



BILL CAMPBELL

SUPERVISOR, THIRD DISTRICT

ORANGE COUNTY BOARD OF SUPERVISORS
ORANGE COUNTY HALL OF ADMINISTRATION
10 CIVIC CENTER PLAZA, SANTA ANA, CALIFORNIA 92701
PHONE (714) 834-3330 FAX (714) 834-2786
bill.campbell@ocgov.com

December 6, 2005

Dear Friends:

On behalf of the Orange County Board of Supervisors, I am sending you a copy of the "County of Orange Legislative Platform for 2006," adopted on November 22, 2005 and December 6, 2005. This document articulates the key legislative priorities and policies for the County in both Sacramento and Washington D.C. and provides policy direction and guidance to County departments and staff.

We hope that you will find the document helpful in understanding the County's perspective on the major issues facing us this year. My colleagues and I look forward to working with many of you in the coming months.

If you or your staff have any questions regarding the attached Platform, please contact Bill Hodge, Director, CEO/Legislative Affairs at (714) 834-7010.

Sincerely,

BILL CAMPBELL
Chairman of the Board

Attachment

cc: Members, Board of Supervisors
Members, Orange County State and Federal Legislative Delegation
City Managers, Orange County Cities
Thomas G. Mauk, County Executive Officer
County of Orange Deputy CEOs and Agency/Department Heads
County of Orange Legislative Coordinators
Michael Gold, League of Cities, Orange County Division
James McConnell, Washington Legislative Advocate
Scott Baugh, Sacramento Legislative Advocate
James Keene, CSAC Executive Director
Casey Kaneko, UCC Executive Director



COUNTY OF ORANGE LEGISLATIVE PLATFORM FOR 2006

Adopted by the Board of Supervisors
November 22, 2005 and December 6, 2005

Bill Campbell
Chairman of the Board
Supervisor, Third District

Lou Correa
Supervisor, First District

Jim Silva
Supervisor, Second District

Chris Norby
Supervisor, Fourth District

Thomas W. Wilson, Vice-Chairman
Supervisor, Fifth District

**COUNTY OF ORANGE
LEGISLATIVE PLATFORM
FOR 2006**

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COUNTY OF ORANGE

2006 State and Federal
Outlooks

COUNTY OF ORANGE
2006 STATE AND FEDERAL OUTLOOKS

STATE LEGISLATIVE OUTLOOK, 2ND SESSION

Overview

The Governor's "Year of Reform" State of the State speech in January established the tone for the 2005 legislative year. Proposed reform bill packages were introduced on teacher tenure and merit pay, state budgeting and financing, pension issues and re-districting. Ultimately, the Governor and the Legislature could not agree on bills and initiative efforts were launched on several issues including teacher tenure, state spending and redistricting. The Legislature adjourned the first year of its two-year session with a whimper. It was clear to Capitol insiders that more legislative attention was focused on the upcoming potential fall election than the business before the Legislature. In mid September, Republicans and Democrats faced off in a special election to fill the vacancy in the competitive 53rd Assembly District (Torrance/Redondo Beach) upon the death of Mike Gordon. Assembly Member Ted Liu will replace him within the Democratic caucus in January. More importantly, the Democratically held Legislature was in a virtual war with the Governor over several initiatives on the November special election ballot.

As a result, many of this year's key issues were killed in the Legislature, vetoed by the Governor, or simply pushed off until next year. For example, the Legislature rejected two of the Governor's nominees for high-ranking administrative positions, killed his bill on solar energy, and declined to take up several tribal gaming "compacts." Returning the favor, the Governor vetoed the Democrats' bills on same-sex marriage and driver's licenses for undocumented immigrants.

The Special Election

In September the Governor officially announced his run for re-election in 2006. Linking his re-election efforts to several initiatives on the November 8 special election ballot, the Governor described his vision as a three-part process of "recovery, reform and rebuilding." Basically, the Governor described the economic and policy changes achieved in the first two years of his administration as a "recovery" effort. The "reform" he spoke of was in the form of supporting four specific initiatives on the November ballot:

Prop. 74 – Public school teachers would receive tenure after five years instead of the current two years.

Prop. 75 – Public employee union dues would not be able to be used for political contributions without expressed consent of the member.

Prop. 76 – The “Live Within Our Means” Act set spending limits based upon past revenues, gave the Governor power to reduce spending (including mandates) mid-year to prevent budget deficits, and altered Proposition 98 education funding formula.

Prop. 77 – Required a panel of retired judges to draw legislative and congressional district boundaries.

In addition to these four initiatives, five other measures appeared on the special election ballot as well. In the final weeks of the campaign, the Governor formally announced his support for Proposition 73, which required teens to notify their parents or a court before getting an abortion. The Governor did not formally announce support or opposition for the other measures. All measures finally lost November 8 at the ballot box. The Governor has signaled his intent to work with the State Legislature in the coming session to craft compromise reform proposals, but some Capitol insiders expect to see a much more aggressive push by Democrats on the legislative front when the Legislature returns to Sacramento in January.

State Budget

When California voters rejected the Governor’s budget reform measure in November it left the fiscal status quo intact, which means the “budget gap” will continue to grow. California is still obligated to spend roughly five to seven percent more than its revenue system can produce, even during a prosperous economy. Over the last five years—despite steadily increasing revenues and borrowing tens of millions of dollars—deficits have mounted. The Democrats refuse to entertain spending cuts and the Republicans refuse to consider tax increases.

