

Condition of Orange County Jails

Summary

The 2008-2009 Grand Jury was the beneficiary of three significant events: the appointment of a new Sheriff; the completion of the Orange County Jail Assessment report of Crout & Sida¹ dated November 18, 2008; and, the changes accomplished after the tragic inmate death of October, 2006.

Each year the Grand Jury is mandated by state law "... to inquire into the condition and management of the public prisons within the county." *Penal Code section 919 (b)*

This year the Grand Jury conducted multiple visits to the jails in the Orange County system. These included the Intake/Release Center (IRC), Men's and Women's Jail Complex, Theo Lacy, James Musick as well as the holding cells in the five courthouses: Newport Beach; Westminster; Fullerton; Santa Ana; and, Lamoreaux.

Interviews were conducted with the Sheriff's Department leaders, jail commanders (Captains) state inspector, mental/medical health department officials, County personnel in charge of the transfer of court facilities to the State Administrative Office of the Courts (AOC), County Executive Office (CEO) Risk Management managers, the persons in charge of the Performance Audit Division of the CEO and the newly formed Office of Independent Review (OIR).

Each of the three major jail operations has a recently appointed

Captain who was selected because of experience, special training, talent, and education. These individuals operate on a common level of authority with the civilian leader of the Inmate Services Division who holds equal status as a commander. The final element of leadership rests with the County Health Care Agency (HCA). This department provides the custodial health and mental treatment for the total inmate population that approaches nearly 6,000 people.

The management structure of the overall jail operation was carefully scrutinized. At first blush the present system would not pass muster in a graduate business college review. Leadership is truncated and appears to be susceptible to a lack of coordination and a conflict in command. For example, the four commanders, i.e. Captains, and Inmate Services Director report up the chain of command to an Assistant Sheriff. Yet the personnel in charge of Correctional Medical Services (CMS) (medical, dental, mental, and nursing operations) and Correctional Mental Health (CMH) report to management of the Health Care Agency. The County's jails are technically under the leadership of appointed commanders.

The Grand Jury questioned the efficiency and effectiveness of such a multi-faceted control model. Careful analysis however, led to a conclusion that the seemingly inefficient structure was in fact working and for the most part working well. After detailed analysis and care-

ful review the Grand Jury came to the conclusion that this leadership arrangement is working now but should be monitored over the long term.

This report will not focus on the jail holding cell component as it is part of a contract package between the Sheriff/County and the Administrative Office of the Courts (AOC), the new owner of the Courthouse facilities.

The overriding conclusion reached by the Grand Jury is that the Orange County jail system is well run and in good overall condition. The delivery of service continues to improve under new leadership and the morale of the jail staff is improving.

With all this being said there are three areas of concern that deserve further analysis and are covered within the various sections of this report:

1. Staffing and overtime expense
2. Claimed overcrowding
3. Jail expansion

There are subset issues related to these areas of concern that will be commented upon in the body of the report.

The four Captains heading the jails and court holding facilities are faced with varied challenges and differing needs. In reverse order, the court holding facilities are for the most part grossly outdated and in poor physical condition. The illusory transfer of ownership and maintenance to the AOC has created a vacuum concerning repairs

¹Crout and Sida (C&S) "Orange County Jail Assessment Project" report, dated November 18, 2008

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and improvement. The delivery of service to both prisoners visiting court for appearances and the working conditions for Sheriff detention personnel could be greatly improved by the installation of both closed-circuit TV for court appearances and security as well as overall facility maintenance and remodeling. Preliminary hearings, trials and sentencing appearances will still require physical attendance of inmates so something must be done to fix a deplorable set of holding facilities.

The Central Jail Complex (Men's, Woman's, and IRC) and Theo Lacy continue to house the more serious offenders whose numbers until recently continue to rise. The former facility was built in 1968 and needs to be modernized for efficiency. The latter (Lacy) was built in 1960 and designed for a much smaller population that initially did not include juveniles. The booking/receiving loop at Lacy is grossly inadequate. Physical changes and improved camera monitoring have taken place since the Chamberlain death incident that occurred in October, 2006.

The James Musick facility ("The Farm") continues to operate to some extent in temporary housing structures that have far exceeded their anticipated useful life. Recent closure of the "tents" at North Compound has compressed the housing of inmates. The population is made up of minimum-security inmates. The facility has a current capacity of 1,250 inmates but, as of the writing of this report, houses only 800 people. These include as many as 80 on hold for the Immigration and Customs Enforcement agency (ICE). Plans for expansion appear to have been completely sidetracked because of the financial

climate. The Farm remains as the only available location that could be expanded to meet the predicted increase in population. The Grand Jury believes that all preliminary steps should be taken for the expansion of the facilities so as to be ready to act when funds are available.

Visitation at the three jails is a problem for both staff and families. Visitation centers utilizing video conferencing will greatly assist the two groups. These can be established in population centers that reduce the sometimes unbearable travel conditions. Fewer on-site visitors will relieve staff challenges at all jails.

Studies and audits have identified a major fiscal problem created by overtime expense. The Orange County Sheriff's Department (OCSJ) is currently developing a formal policy regarding overtime. Negotiations concerning the issue must be finalized with the appropriate employee union. Steps are already being taken to reduce overtime and continued progress will hopefully eliminate the majority of situations where abuses occur.

Overall, litigation involving the jail system is not really significant from the standpoint of either number of claims/suits or output of dollars for defense and indemnity in case handling. There have been a handful of payouts in excess of \$100,000 over the last ten years. Assaults concerning staff vs. inmate and inmate vs. inmate remain fairly stable. Cases involving conditions and services are few. The Department of Justice (DOJ) is currently looking at the health care issues as well as other policies and practices involving inmates as of the writing of this report.

Coordination of efforts between CEO Risk Management and OCSJ Risk Management can be improved. At present the CEO and OCSJ appear to be performing parallel functions as to claims with the exception of worker's compensation. This seems inefficient. The investigative skill of the OCSJ staff makes it a likely candidate to run its own risk management and loss prevention operations.

