



PHILIP J. BARNARD
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

AGENDA STAFF REPORT

ASR Control 10-001362

MEETING DATE: 08/31/10
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Rob Richardson (714) 834-3481
Frank Kim (714) 834-3530

SUBJECT: Receive and File Report on Independent Medical Examiner

CEO CONCUR Concur	COUNTY COUNSEL REVIEW N/A	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):

Receive and file County Executive Report on the Orange County Crime Lab Under Independent Jurisdiction of a Medical Examiner.

SUMMARY:

Receive and file County Executive Office (CEO) report on the Orange County Crime Lab Under Independent Jurisdiction of a Medical Examiner.

BACKGROUND INFORMATION:

A Board directive dated October 20, 2009, directed to the CEO, along with Sheriff and District Attorney, to review the pros and cons of an organizational structure whereby the OC Crime Lab (OCCL) would report under an independent Medical Examiner office. Currently, the OCCL is organizationally located within the Sheriff-Coroner Department; however, oversight of the DNA component of the lab is provided by the Sheriff, District Attorney and the County Executive Officer.

The October 20, 2009 Board directive is related to an informational report previously prepared regarding the organizational placement of the Coroner's office, including the possible establishment of an

independent Medical Examiner office. Establishment of an independent Medical Examiner office could have included placement of the Coroner and OCCL within that office. The current report discusses the Coroner and OCCL divisions of the Sheriff's Department as they relate to establishment of an independent Medical Examiner office.

Establishment of the OCCL and Coroner as a stand-alone department, or the combining of the OCCL and the Coroner with any department other than the Sheriff, is not recommended at this time. Retaining the current organizational structure is recommended due to:

- (a). Potential cost increase as a result of separating the functions;
- (b). Other potential conflicts should the Coroner and OCCL be placed under a different County department; and
- (c). POST certification related issues.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

CEO Report on Orange County Crime Lab Under Independent Jurisdiction of a Medical Examiner

**ORANGE COUNTY CRIME LAB
UNDER INDEPENDENT JURISDICTION OF A MEDICAL EXAMINER
INFORMATIONAL REPORT**

INTRODUCTION

A Board directive dated October 20, 2009, directed the CEO, along with the Sheriff and District Attorney, to review the pros and cons of an organizational structure whereby the OC Crime Lab (OCCL - including the DNA Lab) would report under an independent Medical Examiner office. Currently, the OCCL is organizationally located within the Sheriff-Coroner Department; however, oversight of the DNA component of the lab is provided by the Sheriff, District Attorney and the County Executive Officer. The current Board directive is related to an informational report previously prepared regarding the organizational placement of the Coroner's office, including the possible establishment of an independent Medical Examiner office. This initial report was prepared in 2008 in response to the perception of a conflict of interest between the Sheriff and Coroner functions as a result of the handling of an in-custody death. To respond to the current Board directive for a report regarding the placement of the OCCL under an independent Medical Examiner office, a look at the pros and cons of separating the Coroner from the Sheriff's Department and establishing a separate Medical Examiner office is needed. Relevant components of the 2008 report are provided below and incorporate the OCCL, where applicable.

2008 ANALYSIS

The issue of a potential for, or perception of, a conflict of interest between the Sheriff and Coroner functions has been studied several times over the past 30 years. The 1979-80, 1984-85 and 1998-99 Grand Juries as well as Arthur Young completed studies on this topic. In addition to looking at the conflict of interest issue, the reports considered the budgetary costs associated with either establishing the Coroner as an independent department or combining it with another County department. This report provides a summary of the Coroner and OCCL current operational structures, a summary of the findings in the Grand Jury and Arthur Young studies, and current day considerations related to the separation of the Coroner and OCCL from the Sheriff's Department.

