



# ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET  
SANTA ANA, CA 92703  
714-647-7000  
WWW.OCSD.ORG

SHERIFF-CORONER  
SANDRA HUTCHENS

## NOTICE OF INTENT TO DISMISS PI #13-148

**William Dow**  
[REDACTED]

In accordance with Article IX, Section 5 of the County of Orange Memorandum of Understanding for the Peace Officer Unit, and the Orange County Sheriff-Coroner Department Policy Manual, Policy 340.2, you are hereby notified that the Orange County Sheriff-Coroner Department ("Department") intends to dismiss you from your employment as a Deputy Sheriff II.

This proposed discharge is based on the Department's determination that you intentionally made untruthful statements while testifying under oath before the Orange County Grand Jury. Your misconduct violated all of the following Department policies:

### **OCSD Policy Manual Section 31.01.0 Standard of Conduct**

- .1 Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department
- .2 Commissioned officers will conform with the Code of Professional Conduct and Responsibilities for Peace Officers (Appendix A)

### **OCSD Policy Manual Section 31.05.0 Performance of Duty**

- .1 Members shall perform their duties as required or directed by law, department rules/regulations, procedures and policies, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

### **OCSD Policy Manual Section 31.44.0 Court Cases**

- .1 Members shall not interfere in any way with the normal judicial procedure.

**OCSD Policy Manual Section 31.45.0 Court Attendance and Demeanor**

.3 Members shall testify in a calm, distinct and audible tone of voice. Members shall not suppress or overstate the slightest circumstance with a view of favoring or discrediting any person, but shall testify with the strictest accuracy.

**OCSD Policy Manual Canon Two**

Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

**Standard 2.2** Peace officers shall truthfully, completely, and impartially report, testify, and present evidence in all matters of an official nature.

**OCSD Policy Manual Canon Four**

Peace officers will so conduct their public and private lives that they exemplify the high standards of integrity, trust, and morality demanded of a member of the peace officer profession.

**Standard 4.9** Peace officers shall at all times conduct themselves in a manner which does not discredit the peace officer profession or their employing agency.

**EMPLOYMENT HISTORY**

You began your employment with the County of Orange on July 14, 1989 as a Deputy Marshal assigned to the Courts. On June 30, 2000, you transferred to the Department as a Deputy Sheriff I and worked at the West Justice Center in Westminster. On September 6, 2002, you transferred to Theo Lacy Facility as a Deputy Sheriff I. On November 7, 2008, you promoted to Deputy Sheriff II and would continue to work at Theo Lacy until you transferred to the Transportation Bureau on October 4, 2013.

Throughout your employment with the Department, you have received training on various Department policies and procedures including the Department's policy on professional/ethical conduct. According to Lexipol, the Department's web-based policy provider, you last logged on and acknowledged receipt of the Department's Policy Manual effective October 1, 2013.

### BASIS FOR INVESTIGATION

On December 5, 2013, in the matter of *People vs.* [REDACTED] (Orange County Superior Court criminal case [REDACTED] Superior Court Judge Robert R. Fitzgerald ordered the disclosure of information obtained by a court authorized wiretap (07-107) pursuant to Penal Code Section 629.50.

The Court's order authorized the District Attorney's Office to disclose the contents of a conversation intercepted under Wiretap #07-107 on December 5, 2007 (session #168 – target telephone #2). Judge Fitzgerald concluded that the disclosure of this evidence was necessary in order for the People to satisfy their Constitutional due process obligations under *Brady v. Maryland*. The court further authorized the District Attorney's office to disclose this information to you and the Department.

That same day, Senior Assistant District Attorney Mike Lubinski of the Orange County District Attorney's Office contacted Assistant Sheriff Donald Barnes and provided him with copies of the Grand Jury testimony, transcripts of the wiretap recording, two court orders, and a digital CD of the recording from the District Attorney's Office. Assistant Sheriff Barnes reviewed the transcripts of both the wiretap and Grand Jury testimony and determined that the evidence revealed that, on December 6, 2007, you appear to have violated Department policies.

### INTERNAL AFFAIRS INVESTIGATION

Following a briefing provided by Assistant Sheriff Barnes on December 5, 2013, Assistant Sheriff Trujillo formally requested that Internal Affairs conduct a personnel investigation into your on-duty actions with respect to the allegation that on December 6, 2007 you were deliberately untruthful in your Grand Jury testimony.

### Summary of Grand Jury Testimony vs. Wiretap Transcript:

On December 5, 2007, you were recorded by wiretap having a telephone conversation with Deputy [REDACTED] and [REDACTED]. The next day, December 6, 2007, you testified before the Orange County Grand Jury. The following false statements were discovered when comparing the transcript from the recorded phone conversation with the transcript from your Grand Jury testimony. (**Wiretap phone conversation is annotated in bold type.**)

1. In the Grand Jury proceedings, you were asked if you were aware that Ms. [REDACTED] [REDACTED] had been subpoenaed as a witness in this Grand Jury proceeding, to which you replied "No." You were then asked if you had ever been made aware of the fact that Ms.

██████████ had been subpoenaed to be a witness in this Grand Jury Proceeding and you replied "No." [Attachment 7, pg. 101] (According to the wiretap transcript, you and Deputy ██████████ spoke about Ms. ██████████ involvement with the Grand Jury. Deputy ██████████ asked you, "Were you called because ██████████ went today?" You replied, "I have no idea. So she's the bitch that gave me up, huh? Well anyway." [Attachment 6, pg. 2, lines 17-19] Deputy ██████████ later said, "Yeah, but I'm, I'm guessing that's the only way you got brought into it because the assumption there from, from Paul Meyer what he was kind of led to believe was they wanted ██████████ because ██████████ lived here and we were boyfriend girlfriend. And I'm like, well she lived here during the time of that incident, and she does live with her boyfriend it's just not here." You replied, "It's just not me". [Attachment 6, pg. 5, lines 13-20])

2. During the Grand Jury proceeding, you were asked if you had spoken to Deputy ██████████ since a couple of days ago when you got home and went into your room. You replied, "I didn't see him at all yesterday since I was at work for 16 hours." You were asked if you discussed with Deputy ██████████ the fact you received a subpoena in this case and you replied, "No." You were asked if you made Deputy ██████████ aware in any fashion that you had received a subpoena in this case and you replied, "Not that I can recall I didn't." You were then asked if you had any discussion about the fact that you had received the subpoena in this case when Deputy ██████████ was present and you replied that you did not other than this morning there at the court. [Attachment 7, pg. 105] (According to the wiretap transcript, you discussed with Deputy ██████████ the fact you received a subpoena to testify before the Grand Jury. You stated, "Um, yeah, this fucker calls me at like 11:30 and tells me that he's uh, emails me a subpoena...I'm like, really? So, I, uh....after, I managed to uh, unlock my account because I hadn't used it in so long cause (inaudible)...to get internet access." Deputy ██████████ is heard laughing. You stated, "(inaudible) A new Voyager that's what I wanted. (inaudible) Um, so I go on, I finally get into my email account and I get the, the subpoena...oh, here I'll show you the professional....cause if this guy starts giving me shit I'm gonna tell him to, I'm gonna fuckin..." [Attachment 6, pg. 1, line 22 through pg. 2, line 5] You asked Deputy ██████████ "Does that look really professional or what? There's nothing on here." Deputy ██████████ replies, "It's blank. And then..." You said, "My name is handwritten in along with the date to be there" [Attachment 6, pg. 2, lines 13-16])
3. During the Grand Jury proceeding, you were asked if you had spoken to Deputy ██████████ up to the moment that you took the stand about any conversations that ██████████ had with anyone who had been subpoenaed as a witness in this case and you replied, "No". [Attachment 7, pg. 106] (According to the wiretap transcript, you and Deputy ██████████

discussed the Grand Jury testimony of both [REDACTED] and [REDACTED]. Deputy [REDACTED] said, "Now I don't know if it was before or after, that wasn't clear. But at some point in, during the day I texted her [REDACTED] and she's like yeah, okay, so I fucking talk to him all the time. Um, he's like well, I guess there's a big blown up picture of my cell phone bill as the uh, evidence item there. So she's like, okay. 'Do you recognize this number?' No, it's not my phone bill.' 'Do you recognize this number?' 'No, it's not my phone bill.' Well, who does he talk to?" You replied, "People?" Deputy [REDACTED] says "Other than me, I don't know. 'Well, what did he tell you about the homicide?' 'What did he tell you...' 'I don't know, I don't remember, I don't think we ever talked about it.' 'How often do you talk to him?' 'When was the last time you talked to him?' 'Yesterday.'" [Attachment 6, pg. 4, lines 10-24] Later, Deputy [REDACTED] says, "Yeah, but I'm, I'm guessing that's the only way you got brought into it because the assumption there from, from [REDACTED] what he was kind of led to believe was they wanted [REDACTED] because [REDACTED] lived here and we were boyfriend girlfriend. And I'm like, well she lived here during the time of that incident, and she does live with her boyfriend it's just not here." You replied, "It's just not me". [Attachment 6, pg. 5, lines 13-20]

4. During the Grand Jury proceedings, you were asked if you shared your feelings about the fact that you had been subpoenaed as a witness in this case with Deputy [REDACTED] and you replied "No." [Attachment 7, pg. 106] (According to the wiretap transcript from December 5, 2007, you complained to Deputy [REDACTED] about receiving a subpoena. You stated, "Dude, these fuckers pissed me off, today. [Attachment 6, pg. 1, line 17] Um, yeah, this fucker calls me at like 11:30 and tells me that he's uh, emails me a subpoena...I'm like, really? [Attachment 6, pg. 1, lines 22-23] I was really, really, really, really unhappy at the fact that I got this phone call today and this guy was kind of a, a dick to me on the phone and you know how much I enjoy people when they're being a dick... [Attachment 6, pg. 2, lines 21-24] So, I'm like you know what screw that. I'm just gonna go over there at 8:30 and I'm going to tell them point blank, 'I ain't got shit to say, kiss my ass.'" [Attachment 6, pg. 3, lines 7-9])
5. During the Grand Jury proceedings, when you were asked if you had ever heard Deputy [REDACTED] talk about "cars," (an inmate term for racial gangs/groupings in the jails) you said "I don't talk to Deputy [REDACTED] about work." When asked if you talked with Deputy [REDACTED] about anything, you responded "solid surface countertops" and paying the rent. [Attachment 7, pg. 111-112] (According to the wiretap transcript from December 5, 2007, you discussed with Deputy [REDACTED] what your replies would be if asked by the Grand Jury what you two talk about. You stated, "Well, 'what do you guys talk about?' 'Solid surface countertops....' 'And?' 'And occasionally his kids.' I don't

talk about fucking work, when I'm not at work unless I'm pissed off about something and then I....let it go away." Deputy ██████ replied, "Yeah". You say, "I spend 80% of my time in my room. So don't fucking ask me anything." [Attachment 6, pg. 7, lines 13-20]

6. During the Grand Jury proceedings, Senior Assistant District Attorney Lubinski asked, "You've come across as being very hostile towards these proceedings, why is that?" You responded, "Because I have absolutely no knowledge or desire to know more about the John Chamberlain case than what's been put out in the paper. And I believe my being here is not only wasting the Grand Juries (sic) time, but is keeping me from doing my job." [Attachment 7, pg. 121-122]

**Interview of Assistant District Attorney Mike Lubinski:**

Sergeant Denison spoke with Senior Assistant District Attorney Mike Lubinski regarding your interview with the Grand Jury. Mr. Lubinski explained that the District Attorney's Office was precluded from using the information from the wiretap to proceed with a charge of perjury against you because the District Attorney did not receive a homicide conviction in the matter they were investigating at that time. As a result of not receiving a criminal conviction, the wiretap was sealed. In addition, because your testimony was not material to the homicide case, the District Attorney's Office was unable to charge you with perjury. Lastly, the statute of limitations for perjury is three years and has thus expired. However, Senior Assistant District Attorney Lubinski said that your conduct met all the requirements for perjury.

**2/7/14 Interviews of Deputy William Dow: (CD Attachment – I/A Interviews Disk 1)**

On Friday, 2/7/14, at about 1315 hours, you were interviewed by Sergeant Denison. Also present was Internal Affairs Sergeant Tracy Morris and AOCDS representative Jim Trott. Prior to the commencement of the interview, you read and acknowledged that you understood the Confidentiality Directive, advisement of POBAR rights, *Miranda Warning*, and *Lybarger* admonishment you were issued. You also stated that you understood that, with the interview being part of an administrative investigation, you were compelled to answer the questions and if you did not, you may be subject to a charge of insubordination. You refused to waive your *Miranda* rights and were thus formally ordered to answer the questions. The following pertinent information was obtained during your interview with Sergeant Denison and Sergeant Morris:

1. At the beginning of the interview, your representative Mr. Trott interjected and mentioned two "problems." First, Trott argued that the modified order limited the Grand Jury transcripts and the wiretap's purpose to the prosecution and defense of the

underlying action, *People v. [REDACTED]* Trott argued that the Department should not be utilizing the Grand Jury transcripts and wiretap and argued, further, that you are not authorized to discuss the wiretap evidence pursuant to the court order. Secondly, Trott argued that you had been ordered by the Grand Jury to not talk about the proceedings. Trott argued that you could not answer the Department's questions in the absence of a waiver from the Court. Sgt. Denison stated he was told the issue had been fully vetted and directed you to proceed.

2. You were ordered to answer Sgt. Denison's questions in this administrative investigation and advised that your failure to do so could lead to a charge of insubordination which could result in termination of your employment. Mr. Trott advised you again not to answer any questions if you testified about the subject in the Grand Jury proceedings. You were asked if there were going to be any questions pertaining to your Grand Jury testimony that you were prepared to answer, knowing that if you refused, your refusal could lead to a charge of insubordination and possible termination. You replied "I'm not refusing, I've been ordered not to. I'm following the court order." Mr. Trott said you were more than willing to come in if you were relieved of the court order and the Grand Jury order. The interview was concluded at 1324 hours.

In order to give you every opportunity to answer the interview questions, the interview was reconvened at approximately 1335 hours. You stated you still understood all of your rights. Sgt. Denison asked you if you understood you were being ordered to answer the questions and failure to do so could lead to a charge of insubordination which could result in termination of your employment and you replied "Yes". You still refused to answer any questions pertaining to your Grand Jury testimony or the wiretap.

On February 21<sup>st</sup>, 2014, you, your Attorney Jim Trott, and AOCDS representative Paul Bartlett, were sent a letter from Sgt. Denison providing further clarification and explaining that you no longer had any legal restrictions preventing you from answering the Internal Affairs questions regarding your Grand Jury Testimony. You were thus offered another opportunity to avoid being charged with insubordination. (See Attachment 8)

On March 5<sup>th</sup>, 2014, Internal Affairs received a letter from your attorney, Jim Trott, in response to the Internal Affairs letter sent on February 21<sup>st</sup>, 2014. Mr. Trott referenced a Court Order signed by Judge Fitzgerald which, he argued, forbids the Department and you from revealing or using the Grand Jury Transcripts except in the [REDACTED] case. Mr. Trott stated at the interviews on February 7<sup>th</sup>, 2014, you refused to answer questions because of the court order and the order from the Grand Jury not to discuss your testimony. Mr. Trott argued that the court order still prevented you from answering the Internal Affairs questions. Mr. Trott stated that you did not

want to lose your job as a result of insubordination and would answer questions involuntarily, but continued to object to the use of the transcripts. Mr. Trott felt the use of the transcripts constituted a criminal contempt and violation of Court Order and was therefore illegal. Mr. Trott continued to present his objections to the use of the transcripts and stated you would appear at the interview on March 6<sup>th</sup>, 2014. (See Attachment 9)

**3/6/14 Interview of Deputy William Dow: (CD Attachment – I/A Interviews Disk 1)**

On March 6, 2014, at about 1000 hours, Sgt. Denison interviewed you at Internal Affairs. You and AOCDS Attorney Jim Trott were given the opportunity to review the audio recording of your prior interviews, but declined. Also present was Internal Affairs Sergeant Tracy Morris. You said you understood that, with the interview being part of an administrative investigation, you were compelled to answer the questions and if you did not, you may be subject to a charge of insubordination.

1. At the beginning of the interview, Mr. Trott said he had reason to believe that there was a second Grand Jury that was convened and he was not sure that your testimony was released from them. Mr. Trott said that if your testimony from that Grand Jury was not released, you could not answer the questions and thus the Court Order was still in effect preventing you from testifying. Mr. Trott said the "answers will be the same" as last time regarding your interview. Sgt. Denison ordered you to answer the questions and explained to you that failure to do so may lead to a charge of insubordination and potentially subject you to termination of your employment. Sgt. Denison asked you if you would answer the questions regarding your Grand Jury testimony on December 6<sup>th</sup>, 2007 and your wiretap recording on December 5<sup>th</sup>, 2007. You replied, "I cannot answer those questions per the court order from the Grand Jury and the Superior Court Judge." You stated you were not refusing to answer the questions but that you were prevented from answering based upon the court order and Grand Jury order.
2. Sgt. Denison explained again that based upon the opinion of the Orange County District Attorney, California Penal Code 938.1 stating the Grand Jury transcripts became public, the Sheriff's Department, and County Counsel, you were no longer bound to maintain confidentiality and were allowed to answer questions from Internal Affairs. Given that information, you still refused to answer the questions because of the Court Order issued by Judge Fitzgerald.

On March 20, 2014, Sgt. Denison requested Mr. Trott provide any additional information or, Court Orders that he was in possession of, to be included in the file. On March 27, 2014, Sgt.

Denison received an email from Mr. Trott re-emphasizing his previous statements regarding your ability to answer questions. No other court documents were provided. (See Attachment 11)

### **FINDINGS AND DETERMINATIONS**

Based on the Grand Jury transcripts and the wiretap transcripts, internal investigation, and witness statements, the Department finds that you knowingly made false statements, inconsistent statements or misrepresentations during the Grand Jury investigation.

1. You testified before the Grand Jury on December 6, 2007 that you were not aware and had never been made aware of [REDACTED] being subpoenaed as a witness in the Grand Jury proceeding. The wiretap transcript showed you and Deputy [REDACTED] having a conversation the night before your Grand Jury testimony regarding [REDACTED] involvement with the Grand Jury.
2. You testified before the Grand Jury that you did not discuss your subpoena with Deputy [REDACTED] or with anyone else in Deputy [REDACTED] was presence. The wiretap transcript showed you spoke with Deputy [REDACTED] the night before your Grand Jury testimony regarding your subpoena.
3. You testified before the Grand Jury that you did not speak to Deputy [REDACTED] about any conversations that Deputy [REDACTED] had with anyone who had been subpoenaed as a witness in this case. The wiretap transcript showed you spoke with Deputy [REDACTED] the night before your Grand Jury testimony regarding the Grand Jury testimony of [REDACTED] and [REDACTED].
4. You testified before the Grand Jury that you did not speak to Deputy [REDACTED] about your feelings regarding the fact that you had been subpoenaed as a witness in this case. The wiretap transcript recorded the night before your Grand Jury testimony showed you complained to Deputy [REDACTED] about receiving a subpoena.
5. You testified before the Grand Jury that you do not talk to Deputy [REDACTED] about work. When you were asked if you talk with Deputy [REDACTED] about anything, you responded "solid surface countertops" and paying the rent. The wiretap transcript recorded the night before your Grand Jury testimony documented you discussing with Deputy [REDACTED] what your replies would be if asked by the Grand Jury what you and Deputy [REDACTED] talked about. According to the wiretap transcript, you stated that one of your answers will be "solid surface countertops" as well as saying that you don't talk about work.

**CONCLUSION**

After consideration of all available information, the Department concludes that your behavior violated the aforementioned Department policies. Your statements documented on the wiretap transcript dated December 5, 2007 show that you were intentionally untruthful in your Grand Jury testimony on December 6, 2007. Your actions discredited yourself and the Department.

Your conduct falls far below the standards set forth by the Orange County Sheriff's Department and has discredited your standing within the Department in your capacity as a Deputy Sheriff. Your deliberate untruthfulness justifies your dismissal from the Department. As a Deputy with this Department you are held to a higher standard and expectation to uphold and follow the rules and laws peace officers are tasked to enforce. Based on your actions, the Department has determined that you are unfit to work in a public safety setting where integrity, honesty, and an expectation to abide by all laws and policies are essential. As such, you no longer meet the qualifications to continue your employment as a sworn peace officer with the Orange County Sheriff's Department. Because of your serious misconduct, the Department now intends to terminate your employment. In addition to this Notice of Pending Dismissal, you are hereby provided with copies of the following documents that substantiate this decision to dismiss you:

**Attachments:**

1. Initial Action
2. Notice of Administration Leave
3. Memos from Assistant Sheriff Barnes, Assistant Sheriff Trujillo, Sgt. Denison, Mr. Lubinski, and Mr. Trott (**Attachments 1-3, 8-11**)
4. Copies of 2 Court Orders (**Attachments 4 and 5**)
5. Copy of Wiretap Transcripts (**Attachment 6**)
6. Copy of Grand Jury Transcripts (**Attachment 7**)
7. Disk containing audio of Wiretap
8. Internal Affairs Interviews (**CD Disk 1**)
9. OCSD Policy and Procedures
10. MOU for Administrative Management Unit
11. Personnel Investigation Summary

You are entitled to pre-deprivation, pre-disciplinary due process review (Skelly Meeting) before discipline is imposed. You may respond in writing to Undersheriff Mark Billings within ten (10) calendar days of receipt of this notice, or you may request a meeting. If you choose a meeting,

you must notify Internal Affairs Sergeants Nate Wilson or Jarrett Kurimay within ten (10) calendar days of receipt of this notice. A meeting will be arranged for a later date.

If you do not provide a written response or request a meeting by 1700 hours on the tenth calendar day following your receipt of this notice, the Department will take the position that you have waived your right to be heard. If you do so respond, consideration will be given to your response prior to taking any proposed action. You are entitled to representation by an attorney or a representative of the recognized exclusive representative employee organization to which you belong in any due process review meeting you request.

If this proposed action becomes final, you have the right to appeal, pursuant to Article IX, Section 5C and Article X, Sections 7 & 8 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriff's for the Peace Officer and Supervising Peace Officer Unit.

A/S S. Kea  
Steve Kea, Assistant Sheriff

5/21/14  
Date

Paul J. Betts AOCDS ASST DIRECTOR  
William Dow, Deputy Sheriff II  
ON BEHALF OF WILLIAM DOW

5/21/14  
Date



# ORANGE COUNTY SHERIFF'S DEPARTMENT

# 20847

550 N. FLOWER STREET  
SANTA ANA, CA 92703  
714-647-7000  
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SHERIFF-CORONER  
SANDRA HUTCHENS

## NOTICE OF DISMISSAL PI #13-148

**William Dow**  
[Redacted]

You are hereby notified that the Orange County Sheriff-Coroner Department ("Department") has decided to dismiss you from your employment as an Orange County Sheriff's Deputy Sheriff II, effectively immediately.

This action to terminate your employment is based on sustained allegations that you (1) knowingly made false statements, inconsistent statements or misrepresentations during your testimony before the Grand Jury; and (2) you brought discredit upon yourself and the Department.

On Wednesday, May 21, 2014, you were served with your Notice of Intent to Dismiss through your representative AOCDS Assistant Director Paul Bartlett and notified you had 10 days to exercise your right to request a Skelly Hearing. On Friday, May 30, 2014, your representative Paul Bartlett stated in writing you waived your right to a Skelly Hearing.

You have the right to appeal, pursuant to Article IX, Section 5C and Article X, Sections 7 & 8 of the Memorandum of Understanding, County of Orange and the Association of Orange County Deputy Sheriff's for the Peace Officer and Supervising Peace Officer Unit.

Wayne Byerley, Captain  
Professional Standards Division

5-30-14

Date

AOCOS  
ASST DIRECTOR  
William Dow, Deputy Sheriff II  
ON BEHALF OF WILLIAM DOW

5-30-14 / 1340 HAS  
Date

**DENISON, CHRISTOPHER A**

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**From:** KURIMAY, JARRETT C  
**Sent:** Friday, May 30, 2014 10:06 AM  
**To:** DENISON, CHRISTOPHER A  
**Cc:** WANG, MITCHELL Y  
**Subject:** Fwd: William Dow

-Jarrett

Begin forwarded message:

**From:** Paul Bartlett <[paul@aoeds.org](mailto:paul@aoeds.org)>  
**Date:** May 30, 2014 at 10:04:05 AM PDT  
**To:** "WILSON, NATHAN L" <[nwilson@ocsd.org](mailto:nwilson@ocsd.org)>, "KURIMAY, JARRETT C" <[jkurimay@ocsd.org](mailto:jkurimay@ocsd.org)>  
**Subject:** William Dow

Sgt. Wilson and Sgt. Kurimay,

On behalf of William Dow and under the advice of Attorney Jim Trott, we will be waiving the Skelly hearing.

Thank you,

Paul Bartlett, Assistant Director  
Association of Orange County Deputy Sheriffs  
1314 West Fifth Street, Santa Ana CA 92701  
Office: (714) 285-2800 Fax: (714) 954-1156



ORANGE COUNTY SHERIFF'S DEPARTMENT  
INTERNAL MEMO



TO: Lt. Wang  
FROM: Sergeant Chris Denison  
DATE: 3/11/2014  
RE: Internal Affairs Personnel Investigation # 13-148

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**Complainant:** Administration

**Employee(s):** Deputy William Dow #6013

**Incident Location:** Superior Court, Grand Jury Testimony

**Incident Date:** December 6, 2007; Discovered by OCSD on 12/5/2013

**Allegation(s):**

(Note: Because the incident occurred in 2007, all policies referenced were those in force and effect in 2007 with the exception of the allegation of Insubordination which occurred in 2014. The policy referenced regarding Insubordination was in force and effect in 2014.)

**OCSD Policy Manual Section 31.01.0 Standard of Conduct**

- .1 Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department
- .2 Commissioned officers will conform with the Code of Professional Conduct and Responsibilities for Peace Officers (Appendix A)

**OCSD Policy Manual Section 31.03.0 Cooperation**

- .1 Members shall establish and maintain a high spirit of cooperation within the department and with other agencies. Cooperation between the ranks and units of the department and between the department and other law enforcement agencies is essential to effective law enforcement.

**OCSD Policy Manual Section 31.05.0 Performance of Duty**

- .1 Members shall perform their duties as required or directed by law, department rules/regulations, procedures and policies, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

**OCSD Policy Manual Section 31.27.0 Untruthfulness**

- .1 No member shall knowingly make false statements or misrepresentations to other members or superiors.

**OCSD Policy Manual Section 31.33.0 Incurring Liability**



.1 Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

**OCSD Policy Manual Section 31.44.0 Court Cases**

.1 Members shall not interfere in any way with the normal judicial procedure.

**OCSD Policy Manual Section 31.45.0 Court Attendance and Demeanor**

.3 Members shall testify in a calm, distinct and audible tone of voice. Members shall not suppress or overstate the slightest circumstance with a view of favoring or discrediting any person, but shall testify with the strictest accuracy.

**OCSD Policy Manual Canon Two**

Peace officers shall be aware of and shall use proper and ethical procedures in discharging their official duties and responsibilities.

**Standard 2.2** Peace officers shall truthfully, completely, and impartially report, testify, and present evidence in all matters of an official nature.

**OCSD Policy Manual Canon Four**

Peace officers will so conduct their public and private lives that they exemplify the high standards of integrity, trust, and morality demanded of a member of the peace officer profession.

**Standard 4.9** Peace officers shall at all times conduct themselves in a manner which does not discredit the peace officer profession or their employing agency.

**OCSD Policy Manual Section 1018.4 Insubordination**

Members shall not be insubordinate. Intentional failure or refusal by any member of the department to obey a lawful order given by a superior officer shall be insubordination.

**On 12/5/2013, at the direction of Assistant Sheriff Trujillo, Internal Affairs initiated a personnel investigation into the on duty actions of Deputy Dow while working at Theo Lacy Jail. It is alleged that on 12/6/2007, Deputy Dow was untruthful in his Grand Jury testimony.**

**Summary of Written Complaint**

**Memo from Assistant Sheriff Trujillo to Internal Affairs (Attachment 1)**

I reviewed a memo from Assistant Sheriff Trujillo to Internal Affairs dated December 5, 2013 and titled Deputy William Dow. The memo states that on December 5, 2013 at approximately 1420 hours, Assistant Sheriff Trujillo met with Assistant Sheriff Barnes, Commander Kea, and Commander Nighswonger. The purpose for the meeting was to discuss documents Assistant Sheriff Barnes received from Senior Assistant District Attorney Mike Lubinski. During the meeting,



Assistant Sheriff Barnes provided a briefing as to how he obtained copies of the grand jury testimony, transcripts of a wiretap recording, two court orders, and a digital CD of the recordings. For further details, refer to Assistant Sheriff Barnes' memo.

#### **Memo from Assistant Sheriff Barnes to Internal Affairs (Attachment 2)**

I reviewed a memo from Assistant Sheriff Barnes to Internal Affairs dated December 5, 2013 and titled Deputy William Dow. The memo stated that on December 5, 2013, Assistant Sheriff Barnes was contacted by Senior Assistant District Attorney Mike Lubinski of the Orange County District Attorney's Office. Assistant Sheriff Barnes reported that Mr. Lubinski informed him that testimony provided by Deputy Dow to the Grand Jury has been released by court order to the Sheriff's Department. Assistant Sheriff Barnes received copies of the Grand Jury testimony, transcripts of a wiretap recording, two court orders, and a digital CD of the recording from the District Attorney's Office at 1245 hours.

Assistant Sheriff Barnes reviewed the transcripts and determined that there was evidence of policy violations committed by Deputy Dow. Deputy Dow is currently assigned to the Intake Release Center (Custody Command). Assistant Sheriff Barnes briefed Assistant Sheriff Trujillo regarding the circumstances and released the material to him for his review and recommendations(s).

#### **Information Report written by Sgt. Denison (Attachment 3)**

Sgt. Denison wrote an information report dated 12/6/2013 with a case number of 13-236425. The reports states on 12/5/2013, at about 1600 hours, Sgt. Denison received from Assistant Sheriff Trujillo a copy of the Grand Jury transcript, wiretap transcript, two court orders, and a CD of the audio recordings. In compliance with the court order, Sgt. Denison booked the documents and CD into evidence at the Headquarters Evidence locker.

#### **Summary of Court Order by Superior Court Judge Robert R. Fitzgerald (Attachment 4)**

I reviewed a court order permitting disclosure of wiretap information filed December 5<sup>th</sup>, 2013, in the matter of *People vs. [REDACTED]* Orange County Superior Court criminal case # [REDACTED]. The order states the People have petitioned the court to permit disclosure of information obtained by a court authorized wiretap 07-107, pursuant to Section 629.50 of the Penal Code, to satisfy the disclosure requirements of *Brady v. Maryland*. The request is in respect to Deputy Dow's statements on the wiretap as compared to his statements under oath to the Orange County Grand Jury. The court reviewed both statements and believes that Deputy Dow is a material witness and that disclosure is required by *Brady vs. Maryland*.

The court order stated that the District Attorney's Office may disclose the contents of a conversation intercepted under Wiretap # 07-107 on December 5, 2007, identified as session number 168 on target telephone number 2. The Court concluded that disclosure of this evidence is necessary in order for the People to satisfy their Constitutional discovery obligations under *Brady v. Maryland*. The court order further authorized the District Attorney's Office to disclose the above information to the parties in the above entitled case as well as Deputy Dow and the Orange County Sheriff's Department.

