

# **To Protect And To Serve:**

## **A Look at Tools to Assist Law Enforcement in Achieving Positive Outcomes with the Homeless Mentally Ill**

### **SUMMARY**

*“Homelessness is not a crime:”* a statement noted in Orange County Police and Sheriff’s Department policy. However, homelessness and mental illness sometimes create a ‘perfect storm’ that requires outside intervention. When that storm occurs, it is usually law enforcement that must deal with the consequences. Officers and Deputy Sheriffs are expected to become on the spot psychologists, counselors, housing assistance experts and general-purpose problem solvers, as well as law enforcers and crime fighters.

*“There has been a shift for field officers from dealing with the disabled to dealing with the mentally ill.”<sup>1</sup>* This paradigm shift has created specific, unique challenges for those who choose to serve us as sworn officers: those who take an oath to support and defend the Constitutions of the United States and of California and promise to protect the rights found in these documents.

Individuals with mental disorders and mental illnesses who are also homeless make up our County’s ‘invisible population;’ invisible most of the time to most of us but not to law enforcement personnel. Law enforcement is tasked with providing service to all members of the community and its challenge is to do so while protecting the rights, dignity and private property of the homeless, who are often in need of special protection and services

### **REASON FOR STUDY**

The tragic death of Kelly Thomas on July 5, 2011 in Fullerton had far flung consequences. Although the impetus for this study is, quite logically, this tragedy, the aftermath of which is that at least four lives were unalterably changed that night and by extension, countless others, this incident is not the focus of the Grand Jury study. Rather, the reason for this study is to explore what kind of training peace officers receive in dealing with the mentally ill and the homeless on our streets, both prior to taking up their duties in the community and in going forward in their careers.

### **METHOD OF INVESTIGATION**

In conducting this study, the Grand Jury

- studied articles;
- researched newspaper articles;

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<sup>1</sup> Interview: former Chief of Police

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- studied police training manuals;
- studied the Orange County Sheriff's Department policy manual;
- studied Police Officers Standards and Training basic course materials contained in Learning Domain 37: People with Disabilities;
- interviewed city Chiefs of Police;
- interviewed field training Sheriff's officers;
- interviewed health care professionals both in Orange County and in other counties;
- conducted in-field observations with police officers;
- participated in ride-alongs with Sheriff's deputies;
- reviewed training programs specific to working with the mentally ill and
- reviewed former Grand Jury studies.

#### BACKGROUND AND FACTS

##### What is mental illness?

*"I never woke up one day and said, 'Hey, I want to live a tragic life'."*

-Wayne Mellinger<sup>2</sup>

According to the Substance Abuse and Mental Health Services Administration, twenty percent to twenty-five percent of the homeless population in the United States suffers from some form of severe mental illness. In a 2008 survey performed by the United States Conference of Mayors, twenty-five cities were asked to identify the three major causes of homelessness in their communities. Mental illness was the third largest cause of homelessness for single adults (mentioned by forty-eight percent of cities): with the first cause being lack of employment and thus financial stability leading to poverty and the second being family crisis. For homeless families, mental illness was mentioned by twelve percent of cities as one of the top three causes of homelessness.<sup>3</sup>

Severe mental illness can be defined as a medical condition that disrupts an individual's ability to carry out essential aspects of daily life, such as self-care and household management. It may also prevent people from forming and maintaining stable relationships or cause people to misinterpret others' guidance and react irrationally. Mental illness is also referred to as "Mental Disorder".<sup>4</sup> It can take two forms: **thought disorder**, wherein a person's thought process is disrupted causing that person to experience delusions, hallucinations, and/or irrational fears, or they may

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<sup>2</sup> Wayne Mellinger Ph.D. is a social justice activist living in Santa Barbara and social worker for the homeless. He was appointed by Santa Barbara County 3<sup>rd</sup> District Supervisor Doreen Farr to the South Coast Homeless Advisory Committee and is a board member of Clergy and Laity United for Economic Justice (CLUE). He is bipolar.

<sup>3</sup> *Mental Illness and Homelessness*. The National Coalition for the Homeless. July, 2009:

<http://www.nationalhomeless.org>

<sup>4</sup> POST L.D.37; ch 4 p.4.4

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exhibit unusual behaviors; or **mood disorder**, where the person experiences periodic disturbances in mood, concentration, sleep, activity, appetite or social behavior. Mood disorders can be marked by periods of extreme sadness (depression) or excitement (mania) both of which tend to be episodic.<sup>5</sup>

California's Peace Officer Standards and Training (POST) lists indicators that demonstrate behavior related to mental illness. These are: inappropriate behavior, extreme rigidity or inflexibility, excitability, impaired self-care, hallucinations, delusions, disorganized speech, thought patterns or disorientation, clinical depression, bipolar disorder, schizophrenia, postpartum-depression, postpartum-psychosis, posttraumatic stress disorder and personality disorder.<sup>6</sup>

Wayne Mellinger estimates that about half of those living on the street have mental health challenges and about half of these individuals also have substance abuse issues and gives amazing insight into what it is like:

*Imagine going through life in sixth gear, sometimes flying smoothly on the interstate of life. Other times this accelerated mode of being leads to reckless driving in which you drive off the road and terribly crash the car. While other people gradually warm up their engines, you often lie in bed at night already awake and raring to go. While raised to be polite and deferential, you constantly find yourself interrupting people and finishing their sentences. You often feel like you have bulldozed your way through an encounter.... You sense that you are all over the place, ideas firing in your head so fast that others cannot keep up.... You even get unrealistic beliefs about what you can accomplish. Sometimes you are involved in "pleasurable sprees" that afterward seem terrifyingly foolish. Now imagine that you have found something that soothes that excessive energy and calms you down so much that you are actually able to sit quietly and focus for hours on doing some of the things you enjoy. While you know that the substance is unhealthy and illegal, the relief you feel under its influences is so wonderful that you find ways to do it more and more, until you are so involved with the substance that you are chemically dependent... While I come from a loving and caring middle-class family that provided me with everything I needed and ensured that life opportunities would abound, an undercurrent of darkness and chaos has*

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<sup>5</sup> POST L.D.37; ch4 p.4.5

<sup>6</sup> POST L.D.37; ch4 pp.4.5-4.12

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*run through my life. Periods of intense creativity, intellectual pursuits and professional accolades get followed by periods of exhaustive depression, isolation and dysfunctionality. These episodes have led me to homelessness several times in my adult life.<sup>7</sup>*

The 2005-2006 Orange County Grand Jury study entitled: *The Homeless Crisis in Orange County*, found that throughout the year there were nearly 35,000 homeless people in Orange County. In 2011, that figure was estimated to be 18,325<sup>8</sup> based on current HUD<sup>9</sup> methodology.

The closing of large state-run mental health institutions in the 1970s left many severely mentally ill people with nowhere to go. For those who are holding onto the cliff of life, the wealthiest nation in the world has no safety net to catch those who free fall to the bottom.

Many residents, business owners and government officials continue to view chronic homelessness as a law enforcement issue rather than a social issue.<sup>10</sup> How peace officers respond to persons living with a mental disorder can have tremendous impact on how these encounters will be resolved.

#### **CAUGHT BETWEEN A ROCK AND A HARD PLACE**

##### **Law Enforcement:**

Even peace officers skilled in dealing with the mentally ill are often caught between a 'rock and a hard place'. On the one hand, they have a duty of care for all citizens, regardless of their mental state and living circumstances; on the other hand, they have an obligation to citizens who own property and conduct business within the community and may interact with the homeless mentally ill.