The Legislature’s independent budget office has estimated the state would need to spend \$94 billion in 2005-06 to cover the obligations of current law, but revenue is forecasted at about \$88 billion. These numbers may change since the state appears to be experiencing an increase in revenue growth in the current year. In fact, the Legislative Analyst last week released its long-term forecast for the state’s fiscal picture. The LAO projects that the state will end the current fiscal year with a positive balance of about \$5.2 billion. The LAO also projected that the ongoing, structural shortfall will shrink to \$4 billion in the 2006-07 budget year.

The controversy around education funding still exists. The Governor approved a \$3 billion increase in school financing for 2005-06, but refused to give the schools the other \$3 billion the education community believes he promised them in the prior budget deal. In the aftermath of the November election, the Governor promised to restore as much of the disputed school money as possible and to work with the Legislature to determine if the funds can be found to accomplish that.

Legislative Recap

Orange County was successful with three of its seven sponsored legislative proposals:

- SB 287 (Cox) – Design-Build Contracting: The bill became the vehicle for all central and southern California design-build bills introduced in the Legislature this year, including AB 245 by Orange County’s Assemblywoman Mimi Walters. The law will allow the County of Orange to use design-build in the development of public infrastructure projects such as the South County Courthouse. The bill’s language specifically excludes transportation projects, language placed in the bill to satisfy the Professional Engineers in California Government (PEG).
- SB 619 (Speier) – Continuous Electronic Monitoring: The bill allows monitoring of persons on probation or parole using continuous electronic monitoring, including global positioning system (GPS) technology. The bill allows counties to assess fees to offenders based upon each offender’s ability to pay to offset the cost of the GPS system.
- AB 538 (Harman) – County Employees’ Retirement: Rate Adjustments. The bill allows the governing boards of all entities in the Orange County Employees Retirement System not governed by the Board of Supervisors to implement their contribution rates after the Board of Supervisors enacts a resolution.

The majority of Orange County’s other sponsored bills encountered difficulty over the unwillingness of many members of the Legislature to pursue further reforms on workers compensation issues after the major legislation passed in 2004. AB 227 (Daucher), AB 229 (Tran) and SB 916 (Speier) all became two-year bills after they faced unrelenting opposition from union representatives in their first committee hearings. Given the results of the November election, it may become necessary to re-assess the viability of these bills in the upcoming second session of the current Legislature. Additionally, some events have interceded that could make at least one of the bills moot. It appears case law on the worker injury notification issue in AB 227 may render the bill unnecessary.

The lone remaining bill, AB 763 (Tran), will become the vehicle for further efforts to obviate the potential conflict issues with the Juvenile Justice Coordinating Council. During this year’s session, Assemblyman Tran became a principal co-author of AB 1448 (Saldana) and the County of Orange adopted a support position on this bill designed to solve the potential conflict issues. However, the Governor vetoed the bill based upon his concern with amending the state’s conflict of interest law. Staff is presently developing an alternative approach on this matter that would not require amendments specifically to the state’s conflict of interest statute.

Outlook

The election results emboldened a coalition of public employee and safety worker unions who claimed credit for the election outcome on most of the reform measures. To the extent those labor organization choose to flex their political muscle in the coming session will in large measure determine the outcome of many workers compensation bills pending in the Legislature, including Orange County's.

It also appears infrastructure issues may be a major theme of the Governor's approach in the second session. This could be the "rebuilding" theme of his platform. He has indicated an interest in fixing the state's infrastructure, which he believes is a critical element affecting the ability of the state's economy to grow and provide revenues for state government and programs. There is the potential for a large state bond measure to become the centerpiece of this effort. Sources in Sacramento say a \$50 billion bond measure for infrastructure is being discussed. Capitol watchers have characterized the Governor's effort as similar to the infrastructure focus of former Governor Pat Brown in the 1950s and 1960s.

The 2006 elections also provide context for this session of the Legislature. The Governor will be running for re-election next year and several Democrats have announced their candidacy in the June election to challenge him in November. So far, State Controller Steve Westly and Treasurer Phil Angelides have announced, and actor Warren Beatty is rumored to be considering the race.

COUNTY OF ORANGE
2006 STATE AND FEDERAL OUTLOOKS

FEDERAL LEGISLATIVE OUTLOOK, 109TH CONGRESS, 2ND SESSION

Overview

Notwithstanding that Congress passed individual appropriations bills in 2005 without resorting to a catchall, omnibus bill, the year ended with foreboding on the part of the Republican majority. Dismal election results for Republicans in Virginia and New Jersey and a gubernatorial shellacking in California added to the disquiet in Washington brought on by a summer that ended with Hurricane Katrina and its aftermath, and an autumn that began with increasing domestic controversy regarding the war in Iraq, which is costing \$6 billion per month.

Major initiatives are unlikely to be proposed in 2006 in advance of the midterm elections. Republican congressional leaders have said that Social Security reform is off the table, perhaps until 2009. An opportunity to repeal the estate tax for estates of less than \$5 million was buried, temporarily, in the muck and debris of the Lower Ninth Ward in New Orleans.

Likewise with issues such as immigration reform and the President's controversial guest worker proposal; pension reform and the tightening of regulations on how corporations fund pension plans; and the reform of government-sponsored enterprises, such as Ginnie Mae and Freddie Mac.

Nonetheless, the annual deficit for FY 2005 was \$100 billion less than 2004.

Enactment of the SAFETEA-LU bill in August means that the focus of transportation activity in 2006 will be in maintaining the levels of funding for highway and transit programs authorized in the legislation, despite budget cutting efforts elsewhere.

Fiscal conservatives will continue attempts to shrink the domestic budget, taking advantage of opportunities where they arise. However, the loss of one or two Republicans in various key Senate committees, such as Finance, can derail tax reconciliation legislation. In the House, 12-20 Republican moderates play a crucial role on environmental and social welfare issues, as well as budget reconciliation, if Democratic Members maintain their unanimity.

