



OFFICE OF THE DISTRICT ATTORNEY  

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ORANGE COUNTY

21  
03

BIENNIAL  
REPORT





Commitment to the County

The Mission of the

**Office of the District Attorney  
of Orange County**

is to enhance public safety and welfare and create a sense of security in the community through the vigorous enforcement of criminal and civil laws in a just, honest, efficient and ethical manner.



401 Civic Center

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*Biennial Report*



2013



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# ABOUT the

# DISTRICT ATTORNEY



**T**ony Rackauckas is grateful for the privilege to have spent his life serving the public. Called “a tough, no-nonsense DA” by national television talk show hosts, colleagues, and citizens, his passion and motivation for his job stem from the patriotism and philanthropy he learned as a child growing up in a military family in East Los Angeles.

His maternal grandparents Alejandro and Carolina Limón immigrated to the United States from Hermosillo, Sonora, Mexico, around 1921 and settled in Arizona to start a new life and family.

In the late 1930s, Maria Socorro Limón met and married Anthony Joseph Rackauckas, a naval officer, whose family immigrated from Lithuania. Tony was born three years later on March 18, 1943, the second of six children, and primarily spoke Spanish for the first three years of his life.

Tony’s father Anthony spent 20 years in the U.S. Navy, rising to the rank of Chief. Inspired by his father’s example to serve the public, Tony, then-19, enlisted in the U.S. Army as a paratrooper in the 101st Airborne Division (Air Assault). He served on active duty from 1962 to 1964 and remained in the U.S. Army Reserve for four more years before receiving an honorable discharge.

After his Army service, Tony studied political science at California State University, Long Beach. “I was grateful to work nights as a security guard. It allowed me to take classes during the day and support my young, growing family.” He went on to earn his Juris Doctor from Loyola Law School, Los Angeles in 1971.



From 1968 to 1972, Tony worked as a social worker in the Los Angeles County Department of Public Social Services, where he was selected as one of four social workers to implement and run a pilot program to assist unemployed fathers of families receiving welfare in gaining employment. The program continues to be successful and utilized statewide.

In 1972, Tony joined the Orange County District Attorney’s Office (OCDA). Over the next 15 years as a deputy district attorney, he conducted over 40 homicide jury trials and well over 100 felony jury trials, including rape, robbery, arson, assault, burglary, fraud, narcotics, and child molestation.

In 1982, Tony took an unpaid leave of absence from the OCDA to lead a statewide campaign to remove three rogue California Supreme Court Justices in order to uphold the death penalty, enforce the law as written, and restore integrity to the state judiciary.

After briefly working in private practice, he was appointed as a Municipal Court Judge in 1990 by Governor George Deukmejian. Three years later, Governor Pete Wilson appointed Tony to the Superior Court, and he was named Presiding Judge of its Appellate Department in 1996.



In June 1998, Tony ran for District Attorney and was overwhelmingly elected to the post by the citizens of Orange County. He won the election by 23 percentage points over his opponent, becoming the first person from outside the OCDA to be elected District Attorney in more than 40 years. Tony has since been re-elected three times, 2002, 2006, and 2010, twice running un-opposed.







# Executive Team



**Tony Rackauckas**  
*District Attorney*



**Jim Tanizaki**  
*Senior Assistant District Attorney*



**Mary Anne McCauley**  
*Senior Assistant District Attorney*



**Joe D'Agostino**  
*Senior Assistant District Attorney*



**Michael Lubinski**  
*Senior Assistant District Attorney*



**Susan Kang Schroeder**  
*Chief of Staff*



**Jeff McLaughlin**  
*Chief of Bureau of Investigation*



**Todd Hart**  
*Director of Government and Community Relations*



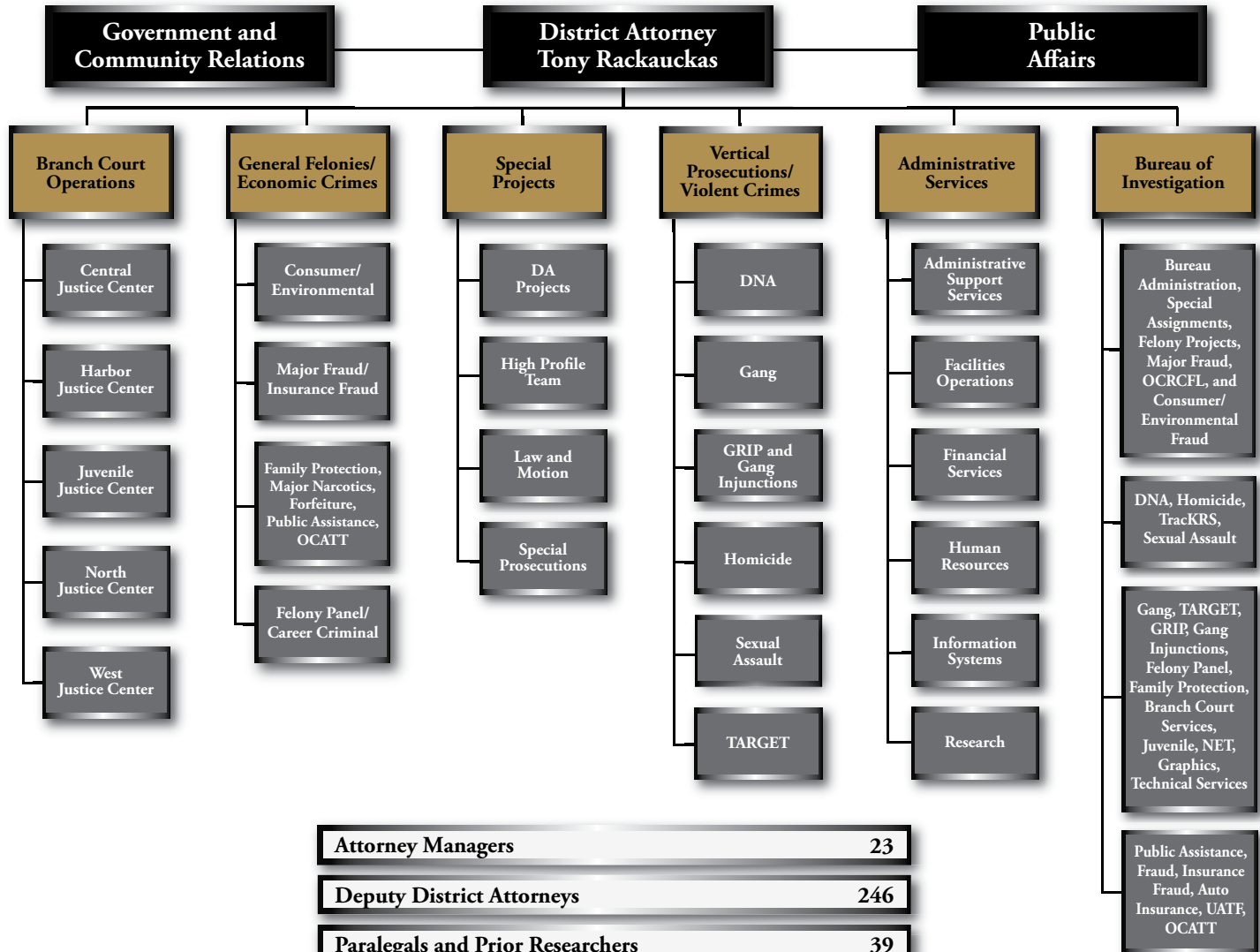
**Lisa Bohan-Johnston**  
*Director of Administrative Services*



**Farrah Emami**  
*District Attorney Spokesperson*



# Staff Organization



<b>Attorney Managers</b>	<b>23</b>
<b>Deputy District Attorneys</b>	<b>246</b>
<b>Paralegals and Prior Researchers</b>	<b>39</b>
<b>Investigative Managers</b>	<b>7</b>
<b>District Attorney Investigators</b>	<b>134</b>
<b>Public Assistance Fraud Investigators</b>	<b>31</b>
<b>Investigative Assistants and Investigative Support</b>	<b>41</b>
<b>Administrative Managers</b>	<b>13</b>
<b>Supervisors, Professionals, and Support Staff</b>	<b>201</b>
<b>TOTAL</b>	<b>735</b>



# PRIORITIES of the DISTRICT ATTORNEY

**T**he Orange County District Attorney's Office (OCDA) prosecutes more than 70,000 cases per year with a felony conviction rate over 90 percent. The OCDA fulfills its commitment to fiscal responsibility each year by spending under budget while accomplishing its goal of maintaining public safety.

## CURBING GANG VIOLENCE

Criminal street gangs deny citizens their basic right to live free from the fear of gang intimidation and violence. Over the last 14 years, gang crime has decreased dramatically in Orange County. Gang membership has



decreased by approximately 6,050 individuals and there are approximately 41 fewer gangs. The OCDA will continue to curb gang violence using a 4-pronged approach: aggressive prosecutions of gang members, targeting gang leaders, injunctions to prevent gang members from terrorizing our communities, and the **Orange County Gang Reduction Intervention Partnership** to encourage kids to stay out of gangs. To read about the OCDA's fight against gangs, see page 32.

## ADVANCING DNA TECHNOLOGY TO FIGHT SEXUALLY VIOLENT PREDATORS AND SOLVE COLD CASES

The OCDA has taken a leadership role by employing the latest DNA technology to solve violent and property crimes. We are the only district attorney's office in the nation to create and maintain a local offender database. The OCDA has helped investigate and solve hundreds of Orange County cold cases dating back as far as 1960. The OCDA played a key role in authoring, passing and implementing Proposition 69, which requires all people arrested for felonies to submit their DNA profile to a national database. This law has resulted in a substantial number of DNA cold hits and has greatly aided in solving violent crimes, including murders and rapes. The OCDA maximizes the use of DNA technology by improving crime scene investigation techniques, offender DNA sample tracking, and automated high through-put DNA analysis procedures. This has led to an unprecedented number of cold cases being solved, bringing closure to grieving families, taking sexual predators off the streets to prevent them from harming more victims, and protecting our property from recidivist thieves. To read about the OCDA's advancing of DNA technology, see page 18.





# Public Affairs

**D**istrict Attorney Tony Rackauckas believes that the Orange County District Attorney's Office (OCDA) has a duty to keep its clients, the People, informed regarding public safety. **The Public Affairs Unit (PAU)** serves the community by providing media and the public with critical and accurate information regarding public safety, significant cases, and the criminal justice system.

The Chief of Staff provides legal and policy advice to the District Attorney. Under the supervision of the Chief of Staff, the District Attorney Spokesperson and two assistants aid the OCDA in investigations and trial preparations, formulate strategies, provide analysis, and develop policies.

Due to the ethical duties and confidentiality requirements of the Office, the PAU provides the OCDA with training on Constitutional and statutory laws, Rules of Professional Responsibility, and Office poli-

cies. A 24-page policy manual written and maintained by the PAU is a resource on applicable laws and policies for the OCDA and other prosecutorial agencies.

The PAU continues to innovate to keep the OCDA's methods of communication up to date. In the past 14 years, the OCDA has increased the number of press releases from approximately 30 to over 500 per year. With the emergence of social media and smart-phones, the OCDA utilizes Facebook, Twitter, YouTube, and an iPhone application to keep in touch with the public and media.

The PAU writes, edits, and maintains the content of the OCDA website including Cases in the News, press releases, the e-notifier, speeches, Frequently Asked Questions, and Most Wanted. Cases in the News, a highly effective tool in keeping the public and media informed about ongoing cases, is a 195-page document with information on almost 260 cases.



*Assistant Roxi Fyad, Chief of Staff Susan Kang Schroeder, Spokesperson Farrah Emami, and Assistant Chris Kim.*



# Public Affairs



The PAU monitors local, national, and international press on a daily basis. The Unit deals with mainstream and ethnic media inquiries including Hispanic, Korean and Vietnamese media. Press releases, on-camera interviews, and information may be available in four languages.

The PAU writes, edits and coordinates speeches, facilitates communications between the Office and the public, and advises the District Attorney and OCDA staff concerning public appearances.

One of the ways that the PAU contributes to public safety is by notifying the community about the imminent release of violent sex offenders from prison and publicizing the OCDA's opposition to parole of dangerous murderers. Knowing that victims of sexual assault are commonly reluctant to report the crimes against them, the PAU has successfully encouraged numerous previously-unidentified victims and witnesses to come forward by educating the public about pending cases and letting victims know that they are not alone.

## FOLLOW US ON



The Unit also supports transparency and promotes public confidence in law enforcement by reviewing, editing, and disseminating officer-involved shooting and custodial death investigation and legal analysis reports. The Unit was instrumental in developing, educating the public, and encouraging Orange County cities to adopt the County Sex Offender Ordinance. To read about the Sex Offender Ordinance, see page 50.



# Government and Community Relations

**T**he Orange County District Attorney's Office (OCDA) believes that vigorous prosecution of criminal defendants is just one aspect to maintaining a safer community. "There will never be enough police officers and prosecutors to keep the public safe if we do not reach out to all stakeholders in our County," stated District Attorney Tony Rackauckas. "We must get a buy-in of the criminal justice system by reaching out to those at risk and fostering relationships with those we serve."

The **Government and Community Relations Unit (GCR)** serves as a liaison between the OCDA, government agencies, community groups and constituents. The Unit identifies County, state and federal budget and policy issues and develops options to obtain public and private funding.

## CONNECTING WITH YOUTH AND FAMILIES



GCR coordinates youth and family programs throughout the year to provide positive law enforcement role models, education about the justice system, and assistance to those at risk or in need. Teams of deputy district attorneys volunteer to teach fifth-grade students in at-risk schools about the benefits of receiving an education and the negative impact of narcotics and gangs through the **Orange Outreach Program**.

The OCDA partners with a designated community-based organization to brighten the holidays for 50 needy families through **Adopt-A-Family**.

District Attorney staff, Advisory Commissioners, and friends contribute gifts for each child, gift certificates to provide their families with a holiday dinner, and a festive party with Santa Claus.



The **Summer Youth Education Program** is a 1-week program for Orange County high school students to tour law enforcement departments, meet local officials, conduct a mock trial, and learn about careers in law enforcement.



The **Spring Youth Sports Camp** provides children between the ages of 7 and 13 with the opportunity to build self-esteem and learn about the criminal justice system through soccer and workshops that warn about the dangers of gangs, delinquency, alcohol and drugs, and offers alternatives to crime.



# Government and Community Relations

## LEGISLATIVE ADVOCACY

The Unit engages in legislative advocacy to enhance public safety, promote effective crime prevention measures, and strengthen the rights of crime victims. OCDA staff develop legislative proposals and work closely with elected officials to support their proposals. Examples of legislative proposals include Senate Bill (SB) 285, authored by State Senator Lou Correa to fight human trafficking and signed into law by Governor Edmund J. Brown; SB 50, also introduced by Senator Correa to address driving under the influence of an illegal controlled substance; and AB 1462, introduced by Assemblyman Tony Mendoza, to enhance penalties for vehicular manslaughter.

District Attorney Rackauckas, Senator Correa, and the California Massage Therapy Council were awarded the 2011 Heroes of the Profession award by Massage Today for their effort in passing SB 285.

## ADVISORY COMMISSIONS

The OCDA seeks the input and exchange of information from ethnic communities to bridge language and cultural gaps, which are barriers for these communities in understanding the criminal justice system. The **OCDA Hispanic, Vietnamese, and Korean-American Advisory**

**Commissions** are composed of public and law enforcement officials, religious and community leaders, and business owners. These Advisory Commissions provide invaluable assistance in identifying key challenges to community participation and encouraging cooperation with the criminal justice system.

With the expertise and assistance of our Advisory Commissions, the OCDA has developed culturally responsive and dynamic ways of reaching our communities, including bilingual resource booklets and crime prevention media campaigns, criminal justice workshops, and outreach booths at cultural festivals.

## OCDA'S SPEAKERS BUREAU

District Attorney Rackauckas, prosecutors, and Investigators speak to community groups including Rotary Clubs, Lions Clubs, Chambers of Commerce, and schools on topics including the role of the OCDA, combatting gangs, business fraud prevention, elder abuse, DNA, identity theft, and driving under the influence.

Requests for speakers can be made at [www.orangecountyda.com](http://www.orangecountyda.com) by filling out the OCDA's Speaker Bureau Request form under "Education and Resources."







# Bureau of Investigation

The Bureau of Investigation is the Orange County District Attorney's Office's (OCDA) law enforcement division that provides trial preparation assistance to deputy district attorneys and investigates original jurisdiction cases.