The paper output from jail operations is enormous. There are logs for anything and everything. The new system of recording grievances in a central repository is commendable. More use of computer entries and data gathering will reduce the mountain of paper presently seen. The new procedure of a central repository for inmate grievances is a step in the right direction.

The work release program for minimum-risk security inmates is in theory a win-win situation for both prisoners and the County. Significant dollar savings can be achieved through the use of prisoner labor. Bed space can be increased when inmates are allowed to work at the end of their terms of confinement. The OCSJ should develop a system to analyze and quantify the savings of the program as such data is not currently available.

In conclusion, the Grand Jury applauds the work of the OCSJ men and women and the HCA staff in operating a jail system that has no shortage of tests and challenges.

Reason for Investigation

Penal Code section 919(b) provides that "The Grand Jury shall inquire into the condition and management of the public prisons within the county."

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Method of Investigation

In carrying out its mandated duty, the Grand Jury reviewed a great deal of written material and made site visits to each of the main jail facilities. The Grand Jury interviewed a large number of involved individuals.

In addition the Grand Jury reviewed the detailed questionnaires utilized by the State of California Department of Corrections and the reports of Grand Juries for the last several years. This questionnaire was found to be unnecessarily lengthy and in certain instances not relevant to the scope of current Grand Jury inquiry. A revised questionnaire was prepared and circulated among each of the Captains in charge of jails. The questionnaire responses were analyzed carefully and reviewed with the responding OCSD leaders.

Careful attention was paid to the report of Crout and Sida Criminal Justice Consultants filed with the Board of Supervisors in November, 2008. The Performance Audit Report issued in February, 2009, and the recent response by the Health Care Agency and OCSD to that report, were reviewed.

The Grand Jury met with a field representative from the State of California Corrections Standards Authority responsible for the State's review of the Orange County jails.

The Grand Jury met with various representatives of the OCSD including each of the Captains in charge of the five main jail operations and the various courthouse holding facilities as well as the Assistant Sheriff in charge of custody operations.

Various medical and mental health care providers were consult-

ed, as well as the leadership of the Health Care Agency.

It should be noted that, as a result of court consolidation, the courthouse facilities will be the property of the State Administrative Office of the Courts (AOC) and under the control of the Judicial Council. This means that changes needed in the courthouse holding facilities will be the responsibility of the AOC, and thus the Orange County Grand Jury will have no jurisdiction over the problem, but will make note of its findings. While the general physical conditions of the facilities are beyond Grand Jury control, the working conditions for OCSD deputies and staff are within purview and will be commented upon in this report.

The pending litigation concerning jail conditions and prisoner issues was reviewed. This included the current status of matters pending in the Appellate Courts or returned for trial in the Federal District Court.

Visits were made to the city jails of Anaheim, Santa Ana and Fullerton. In Anaheim a special closed-circuit television system was installed for certain court appearances and hearings. This CCTV system had a big impact on transportation and security issues and will be discussed in this report.

The Grand Jury met with the County Task Force at the OCSD Research and Development Division concerning the status of the James Musick Facility expansion and renovation.

The Grand Jury conferred with the Director of the OCSD Inmate Services Division and her staff concerning programs available to inmates. These include both education as well as preparation for re-

entry into society following release from custody.

A visit was paid to the Office of Independent Review (OIR). Members of the Grand Jury discussed progress and current operations with the newly appointed Director.

Background and Facts

Within a matter of a few weeks of her appointment, the Sheriff made major changes in the jail command staff. The Custody Operations Command was placed under a new Assistant Sheriff who reports directly to the Undersheriff. The four segments of custody operations received three new jail commanders. The fourth continued under the leadership of the Inmate Services Director. Based on meetings and interviews, the Grand Jury was very impressed with the experience and strong leadership qualities of these individuals.

The Transportation Division was moved to the Central Jail Complex (CJX) as a bureau in 2008. The CJX includes the Intake/Release facility and the Men's and Women's Central Jails. A very talented Captain was transferred in to run all aspects of the Complex.

An experienced jail commander was transferred to the Theo Lacy facility. He came in to supervise the changes that were recommended after the inmate death that occurred in October, 2006.

The Musick facility received a new leader who brought a wealth of experience to what was intended to be the supervision and execution of a major expansion project. Unfortunately that commander was met with a severe financial problem occasioned by a poor economy and the withdrawal of expansion funds, as well as a conceptual disagree-

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ment with the State over future usage. Later the Captain was faced with the need to abandon temporary facilities that had outlived their useful life. Instead of leading the major expansion effort, the new Musick commander was forced to adapt to change in the opposite direction.

The fourth segment of custody operations is the Inmate Services Division. Its leadership remained in the very talented hands of an experienced Director. This individual has been in command for some time and was involved in the 2004 consolidation of three existing support operations: Commissary, Food Services, and Correction Programs. In subsequent years, Inmate Re-Entry and Division Support were added. The Director supervises a professional staff that works well with the law enforcement men and women.

A fifth operational command is placed under the Orange County Health Care Agency (HCA). This department supervises and staffs the Correctional Medical Services Program (CMS) as well as Correctional Mental Health (CMH). Approximately 13% of the staff of the HCA is devoted to the care of inmates. Approximately 5% of the total HCA budget is spent on correctional medical and mental health services. By all accounts, a good and respectful relationship exists between the HCA and OCSD groups.

The Grand Jury looked carefully at the divided leadership of the total jail operation and concluded that the system works well as currently structured.

A jail-related litigation issue received recent attention with settlement of a serious injury case involving an inmate assaulted by other prisoners. The approved pay-

out was \$3.75 million for a severe brain injury. This incident occurred in June of 2006, a matter of a few months prior to the Chamberlain death in October of that year.

Since January of 1997 there were only a handful of settlements/verdicts over \$50,000. The ten-year analysis disclosed approximately \$2.5 million in settlements with two at \$600,000-\$650,000. These are exclusive of the recent brain damage settlement.