Orange County Issues

Adequate funding for the Santa Ana River Project was achieved in 2005, now it must continue forward in the Fiscal Year 2007 budget, which will be introduced in February. The issue of partial reimbursement of County land acquisition expenditures at Prado Dam during the time of construction will move to the fore with regard to the project. The

Corps of Engineers is trying to decide whether it has the authority to partially reimburse the County during construction. If the answer is no, then authorization legislation may be required. If the answer is yes, it may still require a specific appropriation each year to reimburse the County. Nationwide, the Corps currently owes local governments some \$800 million for expenditures that have been advanced on the Federal Government's behalf during project construction. That \$800 million backlog is being paid down at a rate of just \$20 million per year, creating a 40-year wait for reimbursement at the current rate.

Continuation of funding for the Upper Newport Bay Ecosystem Restoration Project, having begun with the FY 2006 energy and water appropriations bill, will continue to be a priority for funding in FY 2007. The Water Resources Development Act, which is typically enacted each Congress with new project authorization for the Corps of Engineers, has now gone four years without a new bill. The County is working for an extension of the authorization of the LA-3 Disposal Site authorization for dredged materials from Upper Newport Bay, whenever Congress can agree on the larger issue of Corps reform.

Congress continued to temporarily extend the expired authorization for TANF (Temporary Assistance for Needy Families) throughout the 108th Congress and into 2005. Further attempts to enact a new authorization in 2006 will continue. However, given some of the proposals contained in the FY 2006 budget reconciliation package, it is not improbable that continuing extensions of the existing TANF are preferable to what a new act might propose.

The Endangered Species Act (ESA) will continue to be a focus of attention for the House Resources and Senate Environment and Public Works Committees. Chairmen of both committees began work on reform legislation in 2005, with the House passing H.R. 3824 in September. Reauthorization will be a priority of the 2nd Session of the 109th Congress, with a focus on changing the critical habitat provisions of the act, one of the features of ESA that has impacted Orange County the most.

Reimbursement for John Wayne Airport's expenses in installing explosive detection systems (EDS) has the attention of Rep. Rohrabacher, whose district includes the airport. However, as much as the airport serves the entire County, we will be enlisting the assistance of the entire delegation to see if it is possible to get the Department of Homeland Security to meet its obligations in this regard.



COUNTY OF ORANGE

2006 Legislative Priorities and Policy Statements

COUNTY OF ORANGE
2006 LEGISLATIVE PRIORITIES AND POLICY STATEMENTS

The County of Orange recognizes the need to protect its interests in Sacramento and Washington, DC. To be effective in this mission, the County of Orange reviews and establishes priorities and policy statements at the beginning of each legislative year. The Legislative Priorities set forth the County's goals for the current Legislative Session and the Policy Statements provide general direction to the Legislative advocates as they advance County interests during the year.

LEGISLATIVE PRIORITIES

1. **LOCAL GOVERNMENT FUNDING**
In the event local revenue is jeopardized (e.g. VLF) or reallocated, the State must provide alternative funding sources to local governments.

2. **FISCAL EQUITY**
Establish an equitable, dependable and predictable revenue stream with distribution formulas for local revenues that address equity with other counties, and that any formula be based on one or more of the following factors:
 - Per capita
 - Caseload
 - Situs (dedicated taxes)
 - Realignment Equity
 - Cost of Living in High Cost Counties
 - Other Objective Measures of Need

3. **COST RECOVERY**
Local governments shall receive full cost reimbursement for all federal and/or state mandated programs. Unfunded or under-funded mandates are a burden which local government cannot afford.

4. **DETERMINE STATE FUNDING FOR COURT OPERATIONS AND FACILITIES**

POLICY STATEMENTS

1. Increasing taxes is an inappropriate means of balancing the State's budget.

2. The establishment of equitable, dependable, and predictable revenue streams with distribution formulas for local revenues that address equity are necessary for the stability of services provided to local government. Proposed funding allocations to counties must be based upon common factors (population, poverty statistics, caseload, or other objective measures of need) applied evenly to counties.
3. The shifting of tax revenues from the County to the State or other local entities harms Orange County's stability to serve its residents.
4. Counties must be given the authority, flexibility, and adequate funding to administer programs and service client needs within their local jurisdictions (no unfunded mandates).
5. Realignment proposals must only include programs where counties have control over costs and program operations.
6. Federal maintenance of effort requirements as well as federal penalties and sanctions must remain the responsibility of the State and not passed on to local governments.
7. Homeland security and emergency response efforts shall be coordinated among the federal, state, and local governments with clearly defined roles and responsibilities for each.
8. The State and/or federal government shall provide full cost recovery for counties and cities for all mandates. State/or federally funded programs (such as Santa Ana River Project, State Child Health Insurance program (S-CHIP), medical research, housing, law enforcement, older adults and workforce investment, etc.) require adequate and continuous funding.
9. Orange County will support measures that protect the public against disease and disability.
10. Funding for alternatives to incarceration that are cost effective and do not endanger the general public shall be pursued.
11. Housing:
 - a. Adequate housing is necessary for economic stability. Parity should be sought between the number of jobs and the availability of housing. The Regional Housing Needs Assessment (RHNA) should identify realistically the housing elements needed to achieve fair distribution of housing requirements and should provide for the transfer of housing allocations when annexation or incorporation occur. RHNA should never be used to punitively impact the funding of local government.