CORONER OPERATIONAL STRUCTURE

The Sheriff-Coroner Department is comprised of four activities: Field Operations and Investigative Services, Custody Operations and Court Services, Professional Services, and Administrative Services. Up until recently, the Division of the Coroner was placed within the Field Operations and Investigative Services activity; however, the Coroner currently reports directly to the Sheriff. The Sheriff and Coroner offices were co-joined effective January 4, 1971 as a result of Board of Supervisors (Board) action. For five years prior to January 4,

1971, the Coroner operated as an independent department as a result of Board action in 1965, which separated the previously co-joined Coroner/Public Administrator offices.

The Coroner Division is an investigative unit responsible for carrying out the statutory duties of the Coroner. Those duties include investigation into the circumstances surrounding all deaths falling within the Coroner's jurisdiction for the purpose of determining the identity of the deceased, the medical cause of death, the manner of death, and the date and time of death. Medicolegal death investigations are conducted countywide on all homicides, suicides, accidents, suspicious, and unexplained deaths. Other duties include notifying the next of kin, safeguarding personal property, collection of evidence, and completion of mandatory records and documents. The Coroner is also proactive in the community, participating in awareness programs geared toward preventing drunk driving and drug use; consumer products causing fatal injury; domestic violence, child abuse, and elder abuse; and providing educational services for medical, legal and law enforcement professionals. Other contributions to the community include cooperative relationships with non-profit organ and tissue procurement agencies to enhance the quality of life and save lives. The Coroner also collaborates with research organizations pursuing medical science advancements.

The Coroner Division serves the entire County of Orange. Currently, there are 48 positions assigned to five units: Investigations, Forensics, Clerical, Training, and Administration. In 2008 when the original report was prepared, there were 52 positions. Four positions (Forensic Assistant II, Staff Specialist, Data Entry Specialist and Facilities Maintenance Specialist) were deleted as part of the FY 09-10 budget reductions.

The Investigations Unit is comprised of Deputy Coroner and Supervising Deputy Coroner positions, which are sworn (Peace Officer) positions under Penal Code 830.35. The unit is responsible for determining coroner jurisdiction on all deaths reported to the office. Cases are assigned to a Deputy Coroner and that Deputy is the case manager from that point forward. Pursuant to law and policy, they determine the extent of inquiry and, when necessary, respond to where the body lies to inspect the body, making note of appearance, physical position, and the environment. They interview witnesses; take photographs; and examine wills, medical records, and other legal documents. They establish the identity of the deceased, and when necessary, they order autopsies and request other specialized tests. The Deputy Coroners are responsible for notification to the next of kin. They take custody of all personal effects found at the death scene and safeguard them until the legal next of kin is determined. They use all of this information to prepare and sign a certificate of death reflecting the cause and manner of death and make a final report summarizing all of their findings.

The Forensics Unit is comprised of Forensic Assistant positions with primary responsibility for assisting the Forensic Pathologists with autopsy examinations; scheduling and assisting outside neuropathologists, odontologists and anthropologists; collecting, chronicling, and maintaining all autopsy-related evidentiary specimens; processing the decedents into and out of the Coroner facility; and providing training opportunities for medical residents/students and mortuary science students. On a daily basis, the Forensics Unit works in a coordinated effort with any and all county law enforcement agencies, local and State health departments, funeral homes, organ and tissue procurement agencies, and the California Department of Justice (DOJ) as needed.

Forensic Pathology Services have been provided by contractor Juguilon Medical Corporation since February 1, 2010. Prior to that time, the current Chief Forensic Pathologist, Anthony A. Juguilon, M.D., was under the employ of Richards, Fisher, Fukumoto Medical Group, Inc., a private company that performed Coroner autopsies for the County of Orange for 43 years. The pathology staff is managed by Chief Forensic Pathologist Juguilon, who reports directly to the Chief Deputy Coroner.

The Clerical Unit is comprised of office personnel with primary responsibility for all aspects of maintaining and managing Coroner records. Staff perform data entry into the Coroner's CME (Coroner/Medical Examiner) program and are responsible for quality control on all the data entered into the system by other units. They respond to public record act requests; log and track incoming and outgoing information; collect fees for reports; transcribe all autopsy, microscopic and neuropathic reports; manage subpoenas for the Coroner staff; field phone calls; and interface with grieving family members and visitors at the front counter.