To better assist the litigation/claim handling it would be advisable to have the "Captains' logs" sent to CEO Risk Management on a daily basis. There should be some exploration of streamlining OCSD-related claims by having them handled in that department by virtue of their skill level in investigation.

The Office of Risk Management under the CEO appears to have a high skill level and does a good job. However, comment should be made on the topic of "leaks." During the course of this jail review a confidential litigation memo related to an employment case was leaked to the press. This is an unconscionable situation that should be corrected so as to never happen again. Further comment will not be made as it is not relevant to jail operations.

A. Orange County Jails

1. James A. Musick Facility

This jail opened in 1964 on a 100-acre site in the unincorporated area of Orange County northeast of the Great Park area of Irvine. In 1986 the facility was expanded with installation of temporary tents. The capacity was increased to house 1,080 male and 170 female minimum-security inmates. All of the temporary tent facilities have recently been closed due to budget-

ary constraints. The current inmate population is approximately 800. As of 2008 there were 82 total staff people – 53 sworn and 29 Special Service Officers (SSO's). The 2008 population figure was 869 on a daily average count. As noted above, this figure is down to approximately 800. The staff/inmate ratio is approximately 1:10. The total budget for Musick is \$15.0 million.

2. Central Jail Complex (CJX)

The CJX consists of the Central Men's Jail (CMJ), Central Women's Jail (CWJ), Intake/Release Center (IRC) and the Transportation Bureau.

The CMJ and CWJ opened in 1968. The complex added the IRC in 1988. The Transportation Bureau was added through a reorganization in 2008. The complex is located next to the Sheriff's Headquarters building in the Santa Ana Civic Center. The CMJ has a capacity of 1,450 inmates. The CWJ has a capacity of 358 inmates. The IRC is the first stop for most arrestees and has a capacity of 872 inmates. Current staffing for CJX excluding the Transportation Bureau consists of 327 deputies and 46 SSO's. The average daily population in the entire complex was 2,432 as of February, 2008. The staff/inmate ratio is approximately 1:7.

The total budget for the Complex is \$90.9 million. This total is allocated \$40.5 million for IRC; \$23.2 million for CMJ; \$6.2 million for CWJ; and, \$21.0 million for the Transportation Bureau.

Each bureau has a commander with the rank of lieutenant who reports to the Complex commander, a Captain.

3. Theo Lacy Jail

This jail opened in 1960 and was expanded in 1980, 1988, 1994 and 2001. However, the booking/

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receiving loop is still in its original state and is grossly inadequate for current population demands.

The occupancy of the jail now stands at an average population of 2,866 inmates as of February, 2009. Currently, there are 304 deputies and 38 SSO's. The staff/inmate ratio is approximately 1:8.5. The total budget for this jail is \$60.9 Million.

This jail has come under close scrutiny since the Chamberlain death that occurred in October, 2006. Staffing practices have been revised to insure that the past transgressions are not repeated. The physical layout of the jail has been examined and where inferior or dangerous conditions were identified, they were corrected.

An energetic and talented Captain has been put in charge and a top-down change has been made in staffing. Oversight and accountability are the goals. There is more involvement by lieutenants and sergeants in the day-to-day operations.

4. Holding Cells

Holding cells are areas within County courthouses that handle inmates before and after appearances in court during normal working hours. These are operated by the OCSD under contract with the Orange County Superior Court. Most cells were constructed since 1968. The State Corrections Standards Authority uses the 1968 configuration as a base for the physical facilities inspections as to compliance. The building code regarding courthouse cell construction is based upon those codes in force when each was built or remodeled.

There are now five County courthouses with holding cells operating and members of the Grand Jury visited each one. They include the following:

- The Central Justice Center located in Santa Ana Civic Center
- The Harbor Justice Center located in Newport Beach
- The Lamoreaux Justice Center located in Orange
- The North Justice Center located in Fullerton
- The West Justice Center located in Westminster.

The process of transferring court facilities throughout the State has been implemented since 2007. As of April, 2009, Orange County is still negotiating the transfer of all court facilities. The holding cells within these buildings thus have yet to be transferred to the State. Once an agreement is reached and the holding cells are transferred, they will be out of the jurisdiction of the Grand Jury.

The Grand Jury is, however, concerned with safety issues involving Sheriff personnel and inmates within aging holding cells particularly in the Central Justice Center. The November, 2008, Crout & Sida report described the results of their assessment of the five Orange County holding facilities. Some of the problems they observed included lack of cells for inmates that need to be separated from the general inmate population; poor sightlines to monitor holding cells; CCTVs (closed-circuit TVs) that need to be upgraded; and, no computer coordination handling court commitment papers. These problems should be addressed and the holding cells updated to ensure the safety of the Sheriff's personnel.

Table 1 Previous Grand Jury Comments

Grand Jury	Comments
2002/2003	"Overcrowding is a serious problem County jails have been overcrowded for the past two decades." They recommended, among other things that: "The OCSD develop a master plan for Musick facility."
2003/2004	"Jail facilities operated by OCSD continue to suffer from overcrowding conditions." They recommended, among other things that: "OCSD address the projected growth of the inmate population by planning for the addition of jail facilities."
2004/2005	"Overcrowded jails have been a problem in Orange County since the '70's Because of overcrowding...Musick is now taking prisoners requiring higher security."
2005/2006	"...overcrowding continued in OC jails...and at Musick has become more severe."
2006/2007	"Many inmates are released early because their jail space is needed... Chart 1 shows Musick in March, 2007, with an average of 1,300 inmates." (versus 1,250 beds)
2007/2008	This Grand Jury did not report overcrowding in Orange County jails. It did, however, note that "The OCSD has stated that the future expansion in jail beds in Orange County will be at Musick. The facility is being upgraded from a minimum-level security to a minimum/medium level security facility. Typically, Musick has available bed space but is limited to housing minimum-security inmates."

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B. Orange County Jail Overcrowding

The Grand Jury found no evidence of jail overcrowding throughout the entire Orange County Jail System. This was a surprise in light of past Grand Jury reports. Table 1 shows that five of the last six Grand Juries reported overcrowding, and in some cases severe overcrowding. The sixth reported the need to expand the Musick facility to accommodate medium-security inmates.