- b. Support removal or minimization of barriers to housing production, including fiscal reform for local government to address disincentives for residential development.
 - c. Support the efforts of County water agencies to insure that an adequate water supply exists for potential development in unincorporated areas.
12. Coastal Resources:
- a. State – promote coordinated effort between state, County and regional agencies to allow for increased local control for project implementation.
 - b. Federal – increase programs and funding opportunities for coastal habitat and resource purchase, preservation and maintenance via sharing Federal Outer Continental Shelf (OCS) revenues with coastal states to support conservation and wildlife protection programs.
 - c. Federal – create grants for NPDES implementation.
13. Promote business retention (through insurance, healthcare, and workers' compensation reform) and consider incentives to attract new business.
14. Protect local decision-making and accountability for County Proposition 10 Commissions when statewide financial reporting and fiscal practices are established.
15. El Toro – The local land use decision made regarding MCAS, El Toro and its reuse should be upheld. The County of Orange is opposed to any attempt to change the land use and to the creation of a regional airport authority to place an airport at MCAS, El Toro.
16. Support policies that maximize local control over solid waste management and solid waste facilities, and minimize burdensome and duplicative regulation by the state.
17. Reauthorization of the Voting Rights Act should reexamine multilingual ballot requirements to ease unfunded mandates on counties. The law should have specific and reasonable fluency thresholds, and not be left up to changing legal, administrative or regulatory interpretations that place unknown future costs on the Registrar of Voters.
18. Support a public safety system that includes local law enforcement services, crime prevention, prosecution of crime, confinement of high-risk and juvenile offenders, and supervision of adults and juveniles placed on court ordered formal probation.



COUNTY OF ORANGE

2006 County-Sponsored State
Legislative Proposals

COUNTY OF ORANGE
2006 COUNTY-SPONSORED STATE LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

New State Proposals

1. CEO/Orange County Retirement System Affiliation

This proposal is to introduce a study bill that would be a placeholder so the Board would have the option to change retirement systems if that decision is made at the conclusion of a study now underway.

Recommended Action: Direct the County's Sacramento Lobbyist to seek an author.

2. Probation – Probation Officers' Pre-sentencing Reports

This proposal is to add County probation officers to the list of individuals authorized under Penal Code to receive sexual assault victim address information. The Probation Department is mandated to prepare pre-sentencing reports. The ability to contact the victim directly will enhance information the pre-sentencing report related to restitution of impacts of the crime and non-economic losses suffered by the victim, including, but not limited to, psychological harm.

Recommended Action: Direct the County's Sacramento Lobbyist to seek an author.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2006 LEGISLATIVE YEAR**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Edward Corser Phone: 714-834-4304
Patti Gorczyca Phone: 714-834-3046
Fax: 714-834-3555 email address: ed.corser@ocgov.com
Patricia.Gorczyca@ocgov.com

SUBJECT: **COUNTY OF ORANGE RETIREMENT SYSTEM AFFILIATION**

AFFECTED DEPARTMENT(S)/AGENCY(IES):
All County Departments/Agencies

CODE SECTION AFFECTED:
Government Code; Labor Code

DESCRIPTION OF CURRENT LAW:
Orange County Employees Retirement System

PROPOSAL:
There is need for a spot bill to preserve options to affiliate with a different retirement system depending upon policy decisions related to the pension obligation shortfall issue.

DISCUSSION:
The County of Orange is studying its options for affiliating with a new retirement system such as CalPERS. County Counsel and CalPERS representatives have advised the County that legislation will be necessary to leave the Orange County Employee Retirement System (OCERS) and move to the CalPERS system. While that decision has not been made, the County will need a bill if the decision is made to change or modify retirement systems.

FISCAL IMPACT:
Depends upon actuarial analysis currently underway; could reduce County pension liability or amortize over longer period of time.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)
Pending

POTENTIAL OPPOSITION/SUPPORT:
Opposition may come from OCERS itself or agencies that would remain with OCERS if the County of Orange pulled out. Potential disparity of public safety benefits between

old and new system could trigger opposition. Perception or partisan issues in the Legislature could represent a significant hurdle for proposal.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2006 LEGISLATIVE YEAR**

AGENCY/DEPARTMENT: PROBATION DEPARTMENT

CONTACT PERSON: Vicki Mathews Phone: 714-937-4725

Fax: 714-558-5961 email address: vicki.mathews@ocprob.com

SUBJECT: **PROBATION OFFICERS' PRE-SENTENCING REPORTS**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

All police departments, sheriff's departments, district attorney's offices, victims' advocates, law enforcement agencies conducting investigations involving victims, and probation departments.

CODE SECTION AFFECTED:

Penal Code Section 293 (c), (d), and (f)

DESCRIPTION OF CURRENT LAW:

Existing law provides that no law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections and hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the name and address of a person who alleges to be the victim of a sex offense, or the name and address of a person who alleges to be the victim of a sex offense if that person has elected to exercise his or her right to request that his or her name be withheld as the victim of a designated crime. The entire text of PC 293 is presented as follows; proposed amendments affect Sections c, d, and f only:

PC 293 (a) Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.

(b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.

(c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.

(d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

(e) For purposes of this section, sex offense means any crime listed in paragraph (2) of subdivision (f) of Section 6254 of the Government Code which is also defined in Chapter 1 (commencing with Section 261) or Chapter 5 (commencing with Section 281) of Part 1 of Title 9.

(f) Parole officers of the Department of Corrections and hearing officers of the parole authority, shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee who is alleged to have committed the sex offense while on parole.

