



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

May 6, 2005

Michael Carona, Sheriff
Orange County Sheriff's Department
P.O. Box 449
Santa Ana, CA 92702

RE: Request for Investigative Review

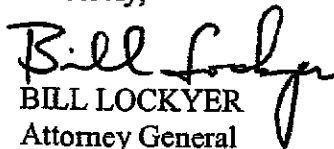
Dear Sheriff Carona:

On July 27, 2004, you requested that this office conduct an inquiry and investigative evaluation of your departments efforts at dealing with an "in field" detention of Gregory Haidl and the ensuing course of events which came to be known in the Orange County Grand Jury's Report as the "tempest in a teapot." You also asked that when reviewing incident that we identify areas for policy development that could lessen the possibility of a reoccurrence. You will recall that your own investigation was still under way at the time of your request and we elected to wait until your efforts were concluded before this office began its evaluation.

Enclosed you will find our report that serves to meet your request. My investigative staff concurs with your characterization of the Haidl incident and your efforts to deal with it in terms of conducting an internal investigation on members of your own department. In fact, the investigation is robust and appears well executed. From the facts provided to us in your documentation it appears that the assignment of responsibility for the actions or missteps of the staff involved are accurately placed.

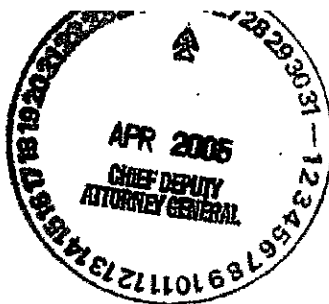
With regard to preventive policies, you will find information contained herein that addresses several operational and administrative areas that we feel could assist you. Please review the report and let me know if you have questions or need further assistance.

Sincerely,


BILL LOCKYER
Attorney General

State of California

M e m o r a n d u m



Department of Justice
1102 Q Street
P.O. Box 903281
Sacramento, CA 95814

To : BILL LOCKYER
Attorney General

Date : April 22, 2005

Telephone: CALNET (8) 479-8200
(916) 319-8200
FACSIMILE: (916) 319-9420

From : PATRICK N. LUNNEY, Director
Division of Law Enforcement

Subject : Sheriff Corona Request-Investigative Review

A request was made to you on July 27, 2004, from Sheriff Corona to conduct an investigation into the activities of as yet unidentified members of the Orange County Sheriff's Department. The individuals were involved in actions which were memorialized in what became known as the "Tempest in a Teapot" report of the Orange County Grand Jury. Although Sheriff Corona had commissioned his own internal investigation of this incident, he complied with the Grand Jury finding that an independent investigation be conducted by making his request to you.

You assigned this investigative effort to the Division of Law Enforcement, and I have assigned Retired Deputy Director George J. Doane to conduct the inquiry. The initiation of investigative efforts was delayed somewhat as the Sheriff's own internal affairs team was not yet finished with their efforts at the time of receipt of the Sheriff's request letter. However, once that investigation was completed, Mr. Doane began his inquiry in Orange County on January 13, 2005.

The letter from Sheriff Corona asked that we not "reinvestigate" the basic facts of the incident based on the exhaustive record established by the Grand Jury's Investigation, and the internal Sheriff's Department Investigation. We utilized documents and departmental records from both agencies to do three things:

1. Understand the actual incident.
2. Determine the efficacy of the Sheriff's Internal Affairs investigation.
3. As requested by Sheriff Corona, offer policy recommendations that would assist his Department in avoiding a similar incident.

The report addressing all three areas is attached for your review and consultation with the Sheriff as you deem appropriate. Please let me know if you wish me to assist further with this effort.

Attachment

Investigative Review

Orange County Sheriffs Department

The Gregory Haidl Incident

Executive Summary

Late on the evening of October 26, 2003, deputies of the Orange County Sheriff's Department made a field contact with three young males who were illegally skateboarding in an office complex parking lot in the City of San Clemente. The youths were also found to be in possession of a small amount of marijuana which was located in their vehicle. Each of the three proved notable for different reasons. First, one of the youths was a juvenile who initially denied and then later claimed ownership of the marijuana found co-mingled with the belongings of the second male adult. This second male adult was quickly identified as Gregory Haidl, the son of Assistant Sheriff Don Haidl. And the third male adult had been stopped earlier in the week for a minor marijuana infraction, but claimed no involvement with the drugs found on the evening in question.

Because of the nature of the call and the involvement of the Assistant Sheriff's son, the responding deputy called for and received back up from a second deputy. A Field Sergeant also responded soon thereafter. When the responding deputy explained that he believed Gregory Haidl was responsible for the marijuana, he was instructed by the sergeant to turn over the marijuana to him and give Haidl a ride to his mother's home. The others were to be released without further action. Although the deputy disagreed with his supervisor's direction, he complied. In the following days he voiced his disagreement with various members of the Department. Eventually, confidential information in the form of video and audio tapes of the Department's handling of the Haidl incident was released, without Department approval, to the media in the Orange County area. At the time, Gregory Haidl was free on bail and awaiting trial for the rape of a female juvenile. Hence, additional police contact with Haidl was a topic of intense interest to the media.

After obtaining the confidential information from the Haidl incident, the media quickly broadcasted the material to the public. Portions of the audio and video tapes of the on-scene contact with Gregory Haidl, as well as audio tapes of telephone conversations between Department personnel were aired. The extensive media coverage and Haidl's status as a person awaiting trial for felony rape, led the District Attorney of Orange County to request that the Grand Jury conduct an independent investigation of the Orange County Sheriff's Department handling of this case. At nearly the same time and after learning key facts about the matter, Sheriff Carona ordered an Internal Affairs Investigation by his own Department. Both investigations came to similar conclusions.

First, while no criminal acts by Department personnel could be successfully proven, it appeared that several individuals attempted to cover up the incident to prevent disclosure to the public and the media and minimize any embarrassment to Assistant Sheriff Haidl and the Department. Not surprisingly, their actions caused the opposite to occur.

Second, the Grand Jury report, entitled "Tempest in a Teapot," called for an independent review by an outside law enforcement agency. That sentiment was echoed by Sheriff Carona, who, in a letter to Attorney General Bill Lockyer, requested that his office conduct an independent investigation that also provided recommendations on how to prevent a re-occurrence of a similar incident. Attorney General Lockyer responded affirmatively and assigned the task to his Division of Law Enforcement (DLE).

Since the actual incident and the Orange County Sheriffs' Department response was investigated by the Grand Jury and the Sheriff's Internal Affairs team, the Attorney General's chosen methodology was to review all available documents from the Grand Jury and the Orange County Sheriff's Department to first determine if the investigation of the Haidl incident was complete and, second, pursuant to Sheriff Carona's request, develop policy or procedural recommendations which would minimize the chances for a similar incident in the future.