#### **Summary of Court Order by Superior Court Judge Robert R. Fitzgerald (Attachment 5)**

I reviewed a protective court order regarding discovery of wiretap transcript, grand Jury transcript and/or any tapes dated December 5, 2013, in *People vs. [REDACTED]* Case # [REDACTED]. The order states that it is ordered, adjudged, and decreed that:



1. "Wiretap Transcript" as used in this Protective Order includes all written and typed documents and notes of any law enforcement officer, documents provided pertaining to Orange County Deputy Dow.
2. "Grand Jury Transcript" as used in the Protective Order includes all written and typed documents pertaining to Deputy Dow.
3. "Tapes" as used in this Protective Order include all audio, video, CD or DVD recordings of Deputy Dow.
4. Wiretap Transcript, Grand Jury Transcript, and Tapes may be viewed only by parties, their counsel and their counsel's employees, investigators and experts for the purpose of prosecuting or defending this action; and Orange County Sheriff's Department, including Deputy Dow, their counsel and their employees.
5. Wiretap Transcript, Grand Jury Transcript and Tapes shall not be given, loaned, sold, or shown to any person except as provided by this order or by subsequent Order of this Court.
6. Upon Motion of either the People or the Defense, the Court may be requested to return the Wiretap Transcript, Grand Jury Transcript and Tapes to the District Attorney. Those materials subject to this order so kept by any law enforcement agency or defense counsel shall remain subject to this order and those materials shall remain secured in evidence in accordance with that agency's policies and procedures.
7. Any person found violating any portion of this order may be subject to the full contempt powers of the court.

#### Summary of Wiretap Transcription (Attachment 6)

**Note: The entire wiretap transcription was formatted to lined pages for easy reference. The original wiretap transcript provided by the District Attorney's office is also included in the back of this attachment.**

I reviewed the wiretap transcripts identified as Wiretap No. 07-107, Session No. 168 on Target Telephone #2 [REDACTED] December 5, 2007, 1:53:39 (EST). The transcription encompasses 26:59 to 44:53 minutes of Session No. 168. The transcript encompasses 10 pages of conversation between Deputy Dow, Deputy [REDACTED] and [REDACTED]. Deputy [REDACTED] and [REDACTED] had a conversation during session #168 for approximately the first 26:59 minutes before Deputy Dow enters the conversation. The transcript begins at approximately the 26:59 mark when Dep. Dow enters the conversation.

Deputy Dow complains about receiving a subpoena to testify and the way the subpoena is filled out. Deputy Dow and Deputy [REDACTED] talk about [REDACTED] having gone to testify. (Note: [REDACTED] appears to be their former roommate [REDACTED] who was subpoenaed to testify before the Grand Jury) Deputy Dow continues to complain about having to testify and that he will be leaving the next day on a plane out of the country.

Deputy Dow and Deputy [REDACTED] talk about [REDACTED] testifying before the Grand Jury regarding text messages and Deputy [REDACTED] phone bill. They also talk about what was said regarding the homicide during the testimony. (Note: [REDACTED] appears to be Dep. [REDACTED] who is a friend of Deputy [REDACTED] and subpoenaed to testify before the Grand Jury)

Deputy [REDACTED] talks about [REDACTED] having to testify because she used to live with them during the time of the incident. Deputy [REDACTED] and Dow talk about Deputy [REDACTED] text messages to [REDACTED] during the incident and whether it took [REDACTED] away from his duties. Deputy Dow says he would be asked to speculate about somebody else's ability and he won't do that. Deputy Dow says "They're gonna hate me. I've already decided...".

Deputy Dow talks about what he is going to wear to the testimony. Deputy Dow said he was told that the demeanor of the interview was "very, very, very adversarial". Deputy Dow said it was probably because they think that they can intimidate people. Deputy Dow said that if he was asked what he talked about he was going to say "Solid surface counter tops", kids, and that he doesn't talk about work when he is not at work unless he is "pissed off about something...". Deputy Dow says he spends 80% of his time in his room, "So don't fucking ask me anything." Deputy Dow continues to speculate what he would say during the Grand Jury testimony.



Deputy ██████ said the Grand Jury asked ██████ if he had a girlfriend, does he lie, has he ever lied to her. Dep. Dow replies "He's a man, of course he lies." Deputy Dow, Deputy ██████ and ██████ talk about lying and whether they tell their kids there's a Santa Claus, tooth fairy, etc. Deputy Dow states, "That's the point. Of course I lie you fuckin' idiots. Am I lying now or was I lying then?"

Deputy Dow talks about his schedule and his days off effective in January. Dep. Dow says they are messing with his schedule. He then talks about filling patrol positions and promoting to Deputy II. Deputy Dow and Deputy ██████ talk about filling patrol positions. Deputy Dow states he is not looking forward to Thursday and then begins to talk about what he is going to wear again. While Deputy Dow is continuing to talk about what to wear, Deputy ██████ says that ██████ (unknown) told him that they don't have a single thing linking Deputy ██████ to the homicide and Deputy Dow acknowledges. Deputy ██████ asks when Deputy Dow received the subpoena and he replies 11 o'clock today. The conversation ends shortly after that point.

**Note: The full wiretap transcript is included for review.**

#### Summary of Grand Jury Transcript (Attachment 7)

**(Note: Applicable sections of the wiretap transcription recorded on December 5<sup>th</sup>, 2007 {the night before the Grand Jury testimony} between Deputy Dow, Deputy ██████ and ██████ are shown in bold as it relates to the Grand Jury testimony)**

I reviewed the Grand Jury Transcript of Proceedings dated December 6, 2007, by Colleen Flynn, Official Court Reporter. Deputy Dow was sworn in and is advised he is appearing before a Grand Jury and under oath which has the same force and effect as if he were in a court of law. Deputy Dow establishes he works for the Orange County Sheriff's Department as a Deputy Sheriff and gives a brief work history. Deputy Dow says he is currently assigned to Theo Lacy and works in Module R.

Deputy Dow confirms he knows ██████ and that he works with him as well as being a roommate. Deputy Dow states that he is currently the only tenant living with Deputy ██████ but that ██████ also used to live there. Deputy Dow says that ██████ was a CST (Custody Service Technician) prior to going to the academy. Deputy Dow also states he knows ██████ through Deputy ██████

Deputy Dow is asked if he was aware that Ms. ██████ had been subpoenaed as a witness in this Grand Jury proceeding and he replied "No". Deputy Dow was then asked if he had ever been made aware of the fact that Ms. ██████ had been subpoenaed to be a witness in this Grand Jury Proceeding and he replied "No". **(Note: According to the wiretap transcript, Deputy Dow and ██████ talk about ██████ involvement with the Grand Jury. Deputy ██████ asks "Were you called because ██████ went today?" Deputy Dow replies, "I have no idea. So she's the bitch that gave me up, huh? Well anyway." [Attachment 6, pg. 2, lines 17-19] Deputy ██████ says, "Yeah, but I'm, I'm guessing that's the only way you got brought into it because the assumption there from, from Paul Meyer what he was kind of led to believe was they wanted ██████ because ██████ lived here and we were boyfriend girlfriend. And I'm like, well she lived here during the time of that incident, and she does live with her boyfriend it's just not here." Deputy Dow replies, "It's just not me". [Attachment 6, pg. 5, lines 13-20])**

Deputy Dow is asked if he was aware that Ms. ██████ had been subpoenaed as a witness in these Grand Jury proceedings and he replied "Yes". When asked how he became aware that ██████ had been subpoenaed, he said he spoke to her when she stopped by the house. Deputy Dow is questioned about when and how he learned about ██████ subpoena.



Deputy Dow was asked if he had spoken to Deputy [REDACTED] since a couple of days ago when Deputy Dow got home and went into his room. Deputy Dow replied, "I didn't see him at all yesterday since I was at work for 16 hours". Deputy Dow was asked if he discussed with Deputy [REDACTED] the fact he received a subpoena in this case and he replied, "No". Deputy Dow was asked if he made Deputy [REDACTED] aware in any fashion that he had received a subpoena in this case and he replied, "Not that I can recall I didn't". Deputy Dow was then asked if he had any discussion about the fact that he had received the subpoena in this case when Deputy [REDACTED] was present and he replied that he did not other than this morning there at the court. (Note: According to the wiretap transcript, Deputy Dow discussed with Deputy [REDACTED] the fact he received a subpoena to testify before the Grand Jury. Deputy Dow states, "Um, yeah, this fucker calls me at like 11:30 and tells me that he's uh, emails me a subpoena...I'm like, really? So, I, uh....after, I managed to uh, unlock my account because I hadn't used it in so long cause (inaudible)...to get internet access." Deputy [REDACTED] is heard laughing. Deputy Dow states, "(inaudible) A new Voyager that's what I wanted. (inaudible) Um, so I go on, I finally get into my email account and I get the, the subpoena...oh, here I'll show you the professional....cause if this guy starts giving me shit I'm gonna tell him to, I'm gonna fuckin..." [Attachment 6, pg. 1, line 22 through pg. 2, line 5] Deputy Dow asks Deputy [REDACTED] "Does that look really professional or what? There's nothing on here." Deputy [REDACTED] replies, "It's blank. And then..." Deputy Dow says, "My name is handwritten in along with the date to be there" [Attachment 6, pg. 2, lines 13-16])

Deputy Dow was asked if he had spoken to Deputy [REDACTED] up to the moment that he took the stand about any conversations that [REDACTED] had with anyone who had been subpoenaed as a witness in this case and he replied, "No". (Note: According to the wiretap transcript, Deputy Dow and [REDACTED] discussed [REDACTED] and [REDACTED] Grand Jury testimony. Deputy [REDACTED] says, "Now I don't know if it was before or after, that wasn't clear. But at some point in, during the day I texted her [REDACTED] and she's like yeah, okay, so I fucking talk to him all the time. Um, he's like well, I guess there's a big blown up picture of my cell phone bill as the uh, evidence item there. So she's like, okay. 'Do you recognize this number?' No, it's not my phone bill.' 'Do you recognize this number?' 'No, it's not my phone bill.' Well, who does he talk to?" Deputy Dow replies, "People?" Deputy [REDACTED] says "Other than me, I don't know. 'Well, what did he tell you about the homicide?' 'What did he tell you...' 'I don't know, I don't remember, I don't think we ever talked about it.' 'How often do you talk to him?' 'When was the last time you talked to him?' 'Yesterday.'" [Attachment 6, pg. 4, lines 10-24] Later, Deputy [REDACTED] says, "Yeah, but I'm, I'm guessing that's the only way you got brought into it because the assumption there from, from Paul Meyer what he was kind of led to believe was they wanted [REDACTED] because [REDACTED] lived here and we were boyfriend girlfriend. And I'm like, well she lived here during the time of that incident, and she does live with her boyfriend it's just not here." Deputy Dow replies, "It's just not me". [Attachment 6, pg. 5, lines 13-20])

Deputy Dow was asked if he shared his feelings about the fact that he had been subpoenaed as a witness in this case with Deputy [REDACTED] and he replied "No". (Note: According to the wiretap transcript, Deputy Dow complained to Deputy [REDACTED] about receiving a subpoena. Deputy Dow states, "Dude, these fuckers pissed me off, today. [Attachment 6, pg. 1, line 17] Um, yeah, this fucker calls me at like 11:30 and tells me that he's uh, emails me a subpoena...I'm like, really? [Attachment 6, pg. 1, lines 22-23] I was really, really, really, really unhappy at the fact that I got this phone call today and this guy was kind of a, a dick to me on the phone and you know how much I enjoy people when they're being a dick... [Attachment 6, pg. 2, lines 21-24] So, I'm like you know what screw that. I'm just gonna go over there at 8:30 and I'm going to tell them point blank, 'I ain't got shit to say, kiss my ass.'" [Attachment 6, pg. 3, lines 7-9])

Deputy Dow was asked some clarifying questions regarding when he saw [REDACTED] his work schedule, and when he saw Deputy [REDACTED]. Deputy Dow was then asked about the sex offender inmates at Theo Lacy and how they are classified and housed. After learning about some of the housing changes at Theo Lacy, Deputy Dow was asked questions regarding when the changes took effect. Deputy Dow was not able to give specific answers to these questions. Deputy



Dow was asked about inmate terminology such as "cars" (inmate groupings according to race) and "shot callers" (i.e., the inmate selected as the leader of each "car" or racial grouping). Deputy Dow said that he does not separate the inmates by race and does not recognize one inmate being in charge of other inmates.

When asked if Deputy Dow had ever heard Deputy ██████ talk about cars, he said "I don't talk to Deputy ██████ about work". When asked if he talked with Deputy ██████ about anything, Deputy Dow responded "solid surface countertops" and paying the rent. **(Note: According to the wiretap transcript, Deputy Dow discusses with Deputy ██████ what his replies will be if asked by the Grand Jury what they talk about. Deputy Dow states, "Well, 'what do you guys talk about?' 'Solid surface countertops....' 'And?' 'And occasionally his kids.' I don't talk about fucking work, when I'm not at work unless I'm pissed off about something and then I....let it go away." Deputy ██████ replies, "Yeah". Deputy Dow says, "I spend 80% of my time in my room. So don't fucking ask me anything." [Attachment 6, pg. 7, lines 13-20])**

Mr. Lubinski then re-asked Deputy Dow about talking to other deputies about work and he said he doesn't associate with people from work outside of work. When asked to confirm he never heard deputies use the shot-callers to keep the other inmates under control, Deputy Dow responded, "Like I said, counselor, I don't know what other deputies do, but I don't recognize anyone as a shot caller." Deputy Dow was asked and confirmed it would be wrong of any deputy to use a shot-caller to run a barracks or to condone inmates punishing other inmates.

Deputy Dow was asked about televisions in the guard station and whether deputies watch them or played DVD's on them. Deputy Dow said he did not know what guard stations might have had a DVD player. Deputy Dow was asked when he worked F Barracks and he replied that he did on occasion to fill in on overtime when there was a shortage. Deputy Dow was asked how he monitored the inmates while working in F Barracks and he said either by being inside the barracks or watching them from the guard station. Deputy Dow was asked if he would sleep while working in the barracks and he said "No, Sir". He said he would occasionally watch TV but that he had never heard of people playing Nintendo or PlayStation. Deputy Dow said he had heard somebody had an X-Box and some have the small "PSP's" (handheld game station).

Deputy Dow was asked if he would have noticed someone getting beaten for 20 minutes if he worked F Barracks and he replied "Probably wouldn't last more than 10 seconds before I noticed it" if it occurred on the dayroom floor. When asked how he would notice unusual activity by inmates, Deputy Dow replied they would rush to a certain location and that's generally where the fight is. Deputy Dow was asked about "taxings" and he explained it was a payment for some kind of indiscretion from one inmate to another. Deputy Dow was asked if he read accounts of the Chamberlain murder and he replied he tries to avoid that but might have read one or two in the beginning. He was asked if he heard or gained information from either other deputies talking or the newspaper accounts that multiple inmates killed John Chamberlain and he replied he had heard through rumors that there was more than three but less than ten. Deputy Dow was asked if it would be unusual for a beating to last 20 minutes and he said "Yes". He was asked about a beating lasting 45 minutes to an hour and Deputy Dow replied that would be unusual.

Deputy Dow was asked additional questions about what functions inmate representatives serve and he said "there are no representatives that serve any function as far as I'm concerned". Mr. Lubinski and Deputy Dow discuss the fact that Deputy Dow is the only jail deputy that has come in and denied that the deputies recognize shot callers. Deputy Dow is then asked what his assignments have been from October 2006 to the present and he provides his work history. Deputy Dow is then asked how he can say he doesn't associate with other deputies outside work when he has lived with not one but two employees of the Sheriff's Department. Deputy Dow responds that he lives in a house with another deputy but he doesn't associate with other deputies outside of work because he doesn't have a lot in common with them and he likes to do his own thing. Deputy Dow is asked how he knows ██████ and he responds through ██████



Mr. Lubinski says "You've come across as being very hostile towards these proceedings, why is that?" Deputy Dow responds, "Because I have absolutely no knowledge or desire to know more about the John Chamberlain case than what's been put out in the paper. And I believe my being here is not only wasting the Grand Juries (sic) time, but is keeping me from doing my job". Deputy Dow is asked if he goes to the gym, or do deputies watch videos during work hours and he says he does not go to the gym and no one watches videos because that was stopped. Deputy Dow said that it almost got to the point where they weren't even allowed to bring cell phones inside security. Deputy Dow is asked about cell phone usage and he says as long as it does not take away from the deputy's duties, short conversations are allowed. Deputy Dow states the cell phone policy was not a memo but "...it's pretty much just the conceding to the, I think, rather zealous response to this whole thing." Mr. Lubinski asks what is zealous about it and Deputy Dow says that prohibiting deputies from using personal cellphones in the jail guard stations is a little "overboard". In reference to the term zealous, Mr. Lubinski says he "took offense to that". Deputy Dow and Mr. Lubinski continue to have a conversation regarding Theo Lacy's response to the incident.

Deputy Dow is asked how often he prowls the floor when on duty in the barracks and he replies that he is out at least every 45 minutes to an hour and a half. When asked if he is supposed to do it every 30 minutes, Deputy Dow explains that there are generally two prowlers in a guard station and sometimes prowlers go out alone. Deputies also share monitoring duties and if one missed an altercation with the inmates the other should catch it.

Deputy Dow is admonished not to discuss the questions that have been asked in this proceeding under penalty of contempt of court. Mr. Lubinski requests to stay on record and states, ██████████ sent over 22 text messages while John Chamberlain was murdered. Perhaps if cell phones were banned, John Chamberlain would be alive and we would not be here, quote, 'wasting your time'. Mr. Lubinski said he did not ask that question because the 22 text messages have only been divulged to certain deputies and with our last witness we now have revealing Grand Jury testimony. Mr. Lubinski did not want to make that information available to another witness to potentially track the sources. The interview was adjourned.

### Internal Affairs Investigation

#### Summary of Internal Affairs Interview with Mr. Lubinski

I spoke with Assistant District Attorney Mike Lubinski regarding Deputy Dow's interview. Mr. Lubinski explained that the District Attorney's Office was precluded from using the information from the wiretap to proceed with a charge of perjury because the District Attorney did not receive a homicide conviction in the matter they were investigating. Because they did not receive a criminal conviction, the wiretap was sealed and not useable. Also, because Deputy Dow's testimony was not material to the homicide case, the District Attorney was not able to charge him with perjury. Lastly, the statute of limitations for perjury is three years and has expired.

Since Deputy Dow became a material witness in another case, the People petitioned the Court to disclose the information obtained by the wiretap to satisfy the disclosure requirements of *Brady v. Maryland*. The judge granted the petition and also authorized the release of the information to the Sheriff's Department, among others. Mr. Lubinski said that the District Attorney's Office is restricted in the amount of information it can provide but the line of questioning during the Grand Jury testimony was based in part on the information he had received from the wiretap the day before.

#### Summary of Internal Affairs Interview with Deputy Dow

On Friday, 2/7/14, at about 1315 hours, I interviewed Deputy Dow. Also present was Internal Affairs Sergeant Tracy Morris and AOCDS representative Jim Trott. Deputy Dow read and understood the Confidentiality Directive, Advisement of his POBAR rights, the *Miranda* Warning, and the *Lybarger* advisement. Deputy Dow said he understood that with the



interview being part of an administrative investigation, he was compelled to answer my questions and if he did not, he may be subject to a charge of insubordination. Deputy declined to waive his *Miranda* rights and was ordered to answer my questions. Deputy Dow was told this complaint was initiated by Sheriff's Administration and the nature of the complaint involves allegation of, but not limited to Deputy Dow being untruthful in his Grand Jury testimony.

As I began to ask how long Deputy Dow had been employed with the Sheriff's Department, Mr. Trott interjected and wanted to provide a court order. Mr. Trott said there was a protective order dated December 5<sup>th</sup> and an order permitting disclosure. Mr. Trott asked "is the department going to abide by any of that?" I told Mr. Trott that I was aware there was an order and asked if the order had been served. Mr. Trott replied "as far as I know it was". I explained the procedure for serving a court order through the Support Services Division. Mr. Trott said that he had a copy of a court order that was signed a couple of hours ago. **(Note: At this time, an official copy of the most recent court order has not been received by Internal Affairs and is not included.)**

Mr. Trott said that there were two problems. First, the modified order limited the Grand Jury transcripts and the wiretap's purpose to the prosecution and defense of this underlying action, *People v. [REDACTED]*. According to Mr. Trott, the Department should not be utilizing the Grand Jury transcripts and wiretap and Deputy Dow is not allowed to talk pursuant to the court order. Secondly, Deputy Dow was ordered by the Grand Jury not to talk about the proceedings. Mr. Trott said that they can't answer pursuant to the court order, however, they are willing to talk but requested that the department receive a waiver of the court order first.

I advised Mr. Trott that I had been told the issue had been fully vetted and we are to proceed with the interview. Mr. Trott said the Department is asking Deputy Dow to join with me to break the law and that is a "conspiracy". I explained this is an administrative investigation and not criminal. Mr. Trott said "You want him to join with you and break the court order which would be a conspiracy, would be a crime". I reiterated that this is an administrative proceeding and Deputy Dow is being ordered to answer my questions. If he does not answer my questions, he could be charged with insubordination which could lead to termination. Mr. Trott said that I am issuing him an order to violate an order from a Superior Court Judge. Mr. Trott said we are going against a Superior Court Judge and the Grand Jury because the Department wants to conduct an administrative investigation on material "they know they aren't supposed to be using".

I said we were going to proceed and Mr. Trott said Deputy Dow can't talk about it. I reiterated again to Deputy Dow that I am ordering him to talk with me in this administrative investigation and that his failure to do so could lead to a charge of insubordination which could lead to termination. Mr. Trott interjected and told Deputy Dow that you understand the department is saying our administrative orders take precedence over a Superior Court Judge in a criminal case and the Grand Jury. Deputy Dow answered, "yes, I'm aware of that". I asked Deputy Dow how long he had been employed by the Sheriff's Department. Mr. Trott said "unless you've testified in the Grand Jury about that" and Deputy Dow said he did. I asked Deputy Dow if he had any prior law enforcement experience and he replied that he testified about that in the Grand Jury. I asked Deputy Dow if there were going to be any questions pertaining to his Grand Jury testimony that he is going to answer knowing that if he refuses it could lead to a charge of insubordination and possible termination. Deputy Dow replied "I'm not refusing, I've been ordered not to. I'm following the court order." Mr. Trott reiterated that Deputy Dow was more than willing to come in if he is relieved of the court order and the Grand Jury order. The interview concluded at 1324 hours.

In order to give Deputy Dow every opportunity to answer the interview questions, the interview was reconvened approximately 1335 hours. Deputy Dow stated he still understood all of his rights. I asked Deputy Dow if he understood he was being ordered to answer my questions and failure to do so could lead to a charge of insubordination which could lead to termination and he replied "Yes". Below is the transcript from the interview questions.

**Sgt. Denison:** How long have you been employed with the Sheriff's Department?



**Deputy Dow:** I can't answer that question per the court order and the Grand Jury order.

**Denison:** Do you have any prior Law Enforcement experience?

**Dow:** I cannot answer that question per the court order and the Grand Jury order.

**Denison:** Where are you currently assigned?

**Dow:** Transportation Division

**Denison:** And How long have you been assigned to Transportation?

**Dow:** Two months.

**Denison:** On December 6<sup>th</sup>, 2007, where were you assigned?

**Dow:** Transportation Division.

**Denison:** On December 6<sup>th</sup>, 2007, you were with Transportation?

**Dow:** 2007, I'm sorry, I didn't understand the question

**Denison:** Yes, on December 6<sup>th</sup>, 2007, where were you assigned?

**Dow:** I can't answer that question as part of the court order and the Grand Jury order.

**Denison:** How long had you been assigned to Lacy?

**Dow:** I can't answer that question due the court order and the Grand Jury order.

**Denison:** What was your assignment at Theo Lacy?

**Dow:** I cannot answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Had you read and understood the Department Policy Manual at that time?

**Dow:** One moment please **(Note: appeared to be looking through transcripts to see if there was testimony regarding that question)** Could you repeat the question please.

**Denison:** Had you read and understood the Department Policy Manual at that time, when you were employed in 2007?

**Dow:** I believe we had a Rules and Regulations Manual at that time.

**Denison:** Okay, regarding standard of conduct, untruthfulness, court attendance and demeanor, those types of things?

**Dow:** Yes

**Denison:** Who did you live with during that time?

**Dow:** I can't answer that question per the court order and the Grand Jury order.

**Denison:** Have you lived with any other department members?

**Dow:** I cannot answer that question pursuant to the court order and the Grand Jury order.

**Denison:** What other Department members did you live with?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Did [REDACTED] live with you?

**Dow:** I can't answer that question per the court order and the Grand Jury order.

**Denison:** Did you talk to your roommates about work?

**Dow:** I cannot answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Did you testify before the Grand Jury on December 6<sup>th</sup>, 2007?

**Dow:** I cannot discuss that question based pursuant to the court order and the Grand Jury order.

**Denison:** Can you tell me about your experiences in testifying with the Grand Jury?

**Dow:** I cannot discuss that matter pursuant to the court order and the Grand Jury order.

**Denison:** Okay, from the Grand Jury transcripts on page 101. You were asked "Were you aware that Ms [REDACTED] had been subpoenaed as a witness in this Grand Jury proceedings? And you answered "No". Is that correct?"

**Dow:** I cannot answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "Had you ever been made aware of the fact that Ms [REDACTED] had been subpoenaed to be a witness in this Grand Jury proceedings?" And you answered "No". Is that correct?"

**Dow:** I cannot answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked, "Have you spoken to Mr. [REDACTED] since a couple of days ago when you got home and went into your room?" You answered, "I didn't see him at all yesterday since I was at work for 16 hours." Is that correct?"

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.



**Denison:** You were asked, "Sir, my questions is did you discuss with him (meaning Deputy [REDACTED]) the fact that you had received the subpoena in this case? And you answered "No". Is that correct?

**Dow:** I can't discuss that or answer that question pursuant to the court order or the Grand Jury order.

**Denison:** You were asked "Did you make him aware in any fashion that you had received a subpoena in this case?" You answered "Not that I can recall I didn't." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "Did you have any discussion about the fact that you had received the subpoena in this case when Mr. [REDACTED] was present?" You answered "Other than this morning, No." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "When you say this morning, did that conversation take place here at the Federal Courthouse or at some other location? You answered "Here". You were asked, "Where here did that conversation take place?" and you answered "On the 8<sup>th</sup> floor." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "Have you spoken to Mr. [REDACTED] up to the moment that you took the stand about any conversations that he had with anyone who has been subpoenaed as a witness in this case? You answered "No." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "Did you share with Mr. [REDACTED] your feelings about the fact that you had been subpoenaed as a witness in this case?" You answered "No". Is this correct?

**Dow:** I cannot answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "Did you ever hear Deputy [REDACTED] talk about cars? You answered "I don't talk to Deputy [REDACTED] about work." Is this correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You were asked "Do you talk to Deputy [REDACTED] about anything? And you answered "Occasionally". He asked paying your rent? And you answered "Usually". He asked what else? And you answered "Solid surface countertops". Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Deputy District Attorney Lubinski, during your Grand Jury testimony, made the observation that "you've come across as being very hostile towards these proceedings...". Why would he say that?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Mr. Trott:** Objection, speculation.

**Denison:** Whose phone number is [REDACTED]

**Dow:** I have no idea.

**Denison:** Would that be a mobile number, of one of you or your roommates or?

**Dow:** I don't know.

**Denison:** Did you have a conversation between yourself, Deputy [REDACTED] and [REDACTED] on December 5<sup>th</sup>, 2007 regarding anything to do with the Grand Jury?

**Dow:** I can't answer that question based on the court order and the Grand Jury order.

**Denison:** Who is [REDACTED]

**Mr. Trott:** Do you have a last name?

**Denison:** [REDACTED]

**Mr. Trott:** Do you want to know now or back then, I mean, who she is, I mean?

**Denison:** Who is she? You were talking to her back at that time.

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** According to statements from the wiretap which was dated December 5<sup>th</sup>, the day before the Grand Jury testimony, you were talking with Deputy [REDACTED] Deputy [REDACTED] made the comment "Were you called because [REDACTED] went today? You answered, "I have no idea. So she's the bitch that gave me up, huh? Well anyway." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.



**Denison:** OK, and you understand, I just want to take a moment to clarify, I am ordering you to answer these questions, failure to do so could lead to a charge of insubordination which could lead to termination. You understand I am ordering you to answer these questions?

**Dow:** I understand

**Denison:** From the wire transcript you were talking again with Deputy [REDACTED] and [REDACTED] and you made the comment, "Um, yeah, this fucker calls me at like 11:30 and tells me that he's uh, emails me a subpoena...I'm like, really? So, I, uh...after, I managed to uh, unlock my account because I hadn't used it in so long cause (and then some other inaudible things)...to get internet access." Deputy [REDACTED] was laughing, you had some other inaudible statements, it says "A new Voyager that's what I wanted." (Again inaudible) "so I go on, I finally get into my email account and I get the subpoena...., here I'll show you the professional....cause if this guy starts giving me shit I'm gonna tell him to, I'm gonna fuckin...." And then stops. Is that correct?

**Mr. Trott:** Just to make sure we're talking about, 'cause you just said the wiretap, I'm sure there are more than one, we're talking about wiretap 07-107 obtained on December 5<sup>th</sup>, 2007, identified as session number 168?

**Denison:** Correct.

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You said "Does that look really professional or what? There's nothing on here." Deputy [REDACTED] said "It's blank. An then...." And then you said "My name is handwritten in along with the date to be there." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Deputy [REDACTED] says "No I don't know if it was before or after, that wasn't clear. But at some point in, during the day I texted her and she's like yeah, okay, so I fucking talk to him all the time. Um, he's like well, I guess there's a big blown up picture of my cell phone bill as the uh, evidence item there. So she's like, okay. 'Do you recognize this number?' 'No, it's not my phone bill.' 'Do you recognize this number?' 'No, it's not my phone bill.' Well, who does he talk to?" And you answered "People." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Deputy [REDACTED] says, "Yeah, but I'm, I'm guessing that's the only way you got brought into it because the assumption there from, from Paul Meyer was he was kind of led to believe was they wanted [REDACTED] because [REDACTED] lived here and we were boyfriend girlfriend. And I'm like, well she lived here during the time of that incident, and she does live with her boyfriend it's just no here." And you said, "It's just not me." Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** On the transcript you made the statement, "Dude, these fuckers pissed me off, today." You said, "I was really, really really, really unhappy at the fact that I got this phone call today and this guy was kind of a, a dick to me on the phone and you know how much I enjoy people when they're being a a dick... So, (now) I'm like you know what screw that. I'm just gonna go over there at 8:30 and I'm going to tell them point blank, 'I ain't got shit to say, kiss my ass.'" Is that correct?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** You made a statement, "Well, 'what do you guys talk about?' 'Solid surface countertops...' 'And?' 'And occasionally his kids.' I don't talk about fucking work, when I'm not at work unless I'm pissed off about something and then I....let it go away." Deputy [REDACTED] answered "Yeah". And then you said, "I spend 80% of my time in my room. So don't fucking ask me anything." Is that correct?

**Dow:** I can't answer that question pursuant to the court order or the Grand Jury order.

**Denison:** Why are there apparent inconsistencies between your conversation that was recorded on the wiretap on December 5<sup>th</sup> and your Grand Jury testimony on December 6<sup>th</sup>?

**Mr. Trott:** I would object, this is speculation, lack of foundation, and foundation because there are no documents in existence that this body can be looking at pursuant to a court order signed today.

**Denison:** Deputy Dow, are you willing to answer that question?

**Mr. Trott:** Same objection for you.

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.



**Denison:** In your discussion with Deputy [REDACTED] you made the statement "That's the point. Of course I lie you fuckin' idiots. Am I lying now or was I lying then?" What does that mean?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Did you lie to the Grand Jury?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** If you did lie, why would you lie?

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** If you could do things differently now, what would you do?

**Mr. Trott:** In what respect?

**Denison:** In respect to this incident.

**Dow:** I can't answer that question pursuant to the court order and the Grand Jury order.

**Denison:** Deputy Dow do you have anything else that you would like to add?

**Dow:** No

**Sgt. Morris:** No

**Denison:** Mr. Trott, do you have anything you would like to add?

**Mr. Trott:** Um Bill, do you understand that there is a order signed today by Judge Fitzgerald?

**Dow:** Yes

**Mr. Trott:** That restricts you from talking about this case?

**Dow:** Yes

**Mr. Trott:** And you understand that at the time of the Grand Jury Testimony you were told not to discuss this case?

**Dow:** Yes

**Mr. Trott:** Given an order. When you came in here today you were given an order by the department, confidentiality, and told not to discuss what goes on in here, correct?