PROPOSAL:

To amend PC 293 (c) (d) and (f) to include probation officers of county probation departments as a named, authorized recipient of sexual assault victims names and addresses information only if the person to whom the information pertains alleges that he or she is a victim of a sex offense, the alleged perpetrator of which is a probationer or is under investigation by a county probation department.

DISCUSSION:

The Probation Department is mandated to conduct investigations and write pre-sentence reports on behalf of the court [PC 1203 (a)(2)(A), PC 1203 (d), PC 1203c]. California Rule of Court 4.411.5 (a)(5) requires the probation officer's pre-sentence investigation report to include: "Information concerning the victim of the crime, including: (i) the victim's statement or a summary thereof, if available; (ii) the amount of the victim's loss, and whether or not it is covered by insurance; and (iii) any information required by law."

The law also mandates that said reports include information regarding restitution [1203 (a)(2)(C)(i)]. Restitution can include medical expenses [1202.4 (f)(3)(B)], mental health counseling expenses [1202.4 (f)(3)(C)], and non-economic losses, including, but not limited to, psychological harm, for felony violations of Section 288 [1202.4 (f)(3)(F)]. Such losses are often present in cases involving sexual assault victims.

Victims of sexual assault often move from their last known residence or change their contact information to avoid contact by the perpetrator. Often, the best way to contact a sexual assault victim for the aforementioned purposes is through the District Attorney's Office, Victim Advocate, or via information contained in the original incident report written by a law enforcement agency.

PC 293 (c) (d) and (f) does not mention the probation officer as an authorized recipient of victim name and address information. The District Attorney and other law enforcement agencies are forced to withhold victim information from the probation officer, which inhibits the probation officer's ability to comply with PC 1203, PC 1202.4 and Rule of Court 4.411.5. Law enforcement agencies releasing incident reports to the probation officer redact victim information making contact with the victim for the purposes of the pre-sentence report more difficult. Victim Advocates, acknowledging the value of the victim's statement in a pre-sentence report, will often attempt to contact the victim on the probation officer's behalf, giving the victim the responsibility to contact the probation officer. This practice is cumbersome and met with only limited success.

By amending PC 293 (c) (d) and (f) to include the probation officer of county probation departments as a recipient of sexual assault victim information, the victims of these crimes will have a stronger voice in the court, will be better able to request restitution and will be able to express the impact the crime has had on their lives. Law enforcement agencies will no longer have to redact reports, alleviating the workload of records personnel. Victims' Advocates will not be tasked with being the mediator between the probation officer and the victims and the victims will not be given the additional responsibility of contacting the probation officer during an already stressful time in their lives.

The probation officer's report is a permanent record of the victim's statement that can be referred to by the prosecutor in future criminal filings, can provide valuable information to the California Department of Corrections in parole hearings or for clemency consideration and can allow the victim's voice to resonate should they not be available in the future. The goal of the proposed change is to allow the probation officer to provide a thorough and accurate pre-sentence report to the court, ultimately benefiting the victims and the community as a whole.

FISCAL IMPACT:

Unknown, but it is believed the proposed legislation will reduce the workload of law enforcement personnel.

PROPOSED SPECIFIC LANGUAGE: (Reviewed by County Counsel)

293 (c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, **probation officers of county probation departments** or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.

(d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, **probation officers of county probation departments** or other persons or public agencies where authorized or required by law, the name of a person who alleges to be

the victim of a sex offense, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

(f) Parole officers of the Department of Corrections and hearing officers of the parole authority, **and probation officers of county probation departments** shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee **who is alleged to have committed this offense while on parole, a probationer, or a person who is under investigation by a county probation department.**

POTENTIAL OPPOSITION/SUPPORT:

The Orange County Probation Department is a committed source of support. All probation departments, law enforcement agencies, Superior Courts and prosecutors could be potential sources of support. Victim Advocates may support or oppose the proposal based on whether they believe a probation officer's contact with the victim can be made without causing additional inconvenience or harm to the victim. It is the preferred practice of probation officers to work with the Victim Advocate to alleviate any fears and answer questions a victim may have about the process and to have the familiar voice of the advocate first notify the victim of the probation officer's role and nature of the inquiry.

The support of professional organizations such as: The American Probation and Parole Association (APPA) and The Chief Probation Officers of California (CPOC) has not yet been obtained, yet those organizations are firm supporters of the improvement of victim services and the probation officers' role in the criminal justice system.

The Public Defender's Office and defense counsel may oppose the proposed law due to the potential for increased victim restitution orders and victim impact statements that may negatively impact criminal defendants.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

Unknown

PERSONS RESPONSIBLE FOR TESTIMONY:

| | |
|---------------------|--------------------------------|
| Colleene Preciado | Chief Probation Officer |
| Bill Daniel | Chief Deputy Probation Officer |
| Mack Jenkins | Division Director |
| Daniel C. Hernandez | Supervising Probation Officer |
| Vicki Pedrin | Deputy Probation Officer |

State Legislative Proposals/Legislation (Continued from the 1st Session)

- **Resources and Development Management Services/Flood Control Subvention State Funding**

The Board approved an effort to secure flood control subvention state funding through the budget process with the Governor and the Department of Water Resources.

Recommended Action: Direct the County's Sacramento Lobbyist to work with the Governor's Office and the Department of Finance to include flood control subvention funding in the 2006-07 state budget.

- **AB 227 (Daucher) Workers' Compensation: Benefits: Leave from State**

This bill would require any employee receiving temporary partial or temporary total disability benefits or necessary medical treatment due to a work-related injury or illness to forfeit the right to receive these benefits and medical treatment if the employee leaves the state for a period exceeding two weeks without written authorization of the employer.