The DLE review has been completed and makes the following general findings:

1. The behavior and practices utilized by the responding deputy were proper and well within established law enforcement parameters.
2. The behavior and practices of the responding field sergeant were questionable because they were geared toward minimizing the impact of the incident on various members of the command staff rather than addressing the community and criminal justice issues presented by this relatively minor patrol contact. In addition, the field sergeant's inattention to detail while taking over a patrol call from the responding deputy inadvertently caused the name of a juvenile subject to be publicly disclosed to the media.
3. The behavior and practices of two Lieutenants, a Captain, a Press Information Officer and an Assistant Sheriff were also less than proper and showed poor leadership, poor judgment and a departure from established Department policy and procedure. Their apparent fear of adverse media attention and a negative reaction from Assistant Sheriff George Jaramillo, were the driving force behind their behavior. Their actions based on those motives were likely the cause for making poor decisions both in the field and administratively, as well as causing an ineffective and disjointed approach to providing accurate information to the media and the Department's own administration. Further, the Captain did not exercise effective supervision or quality control over the incident by his own admission.

4. Sheriff Carona was not informed about the Haidl incident until after it was completed in the field and, when he was eventually informed by Asst. Sheriff Jaramillo, he received inaccurate and incomplete information. Further, the Sheriff's order directing Asst. Sheriff Jaramillo to make sure the event was documented went unfulfilled. In fact, Asst. Sheriff Jaramillo's communication with the watch commander clearly indicates his desire for the incident to be minimized in the Department's records.
5. The internal affairs investigation ordered by Sheriff Carona and conducted by a team selected by Assistant Sheriff Galinsky operated with autonomy to obtain extensive information from a wide variety of document sources, personnel interviews, and information analysis. Their mission was to produce a report for the Sheriff which identified those responsible for acts which fall clearly outside of Department policy, procedure, and practice leading to the mishandling of the Haidl incident. Their efforts were also designed to give the Sheriff guidance in determining if adverse employee actions should be undertaken. The review of their work product shows that their effort appears independent, informative, and comprehensive.
6. Although the Department operates under the auspices of two policy/procedure manuals and other policy memos, this incident presents an opportunity to enhance or, in some cases, create policy which can reduce the re-occurrence of an incident of this type. The general policy areas that can be improved or established are:
 - Contraband Evidence Processing
 - Media Communications
 - Persons of Special Interest Policy
 - Creation of an Operation Inspections Unit
 - Improved Communication Protocol/Department Ombudsman

Methodology

The Attorney General's investigative review was conducted both on-site at the Orange County Sheriff's Department and remotely from the Department of Justice in Sacramento. It utilized command staff meetings and unstructured interviews, examination of written, video, and audio documents of the contact with Gregory Haidl, as well as a complete review of the entire internal affairs investigation file created by the Sheriff's Department. The Orange County Sheriff Department's Operations and Procedures Manual and the Manual of Rules and Regulations were examined to determine the content of existing policy for comparison with the actions of personnel. The Grand Jury's public report entitled "Tempest in a Teapot" was also examined. All correspondence between the Sheriff, the District Attorney, and the Presiding Judge of the Superior Court concerning the requests for, or release of, information between agencies was also reviewed. The contents of this report, with the exception of the policy recommendations at the conclusion, were produced from the above-listed documents and tasks.

Chronological Summary of The Gregory Haidl Incident

Shortly after 10:00 pm, on October 26, 2003, Orange County Sheriff Deputy J. Roche ("Dep. Roche") was performing routine patrol duties in the City of San Clemente in southern Orange County when he observed what he believed to be suspicious activity in the Talega Business Park.¹ Initially, Dep. Roche thought there could be a burglary at the location. As he drew closer, he noticed a Chevrolet Tahoe parked near the curb in the parking area and three young males who appeared to be skateboarding near the vehicle. This parking area is posted with a sign prohibiting skate boarding pursuant to the Municipal Code.

As Dep. Roche approached the three males, he contacted his dispatch center and advised them of his actions. Dispatch subsequently sent Deputy W. Rehnelt ("Dep. Rehnelt") to assist/cover Dep. Roche. Before contacting any of the subjects at the scene, Dep. Roche activated his patrol video system (PVS) to document the contact pursuant to Department policy. Deputy Roche's voice and those of persons within range of the portable microphone carried by him would also be recorded with the video images. Upon approaching the subjects, Dep. Roche first identified them as [REDACTED] ("[REDACTED]"), a juvenile, Gregory Haidl ("Haidl"), and Giovanni Scolari ("Scolari"). Dep. Roche recognized Scolari from a previous patrol contact. Upon initiating a conversation with Haidl, Haidl quickly identified himself as the son of Assistant Sheriff Don Haidl and informed Dep. Roche that he was currently out on bail and in the middle of a "mess." A review of the audio/video of this conversation shows that Dep. Roche did not appear influenced or affected by Haidl's statements, and kept up the flow and tenor of his dialogue with all three subjects. Dep. Roche was aware that the "mess" Haidl spoke of was his pending rape trial in Orange County Superior Court.

During this time, Dep. Rehnelt arrived to assist Dep. Roche. He did not play a substantive role in the patrol stop. While conducting his interview with all three subjects and engaging in general conversation, Deputy Roche looked through the window of the Tahoe and observed a small amount of what he believed to be a small bag of marijuana and a pipe in plain view on the right rear floorboard of the vehicle. During a subsequent search he also located a pill bottle with marijuana in the glove box. Deputy Roche's purpose then shifted from the skateboarding infraction to determining the person responsible for the possession of the marijuana. The three subjects all denied ownership of the marijuana. At this point in time, Dep. Roche requested that his supervisor, Sergeant R. Downing ("Sgt. Downing") respond to the location. Through conversation with the three males, Dep. Roche was able to determine that Scolari was the driver of the vehicle, [REDACTED] rode in the front passenger seat, and Haidl used the rear seat. Deputy Roche also determined that personal items located in close proximity to the bag of marijuana consisting of a wallet, cigarettes, car keys, and a bottle of iced tea all belonged to Haidl. Deputy Roche formed the opinion at this time that the bag of marijuana and the pipe belonged to Haidl.

¹The City of San Clemente does not have its own police department, and instead contracts with the Orange County Sheriff's Department for law enforcement services. A lieutenant with the Sheriff's Department serves as the "chief" of police services for the city.