The County of Orange is "policed" in two main ways: thirteen of the thirty four cities in the County contract with the Orange County Sheriff's Department for their services; the other twenty one cities have their own police departments.

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<sup>7</sup> <http://homelessresourcesca.blogspot.com/2012/01for-homeless-mentally-ill-and-addicted...>

<sup>8</sup> Galvin, Andrew. Orange County Register, "Volunteers needed for count of homeless" 1.22.2013

<sup>9</sup> Housing and Urban Development

<sup>10</sup> *The Homeless Crisis in Orange County*. 2005-2006 Orange County Grand Jury study, p.6

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Incorporated Cities of Orange County		
City	Sheriff's Dept.	City Police Dept.
Aliso Viejo	X	
Anaheim		X
Brea		X
Buena Park		X
Costa Mesa		X
Cypress		X
Dana Point	X	
Fountain Valley		X
Fullerton		X
Garden Grove		X
Huntington Beach		X
Irvine		X
La Habra		X
La Palma		X
Laguna Beach		X
Laguna Hills	X	
Laguna Niguel	X	
Laguna Woods	X	
Lake Forest	X	
Los Alamitos		X
Mission Viejo	X	
Newport Beach		X
Orange		X
Placentia		X
Rancho Santa Margarita	X	
San Clemente	X	
San Juan Capistrano	X	
Santa Ana		X
Seal Beach		X
Stanton	X	
Tustin		X
Villa Park	X	
Westminster		X
Yorba Linda	X	

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An organization that is instrumental in setting policy for all these departments is the Orange County Chiefs' and Sheriffs Association. It is an exclusive non-profit entity that meets regularly to discuss issues and concerns of law enforcement in the County. It is comprised of chief law enforcement executives: city police chiefs and the Sheriff, who meet monthly as part of their duties. This practice is very beneficial to public safety because of the enhanced communication and co-operation between these men and women. The Orange County Chiefs' and Sheriffs Association is an effective political force when it speaks with one voice about an issue of concern whether through the media or with politicians at the county, state and federal level.

Individuals interested in becoming peace officers can complete any Police Officers Standards and Training (POST) approved police academy in California to initially qualify to work as a sworn officer in Orange County. However, Orange County itself has three options for initial training: the Sheriff's Academy, Golden West College Criminal Justice Training Center or a program at Fullerton College.

The purpose and scope of the training policy at the Sheriff's Academy is to provide a training program that will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.<sup>11</sup> This training is provided using courses certified by the California Commission on Peace Officer Standards and Training (POST) and the Correctional Standards Authority (CSA)<sup>12</sup>. It addresses the following areas:

- Legislative Changes,
- State Mandated Training,
- Critical Issues Training.

In addition to this training, the POST requirement also includes Advanced Officer Training, similar to continuing professional training found in teaching, nursing and the practice of law, consisting of twenty-four hours of training every two years in compliance with the POST requirements. This requirement offers a variety of courses ranging from drug/alcohol recognition to perishable skills such as pursuit driving and firearms accuracy, as well as providing legal updates. It currently does not specify the number of hours for or frequency of on-going training for dealing with citizens with mental illness.

POST basic academy training offers a Learning Domain (thirty-seven) Entitled: *People with Disabilities* that consists of a workbook divided into four chapters designed to provide students with a self-study text that can be used in preparation for classroom training.

- Chapter One covers laws that protect the rights of people with disabilities, types of disabilities and peace officer interactions with people with disabilities.

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<sup>11</sup> *Orange County Sheriff-Coroner Department Policy Manual: Training Policy* p.48

<sup>12</sup> Penal Code §13515.25

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- Chapter Two covers developmental disabilities.
- Chapter Three covers physical disabilities including neurological disorders and
- Chapter Four covers persons with mental illness.

The overview to Chapter Four states: *“Peace Officers must become familiar with the behavioral and psychological indicators of mental illness in order to determine if an individual is a danger to others, danger to self, or gravely disabled and to determine an appropriate response and resolution option.”*<sup>13</sup> The chapter is thirty pages long and mostly in grid format, sometimes with as little as one paragraph on a page; arguably, not material for an in-depth study of the subject unless heavily supplemented by a knowledgeable and competent instructor.

The Sheriff’s policy for dealing with mentally ill persons is in the Field Operations Manual §29. It defines mentally ill as “those persons who are of such mental condition that they are a danger to themselves or the person or property of others, and in need of supervision, treatment, care or restraint.”<sup>14</sup> The manual then goes on to discuss symptoms of mental illness and physical conditions that look like mental illness. It states: *“Mental illness symptoms only would not be justification for taking a person into custody.”*<sup>15</sup> It also discusses how to talk to a disturbed person.<sup>16</sup> Protocol for dealing with mentally ill individuals includes contacting a Centralized Assessment Team (CAT) or a Psychiatric Evaluation Team (PET) available twenty-four hours a day, seven days a week. It is also possible to contact an Emergency Treatment Services (ETS) facility which is open twenty-four hours a day, seven days a week.

Each city agency and the Sheriff’s Department should supplement POST training to include an in-depth study of dealing with those on the street who are emotionally disturbed and/or mentally ill – both in the context of day to day policing and in the context of use of force. Although many agencies have procedures for dealing with the mentally ill, few actually conduct regular training related to these policies. Even fewer train on tactics and use of force in the context of the emotionally disturbed and the mentally ill. The Grand Jury had the experience of speaking with a top law enforcement officer who believed there were other priorities that needed more attention. However, when interviewed, deputy sheriffs and city patrol officers expressed both a desire and a need for on-going, in-depth training in this area of policing.

Lack of in-depth training in this area can have dire consequences as demonstrated in the case study below, greatly abridged for these purposes:

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<sup>13</sup> POST LD37:chapter 4,p.4-1

<sup>14</sup> Sheriff’s Field Operations Manual §29 p. 29.1

<sup>15</sup> Ibid p.29.4

<sup>16</sup> Ibid p.29.5

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In *Herrera v Las Vegas Metropolitan Police Department*, 298F.Supp 2d 1043 (District of Nevada 2004), plaintiff brought claims against five metro officers and the sheriff, the Las Vegas Metro Police Department and the city of Las Vegas for

- wrongful death,
- intentional infliction of emotional distress,
- negligence,
- **negligent training and supervision.**
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An expert testified that defendant officers should have known that the manner in which they approached the decedent would escalate the confrontation. According to Van Blaircom, the officers' treatment of the situation, combined with their statements that a mentally ill individual should be treated as any other person, regardless of the situation, indicate that the police department's training in dealing with the mentally ill falls well below the reasonable standard of contemporary care.

There needs to be a paradigm shift in traditional police tactics in order to successfully interact with disturbed individuals. This will only happen if there is proper mandatory training of law enforcement personnel.<sup>17</sup>

The Grand Jury distributed a questionnaire to the Orange County Sheriff's Department and to every city police department in order to gain an objective understanding of policies and procedures used throughout the County when peace officers encounter the mentally ill homeless - which they do on a daily basis. We also wanted to understand whether departments were taking any creative and innovative approaches when dealing with this area of law enforcement. The questionnaire appears below with responses summarized as succinctly as possible.

#### ***Q: How many sworn officers do you have in your Department?***

The range of sworn peace officers throughout the County of Orange varies greatly, depending on the size of the city. The least number of officers in a city is twenty-two; the greatest: three hundred forty. There are one thousand seven hundred and sixty-six deputy sheriffs in a total of thirteen cities and unincorporated areas within the County.