The Training Unit is comprised of a Senior Staff Development Specialist position responsible for coordinating the mandated POST (Peace Officer Standards and Training) approved basic death investigation training for Deputy Coroners and expanding much needed specialized Coroner training programs. This position participates in curriculum development with POST and others from throughout the State.

The Administration Unit is comprised of the research, technical support, facility support, and management groups. The Unit is responsible for division-wide cohesion and overall management of the Coroner operations, including the four Units above, as well as, maintenance of the facility, the Coroner information management system, and response to data/research needs.

THE CALIFORNIA CORONER TRAINING CENTER

The California Coroner Training Center (Center) opened in May 2004. Construction of the Center was funded by the State (\$10M) and County (\$5M). The Orange County Coroner has taken the lead in death investigations training of Medicolegal Death Investigators in the State of California. Since the Center opened in 2004, 1,177 death investigation professionals from virtually every county in the State and parts of Nevada and Arizona have received training. The Coroner is collaborating with POST and the State Coroners Association to establish an accreditation program and elevate standards for death investigations that will promote the necessary specialized expertise in all death investigation professionals in the State. A change in the reporting structure of the Coroner Division should take into consideration the collaborative efforts currently in place, and existing relationships between entities.

The cost of the Coroner-provided training is predominately reimbursed by POST. POST is the pass-through agency for distribution of a \$1.00 fee collected for every burial permit in California. In 1991, legislation was created allowing for collection of this fee to be used for reimbursement of training costs. The Coroner covers the cost of the training up-front and is then reimbursed by POST through an invoicing process upon completion of the training class.

CORONER BUDGET

The 2008 report was established utilizing FY 08-09 budget data. The Coroner Division's FY 08-09 budget was predominantly funded by County General Funds, or Net County Cost (NCC). The actual breakdown at that time was:

- 69% General Fund (NCC)
- 10% Charges for Services
- 9% SCAAP (State Criminal Alien Assistance Program)
- 7% Prop 172 (Public Safety Sales Tax Revenue)
- 4% 14B (Excess Public Safety Sales Tax Revenue)
- 1% Miscellaneous Revenue

The current FY 09-10 budget breakdown is similar:

- 68% General Fund (NCC)
- 16% Prop 172 (Public Safety Sales Tax Revenue)
- 10% Charges for Services
- 4% SCAAP (State Criminal Alien Assistance Program)
- 2% 14Q (Construction & Facility Development)

The FY 08-09 Coroner budget of \$7.2 million did not include overhead/indirect costs. (The FY 09-10 budget of \$6.5 million does not include overhead/indirect costs; it includes the budget reductions made with adoption of the FY 09-10 Budget) Overhead/indirect costs for the

services identified below total \$1,500,825. All of these additional Coroner operating costs are budgeted within Sheriff-Coroner Budget Control 060 but not charged to the Coroner Division. Establishing the Coroner as a stand-alone department would result in a NCC reallocation and cost increase due to the need to establish the support services currently provided by the Sheriff. Combining the Coroner with a different County department, especially a large County department, would allow for some of the support services to be provided using existing staff within that department; however, it is expected that the Coroner would be charged for those support services in amounts comparable to the following.