**Dow:** Yes

**Mr. Trott:** Everybody is giving you orders not to talk. Um, so um, and absent those orders from the Judge and the Grand Jury, would you participate and answer these questions?

**Dow:** Yes

**Mr. Trott:** And just for the record, that modification was to wiretap transcript, Grand Jury transcript, and tapes identified as we put on the record may be viewed only by the Orange County Sheriff's Department, including Orange County Deputy Sheriff William H. Dow, their counsel and their employees for the purpose of participating in the prosecution or defense of this action, People of the State of California v. [REDACTED]. And I would just like to point out that the Orange County Sheriff's Department has used that material for something other than the [REDACTED] case, and it appears to be in violation of an order signed by a Superior Court Judge this morning with notice having been given. That's all I have to say.

**Denison:** Deputy Dow, have you been truthful and honest during this interview?

**Dow:** Yes

**Denison:** Okay we will conclude this interview at 1354 hours.

**Note:** On February 21<sup>st</sup>, 2014, Deputy Dow, along with his Attorney Jim Trott and AOCDS Paul Bartlett, was sent a letter with further clarification explaining that Deputy Dow no longer had any legal restrictions preventing him from answering the Internal Affairs questions regarding his Grand Jury Testimony. Deputy Dow was offered another opportunity to be interviewed to allow Internal Affairs to complete the investigation and prevent Deputy Dow from a charge of Insubordination. (See Attachment 8)

On March 5<sup>th</sup>, 2014, Internal Affairs received a letter from Deputy Dow's attorney, Jim Trott, in response to the letter sent on February 21<sup>st</sup>, 2014 from Internal Affairs. Mr. Trott references a Court Order signed by Judge Fitzgerald which he states forbids the Department and Deputy Dow from revealing or using the Grand Jury Transcripts except in the [REDACTED] case. At the interview on February 7<sup>th</sup>, 2014, Deputy Dow refused to answer questions because of the court



order and the order from the Grand Jury not to discuss his testimony. Mr. Trott feels the court order still prevents Dep. Dow from answering the Internal Affairs questions. Mr. Trott states Mr. Dow does not want to lose his job as a result of insubordination and will answer questions involuntarily but continue to object to the use of the transcripts. Mr. Trott feels the use of the transcripts constitutes a criminal contempt and violation of Court Order and is therefore illegal. Mr. Trott continues to present his objections to the use of the transcripts and states Deputy Dow will appear to the interview on March 6<sup>th</sup>, 2014. (See Attachment 9)

On March 6<sup>th</sup>, 2014, at about 1000 hours, I interviewed Deputy Dow at Internal Affairs. Deputy Dow and AOCDS Attorney Jim Trott were given the opportunity to review the audio recording of their prior testimonies but declined. Also present was Internal Affairs Sergeant Tracy Morris. Deputy Dow read and understood the Confidentiality Directive, Advisement of his POBAR rights, the *Miranda* Warning, and the *Lybarger* advisement. Deputy Dow said he understood that with the interview being part of an administrative investigation, he was compelled to answer my questions and if he did not, he may be subject to a charge of insubordination. Deputy declined to waive his *Miranda* rights and was ordered to answer my questions. Deputy Dow was told this complaint was initiated by Sheriff's Administration and the nature of the complaint involves allegation of, but not limited to Deputy Dow being untruthful in his Grand Jury testimony.

At the beginning of the interview, Mr. Trott said he had reason to believe that there was a second Grand Jury that was convened and he is not sure that Dep. Dow's testimony was released from that Grand Jury. I asked Mr. Trott who he made inquiries to regarding a possible second Grand Jury and he said he just found out this morning but thought Paul Bartlett from AOCDS was aware of it. Mr. Trott said that if Dep. Dow's testimony from that Grand Jury wasn't released, he can't answer the questions and the Court Order is still in effect preventing him from testifying. Mr. Trott said the "answers will be the same" as last time regarding Deputy Dow's interview.

Mr. Trott said he felt the District Attorney is "skirting" around the issues and not being forthright in the information they are providing to everyone. Mr. Trott said he just found out this morning that there may have been a special Grand Jury for the Deputies. I explained that the Grand Jury transcripts that I will be asking questions about, dated 12/6/2007, are the same transcripts that have been released to them and we have been asking about for the last few months. Mr. Trott said he does not know if those transcripts were released to the public and there is still the Superior Court Order preventing Dep. Dow from answering questions. I explained the issue had been fully vetted through County Counsel and the District Attorney and he and Deputy Dow were given that information. Based upon this information, Internal Affairs will be proceeding with the investigation. (See Attachment 10)

I ordered Deputy Dow to answer my questions and explained to him that failure to do so may lead to a charge of insubordination which could lead to termination. I asked Deputy Dow if he would answer my questions regarding his Grand Jury testimony on December 6<sup>th</sup>, 2007 and his wiretap recording on December 5<sup>th</sup>, 2007 and he replied, "I cannot answer those questions per the court order from the Grand Jury and the Superior Court Judge". Deputy Dow stated he was not refusing to answer the questions but that he was prevented from answering based upon the court order and Grand Jury order. I explained again that based upon the opinion of the District Attorney, Penal Code 938.1 stating the Grand Jury transcripts became public, the Department, and County Counsel, Deputy Dow is no longer bound to maintain confidentiality and is allowed to answer questions from Internal Affairs. Given that information, Deputy Dow said that he still declines to answer my questions because of the Court Order from Judge Fitzgerald.

The interview was paused at 1011 hours and reconvened at 1017 hours. Given that Deputy Dow was refusing to answer the Internal Affairs questions, the interview was concluded at 1017 hours.

**Note: On 3/20/2014 I requested Mr. Trott provide any additional information or Court Orders that they were in possession of to be included in this file. On 3/27/14, I received an email from Mr. Trott re-emphasizing his previous**



statements regarding Dep. Dow's ability to answer questions. No other Court Documents were provided. (See Attachment 11)

**Included for Review:**

- Copy of Grand Jury Transcripts
- Copy of Wiretap Transcripts
- Disk containing audio of Wiretap
- Memos from Assistant Sheriff Barnes, Assistant Sheriff Trujillo, Sgt. Denison, and Mr. Trott
- Copies of 2 Court Orders
- Disk containing Deputy Dow interviews.



**Attachments**

**ORANGE COUNTY SHERIFF'S DEPARTMENT**  
**INTERNAL MEMO**



**TO:** Internal Affairs File  
**FROM:** Assistant Sheriff L. Trujillo   
**DATE:** December 5, 2013  
**RE:** Deputy William Dow

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On December 5, 2013, at approximately 1420 hours, I met with Assistant Sheriff Don Barnes, Commander Steve Kea, and Commander Dave Nighswonger. The purpose for the meeting was to discuss documents Assistant Sheriff Barnes received from Mike Lubinski from the District Attorney's Office. During the meeting, Assistant Sheriff Barnes briefed us on the circumstances of how he obtained copies of the grand jury testimony, transcripts of a wiretap recording, two court orders, and a digital CD of the recordings. For details refer to his memo.

Assistant Sheriff Barnes released the materials he obtained from Mike Lubinski to me. I reviewed the transcripts of Deputy Dow's statements on the wiretap and compared them to his statements under oath to the Orange County Grand Jury. After doing so, I determined there was evidence of policy violations involving untruthfulness by Deputy Dow and requested an Internal Affairs investigation.

I met with Internal Affairs Sergeant Inouye and Sergeant Denison and released the grand Jury testimony transcripts, transcripts of the wiretap recordings, digital CD, and two court orders.



ORANGE COUNTY SHERIFF'S DEPARTMENT  
INTERNAL MEMO



**TO:** Internal Affairs File  
**FROM:** Assistant Sheriff D. Barnes *DB*  
**DATE:** December 5, 2013  
**RE:** Deputy William Dow

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On Thursday, December 5, 2013 I was contact by Mike Lubinski of the Orange County District Attorney's Office. Lubinski informed me that testimony provided by Deputy William Dow to the Grand Jury has been released by court order to the Sheriff's Department. I received copies of the grand jury testimony, transcripts of a wiretap recording, two court orders, and a digital CD of the recordings from the District Attorney's Office at 1245 hours.

I reviewed the transcripts and determined that there was evidence of policy violations committed by Deputy Dow. Deputy Dow is currently assigned to the Intake Release Center (Custody Command). I briefed Assistant Sheriff L. Trujillo of the circumstances and released the material to his possession for his review and recommendation(s).





1 Telephone Number 2 between the approximate 26 minute, 59 second mark and the 44  
2 minute, 53 second mark, along with any evidence derived therefrom. Disclosure of this  
3 evidence is necessary in order for the People to satisfy their Constitutional discovery  
4 obligations under *Brady v. Maryland* (1963) 373 U.S. 83.

5  
6 **IT IS FURTHER ORDERED**, that Orange County District Attorney's Office is  
7 permitted to disclose the above information to the parties in the above-entitled case as  
8 well as Orange County Deputy Sheriff II William H. Dow, badge #6013, and the Orange  
9 County Sheriff's Department.

10  
11 Date:

12/5/13

  
Orange County Superior Court Judge  
**ROBERT R. FITZGERALD**



1 4) Wiretap Transcript, Grand Jury Transcript and Tapes may be viewed only by:

2 i) Parties, their counsel and their counsel's employees, investigators and  
3 experts for the purpose of prosecuting or defending this action; and  
4

5  
6 ii) Orange County Sheriff's Department, including Orange County Deputy  
7 Sheriff II William H. Dow, their counsel and their employees.  
8

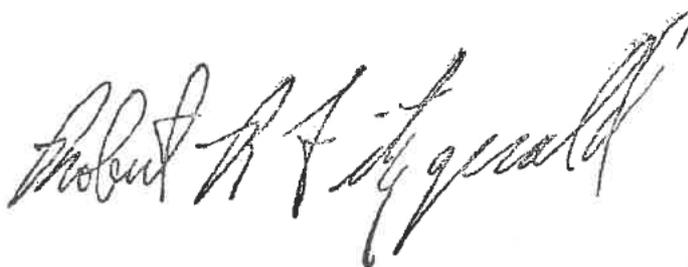
9 5) Wiretap Transcript, Grand Jury Transcript and Tapes shall not be given,  
10 loaned, sold, or shown to any person except as provided by this Order or by  
11 subsequent Order of this Court.  
12

13  
14 6) Upon Motion of either the People or the Defense, the Court may be requested  
15 to return the Wiretap Transcript, Grand Jury Transcript and Tapes to the District  
16 Attorney. Those materials subject to this order so kept by any law enforcement  
17 agency or defense counsel shall remain subject to this order and those materials  
18 shall remain secured in evidence in accordance with that agency's policies and  
19 procedures.  
20

21  
22 7) Any person found violating any portion of this order may be subject to the full  
23 contempt powers of the Court.  
24

25 IT IS SO ORDERED.

26 Dated:



27  
28  
29 BY: \_\_\_\_\_ JUDGE OF THE SUPERIOR COURT  
30 ROBERT R. FITZGERALL, J.C.

1 TRANSCRIPTION

2 AUDIO SOURCE:

3 Wiretap No. 07-107

4 Session No. 168 on Target Telephone #2 [REDACTED]

5 December 5, 2007, 1:53:39 (EST)

6 Transcription Encompasses 26:59 to 44:53 minutes of Session No. 168

7 KEY:

8 **DOW:** Deputy William Dow.

9 [REDACTED] Deputy [REDACTED]

10 [REDACTED] [REDACTED]

11 INTRODUCTION:

12 A conversation between [REDACTED] and [REDACTED] alone transpired during  
13 Session #168 from 0:00 to approximately 26:59 minutes. This  
14 transcription begins at approximately the 26:59 minute mark when DOW  
15 enters the conversation.

16 TRANSCRIPT:

17 **DOW:** Dude, these fuckers pissed me off, today.

18 [REDACTED] What?

19 **DOW:** Inaudible. You were hunkered down behind the cabinet, shut-  
20 up.

21 [REDACTED] (Laughing) You're a smart feller.

22 **DOW:** Um, yeah, this fucker calls me at like 11 :30 and tells me  
23 that he's uh, e-mails me a subpoena ... I'm like, really?  
24 So, I, uh ... after, I managed to uh, to uh, unlock my  
25 account because I hadn't used it in so long cause  
26 (inaudible) ... to get internet access.

27 [REDACTED] (Laughing)

28

1 **DOW:** (Inaudible) A new Voyager that's what I wanted. (Inaudible)  
2 Um, so I go on, I finally get into my e-mail account and I  
3 get the, the subpoena ... oh, here I'll show you the  
4 professional. .. cause if this guy starts giving me shit  
5 I'm gonna tell him to, I'm gonna fuckin ...  
6 [REDACTED] You still there?  
7 [REDACTED] Yeah, hold on, I'll come back to you when I can. Don't you  
8 worry.  
9 [REDACTED] It got really quiet, so  
10 [REDACTED] Exactly, don't worry about it.  
11 **DOW:** ... these fuckers ...  
12 [REDACTED] No, she's just eavesdropping.  
13 **DOW:** Does that look really professional or what? There's nothing  
14 on here.  
15 [REDACTED] It's blank. And then ...  
16 **DOW:** My name is handwritten in along with the date to be there.  
17 [REDACTED] Were you called because [REDACTED] went today.  
18 **DOW:** I have no idea. So she's the bitch that gave me up, huh?  
19 Well anyway.  
20 [REDACTED] That would be my guess, really.  
21 **DOW:** I was really, really, really, really unhappy at the fact  
22 that I got this phone call today and this guy was kind of  
23 a, a dick to me on the phone and you know how much I enjoy  
24 people when they're being a dick ....  
25 [REDACTED] Um, huh.  
26 **DOW:** So I, uh, I called the Sarge, Sarge said no, I gotta go  
27 through the subpoena desk, so I called the subpoena desk  
28 and I, I, e-mailed, I forwarded the e-mail to her and she

1 was like I have never seen anything like this before, she  
2 goes, but it's federal so you need to call County Counsel,  
3 I'm not calling County Counsel.  
4 [REDACTED] Federal?  
5 DOW: Yeah.  
6 [REDACTED] It's just in the federal courthouse.  
7 DOW: Yeah, I know. So, I'm like you know what screw that. I'm  
8 just gonna go over there at 8:30 and I'm going to tell them  
9 point blank, "I ain't got shit to say, kiss my ass."  
10 [REDACTED] I don't know if that's a good idea.  
11 DOW: I don't give a fuck. I told them they gotta, they gotta be  
12 done with me, if they're gonna do anything Thursday, cause  
13 if they say to me we need you to come back tomorrow, I'm  
14 gonna say uh, thanks, no thanks, can't play on the plane,  
15 bye.  
16 [REDACTED] I wonder if I can do that.  
17 [REDACTED] Yeah, right.  
18 DOW: You know what, hey, I can't, I got an appointment in the  
19 morning I'll be here after 2, yeah come fucking find me at  
20 LAX.  
21 [REDACTED] Huh.  
22 DOW: ... You know how much of an uproar that would cause. He  
23 left the country. He went to a country that doesn't have  
24 extradition. We can't get him.  
25 [REDACTED] He'll, he'll be back, he's still employed.  
26 DOW: Yeah. I'll be gone for a week, dumbasses.  
27 [REDACTED] Um, I talked to [REDACTED] briefly, not that she could tell me a  
28 whole lot but she was not named like I was thinking,

Dow Wiretap Transcript

1 because I'm like who the fuck would name her as somebody to  
2 talk to, but what happened was, they pulled my phone  
3 records, I'm assuming the day of and a little before and a  
4 little after, and not, hopefully not continuous but who  
5 knows.

6 **DOW:** (Inaudible).

7 [REDACTED] Yeah, not that that matters anyways. But apparently I  
8 texted her at some point during that day.

9 **DOW:** Oh.

10 [REDACTED] Now I don't know if it was before or after, that wasn't  
11 clear. But at some point in, during the day I texted her  
12 and she's like yeah, okay, so I fucking talk to him all the  
13 time. Um, he's like well, I guess there's a big blown up  
14 picture of my cell phone bill as the uh, evidence item  
15 there. So she's like, okay. "Do you recognize this number?"  
16 "No, it's not my phone bill." "Do you recognize this  
17 number?" "No, it's not my phone bill." Well, who does he  
18 talk to?

19 **DOW:** People?

20 [REDACTED] Other than me, I don't know. "Well, what did he tell you  
21 about the homicide?" "What did he tell you ... " "I don't  
22 know, I don't remember, I don't think we ever talked about  
23 it." "How often do you talk to him?" "When was the last  
24 time you talked to him?" "Yesterday." What's uh,  
25 something's gonna die on a, I think it's my phone.

26 [REDACTED] You gotta plug it in.

27 [REDACTED] So, um, they were, they were they, they did ask her about  
28 the pepperball incident. And she's like "I have no idea

1 what you're talking about." "Well why wouldn't he have told  
2 you, you said you were close friends." "We talk about a lot  
3 of shit." "What do you talk about?" "Football, soccer. . . "  
4 **DOW:** Kids.  
5 [REDACTED] " ... clothes, kids, should I go on?" (laughter) And, and I  
6 guess uh, her, she got an attorney and the attorney said  
7 try not to be too flippant with your answers and she was  
8 like "I just couldn't help it, they were fuckin' idiots."  
9 (laughter) So um, I guess [REDACTED] like real nervous about  
10 it only cause she's probably never testified in any kind of  
11 manner.  
12 **DOW:** (Inaudible).  
13 [REDACTED] Yeah, but I'm, I'm guessing that's the only way you got  
14 brought into it because the assumption there from, from  
15 Paul Meyer what he was kind of led to believe was they  
16 wanted [REDACTED] because [REDACTED] lived here and we were  
17 boyfriend girlfriend. And I'm like, well she lived here  
18 during the time of that incident, and she does live with  
19 her boyfriend, it's just not here.  
20 **DOW:** It's just not me.  
21 [REDACTED] Yeah, or me, yeah.  
22 **DOW:** Well, I'm not [REDACTED] boyfriend either, okay, so I don't  
23 know what to tell you.  
24 [REDACTED] Yeah, well...  
25 [REDACTED] I asked you that ...  
26 [REDACTED] Well, their whole (inaudible) I don't know their, they told  
27 [REDACTED] that I made or received a total of 22 text messages  
28

1 during the hour in question where this guy was getting beat  
2 to death.  
3 DOW: Okay, and?  
4 [REDACTED] Is that or do you think that'll take away from his duties.  
5 DOW: I don't know, ask him.  
6 [REDACTED] I don't know. So ... my answer would be no, of course not  
7 but somebody actually died.  
8 DOW: See, you're now asking me to speculate about somebody  
9 else's ability to (inaudible) and I won't do that.  
10 [REDACTED] Yeah.  
11 DOW: You're asking me to speculate period, and I won't do that.  
12 [REDACTED] That's pretty much how she, uh ...  
13 [REDACTED] answered.  
14 [REDACTED] answered.  
15 DOW: They're gonna hate me. I've already decided ....  
16 [REDACTED] Well I got, I went from one 0' clock to three 0' clock to  
17 Thursday morning.  
18 DOW: I haven't decided which pair of shorts to wear yet.  
19 [REDACTED] And, and Thursday I'm thinking, Thursday morning okay, I'm  
20 going first. And then I got your text and I'm like okay I  
21 guess I'm not going in the morning cause I'll go after you  
22 because they're gonna want to know the same shit that they  
23 asked her. You know. Did he text you? Did he talk to you  
24 about it? Did ...  
25 DOW: Should I wear the t-shirt with a big hand on the front like  
26 this?  
27 [REDACTED] (Laughter)  
28

1 DOW: I told [REDACTED] I said I'm debating whether or not to  
2 (inaudible)  
3 [REDACTED] Did [REDACTED] tell you about how the whole thing is set up,  
4 the demeanor and all that?  
5 DOW: He said they were very, very, very adversarial.  
6 [REDACTED] That's what [REDACTED] was saying and that's what I've heard  
7 that from all the way up to uh, [REDACTED]  
8 DOW: That's probably because they think that they can intimidate  
9 people and you know what I'm just going to be like dude is  
10 there anything that I need to tell you, yeah what happened.  
11 I don't know I wasn't there.  
12 [REDACTED] Yeah.  
13 DOW: Well, "what do you guys talk about?" "Solid surface  
14 countertops ... " "And?" "And occasionally his kids." I  
15 don't talk about fucking work, when I'm not at work unless  
16 I'm pissed off about something and then I ... .let it go  
17 away.  
18 [REDACTED] Yeah.  
19 DOW: I spend 80% of my time in my room. So don't fucking ask me  
20 anything.  
21 [REDACTED] Yeah, the other 20% of the time in the bathroom.  
22 DOW: ... with me. Are we done? I'm not here, my, my integrity  
23 and my person is not in question here. You ask questions  
24 about a certain subject. You're not getting the answers  
25 that are making you look good so you're going to treat me  
26 like shit, fuck off.  
27 [REDACTED] (Laughter) Oh, it's gonna be interesting.  
28 [REDACTED] God, he's a little testy isn't he.

1 [REDACTED] Oh, it's gonna be interesting. (Laughter)

2 DOW: (Inaudible)

3 [REDACTED] They asked [REDACTED] if I had a girlfriend, and she's like "I  
4 don't know," she's like, "well, how do you, how do you not  
5 know your such good friends?" I don't know, there's just  
6 certain things we don't talk about. I'm, I'm, I'm sure  
7 you'll get that kinda questioning too. "Does he have a  
8 girlfriend?" "Does he lie?" "Has he ever lied to you?"

9 DOW: He's a man, of course he lies.

10 [REDACTED] You know what, when they ask me that question I'm seriously  
11 gonna answer it with "you mean lying as a whole?" No, but  
12 if a fat lady says do I look good in these pants yeah, I'll  
13 probably lie to her.

14 DOW: Is that a lie?

15 [REDACTED] I don't know you tell em yeah, I tell my kids there's a  
16 Santa Claus.

17 [REDACTED] Yeah, I tell, I tell my kids there's a Santa Claus and a  
18 tooth-fairy.

19 DOW: Yeah

20 [REDACTED] Yeah, I lie.

21 [REDACTED] What else do you want to know?

22 DOW: That's the point. Of course I lie you fuckin' idiots. Am I  
23 lying now or was I lying then?

24 [REDACTED] (Laughter) oh.

25 DOW: So what you're saying is don't set the tone.

26 [REDACTED] Paul, Paul was uh, thinking he was going to learn more  
27 after he talked attorney that [REDACTED] and [REDACTED] had but I  
28 didn't hear back from him today.

Dow Wiretap Transcript

1 **DOW:** Oh, and um, I was given my schedule effective uh, January  
2 4th I am now the bitch that ... Sunday, Monday, Tuesday  
3 (inaudible) and uh, I'm going to have to go in there and  
4 raise all sorts of hell because I told them that I can't  
5 work weekends with my reserve ...  
6 [REDACTED] um-hmm.  
7 **DOW:** and now they're fucking with that.  
8 [REDACTED] So does that mean the list came out and you got promoted?  
9 **DOW:** No, the list hasn't come out but they're making room for  
10 all the good people so they're gonna put us in (inaudible)  
11 but should be deuced by then. But ...  
12 [REDACTED] Oh, copy  
13 **DOW:** Also, after talking to PSD, if they don't fill all the  
14 patrol positions, they're gonna go to the list. "Do you  
15 want to go to patrol?" "No." "Wanna go to patrol?" "No."  
16 "Wanna go to patrol?" "Yeah." "Okay, you're a Deputy II."  
17 "Wanna go to patrol?" "No." "You?" "You?" "You?" "Yeah."  
18 "Good, you're a Deputy II."  
19 [REDACTED] Well, okay, I heard, I heard rumors like that so.  
20 **DOW:** And, and once they've done that and they've filled all the  
21 patrol positions and all the people that want to stay in  
22 the jails as Deputy II's they'll go back to promoting them  
23 as Deputy II's but they're gonna fill the patrol positions  
24 first.  
25 [REDACTED] Right, well it makes sense. It makes sense. Think they'll  
26 get to number fifty?  
27 **DOW:** I'm hoping they get to number thirteen, after that you all  
28 go to hell.

Dow Wiretap Transcript

1 [REDACTED] (Laughter) That's kinda my thought after fifty.

2 DOW: Yeah, oh, I'm telling you ...

3 [REDACTED] "Wanna go to patrol?" "Yeah."

4 DOW: Can't.

5 [REDACTED] "Well, we'd love to have you but."

6 DOW: Yeah, hey, quit killing people and we'll take you.

7 [REDACTED] I never killed anyone on patrol.

8 [REDACTED] You just haven't had a chance yet.

9 DOW: I'm just not looking forward to Thursday at all because if

10 I have just a (inaudible) vacation.

11 [REDACTED] Are you working Thursday?

12 DOW: Yeah.

13 [REDACTED] Well you might just say look, I can't have, I had a bad

14 morning and uh, I need to take the day off.

15 DOW: I was thinking about wearing this, what do you think?

16 (Inaudible)

17 [REDACTED] I like that.

18 DOW: I'll wear a pair of nice .... This.

19 [REDACTED] You're gonna walk in, in that.

20 DOW: And this, what do you think?

21 [REDACTED] You need a camera. You need a camera. Ahh ...

22 DOW: "Why are you dressed like that?" "I'm on vacation jackass

23 and you're fucking with it."

24 [REDACTED] (Laughter). Ahh ...

25 DOW: It's either that or I'm going to walk in with like a

26 Paul, Paul kinda, I don't know if he was told directly or

27 he just got the feeling from the conversation he had with

28

1 the DA that they don't have a single thing that links me to  
2 the homicide. And I'm like what a surprise. \

3 DOW: Yeah.

4 [REDACTED] But at least they know that. But they're still fishin'. So  
5 Paul doesn't want me to fucking testify to anything.

6 DOW: What do you think?

7 [REDACTED] I think you're going to look gorgeous.

8 DOW: Yeah, I'm wearing a (inaudible) and I haven't worn this  
9 since I got married.

10 [REDACTED] So.  
11 [REDACTED] Wow, you're special if he hasn't worn that since he got  
12 married.

13 DOW: I'm gonna (inaudible) check out these shoes.  
14 [REDACTED] ... what you gotta ... these things or what?

15 DOW: Yeah .... those some serious ... shoes or what? I almost  
16 feel bad (inaudible)

17 [REDACTED] I had my suit out, I was ready to go this morning. I even  
18 cut my hair, shaved.

19 DOW: Dude that or I think I'll wear these ... Maybe I'll just  
20 wear these

21 [REDACTED] There you go.

22 DOW: That's what I'm gonna do. Who cares, shut up.  
23 [REDACTED] When, hey, when, when, when did you

24 DOW: (Inaudible)

25 [REDACTED] When did you get that subpoena?

26 DOW: At like 11 o'clock today.  
27 [REDACTED] You need to uh, okay go back to that, that, 5 0' clock  
28 swimwear shirt then. (Laughter). Uniform pants? Cut-off?

Dow Wiretap Transcript

1 **DOW:** Yeah, I'll wear my Tommy Bahama shorts, my Tommy Bahama  
2 shoes and uh, one of my fake Tommy Bahama shirts.

3 [REDACTED] That's a lovely

4 **DOW:** (inaudible)

5 [REDACTED] Ah, how funny.

6 **DOW:** I'll see ya tomorrow.

7 [REDACTED] Alright.

8 **CONCLUSION:**

9 The conversation involving DOW ended at approximately 44:53 minutes. A  
10 conversation between [REDACTED] and [REDACTED] alone continued until 49:29  
11 minutes and was not transcribed.

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## TRANSCRIPTION

### AUDIO SOURCE:

Wiretap No. 07-107  
Session No. 168 on Target Telephone #2 [REDACTED]  
December 5, 2007, 1:53:39 (EST)  
Transcription Encompasses 26:59 to 44:53 minutes of Session No. 168

### KEY:

DOW: Deputy William Dow  
[REDACTED]

### INTRODUCTION:

A conversation between [REDACTED] and [REDACTED] alone transpired during Session #168 from 0:00 to approximately 26:59 minutes. This transcription begins at approximately the 26:59 minute mark when DOW enters the conversation.

### TRANSCRIPT:

DOW: Dude, these fuckers pissed me off, today.

[REDACTED] What?

DOW: Inaudible. You were hunkered down behind the cabinet, shut-up.

[REDACTED] (Laughing) You're a smart feller.

DOW: Um, yeah, this fucker calls me at like 11:30 and tells me that he's uh, e-mails me a subpoena...I'm like, really? So, I, uh...after, I managed to uh, to uh, unlock my account because I hadn't used it in so long cause (inaudible)...to get internet access.

[REDACTED] (Laughing)

DOW: (Inaudible) A new Voyager that's what I wanted. (Inaudible) Um, so I go on, I finally get into my e-mail account and I get the, the subpoena...oh, here I'll show you the professional...cause if this guy starts giving me shit I'm gonna tell him to, I'm gonna fuckin...

[REDACTED] You still there?

[REDACTED] Yeah, hold on, I'll come back to you when I can. Don't you worry.

[REDACTED] It got really quiet, so

[REDACTED] Exactly, don't worry about it.

**DOW:** ...these fuckers...

[REDACTED] No, she's just eavesdropping.

**DOW:** Does that look really professional or what? There's nothing on here.

[REDACTED] It's blank. And then...

**DOW:** My name is handwritten in along with the date to be there.

[REDACTED] Were you called because [REDACTED] went today.

**DOW:** I have no idea. So she's the bitch that gave me up, huh? Well anyway.

[REDACTED] That would be my guess, really.

**DOW:** I was really, really, really, really unhappy at the fact that I got this phone call today and this guy was kind of a, a dick to me on the phone and you know how much I enjoy people when they're being a dick....

[REDACTED] Um, huh.

**DOW:** So I, uh, I called the Sarge, Sarge said no, I gotta go through the subpoena desk, so I called the subpoena desk and I, I, e-mailed, I forwarded the e-mail to her and she was like I have never seen anything like this before, she goes, but it's federal so you need to call County Counsel, I'm not calling County Counsel.

[REDACTED] Federal?

**DOW:** Yeah.

[REDACTED] It's just in the federal courthouse.

**DOW:** Yeah, I know. So, I'm like you know what screw that. I'm just gonna go over there at 8:30 and I'm going to tell them point blank, "I ain't got shit to say, kiss my ass."

[REDACTED] I don't know if that's a good idea.

**DOW:** I don't give a fuck. I told them they gotta, they gotta be done with me, if they're gonna do anything Thursday, cause if they say to me we need you to come back tomorrow, I'm gonna say uh, thanks, no thanks, can't play on the plane, bye.

[REDACTED] I wonder if I can do that.

[REDACTED] Yeah, right.

**DOW:** You know what, hey, I can't, I got an appointment in the morning I'll be here after 2, yeah come fucking find me at LAX.

[REDACTED] Huh.

**DOW:** ...You know how much of an uproar that would cause. He left the country. He went to a country that doesn't have extradition. We can't get him.

[REDACTED] He'll, he'll be back, he's still employed.

**DOW:** Yeah. I'll be gone for a week, dumbasses.

[REDACTED] Um, I talked to [REDACTED] briefly, not that she could tell me a whole lot but she was not named like I was thinking, because I'm like who the fuck would name her as somebody to talk to, but what happened was, they pulled my phone records, I'm assuming the day of and a little before and a little after, and not, hopefully not continuous but who knows.

**DOW:** (Inaudible).

[REDACTED] Yeah, not that that matters anyways. But apparently I texted her at some point during that day.

**DOW:** Oh.

[REDACTED] Now I don't know if it was before or after, that wasn't clear. But at some point in, during the day I texted her and she's like yeah, okay, so I fucking talk to him all the time. Um, he's like well, I guess there's a big blown up picture of my cell phone bill as the uh, evidence item there. So she's like, okay. "Do you recognize this number?" "No, it's not my phone bill." "Do you recognize this number?" "No, it's not my phone bill." Well, who does he talk to?