Soon after, Sgt. Downing arrived at the scene and was given a summary of the events. Dep. Roche continued interviewing each of the three subjects individually. The last interview was of [REDACTED] who admitted that all of the marijuana belonged to him. Deputy Roche was unconvinced and later made his opinion known to Sgt. Downing at the scene. While Dep. Roche interviewed each of the youths, Sgt. Downing made a number of phone calls from his cellular phone to notify his superiors of Haidl's involvement in the patrol stop. The first call he made was to Lieutenant W. Hunt ("Lt. Hunt"), who is the "Chief" of Police Services for San Clemente and the direct supervisor of Sgt. Downing. During the call, he told Lt. Hunt that the marijuana belonged to a person other than Haidl, and he had decided to have Dep. Roche give Haidl a ride home and release the other two males with no further action. Lieutenant Hunt agreed with Sgt. Downing's course of action and the call was terminated. It is significant to note that at this point Sgt. Downing had not yet told Dep. Roche of his decision.

Shortly thereafter, Lt. Hunt telephoned Captain Lisanti ("Cap. Lisanti") and gave him a brief description of the incident including Haidl's presence. He also told Cap. Lisanti that the marijuana found belonged to another individual, and not Haidl. No further contact was made between the Lt. Hunt and Cap. Lisanti that evening. On the morning of October 27, Cap. Lisanti was advised by Lt. Hunt that the matter was being handled as a "routine marijuana case." However, on October 31, after hearing more rumors about the incident, Cap. Lisanti contacted Lt. Hunt and learned that no report had been written about the incident and the marijuana had not been booked into evidence. Captain Lisanti later explained that he had improperly "assumed" that a report had been written. He also learned of [REDACTED]'s identity and status as a juvenile. Captain Lisanti was very upset about the handling of the incident, and directed that the reports be written and evidence booked. Later, in his internal affairs interview, Cap. Lisanti admitted that he never personally examined any of the documents to ensure they were done correctly.

On October 26, 2003, Sgt. Downing contacted the Watch Commander at the Orange County Sheriff's Department identified as Lieutenant L. Downing.² During the call, which was recorded by the Orange County Sheriff's Department communications system, Sgt. Downing provided Lt. Downing with a brief synopsis of the patrol contact with Haidl and his disposition of the case. He also requested the telephone number of Assistant Sheriff Haidl. Lt. Downing pressed Sgt. Downing for more details as the call progressed. During the conversation, Sgt. Downing expressed his opinion that the marijuana actually belonged to Haidl in spite of the fact that he made the decision to override Dep. Roche's recommendation that Haidl be held responsible. A review of the recorded conversation indicates that Sgt. Downing also advised Lt. Downing that he had Lt. Hunt's permission to call Assistant Sheriff Haidl.³ Lt. Downing also states on the tape that he must also call "Chief George," meaning Assistant Sheriff George Jaramillo. Lastly, Sgt. Downing states his intention to let all of the subjects go and "take their dope from them." He did

²Despite identical last names, Lt. Downing and Sgt. Downing are not related.

³In his internal affairs interview, Lt. Hunt denies giving permission or even having knowledge that Sgt. Downing was going to call the Assistant Sheriff.

not appear to realize at the time that [REDACTED] was a juvenile and subsequently, did not initiate a call to [REDACTED]'s parents before his release pursuant to Department policy.

After concluding his call with Sgt. Downing, Lt. Downing then placed a recorded phone call to Asst. Sheriff Jaramillo at his residence and notified him of the incident. During the short discussion, Lt. Downing assured the Asst. Sheriff that Haidl would not be cited. Asst. Sheriff Jaramillo made a comment of concern that the press would "be all over this." In reply, Lt. Downing assured Jaramillo that "it won't be put on the log or anything, and the Chiefs are going to know, that's our secret." It is clear from the recorded conversation that Asst. Sheriff Jaramillo expected the incident to be kept quiet and just as apparent that Lt. Downing understood. Lt. Downing then made a call back to Sgt. Downing, which was also recorded, and reiterated that no log entries should be made about the incident. Later that evening, when Sgt. Downing concluded his shift, there was no mention of the Haidl contact in the log. In fact, there was only one notation simply stating that it had been a "very quiet night." Sgt. Downing also contacted Asst. Sheriff Haidl by phone and advised him of the patrol contact with his son. This call was not recorded and in his internal affairs interview, Sgt. Downing insists that Asst. Sheriff Haidl only asked that his son be given a ride to his mother's house where he currently resided. Sgt. Downing complied.

Later still, between approximately 2315 and 2330 hours, according to an interview later conducted with Sheriff Carona ("Sheriff") by the internal affairs unit, the Sheriff received a phone call from Asst. Sheriff Jaramillo advising him of the patrol contact with Gregory Haidl.

Jaramillo told the Sheriff a report had been taken, but there would likely be little media interest. The Sheriff said he told Asst. Sheriff Jaramillo that he disagreed about the media interest and instructed him to "make sure we have it documented."

Shortly after his call to Asst. Sheriff Haidl, Sgt. Downing spoke again with Dep. Roche who continued to believe that the marijuana belonged to Gregory Haidl. Sgt. Downing, again, expressed his disagreement with Dep. Roche's opinion. He ordered Dep. Roche to turn over the marijuana and pipe to him, release Scolari and [REDACTED] from the scene, and provide Haidl with a ride to his mother's residence. Dep. Roche complied with the orders. Both Sgt. Downing and Dep. Roche finished their shift without further incident. Sgt. Downing directed Dep. Roche not to write a report on the incident and took the marijuana and pipe to the San Clemente Sub-Station where he stored it in a locked file cabinet in the sergeant's office.

The following day, Dep. Roche returned to the San Clemente Sub-Station to pick up equipment for a special training course he was attending. While there, he encountered Sgt. Steve Gil ("Sgt. Gil") who had just completed the morning patrol briefing for the oncoming shift. Deputy Roche asked the Sergeant if he had heard about the Haidl incident. He had not, but instructed Dep. Roche to tell him about it. Deputy Roche did so and also expressed his displeasure at how it had been handled. However, when the subject of Haidl's possession of marijuana arose, Sgt. Gil interrupted Dep. Roche and told him he didn't want to hear anything further about the matter.

Shortly thereafter, Dep. Roche left for his training course at an off-site location.

While at the training course, Dep. Roche received a phone call from Sgt. Gil, who wanted to know the location of his patrol log for October 26th. Gil was acting on behalf of Lt. Hunt, who was trying to get more information on the contact with Haidl than he had been provided the night before from Sgt. Downing. The telephone call in the presence of others at the training prompted others to question Dep. Roche about the incident. He described it to at least two other deputies at that time. The information that Dep. Roche relayed to others while at the training course eventually made its way to Assistant Sheriff Galinsky, who, as she later reported in her internal affairs interview, promptly advised the Sheriff.