The number of officers per one-thousand people in a city ranges from 0.88 to 2.04. Most cities statistically have about one officer per one-thousand persons in the city they serve.

#### ***Q: Is your department accredited by a national agency such as the Commission on Accreditation for Law Enforcement Agencies?***

Two city police departments are accredited nationally by the Commission on Accreditation for Law Enforcement Agencies (CALEA); nineteen cities and the Sheriff's

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<sup>17</sup> LEMHS CORP, *Law Enforcement Mental Health Solutions* training seminar 02.13.13



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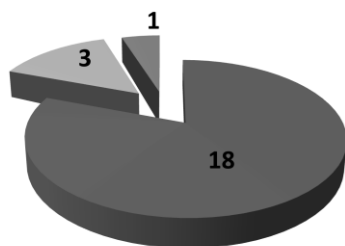
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Department are not. This means that less than ten percent (6.8 percent) of cities within the County of Orange have nationally accredited police departments.

**Q: Beyond Police Academy training, how many hours of training do officers receive each year that specifically focuses on the understanding of mental illness suffered by those on the street?**

Hours of Training on Mental Illness	Departments
0	1
1	2
2	3
4	2
5	2
12	1
16	1
1 to 2	1
2 to 4	4
3 to 4	1
4 to 16	1
4 to 8	1
Varies	2

**Q: Does this training include presentations by mental health professionals?**



■ Yes ■ No ■ Sometimes

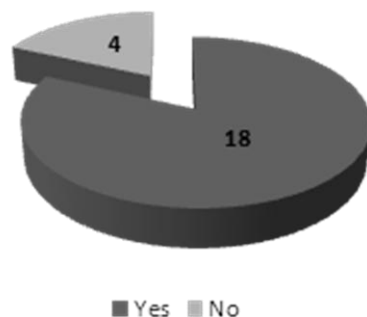
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**Q: How many briefings annually are provided to your officers that specifically pertain to the homeless and strategies/tactics for dealing with them?**

Annual Briefings	Departments
0	1
1	2
2	1
4	2
1 to 2	2
1 to 3	2
2 to 3	1
2 to 4	1
3 to 4	1
6 to 12	1
9	1
12	1
19	1
Frequently	1
Varies	2
Did not Answer	2

**Q: Do you have a specific officer(s) designated to liaison with your city's homeless population (a homeless liaison officer)?**



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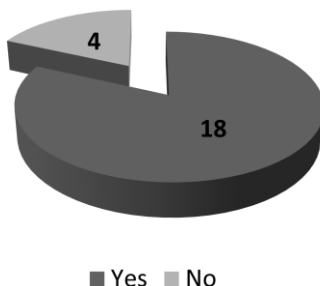
**Q. How many officers? If no, how do you deal with this population?**

Number of Liaison Officers	Departments
1	7
2	2
3	1
4	2
5	2
8	1
10	1
Handled Differently	6

Some departments are members of the Orange County Community Officer’s Association and, as part of that Association, meet and discuss strategies for dealing with the mentally ill homeless.

In a small city, all officers are familiar with the homeless population. The Grand Jury found this to be true during their ride-along with both the Sheriff’s Department and City Police. Officers knew people by name as well as something of their background and personal issues. In some cases, those on the street also knew the officer - sometimes by name. Other cities and the Sheriff’s Department are currently exploring the designation of a homeless liaison officer. One city said it deals with homeless mentally ill issues on a case-by-case basis.

**Q: Do you have at least one officer trained in crisis intervention?**



**Q: What is your plan when this person(s) is not at work?**

Responses vary from no formal plan to some cities having many or even all field officers formally trained in crisis intervention. Four city departments make use of crisis negotiation teams, Psychological Evaluation Teams (PET) and Centralized Assessment

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Teams (CAT). These teams are from the County's Behavioral Health Department and are funded in part by the Mental Health Services Act (MHSA). Ten departments responded they had many officers trained in crisis intervention and therefore, the absence of one trained officer is not an issue. Four departments use community resources; four have no plan. The Sheriff's Department uses Centralized Assessment Teams and Psychological Evaluation Teams.

***Q: If you do not have a dedicated officer(s), what other options are you exploring when dealing with persons suffering from mental illness in crisis?***

Two departments did not answer this question; it was irrelevant to twelve others as they have dedicated officers. Other comments included: officers use services of the Orange County Health Care Agency; officers receive training on communication and intervention techniques. One department stated it is currently working with neighboring cities to improve the task force on homeless issues; another department and the Sheriff's Department attend crisis intervention training – a sixteen hour course – at Golden West College. A mental health professional told the Grand Jury that Orange County Health Care Agency offers a forty hour (Memphis Model) course to police departments but departments will not (cannot?) release officers for longer than sixteen hours. One department stated that, if an individual in question can be held on a *Welfare & Institutions Code §5150*,<sup>18</sup> they get that individual to the hospital for a psychiatric evaluation; otherwise, there is no procedure or other option available.

***Q: What resources and facilities are available to you for use with the homeless mentally ill (other than those designated W&IC §5150)?***

There were several responses to this question. All departments use one or more of the strategies discussed below.

One department has access to lists of shelters and assistance programs on their in-car computers. Others have lists of shelters, churches, other non-profits and food banks. Some departments use University of California, Irvine hospital, Hoag Hospital and College Hospital - although it is not clear whether these hospitals are used only for Welfare & Institutions Code §5150 designated individuals. One department has two social workers ride along with an officer one day a week; another has a mental health clinician ride with the homeless liaison officer regularly. Some departments call Centralized Assessment Teams (CAT) and Psychiatric Evaluation Teams (PET) for assistance; one department has an Alternative Sleeping Location (ASL) program. Some departments use Orange County Mental Health Agency resources.

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<sup>18</sup> Section 5150 of the *Welfare & Institutions Code* allows a peace officer to admit an individual to a hospital for a seventy-two hour psychological evaluation if that person meets certain criteria: i.e. are an immediate danger to themselves or others.

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***Q: Do your officers have access to a PERT (Psychiatric Emergency Response Team) or PERT-like team 24 hours, 7 days a week? If yes, are you happy with their response? If no, what would you like to see changed?***

Twenty-one departments (this number includes the Sheriff's Department) answered that they did have access to some type of psychological assessment/crisis intervention team. One department said they did not. Seventeen departments are happy with this professional partnership. One department was not happy and stated such a team needs additional resources; one did not answer the question. Four departments had no comment.

***Q: As part of departmental training do your patrol officers periodically ride with the homeless liaison officer(s) in order to further develop their abilities and strategies, first hand, in dealing with the homeless? What other options/training do you utilize to enhance their skill set?***

Five departments responded that their patrol officers ride with the homeless liaison officer; seventeen departments do not follow this practice. One department holds post-incident de-briefings. It is not clear whether these de-briefings include only officers involved in the incident or whether all patrol officers are included. Two departments send their officers to Orange County Mental Health briefing training. Three departments use the POST learning portal. One department holds informal briefings and training; one holds monthly CompStat<sup>19</sup> (Computer Statistics) meetings. Three departments use the professional services of community leaders by having them give presentations; for instance, Orange County Mental Health Agency goes to roll call at the Sheriff's Department and the city police departments to remind officers of the importance and availability of Centralized Assessment Teams and Psychiatric Evaluation Teams. Seven departments avail themselves of outside professional courses; nine departments use videos, training bulletins, briefing training, handouts and periodicals. The Sheriff's Department, as well as using some of the strategies above, also uses a sixteen week "Memphis Model" (Crisis Intervention Training) course. Several police departments gave the Grand Jury a copy of the video: *Close Encounters* which teaches positive methods police officers can use when working with the homeless mentally ill in the field. This video can easily be used at roll call.