**DOW:** People?

[REDACTED] Other than me, I don't know. "Well, what did he tell you about the homicide?" "What did he tell you..." "I don't know, I don't remember, I don't think we ever talked about it." "How often do you talk to him?" "When was the last time you talked to him?" "Yesterday." What's uh, something's gonna die on a, I think

it's my phone.

[REDACTED] You gotta plug it in.

[REDACTED] So, um, they were, they were they, they did ask her about the pepperball incident. And she's like "I have no idea what you're talking about." "Well why wouldn't he have told you, you said you were close friends." "We talk about a lot of shit." "What do you talk about?" "Football, soccer..."

**DOW:** Kids.

[REDACTED] "...clothes, kids, should I go on?" (laughter) And, and I guess uh, her, she got an attorney and the attorney said try not to be too flippant with your answers and she was like "I just couldn't help it, they were fuckin' idiots." (laughter) So um, I guess [REDACTED] like real nervous about it only cause she's probably never testified in any kind of manner.

**DOW:** (Inaudible).

[REDACTED] Yeah, but I'm, I'm guessing that's the only way you got brought into it because the assumption there from, from Paul Meyer what he was kind of led to believe was they wanted [REDACTED] because [REDACTED] lived here and we were boyfriend girlfriend. And I'm like, well she lived here during the time of that incident, and she does live with her boyfriend, it's just not here.

**DOW:** It's just not me.

[REDACTED] Yeah, or me, yeah.

**DOW:** Well, I'm not [REDACTED] boyfriend either, okay, so I don't know what to tell you.

[REDACTED] Yeah, well...

[REDACTED] I asked you that...

[REDACTED] Well, their whole (inaudible) I don't know their, they told [REDACTED] that I made or received a total of 22 text messages during the hour in question where this guy was getting beat to death.

**DOW:** Okay, and?

[REDACTED] Is that or do you think that'll take away from his duties.

**DOW:** I don't know, ask him.

[REDACTED] I don't know. So...my answer would be no, of course not but somebody actually died.

**DOW:** See, you're now asking me to speculate about somebody else's ability to (inaudible) and I won't do that.

[REDACTED] Yeah.

**DOW:** You're asking me to speculate period, and I won't do that.

[REDACTED] That's pretty much how she, uh...

[REDACTED] answered.

[REDACTED] answered.

**DOW:** They're gonna hate me. I've already decided....

[REDACTED] Well I got, I went from one o'clock to three o'clock to Thursday morning.

**DOW:** I haven't decided which pair of shorts to wear yet.

[REDACTED] And, and Thursday I'm thinking, Thursday morning okay, I'm going first. And then I got your text and I'm like okay I guess I'm not going in the morning cause I'll go after you because they're gonna want to know the same shit that they asked her. You know. Did he text you? Did he talk to you about it? Did...

**DOW:** Should I wear the t-shirt with a big hand on the front like this?

[REDACTED] (Laughter)

**DOW:** I told [REDACTED] I said I'm debating whether or not to (inaudible)

[REDACTED] Did [REDACTED] tell you about how the whole thing is set up, the demeanor and all that?

**DOW:** He said they were very, very, very adversarial.

[REDACTED] That's what [REDACTED] was saying and that's what I've heard that from all the way up to uh, uh Martini.

**DOW:** That's probably because they think that they can intimidate people and you know what I'm just going to be like dude is there anything that I need to tell you, yeah what happened. I don't know I wasn't there.

[REDACTED] Yeah.

**DOW:** Well, "what do you guys talk about?" "Solid surface countertops..." "And?" "And occasionally his kids." I don't talk about fucking work, when I'm not at

work unless I'm pissed off about something and then I ...let it go away.

Yeah.

**DOW:** I spend 80% of my time in my room. So don't fucking ask me anything.

Yeah, the other 20% of the time in the bathroom.

**DOW:** ...with me. Are we done? I'm not here, my, my integrity and my person is not in question here. You ask questions about a certain subject. You're not getting the answers that are making you look good so you're going to treat me like shit, fuck off.

(Laughter) Oh, it's gonna be interesting.

God, he's a little testy isn't he.

Oh, it's gonna be interesting. (Laughter)

**DOW:** (Inaudible)

They asked [redacted] if I had a girlfriend, and she's like "I don't know," she's like, "well, how do you, how do you not know your such good friends?" I don't know, there's just certain things we don't talk about. I'm, I'm, I'm sure you'll get that kinda questioning too. "Does he have a girlfriend?" "Does he lie?" "Has he ever lied to you?"

**DOW:** He's a man, of course he lies.

You know what, when they ask me that question I'm seriously gonna answer it with "you mean lying as a whole?" No, but if a fat lady says do I look good in these pants yeah, I'll probably lie to her.

**DOW:** Is that a lie?

I don't know you tell em yeah, I tell my kids there's a Santa Claus.

Yeah, I tell, I tell my kids there's a Santa Claus and a tooth-fairy.

**DOW:** Yeah

Yeah, I lie.

What else do you want to know?

**DOW:** That's the point. Of course I lie you fuckin' idiots. Am I lying now or was I lying then?

[REDACTED] (Laughter) oh.

**DOW:** So what you're saying is don't set the tone.

[REDACTED] Paul, Paul was uh, thinking he was going to learn more after he talked attorney that [REDACTED] and [REDACTED] had but I didn't hear back from him today.

**DOW:** Oh, and um, I was given my schedule effective uh, January 4<sup>th</sup> I am now the bitch that ...Sunday, Monday, Tuesday (inaudible) and uh, I'm going to have to go in there and raise all sorts of hell because I told them that I can't work weekends with my reserve...

[REDACTED] um-hmm.

**DOW:** and now they're fucking with that.

[REDACTED] So does that mean the list came out and you got promoted?

**DOW:** No, the list hasn't come out but they're making room for all the good people so they're gonna put us in (inaudible) but should be deuced by then. But...

[REDACTED] Oh, copy

**DOW:** Also, after talking to PSD, if they don't fill all the patrol positions, they're gonna go to the list. "Do you want to go to patrol?" "No." "Wanna go to patrol?" "No." "Wanna go to patrol?" "Yeah." "Okay, you're a Deputy II." "Wanna go to patrol?" "No." "You?" "You?" "You?" "Yeah." "Good, you're a Deputy II."

[REDACTED] Well, okay, I heard, I heard rumors like that so.

**DOW:** And, and once they've done that and they've filled all the patrol positions and all the people that want to stay in the jails as Deputy II's they'll go back to promoting them as Deputy II's but they're gonna fill the patrol positions first.

[REDACTED] Right, well it makes sense. It makes sense. Think they'll get to number fifty?

**DOW:** I'm hoping they get to number thirteen, after that you all go to hell.

[REDACTED] (Laughter) That's kinda my thought after fifty.

**DOW:** Yeah, oh, I'm telling you...

[REDACTED]

“Wanna go to patrol?” “Yeah.”

**DOW:** Can't.

[REDACTED]

“Well, we'd love to have you but.”

**DOW:** Yeah, hey, quit killing people and we'll take you.

[REDACTED]

I never killed anyone on patrol.

[REDACTED]

You just haven't had a chance yet.

**DOW:** I'm just not looking forward to Thursday at all because if I have just a (inaudible) vacation.

[REDACTED]

Are you working Thursday?

**DOW:** Yeah.

[REDACTED]

Well you might just say look, I can't have, I had a bad morning and uh, I need to take the day off.

**DOW:** I was thinking about wearing this, what do you think? (Inaudible)

[REDACTED]

I like that.

**DOW:** I'll wear a pair of nice.... This.

[REDACTED]

You're gonna walk in, in that.

**DOW:** And this, what do you think?

[REDACTED]

You need a camera. You need a camera. Ahh...

**DOW:** “Why are you dressed like that?” “I'm on vacation jackass and you're fucking with it.”

[REDACTED]

(Laughter). Ahh...

**DOW:** It's either that or I'm going to walk in with like a

[REDACTED]

Paul, Paul kinda, I don't know if he was told directly or he just got the feeling from the conversation he had with the DA that they don't have a single thing that links me to the homicide. And I'm like what a surprise.

**DOW:** Yeah.

But at least they know that. But they're still fishin'. So Paul doesn't want me to fucking testify to anything.

**DOW:** What do you think?

I think you're going to look gorgeous.

**DOW:** Yeah, I'm wearing a (inaudible) and I haven't worn this since I got married.

So.

Wow, you're special if he hasn't worn that since he got married.

**DOW:** I'm gonna (inaudible) check out these shoes.

...what you gotta...these things or what?

**DOW:** Yeah. ...those some serious...shoes or what? I almost feel bad (inaudible)

I had my suit out, I was ready to go this morning. I even cut my hair, shaved.

**DOW:** Dude that or I think I'll wear these... Maybe I'll just wear these

There you go.

**DOW:** That's what I'm gonna do. Who cares, shut up.

When, hey, when, when, when did you

**DOW:** (Inaudible)

When did you get that subpoena?

**DOW:** At like 11 o'clock today.

You need to uh, okay go back to that, that, 5 o'clock swimwear shirt then. (Laughter). Uniform pants? Cut-off?

**DOW:** Yeah, I'll wear my Tommy Bahama shorts, my Tommy Bahama shoes and uh, one of my fake Tommy Bahama shirts.

: That's a lovely

**DOW:** (inaudible)

Ah, how funny.

**DOW:** I'll see ya tomorrow.

[REDACTED] Alright.

**CONCLUSION:**

The conversation involving DOW ended at approximately 44:53 minutes. A conversation between [REDACTED] and [REDACTED] alone continued until 49:29 minutes and was not transcribed.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CENTRAL ORANGE COUNTY JUSTICE CENTER

IN THE MATTER OF AN INQUIRY OF THE, )  
2007 ORANGE COUNTY SPECIAL CRIMINAL )  
GRAND JURY )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

DECEMBER 6, 2007

APPEARANCES:

ANTHONY RACKAUCKAS, DISTRICT ATTORNEY  
BY: MICHAEL LUBINSKI,  
ASSISTANT DISTRICT ATTORNEY  
BY: KEITH BOGARDUS, DEPUTY

COLLEEN FLYNN, CSR NO. 9331  
OFFICIAL COURT REPORTER

(COLLEEN FLYNN, CERTIFIED SHORTHAND REPORTER, WAS DULY  
SWORN BY THE FOREPERSON OF THE GRAND JURY, AFTER WHICH  
THE FOLLOWING PROCEEDINGS WERE HAD:)

1 ROOM.)

2 WILLIAM DOW, +

3 THE GRAND JURY FOREPERSON: PLEASE RAISE YOUR  
4 RIGHT HAND.

5 "DO YOU SOLEMNLY SWEAR THAT THE TESTIMONY  
6 YOU'RE ABOUT TO GIVE THIS GRAND JURY IS THE TRUTH, THE  
7 WHOLE TRUTH, AND NOTHING BUT THE TRUTH SO HELP YOU GOD?"

8 THE WITNESS: I DO.

9 THE GRAND JURY FOREPERSON: PLEASE STATE YOUR FULL  
10 NAME AND SPELL IT FOR THE RECORD.

11 THE WITNESS: WILLIAM DOW. D-O-W.

12 THE GRAND JURY FOREPERSON: MR. DISTRICT ATTORNEY,  
13 THE WITNESS IS YOURS.

14 EXAMINATION +

15 BY MR. LUBINSKI:

16 Q MR. DOW, HAVE YOU TESTIFIED BEFORE?

17 A YES, I HAVE.

18 Q YOU'VE TESTIFIED UNDER OATH?

19 A YES, I HAVE.

20 Q IN THIS PARTICULAR SITUATION HAVE YOU EVER  
21 TESTIFIED BEFORE A GRAND JURY?

22 A NO, SIR.

23 Q IN THIS CASE PLEASE IF I COULD HAVE YOU MOVE  
24 , YOUR SEAT FORWARD AND SPEAK LOUDLY INTO THE MICROPHONE.

25 BEFORE WE BEGIN, MR. DOW, I WOULD LIKE TO

26 ADVISE YOU THAT YOU'RE NOW APPEARING BEFORE A DULY

1       CONSTITUTED GRAND JURY WHICH IS INVESTIGATING POSSIBLE  
2       VIOLATIONS OF STATE CRIMINAL LAW. DO YOU UNDERSTAND?

3           A       YES, SIR.

4           Q       YOU'VE BEEN PLACED UNDER OATH, AND THAT MEANS  
5       YOUR TESTIMONY HERE TODAY HAS THE SAME FORCE AND EFFECT  
6       AS IF YOU WERE IN A COURT OF LAW. DO YOU UNDERSTAND?

7           A       YES.

8           Q       THAT MEANS THAT YOU HAVE AN OBLIGATION TO  
9       TELL THE TRUTH IN THIS PROCEEDING OR YOU COULD SUBJECT  
10      YOURSELF TO A POSSIBLE PROSECUTION FOR PERJURY. DO YOU  
11      UNDERSTAND?

12          A       YES, SIR.

13          Q       THANK YOU.

14                   MR. BOGARDUS.

15      BY MR. BOGARDUS:

16          Q       THANK YOU, MR. LUBINSKI. GOOD MORNING,  
17      MR. DOW.

18          A       GOOD MORNING.

19          Q       ARE YOU CURRENTLY EMPLOYED, SIR?

20          A       YES, I AM.

21          Q       BY WHOM ARE YOU EMPLOYED?

22          A       ORANGE COUNTY SHERIFF'S DEPARTMENT.

23          Q       IN WHAT CAPACITY ARE YOU EMPLOYED BY THE  
24      ORANGE COUNTY SHERIFF'S DEPARTMENT?

25          A       DEPUTY SHERIFF.

26          Q       HOW LONG HAVE YOU BEEN A DEPUTY SHERIFF?

1           A     I'VE BEEN WITH THE SHERIFF'S DEPARTMENT FOR  
2 SEVEN AND A HALF YEARS.

3           Q     YOU'VE BEEN A SWORN PEACE OFFICER FOR SEVEN  
4 AND A HALF YEARS?

5           A     I'VE BEEN A SWORN PEACE OFFICER FOR 19 AND A  
6 HALF YEARS.

7           Q     HAVE YOU BEEN A SWORN PEACE OFFICER FOR SEVEN  
8 AND A HALF YEARS WITH THE ORANGE COUNTY SHERIFF'S  
9 DEPARTMENT?

10          A     YES.

11          Q     PREVIOUS TO THAT YOU WORKED WITH ANOTHER LAW  
12 ENFORCEMENT AGENCY?

13          A     YES.

14          Q     WHAT AGENCIES WERE THOSE?

15          A     I WORKED FOR 11 YEARS FOR THE ORANGE COUNTY  
16 MARSHALL'S DEPARTMENT, ONE YEAR FOR THE CITY OF GARDEN  
17 GROVE AS A PATROL OFFICER.

18          Q     AS A DEPUTY SHERIFF WITH THE ORANGE COUNTY  
19 SHERIFF'S DEPARTMENT WHAT IS YOUR CURRENT ASSIGNMENT?

20          A     I'M CURRENTLY ASSIGNED TO THEO LACY MENS  
21 MAXIMUM SECURITY FACILITY.

22          Q     WITHIN THEO LACY DO YOU HAVE ONE PARTICULAR  
23 POST OR ASSIGNMENT?

24          A     CURRENTLY, YES, I'M WORKING IN MODULE R.

25          Q     HOW LONG HAVE YOU WORKED IN MODULE R?

26          A     LAST TWO AND A HALF MONTHS.

1 Q DO YOU KNOW AN INDIVIDUAL BY THE NAME OF

2 [REDACTED]

3 A YES, I DO.

4 Q HOW DO YOU KNOW MR. [REDACTED]

5 A I WORK WITH MR. [REDACTED] AND I'M ALSO A  
6 ROOMMATE OF HIS.

7 Q SHOW YOU A PHOTOGRAPH, SIR, IT'S PEOPLE'S  
8 EXHIBIT 54A. DO YOU RECOGNIZE THE PERSON DEPICTED IN  
9 THIS PHOTOGRAPH?

10 A YES, I DO.

11 Q WHO DO YOU RECOGNIZE THAT TO BE?

12 A THAT'S [REDACTED] WITH A MUSTACHE.

13 Q WHEN YOU SAY THAT'S [REDACTED] THAT'S [REDACTED]

14 [REDACTED] RIGHT?

15 A YES.

16 Q OKAY. DO YOU CURRENTLY SHARE ANY WORK  
17 ASSIGNMENTS WITH MR. [REDACTED]

18 A NO, I DO NOT.

19 Q HOW IS IT THAT YOU BECAME ACQUAINTED -- FIRST  
20 ACQUAINTED WITH MR. [REDACTED]

21 A HE LEFT TORRANCE P.D., CAME BACK TO THE  
22 SHERIFF'S DEPARTMENT, WAS ASSIGNED TO LACY. I BELIEVE  
23 THERE MIGHT HAVE BEEN A PRIOR CONTACT BEFORE HE LEFT FOR  
24 TORRANCE. I'M NOT SURE IF HE KNEW ME WHEN I WORKED IN ,  
25 THE COURTS. WE JUST KNEW EACH OTHER FROM WORK.

26 Q YOU SAID YOU RENT A ROOM IN HIS HOME; IS THAT

1 CORRECT?

2 A YES.

3 Q HOW LONG HAVE YOU RENTED A ROOM IN HIS HOME?

4 A 14 MONTHS.

5 Q ARE YOU HIS ONLY TENANT OR ARE THERE ANY

6 OTHER TENANTS BESIDES YOURSELF ?

7 A I'M THE ONLY TENANT.

8 Q HAVE YOU ALWAYS BEEN THE ONLY TENANT FOR THE

9 PAST 14 MONTHS OR HAVE THERE BEEN OTHER TENANTS?

10 A THERE WAS ANOTHER TENANT DURING THAT TIME AS

11 WELL.

12 Q WHO WAS THAT?

13 A [REDACTED]

14 Q SO YOU'RE FAMILIAR WITH MS. [REDACTED]

15 A YES.

16 Q ARE YOU FAMILIAR WITH HER JUST AS A TENANT IN

17 THE SAME HOME OR DO YOU HAVE SOME ADDITIONAL INDEPENDENT

18 FAMILIARITY WITH MS. [REDACTED]

19 A SHE WAS A CST AT LACY PRIOR TO GOING TO THE

20 ACADEMY.

21 Q I'M SHOWING YOU PEOPLE'S EXHIBIT 197. DO YOU

22 RECOGNIZE THAT PERSON?

23 A YES.

24 Q WHO IS THAT?

25 A THAT'S [REDACTED]

26 Q [REDACTED]

1 A YES.

2 Q OKAY. DO YOU KNOW AN INDIVIDUAL BY THE NAME

3 OF [REDACTED]

4 A YES.

5 Q HOW DO YOU KNOW MS. [REDACTED]

6 A THROUGH [REDACTED]

7 Q SHOWING YOU PEOPLE'S EXHIBIT 196, DO YOU

8 RECOGNIZE THAT PERSON?

9 A YES, I DO.

10 Q WHO DO YOU RECOGNIZE THAT TO BE?

11 A THAT'S [REDACTED]

12 Q [REDACTED]

13 A YES.

14 Q WERE YOU AWARE THAT MS [REDACTED] HAD BEEN

15 SUBPOENAED AS A WITNESS IN THIS GRAND JURY PROCEEDINGS?

16 A NO.

17 Q HAD YOU EVER BEEN MADE AWARE OF THE FACT THAT

18 MS [REDACTED] HAD BEEN SUBPOENAED TO BE A WITNESS IN

19 THIS GRAND JURY PROCEEDINGS?

20 A NO.

21 Q THIS IS THE FIRST TIME THAT YOU'RE LEARNING

22 THAT MS. [REDACTED] HAD BEEN SUBPOENAED AS A WITNESS IN

23 THESE GRAND JURY PROCEEDINGS IS FROM ME AND MY

24 QUESTIONS?

25 A I HAD HEARD OTHER PEOPLE HAD. I HADN'T HEARD

26 SPECIFICALLY WHO.

1 Q OKAY. SO YOUR ANSWER TO THAT QUESTION IS  
2 "NO?"

3 A NO.

4 Q WITH RESPECT TO MS. [REDACTED] WERE AWARE THAT  
5 SHE HAD BEEN SUBPOENAED AS A WITNESS IN THESE GRAND JURY  
6 PROCEEDINGS?

7 A YES.

8 Q HOW IS IT YOU BECAME FAMILIAR WITH THE FACT  
9 THAT SHE HAD BEEN SUBPOENAED TO BE A WITNESS IN THESE  
10 PROCEEDINGS?

11 A I SPOKE TO HER A COUPLE OF DAYS AGO WHEN SHE  
12 STOPPED BY THE HOUSE WHEN I GOT HOME FROM WORK.

13 Q THAT WAS TUESDAY DECEMBER THE 4TH?

14 A I DON'T RECALL THE DATE. I KNOW THAT I WAS  
15 AT WORK ON TUESDAY, SO I DON'T THINK I SAW HER AT ALL ON  
16 TUESDAY.

17 Q THERE WAS SOME DATE THAT SHE STOPPED BY THE  
18 HOUSE, AND THAT'S WHEN YOU SAW HER?

19 A YES.

20 Q WHEN YOU SAY SHE STOPPED BY THE HOUSE, ARE  
21 YOU REFERRING TO THE HOME THAT YOU CURRENTLY RENT THE  
22 ROOM IN?

23 A YES.

24 Q DOES MR. [REDACTED] ALSO LIVE THERE AS WELL?

25 A YES.

26 Q IS THAT A HOME IN THE CITY OF YORBA LINDA?

1 A YES.

2 Q WHERE IS THAT LOCATED IN YORBA LINDA?

3 A ON [REDACTED]

4 Q THE ADDRESS OF WHERE IT'S LOCATED?

5 A [REDACTED]

6 Q AND WHEN YOU WERE AT YOUR HOME DID YOU ARRIVE

7 THERE AND MS. [REDACTED] WAS ALREADY THERE OR WERE YOU AT

8 YOUR HOME AND MS. [REDACTED] HAD ARRIVED?

9 A I PULLED UP IN THE STREET. AS I WAS EXITING

10 MY VEHICLE SHE PULLED UP.

11 Q GOT THERE ABOUT THE SAME TIME?

12 A ROUGHLY.

13 Q AND DID YOU SPEAK TO MS. [REDACTED]

14 A JUST TO SAY HELLO.

15 Q WHAT DID YOU DO THEN?

16 A I WALKED INTO THE HOUSE.

17 Q DID MS. [REDACTED] COME INTO THE HOUSE?

18 A NO.

19 Q WHAT, IF ANYTHING, DID MS. [REDACTED] DO?

20 A I HAVE NO IDEA. I WENT TO MY ROOM.

21 Q WHERE WAS MR. [REDACTED] AT THAT TIME?

22 A I BELIEVE HE WAS INSIDE THE HOUSE.

23 Q DID MS. [REDACTED] COME INTO THE HOME?

24 A I DON'T KNOW, I WAS IN MY ROOM.

25 Q DID MR. [REDACTED] LEAVE?

26 A I DON'T KNOW, I WAS IN MY ROOM.

1 Q DID YOU HAVE ANY CONVERSATION WITH MS. [REDACTED]  
2 YOURSELF ON THAT DAY?

3 A OTHER THAN TO SAY HELLO AND THAT WAS ABOUT  
4 IT. SHE MAY HAVE MENTIONED THAT SHE HAD BEEN SUBPOENAED  
5 ON THIS AS WELL.

6 Q DID SHE SAY -- WHEN YOU SAY SHE MAY HAVE  
7 MENTIONED THAT SHE HAD BEEN SUBPOENAED ON THIS AS WELL,  
8 YOU MEAN THESE GRAND JURY PROCEEDINGS?

9 A YES.

10 Q SO THE TWO OF YOU DISCUSSED THE FACT THAT SHE  
11 HAD HAD A SUBPOENA FOR THE GRAND JURY?

12 A WE DIDN'T DISCUSS IT, IT WAS PART OF A  
13 GREETING CONVERSATION THAT WE HAD THAT LASTED PROBABLY  
14 NO MORE THAN 15, 20 SECONDS.

15 Q SO SHE SAID HELLO I'VE BEEN SUBPOENAED TO BE  
16 A WITNESS BEFORE THE GRAND JURY?

17 A I COULDN'T TELL YOU THE EXACT WORDS SHE USED,  
18 COUNSEL.

19 Q BESIDES THE GREETING AND TELLING YOU THAT SHE  
20 HAD BEEN SUBPOENAED TO BE A WITNESS TO THESE  
21 PROCEEDINGS, DID SHE SAY ANYTHING ELSE TO YOU?

22 A NO.

23 Q DID YOU HAVE A CONVERSATION WITH MR. [REDACTED]  
24 AFTER MS. [REDACTED] HAD LEFT?

25 A NO.

26 Q HAVE YOU SPOKEN TO MR. [REDACTED] SINCE A COUPLE

1 OF DAYS AGO WHEN YOU GOT HOME AND WENT INTO YOUR ROOM?

2 A I MIGHT HAVE SPOKE TO HIM TUESDAY MORNING  
3 BEFORE I LEFT FOR WORK. I DIDN'T SEE HIM AT ALL  
4 YESTERDAY SINCE I WAS AT WORK FOR 16 HOURS. AND I SAW  
5 HIM BRIEFLY THIS MORNING.

6 Q DID YOU DISCUSS WITH MR. [REDACTED] THE FACT THAT  
7 YOU HAD RECEIVED A SUBPOENA IN THIS CASE?

8 A I DON'T THINK I NEEDED TO, HE SAW ME HERE  
9 THIS MORNING.

10 Q SIR, MY QUESTION IS DID YOU DISCUSS WITH HIM  
11 THE FACT THAT YOU HAD RECEIVED THE SUBPOENA IN THIS  
12 CASE?

13 A NO.

14 Q DID YOU MAKE HIM AWARE IN ANY FASHION THAT  
15 YOU HAD RECEIVED A SUBPOENA IN THIS CASE?

16 A NOT THAT I CAN RECALL I DIDN'T.

17 Q DID YOU HAVE ANY DISCUSSION ABOUT THE FACT  
18 THAT YOU HAD RECEIVED THE SUBPOENA IN THIS CASE WHEN  
19 MR. [REDACTED] WAS PRESENT?

20 A OTHER THAN THIS MORNING, NO.

21 Q WHEN YOU SAY THIS MORNING, DID THAT  
22 CONVERSATION TAKE PLACE HERE AT THE FEDERAL COURTHOUSE  
23 OR AT SOME OTHER LOCATION?

24 A HERE.

25 Q WHERE HERE DID THAT CONVERSATION TAKE PLACE?

26 A ON THE 8TH FLOOR.

1 Q HAVE YOU SPOKEN TO MR. [REDACTED] UP TO THE  
2 MOMENT THAT YOU TOOK THE STAND ABOUT ANY CONVERSATIONS  
3 THAT HE HAS HAD WITH ANYONE WHO HAS BEEN SUBPOENAED AS A  
4 WITNESS IN THIS CASE?

5 A NO.

6 Q DID YOU SHARE WITH MR. [REDACTED] YOUR FEELINGS  
7 ABOUT THE FACT THAT YOU HAD BEEN SUBPOENAED AS A WITNESS  
8 IN THIS CASE?

9 A NO.

10 BY MR. LUBINSKI:

11 Q DEPUTY DOW, MY NAME IS MIKE LUBINSKI FROM THE  
12 DISTRICT ATTORNEY'S OFFICE. I WOULD LIKE SOME  
13 CLARIFICATION PLEASE IF YOU COULD THINK ABOUT YOUR  
14 ANSWER HERE.

15 YOU SAW [REDACTED] TUESDAY AFTERNOON WHEN  
16 YOU RETURNED TO YOUR RESIDENCE, CORRECT?

17 A NO, THAT IS NOT CORRECT.

18 Q I'M SORRY THEN, WHEN WAS IT?

19 A I BELIEVE IT MIGHT HAVE BEEN A MONDAY.

20 Q SO [REDACTED] WAS AT [REDACTED] HOUSE  
21 ON MONDAY DECEMBER 3RD?

22 A I WOULD ASSUME SO. IT WAS EITHER SUNDAY OR  
23 MONDAY. I DON'T REALLY RECALL THE EXACT DATE. BUT I  
24 KNOW IT WASN'T TUESDAY, I WAS AT WORK ALL DAY TUESDAY.

25 Q AND WEDNESDAY, WERE YOU AT WORK ALL DAY  
26 WEDNESDAY?

1           A     YES.

2           Q     AND YOU WERE AT WORK ALL DAY TUESDAY?

3           A     YES.

4           Q     AND WHAT WAS YOUR SHIFT THEN?

5           A     TUESDAY WAS FROM 10:30 IN THE MORNING TO

6 11:00 AT NIGHT. WEDNESDAY WAS FROM 6:30 IN THE MORNING

7 UNTIL 11:00 AT NIGHT.

8           Q     AND WHEN YOU GOT DRESSED TO COME TO COURT

9 THIS MORNING DID YOU SEE [REDACTED] DRESSED?

10          A     NO, I DID NOT.

11          Q     YOU DIDN'T PASS HIM ON THE FREEWAY?

12          A     NO. I DIDN'T TAKE THE FREEWAY.

13          Q     YOU WERE LIVING WITH HIM ON THE NIGHT THAT

14 JOHN CHAMBERLAIN WAS MURDERED AT THEO LACY?

15          A     YES.

16          Q     WERE YOU WORKING AT THEO LACY THAT EVENING?

17          A     NO.

18          Q     AND MOD R, WHO WAS ASSIGNED -- WHAT SORT OF

19 INMATES ARE ASSIGNED TO MOD R RIGHT NOW?

20          A     THEY'RE CALLED R3 INMATES. THEY'RE ALL SEX

21 OFFENDERS.

22          Q     AND IS THAT SOMETHING NEW TO THE THEO LACY

23 CLASSIFICATION SYSTEM MOD R?

24          A     WELL NOT THE MOD ITSELF BUT THE

25 CLASSIFICATION WHERE THEY HAVE ALL THESE INMATES HOUSED

26 IN THERE TOGETHER IS.

1 Q AND SO MOD R IS NOW HOUSING A CERTAIN TYPE OF  
2 INMATE?

3 A YES.

4 Q AND ON OCTOBER 5TH, 2006, MOD R, WHO DID THEY  
5 HOUSE?

6 A I BELIEVE THE MOD WAS EMPTY AT THAT TIME.

7 Q AND THE TYPE OF PEOPLE -- WHAT DID YOU  
8 CLASSIFY THEM, THE INMATES THAT ARE HOUSED?

9 A THEY'RE CALLED R3.

10 Q WHAT DOES R3 MEAN?

11 A I HAVE NO IDEA, THAT'S JUST A DESIGNATOR  
12 THAT'S WRITTEN ON THE J-119, WHICH IS THE FORM WE GET  
13 FROM CLASSIFICATION STATING ANY TYPE OF SEPARATIONS OR  
14 WHAT -- HOW THEY'RE TO BE HANDLED.

15 Q AND IS THERE SOME COMMON CHARACTERISTIC OF  
16 THOSE INMATES IN MOD R?

17 A YES.

18 Q WHAT IS THAT?

19 A AT ONE TIME OR ANOTHER IN THEIR CRIMINAL PAST  
20 THEY HAVE COMMITTED A SEX CRIME.

21 Q AND ARE THEY -- BASICALLY IN MOD R NOW ARE  
22 ALL OF THOSE TYPE OF PEOPLE HOUSED IN MOD R?

23 A YES.

24 Q IN THE PAST, OCTOBER 5TH, 2006 WHERE WERE  
25 PEOPLE WITH SIMILAR CHARGES HOUSED?

26 A THROUGHOUT THE FACILITY.

1 Q WHEN DID IT CHANGE THAT MOD R OPENED UP JUST  
2 TO HOUSE PEOPLE WITH SEXUAL HISTORY?

3 A I HAVE NO IDEA.

4 Q WELL HOW LONG HAVE YOU BEEN A DEPUTY AT MOD R?

5 A TWO AND A HALF MONTHS.

6 Q OKAY. AND YOU'VE BEEN WORKING AT THEO LACY  
7 FOR HOW LONG?

8 A SEVEN AND A HALF YEARS.

9 Q DID SOME MEMO COME UP, WERE YOU INFORMED BY  
10 YOUR COMMAND STAFF THAT WE HAVE NOW A SPECIAL  
11 CLASSIFICATION FOR THE MOD R INMATES?

