.*

It should be noted that all members of the Board of Supervisors have actively spoken in support of stricter measures to reduce the availability of fentanyl to the public, especially children. The Board of Supervisors consistently engage in opportunities to increase public awareness around the risks of fentanyl. One such example was the Orange County Fentanyl Hearing held on March 3, 2022. The hearing was held by Supervisor Katrina Foley and Supervisor Doug Chaffee to allow the public to hear from local law enforcement agencies, public health experts, and Orange County leaders about the dangers of fentanyl and the steps being taken to curb the use of the deadly drug.

F10. Some educational institutions are not participating in available educational and preventive fentanyl/drug programs.

Response: *Partially disagrees with the finding.*

While the School Boards of the respective cities cited in this finding are the subject matter experts in this area, the County is aware of 18 school districts that currently receive and have Naloxone, a life-saving medication used to reverse an opioid overdose, on site and available for use as necessary. On December 20, 2022 the County Board of Supervisors approved Chairman Wagner's allocation of \$120,000 in grants for school districts in Third District for Naloxone supplies. There are six unified school districts in the Third District: Capistrano, Irvine, Orange, Placentia-Yorba Linda, Saddleback Valley and Tustin. Upon acceptance of the grants, which was at the discretion of the individual school boards, those supplies were to be divided up equally among the high schools in that school district.

RECOMMENDATIONS AND RESPONSES:

- R1. By January 1, 2024, the Orange County Board of Supervisors should charter a multi-agency Task Force to address the fentanyl crisis. (F2, F7, F8, F9)**

Response: *The recommendation has been implemented*

County agencies including OCSD, Probation, Orange County Superior Court, HCA, Substance Use Treatment Providers, Medically Assisted Treatment (MAT) services and other social service providers are currently working together in both the juvenile and adult populations to address the fentanyl crisis. HCA already has such a Task Force which includes pertinent partners and those with lived experience.

- R2. By July 1, 2024, the Orange County Board of Supervisors, the Orange County District Attorney, and the Orange County Sheriff should lobby the California State Legislature to add fentanyl to the list of drugs subject to penalty enhancements in felony drug convictions and to add statutory authority for judicial admonishments when drug dealers and traffickers are convicted of fentanyl-related crimes. (F4, F5, F6)**

Response: *The recommendation requires further analysis.*

Since 2016, The Board of Supervisors has supported fifteen bills on fentanyl legislation at both the State and Federal level. Most recently supporting HR 467, the Halt All Lethal Trafficking (HALT) of Fentanyl Act, that would permanently place fentanyl-related substances into Schedule 1 of the Controlled Substances Act – the strictest level of control currently in place by the Drug Enforcement Administration. In regard to specifically adding fentanyl to the list of drugs subject to penalty enhancements in felony drug convictions and add statutory authority for judicial admonishments when drug dealers and traffickers are convicted of fentanyl-related crimes, the Board of Supervisors will need to work with OCSD and District Attorney to determine whether to implement or not.

- R3. By July 1, 2024, Orange County Law Enforcement agencies should work with social media companies to ensure law enforcement has timely access to drug- related criminal activity information on their platforms. (F1, F2, F3)**

Response: *This recommendation has been implemented.*

The Probation Department, through Orange County Law Enforcement Agencies partnership, can currently request a search warrant for such information in the process of a criminal investigation. In 2022, Chairman Wagner, in partnership with Sheriff Barnes, arranged for Snap Chat to meet with Orange County law enforcement executives from throughout the county. Law enforcement executives had the opportunity to share their concerns, ask questions, and provide input on crime prevention strategies.