***Q: Do supervisors and command staff periodically ride with the homeless liaison officer(s) so that they are aware of challenges and issues related to that specific population? What other options do you utilize to enhance their decision making skills?***

Five departments responded that their patrol officers ride with the homeless liaison officer; seventeen departments do not follow this practice. One department uses a new, internal database; one has a department policy and officer resource guide; one

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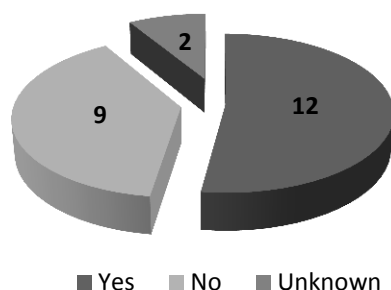
<sup>19</sup> CompStat: Name given to accountability process model of crime reduction. This model was developed by the New York Police Department and introduced in Los Angeles CA by Chief Bratton. It is a promising trend in significantly reducing violent crime.

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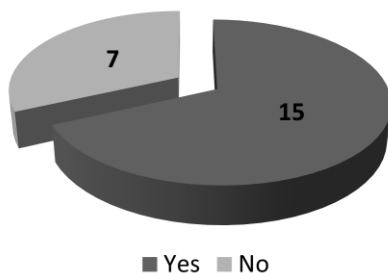
uses post incident de-briefing. In one department, the command staff is part of the homeless task force. Three departments report that they are continually briefed by the homeless liaison officer; three believe attending Chiefs' and Commanders' meetings enhances their skills. Ten departments avail themselves of outside professional training and conferences, as does the Sheriff's Department. Three departments did not answer the question.

**Q: Has your department reached out to neighboring cities to learn whether specifically skilled officers could be combined into a task force dedicated to dealing with the homeless? If so, what was the response?**



The Sheriff's Department is considering a task force dedicated to their contract cities and unincorporated areas. Another department is exploring opportunities for a task force. One department hosted a county-wide meeting of homeless outreach staff. Three departments have their homeless liaison officer(s) meet with others to share information and fifteen to twenty departments are members of the Orange County Officer's Working Group on Homeless and Mental Illness. Other departments work together: Seal Beach partners with Laguna Beach Police Department; Orange, Anaheim and Placentia Police Departments work together. Orange Police Department and Santa Ana Police Departments work together at the Santa Ana riverbed area where a large homeless population resides.

**Q: Has your department reached out to recognized law enforcement, mental health and legal experts to learn whether specifically skilled individuals could be used in your training program? If so, what was the response?**



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Three departments use Orange County Mental Health Agency services. Other responses include: creating a four hour workshop for First Responders; developing a homeless task -force; co-hosting “Meeting of Minds” conference with Orange County Mental Health Agency; adding POST certified content to on-going training curriculum; having the community resource officer meet with others in the County, and using college programs for on-going education.

***Q: If you were offered a complete program for training your officers in positive and effective interaction with mentally ill individuals would you avail yourself of the opportunity?***

Twenty-one departments (including the Sheriff’s Department) are interested in on-going multidisciplinary training programs. Three departments have already completed such a program; others, including the Sheriff’s Department, are in the process of completing training. One department commented that their interest was subject to review of their needs and the cost of the program.

***Q: Do you think the County should support additional training through the use of MHSA (Proposition 63) funds? If no, why not?***

All police departments believe the County of Orange should use Mental Health Services Act (Proposition 63) funds for additional peace officer training. In fact, the Grand Jury was told that funding is available to local law enforcement for a comprehensive forty hour Crisis Intervention Training (CIT) program.<sup>20</sup> Some departments rejected this proposal as too difficult to implement due to the projected cost of overtime necessary to backfill the work schedule for patrol officers attending the weeklong training.<sup>21</sup> The Grand Jury was told that the “push back” against the proposed CIT training happened **before** the Kelly Thomas incident.<sup>22</sup> As per the responses to the previous question, a few departments have, in fact, completed this training and a few others plus the Sheriff’s Department (which equals thirteen cities) are in the process of doing so. A mental health professional told the Grand Jury that Orange County would fund CIT training with Proposition 63 funds if “local law enforcement changed their position.”<sup>23</sup> This individual said: “CIT is the First Line of Defense. The PERT is the Second Line of Defense.”<sup>24</sup> Orange County Health Care Agency has, in 2012, provided crisis intervention training to two hundred ninety-eight sworn officers. Another program has provided training to approximately two hundred officers.

Only one department commented on this question. The comment was that revenue from Mental Health Services Act (Prop. 63) in Orange County should be returned to the County.

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<sup>20</sup> Interview: Orange County mental health professional: 3.14.13

<sup>21</sup> Ibid

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Ibid

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**Q: Would you consider establishing a database maintaining information on your city's homeless population in order to make such information available to all officers in the field? If no, why not?**

Seventeen departments, including the Sheriff's Department, said yes to this question; four said no. Concerns expressed in establishing a database include potential legal and Health Insurance Portability and Accountability Act (HIPAA) issues. One department is in the process of establishing a database. One department noted it should be a County maintained database because of the transient nature of the homeless population. To that end, the Grand Jury learned from an officer that the County manages a database called *Homeless Management Information Systems* (HMIS). However, the existence of this data base doesn't seem to be well known throughout the County. One department pointed out that there needs to be specific guidelines as to what is contained in the database and who has access to it.

Subsequent to the Kelly Thomas incident, the City of Fullerton directed the Los Angeles Office of Independent Review to conduct a systematic review of the Fullerton Police Department.<sup>25</sup> The president of the Los Angeles Office of Independent Review conducted numerous internal affairs investigations and his findings were presented to the Fullerton City Council. One of the positives he points to in his report is the Police Department's pro-active efforts in undertaking a "census" of its homeless population in which information gathered will be inputted into a database available to all Fullerton police officers in the field.<sup>26</sup> Although there are legitimate privacy concerns in establishing a database, there are creative ways of going about it that do not impact an individual's civil rights. This information could give officers insight into a person's behavior so that the officer is able to choose the most appropriate intervention techniques. Such a database could become an invaluable tool.

**Q: What are your Department policy and procedures for dealing with those with mental illness?**

Lexipol Policy 418<sup>27</sup> describes an officer's duties when a person is to be committed to a mental health unit pursuant to *Welfare and Institutions Code §5150*<sup>28</sup> The policy does not specifically address procedures or offer any insight into how an officer should proceed when he or she, in the course of their duties, comes in contact with a mentally ill homeless person.

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<sup>25</sup> OIR Group. *Report to the City of Fullerton: Systemic Review of the Fullerton Police Department*, August 2012

<sup>26</sup> Ibid p.8

<sup>27</sup> The Lexipol Law Enforcement Policy Manual has more than 140 policies based on federal and state laws. The policy manual is written by legal and law enforcement professionals who constantly monitor major court decisions, legislation and emerging trends affecting law enforcement operations. Lexipol provides regular updates in response to legislative mandates, case law and the evolution of law enforcement best practices.

