

ORANGE COUNTY HARBOR PATROL

**ISSUES OF STAFFING, FINANCIAL
RESOURCES, AND
APPROPRIATE DUTIES**

Working Group Membership

- Rick Francis & Mario Mainero (Second District)
- Chip Monaco & Ray Grangoff (Fifth District)
- Alisa Drakodaidis, Frank Kim, & Michelle Aguirre (CEO)
- Steve Franks & Anna Peters (OC Community Resources)
- Mark Denny (OC Parks)
- Brad Gross and Lisa Smith (OC Dana Point Harbor)
- Lieutenant Mark Long (Harbor Master/OCSD)
- Commander Tim Board, Captain Brian Wilkerson, Sergeant Steve McCormick, Executive Director Rick Dostal , & Tricia Bello (OCSD)

Working Group Tasks

1. What portion of Harbor Patrol should be performed by OCSD?
2. How should Harbor Patrol be staffed?
3. How should Harbor Patrol be funded?
4. Are the harbors local or regional facilities?

OCSD's Statutory Mandates

OCSD has two statutory mandates.

Harbors & Navigation Code Section 510:

The sheriff of each county shall give all possible aid and assistance to vessels stranded on its coast, and to the persons on board. He shall exert himself to save and preserve such persons, vessels, and their cargoes, and all goods and merchandise which may be cast by the sea upon the land, and to this end he may employ as many persons as he may think proper.

Government Code Sections 26600 *et seq.*:

Because there are parts of the harbors that include unincorporated County shoreline, the Sheriff must supply law enforcement services to those unincorporated areas

OCSD – Unincorporated Areas

- In the incorporated areas, the Sheriff performs duties well beyond the California Harbors and Navigation Code Section 510 mandated duties: law enforcement functions, educational functions, homeland security functions, marine and residential firefighting, and environmental protection and enforcement.

OCSD – Coastline Obligation

- OCSD takes the position that, even if it were to no longer provide law enforcement or other non-Harbors and Navigation Code Section 510 services within Newport and Sunset Harbors, both the practicalities and the exigencies of its rescue and assistance mandates along the entire County coastline of over 30 miles require active patrol and fire boats at all three facilities on a nearly 24/7 basis
- **Thus, the reduction of services to just the California Harbors and Navigation Code Section 510 mandated services would save no more than 2 deputy sheriff positions**

OCSD – Unincorporated Obligation

- The obligation of the Sheriff to provide law enforcement services in those parts of the harbors that constitute unincorporated County territory provides an example of the difficulty in simply parceling out the duties to other agencies, and may support OCSD's conclusion as to its personnel needs, even if it does not perform non-mandated services.

OCSD Staffing Opportunities

- OCSD indicated that the use of “Marine Service Officers” as patrol boat operators and the second person in a two-person fireboat would save \$73,495 per position in FY 2009-10 (assuming pay based on the salary range of state lifeguards).
- However, OCSD has declined this suggestion, expressing concerns, including possible increased overtime, labor group issues, and administrative difficulties.
- The creation of this new classification by OCSD **would not** require “meet and confer.”
- However, because the Sheriff has declined to implement such a new classification, the BOS has no direct control over the Sheriff’s decision on how to staff Harbor Patrol. (Cal. Const., art. V, § 13; Govt. Code § 25303)

Legal Constraints on BOS

- The BOS has no power under the California Constitution to force the Sheriff to alter her staffing decisions with respect to performing the California Harbors and Navigation Code Section 510 duties— either directly or through budgetary measures. *Hicks v. Board of Supervisors*.
- The Board **could** impose general budgetary limitations, such as a Net County Cost limit, on the Harbor Patrol expenditures, so long as such limitations were not borne of, or intended to effectuate, an attempt to control the Sheriff's exercise of her statutory duties.

Three Funding Alternatives

1. Continue the current funding arrangement that uses a cost apply method
2. Fund Harbor Patrol through the Sheriff-Coroner's department, using a General Fund commitment
3. Supplement alternative 1 or 2 with contributions from cities that directly benefit from Harbor Patrol services

Funding Alternative One

Continuation of the Current Arrangement

- Exists because OC Parks and OC Dana Point Harbor, along with the Tidelands funds, could afford to fund Harbor Patrol, but the Sheriff could not
- Presumes that the harbors are similar to parks and beaches, and, like parks and beaches, are regional resources
- If the cost of Harbor Patrol—and, in particular, the cost of salaries and benefits—continues to grow exponentially (in large part due to sharply increased retirement contributions), that cost will severely impact the ability of OC Parks to maintain its current park system or adequately fund new capital projects, and of OC Dana Point Harbor to maintain its current service levels

Funding Alternative Two

Funding through OCSD

- Not currently feasible in light of projected \$65-71 million departmental deficit in FY 2010-11
- OCSD has never absorbed the cost of Harbor Patrol
- Absorption would likely result in further reductions in public safety service levels

Funding Alternative Three

City Contributions

- This would apply both to cities with harbors who do not pay toward the cost of the Harbor Patrol within their harbors and to adjacent cities who benefit from Harbor Patrol services under the Harbors and Navigation Code § 510 mandate
- There are no agreements with any city that specifically provide for a *quid pro quo* between the County Harbor Patrol services and city payments or services
- The City of Newport Beach has indicated that it would not contribute to the cost of Harbor Patrol, because it believes that it gives up more in property tax and Tidelands revenue than it receives in benefit, so that such a contribution would not be justified
- The County cannot compel any city to contribute toward the cost of Harbor Patrol and it cannot discontinue statutorily mandated Harbor Patrol services.

Nature of the Harbors: Local or Regional?

- While the activity within the County harbors largely takes place within the Inner Waters, and thus within city boundaries, it is the consensus of the Working Group that the clientele, and thus the essential nature, of the harbors appears to be regional, not local.

Conclusion

- The cost of Harbor Patrol continues to increase, placing financial pressure on the sources of funding, particularly OC Parks (CSA 26) and OC Dana Point Harbor
- There is no adequate funding source within the Sheriff-Coroner budget
- Termination of non-mandated services will not save significant money, but may create jurisdictional and coordination issues with other agencies.
- Unless cost reduction is implemented through a new classification or other solutions, service levels will need to be reduced or OC Parks and OC Dana Point Harbor service levels will be adversely affected
- The Harbor Patrol appears to be a regional service, because of: (1) the geographical reach of services pursuant to the Harbors and Navigation Code and Government Code mandates and numerous and dispersed unincorporated areas to patrol along the length of the County coastline; (2) the Countywide patronization of the harbors; and (3) the revenue contributed to the County by users of the harbors.