



## Agenda Item

# AGENDA STAFF REPORT

ASR Control 10-001626

**MEETING DATE:** 11/09/10  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** Office of the Performance Audit Director (Approved)  
**DEPARTMENT CONTACT PERSON(S):** Steve Danley (714) 834-2068

**SUBJECT:** Review of OCSD Harbor Patrol

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**CEO CONCUR**  
Concur

**COUNTY COUNSEL REVIEW**  
N/A

**CLERK OF THE BOARD**  
Discussion  
3 Votes Board Majority

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**Budgeted:** N/A

**Current Year Cost:** N/A

**Annual Cost:** N/A

**Staffing Impact:** No

**# of Positions:**

**Sole Source:** N/A

**Current Fiscal Year Revenue:** N/A

**Funding Source:** N/A

**Prior Board Action:** January 12, 2010

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### RECOMMENDED ACTION(S):

Receive and file the *Review of Orange County Sheriff-Coroner Department Harbor Patrol* report.

### SUMMARY:

Receive and file the *Review of the Orange County Sheriff-Coroner Department Harbor Patrol* report.

### BACKGROUND INFORMATION:

Over the past 35 years, the Orange County Sheriff-Coroner Department's (OCSD) Harbor Patrol operation has been the subject of repeated scrutiny; this review marks the 17<sup>th</sup> study of Harbor Patrol. This attention is generated by a number of factors: a dynamic history, multiple vocal constituencies, complicated legal mandates, the separation of operational and financial responsibilities (OCSD for operations and OC Parks and OC Dana Point Harbor for financing), the unequal dispersal of harbors/beaches/parks facilities among County Supervisorial districts,

and consistent increases to Harbor Patrol salary and benefits expenses. The cumulative effect of these and other factors is a highly complex environment that has been the source of perpetual consternation for a variety of stakeholders.

Accordingly, at the January 12, 2010 Board of Supervisors meeting, the Office of the Performance Audit Director (Office) was directed to study OCSD's Harbor Patrol operation, commencing once the Office completed its Performance Audit of CEO/Office of Information Technology. The scope of work for the Harbor Patrol Review included a review of the following areas:

#### *Legal Issues*

1. Detail all operational activities that are not required by State law, in cooperation with County Counsel.

#### *Operational Issues*

2. Describe all Harbor Patrol services that OCSD is currently providing, mandated and non-mandated.
3. Determine if OCSD has the appropriate number and level of staff to adequately provide mandated services (i.e., OCSD operating as efficiently as possible from a staffing perspective?)
  - a. Conduct workload assessment
  - b. Conduct an operational review of OCSD Harbor Patrol
  - c. Benchmark against other jurisdictions
4. Identify non-mandated services that could be performed by the private sector.

#### *Financial Issues*

5. Detail all existing and potential harbor related revenues:
  - a. Identify which revenue sources are currently funding OCSD Harbor Patrol
  - b. Identify other jurisdictions that receive harbor-related revenues, how much, and which type of revenue
  - c. Determine if there are any revenue streams that are currently not being pursued or fully collected
  - d. Determine which existing revenue streams can be increased
6. Detail and analyze all OCSD Harbor Patrol expenses both current and historical (past 5 years)

Each of these Legal, Operational and Financial issues was comprehensively examined, the results of which are included in the attached “Review of OCSD Harbor Patrol” final report. The following points highlight some of the report’s key findings:

- Historical events have played a critical role in shaping the current issues that confront the County with regard to Harbor Patrol. Appendix B of the report provides a detailed historical look at the Orange County harbor system.
- The legal analysis conducted by County Counsel and reported on by the Office establishes critical operational and financial boundaries when considering any changes to the Harbor Patrol services provided by the County. The continuation of Harbor Patrol in its current form is largely not required by State statute, but arguably by LAFCO resolutions that the Board approved in 1988 and 1989.
- OCSD Harbor Patrol, overall, is a strong operation that generally has the support of the boating public, harbor users, and harbor cities.
- Harbor Patrol is considered by OCSD to be a critical component of its Homeland Security operation. This view is shared by the U.S. Coast Guard, U.S. Customs and Border Protection, and Immigration and Customs Enforcement.
- The total cost of OCSD Harbor Patrol in FY 09/10 was approximately \$12 million. The three primary revenue sources for Harbor Patrol are: (1) OC Parks CSA 26 Fund 405 (\$6.6M, or 55%), (2) Newport Tidelands Fund 106 (\$1.8M, or 15%), and (3) Dana Point Tidelands Fund 108 (\$3.6M, or 30%).
  - Fund 405 revenues (a total of \$65M) come from a variety of sources, the most significant of which are Property Taxes (\$49.2M or 75%). Approximately 10% of Fund 405 revenues are allocated to Harbor Patrol operations.
  - In the County owned/operated portion of Newport Tidelands (Fund 106), the primary revenue generating facility is the Newport Dunes RV Park and Marina (\$2.5M or 68% of the \$3.7M total revenues).
  - The most significant sources of revenue (a total of \$24M) to the Dana Point Tidelands Fund (108) are leases, concessions, and slip/dry storage license agreements.
- In addition to Fund 405, there are other County Funds that directly receive unsecured property tax revenue that is harbor/boating-related. The County General Fund (Fund 100), the OC Flood Control District (Fund 400), and the OC Public Library District (Fund 120) all receive revenue from unsecured property taxes on boats and possessory interests (some of which are boat slips). The review team estimated the amount of unsecured property tax on boats realized by these three County funds to be approximately \$500K and the unsecured property tax on all possessory interests to be approximately \$223K. These amounts are in addition to the \$93K (boats) and \$37K (possessory interests) received by CSA 26 (Fund 405).
- The most critical question in the discussion of OCSD Harbor Patrol pertains to funding:

should OCSD pay for a portion of Harbor Patrol costs currently borne entirely by OC Parks and OC Dana Point Harbor?

### Funding Model Options

The Office has worked through the various combinations and ramifications of potential options for funding Harbor Patrol (listed below) in order to provide policy makers with a thorough assessment of each:

- Option 1: OCSD maintains operational control over Harbor Patrol but contributes toward the incremental costs of staffing the operation with Deputy Sheriffs, as opposed to limited peace officers. The incremental cost is currently estimated to be \$2.5M.
- Option 2: OC Parks and OC Dana Point Harbor reassumes operational control for all non-general law enforcement activities and staffs Harbor Patrol with limited peace officers. Under this option OC Parks and OC Dana Point Harbor pay only for the cost of their operation. Operations and funding for general law enforcement will be the responsibility of OCSD.
- Option 3: Maintain the status quo, with OCSD retaining operational control over Harbor Patrol but with OC Parks and OC Dana Point Harbor paying for the entire operational cost.

The pros and cons of each option are discussed in detail in the report. The Office recommends Option 1 for a variety of reasons:

1. Given that 90+% of all Harbor Patrol costs are salary and employee benefits expenses, and that the vast majority of the work performed by Harbor Patrol does not need to be performed by fully sworn Deputy Sheriffs, a balanced approach suggests that OCSD should contribute toward the incremental costs of using Deputy Sheriff positions to staff Harbor Patrol. This option addresses the long term financial equity issue of OCSD making all Harbor Patrol operational decisions while OC Parks and OC Dana Point Harbor pay for the operation in its entirety.
2. The current operational model used by OCSD to provide Harbor Patrol services has several benefits and is preferred by the boating public, harbor users, and harbor cities. Specifically, retaining all Harbor Patrol operations under one agency results in significant economies of scale, operational efficiencies and a high level of service (e.g., better coordination, communication).
3. A shared funding model between OCSD and OC Parks/Dana Point Harbor will:
  - a. Result in increased revenues to OC Parks and OC Dana Point Harbor for other uses (e.g., County beaches and inland parks, harbor revitalization), by reducing costs of Harbor Patrol to these departments.
  - b. Preserve OCSD's ability to pursue current and future operational plans for homeland

security.

c. Satisfy harbor cities and user constituencies which generally prefer that Harbor Patrol be performed by fully sworn Deputy Sheriff personnel.

If Option 1 is selected, determining how much should be paid and the specific method for implementing a shared funding model are recommended for resolution by a short-term task force of County of Orange stakeholders.

#### Acknowledgements

The review team would like to thank the Board of Supervisors for directing the Office to study this issue and provide County policy makers with a comprehensive set of legal, financial, and operational facts to make informed decisions on this long-standing issue.

This review would not have been possible without the cooperation of a number of groups. OCSD, OC Parks, OC Dana Point and CEO staff provided a variety of information and assistance; County Counsel staff provided exhaustive legal research and analysis; and Auditor-Controller and Assessor staff assisted in aggregating relevant property tax information. Lastly, the review team would like to acknowledge the participation and provision of helpful information by harbor cities and a variety of harbor stakeholders.

#### **FINANCIAL IMPACT:**

To be determined based on the Board of Supervisors' choice of policy options.

#### **STAFFING IMPACT:**

To be determined based on the Board of Supervisors' choice of policy options.

#### **REVIEWING AGENCIES:**

Sheriff-Coroner Department  
OC Community Resources/OC Parks  
OC Dana Point Harbor  
County Counsel  
County Executive Office

#### **EXHIBIT(S):**

1. "Reveiw of OCSD Harbor Patrol" Final Report
2. OCSD Response (to be submitted)
3. OC Community Resources/OC Parks Response
4. OC Dana Point Harbor Response