<u>Coroner Overhead/Indirect Costs</u>	<u>Overhead Costs</u>	<u>Number of Positions</u>
Payroll	\$6,270	0.11
Accounts Payable/Receivable	4,515	0.08
Workers' Comp	68,967	N/A
Budget Team	7,992	0.10
Liability Insurance	99,150	N/A
Purchasing	24,414	0.46
Vehicles - 8 Crown Victorias, 1 Truck, 1 SUV	65,571	N/A
Support Services (Computer HW, Data Services Charges)	157,760	N/A
Communications	4,661	0.05
Information Technology Support	97,760	1.00
Forensic Science Services	<u>963,765</u>	<u>8.50</u>
Total Coroner Overhead	\$1,500,825	10.29

The Coroner's operating expenses have steadily increased due to normal escalation in costs for salaries and employee benefits, and services and supplies. The Coroner Division's budget is affected by two major factors: overtime and the pathology contract. Should the Coroner be established as a stand-alone department, the Sheriff's main operating budget (060) would not be available to absorb increasing costs within the larger department budget. This would also be the case for the OCCL. If the Coroner and OCCL were placed under a different existing County department, the administrative services could be provided by that department, but at a cost. No cost savings is expected from either type of organizational change.

ORANGE COUNTY CRIME LAB

The OCCL provides all law enforcement agencies in Orange County with services for the recognition, collection and evaluation of physical evidence from crime scenes. OCCL consists of 136 positions in four Bureaus: Criminalistics, Toxicology, Identification and Cal-ID. In addition to the 136 positions included in the Sheriff's main operating budget, there are 14 positions included in the County Automated Fingerprint Identification Fund 109. Fund 109 is a self-balancing budget with restricted revenue from Court fines used for the cost of operating the California Identification System (Cal-ID) for retaining and identifying fingerprints.

Criminalistics

The Criminalistics Bureau is made up of sections defined by the type of physical evidence processed:

- The Firearms section examines firearms and tool marks, linking bullets and cartridge casings to the weapons that fired them, as well as linking tool marks left at a crime scene to the tool that made them. The Firearms section uses a sophisticated computer imaging database, called NIBIN, to link firearms evidence from different jurisdictions throughout Southern California.
- The Trace Evidence section examines microscopic evidence such as hairs, fibers, soil and paint that are left at crime scenes or found on individuals, as well as looking for traces of ignitable liquids and explosives. Other Trace section examinations include gunshot residue testing, lamp filament on-off determination and the analysis of unknown materials.
- The DNA section examines biological evidence left behind at crime scenes and develops DNA profiles for comparison to known suspects or comparison to known offenders in local, state and national DNA databases. The DNA section examines old unsolved cases and is pioneering work recovering DNA in the area of touched or handled objects with no visible biological material.
- The Controlled Substance section tests substances seized during drug investigations to determine if they contain illegal drugs and responds to requests to investigate clandestine drug manufacturing labs.
- The Questioned Document section analyzes documents to determine document authenticity and the identity of the author via handwriting comparisons.
- The Evidence Control Unit provides evidence custodian services to the technical staff of the laboratory.

Toxicology

The Toxicology Bureau provides analysis for drugs and poisons from Coroner cases in blood and tissue samples to assist in death investigations, performs blood and breath alcohol analysis to determine the amount of alcohol ingested by a person suspected of driving under

the influence, and analyzes blood for the presence of drugs ingested by those arrested for being under the influence of drugs.

Identification

The Identification Bureau performs crime scene investigation services including general photography, aerial photography, crime scene documentation and scene diagramming, scene and evidence processing for latent fingerprints and other physical evidence, and latent fingerprint comparisons. The Identification section compares shoeprints and tire tracks left at a crime scenes and operates a photo processing lab and professional photographic studio. The Clerical section performs crime scene dispatch services and supports the overall Division operations with data entry and maintenance of case records.

Cal-ID (Fund 109)

The Cal-ID Bureau provides rapid identification of arrestees in the county for prior arrest records, to provide identification of crime scene latent fingerprints and to identify new arrestees to any unsolved crimes in the county where crime scene latent fingerprints were found. The County's livescan devices electronically capture subject fingerprints with state-of-the-art high resolution imaging.