12 A IT'S NOT A SPECIAL CLASSIFICATION, IT'S --  
13 THEY'VE ALWAYS BEEN R3 INMATES, THEY JUST WERE ALL MOVED  
14 FROM EVERY OTHER LOCATION WITHIN THE FACILITY UP TO  
15 MOD R.

16 Q OKAY. CAN YOU PLEASE EXPLAIN TO US WHEN THEY  
17 ALL GOT MOVED AND FUNNELED INTO ONE MOD?

18 A NO I CAN'T EXPLAIN THAT TO YOU. I DON'T KNOW  
19 WHEN IT OCCURRED.

20 Q IN THE LAST MONTH?

21 A IT'S BEEN THE LAST YEAR, SINCE 2007 BEGAN.

22 Q SINCE THE MURDER OF JOHN CHAMBERLAIN?

23 A YES.

24 Q HOW FAR AFTER THE MURDER OF JOHN CHAMBERLAIN  
25 WAS THIS MODIFICATION MADE?

26 A I DON'T KNOW.

1 Q MONTHS?

2 A I DON'T KNOW.

3 Q IN MOD R ARE THERE CARS?

4 A COULD YOU PLEASE EXPLAIN WHAT YOU MEAN BY  
5 CARS?

6 Q AS A DEPUTY OVERSEEING THE THEO LACY MAXIMUM  
7 SECURITY JAIL HAVE YOU EVER HEARD THE TERM CARS IN  
8 INMATE TERMINOLOGY?

9 A IN INMATE TERMINOLOGY, YES.

10 Q WHAT DOES IT MEAN?

11 A A GROUP.

12 Q WHAT KIND OF GROUP?

13 A A GROUP OF PEOPLE BASED ON THEIR RACE.

14 Q WHAT TYPE OF CARS ARE AT THEO LACY FROM YOUR  
15 EXPERIENCE?

16 A THERE'S WHITE, BLACK, ASIAN, AMERICAN BORN  
17 HISPANICS AND MEXICAN BORN HISPANICS.

18 Q WHAT'S THE NAME GIVEN TO THOSE CARS BY THE  
19 INMATES AND THE JAIL DEPUTIES?

20 A BY THE INMATES THEY'RE CALLED WOODS, BLACKS,  
21 CHINOS, SOUTHSIDERS AND PISANOS.

22 Q HOW DO THE DEPUTIES REFER TO THEM?

23 A WHITE, BLACK, HISPANIC, ASIAN. I JUST REFER  
24 TO THEM AS INMATES, COUNSEL, I DON'T SEPARATE THEM BY  
25 RACE.

26 Q YOU HEARD OF THE TERM SHOT-CALLERS?

1           A     I'VE HEARD THE TERM.

2           Q     DO YOU KNOW WHAT A SHOT-CALLER IS?

3           A     I COULD PROBABLY GIVE YOU AN EXPLANATION OF

4     WHAT I'VE HEARD A SHOT-CALLER IS.

5           Q     IF YOU WOULD, PLEASE.

6           A     THAT WOULD BE SOMEBODY THAT THE INMATES HAVE

7     DESIGNATED TO BE THE ONE THAT REPRESENTS THEM WITHIN

8     THEIR CAR.

9           Q     AND AS DEPUTIES THAT WORK IN THE JAIL HOW DO

10    YOU DEAL WITH THE SHOT-CALLERS?

11          A     THERE ARE NO SHOT-CALLERS AS FAR AS WE'RE

12    CONCERNED.

13          Q     WHO'S WE?

14          A     WE, THE DEPUTIES.

15          Q     YOU REPRESENT ALL THE DEPUTIES?

16          A     NO. I'M A DEPUTY.

17          Q     HOW DO YOU KNOW THAT THEN?

18          A     WE DO NOT RECOGNIZE ONE INMATE AS BEING IN

19    CHARGE OF OTHER INMATES. THEY'RE INMATES. WE'RE IN

20    CHARGE OF THE INMATES.

21          Q     WHAT DO YOU BASE THAT UPON?

22          A     MY JOB CLASSIFICATION. I AM A DEPUTY

23    SHERIFF. MY JOB IS TO TAKE CARE OF INMATES.

24          Q     DID YOU EVER HEAR DEPUTY ██████████ TALK ABOUT

25    CARS?

26          A     I DON'T TALK TO DEPUTY ██████████ ABOUT WORK.

1 Q DO YOU TALK TO DEPUTY [REDACTED] ABOUT ANYTHING?

2 A OCCASIONALLY.

3 Q PAYING YOUR RENT?

4 A USUALLY.

5 Q WHAT ELSE?

6 A SOLID SURFACE COUNTERTOPS.

7 Q SO AS FELLOW DEPUTIES AT THE SAME JAIL YOU  
8 DON'T REALLY TALK ABOUT WORK AT ALL WITH EACH OTHER?

9 A I DON'T ASSOCIATE WITH PEOPLE FROM WORK  
10 OUTSIDE OF WORK.

11 Q YOU'VE NEVER HEARD DEPUTIES REFER TO THE CARS  
12 THAT REFER TO THE INMATES AS WOODS, PISANOS,  
13 SOUTHSIDERS?

14 A THEY MAKE THEM UP SOMETIMES.

15 Q NEVER HEARD DEPUTIES USE THE SHOT-CALLERS TO  
16 KEEP THE OTHER INMATES UNDER CONTROL?

17 A LIKE I SAID, COUNSELOR, I DON'T KNOW WHAT  
18 OTHER DEPUTIES DO BUT I DON'T RECOGNIZE ANYONE AS A  
19 SHOT-CALLER.

20 Q WELL JUST BECAUSE YOU KEPT USING THE WORD WE,  
21 YOU SEEM TO REPRESENT YOUR GROUP?

22 A NO. I SAY WE AS DEPUTIES, AS A GROUP OF  
23 PEOPLE. I DON'T KNOW WHAT AN INDIVIDUAL DOES.

24 Q IT WOULD BE WRONG AS A GOOD DEPUTY TO USE  
25 SHOT-CALLERS TO RUN A BARRACKS, WOULDN'T IT?

26 A IT WOULD BE WRONG OF ANY DEPUTY TO USE A

1 SHOT-CALLER.

2 Q WOULD IT BE WRONG BY A DEPUTY TO ALLOW CARS  
3 OR PRISONERS TO TAX OTHER INMATES?

4 A NOBODY CONDONES PUNISHMENT ISSUED BY ANOTHER  
5 INMATE ON AN INMATE.

6 Q DID YOU HAVE A TV MONITOR SET UP IN ANY OF  
7 THE FACILITIES YOU WORKED IN?

8 A FACILITIES AS IN THE JAIL ITSELF?

9 Q JAIL AT THEO LACY.

10 A DID I?

11 Q MODS OR BARRACKS THAT YOU WORKED IN.

12 A I DON'T UNDERSTAND EXACTLY WHAT IT IS YOU'RE  
13 ASKING ME?

14 Q DID YOU EVER WORK IN ANY SORT OF BARRACKS?

15 A YES.

16 Q AND DID YOU EVER WORK INSIDE WHAT'S KNOWN AS  
17 THE BUBBLE?

18 A THE GUARD STATION, YES.

19 Q YOU KNOW THE BUBBLE AS BEING THE GUARD  
20 STATION?

21 A YES.

22 Q AND IN THAT GUARD STATION AT SOME POINT IN  
23 TIME WAS THERE A TV IN THERE?

24 A YES.

25 Q DID YOU EVER WATCH DVD'S ON YOUR TV?

26 A NO.

1 Q DID YOU EVER SEE ANY OTHER DEPUTIES WATCH  
2 DVD'S ON THE GUARD STATION TV?

3 A AS I RECALL THERE WERE ONLY A FEW GUARD  
4 STATIONS THAT MIGHT HAVE HAD A DVD PLAYER IN THEM.

5 Q WHICH ONES?

6 A I DON'T KNOW, I DIDN'T WORK IN THOSE  
7 LOCATIONS.

8 Q YOU SAID AS YOU RECALL.

9 A YEAH, I'VE HEARD SOME OTHER PEOPLE TALK ABOUT  
10 IT. I COULDN'T TELL YOU WHO OR WHAT TIME THEY WERE  
11 TALKING ABOUT IT OVER THE LAST SEVEN YEARS, BUT I DO  
12 KNOW THAT SOME PEOPLE HAVE WATCHED MOVIES AT WORK.

13 Q HAVE YOU WORKED -- HOW LONG OF A PERIOD OF  
14 TIME -- HAVE YOU WORKED F BARRACKS?

15 A ON OCCASION. NOT AS AN ASSIGNMENT.

16 Q TO FILL IN MAYBE TO DO OVERTIME WHEN THERE'S  
17 A SHORTAGE?

18 A YES.

19 Q AND DID YOU WORK THERE AS A PROWLER IN  
20 F BARRACKS?

21 A THAT WOULD BE MY ASSIGNMENT, YES.

22 Q WHEN YOU SAT IN F BARRACKS BUBBLE HOW DID YOU  
23 MONITOR THE INMATES?

24 A LIKE I DO IN ANY HOUSING LOCATION, I KEEP AN  
25 EYE ON THEM. I SEE WHAT THEY'RE DOING WHEN DAYROOMS ARE  
26 OPEN. I'M GENERALLY WATCHING WHAT THEIR DOING, BUT

1 THERE'S OTHER COLLATERAL ISSUES THAT COME UP: TEN SOUTH  
2 DUTY, CHOW HALL, THE OCCASIONAL RESTROOM BREAK.

3 Q I UNDERSTAND WHEN YOU'RE OUTSIDE OF THE  
4 BUBBLE YOU CAN'T BE WATCHING THE INMATES BECAUSE OF THE  
5 WAY THE FACILITY IS SET UP TO WATCH THE INMATES, YOU  
6 EITHER HAVE TO BE INSIDE THE BARRACKS ITSELF DURING OPEN  
7 DAYROOM OR OUT IN THE DAYROOM AREA OR INSIDE THE BUBBLE  
8 TO MONITOR THE INMATES IN F BARRACKS, CORRECT?

9 A YES.

10 Q NOW I'M JUST ASKING YOU WHEN YOU'RE  
11 MONITORING THE INMATES INSIDE OF F BARRACKS DESCRIBE HOW  
12 YOU WOULD MONITOR THEM?

13 A I WOULD LOOK OUT INTO THE DAYROOM AREA, LOOK  
14 INTO THE CUBES.

15 Q WOULD YOU SLEEP?

16 A NO, SIR.

17 Q WOULD YOU WATCH TV?

18 A OCCASIONALLY.

19 Q WHAT TYPE OF TV WOULD YOU WATCH?

20 A IF IT WAS ON, WHATEVER WAS BEING WATCHED.

21 Q EVER HEARD OF PEOPLE PLAYING NINTENDO GAMES,  
22 GUARDS PLAYING NINTENDO GAMES INSIDE THE BARRACKS?

23 A NINTENDO, NO.

24 Q PLAYSTATION?

25 A NO.

26 Q NEVER?

1           A     NOT PLAYSTATION, NO.

2           Q     WHAT HAVE YOU HEARD WHAT TYPE OF GAMES THE  
3 DEPUTIES HAVE PLAYED?

4           A     BESIDES, YOU MEAN, PLAYING WITH EACH OTHER I  
5 HEARD AT ONE POINT SOMEBODY HAD AN X BOX, BUT THAT WAS  
6 INSIDE THE MODS. I'VE HEARD SOME PEOPLE HAVE THEIR --  
7 THOSE SMALL PSP'S.

8           Q     WE'VE HEARD SOME STORIES GOING AROUND HOW  
9 THEY EVEN SET UP THESE EITHER PLAYSTATIONS, X BOX, OR  
10 SOMETHING WHERE THE DEPUTIES COULD PLAY EACH OTHER IN  
11 THE DIFFERENT BARRACKS AND MODS; HAVE YOU HEARD THAT?

12          A     I DON'T THINK YOU CAN LINK TOGETHER A GAME  
13 SYSTEM LIKE THAT TO PLAY IN OTHER LOCATIONS WHERE PEOPLE  
14 ARE IN ONE BARRACKS OR ANOTHER.

15          Q     YOU NEVER HEARD ABOUT THAT?

16          A     NO.

17          Q     NO DEPUTIES EVERY DOING THAT?

18          A     NO.

19          Q     IF SOMEONE GETS BEATEN FOR 20 MINUTES AND YOU  
20 WORKED F BARRACKS, DO YOU THINK YOU WOULD HAVE NOTICED  
21 THAT? WHEN I SAY SOMEONE, I MEAN AN INMATE.

22          A     WHERE ARE WE TALKING ABOUT THIS BEATING  
23 OCCURRING? ARE WE TALKING ON THE DAYROOM FLOOR.  
24 PROBABLY WOULDN'T LAST MORE THAN 10 SECONDS BEFORE I  
25 NOTICED IT.

26          Q     OKAY. GOOD POINT. A BEATING COULD START BUT

1 WHEN YOU'RE MONITORING SOMEBODY IT WOULD PROBABLY LAST  
2 ONLY 10 SECONDS.

3 A I WOULD SAY IT WOULD LAST LONG ENOUGH FOR ME  
4 TO REALIZE THAT THERE'S SOME KIND OF COMMOTION GOING ON.

5 Q AND HOW -- I'M CALLING UPON YOUR EXPERIENCE  
6 RIGHT NOW, CALLING UPON YOUR EXPERIENCE TO TELL US HOW  
7 YOU GO ABOUT NOTICING UNUSUAL ACTIVITY BY INMATES  
8 SITTING IN A BARRACKS, 146 INMATES IN F BARRACKS WEST?

9 A THEY WOULD JUST RUSH TO A CERTAIN LOCATION,  
10 AND THAT'S GENERALLY WHERE THE FIGHT IS.

11 Q WHAT ABOUT TAXINGS THAT TAKE PLACE?

12 A TAXINGS?

13 Q DO YOU KNOW ABOUT TAXINGS?

14 A I'VE HEARD ABOUT IT.

15 Q WHAT DO YOU KNOW ABOUT TAXINGS?

16 A COULD BE ANY TYPE OF PAYMENT FOR SOME KIND OF  
17 INDISCRETION FROM ONE INMATE TO ANOTHER.

18 Q HAVE YOU READ THE REGISTER OR THE NEWSPAPER  
19 ACCOUNTS OF THE JOHN CHAMBERLAIN MURDER?

20 A I TRY TO AVOID THAT.

21 Q I JUST ASKED HAVE YOU READ THEM?

22 A I MIGHT HAVE READ ONE OR TWO IN THE  
23 BEGINNING, BUT I JUST AVOID THEM ALL AT THIS POINT.

24 Q DID YOU HEAR OR GAIN INFORMATION FROM EITHER  
25 OTHER DEPUTIES TALKING OR THE NEWSPAPER ACCOUNTS THAT IT  
26 WAS MULTIPLE INMATES THAT KILLED JOHN CHAMBERLAIN?

1           A     I HAD HEARD THAT THERE WAS MORE THAN THREE  
2 BUT LESS THAN 10.

3           Q     HOW DID YOU HEAR THAT?

4           A     THROUGH SOME RUMORS RUNNING AROUND AT THE  
5 JAIL.

6           Q     DID YOU HEAR HOW LONG THE BEATING TOOK PLACE?

7           A     NO.

8           Q     WOULD IT SURPRISE YOU THAT A BEATING LASTED  
9 AT LEAST 20 MINUTES? WOULD THAT BE UNUSUAL --

10          A     YES.

11          Q     -- IN F BARRACKS WEST?

12          A     WELL I DON'T KNOW ABOUT F BARRACKS WEST, BUT  
13 I THINK IT WOULD BE UNUSUAL ANYWHERE.

14          Q     AND WHAT IF THE BEATING LASTED UP TO 45  
15 MINUTES TO AN HOUR?

16          A     AGAIN, ANYWHERE A BEATING LASTED FOR 45  
17 MINUTES TO AN HOUR I THINK WOULD BE UNUSUAL, IT WOULDN'T  
18 BE DETERMINED BY ITS LOCATION.

19               MR. LUBINSKI: I HAVE NO FURTHER QUESTIONS,  
20 MR. FOREMAN.

21               THE GRAND JURY FOREPERSON: ARE THERE ANY  
22 QUESTIONS FROM THE GRAND JURY?

23               MR. LUBINSKI: DEPUTY, DO YOU -- THE GRAND JURY  
24 HAS THE ABILITY TO ASK YOU QUESTIONS. I WILL READ THOSE  
25 VERBATIM TO YOU.

26               THE WITNESS: YES, SIR.

1 BY MR. LUBINSKI:

2 Q "INMATES ELECT REPRESENTATIVES. WHAT  
3 FUNCTION DO THESE REPRESENTATIVES SERVE?"

4 A INMATES DON'T ELECT REPRESENTATIVES. AND  
5 THERE ARE NO REPRESENTATIVES THAT SERVE ANY FUNCTION AS  
6 FAR AS I'M CONCERNED.

7 Q MY OWN QUESTION. HOW DO SHOT-CALLERS GET  
8 SELECTED?

9 A SIR, I DON'T KNOW. I DON'T RECOGNIZE  
10 SHOT-CALLERS.

11 Q THE FACT THAT YOU REFUSE TO RECOGNIZE THEM  
12 MAY BE ONE THING, BUT THE FACT OF THEIR EXISTENCE IN  
13 THEO LACY HAS BEEN VERY VERY OBVIOUS. DO YOU DISAGREE  
14 WITH THAT STATEMENT?

15 A I DON'T KNOW WHAT YOU MEAN BY VERY VERY  
16 OBVIOUS.

17 Q BECAUSE YOU'RE PROBABLY THE ONLY JAIL DEPUTY  
18 THAT HAS COME IN HERE AND DENIED THAT THE DEPUTIES DON'T  
19 RECOGNIZE THAT.

20 A I DON'T DENY -- I'M NOT DENYING THAT ANYBODY  
21 DOES ANYTHING. I'M SAYING THAT I PERSONALLY WOULD NOT  
22 GIVE AN INMATE ANY GREATER INFLUENCE OVER ANOTHER INMATE  
23 SIMPLY BECAUSE ANOTHER INMATE HAS SAID OH, WELL, THIS IS  
24 THE PERSON THAT'S IN CHARGE. THEY'RE ALL INMATES. WE  
25 THE DEPUTIES ARE IN CHARGE.

26 Q YOU MAKE A VERY GOOD POINT THERE, BECAUSE IF

1 YOU DO THAT WHAT WILL HAPPEN IN THE INMATE CULTURE IF  
2 YOU GIVE ONE INMATE MORE POWER THAN OTHERS?

3 A IT'S JUST LIKE IN ANY OTHER CULTURE IF YOU  
4 GIVE SOMEONE POWER, POWER CORRUPTS.

5 Q BACK TO THE GRAND JURY QUESTIONS. "WHAT DUTY  
6 STATIONS HAVE YOU ROTATED THROUGH FROM OCTOBER 2006 TO  
7 THE PRESENT." SO IF YOU COULD GIVE US YOUR ASSIGNMENTS  
8 FROM OCTOBER 2006 TO CURRENT.

9 A CURRENTLY WORKING MODULE R. PRIOR TO THAT I  
10 WAS IN THE AE WORKERS BARRACKS. AND THEN PRIOR TO THAT  
11 I WAS WORKING SHIFT FOUR PROGRAMS WHERE I HANDLED CHAPEL  
12 DUTIES.

13 Q YOU SAID YOU'VE BEEN IN MOD R FOR TWO AND A  
14 HALF MONTHS?

15 A APPROXIMATELY.

16 Q HOW LONG WORKING AE BARRACKS?

17 A SINCE THE END OF JANUARY TO THE END OF  
18 AUGUST. ABOUT EIGHT MONTHS.

19 Q JANUARY 2007?

20 A YES. I'M SORRY.

21 Q TO AUGUST 2007?

22 A YES.

23 Q WELL ISN'T THE SHIFT CHANGE -- THE SHIFT  
24 CHANGE OCCURS IN JULY?

25 A NORMALLY IT DOES, BUT BECAUSE OF THE ORANGE  
26 COUNTY FAIR THEY MOVED IT BACK A MONTH.

1 Q AND THEN THE SHIFT FOUR PROGRAM CHAPEL, HOW  
2 LONG DID YOU WORK THAT?

3 A THE PRIOR SIX MONTHS, SO JULY TO JANUARY.

4 Q THANK YOU. GRAND JURY QUESTION VERBATIM:  
5 "HOW CAN YOU SAY YOU DON'T ASSOCIATE WITH OTHER DEPUTIES  
6 OUTSIDE WORK WHEN YOU'VE LIVED WITH NOT ONE BUT TWO  
7 EMPLOYEES OF THE ORANGE COUNTY SHERIFF'S DEPARTMENT?"

8 A I LIVE IN A HOUSE WITH ANOTHER DEPUTY. I  
9 DON'T ASSOCIATE WITH OTHER DEPUTIES OUTSIDE OF WORK. I  
10 DON'T HAVE A LOT IN COMMON WITH THOSE PEOPLE. I LIKE TO  
11 DO MY OWN THING.

12 EVEN THOUGH I'M LIVING WITH [REDACTED] I PROBABLY  
13 IN THE LAST 14 MONTHS HAVE SAT DOWN TO MAYBE TWO MEALS  
14 WITH HIM IN THAT TIME PERIOD. I HAVE MY OWN INTEREST  
15 THAT I ENGAGE IN.

16 Q THERE IS A SECONDARY QUESTION TO THIS. IT  
17 SAYS, "HOW DO YOU KNOW [REDACTED] WHO DOES NOT WORK AT THEO  
18 LACY?" [REDACTED]

19 A THROUGH [REDACTED]

20 Q IS THAT BECAUSE SHE'S A REGULAR VISITOR WITH  
21 [REDACTED]

22 A SHE'S AN OCCASIONAL VISITOR THAT I HAVE SEEN  
23 ON PROBABLY HALF A DOZEN, 10 OCCASIONS.

24 Q IN WHAT PERIOD OF TIME?

25 A OVER THE LAST 14 MONTHS.

26 Q YOU'VE COME ACROSS AS BEING VERY HOSTILE

1 TOWARDS THESE PROCEEDINGS, WHY IS THAT?

2 A BECAUSE I HAVE ABSOLUTELY NO KNOWLEDGE OR  
3 DESIRE TO KNOW MORE ABOUT THE JOHN CHAMBERLAIN CASE THAN  
4 WHAT'S BEEN PUT OUT IN THE PAPER. AND I BELIEVE MY  
5 BEING HERE IS NOT ONLY WASTING THE GRAND JURIES TIME,  
6 BUT IS KEEPING ME FROM DOING MY JOB.

7 Q HOW ARE YOU KEPT FROM DOING YOUR JOB?

8 A I SHOULD BE AT WORK RIGHT NOW.

9 Q NOT ENOUGH STAFFING AT THEO LACY?

10 A WE'RE SHORT.

11 Q ARE YOU STILL ABLE TO WORK OUT AN HOUR EVERY  
12 TIME?

13 A I DON'T GO TO THE GYM DURING WORK HOURS.

14 Q OTHERS DO THOUGH.

15 A SOME DO, YES.

16 Q WHAT ABOUT WATCHING VIDEOS, DO THEY WATCH  
17 VIDEOS ANY MORE AT THEO LACY?

18 A OH, NO.

19 Q DID THAT GET STOPPED?

20 A YES.

21 Q HOW DID IT GET STOPPED?

22 A A MEMO WAS PUT OUT THAT THEY'LL BE NO LONGER  
23 TV'S, ANY TYPE OF VIDEO OR DVD PLAYERS, LAPTOPS. ALMOST  
24 GOT TO THE POINT WHERE WE WEREN'T EVEN ALLOWED TO BRING  
25 OUR CELL PHONES INSIDE THE SECURITY.

26 Q ARE YOU ALLOWED TO BRING THE CELL PHONES IN

1 NOW?

2 A YES.

3 Q ARE YOU ALLOWED TO TALK DURING WORK HOURS ON  
4 YOUR CELL PHONES?

5 A AS LONG AS IT'S NOT EXTENDED CONVERSATIONS  
6 WHERE IT'S GOING TO TAKE AWAY FROM YOUR DUTIES, NO,  
7 THAT'S NOT A PROBLEM.

8 Q WAS THAT A MEMO ALSO?

9 A NO, IT'S PRETTY MUCH JUST THE CONCEDED TO  
10 THE, I THINK, RATHER ZEALOUS RESPONSE TO THIS WHOLE  
11 THING.

12 Q WHAT'S ZEALOUS ABOUT IT?

13 A BY DECLARING CELL PHONES NOT INSIDE SECURITY  
14 BECAUSE OF THIS, I THINK THAT'S A LITTLE OVERBOARD.

15 Q WELL I APPRECIATE YOUR PERSONAL OPINION, BUT  
16 IF I JUST MAY RESPOND TO YOU A LITTLE BIT HERE. A MAN  
17 WAS BEATEN TO DEATH BY MULTIPLE INMATES IN WAVES 68 FEET  
18 AWAY FROM A BARRACKS STATION, A DEPUTIES GUARD STATION,  
19 BECAUSE WHY? THEY WERE WATCHING TV, THEY WERE SLEEPING,  
20 THEY WERE DOING WHO KNOWS WHAT. DO YOU THINK PEOPLE --  
21 DO YOU THINK THAT SHOULD BE ALLOWED?

22 A SIR, I DON'T THINK VIOLENCE ON ANOTHER PERSON  
23 SHOULD BE ALLOWED ANYWHERE, PRISON, OUT IN PUBLIC,  
24 ANYWHERE.

25 Q CORRECT. BUT WHY IS THIS SO ZEALOUS? WHY  
26 SHOULD WE LOOK THE OTHER WAY TO THE MURDER?

1           A     I DIDN'T SAY WE SHOULD LOOK THE OTHER WAY.

2           Q     WHAT DID YOU MEAN BY ZEALOUS? I TOOK OFFENSE  
3 TO THAT TO BE HONEST WITH YOU.

4           A     OKAY. SIR, IF SOMEBODY IS SHOT WALKING DOWN  
5 THE STREET SHOULD WE TAKE AWAY ALL OF THE PUBLIC CELL  
6 PHONES BECAUSE SOMEBODY WAS ON THE CELL PHONE MIGHT NOT  
7 HAVE SEEN IT?

8           Q     WHAT DOES THAT HAVE TO DO WITH THIS?

9           A     I THINK THEM EVEN RESTRICTING DEPUTIES  
10 ABILITIES TO GO TO THE GYM IS SOMETHING THAT WE HAVE  
11 BEEN GUARANTEED THAT WE CAN DO, YOU KNOW, FOR I CAN'T  
12 TELL YOU HOW LONG THEY'VE ALLOWED THIS TO HAPPEN BECAUSE  
13 I'VE ONLY BEEN THERE FOR FIVE YEARS. BUT WHEN THEY  
14 START EQUATING ONE THING WITH ANOTHER AS FAR AS OKAY A  
15 CELL PHONE. OKAY, I COULD SEE THE TV, I COULD SEE THE  
16 LAPTOPS, I CAN SEE THE GAME STATIONS, I COULD SEE THE  
17 DVD PLAYERS, BUT A CELL PHONE? TO A LOT OF PEOPLE  
18 THAT'S THEIR ONLY CONTACT, THAT'S THEIR ONLY WAY TO MAKE  
19 CONTACT WITH OTHER PEOPLE. I DON'T HAVE A HOME PHONE.  
20 FOR ME TO LOSE 12 HOURS OR 14 HOURS A DAY OF CONTACT  
21 WITH SOMEBODY, I THINK THAT'S A LITTLE BIT OVER THE TOP.

22           Q     HAVE THEY TAKEN AWAY YOUR WORKOUT TIME AT  
23 THEO LACY?

24           A     AT THIS POINT THEY HAVE SAID AND THEY HAVE  
25 REPEATED IF IT HINDERS THE ABILITY TO RUN YOUR GUARD  
26 STATION YOU MIGHT WANT TO CONSIDER EITHER WORKING OUT

1 BEFORE OR AFTER.

2 Q YOU TAKE OFFENSE TO THAT STATEMENT?

3 A NO.

4 Q HOW OFTEN DO YOU PROWL THE FLOOR WHEN ON DUTY  
5 IN THE BARRACKS?

6 A I DON'T WORK IN THE BARRACKS, BUT WHEN I DID  
7 I WAS OUT THERE PRETTY REGULARLY.

8 Q WHAT DOES THAT MEAN?

9 A AT LEAST EVERY 45 MINUTES TO AN HOUR AND A  
10 HALF.

11 Q WELL AREN'T YOU SUPPOSED TO DO IT EVERY 30  
12 MINUTES?

13 A THERE'S GENERALLY TWO PROWLERS IN A GUARD  
14 STATION. THERE'S REALLY NO REASON FOR BOTH OF US TO GO  
15 OUT EVERY TIME.

16 Q SO IT'S YOUR UNDERSTANDING THAT DEPUTIES WILL  
17 GO OUT AND PROWL ALONE?

18 A I PRETTY MUCH DO IT ON MY OWN, YES.

19 Q AND THE VIDEO'S TURNED ON THEN?

20 A SOMETIMES.

21 Q ISN'T IT SUPPOSED TO BE TURNED ON ALL THE  
22 TIME WHEN A DEPUTY ENTERS THE DAYROOM?

23 A AGAIN, I DON'T WORK IN THE BARRACKS. I  
24 HAVEN'T WORKED IN THE BARRACKS IN THREE OR FOUR YEARS.  
25 SO IN THE MODS, NO, THE INMATES ARE LOCKED DOWN IN THEIR  
26 CELLS.

1 Q DO THE DEPUTIES IN THE GUARD STATION SHARE  
2 MONITORING DUTIES?

3 A YES.

4 Q IF YOU MISSED AN INMATE ALTERCATION WOULD YOU  
5 EXPECT THE OTHER DEPUTIES OR GUARDS TO CATCH IT?

6 A I WOULD HOPE SO, YES.

7 MR. LUBINSKI: I HAVE NO FURTHER QUESTIONS.

8 THE GRAND JURY FOREPERSON: ARE THERE ANY OTHER  
9 QUESTIONS FROM THE GRAND JURY?

10 DEPUTY DOW, YOU ARE ADMONISHED NOT TO DISCUSS  
11 OR REPEAT AT ANY TIME OUTSIDE OF THIS JURY ROOM THE  
12 QUESTIONS THAT HAVE BEEN ASKED YOU IN REGARD TO THIS  
13 MATTER, OR YOUR ANSWERS, WITH THE UNDERSTANDING THAT  
14 SUCH DISCLOSURES ON YOUR PART MAY BE THE BASIS OF A  
15 CHARGE AGAINST YOU OF CONTEMPT OF COURT.

16 OF COURSE, YOU'RE FREE TO CONSULT WITH YOUR  
17 ATTORNEY FOR THE PURPOSE OF SEEKING LEGAL ADVISE OR THE  
18 DISTRICT ATTORNEY AND HIS HER INVESTIGATORS. DO YOU  
19 UNDERSTAND?

20 THE WITNESS: YES, SIR.

21 THE GRAND JURY FOREPERSON: THANK YOU FOR  
22 TESTIFYING. YOU MAY BE EXCUSED FROM THE HEARING ROOM.

23 MR. LUBINSKI: MR. FOREMAN, WE NEED TO STAY ON THE  
24 RECORD. THERE WAS ONE QUESTION I DIDN'T ASK. THERE IS,  
25 MR. FOREMAN, ONE QUESTION THAT I DIDN'T ASK OF THIS  
26 WITNESS. AND I KNOW WE'VE ASKED EVERY OTHER QUESTION.

1 AND THIS WAS A QUESTION THAT I COULD READ INTO THE  
2 RECORD.

3 [REDACTED] SENT OVER 22 TEXT MESSAGES  
4 WHILE JOHN CHAMBERLAIN WAS MURDERED. PERHAPS IF CELL  
5 PHONES WERE BAND JOHN CHAMBERLAIN WOULD BE ALIVE AND WE  
6 WOULD NOT BE HERE, QUOTE, "WASTING YOUR TIME."