Perhaps the reason for the difference lies in how the inmate population is now being handled. One would believe an overcrowded condition results when one more inmate cannot be accepted into any of the five Orange County jails. The real-world situation in housing an inmate is more complex. This is because factors other than the number of available beds are at work. The first of these forces emerges in the manner in which an inmate is classified. Another is early release (also known as alternates-to-incarceration programs). As long as one inmate can be released from jail custody, the jail facility can accept another in the same classification. The following paragraphs provide a snapshot of the current jail system.

C. Inmate Classification

To understand why inmate classification is important one must have an understanding of the jail process from arrest to release. The process starts with an arrest. The arrestee is booked into the IRC (Intake/ Release Center) and temporarily housed. The inmate is interviewed by an experienced jail staff member and classified as to the risk that inmate poses to himself or others. The inmate is assigned a colored wristband that shows his/her classification along with other information. Table 2 shows the currently used colored wristbands and their significance.

Assume the arrestee is a white-banded (minimum-security) inmate and is transported to the James A. Musick Jail for housing. The arriving inmate is further classified at Musick, this time to determine suitable housing. This further classification mainly focuses on inmate safety, that is, into which compound and barrack the inmate can be safely placed. Such factors considered are gang affiliation, sexual preference, criminal offense and physical/mental issues. This is an important step because the requirement for inmate separation often prevents

all beds within a barrack or module from being used.

In recent years other classification issues have been emerging. The recent Crout and Sida “OC Jail Assessment Project” report states the classification of inmates at Musick has been changing. They refer to a trend—“classification creep”—whereby inmates are being classified as minimum security where in previous years they were considered to be medium-security inmates. They further state, “minimum security (inmates) are increasingly being shoved out of the system and onto out-of-custody alternative work programs.”

Further complicating inmate housing is another trend that the Crout & Sida report (C&S) calls the “micro-classification” of the inmate population. They refer to a new R3 classification whereby certain inmates must be held in separate quarters apart from the rest of the population. This, plus their claim that “today’s inmate is in poorer health, more drug addicted, more mentally ill and more prone to violence than were inmates of a decade or more ago” further complicates housing.

Assuming the white-banded inmate is safely housed and that inmate has not yet been charged, the District Attorney’s Office determines whether sufficient evidence exists to bring charges against him/her. The inmate is released if no legal action is filed. If charges are brought, a preliminary hearing is held, a plea entered and a trial date is scheduled. If bail was not posted the inmate is returned to custody, in this case to Musick, until his/her court time.

Eventually the inmate will have a trial. If the inmate is convicted or has pled guilty and is sentenced

Table 2 OC Jail Wristbands

Colors	Classification	Permissible Jail Assignment	Excluded Jail Assignment
White	Minimum	Musick, Lacy, Central, Irc	None
Yellow	Medium	Lacy, Central, Irc	Musick
Orange	Medium	Lacy, Central, Irc	Musick
Red	Administration Segregation	Lacy, Central, Irc	Musick
Blue	Protective Custody	Central, Irc	Musick, Lacy
Green	Pre-Arraignment	*	N/A

* Additional wristband

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he/she may be returned to custody at Musick. Instead of jail time, the Court or OCSD personnel may assign the inmate to an alternate-to-incarceration program. This type of program, and its recent effects on the inmate population, will be discussed in a later section of this report.

Thus, the number of available beds is only one factor relating to jail overcrowding. This issue, as well as the other factors mentioned previously, may explain how “overcrowding” is now being avoided compared to the past.

D. James A. Musick Expansion

The California State Legislature enacted Assembly Bill 900 in order to rehabilitate or construct jail facilities. In addition, this bill would have provided funds for the construction and operation of facilities to house inmate reentry programs. The bill also authorized the issuance of up to \$750 million in revenue bonds or notes to finance these endeavors. The bill also authorizes an additional sum of \$350 million from the General Fund for capital outlay to renovate or expand existing prison facilities for the purpose of rehabilitation and treatment of inmates and parolees.

In 2008, the OCSD submitted a proposal to utilize AB 900 funds for an expansion of the James A. Musick jail facility. The proposal requested \$100 million for a new medium-security jail facility with a total of 1,536 beds. The County was planning to “match” the State funds with \$136.8 million for a total new

facility cost of \$236.8 million. This represented the first phase of an expansion leading to a total build-out at Musick of 7,584 beds.

The proposal envisioned a go-ahead approval date of November, 2008, and an occupancy date of June, 2013. Although the State earmarked \$100 million for the Musick expansion, Orange County officials withdrew their proposed contribution. The reasons cited were that the State insisted on ownership as well as manning the facility with State corrections officers. Also, it was the State’s intention to operate inmate reentry programs at the new facility and release the paroled inmates into the local communities. The OCSD response to the County’s withdrawal from the AB 900 program was to prepare a County-sponsored Musick Phase 1 Expansion Plan while still seeking a way to capture AB 900 funds.

The James A. Musick facility has for many years operated over its “rated capacity” of 713 beds. However, rated capacity is not the actual capacity for this facility because, as it was configured until recently, it had a total of 1,250 beds.

The excess housing over 713 rated beds is provided in “temporary” facilities. These are not assigned a “rated capacity” by the California State Corrections Standards Authority. These “temporary” facilities were built in 1986, which somewhat defies the definition of temporary.

Due to budgetary constraints, a 360-bed, tent-like “temporary” compound was recently closed and the affected inmates were housed

in other Musick compounds. This still left the Musick facility over its rated capacity by 177 beds. The impact of this closure on the Orange County jail system is still not fully understood in that the total inmate population is declining rather than increasing as predicted by the experts.

