

July 26, 2004

Honorable Clifford R. Anderson III  
Presiding Superior Court Judge  
118 East Figueroa Street  
Santa Barbara, California 93101

Dear Judge Anderson:

The Law Office of the Public Defender has had the opportunity to review the 2003-2004 Santa Barbara County Grand Jury report "Criminal Justice and Detention Facilities."

The Public Defender has been asked to respond to the finding and recommendation of the Grand Jury as it relates to video arraignments. Specifically, they are;

**Finding One:**

The installation of a video arraignment system would be a cost cutting and safety enhancing method of conducting the arraignment of prisoners in Santa Barbara County.

The Public Defender agrees in part and disagrees in part with Finding 1.

**Recommendation 1:**

The Grand Jury recommends that a video arraignment system be installed in both North and South Santa Barbara County.

The Public Defender disagrees with Recommendation 1.

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The 2003-2004 Grand Jury neither sought nor received any input from the Public Defender regarding this proposed fundamental change of a critical stage of the criminal justice process. This is ironic since the Public Defender is the entity charged by law with safeguarding the rights of persons most adversely affected by the Recommendation.

“Cost cutting and safety enhancing” are both appropriate concerns of the criminal justice system. However, they are not the only appropriate concerns. Interests such as Due Process, fundamental fairness, attorney client privilege, adequacy of counsel and legal confidentiality are among many additional appropriate concerns. If cost cutting and safety enhancing were the only goals to be pursued we might eliminate juries, permit hearsay at trials or even have virtual trials where witnesses could provide video testimony and be cross-examined on camera rather than on the stand. Cost savings resulting from video arraignments are yet to be determined. The Santa Barbara Court system must encourage efficiency and provide safety while providing justice and fairness for all accused persons.

Costly transportation and security concerns drain significant resources from other necessary functions. However, other more appropriate alternatives than video arraignments exist to harmonize these interests.

For example, a single arraignment court located at the existing jail could provide the desired savings and safety while maintaining actual human interaction between necessary parties. This alternative was neither considered nor evaluated in the Grand Jury’s finding or recommendation.

The Public Defender has visited Courts and Jails where video arraignments are utilized. The concerns and opposition are not born of uninformed reaction. Large percentages of cases can and should be resolved at the arraignment stage. Video arraignments hinder rather than facilitate this process. To this extent, costs for housing and case processing are increased by the use of video procedures.

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In an era of reality video and MTV programming it is a natural human response to be de-sensitized by video images rather than direct in person interaction. Case resolution and processing are enhanced not deterred by in person proceedings. These are consistent with cost savings and safety concerns which would be met by an arraignment court at the jail. In addition, out of custody arraignments which would still need to be heard could be consolidated on designated days in dedicated court rooms thereby freeing up strained judicial resources.

The Grand Jury's report focuses on cost and safety concerns. These values, while important cannot outweigh concerns for accuracy in communication, fact finding, bail determinations and legal representation. These would be met by an arraignment Court at the jail.

Hence, the Law Office of the Public Defender affirms and dissents from the Grand Jury's finding and dissents from the proposed recommendation.

Respectfully submitted,

JAMES S. EGAR  
Public Defender

JSE:nmr

cc: Santa Barbara County Board of Supervisors via  
Michael Brown, County Administrator  
David Clous, Foreperson  
2003-2004 Santa Barbara County Grand Jury