7 I DID NOT ASK THAT QUESTION BECAUSE RIGHT NOW  
8 THE 22 TEXT MESSAGES HAVE ONLY BEEN DIVULGED TO CERTAIN  
9 DEPUTIES. AND WITH OUR LAST WITNESS WE NOW HAVE  
10 REVEALING GRAND JURY TESTIMONY, SO I DID NOT WANT TO  
11 MAKE THAT INFORMATION AVAILABLE TO ANOTHER WITNESS TO  
12 POTENTIALLY TRACK THE SOURCES.

13 WE CAN GO OFF THE RECORD?

14 THE GRAND JURY FOREPERSON: OFF THE RECORD.

15 WE WILL BE IN RECESS FOR 30 MINUTES OR UNTIL  
16 1:00 P.M. DURING ANY PERIOD OF THIS RECESS YOU MUST NOT  
17 DISCUSS WITH ANYONE EITHER INSIDE OR OUTSIDE OF THIS  
18 HEARING ROOM ANY SUBJECT CONNECTED WITH THIS HEARING.

19 (LUNCH RECESS.)

20

21

22

23

24

25

26

ORANGE COUNTY SHERIFF'S DEPARTMENT  
INTERNAL MEMO



**TO:** Deputy William Dow  
**FROM:** Sergeant Chris Denison  
**DATE:** 2/21/2014  
**RE:** Internal Affairs Personnel Investigation # 13-148

---

Deputy Dow,

On February 7, 2014, the Professional Standards Division of the Orange County Sheriff-Coroner Department attempted to interview you concerning, among other things, allegations that you were untruthful when testifying before the Orange County Grand Jury on December 6, 2007. You refused to answer questions presented to you. You claimed, at the time, that the secrecy of Grand Jury proceedings and a court order preclude you from answering the Department's questions. The Department advised you that your refusal to answer questions constituted insubordination. You still refused to comply with the Department's lawful order and, at that time, the interview was suspended.

We have now researched the issue. We have determined that your refusal to answer the Department's questions had no legal basis. This means that your refusal to answer the Department's questions was insubordinate and without legal excuse. This insubordination was itself, and without more, a dischargeable violation of Department policy.

We urge you to reconsider your untenable position. Pursuant to Penal Code section 938.1, the transcripts of your grand jury testimony became public long ago (*i.e.*, ten days after the defendants charged with the murder of John Derek Chamberlain were arraigned.) No privilege applies that might excuse your failure to answer the Department's questions. As to the Court's protective order, neither you, nor the Department, are parties to the criminal case which led to the release of the wiretap transcript. Simply stated, neither you, nor the Department, are bound by any protective order.

Deputy Dow, the Department has an overriding, indeed, compelling need to investigate allegations of official misconduct. **You are hereby ordered to appear for a second investigatory interview on 3/4/14 at 1000 hours at Professional Standards.** Your failure to appear for this second investigatory interview shall constitute insubordination, and may result in discipline, up to and including the termination of your employment.

Sgt. Chris Denison  
Internal Affairs Bureau  
Orange County Sheriff's Department  
714-834-5570



**James E. Trott**  
ATTORNEY AT LAW  
19665 SURFBREAKER LANE  
HUNTINGTON BEACH, CALIFORNIA 9264  
(714 )596-8995  
FACSIMILE (714 )596-8998  
E-MAIL JET202@AOL.COM

5 March 2014

Sent via e-mail

Dear Sgt. Denison,

Orange County Sheriff-Coroner Department on February 7, 2014. Prior to that interview, both William Dow and the Department had been informed of a Court Order signed by Judge Robert Fitzgerald which forbade both the Department and William Dow to reveal or use the transcript of the William Dow's testimony before the Orange County Grand Jury on December 6, 2007 except as it would be used in the defense or prosecution of the [REDACTED] case. A copy of that Court Order is attached. To our knowledge, the department was in possession of the transcript of that testimony only as a result of the release of the document by Court Order of Judge Fitzgerald.

At the interview on February 7, 2014, Mr. Dow, on the advice and objection of his counsel, because he had received both a direct order from Judge Fitzgerald, and a direct order from the Grand Jury, not to reveal what had occurred in the Grand Jury proceeding, he refused to answer because to do so would be a contempt of court and a crime.

Because the Court Order of Judge Fitzgerald is the most recent Order, and therefore supersedes the fact, if it is a fact, that the transcript was somehow released for public use, Mr. Dow, through counsel continues to object. We also object to the Department's use of the transcript, for any purpose other than described in Judge Fitzgerald's order.

You state that Mr. Dow had no legal basis to object to the interview questions that involved the use of the Grand Jury transcript. The legal basis is the Court Order. Until it is countermanded, it remains as an Order of a Superior Court Judge. Also, as you know, the Order was obtained by the District Attorney request from the Court. If the transcript was already public, the District Attorney would have no need for a Court Order. Also, if the transcript was already public and in the hands of the Department, there would be no need for the District Attorney to seek a Court Order for release.

Mr. Dow does not want to lose his job as a result of insubordination. He will answer questions involuntarily, and will continue to object to the use of transcripts by the Department in violation of Judge Fitzgerald's Order. The use of the transcripts constitutes a criminal contempt and violation of Court Order, and is therefore illegal. The use of illegal evidence may not be the basis of an administrative action against Mr. Dow. Certainly, the use of statements which are both coerced and contain illegally obtained evidence cannot be used.

Sgt. Chris Denison  
5 March 2014  
Page Two

We ask the Department to reconsider its untenable position. Regardless of the Penal Code Section 938.1 cited by the Department, a Court Order forbidding the use of evidence trumps a legal interpretation of that section. We ask that you address your demands, and your position, with Judge Fitzgerald and the District Attorney (who originally sought the Order) before proceeding further.

Both the Department and William Dow are parties to the Court Order, and were informed of the Order by the District Attorney before the February 7, 2014 interview, and by receipt of an emailed copy of the Order which was acknowledged by your department by return email confirmation.

Furthermore, in the event the transcripts in fact were not sealed and the department had access to those materials in light of the numerous representations made over the past several years as to the alleged misconduct having been committed by Deputy Dow during his grand jury testimony, it would appear the department has serious statute of limitation issues.

As you are well aware, Government Code §3304(d) requires the department to complete its investigation within one-year of the date of discovery of the alleged misconduct. If, as you allege, the transcripts were available years ago, and we have statements made by department officials of the misconduct, dating back years from today's date, it seems the department has also run afoul of Government Code §3304(d). While we will consider the appropriate action to deal with regarding coerced testimony and statements, I would also be amiss if I did not remind the department of the remedies for knowingly violating the Public Safety Officers Procedural Bill of Rights, as found in Government Code §3309.5 which, among other penalties, also includes a fine of \$25,000, plus attorney's fees.

Deputy Dow will appear for the interview on March 6. He will answer questions in accordance with the law and department rules and regulations to which he has sworn to uphold. However, he continues to object to the Department's improper violation of Judge Fitzgerald's recent Order.

Respectfully,

**James E Trott**

James E. Trott, Counsel for  
Deputy William Dow

cc: Paul S. Meyer  
Mark Nichols  
Paul Bartlet  
William Dow

**Page, Leon**

---

**From:** Lubinski, Mike <Mike.Lubinski@da.ocgov.com>  
**Sent:** Friday, February 14, 2014 10:37 AM  
**To:** Page, Leon  
**Cc:** Bogardus, Keith [DA]  
**Subject:** RE: [REDACTED] GJ proceedings

Hi Leon,

It would be removed. The transcripts are now public and the prohibition would not apply.

Mike

**From:** Page, Leon [mailto:Leon.Page@coco.ocgov.com]  
**Sent:** Friday, February 14, 2014 10:36 AM  
**To:** Lubinski, Mike  
**Subject:** [REDACTED] GJ proceedings

Hi Mike,

Would a witness who testified before the Grand Jury in the [REDACTED] proceedings still be prohibited today from discussing their testimony before the Grand Jury, or was that gag order essentially removed when the transcripts were publicly released?

Leon J. Page  
Senior Deputy County Counsel  
County of Orange  
333 W. Santa Ana Blvd.  
P.O. Box 1379  
Santa Ana, CA 92702  
(714) 834-6238 (direct)  
(714) 834-2359 (fax)

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--  
LJ

## DENISON, CHRISTOPHER A

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**From:** jet202@aol.com  
**Sent:** Thursday, March 27, 2014 1:38 PM  
**To:** DENISON, CHRISTOPHER A  
**Cc:** paul@aocds.org  
**Subject:** Re: Dep. Dow Information Request

Chris,

Thanks for giving me the time I had a personal matter that kept me out of the office yesterday or I would have had this to you then.

It is my understanding that in addition to the grand jury that was formed to investigate the criminal acts surrounding the Chamberlain matter a "special grand jury" was also convened. In that second grand jury it focused on the wire taps that were generated in the original investigation. The information from the first grand jury was released ten days after the indictments were handed down. However, the material on the wire taps that was part of the special grand jury investigation was never opened up as there were no indictments. As Deputy Dow testified relative to the wire taps he fell within the second grand jury case and was ordered at the time of his testimony not to discuss the contents of the testimony after leaving the room, an order he has honored to this day. Furthermore, in recognition of the fact that a second grand jury existed and orders applied, the DA went to the judge in the [REDACTED] matter seeking to have the testimony released for purposes of the criminal trial and potential Brady material/compliance. Had there been no order of confidentiality there would have been no need for the DA to have made the request and obtain the order of release. It was to the "special grand jury" which the order applied to and which has been honored by Deputy Dow. That order was further enhanced recently when Judge Fitzgerald issued the order. Had there been no order of silence there would have been no need to issue the protective order originally on 5 December 2013 and modified immediately prior to our interview.

Deputy Dow has always remained willing to legally answer any questions you have for him in this matter but as an officer of the Court, and a Deputy Sheriff of the Orange County Sheriffs Department, he has sworn to uphold the laws and is intent on doing so until such time as the standing orders are removed. If the Department has any evidence that the material from the wire tap was made public and available years ago we would love to see such but it would seemingly fly in the face of the request for the protective order made by the District Attorney in December of last year.

Should the Department clarify with the Superior Court and the Grand Jury that the restrictions and orders are relinquished Deputy Dow will most assuredly present himself for questions and answer to the best of his ability. He certainly does not wish to jeopardize his career over something that took place many many years ago and of which he had absolutely no involvement. With a sitting Superior Court Judge telling him not to speak, as well as the order from the Grand Jury on one hand, and a Sergeant telling him he has to answer questions in internal affairs, or risk charges, he is being placed in a most unfair position. One that we would ask the department remedy since they insist their position is the correct one. I would think they would be proud and honor a deputy for taking the tough stance when to follow the law is difficult and seek to remedy the situation and have the restrictions removed, thereby allowing Deputy Dow to legally address the questions presented.

With that said, such is our position and I await your response. Again, thank you for the opportunity to present this side one last time.

Jim

James E. Trott  
Law Office of James E. Trott  
19665 Surfbreaker Lane  
Huntington Beach, CA 92648  
Office: (714) 596-8995  
Fax: (714) 596-8998  
Cell: 714-497-6627  
E-mail: [JET202@aol.com](mailto:JET202@aol.com)

-----Original Message-----

From: DENISON, CHRISTOPHER A [mailto:cDenison@ocsd.org]  
To: Paul Bartlett <paul@aocds.org>; jet202 <jet202@aol.com>  
Cc: WANG, MITCHELL Y <MWang@ocsd.org>  
Sent: Wed, Mar 26, 2014 11:54 am  
Subject: RE: Dep. Dow Information Request

Paul,

I will wait until Friday in order to allow Mr. Trott the opportunity to provide the information.

Thanks,

Chris

**Sergeant Christopher Denison**  
**Orange County Sheriff's Department**  
**Internal Affairs Bureau**  
**(714) 834-5570**  
**Office hours: Tuesday – Friday 0600-1600hrs**

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**From:** Paul Bartlett [mailto:paul@aocds.org]  
**Sent:** Wednesday, March 26, 2014 11:19 AM  
**To:** DENISON, CHRISTOPHER A; jet202@aol.com  
**Cc:** WANG, MITCHELL Y  
**Subject:** RE: Dep. Dow Information Request

Sgt. Denison,

I discussed this matter yesterday with Attorney Trott in order to try and clarify some of the issues. I was able to get the information we needed yesterday and forwarded the information to Attorney Trott. Unfortunately today Attorney Trott is unavailable due to a medical procedure and if all goes well, he will be able to address and respond to the issue tomorrow. If it is possible could you delay the submittal of the file for a day so Attorney Trott can respond to you? The delay would be much appreciated.

Thanks,

Paul Bartlett, Assistant Director  
Association of Orange County Deputy Sheriffs  
1314 West Fifth Street, Santa Ana CA 92701  
Office: (714) 285-2800 Fax: (714) 954-1156



---

**From:** DENISON, CHRISTOPHER A [mailto:cDenison@ocsd.org]  
**Sent:** Wednesday, March 26, 2014 11:12 AM  
**To:** jet202@aol.com  
**Cc:** Paul Bartlett; WANG, MITCHELL Y  
**Subject:** RE: Dep. Dow Information Request

Mr. Trott,

I just wanted to let you know it has been a week since I requested any further documentation or information that should be included in Deputy Dow's file. Since I have not heard or received any further documentation, I will be submitting the file for review tomorrow.

Chris

**Sergeant Christopher Denison**  
**Orange County Sheriff's Department**  
**Internal Affairs Bureau**  
**(714) 834-5570**  
**Office hours: Tuesday – Friday 0600-1600hrs**

**From:** [jet202@aol.com](mailto:jet202@aol.com) [<mailto:jet202@aol.com>]  
**Sent:** Thursday, March 20, 2014 5:16 PM  
**To:** DENISON, CHRISTOPHER A  
**Cc:** [paul@aocds.org](mailto:paul@aocds.org)  
**Subject:** Re: Dep. Dow Information Request

Chris,

I am forwarding your request to Paul who I am sure will check with the criminal attorney that appeared in court to see if he has anything else. I spoke with Mitch briefly today about the possibility of a second grand jury case, indicating that he made no sense for the DA to go and get an order in Superior Court from a judge to be allowed to disclose information that was already available to the public and there was discussion about a second grand jury case that being the reason for his going to court to get an order. Otherwise he could have turned the material over via the Brady request and the department would have had access to the material years ago which flies in the face of the one year statute issue. I will ask both Pauls by cc of this email to provide any additional information they might have and get back to you I am sure next week.

Thanks for the opportunity to supplement this matter,

Jim

James E. Trott  
Law Office of James E. Trott  
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Cell: 714-497-6627  
E-mail: [JET202@aol.com](mailto:JET202@aol.com)

-----Original Message-----

**From:** DENISON, CHRISTOPHER A <[cDenison@ocsd.org](mailto:cDenison@ocsd.org)>  
**To:** Jim Trott ([jet202@aol.com](mailto:jet202@aol.com)) ([jet202@aol.com](mailto:jet202@aol.com)) <[jet202@aol.com](mailto:jet202@aol.com)>  
**Sent:** Thu, Mar 20, 2014 2:31 pm  
**Subject:** Dep. Dow Information Request

Mr. Trott,

I am completing Deputy Dow's investigation and want to make sure that the file is as complete and accurate as possible prior to submitting to the Executive Command. You had mentioned that you have a subsequent Court Order that addresses Deputy Dow's ability to speak about the incident. The latest Court Orders I am in receipt of are both dated December 5, 2013. If you have any Court Orders after that date, please send me a copy of them so I can include in the file. Also, at our last meeting on March 6<sup>th</sup>, 2014, you mentioned you just became aware of some potentially new information that may have an effect on the investigation. Please send me any new or updated Court Orders or information that you have so I can include it in the file.

Thanks,

Chris

**Sergeant Christopher Denison**  
**Orange County Sheriff's Department**  
**Internal Affairs Bureau**  
**(714) 834-5570**  
**Office hours: Tuesday – Friday 0600-1600hrs**

**Supplemental Information**

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Attorney for Real Party in Interest  
WILLIAM H. DOW

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

FEB 07 2014

ALAN CARLSON, Clerk of the Court

BY: K. HUBBARD, DEPUTY *K*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs

Defendant.

Case No. [REDACTED]

*Amended K*  
MODIFICATION OF PROTECTIVE  
ORDER DATED DECEMBER 5, 2013

GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED,  
ADJUDGED AND DECREED THAT:

The Protective Order Re: Discovery of Wiretap Transcript, Grand Jury Transcript  
and/or any Tapes, dated December 5, 2013 be modified at PARAGRAPH 4) ii) to  
read:

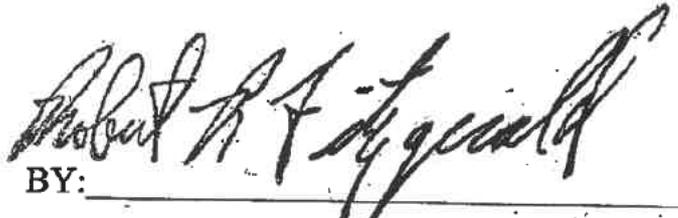
“Orange County Sheriff’s Department, including Orange  
County Deputy Sheriff II William H. Dow, their counsel and

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their employees, for the purpose of participating  
in the prosecution or defense of this action;"

IT IS SO ORDERED.

Dated: 2-7-14



BY: \_\_\_\_\_

JUDGE OF THE SUPERIOR COURT

**ROBERT R. FITZGERALD**

I hereby certify the foregoing instrument consisting of 2 page(s)  
is a true and correct copy of the original on file in this court.



ATTEST (DATE) 2-7-14  
ALYN CARPUSKI, EXECUTIVE OFFICER AND CLERK OF THE  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

BY [Signature] DEPUTY

## **DENISON, CHRISTOPHER A**

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**From:** Paul Bartlett <paul@aocds.org>  
**Sent:** Tuesday, December 10, 2013 2:43 PM  
**To:** DENISON, CHRISTOPHER A  
**Subject:** Re: Dep. Dow

Chris, I have been in a meeting all day at the county. I was informed a few ago that he dropped it off at the association. I will be leaving the meeting shortly and myself or someone else will deliver it to you shortly. Thank you

Sent from my iPhone

On Dec 10, 2013, at 2:27 PM, "DENISON, CHRISTOPHER A" <[cDenison@ocsd.org](mailto:cDenison@ocsd.org)> wrote:

Hi Paul,

I called and left a message for you but I thought I would also try by email. When Deputy Dow returned his badge to me on Friday, he stated he had lost his Sheriff's ID. I provided him a Property Report and ordered him to write a Lost Property Report for the lost ID. This is what every employee would be required to do when they lose departmentally owned or issued property. On Friday, I told Dep. Dow to bring the completed report back to me today, Tuesday. Since I have not heard from Deputy Dow and I heard he was going to the Association this afternoon, I attempted several times to contact Dep. Dow by phone and remind him to bring the report. I am not trying to cause him any problems or treat him differently than anyone else, but I am trying to get him to comply with my lawful orders. If you could explain to him that it would be beneficial for him to follow orders and comply as opposed to exposing himself to further violations such as insubordination, I would appreciate it. I am just trying to get this case investigated and resolved as fairly, thoroughly, and in a reasonable amount of time as possible.

Thanks,

Chris

*Sergeant Christopher Denison  
Orange County Sheriff's Department  
Internal Affairs Bureau  
(714) 834-5570  
Office hours: Tuesday – Friday 0600-1600hrs*

**Alleged OCSD Policy Violations**

## TITLE 3

### Title Contents

- 31.00.0 Rules of Conduct - General
- 31.01.0 Standard of Conduct
- 31.02.0 Loyalty
- 31.03.0 Cooperation
- 31.04.0 Insubordination
- 31.05.0 Performance of Duty
- 31.06.0 Obedience to Laws and Regulations
- 31.07.0 Establishing Elements of a Violation
- 31.08.0 Conduct Toward Superior and Subordinate Officers & Associates
- 31.09.0 Courtesy to Rank
- 31.10.0 Criticism of Orders
- 31.11.0 Issuing Orders
- 31.12.0 Obedience to Unlawful Orders
- 31.13.0 Conflicting Orders
- 31.14.0 Soliciting Gifts, Gratuities, Rewards, Loans, etc.
- 31.15.0 Acceptance of Gifts, Gratuities, Rewards, Loan, etc.
- 31.16.0 Other Transactions
- 31.17.0 Free Admission and Passes
- 31.18.0 Reporting for Duty
- 31.19.0 Maintenance of Telephone
- 31.20.0 Change of Address and Phone Numbers
- 31.21.0 Appearance - Work Area
- 31.22.0 Appearance - Personal
- 31.23.0 Damage to Private, Real or Personal Property
- 31.24.0 Care of Property and Equipment
- 31.25.0 Misappropriation of Property
- 31.26.0 Surrender of County Property
- 31.27.0 Untruthfulness
- 31.28.0 Removal or Alteration of Official Records Prohibited
- 31.29.0 Official Correspondence
- 31.30.0 Department Letterhead
- 31.31.0 Absence from Duty
- 31.32.0 Sick Leave
- 31.33.0 Incurring Liability
- 31.34.0 Patriotic Courtesy
- 31.35.0 Use of Alcohol
- 31.36.0 Intoxicants on Departmental Premises
- 31.37.0 Use of Tobacco, Coffee
- 31.38.0 Sleeping on Duty
- 31.39.0 Use of Offensive Language
- 31.40.0 Offensive Conduct
- 31.41.0 Receipt of Traffic Citation-County Vehicle
- 31.42.0 Fixing Tickets
- 31.43.0 Fraternalization
- 31.44.0 Court Cases
- 31.45.0 Court Attendance and Demeanor
- 31.46.0 Neighborhood Disputes

- 31.47.0 Controversial Opinions
- 31.48.0 Unauthorized Keys
- 31.49.0 Hours of Duty
- 31.50.0 Loitering in Department Areas
- 31.51.0 Conducting Business in Department Areas
- 31.52.0 Use of the Badge, I.D. Card and Uniform by Non-Commissioned Personnel
- 31.53.0 Authorized Telephone Usage
  
- 32.00.0 Rules of Conduct - Commissioned Personnel
- 32.01.0 Use of the Badge, I.D. cards and uniform
- 32.02.0 Loitering
- 32.03.0 Physical Fitness
- 32.04.0 Arrest Responsibility
- 32.05.0 Physical Restraint
- 32.06.0 Use of Physical Force
- 32.07.0 Recommending Attorneys and Bail Bondsmen
- 32.08.0 Publicity
- 32.09.0 Cowardice
- 32.10.0 Search of Prisoners
- 32.11.0 Transporting Members of the Opposite Sex
- 32.12.0 Tampering with Evidence

### Title 3

#### 31.00.0 RULES OF CONDUCT – GENERAL

##### 31.01.0 Standard of Conduct

- .1 Members shall conduct their private and professional lives in such a manner as to avoid bringing discredit upon themselves or the department.
- .2 Commissioned officers will conform with the Code of Professional Conduct and Responsibilities for Peace Officers (Appendix A).

##### 31.02.0 Loyalty

- .1 Members shall maintain such loyalty to the department and their associates as is consistent with their oath of office and personal and professional ethics. Loyalty to the department and to associates is an important factor in departmental morale and efficiency.

##### 31.03.0 Cooperation

- .1 Members shall establish and maintain a high spirit of cooperation within the department and with other agencies. Cooperation between the ranks and units of the department and between the department and other law enforcement agencies is essential to effective law enforcement.

##### 31.04.0 Insubordination

- .1 Members shall not be insubordinate. Intentional failure or refusal by any member of the department to obey a lawful order given by a superior officer shall be insubordination.

##### 31.05.0 Performance of Duty

- .1 Members shall perform their duties as required or directed by law, department rules/regulations, procedures, policies, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

##### 31.06.0 Obedience to Laws and Regulations

- .1 Members shall observe and obey all laws and ordinances, all rules/regulations, procedures and policies of the department and all orders of the department or divisions thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule/regulation, procedure or policy in question.
- .2 Employees are to report to their immediate supervisor within 24 hours any arrest, incident, or allegation of criminal or other misconduct, which could result in the employee being criminally prosecuted. All allegations of criminal and other misconduct will be immediately documented by the supervisor in memo form to his/her Division Commander/Director.

- .3 Employees authorized to carry a handgun, on duty or off duty, must immediately notify their Division Commander if they have been convicted of any domestic violence offense. Defined: "Any use or attempted use of physical force committed against a current or former spouse, parent or person similarly situated."
- .4 Employees authorized to carry a handgun, on duty or off duty, must immediately notify their Division Commander if they are currently the subject of a court restraining order, which is based upon threats of violence.

#### 31.07.0 Establishing Elements of a Violation of Law

- .1 The existence of facts establishing a violation of the law or ordinance is all that is necessary to support any allegation under Section 1.06. When a violation of law occurs under Section 1.06, lack of criminal prosecution shall be no bar to administrative discipline.

#### 31.08.0 Conduct Toward Superior and Subordinate Officers and Associates

- .1 Members shall treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another. They shall not maliciously ridicule one another or the orders issued by competent authority.

#### 31.09.0 Courtesy to Rank

- .1 While on duty, commissioned personnel holding rank shall be addressed by such rank.

#### 31.10.0 Criticism of Orders

- .1 Members shall not criticize instructions or orders in the presence of subordinates or persons from outside the department.

#### 31.11.0 Issuing Orders

- .1 Orders shall be issued in clear and understandable language and in pursuit of departmental business. No member shall issue any order, which is in violation of any law, or ordinance or which is beyond the scope of their authority.

#### 31.12.0 Obedience to Unlawful Orders

- .1 Obedience to an unlawful order is never a defense for an unlawful action; therefore, no member is required to obey any order, which is contrary to Federal or State law or County Ordinance. Responsibility for refusal to obey an unlawful order rests with the member and they must be able to justify their action.

#### 31.13.0 Conflicting Orders

- .1 In the event of a conflict of orders, members shall call such conflict to the attention of the superior issuing the last order. Responsibility for countermanding the original order then rests with the individual issuing the second order. Should the superior not change or rescind the order, it shall be obeyed, and members shall not be held accountable for violating the previous order. Orders will be countermanded, or conflicting orders issued only when necessary for the good of the department.

31.14.0 Soliciting Gifts, Gratuities, Rewards, Loans, Et Cetera

- .1 Members, in their official capacity, shall not solicit any gifts, gratuities, rewards, loans, or establish any accounts, where there is any direct or indirect connection between the solicitation and their departmental membership, without authorization from the Sheriff-Coroner.

31.15.0 Acceptance of Gifts, Gratuities, Rewards, Loans, Et Cetera

- .1 Members shall not accept any gift, gratuity, reward or other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of the member or other member in any matter of official business, or which might tend to cast an adverse reflection on the department or its members.

31.16.0 Other Transactions

- .1 Members are prohibited from buying or selling anything of value to or from a prisoner, or any complainant, plaintiff, suspect, witness, defendant, or other person currently involved in any case which has come to the member's attention or which arose out of their departmental employment, except as may be specifically authorized by the Sheriff-Coroner.

31.17.0 Free Admission and Passes

- .1 Members shall not solicit free admission to theaters or other places of amusement for themselves or others except in the line of duty.

31.18.0 Reporting for Duty

- .1 Members shall report for duty at the specified time and place and in the attire appropriate to their assignment. Inability to comply shall be reported to their superiors as early as possible in advance of the specified time.

31.19.0 Maintenance of Telephone

- .1 All sworn members are required to maintain a residence telephone.

31.20.0 Change of Address and Phone Numbers

- .1 Members shall, within 24 hours, report any change in address and telephone number to their division superior and the Professional Standards Division.

31.21.0 Appearance - Work Area

- .1 Members shall maintain their individual desks, work areas, etc. in a neat, clean, and orderly condition at all times. Desks shall be cleared at the end of the tour of duty and work materials properly stored.

31.22.0 Appearance - Personal

- .1 Members shall be neat and clean in their person and attire when on duty. They shall maintain good personal hygiene and keep their hair neatly trimmed and combed and

their fingernails clean. Members wearing civilian clothes shall adopt attire appropriate to a neat, conservative, businesslike appearance. (See Title 7)

- .1 Members who are attending training classes may dress in casual clothing that is in keeping with acceptable community standards unless otherwise directed. Items such as tank tops, tube tops, halter-tops, shorts, cutoffs, sandals and other beachwear shall not be worn.

#### 31.23.0 Damage to Private, Real or Personal Property

- .1 Any material damage to private, real or personal property committed in the performance of official duties shall be promptly reported to the member's superior in writing.
- .1 If a member's personal property is damaged during the course of their duties, a claim for damages shall be made to County Risk Management. Claim forms can be obtained from the Professional Standards Division.

#### 31.24.0 Care of Property and Equipment

- .1 Members shall be responsible for the proper care, maintenance and serviceable condition of any County property issued or assigned to their use. They shall report to their Division Commander the loss of, damage to, or unserviceable condition of any such property.
- .2 Members shall not loan to any person their identification card, badge or cap piece.
- .3 Members shall not permit any unauthorized person the use of any County equipment issued to the member.

#### 31.25.0 Misappropriation of Property

- .1 No member shall appropriate for their own use or the use of another, any property belonging to the County or any item of evidence, found, stolen or recovered property, except as provided by law.

#### 31.26.0 Surrender of County Property

- .1 Upon separation from the department, members shall surrender all County and departmental items of property to the Professional Standards Division within 48 hours.
- .2 Department issued equipment, including handguns and badges are the sole property of the department and shall be returned immediately upon request.

#### 31.27.0 Untruthfulness

- .1 No member shall knowingly make false statements or misrepresentations to other members or superiors.

#### 31.28.0 Removal or Alteration of Official Records Prohibited

- .1 Members shall not remove or alter any official record of the department except as directed by superiors in accordance with established departmental procedures, or under due process of law.

31.29.0 Official Correspondence

- .1 Only those members authorized by the Sheriff-Coroner may engage in official departmental correspondence.

31.30.0 Department Letterhead

- .1 All official correspondence shall be written on the department's official letterhead stationery. Official letterhead shall not be used for any purpose other than official business.

31.31.0 Absence from Duty

- .1 No member shall be absent from duty without proper leave or permission from, or notification to, the appropriate supervisor.

31.32.0 Sick Leave

- .1 While on official paid sick leave, members shall remain at home or other place of confinement except when, in the department's judgment, their individual circumstances justify leaving the place of confinement. Members shall advise the department of their place of confinement.
- .1 Members shall not feign illness or injury or deceive a superior as to the member's health condition.

31.33.0 Incurring Liability

- .1 Members shall exercise extreme caution and good judgment to avoid occurrences that might give rise to liability chargeable against the department, the Sheriff-Coroner, or the County.

31.34.0 Patriotic Courtesy

- .1 To the flag: On the approach of the American Flag or during flag ceremonies, members shall stand, face the flag and come to attention. If in uniform and covered, they shall render a hand salute and maintain the salute until the flag has passed. Members uncovered or in civilian dress shall place their right hand over their left breast.
- .2 The national anthem: When the national anthem is played, members in uniform shall face the source, stand at attention and, if covered, render a hand salute. They shall maintain the salute until the conclusion of the national anthem. Members uncovered or members in civilian dress shall place their right hand over their left breast.
- .1 Funerals: When a funeral procession for a department member or other person to whom national and/or local recognition is given approaches, members in uniform shall come to attention and render a hand salute. They shall maintain the salute until the procession passes. While passing a casket to view the remains at a funeral, they shall place their cap over their left breast.

31.35.0 Use of Alcohol

- .1 Members of the department shall not report for or be on duty while under the influence of an alcoholic beverage or drugs or be unable to effectively carry out their duties and responsibilities because of their use. The odor of an alcoholic beverage on the breath or person will be considered presumptive evidence of a violation of this section. No member shall drink any alcoholic beverage while on duty except when necessarily consumed in the line of duty.
- .2 Members, on or off duty, will not display uniform insignia or badges during the purchase of alcoholic beverages.
- .3 Members shall not drive a county vehicle while under the influence of alcohol or drugs (other than prescription drugs at recommended levels that do not impair the operation of a motor vehicle).