Chief Jeff McLaughlin heads the Bureau, which is comprised of over 165 sworn police Investigators. OCDA Investigators are law enforcement officers recruited from law enforcement agencies with extensive experience, highly developed technical skills, exemplary work records, and outstanding personal histories. The Bureau also employs 60 non-sworn support team members.

The Bureau prepares and serves search warrants, collects additional evidence for prosecution, and arrests suspects. The Bureau develops additional witnesses, locates uncooperative or reluctant witnesses, and conducts interviews of witnesses and victims. During trial, Investigators ensure the safety of victims and witnesses and engage in trial strategy with their deputy district attorney partner.

The Bureau's **Special Assignments** Unit responds to and investigates officer-involved shootings, custodial deaths, officer criminal misconduct allegations, and sensitive, complex investigations. The Unit conducts an average of 9 custodial death, 16 officer-involved shooting, and 50 special assignments investigations each year. These complex and time-consuming investigations include conducting numerous interviews, completing detail reports, analyzing evidence, coordinating with involved agencies, and submitting all reports and materials for legal review.





# Bureau of Investigation



*Caption for Command staff photo: From left to right: Commander Hector Pantoja, Commander Paul Bartlett, Assistant Chief Carol Mona, Chief McLaughlin, and Commander Clint McCall. Not pictured: Assistant Chief Craig Hunter*



Four Division Commanders, who report to the Bureau Chief, supervise 32 investigative units or assignments including:

- Administrative Services
- Auto Insurance Fraud
- Auto Theft
- Branch Court Services
- Child Abduction
- Child Abuse
- Civil Gang Injunctions
- DNA Collection
- Elder Abuse
- Environmental/Consumer Fraud
- Family Protection
- Felony Panel
- Gang Reduction Intervention Partnership (G.R.I.P.)
- Gangs
- Homicide
- In-home Supportive Services Fraud
- Intelligence/Anti-terrorism
- Joint Terrorism Task Force
- Juvenile
- Major Fraud
- Medical Insurance Fraud
- Narcotics
- Orange County Housing Fraud
- Orange County Regional computer Forensic Laboratory
- Public Assistance Welfare Fraud
- Real Estate Fraud
- Sexual Assault
- Special Assignments
- TARGET
- Technical Services/Graphics
- TracKRS
- Workers' Compensation Insurance Fraud





# TracKRS

**T**he Orange County District Attorney's (OCDA) **Task Force review aimed at catching Killers, Rapists, and Sexual offenders** (TracKRS) maintains and provides an information system for Orange County law enforcement to remotely access a secure Internet site of solved and unsolved homicide and sexual assault cases to help agencies identify cases with evidence that would likely benefit from advances in forensic technology.

The TracKRS Review Committee consists of police investigators, crime analysts, criminalists, forensic technicians, fingerprint experts, deputy district attorneys, District Attorney Investigators and other experts.

## COLD HITS DATABASE

TracKRS maintains a Cold Hits Database to enable Orange County law enforcement to share DNA leads and ensure follow-up investigations within a secure computer system.



## HOMICIDE COLD CASE REVIEW

TracKRS Investigators work closely with local law enforcement agencies to review large volumes of reports, tape recordings, and documents to identify evidence that may be analyzed using new advanced forensic technology and circumstantial evidence in unsolved homicides dating back to 1960. TracKRS assists police agencies with heavy caseloads to solve these crimes, as this process is extremely time consuming.



# TracKRS

## *People v. William Mordick*

TracKRS help bring justice after 27 years to a woman murdered by her estranged husband. Mordick was concerned that he was going to lose custody of his two daughters, 2 and 4 years old, at a divorce court proceeding. On Jan. 22, 1983, after arriving at the victim's home, Mordick put the children in his car, went back inside the house, and murdered 29-year-old Katherine Mordick by slashing her throat. He left her body on the dining room floor and fled the scene. The victim was discovered the following day by her loved one. The defendant later moved to Spokane, WA. TracKRS help link Mordick to the crime through DNA from a blood smear at the crime scene using DNA technology not available in 1983. During the trial, the defendant denied committing the murder but admitted during cross examination that he had five prior physical altercations with the victim. The defendant was convicted of murder and sentenced to life in state prison in 2011.



**TracKRS database:** Homicide Cases: 2,573 (1,170 unsolved)  
Sexual Assault Cases: 9,386 (2,874 unsolved)

**SciLas database:** DNA Samples collected (State): 150,879  
DNA Samples collected (local): 84,168

## DNA COLLECTION

TracKRS created the **Sample collection index, Location, Activity, and Status** (SciLas) database to track the collection of DNA samples by Orange County law enforcement and maintain quality control of all samples collected prior to submission to the state laboratory.

## FOREIGN PROSECUTIONS AND EXTRADITIONS

TracKRS reviews, evaluates, and coordinates efforts of Orange County law enforcement in seeking the prosecution of cases in Mexico. Article IV of the Mexican Federal Penal Code allows for prosecutions by Mexican authorities of crimes which occurred in the United States. TracKRS also assists local police agencies in locating wanted suspects and witnesses and coordinating extradition requests from foreign countries through the Office of International Affairs.

## *People v. Eric Naposki and Nannette Packard*

In 1991, Packard met and dated victim Bill McLaughlin. While in a relationship and being supported by McLaughlin, who was wealthy, Packard was also dating Naposki. Naposki worked as a bouncer at a nightclub only 131 yards from the victim's home. Packard convinced Naposki to murder McLaughlin because she had a \$1 million life insurance policy on the victim. In 1994, Naposki entered McLaughlin's home and shot the victim six times while he was standing in the kitchen. Naposki fled the scene and went to work. The murder was re-investigated but went cold. TracKRS began re-investigating the cold case and found witnesses who had previously been unknown to law enforcement or too frightened to come forward. Charges were filed in 2009 as a result of the additional investigation. Naposki was found guilty by a jury of one felony count of special circumstances murder for financial gain with a sentencing enhancement for the personal use of a deadly weapon. In a separate trial, Packard was found guilty by a jury of one felony count of special circumstances murder for financial gain. Both defendants were sentenced in 2012 to life in state prison without the possibility of parole.



## OCDA'S MOST WANTED

TracKRS fields calls and reviews warrants for the OCDA's Most Wanted. Four of the defendants profiled have been captured.





# DNA

**T**he Orange County District Attorney's Office (OCDA) is committed to utilizing forensic DNA technology to solve crime, exonerate the innocent, and prevent future victimization.

## LOCAL DNA DATABASE

As most crime is committed locally, the OCDA began collecting voluntary local DNA database samples from defendants in 2007, collecting approximately 80,000 DNA samples. The OCDA's local database searches crime scene DNA profiles against individual DNA profiles in the database. Since 2012, there have been 644 crime scene DNA profiles matched to individual and/or other crime scene profiles on 15 types of cases.



## “JOHN DOE” WARRANTS

The OCDA files “John Doe” warrants when there is a DNA profile obtained at a crime scene but law enforcement cannot identify a defendant to which the profile belongs. This preserves the statute of limitations in those cases where a crime scene suspect with a DNA profile exists but a cold hit and positive identification have yet to occur.

## OCDA INNOCENCE REVIEW PANEL

District Attorney Tony Rackauckas created the Innocence Review Panel to review cases of incarcerated prisoners who complain that they have been wrongfully convicted. The Panel, made up of a public defender, private defense counsel, a senior deputy district attorney, and District Attorney Rackauckas, determines whether any type of forensic testing, such as DNA or fingerprint analysis, would result in probative evidence that may exonerate the inmate or uphold the conviction. Since

2000, 154 criminal cases have been examined. Of those, forensic analysis was used in four cases and yielded evidence confirming the inmate's guilt.



## ORANGE COUNTY CRIME LABORATORY COOPERATING DEPARTMENT HEADS

The Orange County Crime Laboratory is supervised by the District Attorney, Sheriff-Coroner, and County Executive Officer, who serve as the Cooperating Department Head Structure, overseeing the administrative management.

### *People v. Aaron Silva*

In 2003, Silva picked up a prostitute, drove her to a secluded location in his van, and attempted to rape her at knife-point. The defendant cut the victim several times with the knife, causing severe bleeding, as she fought to get away. The victim was able to escape and the defendant fled the scene, leaving a baseball cap with his DNA behind. The case went cold. In 2011, he pleaded guilty to a misdemeanor DUI and provided a voluntary DNA sample to the OCDA's local DNA database as part of his plea. Silva was linked to the 2003 attack through DNA and other evidence collected in the investigation. He was convicted by a jury in 2012 of attempted forcible oral copulation, assault with the intent to commit rape, and sentencing enhancements for the personal use of a deadly weapon and personally inflicting great bodily injury. He was sentenced to 12 years in state prison.





# Orange County Regional Computer Forensics Laboratory

According to the Federal Bureau of Investigation (FBI), more cyber crimes occur in California than any other state. The Orange County District Attorney's Office and other Orange County law enforcement agencies, sponsored by the FBI, partner in the Orange County Regional Computer Forensics Laboratory (OCRCFL) to respond to technological advances and increasingly computer-savvy criminals and assist with regional, state, and federal cases. District Attorney Tony Rackauckas is currently Chairman of OCRCFL's Local Executive Board.



OCRCFL is a full-service forensics laboratory and training center devoted to the examination of digital evidence.

The Internet, cell phones, and other technology provide criminals greater access to citizens' personal and private information. OCRCFL arms law enforcement agencies with the expertise and equipment to combat these cyber-criminals. Pedophiles are known to delete data files. Computer criminals disguise USB drives to make detection difficult. Gang members boast crimes on digital devices and use websites to intimidate. Evidence of major fraud is stored digitally.

Forensic examiners use cutting-edge technology to extract information from digital devices for crimes ranging from homicide and child pornography to terrorism and fraud.



## *People v. Robert Peace*

Peace, a former youth recreational soccer coach, met 13-year-old Jane Doe #1 and 14-year-old Jane Doe #2 in an Internet video-chat room, exchanged messages with his victims, and instructed them to send him sexually explicit videos of themselves over a 2-year period. Peace then threatened Jane Doe #1 that he would post the explicit videos on the Internet if she did not continue to send him new pornographic images. Without Jane Doe #1's knowledge, the defendant posted some of the child pornography videos featuring her online. A family member of the defendant discovered some of the child pornography and turned over Peace's portable hard drive to law enforcement. The Orange County Child Exploitation Task Force submitted the hard drive to OCRCFL for forensic analysis. OCRCFL investigators discovered over 1,500 images and more than 300 videos and webcam images of graphic, sexually explicit child pornography on Peace's computer featuring young teenage girls, including both Jane Does. The investigation led to the identification of both victims, who lived in different states and did not know each other. Peace pleaded guilty to seven felony counts of lewd acts on a child, three felony counts each of lewd acts upon a child under 14, and contacting a child with intent to commit a lewd act upon a child, two felony counts each of using a minor for sex acts, and possession and control of child pornography, and one felony count of using a minor for distribution of obscene matter with a sentencing enhancement allegation for substantial sexual conduct with a child. He was sentenced to eight years and eight months in state prison and lifetime sex offender registration in 2012.





# Juvenile Division

**T**he Juvenile Unit is located at the Lamoreaux Juvenile Justice Center and prosecutes all Orange County juvenile felony and misdemeanor petitions, the juvenile equivalent to adult criminal cases. The Unit prosecutes approximately 2,900 felony petitions, 4,800 misdemeanor petitions, and approximately 2,000 juvenile probation violations each year. Some serious offenders are prosecuted as adults.

**“What I thought was going to be another set-up for failure turned out to be something very useful, one of the only things I’ve seen through to the end. With advice and learning from others’ mistakes, as well as my own, I found that the life I was leading wasn’t the type I wanted in the future.”**

**- MALE DRUG COURT PARTICIPANT**



All deputy district attorneys in the Unit participate in various community educational and outreach activities involving the juvenile court system, truancy prevention, and drug and drunken driving awareness and prevention.

The Orange County District Attorney’s Office (OCDA) has created and implemented specialized programs to rehabilitate juvenile offenders while balancing public safety. These programs include a nationally-recognized model for juvenile gang prosecution, a designated prosecutor to handle juvenile sex offender cases, a prosecutor to handle serious felonies and vandalism/tagging cases, a **Juvenile Drug Court** program to rehabilitate drug-addicted youth, a **Boys’ Court** and **Girls’ Court** to deal with minors who have delinquency or dependency cases, and a collaborative **Truancy** program. **Peer Court** is a collaborative effort with the Orange County Probation Department (OCPD), Orange County Department of Education (OCDE), and the Constitutional Rights Foundation to educate youth about the justice system while informally handling less serious offenses. Through the **Juvenile Justice Education Together** program, hundreds of students tour and learn about Juvenile Court and Juvenile Hall.





# Juvenile Division

## TRUANCY RESPONSE PROGRAM

The **Truancy Response Program (TRP)** is a cooperative effort by the OCDA, OCDE, Juvenile Court, OCPD, and law enforcement agencies to curb chronic truancy in Orange County and get students back in school.

**“Keeping kids in school is the best way to keep them out of gangs. Early intervention is the key.”**

- District Attorney Tony Rackauckas.

TRP provides a progression of interventions, up to formal court action, for habitually truant youths with at least five unexcused absences in one school year who have failed to respond to traditional efforts made by the school district. If the school district is not successful in solving the truancy issues with a student, the case may be referred to OCPD. If OCPD is unsuccessful, the case will be forwarded to the OCDA for prosecution. TRP partners incorporate a Parent Empowerment Program to teach effective parenting skills. Students and parents are brought through the court system to monitor their attendance progress if all other steps of mediation have failed.

In 2012, the Orange County Board of Education honored Deputy District Attorney Patti Sanchez with the **Outstanding Contributions to Education** award for her influential work in TRP due to her long-standing commitment to at-risk students, collaborative approach to reducing truancy, and message of empowerment for parents.



**“What I thought was going to be another set-up for failure turned out to be something very useful, one of the only things I’ve seen through to the end. With advice and learning from others’ mistakes, as well as my own, I found that the life I was leading wasn’t the type I wanted in the future.”**

- MALE DRUG COURT PARTICIPANT

**A 15-year-old girl was referred to TRP after missing months of school. She explained that she struggled to go to school whenever her father returned home from state prison. She felt she had to stay home to protect her mother, who could not leave the physically and mentally abusive relationship with her husband. The chaos of the parents’ fights kept her up all night and she was unable to wake up in the morning. TRP was able to provide bus passes and clothing to help her get to school, and the counseling to give her self-respect. TRP helped her believe that she could graduate in spite of the obstacles in her life. In June 2012 she invited the truancy team to her high school graduation and plans to attend community college.**

- TRP TESTIMONIAL





# Branch Courts

**T**he Orange County District Attorney's Office (OCDA) has four regional **branch court operations**. The branch courts prosecute approximately 13,000 adult felony cases and 45,000 adult misdemeanor cases each year. The Central Justice Center is located in the main courthouse in downtown Santa Ana and serves the heavily-populated central County. The Harbor Justice Center is located in Newport Beach and serves south County. The North Justice Center in Fullerton serves the densely-populated northeast County. The West Justice Center in Westminster serves over 750,000 residents, approximately a quarter of Orange County's population. Misdemeanor cases, preliminary hearings, and felony motions are conducted in the branch courts.

There are several specialized Superior Court programs offered including: **"Whatever It Takes" Court**, a voluntary program for non-violent offenders who are diagnosed as mentally ill and homeless; **Opportunity Court**, a voluntary program for non-violent drug offenders with special mental needs; **Recovery Court**, a voluntary program for misdemeanor offenders suffering from chronic mental illness; **Homeless Outreach Court**, a voluntary program to resolve infractions and low-level misdemeanor cases for homeless defendants; **Veterans Court**, a therapeutic alternative for U.S. military service personnel who become involved with the criminal justice system and are in need of mental health treatment; **DUI Court** (Driving Under the Influence) to lower recidivism; and Adult and **Juvenile Drug Court** to place chronic offenders in long-term recovery.



The DUI courts are funded by a federal grant for defendants with one or two prior misdemeanor DUI convictions without prior violence, sex crime, drug sale, or felony DUI convictions. This program aims to reduce DUI recidivism, help maintain employment and a stable living environment, support educational goals, and encourage safe behavior for the participants and their families. The defendants must plead guilty before participating in an intensive 12-month, 3-phase, supervised probation program. The convictions remain on the defendants' records. The defendants terminated from the program are required to serve the pre-negotiated jail sentence. Over 875 defendants have successfully completed the programs.