OCCL BUDGET

The OCCL FY 09-10 modified budget of \$16,487,219 is funded by the following components:

- 62% Prop 172 (Public Safety Sales Tax Revenue)
- 13% Grants
- 9% Court Fines
- 7% General Fund (NCC)
- 4 % Prop 69 Fund 12J
- 3% Charges for Services/Miscellaneous
- 1.5% SCAAP (State Criminal Alien Assistance Program)
- 0.5% 14Q (Construction & Facility Development)

The OCCL budget of \$16.5 million does not include overhead/indirect costs. Overhead/indirect costs for OCCL have not been evaluated but are likely to be similar to the Coroner's \$1.5 million amount. Establishing the Coroner and OCCL as a stand-alone department would result in a NCC reallocation and cost increase due to the need to establish the support services currently provided by the Sheriff. Combining the Coroner and OCCL with a different County department, especially a large County department, would allow for some of the support services to be provided using existing staff within that department; however, it is expected that the Coroner and OCCL would be charged for those support services.

PLACEMENT OF THE CORONER AND CRIME LAB FUNCTIONS

The organizational placement of the Office of the Coroner/Office of the Medical Examiner varies in large counties throughout California; however, the majority of counties, regardless of population, place the Coroner/Office of the Medical Examiner with the Sheriff. The table on the following page provides a look at the system used by the most populated counties in the State.

Current California County Placement of Coroner/Medical Examiner

Sheriff-Coroner	46
Coroners (Calaveras, Humboldt, Inyo, Los Angeles, Marin, Sacramento, San Mateo)	7
Medical Examiners (San Diego, San Francisco, Santa Clara, Ventura)	4
Coroner-Public Administrator/Public Guardian (Fresno)	1
Total	58

The reporting structure for the various Medical Examiner offices varies. Although Santa Clara County is referred to as a Medical Examiner, the office functions as a Medical Examiner-Coroner. A Sheriff's Captain, Lieutenant and Sergeant (the only sworn employees in the Medical Examiner-Coroner office) are located within the Santa Clara County facility to manage the day-to-day operations and decision-making. The Santa Clara CEO and Board of Supervisors contract with the Sheriff's Department for this service, but the CEO has final decision making authority. The San Diego Medical Examiner is a stand-alone department reporting to the Deputy Chief Administrative Officer; the San Francisco Medical Examiner office is part of the General Services Agency reporting to the City Administrator; and the Ventura County Medical Examiner is part of the County's Health Care Agency.

One of the reasons for placement of the Coroner's office with the Sheriff is that it is consistent with the core mission and objectives of a law enforcement agency:

- Coroners are Peace Officers with Powers of Arrest
- Coroners investigate suspicious or criminal deaths
- Coroners have statutory jurisdiction over deceased bodies
- Coroners participate in programs that promote a safe community

However, an argument could be made that the Coroner is an antiquated system. Coroners are not usually physicians trained in medicine, Forensic Pathology, or Forensic Science. Medical Examiners are required to be physicians certified by the American Board of Pathology in the medical specialty of Forensic Pathology and experienced in Forensic Sciences.

The table below identifies the placement of the Coroner function among the top 10 counties in the State based on population. This information indicates that while placement of the Coroner with the Sheriff is prominent among the smaller counties in the State (46 of 58 counties total have the Sheriff-Coroner combined), that is not necessarily the case among the larger counties that would be more comparable to Orange County. Placement of the Coroner within Orange County should be made based on what is most effective for Orange County and not based on the system used by the majority of counties. Two of the larger, more populated counties have adopted the Medical Examiner system.

County	Population*	Placement of Coroner
Los Angeles	10,363,850	Coroner
San Diego	3,146,274	Medical Examiner
Orange County	3,121,251	Sheriff-Coroner
Riverside	2,088,322	Sheriff-Coroner
San Bernardino	2,055,766	Sheriff-Coroner
Santa Clara	1,837,075	Medical Examiner-Coroner
Alameda	1,543,000	Sheriff-Coroner
Sacramento	1,424,415	Coroner
Contra Costa	1,051,674	Sheriff-Coroner
Fresno	931,098	Coroner-Public Admin/Guardian

*Source: California Department of Finance as of January 1, 2008

The table below identifies the placement of the crime lab in each of these same counties.