Recommended Action: Direct the County's Sacramento Lobbyist to work with the author on alternative language for AB 227.

- **AB 229 (Tran) Medical Provider Networks: Notification of Injury**

This bill would require an employer utilizing a network to arrange an initial medical evaluation and begin treatment within one working day after an employee files claim for workers' compensation with the employer.

Recommended Action: Direct the County's Sacramento representative to work with the author to release the bill.

- **AB 763 (Tran) Conflict of Interest: Juvenile Justice Coordinating Councils**

This bill would provide a clarification to excuse members from the general prohibition set forth in Government Code 1090 thereby permitting JJCC members to accept their council requirements to engage in discussions and vote on the developed plan and associated budgets without fear of violating any laws.

Recommended Action: Pursue alternative language with other counties which operate Juvenile Justice Coordinating Councils with conflict potential.

- **SB 916 (Speier) Workers' Compensation: Defined Benefits Plans: Disability Indemnity Benefits**

This bill would allow a reduction of workers' compensation payments to individuals who receive a service connected disability retirement, when the spending power of the retirement meets or exceeds what they earned while working.

Recommended Action: Work with author to re-assess bill in light of changing workman's compensation issues.



COUNTY OF ORANGE

2006 County-Sponsored Federal Legislative Proposals

COUNTY OF ORANGE
2006 COUNTY-SPONSORED FEDERAL LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

New Federal Proposals

1. ***John Wayne Airport – Explosive Detention System (EDS)***

Earlier this year, the Board requested that the Orange County Congressional delegation and our California Senators work with the Transportation Security Agency to secure reimbursement for John Wayne Airport's Explosive Detection System. Given the rules currently in place for reimbursement, which were approved after Orange County's EDS system was installed, a specific bill is the best way to pursue reimbursement.

Recommended Action: Work with the County's Washington, D. C. advocate to identify bill opportunities for reimbursement of the John Wayne Airport EDS system.

**PROPOSAL FOR COUNTY SPONSORED FEDERAL LEGISLATION
109TH CONGRESS**

AGENCY/DEPARTMENT: JOHN WAYNE AIRPORT

CONTACT PERSON: Alan L. Murphy Phone: 949-252-5183

Fax: 949-252-5178 email address: amurphy@ocair.com

SUBJECT: **EXPLOSIVE DETECTION SYSTEM (EDS)**

AFFECTED DEPARTMENT(S)/AGENCY(IES):
John Wayne Airport

CODE SECTION AFFECTED:
N/A

DESCRIPTION OF CURRENT LAW:

On November 19, 2001, the U.S. Congress passed the Aviation Transportation Security Act (ATSA), resulting in the creation of the Transportation Security Administration (TSA) and mandating that a system be implemented at all airports by December 31, 2002 to screen 100% percent of checked baggage.

The Department of Transportation Appropriations Act of 2002 provides guidance regarding federal funding for construction of such screening systems. Generally, those expenses to be covered by TSA include direct costs to make the unit(s) operational and construction necessary to isolate the EDS unit(s).

PROPOSAL:

Require the Department of Homeland Security (Transportation Security Administration) to reimburse John Wayne Airport, consistent with prior verbal commitments, for eligible expenses incurred in the construction of JWA's explosive detection system (EDS).

DISCUSSION:

The Aviation Transportation Security Act, passed by Congress in 2001, required that commercial Airports in the United States screen 100% of all checked baggage by December 31, 2002. In response to this mandate, John Wayne Airport (JWA) evaluated available screening options and chose to proceed with an "in-line" explosive detection system (EDS). As opposed to an "in-lobby" approach, the in-line system allows ticket counter and curbside conveyors to remain unchanged with respect to operation by the air carriers and appearance to the traveling public. Once processed at the curb or ticket counter, bags are sent through existing conveyors to a separate room where they are screened and then transported back into the baggage handling system for loading onto aircraft.

JWA submitted its proposal for the in-line EDS to the Transportation Security Administration's (TSA) Security Technology Deployment Office. Formal project approval was issued by TSA in September 2002. At that time, and on subsequent occasions, TSA verbally committed to reimbursing the Airport for the cost of construction. Based upon TSA's project approval and funding commitment, and in light of the ATSA installation deadline, the Orange County Board of Supervisors authorized the expenditure of existing Airport revenues for construction of the baggage screening system. As of this date, approximately \$10 million of Airport revenues dedicated to this project remain reimbursed.

In February, the Government Accountability Office testified before the Senate Commerce Committee that, at the nine airports that have already received Letters of Intent for in-line baggage screening systems, the federal government may save as much as \$1.3 billion over seven years when compared with in-lobby systems and that TSA could recover its initial investment at these airports in as little as one year. At John Wayne Airport, those savings are estimated to be at least \$8 million per year (in 2003 dollars) in labor costs. Not only is the in-line baggage screening system preferable from a passenger convenience standpoint, it is also the alternative that offers the greatest financial benefit to the federal government.

John Wayne Airport has made numerous requests for reimbursement, both directly to TSA and through letters sent by members of the Orange County congressional delegation (see attached). TSA has not responded to either the Airport's or the members' letters.

FISCAL IMPACT:

If the outstanding balance was reimbursed by DHS/TSA, those funds would be reinvested in the Settlement Amendment Implementation Plan (SAIP), potentially in the South Remain-Over-Night project and/or the construction of additional passenger screening and in-line EDS facilities.