The OCSD commissioned two studies to determine future jail needs. The first is entitled “Jail Needs Assessment-Preliminary Findings and Recommendations” report². The report predicted the County’s jail system “is facing a need for approximately 8,296 beds by 2011,” that is over its present rated capacity by 3,217 beds for the entire jail system. In 2026 another 3,133 beds will be needed. The 3,217 figure breaks down to 2,651 minimum security and 444 medium security beds. These inmates, according to the OCSD Master Plan, were to be housed in the yet-to-be approved Musick expansion--both minimum and medium. Compounding the effects of population growth is the length of inmate stays in the jail system which is also growing, especially among pretrial prisoners. Statistics published in that report showed the unsentenced inmate average stay grew 28% to 153 days from 2001 to 2007.

This report also states that of the County’s five jails, Musick is the only site capable of accommodating expansion.

In a presentation to the Grand Jury the OCSD described its plans for an expansion of the Musick facility. Phase 1 is designed to provide 1,024 new beds and projected to cost \$150 million.

²Jail Needs Assessment-Preliminary Findings and Recommendations Report. DMJM H&M in association with Carter Gobie Lee, dated February 21, 2008

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Prior to selecting the final proposed expansion configuration, the OCSJ Executive Committee toured a variety of modern jail configurations in other jurisdictions across the country. This allowed it to find which features in these facilities worked.

The new facility, based on a “direct supervision” philosophy, would incorporate several innovative features as compared to traditional jails. These include an octagonal configuration which allows direct vision from the control center into each cell. Another is a movable wall whereby one half of a module may be partitioned from the other half to give better flexibility in housing different prisoner types. These features also enhance officer and prisoner safety.

Video visitations would be used in the new facility. This feature provides three significant benefits: first, it eliminates the possibility of contraband being passed from a visitor to the inmate; second, it reduces the manpower needed to transport the inmate to the visitor center and back and to monitor the visit; and third, officer safety is enhanced because the inmate and visitor never come into physical contact with each other.

Video arraignment is another feature of the planned facility. This eliminates a great deal of the transportation of inmates to the courts for their appearances, thus reducing staffing requirements and enhancing officer safety.

As of this writing, the Board of Supervisors has not authorized funding for the Musick Phase 1 expansion. With the delay of the Musick expansion and the lack of new medium-security beds, it is not clear how the predicted new 444 medium-security inmates

mentioned above can be accommodated. Beyond that, the report predicted another 432 medium-security inmates would enter the jail population by 2026. From initial approval it will be five or six years until the new expanded facility might be occupied, that is, if go-ahead were in 2009 it would be 2014 or 2015 until new medium-security beds were available. This is beyond the time period when experts predict the new beds would be needed.

The Grand Jury believes the OCSJ has done a conscientious and professional job in selecting the best features for incorporation into the planned expansion that is now placed on hold. The Grand Jury understands the need for fiscal conservancy during these difficult economic times, but the early release of medium-security inmates is not an option. Public safety demands these inmates be incarcerated and that means new beds must be available if the experts’ predictions come true. The OCSJ has done an outstanding job of accommodating the changes in inmate population growth and characteristics within existing capabilities. In mid-March, 2009, the Watch Commander at Lacy reported that 33 additional medium-security inmates could be accommodated. If some currently placed inmates were reassigned to different cells, a maximum of 52 additional medium-security inmates could be accommodated. If this were a typical day at Lacy (and no other medium-security beds were available at other facilities), this is less than 12% of the total increase the experts predicted must be accommodated by 2011. Even if one-half of the expert’s predictions become true, there will be no way to stretch the jail system to accommodate them. Discussions with

other OCSJ personnel have not convinced members of the Grand Jury that the jail system can be prepared to accommodate the predicted increases without expansion.

Another issue concerns the local community acceptance of the planned Musick expansion. In mid-March the Grand Jury learned that the city of Irvine had initiated a lawsuit opposing the planned expansion as proposed in the County’s response to AB 900. The suit related to environmental issues. The suit was dropped when the County withdrew their AB 900 proposal but plaintiffs retained the right to re-file at a later time. In response to an inquiry the Grand Jury also learned that the Irvine city officials had other than environmental concerns regarding the Musick expansion. It was reported that Irvine concurred that a Musick modernization was needed but would probably oppose the housing of medium-security inmates on the property.

Despite the fact that overcrowding does not exist today, the Grand Jury believes initial funding should be provided immediately to allow completion of the Phase 1 design and the preparation of construction plans. Doing so would expedite the start of construction when better economic times return and hasten the availability of new beds by at least one year. The cost for the Phase 1 design and construction documents is estimated to be about \$9.2 million and this money would be well spent.

The Grand Jury sees several benefits from this action. It would provide evidence to the State of the County’s intentions and the immediate need to proceed with this project. As of this writing, the State Department of Corrections has \$125 million of uncommitted

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funds for jail expansion. Although legislative changes may be needed to access these funds, this action and the seriousness of the County's need, may provide the impetus for such action.

Also, such action would provide the focus for the County to obtain local community formal acceptance of the project considering that such acceptance is lacking today. Without local community acceptance, the project may be delayed even longer due to threatened legal actions. The Grand Jury believes such agreements and conflict resolution may be difficult to achieve with only the data which is now available.

Additionally, as mentioned above, it would save a year of preparation for the time when the medium-security beds would become available.

E. Inmate Services Division

1. Re-entry Program

The Inmate Services Division was formalized in October, 2004, by consolidating three existing jail support operations: Commissary Operations; Food Services; and Correctional Programs. There are now five distinct units within the Inmate Services Division: Commissary Operations; Food Services; Correctional Programs; Inmate Re-Entry and Division Support.

The OCSD has taken a proactive role in supporting the Re-Entry Unit with the objective of reducing recidivism and enabling it to provide inmate programs and post-release after-care services. The Director and staff assist inmates with tools for transition from incarceration into community-based programs, and hopefully return them to their families and assume a position in the community.

The inmate is also given the option to go into the Great Escape Resource Center (opened in January, 2007) where they are provided with additional assistance such as drug and alcohol treatment, clothing, bus passes and employment information. Based on the Inmate Services Division document, over 1,100 formerly incarcerated individuals have used the Center and an additional 336 have phoned in for services.