In 2011, the OCDA received a \$292,882 state grant from the California Office of Traffic Safety (OTS) to improve detection and prosecution of alcohol and drug-related DUI cases. In 2005, the OCDA received a \$691,631 two-year grant from OTS to facilitate the prosecution of DUI cases by allowing a deputy district attorney and clerical support staff to focus exclusively on DUI cases.

## *People v. Miguel Fabian*

Fabian was an intern for the City of Santa Ana Public Works Department. On 64 occasions over 23 days, Fabian used his cell phone video camera to surreptitiously record men using the restroom at Santa Ana City Hall and the Santa Ana City Hall Annex. He entered bathroom stalls and put his phone on the floor to record men in the adjacent stall urinating and defecating. Fabian pleaded guilty to eight misdemeanor counts of disorderly conduct by unlawful viewing and was sentenced to six months in jail and three years of formal probation in 2012.





# Felony Panel

**T**he **Felony Panel** is the largest trial unit in the Orange County District Attorney's Office and handles jury trials for all non-vertically prosecuted felony crimes. This includes attempted murders, robberies, burglaries, assaults with deadly weapons, drug possession and sales, felony drunken driving cases, and vehicle thefts. There are jurisdictional teams comprised of Senior Deputy District Attorneys and three to four Panel deputy district attorneys designated to various branch courts - North, West, Central, and Harbor.



## *People v. Hung Do*

Career criminal Do broke into Jane Doe's home, where the victim ran a daycare for six children ranging in age from 6 months to 3 years old. Do pointed a loaded semiautomatic firearm at Jane Doe's head, and demanded money. He pressed the gun barrel into the back of her neck while the victim pleaded with the defendant to not harm the children. Do grabbed Jane Doe by the collar of her shirt and walked her to the dining room area while she was holding a baby in her arms. Do forced Jane Doe to take money out of her purse and stole \$100 from her. When Jane Doe's husband arrived home during the robbery, Do pointed the gun and began arguing with him. Jane Doe managed to get to the phone and call 911. Do pleaded guilty to the court in 2011 to one felony count each of first degree robbery, first degree residential burglary, possession of a firearm by a felon, and two counts of assault with a semiautomatic firearm, with the sentencing enhancement for the personal use of a firearm. He is a Third-Striker with two prior Strike convictions for a 1996 attempted murder and a 2008 residential burglary and has a prior prison conviction for possession of a firearm in 2005. The court struck one of the Strikes and suspended the prison prior and sentenced Do to 22 years in state prison.



All new felony cases are reviewed by the management team, investigative team, Senior Deputy District Attorney and the Panel deputy district attorneys. The Panel has reduced the number of prosecutors from 20 to 13 while continuing to handle the same 450-case caseload and 150 jury trials each year.

## *People v. David Camp*

Camp committed 13 bank robberies in Orange County by entering banks, many of which were located in grocery stores, often wearing a hat and sunglasses in an effort to disguise his identity. He handed a demand note to a bank teller at each location and verbally instructed them to give him only large bills and not to hide any dye packs. After robbing the bank tellers, Camp fled the scene. Family members of the defendant contacted law enforcement after recognizing Camp, dubbed the "Blue Note Bandit," from media coverage. Camp pleaded guilty to 13 felony counts of second degree robbery and was sentenced to eight years prison and \$26,000 in restitution in 2011.





## Consumer Protection

**T**he **Consumer Protection Unit** prosecutes illegal, fraudulent and deceptive business practices and false and misleading advertising claims. The Unit responds directly to consumer complaints where there are broad patterns of violations, particularly where consumer health or safety may be impacted. The Unit collaborates extensively with local, state and federal agencies to protect Orange County and California consumers. Cases have included the sale of unapproved cancer cures, unlicensed automobile dealers, unauthorized credit card charges, the failure to refund customers for merchandise returns, predatory towing, illegal debt collection practices, fraudulent schemes targeting immigrant communities, and the unauthorized practice of law.



The Unit has prosecuted numerous cases involving deceptive food packaging and false and misleading nutritional supplement advertising and labeling. Many recent consumer protection cases have also targeted nutritional supplement companies selling ingestible products containing more than .5 micrograms of lead without proper warning labels, as required by law.

Consumer fraud cases may result in criminal prosecution or civil action where the Orange County District Attorney's Office (OCDA) seeks a court-ordered injunction to stop the unfair business practices and collects penalties and restitution for the consumer or future prosecutions of new consumer protection cases.

### *Super King Markets*

The Anaheim Super King Market ordered and received various meats in their market, which were subsequently advertised as Halal, a term used to designate meat that has been butchered in a specific manner and slaughtered in the name of Allah, making it permissible to eat in accordance with Islamic law. The defendant did not employ proper procedures to ensure the meat was indeed Halal, as advertised. Various meats were being delivered to the store without being clearly marked or labeled. Super King Market was also selling all meat from a display case indicating that the contents were Halal, but the contents were actually co-mingled in the walk-in freezer and refrigerator with various other generic meats that were delivered to the store. The OCDA obtained a civil settlement in 2011 in which Super King Market agreed to pay \$527,000, is permanently enjoined from purchasing any meat without assuring its content is clearly designated, and is required to ensure every meat product is properly designated.



### *People v. Irwin Naturals, Inc.*

Irwin Naturals is a dietary supplement distributor, which markets and sells its products through retail and direct sales to over 50 countries. Irwin Naturals was marketing and selling certain dietary supplements containing over half a microgram of lead without proper warning labels, as required by law. Samples of the company's System Six and Green Tea Fat Meltdown dietary supplements tested up to 10 times over the legal limit of lead and Green Tea Fat Burner tested over 14 times the legal limit of lead. Irwin Naturals was also making false and misleading representation in their marketing and sales of certain products, including Dual Action Cleanse, Fast Action Hoodia Diet, and 10 Day Hoodia Diet. Testing of Hoodia products revealed that they did not contain any Hoodia gordonii, contrary to their labeling information. The OCDA, as part of a 10-county district attorney's offices team, obtained a settlement in 2011 in which Irwin Naturals paid \$2.65 million in civil penalties, including \$100,000 in restitution to customers who had not already received refunds for the affected products. The company agreed to injunctive terms to prevent future deceptive advertising and adhere to strict testing protocols for the presence of lead in its products. It is the largest settlement of its kind in California history.





## Environmental Protection

**T**he **Environmental Protection Unit** protects the health and safety of Orange County citizens by ensuring the integrity of the County's natural resources for present and future generations.

The Unit is dedicated to protecting natural resources, monitoring worker safety, and preventing air and water pollution. The Unit investigates and prosecutes complex environmental crimes including violations of laws involving the handling, storage, and disposal of hazardous waste.

The Orange County District Attorney's Office (OCDA) is committed to stopping illegal polluting and requiring polluters to pay for the clean-up of toxic sites and polluted underground storage tank sites. The Unit also works with animal care agencies to fight animal cruelty, prosecuting both felony and misdemeanor cases. The Unit works with federal, state, and local environmental agencies and health departments to investigate these cases and pursue criminal charges and/or civil actions.



The Unit works with federal, state, and local environmental agencies and health departments to investigate these cases and pursue criminal charges and/or civil actions.

### *People v. Vista Paint Corporation*

The OCDA partnered with five other district attorney's offices to settle a lawsuit that held Vista Paint responsible for improperly handling and transporting hazardous waste including paint thinners and solvents, unusable paint materials, and rags and absorbents used to clean up spills of hazardous materials. Hazardous Waste Control Law requires hazardous waste to be properly handled and disposed of from the location where it was generated. The hazardous waste was generated at Vista Paint retail locations and then illegally transported to a central facility in Fullerton without proper management or disposal of the waste, as required by law. Vista Paint agreed to pay over \$1 million in civil penalties and costs for future enforcement. The settlement also requires Vista Paint to properly label and store hazardous waste, train each employee at waste-generating facilities to identify hazardous waste, register each Vista Paint retail store that generates hazardous waste with the Department of Toxic Substances Control, and allow for the tracking of hazardous waste shipments.

The **Code Enforcement Unit** works to preserve the quality of life in our community through administrative review, civil abatement, and criminal prosecution of state law and County ordinance violations related to substandard conditions, fire hazards, public health violations, and public nuisances. Formal criminal actions are utilized in cases involving public safety such as unpermitted construction, unlawful grading, zoning compliance, lack of property maintenance, interference with public resources, or where compliance is not forthcoming in a timely manner. The Unit also handles violations of related environmental laws, consumer protection statutes, and regulations involving state and local permits, unfair business practices, and unlicensed professionals.

### *People v. Adelaars*

Several children living in a multi-unit Santa Ana apartment building became seriously ill and tested positive for environmental lead poisoning. The OCDA obtained court orders requiring the landlord to clean up the debris-filled, deteriorated building including specialized lead abatement. The landlord claimed she had mental issues, including hoarding disorder. The Unit sought mental health care for the troubled owner and commenced a unique civil receivership case against the real property. The occupants were immediately relocated, lead hazards removed, and each apartment was cleaned and remodeled with court supervision, resulting in a safe, certified, income-generating building. The building was sold at an improved market value with net proceeds being returned to the property owner and cost recovery to the County.

**Before**



**After**

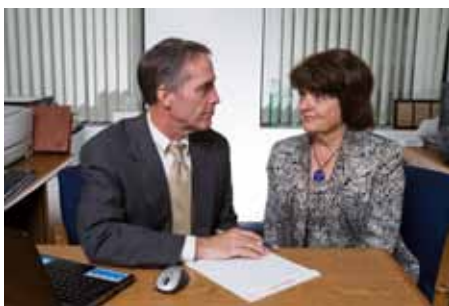




# Family Protection

**T**he **Family Protection Unit** prosecutes the most serious domestic violence, child abuse, child abduction, and elder abuse cases, and protects some of the most vulnerable members of our community, children and senior citizens, who often cannot speak for themselves. Due to their relationship with their abuser, victims often oppose prosecution, refuse to cooperate, or attempt to derail prosecution efforts. Prosecutors and Investigators in the Unit are trained to understand this psychological dynamic and prepare and present their cases with this expectation.

Numerous studies establish that children who grow up in abusive homes often become violent and aggressive, lack self-control, have low self-esteem, and perform poorly in school, often resulting in future criminal behavior. Many inmates report that they were raised in violent environments. The Unit strives to break the cycle of violence.



## ELDER AND DEPENDENT ADULT ABUSE

The Unit investigates and prosecutes felony financial and physical elder and dependent adult abuse cases. Through the Elder Abuse Forensic Center, a victim may obtain assistance from a deputy district attorney, medical professionals, social services workers, and law enforcement officers. The team reviews cases, performs in-home medical and mental status checks, conducts evidentiary investigations, and participates in gerontology education and research.

### *People v. Milorad Olic*

When 80-year-old John Doe told his son Olic, 44, that he would no longer financially support the defendant, Olic stabbed his father several times in the face and inside of the mouth while in the victim's parked car in a shopping center and then fled. The defendant was found guilty by a jury in 2011 of one felony count of attempted murder and one felony count of elder abuse with sentencing enhancements for causing great bodily injury to an elder and personal use of a deadly weapon. He was sentenced to 13 years to life in state prison.



## DOMESTIC VIOLENCE

The Unit works closely with victim advocates and investigates and prosecutes approximately 400 felony domestic violence cases a year. Thousands of misdemeanor domestic violence cases are handled by the branch courts. The



Unit obtains protective orders, arranges for shelter, and relocates victims. At the Anaheim Family Justice Center, a victim may obtain assistance from a deputy district attorney, law enforcement officers, medical personnel, social worker, victim advocate, and/or adult protective service representative. In addition, Chapman University School of Law staffs a legal clinic at the Center.

### *People v. Sean Delacerda*

Delacerda, a former Los Angeles County Sheriff's Department deputy, broke into the home of his ex-girlfriend, Jane Doe. When Jane Doe arrived home, the defendant accused of her cheating. Jane Doe repeatedly tried to escape, but Delacerda forced her to stay, tackled her, and then pointed a loaded firearm in his mouth and pulled the trigger while still on top of the victim. The firearm clicked but did not fire. While the defendant was distracted, Jane Doe was finally able to run outside and get into her car. Delacerda ran after the victim and jumped on the hood of her car as she drove away. He was found guilty by a jury in 2011 of one felony count each of assault with a firearm, kidnapping, false imprisonment by violence, and one misdemeanor count of domestic violence battery with a sentencing enhancement for the personal use of a firearm and was sentenced to 13 years in state prison.





# Family Protection

## CHILD ABUSE

Children are often abused by people who are entrusted with protecting them. Only the most complicated child physical abuse cases are handled by the Unit. The other cases are referred to felony panel deputy district attorneys. The Unit reviewed over 100 cases in 2011 and 2012.



## CHILD ABDUCTION UNIT

The Unit investigates cases of missing children when the suspected abductor is a family member. These complex cases may call for international investigations when the child is taken to another country. The Unit maintains a 100-case workload. The primary goal is to return missing children to their legal guardian through the enforcement of civil court orders.

You may view the Unit's Facebook page at [www.orangecountyda.com](http://www.orangecountyda.com) and select "OCDA Child Abduction Facebook" from the homepage or by searching "Child Abduction Unit/Orange County District Attorney" at [www.Facebook.com](http://www.Facebook.com).

### *People v. Sloan Briles*

Briles was on a Newport Beach harbor cruise with his two young sons. The defendant was under the influence of alcohol and poked his 7-year-old son in the chest, repeatedly slapped him in the face, made him cry, and then threw him 10 feet over the side of the boat in an area with a large amount of boat traffic. The crew maneuvered the boat to protect the child and threw him a life ring. Briles then jumped into the water to avoid the angry passengers, but made no attempt to swim to his son's aid. Another boat helped the child out of the water. When contacted by sheriff's deputies, Briles ignored the deputies orders to stand, struggled with them, and made his body go limp to make it difficult as deputies tried to remove him from the boat. In 2012, the defendant pleaded guilty to a court offer to one felony count of child abuse and endangerment and one misdemeanor count of resisting an officer. He was sentenced over the objection of the People to three years of formal probation, one year of a child abusers treatment program, and 180 days in a Veterans Administration residential treatment program.



### *People v. Abraham Fernandez, Louis Fernandez, Elizabeth Fernandez, David Nicholas, and Linda Fernandez*

Abraham Fernandez's estranged former live-in girlfriend moved to Anaheim from Texas with their 2 and 4-year-old sons. The two victims were in an alley with their mother near their apartment one evening when Abraham Fernandez and his father Louis Fernandez drove into the alley in a van, grabbed the children from their screaming mother, and sped away. An AMBER Alert was immediately issued. After the abduction, the defendants temporarily hid at the home of relatives Nicholas and Linda Fernandez, who harbored the defendants knowing that the children had been illegally abducted and were being sought by police. The defendants then took the children to Texas. Elizabeth Fernandez, the victims' paternal grandmother, knowingly withheld information regarding the whereabouts of the children from their mother and police. In 2011, all of the defendants pleaded guilty and received sentences ranging from 90 to 270 days in jail and probation.





# Fraud

**F**inancial crimes have been increasing with the suffering economy. A recent study by Chapman University showed that Orange County is the engine driving California's economy. Fraud criminals target Orange County businesses and investors with a variety of schemes including insurance fraud, Ponzi schemes, and employee embezzlement. The Orange County District Attorney's Office (OCDA) has significantly increased its resources dedicated to fighting fraud to meet this growing trend and is a statewide leader in complex fraud prosecutions including medical insurance fraud, financial elder abuse, and real estate fraud.

## MAJOR FRAUD CRIMES

The **Major Fraud Unit** prosecutes complex fraud cases involving over \$100,000 in financial loss. Cases include investment fraud schemes, employee embezzlement, real estate fraud, and organized identity theft. These cases involve lengthy investigations, multiple victims and witnesses, and voluminous financial evidence. Between 2011 and 2012, the Unit obtained almost \$20 million in restitution orders and collected over \$9 million in restitution.



The Major Fraud Unit's White Collar Crime Team was developed to respond to the trend shift from violent crimes to financial crimes and focuses on cases below the threshold for Major Frauds but involving significant complexity and victim loss or impact. This includes cases of embezzlement from business or government entities, fraud schemes targeting seniors, and organized identity theft involving skimming devices or other complex technology.