<sup>28</sup> Ibid §418.2: *AUTHORITY: When any person, as a result of mental disorder, is a danger to others, or to himself or herself...a peace officer...may...take, or cause to be taken, the person into custody and place him or her in a facility...for 72 hour treatment and evaluation.*



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Seventeen departments enclosed a copy of Policy 418 when returning the questionnaire; five departments enclosed copies of procedures based on Policy 418, which were customized to the specifics which impact their city. One department noted that its city had created a task force “to address challenges caused by the city’s homeless population.” This task force has brought together diverse members of the community, including the police department, and made nine recommendations which were then adopted by the City Council. This department spells out in Police Policy §1420.1: Protocol, that the Orange County Chiefs of Police and Sheriff’s Association has agreed to follow by contacting a Centralized Assessment Team (CAT) or Psychiatric Evaluation and (Response)Team (PE[R]T) for response to the field. The policy specifies that a Centralized Assessment Team (CAT) should be called any time an officer needs a clinical intervention that may or may not lead to a §5150 commitment.

Another department has incorporated into Policy 418 considerations an officer should utilize when handling a call involving a mentally ill individual, including:

- use of available information to determine the nature of the mental illness;
- conflict resolution and de-escalation techniques;
- appropriate language and
- available community resources.

One department spells out in their General Order how an officer will recognize mental illness and lists intervention strategies using the acronym TACT: **T**ime; **A**tmosphere; **C**ommunication; **T**one. The acronym is a good one and worth exploring, as private citizens can utilize these strategies as well as law enforcement.

**Time:** Police officers traditionally are expected to ‘wrap things up’ as soon as possible in order to take the next call for service. This practice is counter-productive when dealing with the mentally ill. If you hurry, you bring a sense of energy to the encounter that conveys to the individual that you are not interested in them.<sup>29</sup> A better approach for an officer to take is to slow the situation down, assess the problem and give the person time to process information. Take time to plan. This approach may take time but a positive outcome makes it worthwhile.

**Atmosphere:** Keep the scene calm and controlled. Move slowly and allow for personal space and for the individual to pace, if possible.<sup>30</sup>

**Communication:** Build rapport with the individual and speak calmly and slowly. Repeat yourself and help the person feel safe. Use active listening and tell the individual what you are going to do before you do it.<sup>31</sup>

**Tone:** Build a relationship of trust. Be calm, firm, respectful, patient, truthful and reassuring. In this way, you can control the situation.<sup>32</sup>

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<sup>29</sup> LEMHS CORP, 2012. *Law Enforcement Mental Health Solutions* pp. 13-14

<sup>30</sup> Ibid

<sup>31</sup> Ibid

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Depending on the officer's observations of the individual, there are five different procedures an officer can choose to follow. There is also a section on dealing with juveniles which includes three other options.

Several departments provided the Grand Jury with copies of training bulletins designed to teach officers positive intervention techniques, some using the TACT model. Other departments have specific protocols regarding Centralized Assessment Teams (CAT) and Psychiatric Evaluation Teams (PET) tailored to their departments.

One department has an extensive training bulletin that covers how to recognize and respond to Alzheimer's victims, as well as mental illness; another on how to deal with suicide attempts.

Another department has extensive policies on mental illness commitments, including the use of evaluation teams; juveniles and the responsibilities of the detaining officer and dealing with the emotionally disturbed and mentally ill.

#### ***Q: What is your Department policy on mandatory continuing education for sworn officers in the area of understanding and working with mental illness in your community?***

Initial training for peace officers is provided in the Police Academy and is a foundation designed to be built upon. Officers have a three-day block of specific training. About two hours each day covers: mental disorders, medication and rapport building. Following the classroom training, officers spend two days on the street with a trained, supervising officer.<sup>33</sup>

The following summarizes the initial training provided to prospective police officers.

POST Field Training Guide: Mentally Ill

The trainee is expected to:

- Review and explain policy regarding the handcuffing of a mentally ill person;
- Explain how to properly book a mentally ill person;
- Recognize and demonstrate effective communication skills to be used with cognitively impaired persons;
- Explain how non-compliance may not be a sign of defiance or disrespect;
- Explain and demonstrate safeguards including the TACT model;
- Explain state law and agency policies regarding those with mental illness;
- Identify points to consider when dealing with mentally ill persons including, among others, ignoring verbal abuse;

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<sup>32</sup> Ibid

<sup>33</sup> Interviews

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- Be able to identify the appropriate mental health facility for an individual;
- Understand and explain criteria for *Welfare & Institutions Code* §5150;
- Know and discuss alternative methods for handling a situation that will not result in a §5150 commitment.

Continuing education is mandated under California *Penal Code* §13515.25 and states in part:

*“... the Commission on Peace Officer Standards and Training shall establish and keep updated a continuing education classroom training course relating to law enforcement interaction with mentally disabled persons. The training course shall be developed by the commission in consultation with appropriate community, local and state organizations and agencies that have expertise in the area of mental illness and developmental disability, and with appropriate consumer and family groups. In developing the course, the committee shall also examine existing courses certified by the commission that relate to mentally disabled persons. The commission shall make the course available to law enforcement agencies in California. The course... shall consist of classroom instruction and shall utilize interactive training methods to ensure that the training is as realistic as possible...”*<sup>34</sup>

The Penal Code then concludes with part (d) *“The Legislature encourages law enforcement agencies to include the course created in this section, and any other course certified by the commission relating to mentally disabled persons, as part of their advanced officer training program.”*<sup>35</sup> Advanced officer training consists of twenty-four hours of training every two years in compliance with POST requirements, but, because there are other competing subjects offered, some of which are mandatory, there is no **mandated** time requirement specifically dedicated to training in field encounters with the mentally ill.

Sixteen departments forwarded a copy of Policy 418, which includes §418.6 and references *Penal Code* §13515.25.

Six departments provided information on how *Penal Code* §13515.25 has been implemented. One department ensures all personnel receive refresher training at least once every three years and that this training is documented. Another department holds a conference specifically geared to on-going education that meets POST certified curriculum content. One department has specific training during orientation on dealing with persons with mental disabilities. The training is up-dated every three years and developed in collaboration with mental health partners. It is documented on a mental illness awareness form. Another department offers an eight-hour course on *Penal Code*

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<sup>34</sup> California Penal Code §13515.25

<sup>35</sup> Ibid

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§13515.25 specifically on responses to mental disabilities. Other departments are sending their officers to one of the available courses or workshops.

The Grand Jury is aware of at least four continuing education programs in Orange County that offer comprehensive and multi-faceted, in-depth training on dealing with mental illness on the street and in the community at large. One of these programs offers college credit through California State University Fullerton. The bigger issue seems to be how to free-up patrol officers – especially those serving small communities - to get them into these programs. Patrol shifts must be staffed twenty-four hours, seven days a week to ensure public safety. Most departments have minimum staffing levels usually set by evaluating calls for service, by time of day, day of the week and other factors. Thus, training can be costly. Although it may not be a simple task, the Grand Jury believes there are creative solutions out there that would make this goal achievable.

#### A CASE FOR LAURA'S LAW

Laura's Law may be a tool that can be used to help both law enforcement and the private citizen.

Laura's Law, also known as Assisted Outpatient Treatment (AOT), is a process that allows courts to compel individuals with severe mental illness and a past history of multiple hospitalizations, arrest and/or violence due to mental illness to receive treatment. It commits the Mental Health system to providing treatment. To date, Nevada County and Los Angeles County are the only counties in California to implement the program.

Laura's Law rose out of a tragedy in Nevada County, California where nineteen year-old Laura Wilcox was one of three people killed by a severely mentally ill patient who refused medication to control his delusions.