During the tour of the James Musick facility, the Grand Jury was given the opportunity to view various programs under the Inmate Services Division; e.g., Angels of Love, and Sew Much Comfort. Additionally, the Grand Jury spoke to some of the female and male inmates, who stated they were pleased to be given the opportunity to take classes, and provide adaptive clothing for injured troops returning from Iraq and Afghanistan.

Other programs designed to promote the success of transitioning inmates back into society and to reduce recidivism include Phoenix House New Start Program, Academic Programs, Vocational Programs, Life Skills Development, Parent-Child Reunification Programs-MOPS (Mothers of Pre-Schoolers) and Responsible Fatherhood aimed at reuniting the family.

F. Community Work Program (CWP)

The OCSD established the Community Work Program (CWP) in 1982. The program was designed as an alternative for minimum-risk inmates to avoid incarceration. In the program these inmates perform work for County Agencies. The legal authority for this program is *Penal Code Section 4024.2*.

The OCSD has designed the program to include low-risk in-

mates with up to 150 sentence days left to complete. All inmates are closely screened for participation in the program, with criteria for eligibility based upon current offense, past criminal history, ability to work and to get to the specific work locations. The Grand Jury is satisfied that candidates for this program are carefully screened to exclude those who pose a danger to the community. Further, strict rules are enforced to ensure compliance with the program and satisfactory work performance. Failure to comply with the regulations results in the inmate's disqualification from the program. Conviction of an assortment of charges (e.g. disorderly conduct, spousal battery, sexual crimes) will disqualify an inmate from participating in the CWP.

The benefits to the County of this program are threefold: first, it provides needed services to selected County agencies; second, it reduces the inmate population and saves jail bed space because participants go home at night; and third, it saves the taxpayers' money.

The selected inmates must report to the designated agency Monday through Friday and work up to ten hours per day. A group site supervisor, who has been trained by OCSD, is responsible for assigning the specific work, logging hours performed, and ensuring compliance with CWP and site agency rules. Both males and females are eligible to participate in the program. The total population of the program varies.

A number of local community worksites participate in the CWP. Among them include the Coroner's Office, John Wayne Airport, the County Law Library, Newport Harbor, as well as a number of parks and other agencies. The type

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of work performed by inmates in this program includes janitorial services, carpentry and general maintenance.

A complete understanding of the CWP necessitates knowing how many inmates participate, the total number of hours worked by the inmates, and cost savings associated with the program. This information was not available at the time of this report. The Grand Jury requested financial and statistical information for 2006, 2007, and 2008, as part of this study, however the information received was determined to be incorrect and unreliable. The Grand Jury recently discussed its concerns with OCSJ personnel and they agreed to research and verify the data.

Based on the review by the Grand Jury, the CWP program has the potential to function satisfactorily by utilizing low-risk inmates to perform work at County facilities. Cost savings, although not quantified, could be significant due to reduced costs of housing, feeding, monitoring and caring for inmates. The program also provides services to numerous County Agencies and avoids the need to hire additional employees. Good analysis of accurate data will verify this impression.

G. Correctional Medical Services (Cms) And Correctional Mental Health (CMH)

Two organizations within the Health Care Agency (HCA), CMS and CMH, provide for the various health needs of inmates. The HCA was given this responsibility by the Board of Supervisors in 1975. A Memorandum of Understanding was reached in 2002 between the HCA and the Sheriff Coroner's Department (OCSJ). The stipula-

tion between the agencies states that 24-hour health screening of arrestees will be provided in a timely manner prior to booking at the Inmate Release Center (IRC) and Theo Lacy jails, and individuals will be triaged within 15 minutes of arrival. CMS and/or CMH will treat injuries or illnesses that arise during incarceration. This will include the following:

- Clinical care rendered to an ambulatory patient with medical care needs, which are evaluated and treated at "sick call" or by special appointment;
- Direct observation care must be provided by a registered nurse for an illness or diagnosis requiring limited bed care, observation and/or management;
- 24-hour nursing coverage at all (but one) of the correctional facilities and respond to all medical emergencies;
- 24-hour treatment for medical and mental inmates housed in observation units of the central jails and in Module L of IRC.

CMH is a separate department within the Health Care Agency specifically established to treat inmates with some degree of mental illness. Within the jail facilities approximately one-fourth of the inmates have been diagnosed and classified as having some type of mental disorder. The problems are generally related to drug or alcohol abuse and often incidental to their criminal conduct. By way of illustration, in November, 2008, there were 1,561 open mental health cases reported to the Corrections Standard Authority (CSA). Mentally ill offenders pose significant problems regarding classification, housing and supervi-

sion, the associated expenses, as well as the high cost of psychotropic medications. Separate facilities located in Module L at IRC and in the Women's Jail are reserved for the more acute mental cases. The intent is to protect the inmates from themselves as well as from other inmates. Legal counsel is also provided for an inmate if he/she is unable to consent, or unwilling to accept treatment.

CMH has a multi-disciplinary team consisting of psychiatrists, psychologists, mental health RNs, LVNs, mental health specialists, psychiatric social workers, marriage and family therapists as well as office support staff. CMH provides suicide prevention training for all new deputies and more specialized training for those deputies assigned to CMH. All correctional staff are trained and required to be re-certified every two years in standard first aid and cardiopulmonary resuscitation. Many jails throughout the country consult Orange County's CMH team for advice and information.

Members of the Grand Jury visited all five OCSJ jail facilities, and interviewed the staff of CMS and CMH, as well as several inmates. During the Grand Jury's visit to the IRC it was noted that the triage area offered little or no privacy for inmates. Triage is an open screening area with inmates sitting on benches within proximity to one another such that confidential conversations with medical personnel could be overheard.

Detailed questionnaires were also sent to the agencies and reviewed. The Grand Jury's examination suggests that inmates are receiving adequate medical and mental care. Those interviewed expressed satisfaction with the

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working relationship between the correctional and medical agencies.