County	Placement of Crime Lab
Los Angeles	Sheriff
San Diego	Sheriff
Orange County	Sheriff-Coroner
Riverside	Sheriff-Coroner
San Bernardino	Sheriff-Coroner
Santa Clara	District Attorney
Alameda	Sheriff-Coroner
Sacramento	District Attorney
Contra Costa	Sheriff
Fresno	Sheriff

Each type of placement of the Coroner function has varying department head requirements:

Sheriff-Coroner

- Department head is the Sheriff
- Elected position

Coroner

- Department head can be a lay person or doctor
- Elected or appointed position

Medical Examiner

- Department head is a doctor
- Appointed position

Should the County of Orange consider moving toward an Office of Medical Examiner to which the OCCL could report, minimum qualifications for a County Medical Examiner should include the following as identified in Government Code Section 24010:

“...The Medical Examiner shall be a licensed physician and surgeon duly qualified as a specialist in pathology.”

It should be noted that there tends to be a shortage of certified Forensic Pathologists nationwide; thus, finding and retaining an individual to head a Medical Examiner office might be a challenge. This factor should be taken into consideration in evaluating a possible change to the Medical Examiner system.

STAKE HOLDERS

Prior to making any change to the existing organizational/reporting structure of the Coroner and OCCL, the concerns of the stakeholders who depend upon the Coroner and OCCL for various services should be considered. Examples of the stakeholders include:

- The **District Attorney (DA)** is a stakeholder based on the need for high caliber pathologists used to testify as expert witnesses in criminal cases, and related especially to the property crimes component of the DNA lab.
- The **Police Chiefs** are a stakeholder as they receive service and collaboration from the current system.
- **Labor Unions** –The Coroner has expressed concern that should the Division separate from the Sheriff’s Department, staff would lose their peace officer status. Previous

communication between County Counsel and the California Commission on Peace Officer Standards and Training (POST) indicated that the County may re-title the Deputy Coroner positions to Medical Examiner Investigators and they will retain their peace officer status under Penal Code Section 830.35. A separation of the Coroner from the Sheriff's Department would not result in a change of the duties outlined in Government Code Sections 27469 and 27491 to 27491.4 that would impact the Deputy Coroners' peace officer status. It should be noted that the Coroner position itself must have Peace Officer status under Penal Code Section 830.35(c). To maintain Peace Officer status, Deputy Coroners/Medical Examiner Investigators must work for POST certified agencies. Thus, obtaining POST certification for a stand-alone Coroner department or Medical Examiner unit as part of another department with which the Coroner might combine, would be required.

- All **58 California counties** use the Coroner's Training Center to train their Coroner/Medical Examiner staff.
- **POST** governs training for all death investigators in the State. This mandated training is currently delivered through the Orange County Coroner's Office. By charter, POST will only work with and through law enforcement agencies (Penal Code Section 13552). The Coroner has expressed concern that POST may withdraw their support from Orange County if the Coroner becomes a Medical Examiner. To address this concern, the County would need to ensure that regardless of the reporting structure, the Coroner is part of a POST certified department. It is the intent that the Coroner continue to provide Statewide training under a POST certified agency; thus, there would be no impact to entities which rely upon this service.
- **California State Coroners' Association & California State Sheriffs' Association** supported funding of the Training Center in order to ensure that all coroners in the State receive the quality training necessary to be successful investigators and meet State and local mandates.
- **American Society of Crime Laboratory Directors/Lab Accreditation Board (ASCLD/LAB)** – The Sheriff's Department previously expressed concern that should the OCCL be removed from the Sheriff's Department, re-accreditation of the lab would be required. According to ASCLD/LAB, an accredited laboratory shall notify and inform them in writing without delay of significant changes relevant to accreditation in any aspect of the lab's status or operations. In addition, relocation of the laboratory might require a special interim assessment by the ASCLD/LAB.