#### 31.36.0 Intoxicants on Departmental Premises

- .1 Alcoholic beverages shall not be brought onto departmental premises except in furtherance of a law enforcement task or department approved activity.

#### 31.37.0 Use of Tobacco, Coffee

- .1 Members when on duty shall not smoke, use tobacco or drink coffee while conducting an interview or engaging in a conversation with citizens under conditions which may be detrimental to good conduct or procedure.

#### 31.38.0 Sleeping on Duty

- .1 Members shall not sleep on duty.

#### 31.39.0 Use of Offensive Language

- .1 Members shall not use offensive or uncomplimentary language within the hearing of any other person.

#### 31.40.0 Offensive Conduct

- .1 Members shall not by their actions, speech, or demeanor, antagonize any person.

#### 31.41.0 Receipt of Traffic Citation - County Vehicle

- .1 Members who receive a traffic citation while operating a county vehicle shall not request the department to intercede in their behalf but shall handle the matter as a private citizen.

#### 31.42.0 Fixing Tickets

- .1 Members shall not "attempt to fix" or "fix" a citation for a traffic violation.

#### 31.43.0 Fraternization

- .1 Except as permitted by written authority of their unit commander, no member shall fraternize with, engage the services of, accept services from, or give to or receive favors from any person in department custody or recently released (within one year) from

department custody. Any member who is contacted by or on behalf of a recently released (within one year) prisoner shall immediately report same, in memorandum form, to his or her immediate supervisor.

- .2 Members shall not associate socially with, or fraternize with the spouse or family member of any person in the custody of the department without the express permission of the Sheriff-Coroner.
- .3 Except as necessary to carry out their assigned duties, members shall not engage in familiarity with inmates or the families or friends of inmates. Members shall not discuss departmental matters or private affairs concerning themselves or coworkers with inmates.
- .4 Members shall not trade or barter with, lend to or borrow from, or engage in any other personal transaction with, any inmate. Members shall not, directly or indirectly, give to or accept from any inmate, or member of the family of any inmate, anything of value or a promise of same.
- .5 Members shall not accept from, or send to, any inmate any verbal or written message, reading matter, literature, or any item, article, or substance except as necessary in carrying out the member's assigned duties.

#### 31.44.0 Court Cases

- .1 Members shall not interfere in any way with the normal judicial procedure.

#### 31.45.0 Court Attendance and Demeanor

- .1 Members, when subpoenaed into court to testify, shall be punctual in attendance. The member shall be dressed in full uniform or civilian clothes of good taste and businesslike appearance. Male members shall not appear in civilian clothes without a coat and tie.
- .2 Members placed on call for court will be prepared to respond to that court at the specified time or within the established time limits and in appropriate attire.
- .3 Members shall testify in a calm, distinct and audible tone of voice. Members shall not suppress or overstate the slightest circumstance with a view of favoring or discrediting any person, but shall testify with the strictest accuracy.
- .4 Members shall not, by their actions or demeanor, make apparent their feelings toward any defendant or witness during the proceedings within the courtroom or within the hearing of the participants.

#### 31.46.0 Neighborhood Disputes

- .1 Members shall attempt to avoid becoming involved, either as an officer or as a participant, in neighborhood disputes, except in the line of duty.

#### 31.47.0 Controversial Opinions

- .1 Members shall not involve the department in any manner in their expressions of views on any political, religious or controversial subject.

#### 31.48.0 Unauthorized Keys

- .1 Members shall not have possession or control of any department key not specifically issued to that member.
- .2 Members shall not, unless authorized by the Sheriff-Coroner, possess keys to any private, commercial premise, not their own, or public building or facility in or near their duty area.

#### 31.49.0 Hours of Duty

- .1 Members of the department shall be assigned regular hours. When off duty, all commissioned personnel and certain professional staff may be subject to call out. If needed, members may be required to work additional hours.
- .1 Members shall not change the dates or times of their assigned duty, nor make any exchanges of duty with other members without prior approval of the appropriate superior.

#### 31.50.0 Loitering in Department Areas

- .1 Members off duty and not on official standby shall not loiter in department areas, other than those normally designated for use as recreation or rest areas.

#### 31.51.0 Conducting Business in Department Areas

- .1 Members shall not conduct any commercial ventures for profit in department work-sites unless authorized by the Sheriff-Coroner.

#### 31.52.0 Use of the Badge, I.D. Card and Uniform by Non-Commissioned Personnel

- .1 Professional staff, who have been issued a badge, I.D. card and/or uniform, will not, under any circumstances, display same except at or during their work assignment.
- .2 Badges, I.D. cards or uniform items shall not be used for any purpose other than official department business.
- .3 Professional staff will not carry their badge while off duty or to or from work. Badges are to be left at work assignments. Exceptions will be forensic personnel subject to call out and special circumstances requiring written approval of a Division Commander

#### 31.53.0 Authorized Telephone Usage

- .1 Members of the department, whether on duty or off duty, shall not make or receive telephone calls, using county telephone equipment or services, for purposes other than official department business or family emergencies. Any identified misuse of the telephone may result in discipline and/or reimbursement to the department for the cost of the calls.

## IV CANONS OF ETHICS

### CANON ONE

PEACE OFFICERS SHALL UPHOLD THE CONSTITUTION OF THE UNITED STATES, THE STATE CONSTITUTION, AND ALL LAWS ENACTED OR ESTABLISHED PURSUANT TO LEGALLY CONSTITUTED AUTHORITY.

#### ETHICAL STANDARDS

- STANDARD 1.1 Peace officers shall recognize that the primary responsibility of their profession and of the individual officer is the protection of the people within the jurisdiction of the United States through upholding of their laws, the most important of which are the Constitution of the United States and State Constitutions and laws derived there from.
- STANDARD 1.2 Peace officers shall be aware of the extent and the limitations of their authority in the enforcement of the law.
- STANDARD 1.3 Peace officers shall diligently study principles and new enactment's of the laws they enforce.
- STANDARD 1.4 Peace officers shall be responsible for keeping abreast of current case law as applied to their duties.
- STANDARD 1.5 Peace officers shall endeavor to uphold the spirit of the law, as opposed to enforcing merely the letter of the law.
- STANDARD 1.6 Peace officers shall respect and uphold the dignity, human rights, and Constitutional rights of all persons.

### CANON TWO

PEACE OFFICERS SHALL BE AWARE OF AND SHALL USE PROPER AND ETHICAL PROCEDURES IN DISCHARGING THEIR OFFICIAL DUTIES AND RESPONSIBILITIES.

#### ETHICAL STANDARDS

- STANDARD 2.1 Peace officers shall be aware of their lawful authority to use that force reasonably necessary in securing compliance with their lawful enforcement duties.
- STANDARD 2.2 Peace officers shall truthfully, completely, and impartially report, testify, and present evidence in all matters of an official nature.
- STANDARD 2.3 Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.
- STANDARD 2.4 Peace officers shall follow the principles of integrity, fairness, and impartiality in connection with their duties.

## CANON THREE

PEACE OFFICERS SHALL REGARD THE DISCHARGE OF THEIR DUTIES AS A PUBLIC TRUST AND SHALL RECOGNIZE THEIR RESPONSIBILITIES TO THE PEOPLE WHOM THEY ARE SWORN TO PROTECT AND SERVE.

### ETHICAL STANDARDS

- STANDARD 3.1 Peace officers, as professionals, shall maintain an awareness of those factors affecting their responsibilities.
- STANDARD 3.2 Peace officers, during their tour of duty, shall diligently devote their time and attention to the effective and professional performance of their responsibilities.
- STANDARD 3.3 Peace officers shall ensure that they are prepared for the effective and efficient undertaking of their assignment.
- STANDARD 3.4 Peace officers shall safely and efficiently use equipment and material available to them.
- STANDARD 3.5 Peace officers shall be prepared to and shall respond effectively to the demands of their office.
- STANDARD 3.6 Peace officers, with due regard for compassion, shall maintain an objective and impartial attitude.
- STANDARD 3.7 Peace officers shall not allow their personal convictions, beliefs, prejudices, or biases to interfere unreasonably with their official acts or decisions.
- STANDARD 3.8 Peace officers shall recognize that their allegiance is first to the people, then to their profession and the governmental entity or agency that employs them.

## CANON FOUR

PEACE OFFICERS WILL SO CONDUCT THEIR PUBLIC AND PRIVATE LIVES THAT THEY EXEMPLIFY THE HIGH STANDARDS OF INTEGRITY, TRUST, AND MORALITY DEMANDED OF A MEMBER OF THE PEACE OFFICER PROFESSION.

### ETHICAL STANDARDS

- STANDARD 4.1 Peace officers shall refrain from consuming intoxicating beverages to the extent that it results in impairment which brings discredit upon the profession of their employing agency, or renders them unfit for their next tour of duty.
- STANDARD 4.2 Peace officers shall not consume intoxicating beverages while on duty, except to the degree permitted in the performance of official duties, and under no circumstances while in uniform.
- STANDARD 4.3 Peace officers shall not use any narcotics, hallucinogens or any other controlled substance except when legally prescribed. When such controlled substances are prescribed, officers shall notify their superior officer prior to reporting for duty.

- STANDARD 4.4 Peace officers shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the peace officer profession. Officers shall not participate in any incident involving moral turpitude.
- STANDARD 4.5 Peace officers shall not undertake financial obligations which they know or reasonably should know they will be unable to meet and shall pay all just debts when due.
- STANDARD 4.6 Peace officers shall not engage in illegal political activities.
- STANDARD 4.7 Peace officers shall not permit or authorize for personal gain the use of their name or photograph and official title identifying them as peace officers in connection with testimonials or advertisements for any commodity, commercial enterprise, or commercial service which is not the product of the officer involved.
- STANDARD 4.8 Peace officers shall not engage in any activity that would create a conflict of interest or would be in violation of any law.
- STANDARD 4.9 Peace officers shall at all times conduct themselves in a manner which does not discredit the peace officer profession or their employing agency.
- STANDARD 4.10 Peace officers shall not be disrespectful, insolent, mutinous, or insubordinate in attitude or conduct.
- STANDARD 4.11 Peace officers shall be courteous and respectful in their official dealings with the public, fellow officers, superiors and subordinates.
- STANDARD 4.12 Peace officers shall not engage in any strike, work obstruction or abstention, in whole or in part, from the full, faithful and proper performance of their assigned duties and responsibilities, except as authorized by law.
- STANDARD 4.13 Peace officers shall maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration, while acting in an official capacity.

#### CANON FIVE

PEACE OFFICERS SHALL RECOGNIZE THAT OUR SOCIETY HOLDS THE FREEDOM OF THE INDIVIDUAL AS A PARAMOUNT PRECEPT, WHICH SHALL NOT BE INFRINGED UPON WITHOUT JUST, LEGAL, AND NECESSARY CAUSE.

#### ETHICAL STANDARDS

- STANDARD 5.1 Peace officers shall not restrict the freedom of individuals, whether by detention or arrest, except to the extent necessary to legally or reasonably apply the law.
- STANDARD 5.2 Peace officers shall recognize the rights of individuals to be free from capricious or arbitrary acts that deny or abridge their fundamental rights as guaranteed by law.
- STANDARD 5.3 Peace officers shall not use their official position to detain any individual, or to restrict the freedom of any individual, except in the manner and means permitted or prescribed by law.

## CANON SIX

PEACE OFFICERS SHALL ASSIST IN MAINTAINING THE INTEGRITY AND COMPETENCE OF THE PEACE OFFICER PROFESSION.

### ETHICAL STANDARDS

- STANDARD 6.1 Peace officers shall recognize that every person in our society is entitled to professional, effective, and efficient law enforcement services.
- STANDARD 6.2 Peace officers shall perform their duties in such a manner as to discourage double standards.
- STANDARD 6.3 Peace officers shall conduct themselves so as to set exemplary standards of performance for all law enforcement personnel.
- STANDARD 6.4 Peace officers shall maintain the integrity of their profession through complete disclosure of those who violate any of these rules of conduct, violate any law, or who conduct themselves in a manner which tends to discredit the profession.
- STANDARD 6.5 Peace officers shall have responsibility for reporting to proper authorities any known information that would serve to disqualify candidates from transferring within or entering the profession.
- STANDARD 6.6 Peace officers shall be responsible for maintaining a level of education and training that will keep them abreast of current techniques, concepts, laws, and requirements of the profession.
- STANDARD 6.7 Chief executive peace officers shall accept the responsibility of utilizing all available resources and the authority of their office to maintain the integrity of their agency and the competency of their officers. These Canons and Ethical Standards shall apply to all legally defined peace officers regardless of rank.
- STANDARD 6.8 Peace officers shall assume a leadership role in furthering their profession by encouraging and assisting in the education and training of other members of the profession.

## CANON SEVEN

PEACE OFFICERS SHALL COOPERATE WITH OTHER OFFICIALS AND ORGANIZATIONS WHO ARE USING LEGAL AND ETHICAL MEANS TO ACHIEVE THE GOALS AND OBJECTIVES OF THE PEACE OFFICER PROFESSION.

### ETHICAL STANDARDS

- STANDARD 7.1 Peace officers, within legal and agency guidelines, shall share with personnel both within and outside their agency, appropriate information that will facilitate the achievement of criminal justice goals or objectives.
- STANDARD 7.2 Peace officers, whether requested through appropriate channels or called upon individually, shall render needed assistance to any other officer in the proper performance of their duty.

STANDARD 7.3 Peace officers shall, within legal and agency guidelines, endeavor to communicate to the people of their community the goals and objectives of the profession, and keep them apprised of conditions which threaten the maintenance of an ordered society.

#### CANON EIGHT

PEACE OFFICERS SHALL NOT COMPROMISE THEIR INTEGRITY, NOR THAT OF THEIR AGENCY OR PROFESSION, BY ACCEPTING, GIVING, OR SOLICITING ANY GRATUITY.

#### ETHICAL STANDARDS

STANDARD 8.1 Peace officers shall refuse to offer, give, or receive gifts, favors or gratuities, either large or small, which can be reasonably interpreted as capable of influencing official acts or judgments. This standard is not intended to isolate peace officers from normal social practices, or to preclude gifts among friends, associates, or relatives, where appropriate.

STANDARD 8.2 Peace officers shall not consider their badge of office as a license designed to provide them with special favor or consideration.

#### CANON NINE

PEACE OFFICERS SHALL OBSERVE THE CONFIDENTIALITY OF INFORMATION AVAILABLE TO THEM THROUGH ANY SOURCE, AS IT RELATES TO THE PEACE OFFICER PROFESSION.

#### ETHICAL STANDARDS

STANDARD 9.1 Peace officers shall be aware of and shall meticulously observe all legal restrictions on the release and dissemination of information.

STANDARD 9.2 Peace officers shall treat as confidential the official business of their employing agency, and shall release or disseminate such information solely in an authorized manner.

STANDARD 9.3 Peace officers shall treat as confidential that information confided to them personally. They shall disclose such information as required in the proper performance of their duties.

STANDARD 9.4 Peace officers shall neither disclose nor use for their personal interest any confidential information acquired by them in the course of their official duties.

STANDARD 9.5 Peace officers shall treat as confidential all matters relating to investigations, internal affairs, and personnel.

#### V. INVESTIGATIVE PROVISIONS

A. INVESTIGATIVE PROCEDURES. Peace officers under investigation for an alleged violation of any of these standards or agency disciplinary rules shall be afforded, as a minimum, the rights established by law and contract, to ensure fair and just treatment in the enforcement of disciplinary rules of conduct or agency rules.

- B. **EXERCISE OF RIGHTS.** By reason of the lawful exercise of rights, officers shall not be discharged, disciplined, demoted, transferred, or denied promotion or reassignment, or discriminated against with regard to employment, nor threatened with any such action.
- C. **CRIMINAL INVESTIGATIONS.** When the investigation focuses on an officer for prosecution of a criminal offense, the officer shall be afforded the same constitutional rights, privileges, or guarantees enjoyed by any person. This section, however shall not deprive the agency of the right to pursue the investigation administratively.
- D. **AGENCY APPEAL OR REVIEW PROCESS.** To ensure due process, officers shall be provided with an internal administrative appeal or review process or procedure. This process shall be in addition to any external appeal process the employing agency may have established for the review of disciplinary cases.
- E. **CONSTRUCTION AND SEVERABILITY.** The provisions of this Code shall be severable and if any phrase, clause, sentence or provision of this Code is declared to be unconstitutional or the applicability thereof to any agency, person, or circumstance is held invalid, the constitutionality of this Code and the applicability thereof to any other agency, person, or circumstance shall, with respect to all severable matters, not be affected thereby. It is intended that the provisions of this Code be reasonably and liberally construed.

**MOU/OCSD Discipline Rules & Policy**

MEMORANDUM OF UNDERSTANDING

2009 – 2012

COUNTY OF ORANGE

AND

ASSOCIATION OF ORANGE COUNTY DEPUTY SHERIFFS

FOR THE

PEACE OFFICER UNIT

AND

SUPERVISING PEACE OFFICER UNIT

This Memorandum of Understanding sets forth the terms of agreement reached between the County of Orange and the Association Of Orange County Deputy Sheriffs as the Exclusively Recognized Employee Organization for the Peace Officer Unit and Supervising Peace Officer Unit for the period beginning October 9, 2009 through October 4, 2012. Unless otherwise indicated herein, all provisions shall become effective October 9, 2009.

## APPENDIX A

Classes included in the Peace Officer Unit as of October 9, 2009.

6128	Deputy Sheriff I
6130	Deputy Sheriff II
6124	Deputy Sheriff Trainee
6508	Investigator
6505	Investigator I
6504	District Attorney Investigator
6545	Investigator-Polygraph Operator

Classes included in the Supervising Peace Officer Unit as of October 9, 2009.

6528	Supervising Attorney's Investigator
6135	Sergeant

ARTICLE IX     DISCIPLINARY ACTION

Section 1.   Reprimand and Substandard Performance Evaluation

- A. No regular, limited-term or probationary employee shall receive a written reprimand or a substandard performance evaluation except for reasonable cause.
- B. A written reprimand or substandard performance evaluation (i.e., a score of less than three hundred [300] points) given to a regular, limited-term or probationary employee may be appealed through the grievance/appeal procedure. Such appeal shall be initiated at Step 1 of the grievance/appeal procedure.

Section 2.   Pre-disciplinary Hearing for Suspension, Reduction in Class or Salary or Discharge

- A. In suspending a regular, limited-term or probationary employee for more than five (5) days, or in reducing in class a regular or limited-term regular employee for reasons of unsatisfactory performance or physical disability, or in reducing in salary a regular or limited-term regular employee for reasons of unsatisfactory performance, or in discharging a regular or limited-term regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
  - 1. a description of the proposed action and its effective date(s);
  - 2. a statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
  - 3. copies of material on which the proposed action is based;
  - 4. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
  - 5. a statement of the employee's right to representation;
  - 6. a statement of the employee's right to appeal should such proposed action become final.
- B. In suspending a regular, limited-term or probationary employee for five (5) days or less, the above notice requirements shall be complied with not more than ten (10) days after the effective date of the suspension.

- C. Prior to the effective date of such suspension, reduction in class or salary, or discharge, an employee will be given an opportunity to respond, either orally or in writing, at the employee's option, to a designated department representative with the authority to make an effective recommendation on the proposed disciplinary action.
- D. An employee shall be given reasonable time off without loss of pay to attend a disciplinary hearing.
- E. An employee may represent himself or herself or may be represented in the disciplinary hearing by the AOCDS.
- F. An employee shall receive written notice either sustaining, modifying, or canceling the proposed disciplinary action prior to the effective date of such action except that such written notice may be given after the response period in C., above, for suspension of five (5) days or less.
- G. Should a proposed reduction in class or salary or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 3. and 4. of this Article.
- H. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 5. of this Article.

Section 3. Suspension

- A. No regular, limited-term or probationary employee shall be suspended except for reasonable cause.
- B. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of suspension shall be initiated at Step 2 of the grievance/appeal procedure, except for suspensions imposed by the County Executive Officer, which may be referred directly to arbitration.

Section 4. Reduction in Class or Salary

- A. No regular or limited-term regular employee shall be reduced to a position in a lower class for reasons of unsatisfactory performance or physical disability or have his or her salary reduced to a lower step on the salary range for reasons of unsatisfactory performance except for reasonable cause.
- B. A written notice of such reduction in class or salary stating specifically the cause of the reduction shall be given to the employee.

- C. In accordance with the provisions of Article X, an appeal of reduction in class for reasons of unsatisfactory performance or physical disability, or an appeal of reduction in salary for unsatisfactory performance, shall be initiated at Step 2 of the grievance/appeal procedure; except that reductions in class or salary imposed by the County Executive Officer may be referred directly to arbitration.
- D. Per agreement of March 4, 2005, the parties may agree if requested by AOCDS, to substitute the Reduction in Salary form of discipline for a proposed suspension. The Reduction in Salary form of discipline may only be imposed in place of a proposed suspension if requested by AOCDS.

**Section 5. Discharge and Right of Appeal**

- A. No regular or limited-term regular employee shall be discharged except for reasonable cause. No proposed discharge shall be effected unless approved by the Human Resources Director except for discharges imposed by the County Executive Officer.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. In accordance with the provisions of Article X, a discharge may be appealed directly to arbitration.

**Section 6. Polygraph Examination**

No employee shall be compelled to submit to a polygraph examination. No disciplinary action whatsoever shall be taken against an employee refusing to submit to a polygraph examination; nor shall any comment be anywhere recorded indicating that an employee offered to take, took or refused to take a polygraph examination unless otherwise agreed to in writing by the parties; nor shall any testimony or evidence of any kind regarding an employee's offer to take or refusal to take or the results of a polygraph examination be admissible in any proceeding pursuant to this Agreement, unless otherwise agreed to in writing by the parties.

ARTICLE X      GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

Section 1.    Scope of Grievances

- A. A grievance may be filed if a management interpretation or application of the provisions of this Memorandum of Understanding adversely affects an employee's wages, hours or conditions of employment.
- B. Specifically excluded from the scope of grievances are:
  - 1. subjects involving the amendment or change of Board of Supervisors resolutions, ordinances, minute orders, which do not incorporate the provisions of this Memorandum of Understanding;
  - 2. matters which have other means of appeal;
  - 3. position classification;
  - 4. standard or better performance evaluations.

Section 2.    Basic Rules

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered regarding his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If a County representative does not render a decision to the employee within the time limits, the employee may within seven (7) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any management representative that he or she does not have the authority to resolve the grievance/appeal, he or she may refer it to the next step in the procedure. By mutual agreement of the County and AOCDS any step of the grievance procedure may be waived.
- D. The Human Resources Director may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, department-wide or County-wide basis in an emergency situation. AOCDS may appeal this decision to the Board of Supervisors.
- E. Upon written consent of the parties, i.e., the representatives of the County and the employee or his or her representative, the time limits at any step in the procedure may be extended.
- F. Every reasonable effort shall be made by the employee and the County to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure.

- G. No claim shall be granted for retroactive adjustment of any grievance prior to sixty (60) calendar days from the date of filing the written grievance at Step 1.
- H. The County grievance files shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

Section 3. Submission of Grievances

- A. Any employee or group of employees shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right.
- B. If any two (2) or more employees have essentially the same grievance they may, and if requested by the County must, collectively present and pursue their grievance if they report to the same immediate supervisor.
- C. If the grievant is a group of more than three (3) employees, the group shall, at the request of the County, appoint one (1) or two (2) employees to speak for the collective group.

Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by AOCDS in the formal grievance/appeal procedure, or by an attorney in appealing a discharge.
- B. Authorized grievance/appeal representatives shall be regular employees in the same department or same representation unit as the grievant/appellant who are members of and are designated by AOCDS to represent employees for purposes of the grievance/appeal procedure. AOCDS shall notify the Department Head of the names and titles of such representatives and send a copy of such notice to the Personnel Department quarterly.
- C. AOCDS staff representatives or authorized employee grievance representatives may represent the employee at Steps 1 and 2 of the internal grievance/appeal procedure and in arbitration.
- D. If an employee is not represented by AOCDS in arbitration, AOCDS may have representatives present at the arbitration and, if necessary, shall have the right to present AOCDS' interpretation of the provisions of the Agreement at issue. The decision of the arbitrator in such a case shall not be precedent setting and shall not be admissible in any subsequent dispute between the County and AOCDS.

**Section 5. Time Off for Processing Grievances/Appeals**

**A. Reasonable time off without loss of pay shall be given to:**

1. an employee who has a grievance/appeal, in order to attend a meeting with his or her supervisor or other person with authority to resolve the matter, as prescribed herein, or to meet with his or her grievance/appeal representative;
2. an authorized grievance/appeal representative, in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority to resolve the grievance/appeal, as prescribed herein, or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees, or through review of appropriate County records relating to the grievance/appeal.

**B. The following restrictions shall apply in all cases to activity authorized in Section 5.A., above:**

1. Before performing grievance/appeal work, the grievant/appellant or grievance/appeal representative shall obtain permission of his or her supervisor and shall report back to the supervisor when the grievance/appeal work is completed.
2. Neither the grievant/appellant nor the grievance/appeal representative shall interrupt or leave his or her job to perform grievance/appeal work unless his or her supervisor determines that such interruption or absence will not unduly interfere with the work of the unit in which the grievant/appellant or representative is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.
3. When an authorized grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the representative shall be permitted to do so provided that:
  - a. the representative checks in and checks out with the supervisor of the unit; and
  - b. such investigation does not unduly interfere with the work of the unit.

**Section 6. Informal Discussion**

If an employee has a problem relating to a work situation, the employee is encouraged to request a meeting with his or her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively toward settlement.

Section 7. Internal Grievance/Appeal Steps

The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein:

Step 1: Agency/Department Head

If an employee has a problem relating to an interpretation or application of this Memorandum of Understanding, the employee may formally submit a grievance to the Agency/Department Head within fourteen (14) calendar days from the occurrence which gives rise to the problem. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution. Within seven (7) calendar days after receipt of the written grievance, the Agency/Department Head or his or her designee shall meet with the grievant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant. In the case of a grievance appeal concerning a written reprimand, the decision of the Agency/Department Head shall be final and binding and shall not be subject to further processing under the MOU.

Step 2: Human Resources Director

If the grievance/appeal is not settled under Step 1 and it concerns:

- a. an alleged misinterpretation or misapplication of this Memorandum of Understanding;
- b. a substandard performance evaluation;
- c. a deferment or denial of a merit increase, or a disputed merit increase;
- d. a probationary release alleging discrimination,

it may be appealed in writing to the Human Resources Department within seven (7) calendar days after receipt of the written decision from Step 1. Appeal of a suspension and/or a reduction in class or salary ordered by the Agency/Department Head or his or her designated representative may be submitted in writing at Step 2 within ten (10) calendar days after receipt of the final notice of suspension and/or reduction in class or salary. Within fourteen (14) calendar days after receipt of the written grievance/appeal, the Human Resources Department or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant.

In rendering any decision on such grievance/appeal, the Human Resources Department shall exercise his or her independent judgment in determining whether the evidence does or does not support an allegation, establish a fact, or support a lower level decision or determination, and shall not be bound in any way by the findings or decision made at any prior level. The decision of the Human Resources Director in B. and C., above, as to all actions taken by the Human Resources Director in arriving at such decision, including such decision, shall not be subject to arbitral or judicial review and shall be final and binding on all parties.

#### Mediation-Arbitration

As an alternative to Step 2, appeal of a Suspension and/or a Reduction in Class or Salary (pursuant to Article X, Section 4.) ordered by the Agency/Department Head or his or her designated representative may be appealed directly to mediation/arbitration. The time limits and procedures for submission to Step 2 shall apply.

If the matter is addressed but not resolved through the mediation/arbitration process, the matter is appealable to arbitration pursuant to Article X, Section 8.B.

### Section 8. Referrals to Arbitration

#### A. Grievances

1. If a grievance is not resolved under Step 2, an arbitration request may be presented in writing to the Human Resources Director within seven (7) calendar days from the date a decision was rendered at Step 2. As soon as practicable thereafter or as otherwise agreed to by the parties, an arbitrator shall hear the grievance.
2. The parties shall either sign a joint issue submission statement or else execute and sign separate alternative issue statements after discussing the issue(s). In either case, the parties shall send copies of their joint or separate submission statement(s) to the agreed-upon arbitrator and to each other within fourteen (14) calendar days before the first scheduled date of the arbitration hearing.

#### B. Disciplinary Appeals

##### 1. Submission Procedure

- a. If an appeal from a suspension or reduction in class or salary is not settled at Step 2, it may be presented to the Human Resources Director within seven (7) calendar days from the date the decision was rendered.

b. An appeal from any discharge or from a suspension or reduction in class or salary imposed by the County Executive Officer may be presented to, the Human Resources Director within ten (10) calendar days from the date the action becomes final.

c. All disciplinary appeals shall be signed by a staff representative of AOCDS and shall be submitted in writing as follows:

Was (employee's name) suspended/reduced in class or salary/discharged for reasonable cause? If not, to what remedy is the appellant entitled under the provisions of Article X, Section 8. of this MOU?

d. As soon as practicable after a suspension, reduction in class or salary or discharge appeal is presented to the Human Resources Director , an arbitrator shall hear the appeal.

## 2. Findings of Fact and Remedies

An arbitrator may sustain, modify, or rescind an appealed disciplinary action as follows and subject to the following restrictions:

### a. All Disciplinary Actions

If the arbitrator finds that the disciplinary action was taken for reasonable cause, he or she shall sustain the action.

### b. Suspension/Reductions in Class or Salary

If the action is modified or rescinded, the appellant shall be entitled restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision.

c. Per agreement of March 4, 2005, contingent upon mutual agreement, the parties may agree that Article X, Section 8.B.2 of the Memorandum of Understanding does not prohibit an arbitrator from reducing a suspension to lesser discipline, including a lesser suspension.

### d. Discharges

1) If the arbitrator finds that the order of discharge should be modified, the appellant shall be restored to a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the appellant was removed from duty, as determined by the arbitrator.

2) If the arbitrator finds that the order of discharge should be rescinded, the appellant shall be reinstated in a position in his

or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

e. Restriction on Remedies

- 1) The County shall not be liable for restoring pay and fringe benefits for any period(s) of time the appellant was reduced or removed from duty, which results from the appealing party's request for written briefs and/or a transcript of the arbitration proceedings.
- 2) Restoration of pay and benefits shall be subject to deduction of all unemployment insurance and outside earnings which the appellant received since the date of discharge.

C. Probationary Releases Alleging Discrimination

1. The issues to be submitted to the arbitrator in grievances filed pursuant to Article III, Section 1.C.1. shall be as follows and shall be submitted consistent with Section 8.A., above:
  - a. Was the probationary release of (employee's name) in whole or in part the result of discrimination in violation of Article XVII, NONDISCRIMINATION, of the Memorandum of Understanding between the County and AOCDS?
  - b. If so, what shall the remedy be under the provisions of Article X, Section 8.B.2., Findings of Facts and Remedies of the Memorandum of Understanding between the County and AOCDS?
2. Findings of Facts and Remedies
  - a. In the event the arbitrator finds no violation of Article XVII, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
  - b. In the event the arbitrator finds a violation of Article XVII, NONDISCRIMINATION, but also finds such violation was not a substantial cause of the employee's probationary release, the grievance shall be denied and the issue of remedy becomes moot.
  - c. In the event the arbitrator finds a violation of Article XVII, NONDISCRIMINATION, and also finds that the violation was a substantial cause of the probationary release of the employee, the arbitrator's award shall depend upon the significance of the violation and shall be in keeping with the following alternatives:
    - 1) The probationary release may be sustained.

- 2) The employee may be reinstated in a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.
- 3) The employee may be reinstated in a position in his or her former class with full back pay and benefits for all of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.