The Board Of Supervisors commissioned the Office of Orange County Performance Audit Department to conduct an audit focused exclusively on the CMS programs. The Performance Audit of HCA/ Correctional Medical Services dated February 21, 2009, was extensive and identified 57 recommendations. HCA agreed with 44, disagreed with five, and noted that further analysis and time is needed for three. The remaining five are related to the OCSD. Some recommendations will require substantial expenditure before any savings can be realized. According to the CMS Medical Director, Orange County complied with an estimated 80% of the current standards, and is complying with all standards that do not require budget augmentation.

With the increase in inmate population, greater control, accountability and security are needed. Some years ago, a proposal was made to add a bar code to the inmate wristband which would include booking number, medical needs, as well as a photo. These could be scanned when necessary, potentially saving the County thousands of dollars over the years by reducing medical errors and the risk of mistaken inmate releases while increasing accountability, tracking and security. This information may have been helpful in avoiding both the Chamberlain case and the matter involving the recent settlement of \$3.75 million. Each case had an inmate with actual or perceived child-abuse-related charges which required separation from the jail population. The expenditure of additional funds to develop such wristbands may be difficult to achieve with the present economic

challenges. The inmate population with medical and mental issues is increasing. Both agencies (OCSD and HCA) are facing a freeze on hiring and a reduction in budgets. Agencies will be faced with the challenge of addressing an increase in population while managing with a smaller staff and budget. Both agencies need to become more efficient and work cooperatively to achieve mutual goals.

H. Overtime at the Jails

Overtime in the OCSD is a significant cost to the County. The total in 2007/2008 was \$47.5 million. Of this amount, Jail Operations contributed 42% of the dollars and 45% of the overtime hours.

The overtime situation has received a great deal of attention from both County leaders and the general public. The Grand Jury believes overtime within limits is a necessity to insure public safety. In early 2008, under the previous Sheriff's administration, it was reported in the press that the Department was relying too much on overtime, believing that it was cheaper than hiring additional deputies to fill vacancies. It was also reported that certain deputies were earning as much as \$100,000 over base pay.

A report prepared by the County's Office of Performance Audit, and issued in October, 2008, concluded that the OCSD was mismanaging its overtime. It cited the lack of clear policy guidelines and protocols for managing overtime; inadequate overtime monitoring and controls; and, certain employee practices that enabled excessive use of overtime. There was evidence cited that employees were gaming the system in ways designed to maximize overtime. For example,

certain employees would take paid time off and then work that day enabling them to put in for overtime pay.

A number of reasons for the overtime were identified in the Performance Audit. Shown below is a list of the principle causes:

1. Filling in for vacant positions – 38.9%
2. Vacation and sick leave relief – 15.9%
3. Training-related – 9.6%
4. Shift extension for the completion of assignment – 6.1%
5. Special events – 5.2%
6. Mutual aide/emergency – 3.2%

The audit identified a number of recommendations which, if implemented, would save at least \$3 million annually. Among the more substantial items are the following:

- Discontinue the practice of guarding city-arrestees who go to the hospital before booking into the Orange County Jail system (\$1.5 million). This responsibility will shift to the local police jurisdiction.
- Improve monitoring and control practices resulting in better administration, record-keeping, and prioritization (\$975 thousand).
- Adjust staffing to utilize more Deputy I employees instead of Deputy II's and fill vacant SSO positions (\$370 thousand).

The Sheriff's Department, with assistance from the Office of Performance Audit, is in the process of developing a comprehensive overtime policy. The Grand Jury has reviewed the initial draft and believes it will go a long way toward improving the practice of

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and criteria for using overtime. The draft policy has been reviewed by the command staff and the next step is to review it with the employee unions.

The Crout & Sida (C&S) report noted previously performed a comprehensive staffing assessment of the jails and concluded each had “staffing shortages that significantly impact the ability of the OCSD to safely operate and manage the county jail system.” This conclusion validated the principal cause of the overtime identified in the performance audit noted above, that is, staff vacancies. C&S recommended that an additional 455 custody personnel were needed to insure the safety and security of the County jail system. Since the majority of the additional positions recommended by C&S pertain to CJX (253 new positions) the Grand Jury reviewed the specific points (some that have been implemented and others that are subject to further study) for achieving efficiencies at that facility by the redeployment of staff to unfilled positions, thus reducing overtime. The OCSD has already begun the process of developing the specifications for the selection and training of SSO’s to fill vacant positions within the jails.

Based on this review the Grand Jury believes CJX will make a significant contribution towards achieving the \$3 million in overtime savings identified in the audit.

I. Office of Independent Review

The Office of Independent Review (OIR) was created to address alleged problems of law enforcement misconduct. After a thorough examination of the identified problems within the Department, the Board of Supervisors authorized

the establishment of the OIR. On February 5, 2008, an ordinance was adopted, creating an office for independent civilian review of the OCSD. The stated purpose is to monitor, assist, oversee, and advise the OCSD in the investigation of the following:

1. Review selected internal and citizen complaints alleging that peace and custodial officers committed certain actions, or inactions, in the performance of their duties.
2. Review selected incidents of death or serious injury occurring to persons while in custody.

The mission of the OIR is to strengthen the response of the OCSD to critical incidents and allegations of officer misconduct, as well as to increase the public’s confidence in those responses, by providing full-time civilian oversight.

It is too early to measure the effectiveness of the OIR. The Executive Director indicates that he has received full cooperation from the Sheriff and her staff. After nine months the OIR recently issued its first report, and as of the time of this writing the Grand Jury has not had the opportunity to review it.

Findings

In accordance with California Penal Code Sections 933 and 933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2008-2009 Orange County Grand Jury has arrived at the following findings:

F.1: Both the OCSD and CEO Risk Management perform risk management activi-

ties relative to jail claims and lawsuits.

F.2: Holding cells could eventually present unsafe working conditions for Sheriff personnel because needed upgrades and maintenance are being delayed.

F.3: The jail system is operating within its capabilities and therefore overcrowding is not currently an issue.

F.4: Recently completed jail needs assessment reports predict a significant population increase in minimum and medium-security inmates.

F.5: Without a Musick medium-security capacity expansion, early release of inmates may be the only option available to avoid OCSD jail overcrowding.