### *People v. Hitomi Tsuyuki*

Over a 10-year period, Tsuyuki stole approximately \$2.8 million from 33 clients, many of whom were vulnerable elderly victims who trusted him. They had known Tsuyuki since he was a child and attended the church where his father was a minister. Tsuyuki encouraged victims to invest in a scheme that he falsely represented as the purchase of a tax-free municipal bond or purchase of interest in a money market account. Instead of investing the money as promised, the defendant used the stolen money for personal expenses including his Coto de Caza home, a vacation property in Mammoth, a golf club membership, and cars. Tsuyuki pleaded guilty in 2011 to 17 felony counts of the use of untrue statements in the sale of a security, 10 felony counts of theft from an elder, one felony count of grand theft, one felony count of the use of a scheme to defraud, and a sentencing enhancement for causing property damage over \$2.5 million. He was sentenced to 18 years in state prison and ordered to pay restitution.



Although fraud investigations typically originate at police departments and are submitted to the OCDA for prosecution, some extremely complex multi-jurisdictional cases are also investigated by OCDA Investigators who have a high level of expertise in complex fraud investigation. Continued budget cutbacks at County and city law enforcement agencies have reduced the number of fraud investigations. The result has been an increase in demand for OCDA-originated investigations.

# Fraud



## INSURANCE FRAUD

The OCDA's **Insurance Fraud Unit** works closely with the California Department of Insurance (CDI) to address the dramatic rise in fraud claims and suspected fraudulent activities of medical and legal providers.

## WELFARE FRAUD

The **Welfare Fraud Unit** prosecutes public assistance fraud, including the illegal receipt of cash aid, food stamps, in-home support services, and housing benefits. The Unit helps to guard public funds from fraud and abuse. The Unit works closely with caseworkers for the Orange County Social Services Agency (OCSSA) and the Orange County Housing Authority, who refer potential public assistance fraud cases for review.

### *People v. Lieu Ha, Hai Luu, and Hue Chu*

For several years, Ha, a mother of two, fraudulently applied for and received over \$88,000 in rental assistance through Orange County Housing Authority by lying on applications and reporting less income to qualify under low-income program requirements. Ha also fraudulently applied for public assistance and received over \$44,000 in cash, food stamps, and child care services, for which she did not qualify by falsifying employment information, hiding ownership of a nail salon and home, and underreporting income including additional earnings from tenants renting rooms in her house. Ha fraudulently applied for and received over \$7,700 in child care assistance benefits by lying about her income and assets. Ha's aunt, Chu, and Chu's then-husband Luu lied and listed themselves on Ha's house deed as the sole homeowners despite Ha's actual ownership of the home and falsified other public assistance documents by reporting incorrect personal information regarding occupation, income, and assets to help Ha. They also signed under penalty of perjury that they were not related to Ha and failed to report their business arrangements with her, including underreporting income. All three defendants pleaded guilty in 2011 to various felony counts including perjury, grand theft, public assistance fraud, and excessive taking sentencing enhancements. They were collectively ordered to pay \$140,000 in restitution and received sentences ranging from two years up to two years and eight months in state prison.



## WORKERS' COMPENSATION AND PREMIUM INSURANCE FRAUD

The OCDA investigates and prosecutes cases involving workers' compensation insurance fraud, including fraudulent claims by employees, employers who fail to carry mandated workers' compensation insurance for their employees, employers who intentionally provide fraudulent information to insurance carriers to avoid paying fair insurance premiums, and medical and legal professionals involved in billing fraud. Premium insurance fraud is committed when an employer intentionally misrepresents to the state or insurance company the number of employees, the type of work performed, the amount of payroll, or the loss history. Premium fraud puts legitimate businesses at a disadvantage because it forces them to compete against a company with fraudulently lower operating costs. These types of fraud drive up the cost of workers' compensation insurance in California. In 2011 and 2012, the OCDA filed 14 cases and collected \$847,000 restitution.

### *People v. James and Dorothy Klinger*

Husband and wife James and Dorothy Klinger co-owned and operated Modern Tree Service, Inc. and Jamo's Gardening since the 1970s as two separate companies. They set up Jamo's Gardening with the express purpose of hiding Modern Tree Service employees' payroll. The defendants paid almost all of Jamo's Gardening expenses and payroll with money from Modern Tree Service. The defendants fraudulently classified Jamo's Gardening as a landscape gardening business instead of a tree-trimming business, allowing them to insure tree-trimmers as gardeners to substantially lower the insurance premiums. They did not report over half of the actual payroll for both businesses to the insurance companies or the Employment Development Department (EDD). The defendants did not report over \$3.6 million in income to the Franchise Tax Board on their tax returns for six years and over \$3 million in employee wages to the EDD and insurance carriers.

Both defendants pleaded guilty in 2011 to dozens of felony counts including misrepresenting facts to State Compensation Insurance Fund, failing to file a tax return, willful failure to pay taxes, misrepresenting facts to a workers' compensation insurance company and sentencing enhancements for loss over \$100,000 and taking involving more than \$500,000. Both defendants were sentenced to five years in state prison stayed pending successful completion of 10 years of formal probation and were ordered to pay \$3.4 million in restitution for \$2 million in fraud plus penalties and interest.

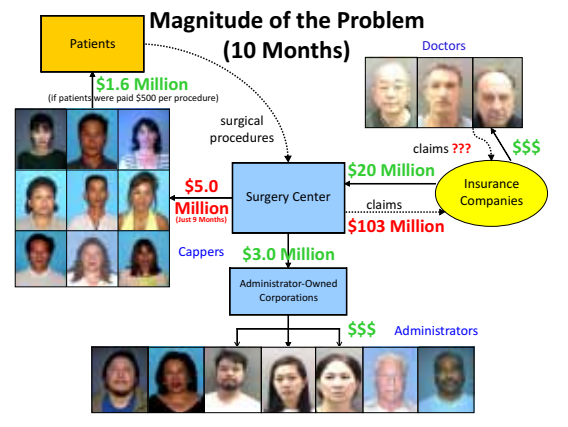




# Fraud

## MEDICAL AND DISABILITY INSURANCE FRAUD

The **Medical and Disability Insurance Fraud Unit** investigates and prosecutes fraud relating to healthcare and disability insurance by medical clinics, doctors, chiropractors, pharmacies, and other medical insurance providers. Healthcare insurance fraud drives up medical care and premium costs for employers and individuals.



*People v. Michael Chan, Roy Dickson, Maria Rosales, Andrew Harnen, Dee Francis, William Hampton, Jr., Ngoc Huynh, Thuy Huynh, Pancha Keophimphone, Rosalinda Landon, Sue Nanda, Huang Ngo, Lan Nguyen, Tam Pham, Mario Rosenberg, Olga Toscano, Amanda Tran, Henry Truong, and Nicholas Vu*

The OCDA charged 19 defendants in the largest criminal prosecution of a medical insurance scheme in the United States. The Unity Outpatient Surgery Center was a \$154 million medical insurance fraud scheme in which almost 3,000 healthy people from all over the country were recruited to receive dangerous and unnecessary surgeries in exchange for money or low-cost cosmetic surgery. Insurance companies paid out more than \$20 million during a 9-month period. More than 100 felony counts of insurance fraud, illegal recruitment, and grand theft charges have been filed against three physicians, one attorney, one accountant, five clinic administrators, and nine “cappers”/illegal recruiters. At the time of publication, four defendants had been convicted in jury trials and 14 defendants had pleaded guilty and been sentenced in this case. Former doctor Hampton was sentenced to 16 years in state prison. Clinic administrator Pham was sentenced to 13 years in state prison. Illegal “capper” Truong was sentenced to 12 years in state prison. Accountant Harnen was sentenced to five years and four months in state prison. Attorney Dickson was sentenced to two years and eight months in state prison. Thirteen additional defendants, including one physician, four administrators and eight illegal “cappers” received sentences ranging from local jail and probation up to 10 years in state prison. Doctor Rosenberg is awaiting trial and several convicted defendants are awaiting sentencing.

## AUTOMOBILE INSURANCE FRAUD

The **Urban Auto Mobile Taskforce** investigates and prosecutes organized automobile insurance fraud and theft crimes through a multi-agency coordinated effort including the OCDA, CDI, and California Highway Patrol. The taskforce aggressively investigates and prosecutes ring-based fraud such as staged collisions and legal and medical professional providers who participate in fraud schemes.

*People v. Phuong Nguyen, Hoai Nguyen, Tracy Nguyen, David Pham, and Tony Nguyen*

Five friends and former roommates faked an accident using two cars. No medical personnel or police were called to the scene. All five defendants filed insurance claims for bodily injury and vehicle damage totaling over \$60,000. During subsequent recorded statements to the insurance company, the five defendants all stated that they did not know the occupants in the other vehicle and received insurance money totaling over \$3,200 in collision claims. The defendants all pleaded guilty in 2011 and 2012 and received sentences ranging from community service up to 120 days in jail, probation, and restitution.



# Fraud



## IN-HOME SUPPORT SERVICES FRAUD

The OCDA's In-Home Support Services Team (IHSS) is comprised of OCDA Investigators, a deputy district attorney, Department of Health Care Services Medi-Cal investigators, local law enforcement agencies, and program staff. IHSS is an OCSSA in-home care program for elderly, disabled, or incapacitated people who cannot safely live by themselves. IHSS finds "providers" for participants to assist them with their daily needs. The provider is compensated through IHSS. IHSS investigators conduct investigations of recipients and providers, background checks, surveillance, unannounced visits, and interviews with other witnesses. In fiscal year 2011/2012, IHSS received over 282 referrals and completed over 365 investigations. The completed investigations have resulted in the filing of multiple criminal cases and over \$820,000 in savings and restitution. The unit continues to investigate hundreds of cases a year, despite a cutback in staffing from nine investigators to two since 2009 due to a reduction in state funding.

## REAL ESTATE FRAUD

The **Real Estate Fraud Unit** handles the large increase in reported real estate fraud following the housing market crash working cooperatively with professionals in the real estate industry. Real estate fraud includes mortgage and loan modification fraud and fraudulent recording of documents. In 2011 and 2012, the Unit filed 36 felony cases involving 500 victims with 14 convictions so far.

The OCDA's Real Estate Fraud Hotline for tips and complaints can be reached at (714) 347-0580.

### *People v. Mark Helsing*

Helsing defrauded at least 12 people in a Ponzi and real estate fraud scheme. Helsing operated as a broker for "hard money lenders," meaning a private investor who provides money to borrowers looking for funds from non-bank lenders. He stole from his long-time friends by keeping the money they lent for borrowers, not funding the loans as promised, and using funds from new investors to pay off old investors. Helsing supplied investors with bogus interest payments by taking small sums from their initial investment and providing them with falsified and forged documents to prevent them from discovering that the loans had not been repaid. He pleaded guilty in 2011 to 55 felony counts of grand theft, seven felony counts of filing false recorded documents, six felony counts of elder financial exploitation, and sentencing enhancements for white collar crime over \$500,000 and excessive taking over \$1 million and \$1.3 million. He was sentenced to 15 years in state prison, three years of formal probation, and restitution.





# Gang and TARGET

The top priority of the Orange County District Attorney's Office (OCDA) is to remove dangerous gang members from Orange County streets and neighborhoods. Several studies have shown that a small number of offenders are responsible for a large percentage of serious and violent crimes. Over half of the homicides in Orange County are committed by gang members. The OCDA aggressively prosecutes violent criminal street gang members by devoting resources to the **Gang and Tri-Agency Resource Gang Enforcement Team (TARGET) Units**, the **Gang Injunction** program, and the **Orange County Gang Reduction Intervention Partnership**.



The OCDA extensively uses the **Street Terrorism Enforcement and Prevention Act** to prosecute gang members for "actively participating in criminal street gangs," and seeks the strictest possible penalties for crimes "committed for the benefit of, in association with, or at the direction of criminal street gangs."

The Gang Unit specializes in the prosecution of documented gang members who commit serious and violent felonies or crimes involving possession of firearms.



## *People v. Arthur Gallardo III*

Gallardo and fellow criminal street gang member, Edmundo Gomez, carjacked a pizza delivery man using a shotgun and went on a 3-day drug binge. The defendants stopped at a red light at an intersection and passed out in the stolen vehicle while it was still running. Gomez was in the driver's seat with the shotgun used in the prior carjacking propped between his seat and the center console and Gallardo was asleep in the passenger seat with a semiautomatic firearm on his lap. A bus driver called the police. Officers responded to the scene and patrol cars were strategically parked to prevent Gallardo and Gomez from fleeing. The officers turned on several bright lights and woke the sleeping gang members. Upon waking up, Gomez accelerated in the stolen car and crashed into a patrol vehicle in an effort to flee. As Gomez slammed into patrol cars, Gallardo used the firearm from his lap and fired several shots directly through the windshield of the stolen vehicle into a patrol car. Gallardo pointed his firearm at officers, who then fired back at the defendant. Gomez was killed after being shot in the head. Gallardo sustained only superficial graze wounds and was released from the hospital into police custody the following day. No officers were injured. Gallardo was prosecuted for the murder of Gomez as a provocative act, meaning that Gomez would not have been killed but for the direct actions by Gallardo of shooting at police patrol vehicles. Gallardo was found guilty by a jury in 2011 of one felony count of murder, two felony counts of attempted murder of a police officer, one felony count of street terrorism, and sentencing enhancements for the discharge of a firearm. He was sentenced to 45 years to life in state prison.





## Gang and TARGET

### *People v. Stephenson Kim*

Kim and several members of his Asian criminal street gang went to a Cypress café armed with firearms with the intent to fight with rival gang members. Kim took a firearm and entered the crowded café while the other defendants waited outside. The defendant approached a table, where 22-year-old innocent victim Venus Hyun was sitting with her friends, and began to shoot at the seven people at the table. Kim murdered Hyun by shooting her in the back and attempted to murder her six friends, shooting four of them and missing the other two. The defendant fled and was later arrested after police received an anonymous tip regarding his crime. Six co-defendants testified in the trial against Kim and all pleaded guilty to one felony count of involuntary manslaughter with a sentencing enhancement for committing a crime for the benefit of a criminal street gang. The co-defendant's sentences ranged from six to 11 years in state prison. Kim was found guilty by a jury of one felony count of murder, six felony counts of attempted murder, one felony count of street terrorism, and sentencing enhancements for murder for a criminal street gang purpose, the personal discharge of a firearm, discharge of a firearm by a gang member causing death, vicarious discharge of a firearm by a gang member causing great bodily injury, and criminal street gang activity. He was sentenced in 2012 to life in state prison without the possibility of parole plus an additional 255 years to life.



TARGET partners police officers, probation officers, prosecutors, and OCDA Investigators in police departments throughout the County to focus on gang leaders and the most violent, repeat criminal street gang offenders. TARGET successfully reduces gang crime by incapacitating the most active, hardcore gang offenders to prevent them from committing further violent acts in the community.

Annually, the Gang and TARGET Units file and prosecute over 950 cases and conduct 80 jury trials, with a conviction rate of more than 90 percent.

**In 2011, Senior Deputy District Attorney Paul Chrisopoulos was honored with the Defender of Justice Award by Assemblyman Allan Mansoor for his outstanding work in prosecuting over 50 cases involving various gang offenses in the TARGET Unit including homicides and attempted murders.**

### *People v. Miguel Vargas*

One week after pleading guilty to a misdemeanor domestic violence charge, Vargas repeatedly called his former girlfriend, Angelina Alvarado, who was the mother of their 4 and 6 years old children. Vargas had a friend drive him to the victim's home and entered Alvarado's bedroom, where she and their two children were sleeping. Vargas grabbed the victim, threw her on the ground, dragged her into the living room, and punched her repeatedly with his fists. He knelt over the victim, who was lying face down, pulled out a switchblade knife, and stabbed her 20 times in the back of her head, neck and back, while their two children watched. The victim's father, who had been in the backyard, heard her screaming and ran inside to save her. Vargas ran back to his friend's car and instructed him to drive away. Shortly after, Vargas ordered his friend to stop the car and forced him out before driving away and fleeing to Mexico. The defendant was found sane and guilty by a jury in 2012 of one felony count of first degree murder and one felony count of carjacking. He was sentenced to 73 years to life in state prison.



**In 2011, Orange County experienced the lowest number of homicides in 10 years, partly due to its aggressive, multi-faceted fight against gangs. In 1993, there were 73 gang murders. In 2011, there were 15, a decrease of 80 percent.**





# Gang Injunctions

**A** **Gang Injunction** by the Orange County District Attorney's Office (OCDA) is a civil court order with narrowly tailored restrictions for gang members that designates specific gang behavior as a public nuisance. These lawsuits were in response to many residents pleading with law enforcement to stop the gang problems in these neighborhoods.