Grand Jury Studies

Three Grand Jury studies have been completed since 1980 related to the perceived conflict of interest with the Sheriff-Coroner Department investigating deaths involving activities of law enforcement personnel. (*Separation Issues*, February 1980; *Sheriff-Coroner Conflict of Interest Study*, April 4, 1985; and *Orange County Sheriff-Coroner Conflict of Interest Study*, May 5, 1999). Generally, these studies found that the Sheriff-Coroner Department should remain intact because it is the most cost-efficient arrangement. As a result of these studies and to address the conflict of interest issue, a Memorandum of Understanding (MOU) between the Sheriff-Coroner and District Attorney was adopted on July 23, 1985 requiring the Sheriff's Department to immediately refer any in-custody death to the District Attorney for investigation. The MOU provides for the District Attorney to act as an independent third party and oversee the Coroner's death investigation when law enforcement was involved or the death occurred in the custody of the Sheriff. Under this MOU, the District Attorney is given the authority to hire an independent pathologist to conduct the autopsy. Additionally, the Grand Jury is invited to witness the presentation of the case findings to ensure that the MOU was followed thereby eliminating the perception of conflict. While this investigative procedure was officially adopted in 1985, this procedure has been in practice since the administration of Sheriff James A. Musick, who served Orange County from 1947 to 1975. On October 5, 2006, the Sheriff's Department violated this formally adopted investigative protocol for the first time when it prevented the District Attorney from leading an independent homicide investigation into the death of John Derek Chamberlain.

As of the date of the release of the Special Criminal Grand Jury report on the Chamberlain death in April 2008, there were 130 Sheriff's Department custodial deaths reportedly handled by the Coroner. In all but one, the Chamberlain case, the District Attorney acted as the independent third party in the Coroner's death investigation consistent with the MOU and past practice. This statistic reinforces that the perceived conflict of issue can be successfully addressed as long as the investigative procedure outlined in the MOU is followed.

SUMMARY

Past study results have found that separation of the Coroner into a stand-alone department would result in increased costs. This is still the case today. Separation of the Coroner into a stand-alone department would require additional General Fund resources for provision of services currently provided by the Sheriff but not charged to the Coroner. Moving the OCCL along with the Coroner would likely escalate the increased costs.

Combining the Coroner and OCCL with a different department, such as the Health Care Agency, would mitigate some of the cost impacts of making the Coroner and OCCL a stand-alone department, but could present other conflict of interest issues. For example, the Health Care Agency (HCA) and its staff are responsible for correctional medical services at the

County's jail facilities. Should an inmate die at one of these facilities while under the supervision of HCA Correctional Medical staff, investigation of the death by a Coroner's office under the control of HCA would be a conflict requiring an independent third party for oversight.

To maintain Peace Officer status, Deputy Coroners/Medical Examiner Investigators must work for POST certified agencies. Thus, obtaining POST certification for a stand-alone Coroner department or another department with which the Coroner might combine, would be required for the Deputy Coroners/Medical Examiner Investigators to retain their Peace Officer status. No change in the Coroner's reporting structure could take place until POST certification was completed.

Establishment of the Coroner and OCCL as a stand-alone department, or combining of the Coroner and OCCL with any department other than the Sheriff is not recommended at this time. Retaining the current organizational structure is recommended due to:

- potential cost increases as a result of separating the functions;
- other potential conflicts should the Coroner and OCCL be placed under a different County department; and
- POST certification related issues

The County Executive Office expects the working relationship between the Sheriff-Coroner and the District Attorney to be such that no future violation of the MOU should ever take place resulting in a potential conflict between the Sheriff and Coroner functions. In addition, it is expected that the working relationship established between the Sheriff and District Attorney through the current oversight of the DNA lab by the Sheriff, District Attorney, and County Executive Officer will continue to produce operational efficiencies and effectiveness.