On October 30, the Orange County Sheriff's Department began receiving media inquiries regarding the Haidl incident, and they continued for several days thereafter. The local CBS affiliate aired the tapes of the patrol video system from Dep. Roche's vehicle, as well as the audio tapes of phone calls between Sgt. Downing and Lt. Downing, Lt. Downing and Assistant Sheriff Jaramillo, and the second call between Lt. Downing and Sgt. Downing. Release of these documents was not authorized by the Orange County Sheriff's Department at any time. As well, copies of Grand Jury Subpoenas were also featured on news broadcasts. It appeared that a person or persons with access to Sheriff's Department records and facilities had provided the information without proper authorization.

On October 31, Lt. Hunt ordered both Sgt. Downing and Dep. Roche into the San Clemente Sub-Station to provide him with more detailed information about the handling of the Haidl incident. Deputy Roche was directed by Lt. Hunt to write a report on the incident and book the marijuana he had seized from the vehicle into evidence. Deputy Roche called the communications center and requested a report number. The Gregory Haidl case from the original stop was changed in the records system from a traffic stop to "11357" - the Health and Safety Code section for possession of less than one ounce of marijuana. Deputy Roche then wrote a report and submitted it to Sgt. N. Gaffner for approval. He booked the marijuana and pipe in an evidence locker at the sub-station. After reviewing Dep. Roche's report, Sgt. Gaffner requested only minor grammatical changes. Deputy Roche complied and re-submitted the report. Sgt. Gaffner then gave the report to Lt. Hunt for a second review. Deputy Roche was then asked to make substantive changes to his report. This included deleting the location/proximity of the evidence to Gregory Haidl's personal belongings in the vehicle's rear floorboard area, the narrative of his interview with the suspects, and his opinion about who was the owner of the marijuana. When the final report was approved by Lt. Hunt, it listed [REDACTED], a juvenile, as the suspect for a violation of 11357 of the Health and Safety Code, possession of less than one ounce of marijuana.

On October 31, Orange County District Attorney Investigator M. Welch was sent by his supervisor to the San Clemente Sub-Station to confirm "rumors" about a law enforcement contact with Gregory Haidl. This likely stemmed from media inquiries that were received by the District Attorney's Office and the fact that Haidl was out on bail for a sexual assault case being prosecuted by the District Attorney's Office. While Welch maintains he did not interview anyone at the sub-

station, he did overhear Lt. Hunt conversing on the phone when he made reference to "Haidl," "dope," and "somebody admitted to it." Welch examined the 24-hour log and noted there was no entry regarding Gregory Haidl. Welch, in addition to his investigative duties for the District Attorney, is the custodian of records for the Orange County Grand Jury. He later was the individual who served the subpoenas on the Orange County Sheriff's Department for records pertaining to the Haidl incident.

On November 3rd, the Orange County Sheriff's Department issued a brief press release which was authored, according to two separate witnesses, by Asst. Sheriff Jaramillo. It stated,

"Regarding the incident in question, Greg Haidl was not involved in any criminal activity whatsoever. In fact, the case involved a minor violation by a juvenile, which we are prohibited by law from discussing. The OC Sheriff's Department has never had any contact with Greg Haidl as a suspect in this or any other incident. A department employee did, in fact, give Greg Haidl a short routine ride to his mother's home."

Every other document and interview examined as a part of the Attorney General's review indicates that this press release was, at best, misleading. It is clear that Dep. Roche, an authorized agent of the Orange County Sheriff's Department, considered Haidl a suspect, but was overruled. Captain Lisanti, in his internal affairs interview stated that he felt the press release was incorrect and, further, that Asst. Sheriff Jaramillo should release Dep. Roche's PVS tape with an official statement. Asst. Jaramillo refused Cap. Lisanti's request and instructed him to keep the matter within the Department.

On November 4th, Lt. Hunt wrote a letter to the City Manager of San Clemente, George Scarborough, summarizing the Haidl incident and stating that reports were written and evidence was booked at the sub-station. He did not mention that none of these activities occurred until five days after the incident and after receiving and learning of numerous media inquiries/broadcasts on the matter. In fact, the earliest report of media interest recorded in the Orange County Sheriff's Department records is shown as October 30, 2003.

On November 6 and 13, 2003, and January 8, 2004, the Orange County Sheriff's Department was served with Grand Jury Subpoenas requesting all written, audio, and video documents held by the Department concerning the law enforcement contact with Gregory Haidl, on-call number 03-230307, which occurred on October 26, 2003.

On November 13, 2003, Asst. Sheriff Galinsky, at the request of Sheriff Carona, initiated a personnel investigation to determine if actions by Orange County Sheriff's Department personnel were proper and legal concerning the Haidl incident. Because of the Grand Jury Investigation, Sheriff Carona and District Attorney Rackauckas agreed that the Sheriff's internal investigation would be held in abeyance until such time as the Grand Jury completed its investigation, so as not to cause a conflict.

Over the next seven months, the Grand Jury conducted its investigation of the Haidl incident, and as a part of the effort, took testimony from more than ten Orange County Sheriff's Department employees. Its public report, entitled "Tempest in a Teapot or A Violation of Public Trust," was published and posted on the Internet on July 1, 2004. While not the focus of this report, the findings of the Grand Jury are relevant here for several reasons.

First, the Grand Jury and the District Attorney found insufficient evidence to pursue a criminal prosecution against Orange County Sheriff's Department employees for violations of the Penal Code. In fact, in its report, the Grand Jury sums up its conclusions in two key paragraphs on pages 7 and 8 of its public report.

"In their eagerness to keep adverse publicity about the official's son out of the media spotlight, certain Department managers hastily, and perhaps injudiciously, accepted a statement of culpability by the juvenile for possession of all the marijuana discovered, during the encounter. Sworn statements during the Grand Jury's hearings indicated that the major portion of the marijuana did not belong to the juvenile. A review of public and confidential declarations in the light of sworn testimony indicated that official statements from the Orange County Sheriff's Department were incomplete and misleading. Preparation and dissemination of these statements were directed and encouraged by some higher-ranking officers who used poor judgment in not being forthright about the circumstances from the outset.

"Some Orange County Sheriff's Department managers were not forthright in explaining the true facts of the incident to the public and to other governmental agencies."

Second, the Grand Jury recommended that an independent law enforcement agency conduct an independent investigation, "either separate or parallel to the Orange County Sheriff's Department internal affairs investigation." This finding resulted in Sheriff Carona's letter to Attorney General Lockyer requesting that his office conduct the investigation. In addition the Sheriff also asked the Attorney General to form an opinion and give recommendations regarding ways to prevent such an incident from reoccurring.