Gang injunctions enjoin gang members from terrorizing their communities in the specifically names area by prohibiting association with gang members, intimidation, drug use or sales, possession of guns or weapons, fighting, blocking free passage, writing graffiti, making gang hand signs, wearing gang clothing, possessing burglary tools, trespassing, possessing alcohol in public, and being out in public past a 10:00 p.m. curfew.

In the six years since the inception of the program, 12 permanent injunctions have been put in place throughout Orange County. These injunctions place restrictions on gang members from the County's most active criminal street gangs in the cities of Anaheim, Fullerton, Garden Grove, Orange, San Clemente, San Juan Capistrano, Santa Ana, and Stanton.

There has been a significant reduction in criminal street gang activity in each of the existing safety zones. Violent crime in the 12 gang injunction safety zones fell by up to 65 percent after the injunctions were put in place.

**"Gang Injunctions have changed people's lives. A Girl Scout troop now meets in a park that was previously controlled by a gang. Kids can now walk to school without seeing graffiti everywhere and being intimidated. These lawsuits put gangs out of business. I am proud of our community for drawing the line and putting gangs on notice that their behavior is unacceptable."**

- District Attorney Tony Rackauckas.

## *People v. Pedro Acevedo*

Orange County Sheriff's deputies were patrolling a neighborhood in the San Juan Capistrano Safety Zone at approximately 2:30 a.m. and observed enjoined gang member, Acevedo, associating on the street with several other males, all dressed in gang clothing. Upon seeing the deputies, Acevedo fled and led deputies on a chase through several alleys and over several walls. He was detained and arrested and later admitted to fleeing because he knew he was prohibited from associating with other gang members under the gang injunction. The defendant pleaded guilty in 2012 to misdemeanors for violating a gang injunction and resisting a peace officer and was sentenced to 90 days in jail.



There has been a significant reduction in criminal street gang activity in each of the existing safety zones. Violent crime in the 11 gang injunction safety zones fell by up to 65 percent after the injunctions were put in place.



# Gang Injunctions



“The park is so different now. My kids couldn’t play there before the injunction. The gangsters always scared people and sold drugs in the park. Now they are gone.”

- Mother in the San Clemente Safety Zone

“[Before the injunction] there was so much violence – gunshots all of the time and graffiti everywhere. Now it’s a nice place where my family can live safely.”

- Resident in an Anaheim Safety Zone

“I am glad that I got served. Now I can tell my homies that I can’t kick it with them anymore because, if I do, we will all go to jail. This is my way out of the gang.”

- Enjoined gang member



## GANG INUNCTION SAFETY ZONE





# OC GRIP

**T**he award-winning **Orange County Gang Reduction and Intervention Partnership (OC GRIP)** is a law enforcement partnership that identifies at-risk youth and aims to increase school attendance and decrease gang activity.

The Orange County District Attorney's Office has formed OC GRIP and GRIP II committees and partnerships with the police departments from the Cities of Anaheim, Buena Park, Costa Mesa, Garden Grove, Orange, Santa Ana, Tustin, and the Orange County Sheriff's Department in Dana Point, Laguna Hills, Mission Viejo, San Clemente, San Juan Capistrano, Stanton, and the unincorporated areas



*Henry Ford III welcomes OC GRIP kids at the Ford regional headquarters in Irvine.*

of North Orange County and the Orange County Probation Department. Recipient of the Cities, Counties and Schools Partnership Award and the California State Association of Counties Challenge Merit Award, OC GRIP works with 42 schools on gang suppression, interventions for at-risk students, gang information forums, and parent and faculty education. The OC GRIP program has also been the recipient of the prestigious Golden Bell Award for its partnership with local schools.

## PARENT GREETER PROGRAM

More than 1,500 parents have teamed up with law enforcement to form an anti-gang **Parent Greeter Program** at 42 Orange County elementary and middle schools, resulting in a sizable decrease in gang presence and graffiti. This program empowers parents to take responsibility for their schools by proactively taking a stand against gang crime. Parent greeters deter gang members and ensure students are abiding by the school dress code.



## ANGELS AND CHIVAS INCENTIVE

Students identified by OC GRIP as being high-risk for gang exposure and activity are challenged to complete the school year with improved attendance and grades, no suspensions, and involvement in positive after-school activities. The end reward is attending a **Los Angeles Angels** (Angels) and/or **Chivas USA** game as a VIP guest. The Angels donate 1,400 tickets and Chivas donate over 4,500 tickets each year in support of the anti-gang efforts. **Ford Motor Company** partners with OC GRIP to mentor over 100 at-risk kids.



*Angels outfielder Torii Hunter personally donated \$50,000 to OC GRIP to support gang prevention.*

## CURFEW AND TRUANCY SWEEPS

Hundreds of officers coordinate **Curfew Sweeps** in areas with a high volume of gang and/or criminal activity and all gang injunction safety zones to prevent juveniles from being victims of or participating in gang crimes. The program rescued children as young as 6 years old roaming the streets past curfew.

OC GRIP teams consisting of deputy district attorneys, police officers, school principals and administrators go to the home of students with excessive truancy problems or 10 or more unexcused days of absence and conduct **Truancy Interventions** for students and parents to decrease truancy and support positive student attendance. Students are taken to school in a patrol car and counseled with their parents by the intervention team. Parents are prosecuted if their children's truancy problems continue.



# Hate Crimes

**H**ate crime laws prohibit the use or threat of force by any individual in order to intimidate, interfere with, oppress, or threaten any other person in exercising any right secured by the U.S. Constitution or state or federal laws based on “race, color, religion, ancestry, national origin, sexual orientation, gender or disability.” Perpetrators face up to four additional years in state prison if a crime is “substantially motivated” by such factors. The Orange County District Attorney (OCDA) prosecutes hate crimes with the fundamental belief that all people should be treated fairly, equally, and be free from discrimination.



The OCDA works closely with anti-hate groups such as the Anti-Defamation League (ADL) and the Orange County Human Relations Commissions to foster acceptance and understanding.

## *People v. Chad Jurjaks*

In 2011, 42-year-old John Doe, his wife, cousin, and 26-year-old nephew John Doe #2, were walking to the doors of a 7-Eleven convenience store. The victims are Hispanic. Jurjaks, who is Caucasian, was intoxicated and confronted the victims as they approached. Jurjaks then attacked the victims without provocation and yelled “F\*\*\*\*\* Mexicans!” three times as he punched John Doe #1 and John Doe #2 one time each in the head. He pleaded guilty to the court in 2012 to two felony counts of hate crime battery causing injury and was sentenced to two years and eight months in state prison.



## *People v. Matthew Branstetter and Nolan Wickham*

Branstetter and Wickham approached 23-year-old John Doe in a Coto de Caza park. The victim, who recognized Branstetter as an acquaintance, was sitting alone at a picnic table eating and drinking. The defendants briefly spoke with the victim before demanding his money and possessions. When John Doe said that he had nothing to give them, the defendants began yelling anti-Semitic slurs and attacked the victim. The defendants continued to yell anti-Semitic slurs as they repeatedly kicked and punched John Doe. They then stole his cell phone and jacket and fled the scene. The victim went in and out of consciousness throughout the attack and awoke after the defendants had fled. He managed to stumble back to his nearby home, where his father saw the victim’s condition and called 911. John Doe suffered a concussion, broken jaw, eye socket fracture, broken nose, cracked ribs, severe facial bruising, and cuts and bruises to his body and face. Branstetter and Wickham pleaded guilty in 2011 to one felony count each of aggravated assault and grand theft from a person with sentencing enhancements for committing a hate crime in concert with others and causing great bodily injury. They were each sentenced to three years in state prison.



In 2012, the ADL awarded the “Helene & Joseph Sherwood Prize for Combating Hate” to OCDA Senior Deputy District Attorney Jim Mendelson for his dedication to reducing the occurrence of hate-motivated crimes. Mendelson prosecuted some of the most notorious white supremacist gangs and gang leaders in Orange County as part of Operation Stormfront, a collaborative effort between the OCDA and state and federal law enforcement agencies that led to the largest number of arrests of high-level white supremacist gang members in Orange County history, significantly and negatively impacting white gangs both in the prison and on the streets.





# Homicide

**T**he **Homicide Unit** prosecutes murder and voluntary manslaughter cases. First degree murder is found when a defendant premeditates and deliberately kills another person. Special circumstance sentencing enhancement allegations are charged in cases where the murder was committed during the commission of certain serious felonies such as robbery, burglary, or rape, while lying in wait, for financial gain, or against victims such as police officers, elected officials or judges, among other factors. A first degree murder with special circumstances makes the defendant eligible for the death penalty.



Prior to seeking the death penalty, a special circumstances committee consisting of the District Attorney, a Senior Assistant District Attorney, the Assistant District Attorney in charge of the Homicide Unit, and other prosecutors experienced in capital cases, meets to discuss the defendant's criminal record, the nature of the crime, the vulnerability of the victim, and other relevant factors, including information provided by the defense attorney. The District Attorney makes the final decision to pursue the death penalty.



Second degree murder is an intentional killing without premeditation or deliberation. These convictions may be obtained if a defendant perpetrates an intentional act with a conscious disregard for human life that results in the death of another person. Manslaughter is when the defendant commits an intentional killing in the heat of passion and the circumstances are such that an ordinary and reasonable person would have acted in the same or a similar way.

HOMICIDE UNIT	2011-2012
First degree murder convictions	27
True special circumstances findings for first degree murders	15
Death penalty convictions	2
Second degree murder convictions	26
Voluntary manslaughter convictions	3
Total homicide convictions	56
Conviction rate	95%



# Homicide

## *People v. Eldelmira Corona, Gerardo Lopez, Armando Macias, Alberto Martinez, Anthony Navarro, and Deborah Perna*

Perna became jealous after learning that her father intended to pass control of the family company to her brother, David Montemayor, and asked her co-worker Corona to recruit Navarro to murder her brother. Navarro recruited San Fernando gang members Lopez, Macias, and Martinez to kidnap the victim. The victim escaped and was running away when Macias shot Montemayor in the head. Lopez also fired at the victim. Perna, Lopez, Martinez, Macias and Navarro were convicted of charges including murder with the special circumstances of committing the murder in the course of attempted robbery and kidnapping. Corona testified against her co-defendants, pleaded guilty to manslaughter and was sentenced to 14 years in state prison. Perna and Lopez were sentenced to life in state prison without the possibility of parole. Navarro, Martinez, and Macias were sentenced to the death penalty in 2008, 2010, and 2012, respectively. The victim's widow attended and testified at five different jury trials for five separate defendants charged with murdering her husband. At three penalty phase trials, for Navarro, Martinez, and Macias, she testified about the impact of the murder on her and her family. In addition to the grief of losing her beloved husband and the father of her children, the murder forced her to change from a stay-at-home mom to a working, single mom.



## *People v. Jason Richardson*

Richardson entered a Home Depot store wearing a disguise of a full-body painter's suit, sunglasses, dust mask, and gloves and carrying a black bag with the intention of stealing money from the store. Richardson approached store manager Thomas Egan, pulled out a gun, and demanded all the cash kept in the store's safe. Egan informed Richardson that he did not have access to the safe. The defendant then headed toward the store's front cash registers, attempted to rob an employee at gunpoint, and then turned and executed Egan by shooting him in the stomach. The defendant stepped over the victim's body with his firearm pointed at another employee. He stole approximately \$500 before fleeing the scene. The victim was a married father of young twin girls and a retired U.S. Marine Sergeant. Richardson was linked to the murder through DNA evidence from a sock containing bullets that he left at the scene. The defendant blamed his physically-similar brother for the crime. He was found guilty by a jury of one felony count of special circumstances murder during the commission of robbery and burglary, and the sentencing enhancements for the personal discharge of a firearm causing death were found true. During the penalty phase, the jury heard testimony about the defendant's violent history from two of his ex-girlfriends, both of whom Richardson had kidnapped and raped. After three penalty phases, Richardson was sentenced to receive the death penalty in 2011.



In 2012, Senior Deputy District Attorney Ebrahim Baytieh received the Outstanding Prosecutor of the Year Award from the California District Attorneys Association (CDA) for his outstanding prosecution and conviction of over 43 homicide defendants with no acquittals and obtaining the death penalty against five of those defendants. Each year, CDA recognizes individuals whose outstanding ability, professional dedication, personal sacrifice, and advancing ideals of criminal justice merit the respect and admiration of prosecutors statewide.

"There is nothing that I have ever wanted to be, other than a prosecutor, since I was 11 years old," said Baytieh. "To me, this is a reflection of our Office, the great Office that I work in, and the people that I work with."

# HOMICIDE VICTIMS 2011



Baby Joe Jade



Victor Manuel Camacho



Gene Carson



John Chamberlin



Miguel Martel DeLaCruz



Thomas Egan



Liana Gonzales



Rejinold Harry



Venus Hyun



Jack Jessee



Haeng Kim



Rocio Leon



Ashley Lilly



Juan Ricardo Lopez



Felix Brinez Gonzalez Mendez



David Montemayor



Isiah Prim-Ortiz



Stephen Serrano



Ngoc Ta Tommy



Leon Torres



Samuel Valdivia



Robert Vendrick

*The Orange County District Attorney is committed to remembering those whose lives were forcibly taken and bringing the offenders to justice.*

# HOMICIDE 2012 VICTIMS



James Arrecis



Baby Girl Tovar



Baby Jane  
Precious Doe



Jayprakash Dhanak



Karishma Dhanak



Dung Duong



Felix Bernal  
Esquivel



Emily Ford



Russell Ford



Marcia Ann  
Forsberg



Adriana Garcia



Malinda Gibbons



Troy Gorena



Brian Gray



Gregory Heintz



Mario Hernandez



Tabea Kenney



William McLaughlin



Brandon Morales



Rojo Marcos Nieto



Hilario Urquiza  
Rodriguez



Darlene Saddler



Robert Sickles



Leopoldo  
Verdugo-Cabrera



Cecil Warren



Millicent Wilborn



Jason Williams

*The Homicide Unit would like to dedicate its service to those whose lives were unjustifiably extinguished or harmed through violence.*



# Vehicular Homicide

**T**he Orange County District Attorney's Office (OCDA) Vehicular Homicide Team in the Homicide Unit is comprised of specialized prosecutors and Investigators to prosecute vehicle death cases. The team maintains approximately 35 active felony cases. Since its inception in 2008, the Team has obtained 85 vehicular death convictions in 24 jury trials, two bench trials and 60 guilty pleas, including 11 second degree murder convictions with a minimum sentence of 15 years to life in state prison.

The OCDA educates school-aged and college students about the dangers of driving under the influence of alcohol and drugs and texting while driving. The OCDA works with the media to educate the general public.

The team also partners with Mothers Against Drunk Driving (MADD), whose court advocates spend countless hours comforting and guiding victims through frightening and uncertain times.



In 2011 and 2012, MADD honored OCDA prosecutors and an Investigator for their work on driving under the influence (DUI) cases. Those honored include Senior Deputy District Attorneys Alison Gyves, Steve McGreevy, and Robin Park, and Deputy District Attorneys Paul Brar, Michael Carroll, Kristen Chenoweth, Lexie Elliot, Nancy Hayashida, Patrick Moss, Cliff Page, Rebecca Reed, Bradley Schoenleben, Joel Stone, Bobby Taghavi, Daniel Varon and Elizabeth Zuber.

Senior Deputy District Attorney Susan Price and Deputy District Attorney Jason Baez each received the **Heart of MADD Award**. Gyves and Hayashida received the **MADD Diligent Prosecutor's Award**. OCDA Investigator Wes Vandiver received the **Individual Diamond Service Award**.

Price also received the **MADD Victim Services Compassion Award** and was honored by The Daily Journal as one of 2011's **75 Top Women Litigators** for prosecuting vehicular homicide cases.



**MADD**  
Activism | Victim Services | Education



# Vehicular Homicide

## *People v. Anthony Fragoso*

At approximately 12:50 a.m., 21-year-old Fragoso was driving under the influence of alcohol at approximately 85 miles per hour in the wrong direction in the carpool lane on the freeway. He drove into oncoming traffic and crashing head-on into another car, killing driver Alan Reyes, 25, and passenger Vanessa Cease, 24. The force of the collision propelled Reyes out of the driver's seat and onto the third lane of the freeway. Cease remained in the passenger seat with her seatbelt on. They were both pronounced dead at the scene. The two victims had planned to marry. Cease worked part-time in a dental office while she was going to school and is survived by her 3-year-old daughter. Reyes was due to graduate from school to become a radiology technician. Fragoso had a blood alcohol content of .22 percent, almost three times the legal limit, and was transported to the hospital for major traumatic injuries. He pleaded guilty in 2011 to one felony count of vehicular manslaughter with gross negligence while intoxicated and a sentencing enhancement for causing great bodily injury. He was sentenced to 13 years in state prison.