PROPOSED SPECIFIC LANGUAGE:

None

POTENTIAL OPPOSITION/SUPPORT:

DHS may oppose this effort based on the availability of funding. Other US airports may support this initiative if the proposal focuses on federal funding of federal security mandates and if it does not reallocate funds that would otherwise be available to them.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None

PERSONS RESPONSIBLE FOR TESTIMONY:

Alan L. Murphy Director

Federal Legislative Proposals/Legislation (Continued Priorities)

1. Health Care Agency – Title V Maternal and Child Health Block Grants – Funding Equity Among States

In 1935, Congress enacted Title V of the Social Security Act authorizing the creation of the Maternal and Child Health Services (MCH) programs for ensuring health of mothers and children in the United States. The program is funded through block grants. The purpose of the block grants is to create federal/state partnerships to develop service systems in the nation's communities to meet critical challenges in maternal and child health.

This proposal seeks to adopt and implement the 1992 General Accounting Office (GAO) recommended formula for distribution of federal Title V MCH Block Grant funding to the states, thereby correcting inequity among states through allocation of growth in the funds to ten under-funded states, including California. In 1992, the GAO submitted a report entitled *MCH Block Grant Funds Should be Distributed More Equitably* to the Chairman of the Senate Committee on Finance. The report included a recommendation stating that Congress adopt a MCH formula that improves equity for both intended beneficiaries and state taxpayers by distributing funding among the states according to three factors: concentration of children-at-risk, cost of providing health care services, and states ability to finance maternal and child health services from state resources.

The Title V MCH grant is allocated on a congressionally mandated formula based on the number of low-income children as determined at the last census. In Omnibus Budget Reconciliation Act 1989 (OBRA 89), the formula was modified to distribute these funds based on the proportion of low-income children that a state bears to the total number of such children for all the states.

According to the 2000 census estimates, presently used for determining the formula, California has 13.9% of the nation's low-income children. California received only 8.4% of the Title V funds or \$48.4 million for Federal Fiscal Year (FFY) 2005. Based on the number of low-income children, California should have received \$79.7 million in FFY 2005.

Update and Approach: Given the current climate in Washington with programs being cut or proposed for elimination, due to impacts from Hurricanes Katrina and Rita and the war in Iraq, circumstances are not right to actively continue pursuing formula changes. We intend to seek to maintain current funding levels and to prevent programs from being cut or scaled back. However, we will continue to work with our delegation on this issue and notify them when circumstances change.

Recommended Action: The County should continue to support additional program funding but active lobbying is not anticipated this year.

2. Resources & Development Management Department – Santa Ana River Project Reimbursement (SARP)

This proposal seeks to ensure that the U.S. Army Corps of Engineers (Corps) reimburses the Orange County Flood Control District (OCFCD) for Land, Easements, Rights-of-Way, and Disposal (LEERDs) expenses that exceed 50 percent of the estimated total project cost within a timely manner of its expenditure through the appropriations process.

The Santa Ana River Mainstem Project (SARP) is the most significant project affecting Orange County that is currently underway by the Corps. Funding partners (State of California and Orange, Riverside and San Bernardino counties) have worked with the federal government to fund this construction project for the past ten years. The purpose of the SARP is to provide flood protection for the citizens, residences and businesses of Orange, Riverside, and San Bernardino counties, with Orange County receiving the most benefit. Orange County is responsible for 90 percent of the local share. The current agreement calls for reimbursement to Orange County when costs exceed 50 percent of total project costs. It is estimated that the Prado Dam feature will exceed that 50 percent threshold by the end of 2005.

In August of 2004, the Corps informed County representatives that it would not be able to reimburse the County in a timely manner (within one or two years of our expenditure) unless language was included in an appropriations bill directing them to do so. If reimbursements are not received from the Corps in a timely manner the OCFCD will have insufficient funds to continue property acquisitions for the Prado Dam feature.

Update and Approach: \$61.65 million was secured in the appropriations bill conference process for the Santa Ana River Project. Issue still to be determined is reimbursement timing, which currently rests with the Army Corps of Engineers' Los Angeles office.

Recommended Action: Continue support for this proposal.

3. Newport Bay Ecosystem Restoration Project

The Army Corps of Engineers and the County of Orange are partners in this \$38 million project. The local sponsor cost share of 35 percent has been available to match the 65 percent federal share. The design phase is nearly complete and an appropriation is necessary to award a construction contract. The Federal Fiscal Year (FFY) 2005 Energy and Water bill appropriated \$1 million for the Ecosystem Restoration Project, but that is not enough to award a construction contract.

Usually, money must be spent by the sponsors, according to the cost share ratio. In this case Orange County is seeking authority to “overmatch” or overspend its portion

of the ratio in order to move the project to construction. The County would use its Proposition 12 grant funding, \$12.5 million, to start the initial construction and ask the Corps to credit that “overmatch” towards the local share cost. Approval to “overmatch” is being sought through legislation, as is additional project funding in FFY 2006.

Update and Approach: Appropriations bill conference report included \$5 million for Upper Newport Bay Ecosystem Restoration Project for FY 06. That amount should be enough to get the project underway in the new year.

Recommended Action: Continue support for further appropriations for this proposal.

4. Second Harbor Entrance and the Naval Weapons Station

This proposal requests an appropriation for a special federal study for a second harbor entrance at the Naval Weapons Station. The study would review modifying the Anaheim Bay entrance to: 1) provide a secure harbor entrance for military purposes, 2) provide public safety to recreational boaters and the surrounding communities by diverting small craft traffic away from the ordinance handling operations at the Navy Weapons Station, 3) stabilize the shoreline at Surfside/Sunset Beach down coast and immediately adjacent to the East Jetty for the purpose of reducing storm related damage, and, 4) enhance the surrounding aquatic ecosystem to include improving harbor water quality and establishing additional habitat for fish and wildlife. Federal funds from construction projects in other areas would be reallocated to pay for this study.