The Orange County Sheriff's Department Internal Affairs Investigation

By mutual agreement between the Sheriff and the District Attorney, on July 27, 2004, the Sheriff's internal investigation was given approval to proceed. On that same date, the Sheriff also wrote to Superior Court Judge Frederick Horn, requesting any Grand Jury investigative records to assist in the internal investigation. Judge Horn referred the Sheriff's request to Judge Daniel Didier who oversees the work of the Grand Jury. On August 5, 2004, the Sheriff's request was denied by Judge Didier. The judge stated that, in all likelihood, the Sheriff already had the same information because the documents utilized for the Grand Jury investigation were from various files within the Sheriff's Department. In response to a similar request for records from the District Attorney's office, District Attorney Rackauckas also declined to turn over records stating

that it had no additional information not already contained in the Sheriff's own records.

On August 11, 2004, the Sheriff's internal investigation resumed. Retired Orange County Sheriff captain Tom McCarthy, who in addition to having extensive experience and training in this investigative area, also served as the past foreman of the San Diego County Grand Jury, headed the investigation. His staff was hand-picked from internal affairs investigators throughout the Orange County Sheriff's Department. He was placed directly under the command of Asst. Sheriff Galinsky during the course of the investigation. Assistant Sheriff Galinsky had no role in the Haidl incident other than briefing the Sheriff after the incident and later making the arrangements for opening the internal affairs investigation.

Since the internal affairs team could not access any of the testimony or internal documents from the Grand Jury proceedings, they read the public report and then began collecting the same documents and records from the Orange County Sheriff's Department files that the District Attorney subpoenaed for the Grand Jury as well as any others they could locate. These included:

- Recorded telephone calls between Sgt. Downing and Lt. Downing, and between Lt. Downing and Assistant Sheriff Jaramillo
- All correspondence between the District Attorney and the Sheriff, the Sheriff and Orange County Judges, and the Sheriff and the Attorney General regarding the Haidl incident
- Video and written copy of news coverage of the incident
- Lt. Hunt's memo to City Manager George Scarborough
- The Grand Jury Report
- The crime report authored by Dep. Roche on the Haidl case
- The video tape made during the Haidl patrol contact from Dep. Roche's Patrol Video System (PVS)
- Copies of the two operations policy and procedures manuals utilized by the Orange County Sheriff's Office
- Copies of computer assisted dispatch documents generated from the Haidl incident
- Copies of daily log entries made by Dep. Roche and Sgt. Downing concerning the Haidl incident

After reviewing the above listed documents, the team was able to reconstruct a basic time line of events and parties involved or having knowledge about the Haidl patrol contact. Using this document, they designed a schedule of interviews of relevant persons within the Orange County Sheriff's Department and crafted interview questions based on their understanding of what role each person likely played in the incident. The team conducted 49 investigative interviews of 44 government employees, most of who were employed by the Orange County Sheriff's Department, between the months of August and November 2004. The interviews were tape-recorded and a separate interview report was created after each interview, which summarized the content and served as a source document for writing the actual investigative report detailing each persons involvement in or knowledge of the Haidl incident. In cases where certain employees were

considered as subjects of the investigation, they were afforded the appropriate considerations unique to peace officer personnel pursuant to the Peace Officers Bill of Rights. All witnesses were allowed to have an attorney, a companion employee or a union representative present.

The witness/subject list of those persons interviewed during the investigation was examined and found to contain a comprehensive listing of all Orange County Sheriff's Department employees who were involved or had substantive knowledge of the Haidl incident.

Assistant Sheriff Jaramillo was the only person on the list who failed to respond to a request for interview by the internal affairs team. He was under no obligation to do so because, by the time of the interview request, he had been terminated from employment by Sheriff Carona. Former Assistant Sheriff Don Haidl consented to an interview although he had resigned his position prior to the interview. Both Scolari Giovanni and [REDACTED] voluntarily consented to interviews and gave critical information described below.

Analysis of the interviews by the investigative team led them to make the following findings that are presented in more detail in their final report:

- The initial encounter between Dep. Roche and the three subjects in the San Clemente business park was a relatively trivial matter, with similar incidents handled daily by the Department's patrol personnel. They rarely merit supervisory intervention. However, because one of the individuals involved was Assistant Sheriff Don Haidl's son, Gregory Haidl, extraordinary actions were taken by Sheriff's Department personnel.
- Sgt. Downing, the first on scene supervisor, exercised poor judgment in his decision to override Deputy Roche's handling of the call. Deputy Roche should have been allowed to continue his investigation, and handle the matter as a criminal violation. Sgt. Downing also showed lack of diligence by failing to obtain sufficient information about the incident resulting in inaccuracies being reported to his superiors. Sgt. Downing's decisions also contributed to the perception that Gregory Haidl was provided with preferential treatment and shielded from criminal prosecution.
- Lt. Downing exercised poor judgment during his discussions with Sgt. Downing and Asst. Sheriff Jaramillo. Lt. Downing made comments and offered suggestions that led to the perception the Orange County Sheriff's Department was concealing the Haidl incident from the media and public scrutiny.
- Lt. Hunt exercised poor judgment in his decision to direct Dep. Roche to remove details contained in his report. Such a minor incident would not have otherwise drawn attention from Lt. Hunt who is the Police Services Chief of a contract city except for the involvement of an Assistant Sheriff's son. While the exact

conversation that occurred between Deputy Roche and Lt. Hunt is uncertain, what is clear, is that Roche was directed or felt pressured to remove facts from his report which tended to incriminate Gregory Haidl for possession of part of the marijuana discovered and exonerate [REDACTED] for that same amount. The report that Lt. Hunt finally approved contributed to the perception that Gregory Haidl was afforded preferential treatment. The removal of those facts may also have influenced the judicial process by assigning all culpability for the marijuana to [REDACTED] and screening Gregory Haidl from prosecution.

- A contributing factor in the decision-making process was the operating culture of the Operations Branch of the Department. It was clear that Asst. Sheriff Jaramillo fostered an atmosphere of intimidation. Subordinates were expected to show loyalty to their chief (Jaramillo) above other considerations. Assistant Sheriff Jaramillo's relationship with Assistant Sheriff Haidl and his personal involvement with the Gregory Haidl sexual assault investigation was well known throughout the Orange County Sheriff's Department. Lt. Hunt was likely influenced and Lt. Downing was clearly influenced by the domineering tone and expectations set by Asst. Sheriff Jaramillo for those under his command.
- The role and duties of Press Information Officer Fleischman in this incident were unclear. Further, his position provided for little or no accountability. Assistant Sheriff Jaramillo placed Fleischman in a conflict of interest, and it appeared Fleischman operated as a proxy for his superior while operating outside of the chain of command. He became a collector and purveyor of information during the incident, and copies of all relevant documents, reports, tape recordings, and other items were in his possession while being collected for the Grand Jury Investigation. There was no assurance of accountability for potential misuse or security of these items.
- The Department's chain of command was unclear as information about the Haidl incident was being sought. Multiple and parallel inquiries were made by managers and supervisors. Copies of documents were sent to multiple persons. The Department lacked control to account for privileged material that was leaked to the media. Responsive documents and other items (subpoenaed by the Grand Jury) were collected by support service personnel and sent to Sheriff's Administration officials where they were retained, and potentially copied.
- The Department's security and accountability of the various responsive documents, reports, and tape recordings was lax. PVS tape security at the San Clemente Sub-Station was poor, allowing for indiscriminate access and potential copying. Accountability for ECB audiotape recordings and copies was also poor. A requestor log is utilized to track copies of such tapes. However, the log is frequently incomplete and/or contains erroneous information. The Department failed to

exercise accountability for responsive documents and other items. This material came into the hands of multiple persons as it was collected and later transmitted to the County Counsel's Office. Unauthorized copying of information occurred facilitating leaks to the media.