## *People v. Gustavo Vega*

Shortly before 2:30 a.m. on Valentine's Day, Hao Nguyen, 21, was driving with friend Cara Lee, 20, in the passenger seat. Vega sped through a red light while driving under the influence of alcohol and hit Nguyen's car, which was legally travelling through the intersection on a green light. Nguyen was taken to the hospital with minor injuries. The defendant murdered Lee with the impact of the crash. The defendant fled on foot and was found shortly thereafter by police. He had a blood alcohol content of .17 percent, more than twice the legal limit. The defendant was in possession of a useable amount of cocaine in his pants pocket. Lee was an only child and pursuing a modeling career while attending college. At the time of her death, she was working with children as a recreational youth leader. She survived a battle against cancer at age 17. The defendant had prior knowledge that driving while under the influence of alcohol could result in the death of another person based on a prior misdemeanor DUI conviction, for which he signed an acknowledgement in his guilty plea Tahl form that he could be prosecuted for murder if he killed someone while driving under the influence. Vega was found guilty by a jury in 2011 of one felony count of murder, one felony count of hit-and-run resulting in death, and one felony count of possession of cocaine. He was sentenced to 20 years and four months to life in state prison.





## Law and Motion

**T**he **Law and Motion Unit** acts as a legal advisor and provides specialized assistance to the Orange County District Attorney's Office (OCDA), including in contempt of court and State Bar proceedings. The Unit conducts various research projects, in-house legal updates, manages the OCDA's libraries and other legal resources.

The Unit advances the interests of the People of the State of California by making substantial contributions to the development of law in the trial and appellate courts. Each year, the Unit handles several hundred pre-trial motions in felony trial courts, close to 100 misdemeanor writs and appeals in the Appellate Division of the Superior Court, and almost 100 various writs and appeals in the California Courts of Appeal, the California Supreme Court, and the federal courts.

### MOTIONS

*The Unit litigates the following motions:*

Demurrers • Motions to suppress evidence on Fourth Amendment grounds, including search warrant challenges; • Motions to dismiss the Information of Indictment for insufficiency of evidence or preliminary hearing and grand jury proceeding errors; • Motions to return property; • Motions for change of venue; • Motions to disclose confidential informants; • Motions to dismiss alleging speedy trial or due process violations; • Motions to dismiss alleging vindictive or selective prosecution; and • Recusal motions.

The Unit also handles challenges to the constitutionality of statutes and ordinances and attacks on the scope and limits of particular prosecutions. The Unit advises and handles motion and appellate work on all Sexually Violent Predator (SVP) cases.

### WRITS AND APPEALS WORK

With exception of non-gang-related homicide cases, the Unit handles all OCDA prosecution appeals in felony cases and all appeals in misdemeanor cases. In addition, the Unit litigates all writs of habeas corpus, mandate/prohibition, coram nobis, and certiorari in the Superior Court, the Courts of Appeal, and the California Supreme Court.



### CASES

The Unit has recently litigated and prevailed in several published decisions in the Court of Appeal, covering topics including: the proper scope and reach of multiple gang crimes arising from a single occasion (*People v. Infante* (2012) 209 Cal.App.4th 987); the forgery of private business records (*People v. Dunbar* (2012) 209 Cal.App.4th 114); the ability of juvenile courts to dismiss serious felony charges over the People's objection (*In re Jeffrey H.* (2011) 196 Cal.App.4th 1052); and the scope of judicial review in assessing search warrant challenges (*People v. Heslington* (2011) 195 Cal.App.4th 947). In addition, the Unit is currently engaged in over 25 writ matters in the Court of Appeal and the California Supreme Court involving a variety of SVP issues.



# Narcotics Enforcement

**T**he Narcotics Enforcement Team (NET) works with federal and state law enforcement agencies, including specialized narcotics task forces, to prosecute individuals and organizations involved in the use, manufacturing, and trafficking of large quantities of narcotics. NET also handles asset forfeitures.



## ASSET FORFEITURE

Enforcing narcotics asset forfeiture statutes is important in removing the tools and profits from drug dealers and criminal organizations engaged in the illegal drug trade. In 2011 and 2012, the value of assets seized based on asset forfeiture actions initiated by the Orange County District Attorney's Office was approximately \$4.3 million.



### *People v. Thomas Hogue*

Hogue lived in Anaheim with his bedridden 87-year-old aunt as her caretaker and manufactured methamphetamine in a laboratory in the living room of the home while the elderly victim was confined to her bed in another room. Officers discovered the methamphetamine lab while conducting a welfare check on the defendant's aunt after receiving a call from her concerned granddaughter, who had not heard from the victim in three months. The elderly victim was removed from the home and was placed in the care of another family member. Hogue pleaded guilty in 2011 to a court offer to one felony count each of manufacturing methamphetamine and elder and dependant adult abuse. He was sentenced to one year in jail and four years of formal probation. The People advocated for a sentence of three years in state prison.



In 2011, the Laguna Beach Police Department honored Deputy District Attorney Jeff Schunk as **Deputy District Attorney of the Year** for his prosecution of illegal marijuana storefront cases.

### *People v. Carlos Serrano*

Investigators observed during a narcotics investigation that Serrano was engaging in activities consistent with narcotics trafficking. The defendant was detained outside of his apartment and detectives searched inside. Serrano was found to be in possession of 19 bricks of cocaine, 35 pounds of marijuana, two firearms and over \$1 million in cash. The defendant pleaded guilty to a court offer in 2012 to felonies for possession for sale of a controlled substance, possession of over \$100,000 in criminally obtained money, possession of marijuana for sale, and sentencing enhancements for possessing over 10 kilograms of cocaine and being personally armed with a firearm. He was sentenced to 10 years in state prison and the cash was seized as asset forfeiture.







## Parole Hearings

**T**he Orange County District Attorney's Office (OCDA) vigorously fights against the release of dangerous felons from prison into the community to protect victims' rights and public safety. When the California Department of Rehabilitation and Corrections notifies the OCDA that a defendant will be paroled, an experienced prosecutor, who has completed the Office's parole hearing training, reviews the case file and relevant documentation. This prosecutor drafts a Letter of Opposition, conducts multiple hearings scheduled at the prison on the same day, and advocates for victims of crime who are in attendance at the hearing.

The OCDA participates in approximately 300 parole hearings each year. Prosecutors attend 85 percent of the hearings to advocate that the parole board deny the release of these dangerous inmates into the community. The rest are done through video conferencing. Over 90 percent of the parole hearings the OCDA appears on are for inmates in prison for murder. Many of these inmates maintain that they were wrongfully convicted, fail to show remorse or acceptance of the gravity of their crimes, and fail to follow rules, even in a structured prison environment. If parole is denied, the inmate may renew a request for consideration in three to 15 years.



### *Paul Crowder*

In 1991, 19-year-old Crowder attended a prom-night party at a hotel, where a group of students had booked three suites. Crowder was not a student but had come as a guest of the boyfriend of 17-year-old Berlyn Cosman, an excellent student with an athletic scholarship for college basketball. Crowder arrived at the party with beer and two firearms. He quickly became intoxicated and took out one firearm, waved it around and pointed it at various people. He threatened anyone who tried to stop him and threatened to shoot one of the partygoers in the buttocks. Cosman and her boyfriend were later preparing to go to sleep in an adjacent hotel room and the victim refused to let Crowder sleep in the room. Early in the morning, Crowder entered Cosman's room, took out his firearm, waved it around laughing, and shot Cosman as she slept. Crowder fled the scene and hid the firearm in some bushes outside. He then went home to take a nap. A jury convicted Crowder of second degree murder and the personal use of a firearm. He was sentenced in 1991 to 15 years to life in state prison and an additional four years for the personal use of a firearm. If convicted of similar charges today, he would have faced a sentence of 40 years to life in state prison. Crowder has not taken responsibility for his crime, continues to show a lack of remorse, and maintains that the shooting was unintentional. Despite the arguments by the OCDA that Crowder posed a continued threat to society, the Board of Parole Hearings (Board) granted Crowder parole in 2010, but then-Governor Arnold Schwarzenegger invoked his authority to reverse the Board's decision. In 2011, the Board again granted Crowder parole over the objection of the OCDA and victim's mother and sister, but Governor Edmund G. Brown Jr. invoked his authority to reverse the Board's decision. In 2012, the Board denied Crowder parole for five years, making him eligible for his next hearing in 2017.





# Parole Hearings

## Lawrence Cowell

In 1982, Cowell and co-defendant Donald DiMascio conspired to murder Cowell's lifelong friend, Scott Campbell, for money. Cowell rented an airplane, hired ex-convict DiMascio to murder Campbell, and lured Campbell onboard the plane under the pretense of completing his in-flight training to become a pilot. Once onboard, DiMascio assaulted and strangled Campbell to death while Cowell piloted the plane. Cowell and DiMascio smashed the victim's face before throwing him from the airplane near Catalina Island to ensure that the body would never be recovered. Cowell was convicted by a jury in 1985 of first degree murder, conspiracy to commit murder, robbery, and was sentenced to two concurrent terms of 25 years to life in state prison and an additional six years for the sentencing enhancements. In 1988, the conviction was overturned by the Court of Appeal on the grounds that evidence had been improperly admitted and ordered a new trial. In 1989, a new jury convicted Cowell on all counts and sentencing enhancement allegations. Cowell has shown no remorse for his crimes, continues to lie about his involvement in Campbell's murder, and continually attempts to shift the blame onto the victim. Despite two juries, two judges, and the Court of Appeal affirming the facts presented by the People and the verdicts, he continues to claim that the crime was an unplanned and tragic accident committed in self-defense by DiMascio after the victim pulled a gun. The physical evidence presented at trial and admissions made by Cowell and DiMascio contradict this claim. The victim's parents, Collene and Gary Campbell, appeared at the parole hearing in 2011 alongside an OCDA prosecutor to speak for their son and advocate for justice. The Board denied Cowell's parole for five years and he will be eligible for his next parole hearing in 2016.



## Omaima Nelson

Nelson met 56-year-old William Nelson when she was 23 years old and married the victim two months later in 1991. Over Thanksgiving weekend, after only three weeks of marriage, she murdered and dismembered him. She cut off the victim's genitals, boiled his hands in oil, and then cooked the victim's decapitated head and placed it in the freezer. She used the garbage disposal to dispose of much of the body, and other body parts were thrown out in the apartment building dumpster. Several body parts were found in the trunk of a car and in the apartment. Nelson was arrested several days later after she contacted an acquaintance to help her dispose of the body. During the jury trial, Nelson gave varying and conflicting statements as to what had happened. Nelson was convicted and sentenced in 1993 to 25 years to life for second degree murder with a sentencing enhancement for the personal use of a knife and, in a separate incident, assault with a firearm. The inmate had a lengthy criminal record prior to the murder including auto theft, shoplifting, hit and run with property damage, shoplifting and battery for biting a security officer, driving under the influence, driving without license, and assault with firearm. The inmate failed to complete any educational or vocational classes while incarcerated and failed to abide by prison rules, accumulating numerous rules violations including fighting, battery on a staff member, hiding contraband, stealing, mutual combat, failure to comply with instructions, and other violations. Nelson has never taken responsibility for the crime and insists that she murdered, decapitated, dismembered, and disemboweled William Nelson in self-defense. She has never expressed any remorse. The OCDA argued that she is a continued threat to public safety and The Board of Parole Hearings denied her parole in 2011 for 15 years, making her eligible for her next hearing in 2026.





## Sexual Assault

**T**he **Sexual Assault Unit** of the Orange County District Attorney's Office (OCDA) prosecutes the sexual assault of minors, sex crimes against adults, possession or production of child pornography, Sexually Violent Predators (SVP), Internet predators, and statutory rapes. Many of these violent and serious cases are One-Strike cases and often receive sentences amounting to decades and carry mandatory life terms. The Unit files approximately 350 cases per year and convicts 90 percent of the defendants. Between 2011 and 2012, the Unit conducted over 140 jury trials with over 75 of those cases resulting in life sentences. Half of the jury trials involved child victims under the age of 14.

The Unit assigns a deputy district attorney to work with the Child Abuse Services Team in cases involving minors. This prosecutor supervises interviews of child sexual assault victims in a child-friendly facility and coordinates trainings for law enforcement.

The OCDA believes that those who hold positions of trust bear greater responsibility for their conduct and deserve tougher punishment for violating that trust. The OCDA has investigated and prosecuted cases against a judge, priests, religious leaders, doctors, teachers, coaches, police officers, probation officials, and jail workers who used their position of authority and power to sexually assault minor and adult victims.



Since 2010, the OCDA has been tracking notification of release by the California Department of Corrections and Rehabilitation of registered sex offenders from prison into the community to ensure that all qualifying defendants are evaluated for SVP commitment. An SVP is a defendant who is civilly committed in a mental care facility after serving a prison sentence for a sexually violent offense, been diagnosed with a mental disorder, and found likely to re-offend unless committed.

### *Petition Against Rafael Torres*

In 1970 and 1971, Torres was an assistant Little League Baseball team coach and worked with boys between the ages of 8 and 10. During this time, the offender abused his position of trust and authority and molested four young boys. The sexual assault included fondling, masturbation, oral copulation, and sodomy. He was prosecuted, convicted, admitted as a Mentally Disordered Sex Offender to a mental hospital and later released. In 1979 and 1980, Torres was a registered sex offender and lived several days a week in his van parked in the driveway of a home belonging to the sister of one of Torres' prior victims. The offender sexually molested three neighborhood boys between the ages of 8 and 10 years old by fondling, masturbating, and sodomizing them. The offender groomed the boys by buying them soda, things to eat, and items such as toy cars and guns. He was prosecuted, convicted, again admitted as a Mentally Disordered Sex Offender to a mental hospital, and later released. After being released from custody, Torres gained access to two young boys, ages 5 and 8, who were relatives of one of his prior victims. The defendant groomed the victims by telling them that he would buy them toys, candy, and ice cream. Over a five year period, Torres sexually assaulted his victims while playing marbles outside, during holidays and on camping trips. The molests included kissing, fondling, masturbation, oral copulation, and sodomy. Torres was convicted 1991 and sentenced to 22 years in state prison. If convicted of the same crime today, Torres would have received a life sentence in state prison. Beginning in 2003, Torres was held as an SVP. In a 2011 commitment hearing, a jury was unable to reach a unanimous decision, finding 11 to one that the offender met the SVP criteria. In a re-trial of the case in 2012, a unanimous jury found that Torres meets the SVP criteria and is a continued threat to children and the community. He was re-committed for an indeterminate term.





# Sexual Assault

## *People v. Sekayi White*

White met 22-year-old Jane Doe #1 at a bar, drove her to his home, and took her inside. The victim passed out and later woke up in the defendant's bed, where White forcibly raped her. White met 44-year-old Jane Doe #2 at a bar and offered the victim a ride home. He drove Jane Doe #2 to her apartment and asked to go inside to use the restroom. White went into the restroom and then exited naked and pinned the victim down. He threatened to kill her and then grabbed his clothes and fled the scene when Jane Doe #2 screamed. White was charged for the crimes against Jane Doe #1 and Jane Doe #2 and posted \$250,000 bail. While out on bail, White showed up late one night at the home of acquaintance Jane Doe #3. The victim, who was intoxicated after returning home from a bar, opened the door and White forcibly raped her. The defendant was rearrested and charged with the rape of Jane Doe #3. As a result of the media coverage, three additional victims came forward. White broke into the home of Jane Doe #4, whom he had dated, pushed the victim to the ground, and forcibly raped the victim as he held a large hunting knife to her neck. Jane Doe #5 was renting a room from Jane Doe #4. One night, White broke the lock off Jane Doe #5's door, entered the bedroom, forcibly raped her, and threatened to kill her if she reported the rape. White picked up 22-year-old Jane Doe #6 for a date, took her to a hotel, and forcibly raped her. White was found guilty by a jury in 2011 of 14 felony counts including forcible rape, attempted rape, assault with the intent to commit rape, sexual battery by restraint, criminal threats dissuading a witness by force, first degree residential burglary, and multiple sentencing enhancements. He was sentenced to 112 years to life in state prison.