Update and Approach: This project, to be funded by the Navy and built by the Corps, has not been specifically funded. There is, however, an element of an existing Navy project that includes a modification of the harbor. There has not been an appropriation for this project by the Navy to date. While the Corps identified a capability of \$600,000 in the FFY 2005 budget, Congress did not appropriate the funding. This is an ongoing issue, which has slowly gained support from key delegation members since its introduction. The next step, however, is up to the Navy.

Recommended Action: Continue support for the study of the second harbor entrance as warranted by Navy activity on the issue.

5. Federal Reimbursement of Health Care Costs for Illegal Immigrants

This proposal would create a federal reimbursement program for emergency services provided by county and city health departments, hospitals and other medical services providers in Border States. It would be based on the same premise as the current State Criminal Alien Assistance Program (SCAAP) – specifically, that the federal government should assist in the payment of financial burdens stemming from its failure to secure U.S. borders. Border States, and counties in particular,

bear a disproportionate share of the cost of providing emergency health care services to those in this country illegally.

Update and Approach: Companion bills to provide funding to states for reimbursement of emergency health services furnished to undocumented aliens were introduced in 2003. S. 412 and H.R. 819 also set forth formulas for the disbursement to the six states with the highest number of illegal aliens. Neither of these bills achieved success in the 108th Congress but will likely be reintroduced in the coming year.

Recommended Action: Continue to work with congressional delegation and California's senators in the 109th Congress to maximize the allocation of funds to Orange County health care providers. Uncompensated care is not a high priority issue for NACo, so they have not weighed in on this issue. The state of the Federal budget also is working against increased program funding.

Continuing Interest – Active Lobbying not Anticipated

1. Sand Replenishment, Beach Erosion, and Ecosystem Restoration Projects

This proposal would enact legislation to lock in a cost sharing formula of 65 percent federal and 35 percent local for several coastal projects. Also, included in this proposal, would be to develop specific criteria for valuing ecological benefits for purposes of cost benefit analysis in determining project feasibility.

Update and Approach: Securing federal funding this year does not look promising and active lobbying is not anticipated. However, the County will benefit from continued support of this proposal as sand replenishment for Surfside Sunset is due again in 2007.

Recommended Action: Continue support and lobby as the situation warrants.

2. Enact legislation that will substantially increase dedicated funds for the Corps Continuing Authorities Program and earmark specific sums per Corps of Engineers division/district

The Corps Continuing Authority Program (CCAP) is designed to provide an efficient and expedient method towards developing and implementing small-scale projects – \$5 million and under. In the past, this nationwide program has been nominally funded. The requested action would allocate substantial new funds that can be further allocated to individual Corps Divisions and Districts for implementation. Congressional leaders within each of these geographic regions would have the opportunity to direct these dedicated sums. The benefits of additional funding would be: 1) Implementation of more watershed and water quality projects at a favorable cost-share arrangement, 2) improved timely project scheduling, and, 3) enhanced consistency in the project implementation process.

Update and Approach: The proposal to provide additional funding for CCAP was contained in WRDA, which was not reauthorized this year but will be taken up by the next Congress. Congress is reviewing the mission of the Corps of Engineers as part of the Water Resources Development Act (WRDA) of 2005 to assess every aspect of the Corps' mission, including this one. WRDA 2005 (H.R. 2864) passed the House on July 14, 2005. Senate bill (S.728) has been reported, but no date set for floor debate. WRDA is now likely to slip over until 2006 before further consideration.

Recommended Action: The flexibility of this program makes it an effective way for the Corps to address local priorities. The County should continue to support additional program funding but active lobbying is not anticipated this year.

3. Los Angeles #3 (LA3) Offshore Dredge Disposal Site

This proposal was intended to obtain authorization for a continuing temporary designation of the LA3 offshore dredge disposal site. Uncontaminated dredged material from Orange County harbors is currently being deposited at the LA3 offshore disposal site. The temporary designation for this site expired at the end of 2003. A disposal site for maintenance dredging for the Upper Newport Bay Ecosystem Project and the proposed Lower Newport Bay is essential. Work on a permanent designation is currently underway as directed by the Environmental Protection Agency.

Update and Approach: This year Congress appropriated \$100,000 to the Corps for completion of the studies necessary for designation of LA3 as a permanent disposal site. The County is now waiting for the completion of these studies.

Recommended Action: It is hoped that the studies will be completed by the end of next year. Additional County lobbying activity as warranted.

4. Priority Flood Control and Watershed Projects

Over the past decade the County of Orange has worked closely with the U.S. Army Corps of Engineers (Corps) on a number of significant flood control and watershed projects. During that time, the County has developed a list of 10 priority projects for which the Board of Supervisors, County staff and lobbyists advocate in Washington DC. They are:

1. Santa Ana River Mainstem, including Prado Dam
2. Upper Newport Bay Ecosystem Restoration (design and construction)
3. Westminster/East Garden Grove Watershed
4. Newport Bay/San Diego Creek Watershed
5. Newport Bay (LA-3 Site Designation Study)
6. Surfside Sunset (sand replenishment with local partners)
7. Coyote Creek and Carbon Canyon Watershed

8. Aliso Creek Mainstem
9. San Juan Creek Watershed
10. Serrano-Borrego Creek Stabilization

Just as with other federal issues of continuing interest, the level of County lobbying activity concerning these projects varies each session depending on the politics, funding available, and other mitigating factors. Advocacy for projects is coordinated to ensure that our delegation, the Corps, and others in Washington, DC receive a unified message as to the County's priorities.