F.6: Early release of inmates through the use of alternates-to-incarceration programs (e.g. Community Work Program (CWP) have avoided gross overcrowding within OCSD jails.

F.7: Today’s inmate profile is made up of more serious and mentally ill offenders who require greater segregation thus reducing bed space.

F.8: Re-entry and post-release programs have reduced inmate recidivism but there exists little quantitative information and analysis to support such a conclusion.

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F.9: The Board of Supervisors has not authorized the Musick expansion project and there is no alternative proposal. Video visitations and arraignment were features of the expansion project.

F.10: Even with an immediate Musick expansion go-ahead in 2009, new beds to accommodate the projected minimum/medium inmate population growth will not be available until 2013 or 2014.

F.11: OCSD provides many correctional programs to jail inmates aimed at easing re-entry into the community. The re-entry programs utilize volunteers and have proven to be successful in assisting inmates and their families.

F.12: Programs to address and solve the projected inmate population growth for the period between now and when expansion of Musick is completed have not been defined.

F.13: The only location for jail expansion in Orange County is the Musick facility.

F.14: The CWP is effective for inmates who are not a threat to society and can become productive members of the community.

F.15: Statistics and data have not been analyzed in order to quantify the success and savings achieved by the CWP.

F.16: When inmates are interviewed at the IRC medical screening area there is no privacy provided and this could result in reluctance to reveal relevant personal information.

F.17: An inmate is identified by wristband or module card. Other than color, the only information on the card or wristband is first and last name and booking number. This is grossly deficient and can lead to significant medical, safety or legal problems.

F.18: An audit report issued in October, 2008, concluded that the previous administration mismanaged the use of overtime in the OCSD, and lacked clear policy guidelines and protocols for managing it. OCSD has taken steps to remedy the situation and this has resulted in reduced costs, however, as of the time of this report, a new policy has yet to be approved.

F.19: The OIR reports to the Board of Supervisors. It was created to provide independent oversight regarding incidents and allegations of law enforcement misconduct. The overall effectiveness of this additional oversight organization has yet to be determined.

F.20: The booking/receiving loop at Theo Lacy is outdated, inadequate and inefficient for the handling of the increased inmate population.

Responses to Findings F.1 through F.18 and F.20 are required from the Orange County Sheriff-Coroner

Response to Finding F.1 is requested from the County Executive Officer

Responses to Findings F.9, F.13, and F.19 are required from the Board of Supervisors

Responses to Finding F.16 and F.17 are requested from the Health Care Agency

Recommendations

In accordance with California Penal Code Sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2008-2009 Orange County Grand Jury makes the following recommendations:

R.1: The OCSD should provide CEO Risk Management with Captains' logs on a daily basis. (F.1)

R.2: A detailed study should be conducted to determine whether risk management activities for OCSD claims and lawsuits would be better and more efficiently performed in OCSD. (F.1)

R.3: The OCSD and the Board of Supervisors should pursue with the AOC needed facility upgrades and maintenance to avoid future safety issues at courthouse holding facilities. (F.2)

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R.4: Funding should be authorized for immediate expenditure in 2010 or earlier for the preparation of the Musick expansion design/construction documents. The estimated cost is \$9.2 million. These documents can be used to address the concerns of the surrounding communities, avoid future debate, litigation and project delay. (F.3, F.4, F.5, F.7, F.9, F.10, F.13)

R.5: The OCSD and the Board of Supervisors should pursue discussions with the State and local communities regarding the Musick expansion to resolve any outstanding issues and objections. (F.3, F.4, F.7, F.9, F.10, F.13)

R.6a: Video visitation capability should be authorized, funded and implemented at the Musick facility and, if possible, the other jail facilities. (F.9)

R.6: In order to achieve cost savings, CCTV should be placed in all city jails where feasible to be utilized for all court appearances where inmates do not have to be personally present. (F.9)

R.7: Develop a way to calculate recidivism rates to adequately measure the effectiveness of re-entry and post-release programs provided by Inmate Services Division. (F.8)

R.8: Programs that provide alternatives to incarceration should be developed, funded and implemented and existing programs expanded

to meet inmate population growth. (F.6, F.10, F.12)

R.9 Volunteers are critical to the success of the Inmate Services Division/Inmate Re-Entry Unit and the OCSD should continue supporting the recruitment of these key contributors. (F.11)

R.10: While being booked at the IRC medical screening area, privacy should be afforded to the inmates for security and medical reasons. (F.6)

R.11: Bar codes on wristbands should include booking number, photo, medical needs and special issues, which would allow greater control, accountability and security. The bar code could be scanned, thus saving the County a considerable amount of dollars in reducing medical errors, the risk of mistaken releases and special protection needs. (F.17)

R.12a: Statistics and data should be quantified and analyzed to measure the success of the CWP. (F.14, F.15)

R.12b: In order to increase savings, the OCSD should identify ways to expand the CWP for minimum-risk inmates who are currently not participating in the program. (F.14, F.15)

R.13: The OCSD should finalize the draft overtime policy, resolve any outstanding issues with the employee unions, and approve the

new overtime policy as soon as possible. (F.18)

R.14: The OIR should submit a written progress report on a quarterly basis as contractually required. (F.19)

R.15: A study should be conducted to reconfigure and remodel the booking/receiving loop at Theo Lacy. (F.20)

Responses to Recommendations R.1 through R.13, and R.15 are required from the Orange County Sheriff-Coroner

Responses to Recommendations R.3, R.4, R.6 and R.15 are required from the Orange County Board of Supervisors

Response to Recommendation R.14 is requested from the Office of Independent Review

Response to Recommendation R.2 is requested from the County Executive Officer

Response to Recommendation R.11 is requested from the Health Care Agency

Required Responses

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in the report. The specific sections are quoted below:

§933.05

1. For purposes of Subdivision (b) of Section 933, 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

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include an explanation of the reasons therefore.

2. For purposes of subdivision (b) of Section 933, 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 timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe 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 timeframe 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.

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