When Laura's Law was implemented in Nevada County,

- mental health hospitalization was reduced forty-six percent,
- incarceration was reduced sixty-five percent,
- homelessness was reduced sixty-one percent and
- emergency contacts were reduced forty-four percent.

Nevada County claims they saved \$1.81 - \$2.52 for **every \$1.00** spent, as a result of reducing incarceration, arrest and hospitalization.<sup>36</sup>

Los Angeles County implemented Laura's Law, with some modifications, eight years ago. Because Los Angeles County is one of our nearest neighbors, the Grand

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<sup>36</sup> Heggarty, Michael, Nevada County Behavioral Health Director. *The Nevada County Experience* Nov.15, 2011

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Jury went to the Los Angeles Department of Mental Health to understand how the program is working. We were told there is a “thicket of regulations to make the law unworkable.”<sup>37</sup>

A mental health professional told the Grand Jury that Laura’s Law, as it stands, has no “teeth” in it. The “teeth” are in the implementation – not the law.<sup>38</sup> Los Angeles has implemented the program as a diversion program, used in lieu of legal action against an individual or detainment in a locked setting. Therefore, the court is essentially ‘incentivizing’ an individual. People agree to be medicated because they see it ultimately as in their own best interests.

The Los Angeles program is two-fold: first, it is a diversion program. With the implementation of AB109 (also called “Realignment Legislation”), more and more individuals are being remanded to County custody rather than state prison, thus further impacting the already bursting jails.<sup>39</sup> There is, therefore, an incentive both for the courts as well as for those with mental illness not to be incarcerated. For the individual, the tradeoff for taking medication means: no arrest record and not being subjected to jail and jail in-take procedures. Secondly, the courts offer the program to the ‘best’ people; meaning those who will benefit most from the program.<sup>40</sup> These are individuals who are very stable on medication but stop taking it for one reason or another. The bottom line for these people is that as long as they participate in the program, they are not locked up.

Los Angeles County has implemented the program with impressive results. Overall costs for this patient population decreased by an estimated forty percent due to:

- reduction in days of incarceration: seventy-eight percent;
- reduction in days of hospitalization: eighty-six percent.

New York found that Assisted Outpatient Treatment (Kendra’s Law) kept the public, patients and law enforcement safer by:

- reducing physical harm to others forty-seven percent;
- reducing arrests eighty-three percent;
- reducing incarceration eighty-seven percent and
- reducing hospitalization seventy-seven percent<sup>41</sup>

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<sup>37</sup> Interview, mental health professional. 2.7.13

<sup>38</sup> Ibid

<sup>39</sup> In order to be counted as an AB109 inmate, the offense for which the inmate is incarcerated must be a non-serious, non-violent, and non-sex-register felony with no prior such convictions. These offenders are referred to as “non-non-non.” *Unforeseen Consequences and Impacts – AB 109 Realignment – Orange County Sheriff’s Department presented by Lieutenant Mike McHenry*

<sup>40</sup> Interview, mental health professional. 2.7.13

<sup>41</sup> Laura’s Law fact sheet: Mental Illness Policy Org. <http://lauras-law-org/states/california/lauraslawfactsheet.html>

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Only a very small group of severely mentally ill patients – well known to law enforcement – are eligible under Laura’s Law. They must be individuals who are repeatedly arrested or hospitalized due to their failure to stay in treatment. Eligible individuals must have a history of non-compliance with treatment that has been a significant factor in being hospitalized, or incarcerated at least twice within the last thirty-six months, or resulted in one or more acts, attempts or threats of serious violent behavior within the last forty eight months.

California State Law requires the disclosure of substantial oral and written information to psychiatric patients before they can be offered anti-psychotic medication.<sup>42</sup>

*Welfare and Institutions Codes §5325.2 states: “Any person who is subject to detention pursuant to §5150, 5250, 5260 or 5270.15 shall have the right to refuse treatment with antipsychotic medication subject to provisions set forth....”*

*Section 5332 states: (b) “if any person...refuses treatment with that medication, the medication shall be administered only when treatment staff have considered and determined that treatment alternatives to involuntary medication are unlikely to meet the needs of the patient and upon determination of that person’s incapacity to refuse the treatment, in a hearing held for that purpose.”<sup>43</sup>*

New York City introduced Kendra’s Law (the model for Laura’s Law) over fifteen years ago. Because of its success, it was taken statewide over ten years ago. A study in *Psychiatric Services* found the odds of arrest for a violent offense were almost ten times (8.61) greater before participants entered Kendra’s Law than after. Nevada County found Laura’s Law reduced use of incarceration by ninety-seven percent (five hundred and four days); and hospitalization by sixty-one percent.

Why do those with severe mental illness not seek help? There are three main reasons. One reason is because they are “anosognosia”, meaning they do not believe anything is wrong with them.<sup>44</sup> For example, they do not “believe” they are Abraham Lincoln, or the FBI planted a transmitter in their head – they “know” it. A subset of this group rejects treatment, then experiences hallucinations and delusions and becomes needlessly homeless. As Ron Thomas, Kelly Thomas’ father, said at the Orange County Board of Supervisor’s meeting January, 2013: “My son wasn’t homeless – he chose to live on the street.” The Grand Jury experienced an example of this condition

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<sup>42</sup> Superior Court: Los Angeles County Office of the Counselor in Mental Health “Conduct of Riese Hearings Information booklet for doctors and hospitals rev. July 1997

<sup>43</sup> Riese Hearing Basic Codes and Regulations related to Capacity Hearings: [www.disabilityrightsca.org](http://www.disabilityrightsca.org)

<sup>44</sup> Anosognosia affects nearly 60% of individuals with schizophrenia and nearly 50% with manic depression, results that have been “replicated more than one hundred times in the research literature”. See Amador, X.F. *I Am Not Sick I Don’t Need Help*. Vida Press, 2d Ed 2007 p.6

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during a recent ride-along with law enforcement, when an individual had to be reassured that all the police radios were covered with foil so that the FBI could not spy on her and thus it was 'safe' to speak with us.

Fifteen percent of patients will do anything they can to avoid taking medication under any circumstances and may require coercion to remain compliant<sup>45</sup> These individuals often equate medication with "poison" when in the throes of their illness, or have "deep seated delusional beliefs about it".<sup>46</sup>

Another group of individuals do not "volunteer" for treatment because, while they may recognize their need for medication when they are taking it, they soon persuade themselves they no longer need it when they feel well then relapse into illness and inability to recognize how much it helps. *"It is a common phenomenon that a patient functions well with medication, yet, because of the mental illness itself, lacks the discipline or capacity to follow the regime the medication requires."* *Olmstead v L.C.*, 527 U.S. 581,610(1999) (Justice Kennedy, concurring).

Finally, many untreated severely mentally ill individuals are not legally competent to "volunteer" for anything, because their symptoms preclude proper understanding of what "volunteering" means. Categorizing them as "voluntary" treatment recipients violates their constitutional rights, and subjects government personnel to suits for damages. See *Zinernon v Burch*,494 U.S. 113(1990). Good risk management requires treating these individuals as treatment-refusers, even if they are willing to sign documents "volunteering" for treatment.