- Assistant Sheriff Jaramillo was the subject of much media and public scrutiny for alleged misconduct before the Haidl marijuana incident occurred. His perceived or actual involvement in the sexual assault case against Asst. Sheriff Haidl's son created a conflict of interest, and fueled the belief that his actions were unethical and intended to protect the son of a close friend and confidant. The continuing and ongoing controversy surrounding Asst. Sheriff Jaramillo promoted the belief that Gregory Haidl was afforded preferential treatment and shielded from criminal prosecution. While Assistant Sheriff Jaramillo's actual role in the incident appeared minor, the perception of wrongdoing persisted and the reputation and credibility of the Orange County Sheriff's Department suffered accordingly.
- Gregory Haidl was likely the owner of the marijuana found on the back floorboard of the vehicle which Dep. Roche searched. First, Dep. Roche found the marijuana intermingled with personal possessions of Gregory Haidl and, second, both [REDACTED], who was listed as the "suspect" in the revised Roche report and Giovanni Scolari, who was not charged, both agreed in separate internal affairs interviews that the marijuana found on the back floorboard belonged to Haidl, and further that Haidl convinced [REDACTED] to take responsibility for its ownership when Dep. Roche was distracted while talking with Sgt. Downing at the scene.

Attorney General's Investigative Conclusions and Policy Recommendations

Given the extensive and thorough investigations completed by both the Orange County Grand Jury and the Department's special Internal Affairs Team using all of the available evidence, it was proper to rely on their records in developing this report. After conducting our own review of the evidence, it is not surprising that our findings are similar to those previously reported.

There was no substantial disparity between the findings of the internal affairs investigators from the Orange County Sheriff's Department, the Grand Jury Report, and the subsequent review by the Division of Law Enforcement (DLE). In fact, the findings of the Orange County Sheriff's Department in the body of their internal affairs report serve to bolster the DLE findings due to their extensive investigative effort.

The information gleaned from our inquiry was essential to DLE's assessment of the nature and details of the precipitating event - the Haidl patrol contact. But the documents, interviews, and informational analysis could only offer a partial explanation for why management's initial reaction to the incident - from the rank of patrol sergeant all the way up to an Assistant Sheriff - got so far

off track. Whether it was their unique personality traits or a departmental culture that convinced these few members of the Department that they were acting in the interest of justice, the evidence establishes that it required the intervention of the media, and its attention to Gregory Haidl's status as a "person of special interest," that ultimately pushed the Lieutenants and Captain involved to finally provide more accurate information to the Sheriff. Once that occurred, the Department began to move toward a professional and proper resolution of the incident—a process that should have begun on the evening of October 26, 2003.

An internal affairs report can bring closure to the fact finding task and provide a basis for the Sheriff, as the Chief Executive of the Department, to take the appropriate personnel actions. But such a report is not designed to analyze the organizational structure and culture of a law enforcement agency that is necessary to guide the implementation of needed reforms. The following policy recommendations the Sheriff requested the Attorney General to provide are intended to fulfill that objective.

Policy Recommendations

Finding number six in the Executive Summary identifies a need for enhanced or additional policy directives that would improve the Department and help prevent a re-occurrence of an incident such as this. Some individual actions or statements relating to the Haidl incident are dealt with in more detail in this section than previous areas of the report in order to provide specific factual support for the policy recommendations.

When examining whether policy changes of any type are warranted, it is necessary to first assess the working conditions of a law enforcement agency, and then determine if adequate policy already exist. If deviations occur in spite of a policy being in place, the question raised is whether individual(s) departed from it on their own volition or whether the policy itself fails to provide adequate guidance to prevent such inappropriate behaviors. The following policy recommendations take all of these factors into account.

Policy Recommendation #1 - Internal Communications Protocol/Ombudsman

A clear and well understood chain of command is essential to the proper functioning of any law enforcement agency. Our review, however, confirms that throughout the course of the Haidl incident numerous verbal and written communications circumvented the chain of command. These deviations deprived the Sheriff and other managers of accurate information on a timely basis, and prevented supervisory staff from being able to make informed decisions that could have significantly changed the handling of this incident. Actions and decisions made by various parties, both individually and collaboratively, directly contributed to this breakdown in the chain of command.

The first communication error occurred immediately after the patrol stop was made on October 26, 2003. Sergeant Downing, the responding field sergeant, initially made the correct decision by calling his supervisor, Lt. Hunt. However, he erred by failing to provide Lt. Hunt with accurate information from the crime scene and by failing to disclose his intent to bypass Cap. Lisanti by contacting Asst. Sheriff Haidl directly. Although Cap. Lisanti ultimately received a call from Lt. Hunt, the information Lt. Hunt passed along from Sgt. Downing was inaccurate. Captain Lisanti therefore, underestimated the potential for media interest and determined that he did not need to call his immediate supervisor.

Second, Lt. Downing elected to circumvent his own chain of command communications responsibility by directly calling Asst. Sheriff Jaramillo. While he knew his communication responsibilities required him to first call Cap. Lisanti, his deviation was motivated by his fear of punishment from Asst. Sheriff Jaramillo who had issued an "informal policy" that he be the first person notified by watch commanders if an unusual event occurred.

Effective and accurate communications were further hampered when Dep. Roche was initially instructed not to write a report, and Lt. Downing, anticipating Asst. Sheriff Jaramillo's wishes, determined that no log entries would be made concerning the incident. Frustration by parties who were subject to restricted communications or the perception of favoritism towards a suspect may have caused them to use the media, rather than the Department, to start the communication process in earnest.