**D. General Provisions**

1. If the grievance/appeal is decided by an arbitrator the grievant/appellant and AOCDS relinquish any current or future claim to seek or obtain remedy through any other County appeal procedures.
2. The cost of an arbitrator shall be shared equally in all cases by the County and the appealing party except when the appealing party solely alleges discrimination under Article XVII, in which case the County shall bear the full cost. When the grievance involves both discrimination and other arbitral issues, the proper division of costs shall be determined by the arbitrator.
3. Grievance/Appeal hearings by an arbitrator shall be private.
4. Arbitration appeal hearings of suspensions of less than forty (40) hours shall be limited to one (1) day unless both parties agree that a longer hearing is necessary. Both parties shall be allotted equal time during arbitration hearings involving such suspensions. The one (1) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County Executive Officer.
5. The arbitrator shall be selected from a panel established by mutual agreement of the parties.
6. If the panel is abolished, the arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven (7) arbitrators shall be obtained from the American Arbitration Association unless the parties agree to another source, and each party shall alternately strike one (1) name from the list until only one (1) name remains.

7. Upon written request by the opposing party in a pending hearing given at least twenty (20) calendar days prior to the scheduled hearing date, the party requested shall supply to the party submitting the request copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than ten (10) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing except that any such documentary evidence discovered by a party after such a request for copies but not soon enough to comply with the above time limits may be admitted providing it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.
8. An employee shall not suffer loss of pay for time spent as a witness at an arbitration hearing held pursuant to this procedure. The number of witnesses requested to attend, and their scheduling, shall be reasonable.
9. At the hearing, both the appealing employee and the County shall have the right to be heard and to present evidence. The following rules shall apply:
  - a. Oral evidence shall be taken only on oath or affirmation.
  - b. Each party shall have these rights: to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness to testify, and to rebut the evidence against the witness. If the employee does not testify in his or her own behalf, the employee may be called and examined as if under cross-examination.
10. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

11. The County and AOCDS each shall be allowed to have at least one (1) of their own employees, who may be called upon to testify as a witness, present at the arbitration hearing at all times.
12. The decision of the arbitrator shall be final and binding on all parties and shall not be subject to judicial review.

Section 9. No Strike Provision

During the term of this Memorandum of Understanding there shall be no strike called or sanctioned by AOCDS relating to any matter which is subject to the scope of the grievance procedure under Section 1.A. above and which is subject to arbitration under Section 8.A. above.

## Disciplinary Policy

### 340.1 DISCIPLINE DEFINED

Discipline, as discussed in this chapter, is any formal corrective action taken by the department toward any member who violates any departmental policy, rule, regulation or statute. Pre-disciplinary measures, including counseling memos, deficiency notices and performance expectation memos, may be used as preliminary corrective actions in appropriate cases.

### 340.2 TYPES OF DISCIPLINARY ACTION

- a) Subject to the provisions of the Personnel and Salary Resolution for the County of Orange, and the member's appropriate MOU, the following are approved disciplinary actions within the department:
1. Written Reprimand - A reprimand reduced to writing, signed by the employee, and made a part of the member's personnel file.
  2. Suspension: A relief from duty without pay.
  3. Demotion: A reduction to a position of lower class or rank.
  4. Dismissal: A termination of employment.
- b) The type of disciplinary action chosen shall be appropriate to the seriousness of the violation.

### 340.3 AUTHORITY TO DISCIPLINE

- a) All departmental discipline that exceeds a 24-hour suspension without pay must be approved by the appropriate Assistant Sheriff or Commander. Division Commanders are authorized to approve department discipline consisting of a written reprimand up to a 24-hour suspension without pay. Any supervisor, when appropriate, may administer an oral reprimand to subordinate personnel in their command. Any other type of disciplinary action may be recommended by a supervisor to their superior.
- b) Division Commanders are authorized to issue written reprimands for performance deficiencies within the following guidelines:
1. Written reprimands must be properly documented.
  2. Written reprimands may not be issued in any case where the employee must be interviewed, or required to provide written documentation, to determine if the alleged act or inaction occurred. Such situations are referred through channels to the Internal Affairs Bureau.
  3. The Division Commander will first submit copies of all supportive documents, appropriate memorandum from supervisors, a brief summary of cause for the action, and a draft written reprimand to their Assistant Sheriff or Commander for review and approval.
  4. The package will be forwarded to the Internal Affairs Bureau and all materials will be reviewed for compliance with rules and regulations and the applicable Memorandum of Understanding. The Internal Affairs Bureau will then create a Personnel Investigation file and issue an Internal Affairs tracking number.

5. The Personnel Investigation file will be returned to the Division and a final written reprimand shall be prepared by the Division and signed by the Division Commander and acknowledged by the affected employee (signature, or "refused to sign", with date).
6. The original written reprimand will be given to the employee. Two signed copies of the written reprimand along with all supporting documentation will be forwarded to the Internal Affairs Bureau for retention. The completed written reprimand will be referenced in the employee personnel file.
7. The employee's rights are guaranteed by the County Grievance Procedure.
8. The records pertaining to the written reprimand will be retained for five years after the investigation file is closed in accordance with the Department's Records Control Schedule.

### **340.3.1 EMERGENCY SUSPENSION FROM DUTY**

In the absence of the Sheriff Coroner, the Undersheriff, the Assistant Sheriffs, Commanders, the Division Commander concerned or the Department Commander concerned, in that order, has the authority to impose an emergency suspension, with pay, from duty until the next business day, or such earlier time that such suspension can be reviewed by the Sheriff Coroner.

### **340.3.2 INVESTIGATION OF COMPLAINTS**

- a) Upon receipt of a complaint alleging misconduct, the Sheriff or designee shall direct the investigation of said complaint. Upon conclusion of the investigation one of the following findings shall be made by the Sheriff or designee and stated in the report. The member will be advised of the disposition.
  1. Unfounded: Investigation indicates that the act or acts complained of did not occur or involve department personnel.
  2. Exonerated: Act or acts did occur but were justified, lawful or proper.
  3. Not Involved: Investigation establishes that the member was not involved in the alleged incident.
  4. Not Sustained: Investigation fails to discover sufficient evidence to clearly prove or disprove misconduct on the part of the member.
  5. Sustained: Investigation discloses sufficient evidence to clearly prove misconduct on the part of the member.
- b) Such reports and findings shall be maintained in a confidential file, accessible only to the Sheriff and persons authorized by the Sheriff, or through legal process.

### **340.4 POST INVESTIGATION PROCEDURES**

#### **340.4.1 RESPONSIBILITIES OF THE SHERIFF OR SHERIFF'S DESIGNEE**

Upon receipt of any written recommendation for disciplinary action, the Sheriff or designee shall review the recommendation and all accompanying materials.

The Sheriff or designee may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Sheriff or designee is satisfied that no further investigation or action is required by staff, the Sheriff or designee shall determine the amount of discipline, if any, to be imposed.

In the event disciplinary action is recommended, the Sheriff or designee shall provide the employee with written (Skelly) notice of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code §3304(d) or 3508.1):

- a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- b) A separate recommendation of proposed discipline for each charge.
- c) A statement that the employee has been provided with or given access to all of the materials considered by the Sheriff or designee in recommending the proposed discipline.
- d) An opportunity to respond orally or in writing to the Sheriff or designee within ten days of receiving the Skelly notice.
  1. Upon a showing of good cause by the employee, the Sheriff or designee may grant a reasonable extension of time for the employee to respond.
  2. If the employee elects to respond orally, the presentation may be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

### **Deputy Dow Notes:**

12/5/13: Placed Dep. Dow on Administrative Leave at the Transportation Office. Ordered to bring in badge and ID on Friday, 12/6/13, since he did not have items at work. I allowed Dow to turn in either to me or Paul Bartlett at AOCSD. Provided card with phone number and told Dow to call on Friday with disposition.

12/6/13: At 1530, called Dow because I had not heard from him regarding the disposition of his badge and ID. Dow said he contacted Paul and was told not to talk to me and to turn in his badge and ID to Paul next week. Contacted Paul who said it may have been a miscommunication between him and Dow. Re-contacted Dow and ordered him to return his badge and ID immediately. Dow complained and asked why I waited until 1530 to call him. I explained he was ordered to contact me and failed to do so which is why I called him. Dow stated he could not find his ID and I told him to bring his badge.

12/6/13: At about 1630, I received a call from the front desk at PSD stating Dep. Dow refuses to come up to PSD to turn in his badge. Sgt. Morris and I met Dow in front of the building. Dow was on the phone and continued to talk to someone while we were trying to collect his badge and ID. Dow handed me his badge and when I asked for his ID he said he could not find it. I gave Dow a copy of a Property Report and ordered him to complete a Lost Property Report and turn it into me on Tuesday, 12/10/13.

12/10/13: I attempted to contact Dep. Dow at 1300 hours to remind him to turn in the Lost Property Report today as previously ordered. There was no answer and no answering machine. I confirmed the number. I made two more attempts over the next 40 minutes to reach Deputy Dow by phone but still no answer and no answering machine picked up. I sent an email to Paul Bartlett requesting his assistance in getting Dow to comply and avoid additional violations of policy such as insubordination. At 1443, I received an email from Paul stating he was informed Dep. Dow dropped his report off at the Association. At 1515 I received a call from Paul stating he would have someone bring over the report. I advised Paul that Dow should not be turning reports in to the Association because they are not the supervisor able to approve them and Dow should comply with the orders given him. At about 1520 hours, Paul Bartlett brought me Dep. Dow's report which was missing information. At 1540 hours, I was able to contact Dep. Dow and explained to him what information was required for a Lost Property report and ordered him to be at PSD at 0900 hours tomorrow, Wednesday, to write the report.

1/15/14: Interview invitation sent to AOCDS for Deputy Dow.

1/17/14: Mr. Trott confirmed an interview date of 2/4/14 at 1300 and requested a defense attorney be allowed to attend the interview. He was advised only one representative is allowed

to attend and it is Deputy Dow's decision who he wants to be his representative so long as they are an uninvolved party to the incident being investigated.

1/28/14: I was informed to postpone the Dow interview by Lt. Wang. AOCDS and Deputy Dow notified.

1/31/14: I was informed to reschedule the Dow interview without delay by Lt. Wang. Deputy Dow and AOCDS notified with 2/7/14 at 1300 hours scheduled for the interview.

2/3/14: Email from Jim Trott stating Paul Bartlett asked him to ask me to delay the interview to allow court proceedings to "play out".

2/4/14: I sent an email to Jim Trott stating that since it sounded like they couldn't be there the 7<sup>th</sup> we can do the interview the 6<sup>th</sup>.

2/4/14: Mr. Trott replied stating "It now appears the Department is not concerned with the legality of the interview..." Mr. Trott confirmed 2/7/14 at 1300 hours will suffice for the interview. I sent a confirmation to Deputy Dow.

2/5/14: I sent a second confirmation to Deputy Dow since I had not received a reply. Deputy Dow responded back saying he will be there.

2/7/14: Advised by Lt. Wang that a new court order was obtained by AOCDS in an attempt to prevent the interview. Lt. Wang stated the new court order had been fully vetted by County Counsel Leon Page and the District Attorney and we were within our legal right to interview Dep. Dow regarding his Grand Jury testimony and the wiretap.

2/7/14: I attempted to interview Deputy Dow. He declined to answer any questions pertaining to the Grand Jury testimony or the Wiretap after being advised by AOCDS Representative, Mr. Trott, that he was precluded from answering based upon a court order and the Grand Jury order. I advised Deputy Dow several times that he was being ordered to answer my questions and failure to do so could lead to a charge of insubordination which could lead to termination. Deputy Dow continued to decline to answer the questions regarding his Grand Jury testimony and the wiretap.

2/19/14: Received information from County Counsel Leon Page that he has conferred with the District Attorney and Deputy Dow is no longer restricted from talking about his Grand Jury testimony (reference CPC 938.1)

2/21/14: Sent email copy of letter explaining to Dep. Dow the release of restrictions regarding his Grand Jury testimony and scheduling another interview for 3/4/14 at 1000 hours to give him

another chance to answer questions and avoid a charge of insubordination. Received notification that Paul Bartlett from AOCDS and Deputy Dow read the email on 2/21/14.

3/6/14: Attempted third interview with Dep. Dow. Attorney Jim Trott voiced his objection to Deputy Dow answering his questions based upon their court order. Mr. Trott also said he just received information of a possible second Grand Jury Testimony regarding the deputies and is now not sure whether they are released from the restrictions of the newly discovered possible second Grand Jury. I asked Mr. Trott who he had made inquiries to regarding this possible second Grand Jury testimony and he said he just found out about it on the way to the interview this morning. I explained the interview was regarding the Grand Jury testimony that they had been advised of months ago and I would be asking the same questions as last time. Dep. Dow refused to answer my questions and the interview was concluded.



# ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET  
SANTA ANA, CA 92703  
714-647-7000  
WWW.OCSD.ORG

SHERIFF-CORONER  
SANDRA HUTCHENS

## NOTICE OF ADMINISTRATIVE LEAVE

You are hereby notified that, in accordance with Article I, Section 7A of the Personnel and Salary Resolution, you are on administrative leave with pay, effective immediately.

You are ordered to be on call and remain at your residence, or other designated area, Monday through Friday, between 0800 and 1600 hours, except for county holidays. Please contact Internal Affairs at (714) 834-5548, if you will be away from your residence during that time period.

Consent to leave must be authorized by the Professional Standards Division Captain, Lieutenant or their designee.

Use of sick pay, compensatory pay, vacation pay, etc., during the hours of administrative leave, continue to fall under the provisions provided in the memorandum of understanding for your employee group.

Dow, WILLIAM H.

Employee Name (print)

[Redacted]

Residence / Designated Area Address

[Redacted]

Telephone Number(s)

CENTRAL JAIL COMPLEX / TRANSPORTATION

Employee's Assigned Division

[Signature]

Employee Signature

12/5/13  
Date

[Signature]

Assistant Sheriff or Designee

12/5/13  
Date



SHERIFF-CORONER DEPARTMENT  
COUNTY OF ORANGE  
CALIFORNIA

SANDRA HUTCHENS  
SHERIFF-CORONER

P.I. #13-148

**MIRANDA WARNING / LYBARGER ADMONISHMENT**

Due to the nature of this administrative investigation, Government Code Section 3303(h) requires me to advise you of your rights. Therefore it is important that you understand that criminally:

- You have the right to remain silent. (Do you understand?)
- Anything you say may be used against you in court. (Do you understand?)
- You have the right to an attorney before and during any questioning. (Do you understand?)
- If you cannot afford an attorney, one will be appointed for you before questioning. (Do you understand?)

**MIRANDA WAIVER**

Waiver: With these rights in mind, would you like to speak to me? YES NO

**I have read and acknowledge the above admonition and fully understand my Constitutional/Miranda Rights.**

Employee Initials ( W )

**LYBARGER WARNING**

**Employee Name**, because you have chosen to invoke your rights under Miranda, and according to the Lybarger v- Los Angeles decision, I must advise you that the interview at this point will be administrative, and no part of this interview or information that is derived from this interview may be used in a criminal investigation. However, at the same time, since this is administrative, I must remind you that you must answer the questions and, should you refuse to answer any of the questions, that at some future date you may be charged with insubordination.

**I have read and acknowledged the above Lybarger warning. I fully understand I am being compelled to answer any and all questions. Any refusal to do so will be considered insubordination, resulting in discipline up to and including termination.**

Employee Initials ( W )  
William Dow  
Deputy William Dow

2-7-14  
Date

Chris Denison 4382  
Sergeant Chris Denison

2-7-14  
Date

320 N. FLOWER STREET, SANTA ANA, CA 92703 (714) 834-5100

*Integrity without compromise. Service above self. Professionalism in the performance of duty.  
Vigilance in safeguarding our community*

COPY

SHERIFF'S DEPARTMENT, ORANGE COUNTY  
Santa Ana, California

TO: The Personnel File of WILLIAM H. DOW

DATE: 6/4/2014

FROM: Captain Wayne Byerley, Professional Standards

INTRA-DEPARTMENT MEMO

RE: PI#13-148A

---

Sustained: 4/16/2014

Reviewed by Commander Bland

If you have any questions regarding this investigation, please contact Sergeant Jarrett Kurimay in Professional Standards at (714) 834-5569.

WB:ch



SHERIFF-CORONER DEPARTMENT  
COUNTY OF ORANGE  
CALIFORNIA

SANDRA HUTCHENS  
SHERIFF-CORONER

P.I. #13-148

**CONFIDENTIALITY DIRECTIVE**

*DEP. W. DOW*

**Employee Name**, you are hereby ordered not to discuss this case (or any case in which you are a witness or a principal), using any form of communication, with anyone other than your employee representative, Internal Affairs Sergeants or specific parties that may be designated by Internal Affairs.

For the purpose of this directive, the Internal Affairs Sergeant presenting this directive is your superior officer. Any violation of this directive may be considered a violation of Orange County Sheriff-Coroner Department Policy 1018.4 and subject you to possible discipline, up to and including dismissal.

**OCSD Policy 1018.4 Insubordination**

Members shall not be insubordinate. Intentional failure or refusal by any member of the department to obey a lawful order given by a superior officer shall be insubordination.

***I have read and acknowledged the above admonition. I fully understand that I am required to make full, complete and truthful statements. Any refusal to do so will be considered insubordination, resulting in discipline up to and including termination.***

Deputy William Dow

*2-7-14*

Date

Sergeant Chris Denison

*2-7-14*

Date



SHERIFF-CORONER DEPARTMENT  
COUNTY OF ORANGE  
CALIFORNIA

SANDRA HUTCHENS  
SHERIFF-CORONER

P.I. #13-148

**PUBLIC SAFETY OFFICER PROCEDURAL BILL OF RIGHTS (POBOR)**

You are being advised that your rights are fully outlined in the Public Safety Officers Procedural Bill of Rights Act, Government Code 3300-3311. Your rights include:

- 3303(b) You have the right to know who will be conducting the interview
- 3303(c) You have the right to know the nature of the investigation prior to the interview
- 3303(i) You have the right to have a representative of your choice present during the interview
- 3303(g) You have the right to record this interview with your own recorder
- 3303(g) Should it become necessary to interview you a second time reference this investigation, a copy of this interview will be made available to you prior to the second interview.

*I have read and acknowledged the above advisement. I fully understand the above listed rights will be afforded me during this interview.*

Deputy William Dow

2/7/14

Date

Sergeant Chris Denison

2-7-14

Date

320 N. FLOWER STREET, SANTA ANA, CA 92703 (714) 834-5100

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Vigilance in safeguarding our community*



SHERIFF-CORONER DEPARTMENT  
COUNTY OF ORANGE  
CALIFORNIA

SANDRA HUTCHENS  
SHERIFF-CORONER

P.I. #13-148

**MIRANDA WARNING / LYBARGER ADMONISHMENT**

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- Anything you say may be used against you in court. (Do you understand?)
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- If you cannot afford an attorney, one will be appointed for you before questioning. (Do you understand?)

**MIRANDA WAIVER**

Waiver: With these rights in mind, would you like to speak to me? YES NO

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Employee Initials (W)

**LYBARGER WARNING**

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**I have read and acknowledged the above Lybarger warning. I fully understand I am being compelled to answer any and all questions. Any refusal to do so will be considered insubordination, resulting in discipline up to and including termination.**

Employee Initials (W)  
[Signature]  
Deputy William Dow

3-5-14  
Date

[Signature]  
Sergeant Chris Denison

3-6-14  
Date

320 N. FLOWER STREET, SANTA ANA, CA 92703 (714) 834-5100

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Vigilance in safeguarding our community.*



SHERIFF-CORONER DEPARTMENT  
COUNTY OF ORANGE  
CALIFORNIA

SANDRA HUTCHENS  
SHERIFF-CORONER

P.I. #13-148

**CONFIDENTIALITY DIRECTIVE**

**Dep. Dow**, you are hereby ordered not to discuss this case (or any case in which you are a witness or a principal), using any form of communication, with anyone other than your employee representative, Internal Affairs Sergeants or specific parties that may be designated by Internal Affairs.

For the purpose of this directive, the Internal Affairs Sergeant presenting this directive is your superior officer. Any violation of this directive may be considered a violation of Orange County Sheriff-Coroner Department Policy 1018.4 and subject you to possible discipline, up to and including dismissal.

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Deputy William Dow

3-5-14

Date

Sergeant Chris Denison

3-6-14

Date

320 N. FLOWER STREET, SANTA ANA, CA 92703 (714) 834-5100

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Vigilance in safeguarding our community*



SHERIFF-CORONER DEPARTMENT  
COUNTY OF ORANGE  
CALIFORNIA

SANDRA HUTCHENS  
SHERIFF-CORONER

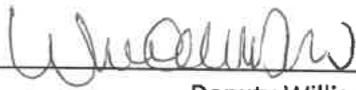
P.I. #13-148

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- 3303(g) Should it become necessary to interview you a second time reference this investigation, a copy of this interview will be made available to you prior to the second interview.

*I have read and acknowledged the above advisement. I fully understand the above listed rights will be afforded me during this interview.*

  
\_\_\_\_\_  
Deputy William Dow

3-5-14  
Date

  
\_\_\_\_\_  
Sergeant Chris Denison

3-6-14  
Date

320 N. FLOWER STREET, SANTA ANA, CA 92703 (714) 834-5100

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## ORANGE COUNTY SHERIFF'S DEPARTMENT

### PROFESSIONAL STANDARDS DIVISION NOTICE OF ADMINISTRATIVE LEAVE

*Confidential*

To: Assistant Sheriff Lee Trujillo  
From: Sergeant Gene Inouye  
Date: December 5, 2013

Please be advised that Deputy William Dow [REDACTED] has been placed on Administrative Leave effective December 5, 2013 at 1630 hours.

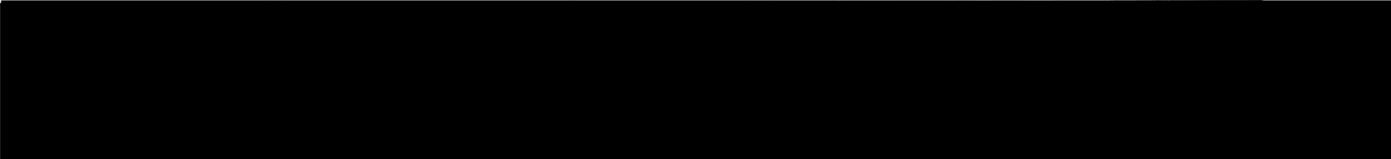
cc: Assistant Sheriff Don Barnes  
Commander Steve Kea  
Captain Sheryl Dubsky  
Captain Wayne Byerley  
Lieutenant Cathy Irons  
Lieutenant Mitch Wang  
Human Resources Manager-Buffy O'Neil  
Human Resources – Robin Scruggs  
County Counsel – Mark Howe  
Human Resources Services – Robert O'Brien  
Human Resources Services – Lisa Bauer  
Human Resources Services – Sally Romero  
Sheriff's Payroll – Doris De La Cruz  
PSD – Sophia Maciel, Transaction Team  
PSD – Christina Chavez, Position Control



Case Report by Principal - WILLIAM H. DOW

Print Date: 12/9/2013

Case Number Incident Date Issue Date Complete Date Complaint Description Disposition



PI13-148 A	12/5/2007	12/09/2013		Allegations of policy violations involving untruthfulness.	Pending
------------	-----------	------------	--	--	---------

Total Cases per Principal:







# ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET  
SANTA ANA, CA 92703  
714-647-7000  
WWW.OCS.D.ORG

SHERIFF-CORONER  
SANDRA HUTCHENS

## NOTICE OF ADMINISTRATIVE LEAVE

You are hereby notified that, in accordance with Article I, Section 7A of the Personnel and Salary Resolution, you are on administrative leave with pay, effective immediately.

You are ordered to be on call and remain at your residence, or other designated area, Monday through Friday, between 0800 and 1600 hours, except for county holidays. Please contact Internal Affairs at (714) 834-5548, if you will be away from your residence during that time period.

Consent to leave must be authorized by the Professional Standards Division Captain, Lieutenant or their designee.

Use of sick pay, compensatory pay, vacation pay, etc., during the hours of administrative leave, continue to fall under the provisions provided in the memorandum of understanding for your employee group.

DOW, WILLIAM H.

Employee Name (print)

[REDACTED]  
Residence / Designated Area Address

[REDACTED]  
Telephone Number(s)

CENTRAL JAIL COMPLEX / TRANSPORTATION  
Employee's Assigned Division

[Signature]  
Employee Signature

12/5/13  
Date

[Signature]  
Assistant Sheriff or Designee

12/5/13  
Date

**THOMPSON, FREDERICK D**

---

**From:** THOMPSON, FREDERICK D  
**Sent:** Wednesday, March 26, 2014 3:37 PM  
**To:** Maciel, Sophia  
**Subject:** PI# 13-148 Deputy William Dow leave time

Sophia,

Deputy William Dow is currently on administrative leave related to PI# 13-148. He took some personal time off today for 6 hours from 0930-1530hrs and wanted to use his AL time. Thank you.

*Sergeant Frederick Thompson  
Orange County Sheriff's Department  
Internal Affairs Bureau  
(714) 834-5569  
Office hours: Tuesday – Friday 0600-1600hrs*

## DENISON, CHRISTOPHER A

---

**From:** Maciel, Sophia  
**Sent:** Tuesday, March 04, 2014 2:37 PM  
**To:** DENISON, CHRISTOPHER A  
**Subject:** RE: AL/VT time in March

Hi Sgt, will do, thank you.

Thanks,  
**Sophia**  
(714) 834-5140



CONFIDENTIALITY NOTICE: This communication with its contents contains confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

---

**From:** DENISON, CHRISTOPHER A  
**Sent:** Tuesday, March 04, 2014 2:02 PM  
**To:** Maciel, Sophia  
**Subject:** RE: AL/VT time in March

Hi Sophia,

I told Deputy Dow that I calculated 5 days vacation per his request and he replied that he also wanted Monday the 24<sup>th</sup> of March off as vacations as well. Would you please add the 24<sup>th</sup> to his vacation request? Thanks for your help.

Chris

*Sergeant Christopher Denison*  
*Orange County Sheriff's Department*  
*Internal Affairs Bureau*  
*(714) 834-5570*  
*Office hours: Tuesday – Friday 0600-1600hrs*

---

**From:** DENISON, CHRISTOPHER A  
**Sent:** Tuesday, February 25, 2014 10:27 AM  
**To:** Maciel, Sophia  
**Subject:** FW: AL/VT time in March

Hi Sophia,

Just for your records regarding Dep. Dow. I calculate his request as 5 days vacation, not 6. (see below).

Thanks,

Chris

*Sergeant Christopher Denison*  
*Orange County Sheriff's Department*  
*Internal Affairs Bureau*

(714) 834-5570

Office hours: Tuesday – Friday 0600-1600hrs

---

**From:** DENISON, CHRISTOPHER A

**Sent:** Tuesday, February 25, 2014 10:24 AM

**To:** DOW, WILLIAM H

**Cc:** [Paul@aocds.org](mailto:Paul@aocds.org)

**Subject:** RE: AL/VT time in March

Your AL/VT time is approved. According to my calculations, the dates you requested, March 17 through March 21, is 5 days (40 hours), not 6 (48 hours).

*Sergeant Christopher Denison*

*Orange County Sheriff's Department*

*Internal Affairs Bureau*

*(714) 834-5570*

*Office hours: Tuesday – Friday 0600-1600hrs*

---

**From:** DOW, WILLIAM H

**Sent:** Wednesday, February 19, 2014 2:01 PM

**To:** DENISON, CHRISTOPHER A

**Cc:** [Paul@aocds.org](mailto:Paul@aocds.org)

**Subject:** AL/VT time in March

Sgt. Denison,

I have AL/VT time scheduled for the week of March 21st. I would like to amend the dates to March 17 through March 21. This would be a total of 6 days, or 48 hours, of AL/VT time used.

Dep. W. Dow #6013

**THOMPSON, FREDERICK D**

---

**From:** THOMPSON, FREDERICK D  
**Sent:** Friday, February 28, 2014 1:36 PM  
**To:** Maciel, Sophia  
**Subject:** PI# 13-148 Deputy Dow on Admin Leave took time off

Sophia,  
Deputy Dow is on administrative leave related to PI# 13-148 and took two hours off today from 1025-1225hrs for a dental appointment. Thank you.

*Sergeant Frederick Thompson  
Orange County Sheriff's Department  
Internal Affairs Bureau  
(714) 834-5569  
Office hours: Tuesday – Friday 0600-1600hrs*



# REPORT OF ABSENCE

## ROUTING

1. \_\_\_\_\_
2. \_\_\_\_\_
3. PAYROLL
4. EMPLOYEE (YELLOW COPY)

EMPLOYEE DEP. W. DOW

DIVISION TRANSPORTATION / PSD

### PERIOD OF ABSENCE

FROM: DATE 3-17-14

TIME: 0800

TO: DATE 3-24-14

TIME: 1600

LENGTH OF ABSENCE 48

HOURS

### TYPE OF ABSENCE

1.  ANNUAL LEAVE
2.  ANNUAL LEAVE UNPLANNED
3.  SICK LEAVE
  - (a)  PERSONAL (OVER 14 CONSECUTIVE CALENDAR DAYS MEDICAL RELEASE MUST BE SUBMITTED.)
  - (b)  SERIOUS ILLNESS IN FAMILY (LIMITED TO 3 DAYS OR 24 HOURS—CHECK APPLICABLE MOU)
  - (c)  OTHER (PERSONAL EMERGENCIES—MAX. 30 HOURS PER FISCAL YEAR.)
4.  COMPENSATORY TIME OFF
5.  VACATION
6.  LEAVE WITH PAY (OVER 120 HOURS REQUIRES PERSONNEL DIRECTOR AND C.E.O. APPROVAL.)
7.  WITHOUT PAY
  - (a)  DEPT. LEAVE (15 CALENDAR DAYS OR LESS)
  - (b)  ABSENT WITHOUT AUTHORIZATION
8.  BEREAVEMENT (MAXIMUM 5 DAYS IN ANY ONE INSTANCE)
9.  JURY DUTY
10.  WITNESS LEAVE/SUBPOENA
11.  MILITARY LEAVE
  - (a)  WITH PAY
  - (b)  WITHOUT PAY
12.  ON THE JOB INJURY
13.  WORKERS' COMP.
14.  PIP LEAVE

EMAILED IN

EMPLOYEE SIGNATURE

2-19-14

DATE

[Signature] 4382

APPROVED BY

2-25-14

DATE



# REPORT OF ABSENCE

EMPLOYEE William Dow

DIVISION PSD

### PERIOD OF ABSENCE

FROM: DATE 4-10-14

TIME: 0800

TO: DATE 4-23-14

TIME: 1600

LENGTH OF ABSENCE 80

HOURS

### ROUTING

1. \_\_\_\_\_
2. \_\_\_\_\_
3. PAYROLL
4. EMPLOYEE (YELLOW COPY)

### TYPE OF ABSENCE

1.  AL (ANNUAL LEAVE)
2.  ALUP (ANNUAL LEAVE UNPLANNED)
3.  SICK LEAVE
  - (a)  PERSONAL (OVER 14 CONSECUTIVE CALENDAR DAYS MEDICAL RELEASE MUST BE SUBMITTED.)
  - (b)  SERIOUS ILLNESS IN FAMILY (LIMITED TO 3 DAYS OR 24 HOURS—CHECK APPLICABLE MOU)
  - (c)  OTHER (PERSONAL EMERGENCIES—MAX. 30 HOURS PER FISCAL YEAR.)
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7.  WITHOUT PAY
  - (a)  DEPT. LEAVE (15 CALENDAR DAYS OR LESS)
  - (b)  ABSENT WITHOUT AUTHORIZATION
8.  BEREAVEMENT (MAXIMUM 5 DAYS IN ANY ONE INSTANCE)
9.  JURY DUTY
10.  WITNESS LEAVE/SUBPOENA
11.  MILITARY LEAVE
  - (a)  WITH PAY
  - (b)  WITHOUT PAY
12.  ON THE JOB INJURY
13.  WORKERS' COMP.
14.  PIP LEAVE

EMAILED IN

EMPLOYEE SIGNATURE

[Signature] 4382

APPROVED BY

4-9-14

DATE

4-10-14

DATE