## *People v. Javier Perez*

John Doe #1's mother dropped him off at a babysitter's home. Perez, 16, a family friend of the homeowner, was at the house along with several other children. While other young boys watched, Perez sexually assaulted 9-year-old John Doe #1 in the kitchen by pushing him over the kitchen table and holding him down. He forced 8-year-old John Doe #2 to anally penetrate John Doe #1 with his hand. Perez then anally penetrated John Doe #1 with a toy light saber as the victim struggled and screamed in pain. After assaulting John Doe #1, Perez instructed the other boys not to tell anyone what he had done. Perez was charged as an adult and found guilty by a jury in 2011 of one felony count of sexual penetration by foreign object by force, one felony count of aggravated sexual assault of a child, and two felony counts of forcible lewd acts on a child under 14 with sentencing enhancements for lewd acts on multiple children and substantial sexual conduct with a child. He was sentenced to 30 years to life in state prison.



## *People v. Oscar Perez*

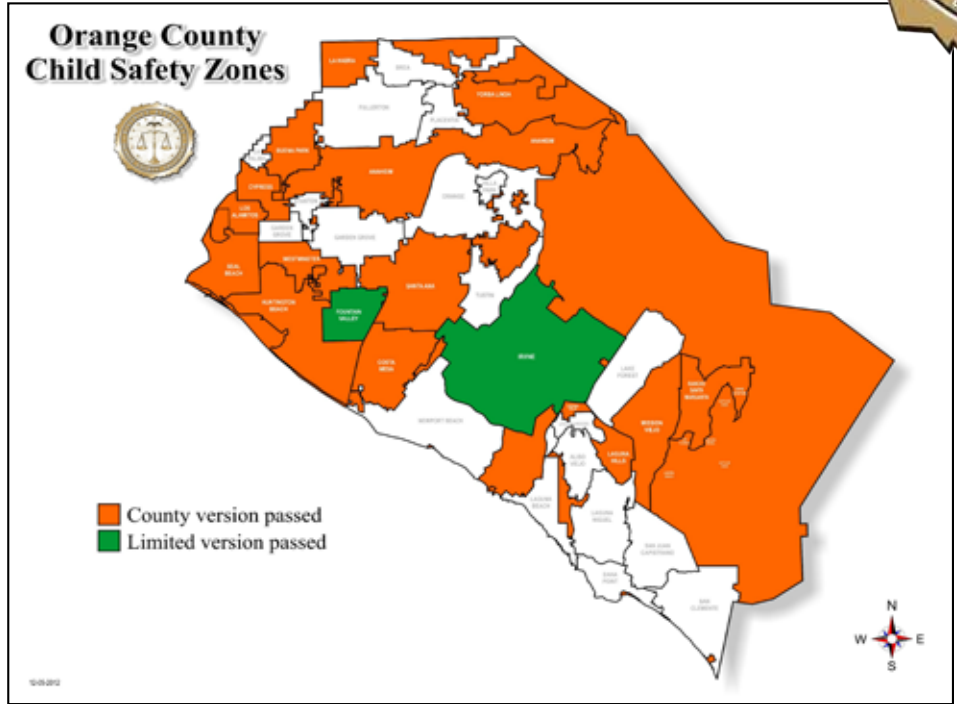
Perez represented himself as an Apostolic pastor and bishop at Iglesia Antigua, a church that rented space in Laguna Hills. Perez met his five victims through the church and gained their trust by befriending their families and having the boys assist with church services. Perez sexually assaulted the boys between the ages of 9 and 15 years old on one or more occasions while they were visiting or sleeping over at the defendant's apartment. The sexual assault against the victims varied and included sodomy, oral copulation, sexual penetration, touching of the victims' penis and/or buttocks, kissing, and hugging. Perez was found guilty by a jury in 2012 of 22 felony counts of lewd acts upon a child under 14, four felony counts of lewd acts on a child, and sentencing enhancement allegations for lewd acts against multiple victims. He was sentenced to 330 years to life in state prison.





# Sex Offender Ordinance

**D**istrict Attorney Tony Rackauckas developed the County Sex Offender Ordinance with Orange County Supervisor Shawn Nelson (Fourth District) to create a child safety zone in County parks and harbors to further protect children from registered sex offenders. The Ordinance was unanimously passed by the Orange County Board of Supervisors in April 2011 and makes it a misdemeanor for registered sex offenders to enter County recreational areas where children regularly gather without permission from the Orange County Sheriff's Department (OCSD). Violators may be punished with up to six months in jail and/or a \$500 fine.



**“Some critics have stated that this is only a ‘feel good’ law, as if we should feel bad about protecting children from being harmed by sex offenders. The greatest aspect of this law is that we will never have statistical proof to show how many children did not get harmed as a result of our law. Having tough laws to deal with the devastating aftermath of a child being sexually assaulted can never be as effective as the child not being harmed in the first place.”**

- District Attorney Tony Rackauckas

## People v. Hugo Godinez

Godinez is a registered sex offender who signed two Department of Justice forms acknowledging he understood the terms and conditions of his registration and met with a deputy probation officer to discuss and sign a copy of the ordinance restricting registered sex offenders' access to locations where children regularly gather, such as Orange County parks. On May 5, 2011, Godinez entered and spent several hours in Mile Square Regional Park in Fountain Valley. This park is known to be a gathering place for families, especially on holidays. There were many people in the park, including children, celebrating Cinco de Mayo. VeriTracks Global Positioning Satellite System print outs showed the defendant's movements. He later admitted to an OCSD deputy that he went to the park for several hours knowing he was not supposed to be there and knowing it was wrong. Godinez was found guilty in a court trial in 2011 of one misdemeanor count of prohibited sex offender entering a County park and one misdemeanor count of failing to register and show proof of residency upon release from incarceration. He was sentenced to 100 days in jail and five years of formal probation.



*District Attorney Rackauckas speaks to the Costa Mesa City Council to encourage the creation of child safety zones in its city.*



# Sex Offender Ordinance

## *People v. Richard Hibbard*

Hibbard is a transient registered sex offender stemming from a misdemeanor child annoyance conviction from Los Angeles. He was subsequently convicted of numerous felonies and misdemeanors for failing to register as a sex offender in 1998, 2002, 2007, 2009, 2010, and 2011. In 2011, OCS D deputies responded to Dana Point Harbor, where a citizen approached and asked them to keep an eye on the defendant because he was "belligerent around the kids," using profane language, and talking loudly. There were at least 10 children in the immediate vicinity where Hibbard had been standing on the dock sidewalk. Hibbard pleaded guilty in 2011 to being in violation of being a prohibited offender entering a County park and was sentenced to 31 days in jail. He was the first defendant to be convicted under the County Sex Offender Ordinance creating child safety zones.



California Penal Code sections 290, et seq. require individuals convicted of certain sex crimes to register as sex offenders. The registration process is used to ensure that such offenders shall be readily available for police surveillance at all times because such offenders are deemed likely to commit similar offenses in the future.

Orange County offers nearly 60,000 acres of parkland and open space including regional and wilderness parks, nature preserves, recreational trails, historic sites, harbors, and beaches where children regularly gather. Typical amenities in these areas include picnic and barbecue facilities, campgrounds, maintained hiking trails, playgrounds, and various learning centers where families regularly visit. The County Sex Offender Ordinance seeks to protect children by restricting registered sex offenders' access to these locations by creating safety zones.



*District Attorney Rackauckas received the Community Hero Award presented by Founding Director of The Joyful Child Foundation Erin Rummion. He was awarded alongside CNN television host, Jane Velez-Mitchell, and Los Angeles Lakers star, Metta World Peace, at the Joyful Child Foundation's 2011 Samantha's Pride Awards.*

In 2011 and 2012, at the urging of the OCDA, 14 cities enacted a City Ordinance modeled after or similar to the County Ordinance, and several other cities are considering and/or developing ordinances. The 15 cities include Anaheim, Costa Mesa, Fountain Valley, Huntington Beach, Irvine, Laguna Hills, La Habra, Los Alamitos, Mission Viejo, Rancho Santa Margarita, Santa Ana, Seal Beach, Westminster, and Yorba Linda. At the time of the publishing of this report, the Orange County District Attorney's Office is seeking review on the legal issues from the Court of Appeal.



## Special Prosecutions

**T**he **Special Prosecutions Unit** of the Orange County District Attorney's Office (OCDA) handles cases that require special attention and receive high public attention.

The Unit investigates and prosecutes individuals who violate public trust or commit criminal violations of state laws that regulate the conduct of elected or appointed public officials and employees, including law enforcement. Holding public officials accountable for violating public trust is important in promoting the democratic process and keeping our government free of corruption. Lifetime bans from holding public office have been imposed in cases involving public officials who abused their official positions for personal and/or financial gain.

The OCDA also conducts intensive investigations involving government oversight. These OCDA investigations often last months and involve interviewing multiple witnesses and examining voluminous documentary evidence to oversee local elected governments including open meeting requirements of the Ralph M. Brown Act and the Bagley-Keene Act. These requirements protect, promote and strengthen transparency and accountability in local elected or appointed governmental bodies vital to the functioning of democratic institutions.

Holding law enforcement officers and government officials to a high standard is crucial in maintaining public confidence in all criminal justice matters and the Unit prosecutes criminal cases against defendants who hold these positions.

**In 2011, the United States Postal Service honored Deputy District Attorney Andrew Katz for his prosecution of a case involving a former postal employee stealing gift cards and cash in greeting cards from the mail. Katz's prosecution efforts resulted in the former employee's conviction on six felony counts including second degree commercial burglary, acquiring access cards to defraud, acquiring multiple access cards, and receiving stolen property. She was sentenced to six months in jail and three years of probation.**

The Unit also handles hate crimes, perjury, election violations, parole hearings, arson, and over 200 cases per year involving individuals convicted of violent felonies due to serious mental disorders who were committed to state mental institutions to receive mandatory mental health treatment. The OCDA protects the public from premature release of dangerous mentally ill individuals and extends the commitment of people who require additional treatment before they can be safely released. The OCDA also evaluates the risk of permitting patients to receive outpatient treatment in board and care housing in residential neighborhoods and evaluates and litigates petitions filed by individuals who seek to terminate any further mandatory health treatment.



The Unit is also responsible for upholding the professional integrity of licensed professionals, such as doctors and attorneys, in the course of performing their duties.

Additional duties of the Unit include acting as the primary advisor to the Orange County Grand Jury, reviewing all non-fatal officer-involved shootings, and, in order to ensure enforcement of criminal laws when a suspect flees the state, working with the United States Department of International Affairs and foreign governments to coordinate national and international extraditions.



# Special Prosecutions

## EXTRADITIONS

### *People v. Ricardo Diaz-Nivarez and Rebeca Nivarez*

Diaz-Nivarez and his mother Nivarez robbed and murdered 78-year-old jewelry salesman Mario Hernandez. Hernandez's body was never recovered. Police arrested Nivarez after more than a year-long investigation. Diaz-Nivarez fled to Mexico. The OCDA worked with Mexican authorities and successfully secured the extradition of Diaz-Nivarez back to Orange County to face the murder charge. Nivarez was found guilty by a jury in 2011 of one felony count each of first degree murder and second degree robbery and was sentenced to 25 years to life in state prison. Diaz-Nivarez was found guilty by a jury in 2012 of one felony count of first degree murder and was sentenced to 25 years to life in state prison.



## ARSON

### *People v. Izad Chavoshan*

On three separate nights, Chavoshan drove to a church, where he had formerly been a member, after everyone had left. The defendant disagreed with the church and its teachings against masturbation. On all three occasions, the defendant moved trash cans to the front of the church and set the contents on fire. On a fourth occasion, Chavoshan drove to the church and repeatedly threw a trash can at the glass portion of the front doors in an effort to break the glass. The defendant then removed a pack of matches from his pocket, lit a piece of paper on fire, and attempted to set the church on fire by pushing the lit piece of paper between the closed church doors. Chavoshan was arrested at the scene by officers, who had been monitoring the church in response to the three trash can arsons. Chavoshan pleaded guilty to the court in 2011 to three felony counts of arson, one felony count of attempted arson, and a hate crime sentencing enhancement. The defendant had a prior Strike conviction for criminal threats in 1998. He was sentenced to six years and four months in state prison.



## LAW ENFORCEMENT DEFENDANT

### *People v. Robert McClain*

McClain had been a deputy for 10 months with the Los Angeles County Sheriff's Department. The defendant was married to 31-year-old Jane Doe and became suspicious that she was having an affair with 23-year-old John Doe, a resident of the Irvine apartment complex where Jane Doe worked in the leasing office. One night, McClain lured his wife and John Doe to the back kitchenette area of the leasing office and proceeded to violently torture both victims for over two hours. The torture included the use of a knife and firearm, punching, kicking, cutting, forced sex acts and attempted rape, strangulation, gagging, anal and vaginal penetration with the knife, urinating on both victims, and unsuccessfully ordering Jane Doe to castrate John Doe. After brutalizing the victims, McClain left John Doe in a massive pool of blood and forced Jane Doe to leave with him against her will. The defendant drove Jane Doe to a secluded road and forcibly raped and sodomized the victim in his car. Throughout the physical and sexual attack, McClain threatened to kill Jane Doe. Jane Doe was finally able to escape and drove to a nearby hospital. A cleaning crew discovered John Doe. Both victims survived the attack but sustained serious injuries. John Doe suffered brain damage, multiple bone fractures in his face, excessive blood loss, five stab wounds to his scrotum, two stab wounds to his penis, several cuts to his groin area, and lacerations to his face and arm. John Doe's mouth had to be wired shut and he spent months relearning to walk and talk. Jane Doe suffered a concussion, broken clavicle, abrasions to her face, arms, and legs, injuries to her waist and back, and tearing of her anus. McClain was found sane and guilty by a jury in 2012 of one felony count each of aggravated mayhem, torture, forcible oral copulation, attempted sexual penetration by foreign object by force, spousal rape by force, sodomy by future threat, false imprisonment, and domestic battery with corporal injury, and numerous sentencing enhancements. He was sentenced to 19 years and eight months plus four consecutive life terms in state prison.







# Special Prosecutions

## DISRUPTING FREE SPEECH

*People v. Mohamed Abdelgany, Khalid Akari, Aslam Akhtar, Joseph Haider, Taher Herzallah, Hakim Kebir, Shaheen Nassar, Mohammad Qureashi, Ali Sayeed, Osama Shabaik, and Asaad Traina*

The 11 defendants were all students at the University of California, Irvine (UCI) or Riverside. Israeli Ambassador to the United States Michael Oren was a featured speaker at a UCI presentation before approximately 500 to 700 people. For several days prior the speech, the defendants discussed in person, e-mails, and electronic message boards and conspired to disrupt Ambassador Oren while speaking and to pretend the disruption was a spontaneous act by individuals to avoid punishment by the UCI administration. Once Ambassador Oren began on the day of the speech, the 11 defendants took turns shouting from the audience over the ambassador and intentionally interrupting him every few seconds to prevent him from speaking. After 35 minutes had passed from the opening of the speech, Ambassador Oren had only spoken for two minutes and 21 seconds. The loud, calculated disruptions caused turmoil and total stoppages of the speech. The audience was distracted, unable to hear, had lowered comprehension, and many were frightened. They were deprived of the opportunity to ask questions, as the question and answer portion was cancelled. In the following days, the defendants exchanged e-mail reminders to pretend they were acting alone instead of in concert. Ten defendants were found guilty by a jury in 2011 of one misdemeanor count of conspiracy to disturb a meeting and one misdemeanor count of the disturbance of a meeting. They were sentenced to three years of informal probation and 56 hours of court-approved community service. The eleventh defendant pleaded guilty before trial and his case was dismissed upon completion of 40 hours community service. This was a precedent-setting case that defended free speech rights all over our nation.



## PROFESSIONAL INTEGRITY

*People v. Michelle Carbajal*

Carbajal was an employee of the Department of Motor Vehicles and had the ability to alter driver's license records through her work. Over the course of two years, Carbajal accepted money from 14 individuals in exchange for unlawfully altering their driver's license records. The defendant marked in the records of the 14 individuals that they had passed both the written and driving tests to obtain a commercial license, despite none of them having passed any of the tests. Carbajal issued commercial licenses to the 14 individuals and endangered public safety, as some of these un-taken tests were safety-related, including proper use of specialized brakes, proper pulling of double trailers, and the ability to drive semi-trucks and other commercial vehicles. In all, the 14 purchasers paid \$23,700. Carbajal pleaded guilty to a court offer in 2012 to 21 felony counts of altering public documents and 21 felony counts of computer access and fraud. She was sentenced to four years in custody, which was divided under the new statewide sentencing scheme to be served as 14 months in jail and two years and 10 months under mandatory supervision.