- It is recommended that the Manual of Rules and Regulations be re-written to strengthen the language requiring that communications go through official channels. The new language should also more clearly define and restrict the types of exigent circumstances that justify a departure from this policy. The amendments should be made in Title 2 Section 1.03.0 and 1.03.1 of the Manual of Rules and Regulations.
- It is recommended that the Department create an Office of the Sheriff's Ombudsman. This Office would serve as an alternative official conduit for information/communications flow apart from the normal chain of command, but share the same goal to get accurate or critical information to the Sheriff or other designated decision makers within the department. The new policy must clearly state that it is not intended to replace the normal flow of communications pursuant to 1.03.1, but instead gives employees an outlet for sensitive information requiring senior management attention only *after* routine procedures do not work. The Office should be staffed by a trusted member of the department or community who, by virtue of his/her rank, occupation or community standing, has wide recognition and the confidence of rank and file members of the Department. The communications policies must also be included in all employee training and counseling sessions and receive public approval/endorsement of the Sheriff and his senior staff. This new Office should be created by amendment to Title 2 Section 1.03.1 or another appropriate section as determined by the Department.

Policy Recommendation #2 - Inspection and Quality Assurance Program

Throughout the handling of the Haidl incident numerous issues arose which pointed out the advantage of a periodic Inspection Program for the Department. For example, the marijuana seized at the scene was initially not treated as physical evidence with the attendant chain of custody requirements by Lt. Hunt or Sgt. Downing.⁴ In addition, investigation reports were ordered to be edited in a questionable fashion by Lt. Hunt. Further, the physical security of sensitive documents could not be assured due to lax handling practices by the Department's Deputy PIO and press releases describing the Haidl incident bore little resemblance to what actually occurred. The fact that all of these conditions arose during the course of a single "incident" is not only of great concern, it also suggests that the correction of unwanted and improper behavior and practices within the Department occurs only when someone "gets caught" by a supervisor, the public or the media.

In addition to strong supervision and training programs, the Department can significantly increase compliance with its policies by creating a periodic Inspection and Quality Assurance Program. Such a program would regularly, but not predictably, examine the functionality of various programs, systems and command structures within the Department, and assess the performance of persons assigned to those entities as well. The program must place special emphasis examination of records of all kinds to determine adherence to established policy and the Department's mission. Sometimes referred to as "Internal Audits," these program units are largely autonomous and report directly to the Sheriff.

- It is recommended that the Department create an Inspection and Quality Assurance Program within the executive office of the Sheriff. The program unit should be charged with the regular, but unpredictable, examination of programs, policies and command structures within the Department to assure the ethical, professional and efficient operations. Structured reports of each inspection should be produced for the Sheriff. The Sheriff can then require action to improve the function or performance of units or command structures that do not perform to accepted standards as expressed in department manuals, or accepted past practices. The program may be created by amendment to Manual of Rules and Regulations Section 2.12.20 or by executive order.
- It is recommended that two or more inspection teams be created under the program and directed to operate on a rotational basis so that each team can separately evaluate each of the Department's programs, policies and command structures. Team members should be recruited from supervisors and managers serving in field assignments so that they can take the lessons learned from their inspection "tours of duty" back to the team member's home unit to improve their own operations. The size and rank structure of the teams should be determined by the Sheriff.

⁴ The issue of proper "Contraband Evidence Handling" is discussed in detail in Policy Recommendation #4.

It is recommended that the inspection unit *not* be affiliated or share personnel with the Professional Standards Division (see Manual of Rules and Regulations Section 2.10.0) within the Department. As well, inspection documents and assessments should be the basis for administrative or operational improvement only. The discovery of information during the course of operational inspections that is relevant to Internal/Personnel Investigations should be referred to that unit and handled separately. While internal affairs units historically investigate the actions and performance of individuals, inspection units review and recommend on the performance of programs and structural elements. Some areas that can profit from inspections are:

- Informant Control
- Media Relations
- Report Writing/Accuracy
- Evidence Handling/Vault Management
- Training Delivery/POST Compliance
- Facility/Records Management
- Government/Grant Fund Management
- Issued Equipment Maintenance
- Tactical Training Status
- Asset Forfeiture Management
- Probation/Annual Performance Reports
- Applicability of Current Policy
- Employee Morale
- Jail Operations
- Rate of Employee Injury
- Supervisor Field vs Administrative Time
- Client/Public satisfaction
- Compliance with POST Regulations
- Accuracy/Currency of Information Systems and Logs

Policy Recommendation #3 - Persons of Special Interest

This findings of this report and the investigations conducted by the Orange County Grand Jury and the Orange County Sheriff all recognize that a patrol stop involving the violation of a skateboarding ordinance and the possession of less than one ounce of marijuana would not have garnered the amount of Department and media attention it did absent the presence of Gregory Haidl. However, the fact remains that Haidl had achieved what some call "negative celebrity" status because he is the son of then Assistant Sheriff Don Haidl and was out of custody while on bail awaiting trial on a sexual assault case. It is clear that regardless of their rank, past performance or current status, the judgment of every officer involved, some even peripherally, was affected either by fear of the reaction from Asst. Sheriff Jaramillo or the media activity that would almost surely accompany news of Haidl's arrest. Because there was no established protocol to deal

with a "person of special interest" like Gregory Haidl, each officer acted with varying degrees of success in response to the personal and professional pressure they felt under the situation.

Deputy Roche's approach was to treat Gregory Haidl exactly the same as any other suspect in a minor drug case. His intent was operationally and ethically sound, but given the reaction to Haidl's arrest and the existing sexual assault charges, it also may have been naive.

Sgt. Downing, who sought to make the problem go away by not producing the appropriate documentation, overlooked or ignored the frustration other officers would legitimately experience when they heard that an Assistant Sheriff's son received special treatment. Regardless, whether Sgt. Downing actually gave Haidl special treatment is not the issue. The mere perception that he did so likely caused the different accounts of the Haidl incident to be disseminated over and over again both inside the Department and, eventually, outside the Department. Further, Sgt. Downing's poor evidence handling decisions, his lack of "up the chain" communications, and the inappropriate tactical decisions memorialized on the audio taped discussions with Lt. Downing all served to support the conclusion that Haidl received special treatment. To make matters worse, Asst. Sheriff Jaramillo's personal dictation of an incomplete and misleading press release fueled additional speculation that the Department was withholding information. The inevitable result was intense media scrutiny from multiple news outlets throughout Southern California and the country.

All of these actions, whether for ethical or self-serving reasons, ignored the fact that Gregory Haidl was a "person of special interest." Under such circumstances, no matter what disposition the Department ultimately determines is appropriate - charge, cite or release - protocol must be in place for making those decisions and a plan must be quickly implemented to credibly respond to the anticipated onslaught of media interest. Unfortunately, the Department had no protocol and the chosen method seeking to deny or minimize the incident, failed.

- It is recommended that the Department adopt a Persons Of Special Interest Protocol/Policy. The policy should clearly state that no person shall get special treatment in the Department's consideration of charges, custody or other departmental action based on his or her social, governmental or celebrity status. It must also clearly articulate a well-defined media response plan to enact when a person of special interest is encountered during a potentially confrontational law enforcement contact. The policy should clarify that the media plan is focused on dealing with special media requests for information that the Department does not normally get in terms of type and quantity. Finally, the policy should recognize that persons of special interest must be afforded same right to privacy that persons of less notoriety enjoy.