- R4. By January 1, 2024, the Orange County Sheriff's Department, Probation Department, and Orange County Health Care Agency should collaborate to evaluate the effectiveness of existing in-custody and post-custody sobriety treatment programs and determine where improvements can be incorporated. (F2, F7, F8)**

Response: *The recommendation has already been implemented.*

In 2019 the County underwent a comprehensive assessment of the Criminal Justice System which resulted in the creation of the Integrated Services - 2025 Vision strategic plan which was adopted by the Board of Supervisors on October 22, 2019. Now branded the OC CARES 2025 Vision, the plan links the county criminal justice system and the County's Systems of Care to provide inmates and at-risk-individuals with the services they need to become self-determined and facilitate successful reentry. The 2025 Vision is a permanent component of Orange County's annual Strategic Financial Plan. Its oversight is provided by the Orange County Criminal Justice Coordinating Council (OCCJCC) that is chaired by the Board and includes participation from county departments, Courts, and local law enforcement working collaboratively to achieve its goals.

The Plan is comprised of overarching goals that specifically address in-custody and post-custody sobriety. The In-Custody Pillar focuses on creating a comprehensive in-custody Behavioral Health (BH) program that will identify individuals upon intake who require specialized BH services and stabilize them in designated jail housing modules; provide advanced and specialized behavioral health programming and treatments, personalized discharge planning and linkage to community services; and provide 24/7 in-custody substance use treatment that will link to post-custody services and case management. The Reentry Pillar is working to develop a comprehensive system to ensure continuity in treatment for mental health and substance use disorders and promote positive outcomes post-release.

Currently, Probation and HCA regularly collaborate on individual cases to ensure the level of in-custody substance use treatment and out of custody substance use treatment programs are effective in addressing the needs and issues of individual cases and necessary levels of care are provided. Additionally, HCA Mental Health Recovery Services (MHRS) has multi-level mandatory oversight of all contracted services for SUD, including prevention and recovery support as is required by state and federal statute. HCA MHRS is monitored at least 4 times a year by the California Department of Health & Human Services for all SUD services provided, as well as by the Substance Abuse Mental Health Services Administration for the Substance Abuse Block Grant dollars received and utilized for prevention, treatment & recovery support by MHRS. Quality management and improvement are built into all HCA MHRS SUD programs. By January 1, 2024, Orange County Health Care Agency's Correctional Health Services will collaborate with OCSD to develop a report that identifies if individuals who received Medication Assisted Treatment while in-custody returned to jail related to drug charges within 1 year.

ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
September 12, 2023

Submitting Agency/Department: County Executive Office

Approve proposed response to FY 2022-23 Grand Jury Report "Russian Roulette: Fentanyl in Orange County." - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) DO: **Y** (2) SARMIENTO: **Y** (3) WAGNER: **Y** (4) CHAFFEE: **Y** (5) FOLEY: **Y**

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 31

Special Notes:

Copies sent to:

*CEO – Liz Guillen-Merchant
Superior Court
Grand Jury*

9/15/23



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By:

A handwritten signature in blue ink, appearing to read "Robin Stieler".

Deputy

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Agenda Item



AGENDA STAFF REPORT

ASR Control 23-000760

23FL

MEETING DATE: 09/12/23
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Liz Guillen-Merchant (714) 834-6836
 Lilly Simmering (714) 834-6234

RECEIVED
CLERK OF THE BOARD

AUG 29 2023

SUBJECT: "Russian Roulette: Fentanyl in Orange County" Grand Jury Response

CEO CONCUR Concur	COUNTY COUNSEL REVIEW No Legal Objection	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years: No

Levine Act Review Completed: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):

1. Approve proposed response to FY 2022-23 Grand Jury Report entitled "Russian Roulette: Fentanyl in Orange County."
2. Direct the Clerk of the Board to forward this Agenda Staff Report with attachments to the Presiding Judge of the Superior Court and the FY 2022-23 Grand Jury no later than September 21, 2023.

SUMMARY:

Approval of proposed response to FY 2022-23 Grand Jury Report entitled "Russian Roulette: Fentanyl in Orange County" will fulfill the County's required response to the Grand Jury.

BACKGROUND INFORMATION:

On June 20, 2023, the Orange County Grand Jury released a report entitled "Russian Roulette: Fentanyl in Orange County." The report directed responses to findings and recommendations to the Board of Supervisors. Attachment B is the County's proposed response to the Grand Jury.