# Trial Attorney Partnership

The OCDA would like to thank the following law firms and TAP prosecutors:

## LAW FIRMS

Aitken Aitken Cohn • BakerHostetler • Cochran, Davis & Associates, P.C. • Cooley LLP • Coppentrath Jones LLP • Dorsey & Whitney LLP • Gibson, Dunn & Crutcher LLP • Gordon & Rees LLP • Grobaty & Pitet LLP • Hennigan, Bennett & Dorman LLP • Knobbe Martens Olson & Bear LLP • Kohut & Kohut LLP • Kutak Rock LLP • Latham & Watkins LLP • Lents & Foley LLP • Lopez Hodes • MacLeod & Stalter • McGuireWoods LLP • Morrison & Foerster LLP • Newmeyer & Dillion LLP • O'Melveny & Myers LLP • Orrick, Herrington & Sutcliffe LLP • Paul Hastings LLP • Robinson Calcagnie Robinson Shapiro Davis, Inc. • Sedgwick LLP • Sheppard Mullin Richter & Hampton LLP • Shook, Hardy & Bacon LLP • Walsworth Franklin Bevins & McCall, LLP • Walton & Associates • Westrup Klick, LLP

## ATTORNEYS

Panteha Abdollahi • Ted Adkinson • Jillian Allen • Fabio Amador • Heather Baez • Robert Baggs • Mayte Benavidez • Lindsey Biggs • Jessica Boschee • John Bowerbank • Ted Cannon • Sharon Carr • John Carter • Nicolette Cassidy • Hoon Chang • Gabriel Chavez • Winston Chu • Brian Claassen • Jennifer Conner • Benjamin Cutchshaw • Justin Daily • Patrick D'Arcy • Lauren Deeb • Jeffrey Dennis • Kristopher Diulio • Colleen Dougherty • Kelly Dunagan • Michael Elisofon • Peter Finnerty • Jay Freedman • Jay Gandhi • Christopher Glos • Paul Gutierrez • Jeffrey Gutkin • Darolyn Hamada • Charles Hargraves • Amos Hartston • Michael Heyman • Lai-Lai Ho • N. Kelly Hoang • Sherri Honer • James Hong • Joan Marie Huckabone • Cynthia Ignatuk • Laura Watkins Ives • Joshua Jessen • Jewel Jin • David Jones • Baraa Kahf • J. Scot Kennedy • Jane Kim • Sage Knauff • Kyle Lakin • Paul LaScala • Linda Lam • Sherin Larijani • Madeleine Lee • Michelle Lents • Nicholas Liddi III • Terri Lilley • Matthew Lilly • Tony Liu • Abigail Lloyd • Erik Lund • Jennifer Lyons • Thomas Manakides • Marshall Mancillas • Michele Maryott • Joshua Matic • Kevin McSherry • Nicholas Miller • Karen Morao • Vicki Nash • Michelle Ngamsanga • Yashar Nilchian • Cynthia Nulman • Kathleen O'Hara • Jeffrey Osofsky • Frances Pai • Michael Penn • Erika Pennington • Camille Philippe • Christopher Pitet • Marcus Quintanilla • Edward Raskin • Serafina Raskin • Ali Razai • Bonnie Roadarmel • Amanda Robinson • Kelly Roosevelt • Jamie Ryan • James Sabovich • Hengameh Safaei • Katherine Santon • Jennifer Schaniel • Amy Schroder • Erich Schiefelbine • Sarah Schlosser • Brian Selvan • Stefanie Sidler • Erin Sparkuhl • Ronald Steiner • Steven Streger • M. Adam Tate • Courtney Thom • Scott Thomas • Jared Tofer • David Van Dam • Vikki VanderWoude • Therese Vickers • Megan Wagner • Katherine Walsh • Eva Weiler • Alexandra Wilcox • Kandy Williams • Alexandra Wilson • Johanna Wilson • Scot Wilson • Carol Zaist • Marianne Zeigler • Rana Ziaee • Christian Ziegler • Nicholas Zovko

The Orange County District Attorney's Office's (OCDA) award-winning **Trial Attorney Partnership** (TAP) program is an innovative and cost-effective public-private partnership that helps alleviate budgetary shortfalls by providing high-caliber attorneys to the OCDA at no extra cost to the taxpayers. Recipient of the California State Association of Counties' (CSAC) highest award, the California Counties Innovation Award, TAP provides private sector civil attorneys with the opportunity to prosecute crimes as volunteer deputy district attorneys and learn valuable courtroom skills from veteran prosecutors to gain courtroom and trial experience.

The OCDA recruits attorneys from local, prestigious private law firms to work full time as deputy district attorneys for eight weeks. TAP prosecutors handle misdemeanor criminal cases including plea negotiations, motions, and jury trials, and felony preliminary hearings. Since its inception in 2003, TAP prosecutors have contributed almost \$3.6 million in services to the County and have increased the OCDA's ability to better protect the public.



## TAP TESTIMONIALS

"The TAP Program provided an outstanding opportunity to litigate on a daily basis. With an exciting caseload...I'm grateful for the opportunity to work with these outstanding individuals and learned valuable skills that I integrate into my legal practice." - Brian Claassen, Knobbe Martens Olson & Bear LLP

"I believe that I received an excellent opportunity to get 'on my feet' courtroom experience and, indeed, got quite a lot of exactly that experience. The ability to develop this level of comfort in the courtroom and confidence in my ability to think on my feet is something that would have taken me 20+ years in my current practice." - Terri Fujioka-Lilley, Latham & Watkins LLP



# MILITARY SERVICE

The Orange County District Attorney's Office would like to recognize and thank its staff that have served our Country.

## LIEUTENANT COLONEL PETE PIERCE



Pierce's appreciation and respect for the armed forces led to his commission in 1982. He retired from the United States Army Reserves as a Lieutenant Colonel in 2010. In his 28 years of service, Pierce was involved in four years of active duty as a Military Intelligence Officer, including being mobilized for a 15-month tour in support of the Global War on Terror in 2008. While deployed, he led the Human Terrain Team #003 which gathered socio-cultural, economic, and political information for analysis. Pierce's team led a successful counter-insurgency campaign during the 2008 Battle for Sadr City. Having control of Sadr City helped restore power to the Coalition of United States and Iraqi Government Forces and seize power from the enemy in Baghdad, the most important city in Iraq. Pierce has been awarded 12 medals and badges including the Meritorious Service Medal and the Bronze Star Medal.

"My time in the military led me to feel a profound need for public service, which is why I choose a career at the District Attorney's Office," said Pierce.



### ARMY



Doug Brannan  
Captain 1980-1985



Tim Day  
Law Enforcement Professional  
2010-2011



Arthur Gonzalez  
Private First Class 1986-1987



Denise Hernandez  
Captain 2002-2010



Ben Masangkay  
Specialist 4 1982-1985



George McFritidge  
Lieutenant 1968-1978



Dave Melnyk  
Specialist 4 1974-1977



Michael Murray  
Captain 1986-1991



Hector Pantoja  
First Sergeant 1980-2012



Pete Pierce  
Lt. Colonel 1982-2010



Tony Rackauckas  
Private First Class 1962-1968



Tony Sanchez  
Staff Sergeant 1986-2009



Steve Walker  
Specialist 4 1970-1971



Ruth Wallin  
Sergeant 1975-1984



Mike Wheatley  
Specialist 4 1968-1969

### Not Pictured

Greg Norton  
Sergeant Major 1976-2000

Sean O'Brien  
Sergeant 1966-1969

Randy Roach  
Specialist 4 1987-1989

Charlie Spinella  
Specialist 1971-1974

Edward Wood  
Specialist 4 1984-1987

Ed Martinez  
Specialist 5 1964-1967

Richard Ortega  
Sergeant 1966-1968

Bob Sayne  
Sergeant 1969-1970

Joe Williams  
Specialist 4 1978-1992

Steve Wolfe  
Sergeant 1966-1968



### AIR FORCE



Daniel LeMay  
Staff Sergeant 1985-1989



Tom Marty  
Staff Sergeant 1979-1985

### Not Pictured

Joe Avila  
Airman First Class 1974-1976

Mike Ginther  
Staff Sergeant 1975-1979

Leonard Washington  
Sergeant 1984-1992



### COAST GUARD

### Not Pictured

Dillon Alley  
Petty Officer Third Class  
1985-1990

Gary Sanders  
Petty Officer Third Class  
1992-1995



### MARINES



Roger Belville  
Sergeant 1972-1978



Jack Betts  
Sergeant 1948-1952



Richard Butcher  
Sergeant 1969-1972



Charles Goebel  
Sergeant 1966-1969



Howard Gundy  
Corporal 1973-1977



Drew Houghton  
Captain 1992-1996



Matthew Mattis  
Corporal 2003-2009



Jim Mendelson  
Lt. Colonel 1971-1998



Ben Sanchez  
Sergeant 1967-1971



Lee Smith  
Sergeant 1973-1977



Kathleen Trudell  
Major 1979-2002

### Not Pictured

Dave Kirkpatrick  
Major 1963-1976

Edward Messenger  
Captain 1971-1975

Marc Labreche  
Off Training Program 1981-1982

Nagy Morros  
Lance Corporal 1989-1995

Craig Lawler  
Corporal 1971-1974

Hector Rios  
Corporal 1971-1975



Edward Yee  
Corporal 1987-1995



### NAVY



Ed Almodovar  
Logistics Spec. Chef 1985-2005



Dennis Bauer  
Lieutenant 1970-1975



Mary Jo Colwell  
Personnelman Second Class  
1986-1994



Victor Ray  
Sonar Technician 1978-1986



Richard Reese  
Petty Officer Third Class  
1964-1970



Michael Stilton  
Petty Officer First Class  
1979-1985



Alan Vanderpool  
Petty Officer First Class  
1967-1970

### Not Pictured

Raymond Gonzalez

Dan Pratt  
Petty Officer Third Class  
1985-1989

Andrew Ross  
Petty Officer Second Class  
1992-2000

Chuck Orne  
Petty Officer Second Class  
1966-1970

David Reynolds  
Airman 1968-1970

Rick Sturm  
Aviation Ordnanceman  
Third Class 1985-2005



# Orange County Victims' Rights March and Rally

**T**he Orange County District Attorney's Office (OCDA) established the **Victims' Rights March and Rally** in 2009 after almost two decades of legal and legislative efforts to secure the rights of crime victims. The OCDA Victims' Rights March and Rally takes place every April to coincide with National Crime Victims' Rights Week. More than 400 people march through Santa Ana each year in remembrance of murdered victims, celebration of surviving victims, and honor of victims' rights.



"We in law enforcement and public life dedicate our service to all those harmed by crime, to bring justice, to fight your fight, and to defend your rights. Every year, we will work together to assert our rights and protect our community. We will do it here in Orange County, and up and down our state. We will never sit back and be done as long as there are new victims and new crimes."

**Tony Rackauckas**  
*Orange County District Attorney*



"Today, we've come together as one to champion victim's rights and to acknowledge the signal importance of both victims and of those men and women who have found their calling in the service of others – our victims' rights advocates. We honor the struggle of crime victims to be heard and we honor the victims' advocates for your dedication to make sure those voices are indeed heard."

**André Birotte Jr.**  
*Remarks by United States Attorney*

In 2000, Proposition 21 increased the punishments for serious and dangerous gang crimes. In 2004, Proposition 69 required felony arrestees to submit a DNA sample and Proposition 66, which would have allowed the release of dangerous Third-Strikers, was defeated. In 2006, Proposition 83, or Jessica's Law, instituted mandatory 15-years-to-life sentences for certain serious sex offenses against children. In 2008, Marsy's Law codified victims' rights into the California Constitution. In 2011, an OCDA sponsored anti-human trafficking bill went into effect. In 2011 and 2012, the OCDA led efforts to keep registered sex offenders out of County and city parks where children regularly gather.

The OCDA has been actively involved in creating new laws to protect victims' rights and educating the public to reject anti-public safety laws. In 1990, Proposition 115 increased punishments for defendants and decreased the number of times a victim had to testify. In 1996, Megan's Law required sex offender registration and gave parents and the community access to sex offender residence addresses, photographs, convictions, and other identifying information.





# Orange County Victims' Rights March and Rally



"We have the opportunity to reach countless people, and even if we only reach one and save one life, we have made a huge impact. We have a responsibility to educate and mentor those around us and, in doing so, help to protect the innocent and affect the decision-making process that somehow allows so many to think that it's okay to drink and get behind the wheel."

**Lance Frazee**  
*Father of DUI-crash murder victim Mackenzie Frazee Founder of the Mackenzie Frazee Foundation*



"I am living proof that sexual assault victims don't have to stay victims. You, too, can become survivors. It's a beautiful transformation that occurs over time. It's a slow, tedious, painful process, but the outcome is better than words could ever explain. I promise, the work is worth it."

**Alissa**  
*Survivor of brutal, videotaped gang-sexual assault by three men State-certified sexual assault victim advocate and crisis intervention counselor and volunteer with Project Sister Family Services*



"From homicide, to gang violence, to sexual assault, too many of us have had to endure what it means to be a victim, and in that have found more courage and strength that any one of us could ever have wanted to imagine possible."

**Elaina Kroll**  
*Survivor of sexual assault Founder and CEO of the Innocence Mission*



"If you're newer on this path than I am, be patient. This system can be very slow, but it does work. The people that work in the District Attorney's office, in the victim advocacy programs, and the people that do all the behind-the-scenes investigations and lab work are fighting for our loved ones. And they do not give up."

**Donna Bjoin**  
*Sister of murder victim Katherine O'Connell Victims Advocate Assistant for the Los Angeles District Attorney's Office*





# Victim and Witness Services

## RESTITUTION ENFORCEMENT

The Orange County District Attorney's Office (OCDA) collects restitution for victims of crime who have suffered financial losses as a result of criminal activity and forces criminals to accept responsibility for the harm they have caused. The OCDA enforces restitution orders payable to victims of crime and to the California Victim Compensation and Government Claims Board. In 2011 and 2012, Orange County victims were awarded approximately \$4.4 million in restitution.

## COMMUNITY SERVICE PROGRAMS, INC.

Community Service Programs, Inc. (CSP) is a non-profit organization that offers prevention and intervention programs in Southern California, including Victim Assistance Programs. CSP Victim Assistance Programs works with the OCDA to provide comprehensive services to approximately 60,000 victims and witnesses, their families, and communities in Orange County each year.

In 2011, CSP presented Senior Deputy District Attorney Cynthia Herrera with the **Victims' Service Award for Courts** and OCDA Investigator Connie Barnes with **Victims' Service Award for Law Enforcement** in honor of their advocacy of victims' rights and dedication to crime victims and their families.

## VICTIM ADVOCATES

Victim Advocates are trained professionals with specialized knowledge of the criminal justice system, victimology, crisis intervention, cultural and ethnic diversity, and the California Victims of Crime Compensation Program. Victim Advocates assist crime victims and witnesses through the aftermath of a crime and assist victims in identifying and utilizing resources to better their emotional and mental health.



## MARSY'S LAW

The OCDA supported California's Marsy's Law, which officially recognized that victims of crime have rights under the state constitution. The OCDA invokes Marsy's Law to ensure that victims have an opportunity to be heard at every court hearing where their rights could be impacted, including allowing victim impact statements at bail hearings, when defense attorneys seek a continuance, and prior to the courts making sentencing offers. To protect victims' rights, the OCDA obtains protective orders and seeks restitution when appropriate, even when the victim is not present. The OCDA provides Marsy's Law services by advising victims of their rights by mail, online, and in person. The OCDA continues to represent the interest and rights of victims, even decades after they are victimized, by providing input in person or by video conference for life-sentence parole hearing against convicted felons.



### *People v. Eric McMillian*

McMillian met 20-year-old Jane Doe in Las Vegas, where she lived with her family, and convinced her to travel to Orange County with him. When they arrived in Anaheim, the defendant began forcing Jane Doe into prostitution. The isolated, fearful victim felt trapped because she depended solely on McMillian for food and shelter. With the help of the Anaheim Police Department, Jane Doe was able to escape and provide information for the prosecution of her trafficker. McMillian pleaded guilty in 2012 to one felony count of pimping and was sentenced to three years in state prison. With the help of victim advocates, Jane Doe was able to stay in an emergency shelter, later found permanent housing, and will soon begin Job Corps.



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