This recommendation is not just geared to accommodate the special needs of a Assistant Sheriff's son. Given the number of celebrities in the entertainment industry, professional sports, and government in Orange County and the adjacent area, the likelihood of a law enforcement encounter a "person of special interest" are

higher than normal. Establishing a firm policy that embraces the publicity challenges and media demands for information in these cases will prevent a reflective reaction to hide, cover up or otherwise minimize information flow that naturally results from the fear or confusion that accompanies the lack of clear and concise policy. The Department may consider adapting Manual Section 1.03.0 (Media Relations) to implement a Persons of Special Interest Policy.

Policy Recommendation #4 - Contraband Evidence Handling

The investigation of incidents where drug contraband evidence is located places special requirements on law enforcement officers. These items must be handled differently for both evidentiary and safety reasons. Drug contraband is not just an illegal substance, it can change in potency and appearance depending on storage conditions, and is subject to theft from evidence storage due to its financial value. In the case of several drug types, merely touching the substance without proper protection can be extremely dangerous for law enforcement officers and forensic personnel.

In addition to other anomalies, during the Haidl incident there was a departure from established policies governing the handling of evidence (see Operations and Procedures Manual for the South County Operations Division of the Orange County Sheriff's Department, Section 19-Evidence). Here, the questionable nature of two critical law enforcement functions, evidence handling and report writing, contributed significantly to the inadequate resolution of the case.

Section 19 of the relevant Operations Manual defines evidence as, "Any and all material objects or other things which are located in the course of an investigation which may aid in establishing the identity of a suspect and which can be offered to the courts to prove the existence or non-existence of a fact." Notably, Sgt. Downing, in his internal affairs interview, stated that he considered the two small containers of marijuana seized by Dep. Roche as "not really a usable amount." Later, in the same interview, Sgt. Downing opined that he didn't consider the marijuana as "evidence" because "we had no crime." First, common sense and a subsequent analysis by the Orange County Sheriff's Crime Lab shows that the marijuana was both "evidence" and a "usable" amount. Second, as can be seen from the definition in Section 19 above, "usable amount" is not a prerequisite for proper evidence handling, nor an excuse for failing to properly handle the evidence.

Additional statements made during internal affairs interviews by Lt. Hunt, Dep. Roche, Sgt. Downing, and Sgt. Gaffner all confirm that there was substantial confusion about who actually handled the marijuana evidence, where it was stored from the date of the incident until it was booked into an approved evidence locker, what condition it was in, and what amount remained.

A review of the facts reveals that the evidence was contained in an unsealed manila envelope while it passed through the possession of at least three people over the course of several days. Despite the seizure of the evidence, Sgt. Downing initially recommended that no report be written to document the incident. Later, when a report was finally written, Lt. Hunt required changes that removed

critical information that could have helped establish to whom the marijuana belonged. Hence, with no usable chain of custody or ownership, it is not surprising that a formal criminal action or even a citation did not take place on the date of the incident. While Section 19 contains good general evidence handling guidelines, under the circumstances, more specificity is required.

- It is recommended that the Operations Manual be amended to require that drug contraband be marked for identification, and packaged in Department approved evidence envelopes *before* they are placed in temporary holding facilities for transportation to the Sheriff's Crime Lab. This should include requirements limiting the amount of time an item of evidence can be held in temporary storage before submission for analysis. The term "Temporary Storage" should be clearly defined and standardized throughout the Department's policy and operations manuals. The amendment can be made to Section 19.V.C.3 in the Operations Manual.
- It is recommended that the Operations Manual be amended to provide that, except under extreme circumstances, the seizing deputy shall retain personal control and custody of contraband drug evidence until it is sealed and submitted to an approved evidence holding facility for the Orange County Sheriff's Department. The amendment should emphasize that multiple person custody prior to analysis should be avoided whenever possible. The amendment can be made to Section 19 of the Operations Manual.
- It is recommended that the "common practice" of Department supervisors exercising their discretion to change the status of seized evidence to "found Property for destruction" be scrutinized carefully. If it is to continue, detailed written reports on such decisions should be required to avoid the appearance of unethical or illegal mishandling or tampering with evidence.

Generally speaking, Operations Manual Section 19 covers the handling of evidence with the appropriate level of guidance expected for a law enforcement agency. Based on the Haidl incident and in addition to the policy recommendations above, we strongly recommend that the Sheriff, through any means he deems appropriate, reiterate the importance of proper evidence handling to the entire Department. Had the Haidl incident involved a large amount of drugs that resulted in a prosecution, it is highly likely that such an effort would not be successful given the poor evidence handling directed by Sgt. Downing and Lt. Hunt.

Conclusion

It is perhaps ironic that a relatively inconsequential patrol stop that did not involve force could result in multiple investigations of a law enforcement agency, expansive media interest, and substantial public concern over the administration of justice. On the other hand, it is worthwhile that this incident is being used as a catalyst to identify weaknesses and improve the Orange County Sheriff's Department.

This report concludes that during the course of the Haidl incident personnel within the Department acted in contravention of numerous established policies, failed to conduct themselves properly due to inadequate or a lack of Department policy guidelines, and makes four separate policy recommendations that we believe will improve the operations of the Orange County Sheriff's Department.

With respect to the Haidl incident, the record is clear that after the initial patrol contact was made on October 26, 2003, the conduct and decisions made by certain supervisors and managers to shape the outcome of the encounter were unwise and improper. In addition, fear of an Assistant Sheriff's displeasure led a few persons in the chain of command to depart from sound law enforcement policy and practice. Concern about potential criticism by the media regarding those departures led them to ignore the Department's existing media communications policy as expressed in their manuals. Lastly, their failure to communicate accurate and comprehensive information to the Sheriff deprived him of the opportunity to change the course of the Department's efforts until it was too late to avoid examination by parties outside the Department's structure, such as the Grand Jury and this inquiry.

Given the information we examined, however, there was no evidence of a wholesale departure from sound policy and practice or a cultural condition where such departures are viewed as the acceptable norm in this Department. On the contrary, the zest with which the Department pursued its own investigation, and the termination, proposed discipline or retirements of some of the persons responsible indicate that the Department is aggressively attempting to regain its footing after poorly handling a field contact and enduring a negative media encounter whose effects may linger for quite some time.

The disciplinary actions and policy changes that have been implemented thus far by the Department are an excellent first step in the effort to address the issues raised by the Haidl incident. In our view addition, implementation of the four policy recommendations included in this report will help the Department improve its operations further and also prevent the re-occurrence of such events in the future.