Treatment-refusers with severe mental illness can be a public safety problem because they frequently injure themselves, attempt suicide or 'suicide by cop', set fires or destroy public property, or become violent towards others. Studies have shown that seriously mentally ill individuals who refuse treatment are more likely to be aggressive and violent than other mentally ill people, particularly when they also abuse drugs and alcohol,<sup>47</sup> which they often do in an attempt to self-medicate. Police now spend an inordinate amount of time on mental health issues instead of crime, and a disproportionate percentage of officer involved shootings involve untreated, seriously mentally ill individuals.<sup>48</sup>

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<sup>45</sup> Torrey, Dr. E. Fuller. *The Insanity Offense: How America's Failure To Treat The Seriously Mentally Ill Endangers Its Citizens*. W.W. Norton and Co. N.Y. 2008 at 117, quoting Joseph McEvoy, "One of the foremost psychiatric researchers on this issue"

<sup>46</sup> Torrey pp.117-118, citing multiple studies.

<sup>47</sup> Torrey. Pp.161, 180-181; Van Dorn, Richard; Volavka, Jan; Johnson, Norman. *Mental Disorder and Violence: is there a relationship beyond substance abuse?*

<sup>48</sup> Biasotti, Michael C. V.P., New York Chiefs of Police, *Management of the Severely Mentally Ill and its Effects on Homeland Security*, Naval Postgraduate School, 2011. Chief Biasotti's finding specific to California are available at <http://lauras-law.org/states/california/biasotticastats.html>

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California is presently “caring” for the sickest mentally ill in prisons.<sup>49</sup> That being said, the mentally ill in our prison system have also been charged with a criminal offense, convicted and sentenced. The Grand Jury can attest to this shocking reality first hand, having visited various Orange County jails on numerous occasions since July, 2012.

The *Mental Health Services Act* (MHSA/Proposition 63) **original** interpretation for allocating funds for the treatment of mental illness is that since Laura’s Law is **mandated**, treatment for mental illness is not eligible. However, treatment **costs** could be reimbursed from Proposition 63 but not associated court costs – which can be significant.<sup>50</sup>

#### Laura’s Law in Orange County

Policy makers in Orange County have been looking at the feasibility of implementing Laura’s Law for a number of years. Because laws vary from one state or county to another, Laura’s Law has had to be examined in light of existing law in the State of California and in the County of Orange and, initially, been found wanting on several legal fronts.<sup>51</sup>

Several Orange County healthcare experts told the Grand Jury that the Board of Supervisors has recommended legislative changes that, when enacted, may allow the County to implement Laura’s Law. The Supervisors have instructed their lobbyists to seek changes that would:

- allow for *Mental Health Services Act* (MHSA) funds to be used to implement Laura’s Law;
- allow a cap on the number of people in the program and thus the amount of money funded;

April, 2013 saw unanimous legislative approval for two of these changes: use of MHSA funds and limits to the number of adults with severe mental illness who are treated.

In April, 2013, there were three major bills moving through the legislature being driven by Orange County law-makers.

- **AB1265** (Conway) would extend the initial period of court-ordered treatment from six months to one year in order to help prevent relapse.

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<sup>49</sup> For statistics concerning the correlation between the emptying of state psychiatric hospitals and the filling of state prisons with mentally ill inmates see Raphael, Steven, *The Deinstitutionalization of the Mentally Ill and Growth in the U.S. Prison Populations: 1971 to 1996* (Goldman School of Public Policy, University of California at Berkeley), <http://ist-socrates.berkeley.edu/~raphael/raphael2000.pdf>. Some 20% of state prisoners in California are mentally ill, an extraordinarily high percentage. Torrey, supra, pp.61-62, 128. **As of 1995 (and probably still), the largest mental institution in the United States is the Los Angeles County jail.** Id. at p. 57. See also, “Cuts to Mental Health Programs Shift Burden to Law Enforcement, Tsai, Gary, Sacramento Bee, January 28, 2012.

<sup>50</sup> Interview: mental health professional

<sup>51</sup> For instance, in the State of California, an individual is presumed competent unless adjudicated incompetent.



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- **SB585** (Correa and Steinberg) address the issue of the use of Mental Health Services Act (Proposition 63) funding.
- **SB664** (Yee) insures that no voluntary mental health program serving adults and no children's mental health program will be reduced as a result of the Laura's Law implementation.

In addition to the Correa/Steinberg Bill, the Senate Health Committee approved Senator Lee's Bill by a 7-2 vote. This Bill (SB664) will allow counties to limit the number of cases they handle each year under Laura's Law, dissolving yet another of the stumbling blocks an Orange County mental health professional had previously noted to the Grand Jury.

As of June, 2013, the substance of these bills seems to be rolled into the Correa/Steinberg Bill, as the authors have agreed to put all their language into this one Bill. SB585 seems to be the bill to watch.

On March 19, 2013, the Board of Supervisors passed a resolution authorizing the application of Article 4.7 chapter Two of the Lanterman-Petris-Short Act in the County of Orange that allows for an additional thirty day hold (following a fourteen day hold) for intensive treatment which will be beneficial to the individual and less intrusive than a conservatorship.<sup>52</sup>

Mental Health professionals also pointed out that Orange County, through its multitude of existing mental health programs is doing everything in the *spirit* of Laura's Law except bringing an individual before the Court (the "Black Robe Effect").

The Grand Jury congratulates the Orange County Board of Supervisors on taking a positive stand on this issue and working proactively. Although one Supervisor told the press that he "had not fully decided his position on Laura's Law,"<sup>53</sup> another has led County efforts to work with Laura's Law and is quoted as saying: "If we can afford it, why not give it a try?"<sup>54</sup>

Although there is indeed a "thicket of regulations to make the law unworkable," the Grand Jury believes that the top decision makers and law makers in Orange County can and will continue to take a positive and proactive approach in finding creative strategies that will benefit several groups tasked with dealing with mental health issues:

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<sup>52</sup> "...under Article 4.7 of chapter 2 of the Lanterman-Petris-Short Act a person who has completed a 14- day period of intensive treatment pursuant to §5250 of the Welfare and Institutions Code may be certified for an additional 30 days of intensive treatment under specified conditions, with additional safeguards for that person's individual rights, as an alternative to conservatorship which can last up to one year..." Resolution of the Board of Supervisors of Orange County, CA March 19, 2013

<sup>53</sup> Wood, Tracy, *Voice of OC* 04.25.13

<sup>54</sup> *Ibid*

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the mentally ill themselves, law enforcement who is tasked with dealing with the problem, and the citizens of Orange County. If the previously mentioned Bill clears the Senate and the Assembly and is signed into law, the County may be able to implement a pilot Laura's Law program.

#### **A CASE FOR ACCREDITATION**

CALEA - The Commission on Accreditation for Law Enforcement Agencies, Inc. has been described as "...*the benchmark for policing in the twenty-first century.*"<sup>55</sup> To date, in the State of California, there are seventeen accredited law enforcement agencies. Only two of those agencies are in Orange County: Garden Grove and Tustin. Our neighbor in Los Angeles County, Bell, with a staff size of forty, is in the process of accreditation, as are four others in California. One Sheriff's Department (Alameda County) is accredited as is the California Highway Patrol. There are five University/College law enforcement agencies accredited, of which the California State University Fullerton Police Department is one. The East Bay Regional Park District Police Department in Castro Valley, CA and the Oakland Housing Authority Police Department are also accredited.

CALEA was created in 1979 as a credentialing authority through the joint efforts of

- International Association of Chiefs of Police,
- National Organization of Black Law Enforcement Executives,
- National Sheriff's Association, and the
- Police Executive Research Forum.

The purpose of CALEA's Accreditation Programs is to improve the delivery of public safety services, primarily by maintaining a body of standards, developed by public safety practitioners and recognizing professional excellence.

The specific goals of CALEA are to

- strengthen crime prevention and control capabilities,
- formalize essential management procedures,
- establish fair, nondiscriminatory personnel practices,
- improve service delivery,
- solidify interagency cooperation and coordination, and to
- increase community and staff confidence in the agency.

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<sup>55</sup> Sheriff Craig Webre, Lafourche Parish (LA) past president: National Sheriff's Association

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The CALEA accreditation process is a proven modern management model that, once implemented, presents a Chief Executive Officer on a continuing basis with a blueprint that promotes the efficient use of resources and improves service delivery - regardless of the size, geographic location, or functional responsibilities of the agency. This accreditation program provides public safety agencies an opportunity to voluntarily demonstrate that they meet an established set of professional standards that facilitates an agency's pursuit of professional excellence.<sup>56</sup>

Those of us living in the County of Orange send our children to schools accredited by the Western Association of Schools and Colleges (WASC). School accreditation objectively assures that our children receive the best possible education: one that will provide them with the groundwork to continue on to top colleges and universities. WASC accreditation assures, among other things, that when our children bring home "A"s, the excellence that "A" represents is truly on par with "A"s in all other accredited educational institutions. We do not send our children to non-accredited schools because we recognize it may jeopardize their future professional success.

The Grand Jury believes our cities deserve like-quality police departments that achieve and maintain a measurable standard of excellence. Having an accredited police department means that the department has

- completed a self-assessment by complying with the applicable standards, developing proofs of compliance and preparing for an objective on-site assessment,
- hosted a team of CALEA-trained assessors at their department to determine compliance with standards, view operations and talk with the public,
- participated in an open review which, hopefully, awards accreditation to the department for a three year period, and
- maintained compliance with standards in order to retain its accredited status.

Reaccreditation occurs at the end of three years, following another successful on-site assessment and hearing before the Commission.

*"The confidence in our department has increased tremendously throughout our community since becoming an accredited agency."*

*--Former Chief H. Rilling, (CT)*

*"The program offers agencies the opportunity for improved transparency and delivery of services to the communities served....[T]he end result will be a better department for both members and citizens alike."*

*-Former Chief T. Younce  
- NCSUPD*

*"It has reduced our liability cost and made my risk managers very happy."*

*-Sheriff T. Dunning, NE*

<sup>56</sup> [www.calea.org](http://www.calea.org)

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In Orange County, the two police departments accredited by CALEA account for less than ten percent (6.8%) of cities that have accredited police departments. The Grand Jury would like to see that number increased to *one hundred percent*. If, throughout the State of California, law enforcement agencies with as few as thirty-four staff (Pismo Beach) and as great as eleven thousand plus members (California Highway Patrol) find the accreditation worthwhile and necessary, the nineteen cities in Orange County and the Sheriff's Department should make it a priority. The Grand Jury is well aware of the financial pressures under which our police departments and city executives struggle. However, not spending the money to accredit the city police department is a classic example of "penny wise; pound foolish". In today's world, with law enforcement having become a process of continually having to deal with a myriad of complex issues and life and death situations, our city managers owe it first to the citizens of our cities as well as to our sworn officers, to ensure our police departments continually pursue professional excellence. A city that investments taxpayer money in this endeavor will gain an accredited police department with:

- greater accountability;
- reduced risk and liability exposure;
- stronger defense against civil lawsuits;
- staunch support from government officials, and
- increased community advocacy.

#### **COMMENDATION**

Finally, with the thousands of words written here, there are not words to express the gratitude and thanks we, as citizens, owe to the men and women who serve us day and night as law enforcement officers in the County of Orange. Their professionalism, bravery and service cannot be overestimated or taken for granted. It is because of our trust in them that we get up each morning without a thought to our safety and well-being. It is because of our trust in them that, when things go wrong, we call them first. Thank you.

#### **FINDINGS**

In accordance with California Penal Code Sections §933 and §933.05, the 2012 - 2013 Grand Jury requests responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of Police and the Sheriff's' Department in Orange County, the 2012 - 2013 Orange County Grand Jury has arrived at eleven principal findings as follows:

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- F1. Although POST requires continuing education in the area of dealing with individuals who are mentally ill, it does not specify the number of hours or frequency of officer training; nor does it require that such training be documented.
- F2. Field officers desire more in-depth training in dealing with the mentally ill on the street. (Interviews)
- F3. There is one officer – in a very few instances two officers – for every one thousand (1,000) citizens in a given city within the County who are expected to deal with the full range of law enforcement issues of that city.
- F4. Nationally accredited police departments police less than 10% of Orange County cities.
- F5. Not all Orange County cities have at least one officer trained in Crisis Intervention.
- F6. There is a broad spectrum of on-going training provided to patrol officers in order to develop their abilities and strategies in dealing with the mentally ill. Some departments provide minimal training; others have comprehensive programs in place.
- F7. Five departments have their patrol officers ride periodically with the homeless liaison officer. Seventeen do not.
- F8. Departments are reaching out – or beginning to reach out – to neighboring departments and to other skilled professionals, both in dialogue about the mentally ill and homeless issues in their cities, and to learn more effective strategies in dealing with these individuals.
- F9. All police departments believe that on-going training should be supported by Mental Health Services Act funding.
- F10. All police departments adhere to written policy, procedure and/or protocol regarding contact with mentally ill persons.
- F11. Policy and lawmakers in the County of Orange continue to examine Laura's Law in light of its potential impact on the mentally ill and all citizens for positive outcomes.

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#### **RECOMMENDATIONS**

In accordance with California Penal Code Sections §933 and §933.05, the 2012 - 2013 Grand Jury requests responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of City Police Departments and the Sheriff's Department in Orange County, the 2012 - 2013 Orange County Grand Jury makes the following four recommendations.

- R1. Require specific continuing education for all police officers and sheriff's deputies in interacting with the mentally ill and homeless population:
  - Orange County City Police Chiefs and the Sheriff-Coroner shall corroborate with the Orange County Chiefs and Sheriff's Association to set the type, hours and frequency of this supplemental training;
    - Include Crisis Intervention Training (perhaps the Memphis model);
    - Training is to be documented. (F1,F2,F3,F4,F5,F6,F7,F8,F10)
- R2. All Orange County City Police Departments and the Sheriff's Department shall be accredited with a national accreditation agency within five (5) years. (F4)
- R3. The County of Orange Board of Supervisors shall implement a pilot program for Laura's Law with the necessary accommodations to insure that the program will function effectively as an essential tool to help those with mental illness, thus benefiting law enforcement, and the citizens of Orange County. (F11)
- R4. The Orange County Department of Mental Health Services and the Orange County Board of Supervisors shall provide funding for on-going police officer training through Mental Health Services Act funding. (F9)

#### **REQUIREMENTS AND INSTRUCTIONS:**

The California Penal Code §933 requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining

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to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section §933.05 (a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making aspects of the findings or recommendations affecting his or her agency or department.

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Comments to the Presiding Judge of the Superior Court in compliance with Penal Code section §933.05 are required from:

Responses Requested:

Orange County Health Care Agency: **F9**

Responses Required:

Orange County Board of Supervisors: **F11**

Orange County City Police Chiefs and the Sheriff-Coroner: **F1, F2, F3, F4, F5, F6, F7, F8, F10**

Responses Requested:

Orange County Health Care Agency: **R4**

Responses Required:

Orange County Board of Supervisors: **R3, R4**

Orange County City Police Chiefs and the Sheriff-Coroner: **R1, R2**