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August 27, 2004

Hon. Clifford Anderson III
Presiding Judge of Superior Court
P. O. Box 21007
Santa Barbara, CA 93121-1107

Re: Comment on Fundings and Recommendations of the 2003-04 Santa Barbara
County Grand Jury Report on *Video Arraignments*

Dear Judge Anderson:

The purpose of this letter is to provide the comment of the Superior Court on the findings and recommendations of the 2003-2004 Grand Jury regarding "Video Arraignments." These comments are made in full consideration that the Grand Jury "...does not have authority to investigate and report on fiscal and administrative operations of superior court..." because oversight of the trial courts rests with the California Judicial Council and the State of California (*See 76 Ops Atty Gen 70; 92 Ops Atty Gen 1204*).

Thus, a trial court's response to Grand Jury findings is not required. However, our Court has nonetheless determined that we should offer our comment on this important subject, in the interest of maintaining a constructive and cooperative approach to the problems of local justice agencies. Since responses to Grand Jury reports are required to be made to the Presiding Judge of the Superior Court, these comments are being made over the signature of the Superior Court Executive Officer, after review and approval by our Superior Court Executive Committee.

The Special Report of the 2003-2004 Grand Jury, entitled "The Electronic Courtroom" and subtitled "Video Arraignment Saves Time and \$\$\$\$\$", makes the following single finding and specific recommendation:

Finding 1

"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."

Recommendation 1

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

The Superior Court agrees in part and disagrees in part with this Finding and Recommendation of the Grand Jury, for the following reasons and with the following observations and comment.

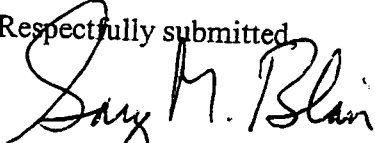
The Court agrees that there *may* be some safety, and possibly even some cost, benefits to the use of video systems for arraignment of prisoners, *in certain, ideal, circumstances*. The Court agrees that the possibility for future creation of special arraignment courtrooms in North and South County jail facilities is worthy of continued evaluation and consideration, and we will continue to participate in the evaluation effort for this, in cooperation with the County Sheriff, District Attorney and Public Defender. The Court disagrees that there are any clear safety or cost benefits to conducting “video conferencing” between remote arraignment courtrooms and jail facilities, and believes that there are likely legal and practical constraints that advise against this.

The Grand Jury Report cites much earlier reports of the California Judicial Council and of the National Center for State Courts in support of their conclusions; but these reports may not represent current problems and Court practices, and may themselves not entirely support the benefits of “video conferencing arraignments,” particularly as to the cost benefits. We note that, in the process of an updated survey of these practices in 1995, as reported in *Appendix C* of the Judicial Council’s 1997 *Report on the Application of Video Technology in the California Courts*, some reporting courts expressed “Concerns” such as “...anticipated benefits not realized...” etc.; and many of the courts reported either “...no cost savings...” or “...savings in transportation difficult to quantify...”

Further, Section 977 of the California Penal Code, which was amended several times since the dates of the Judicial Council and National Center Reports (i.e. in 1998, 2001, 2003), requires a *specific written waiver by the defendant*, to permit an arraignment without defendant’s physical presence. This alone is problematic, but we note that the Public Defender has also disagreed with the Grand Jury’s finding and recommendation, and that the Sheriff also expresses doubt, particularly as to likely cost savings benefits.

The Superior Court is appreciative of the opportunity to offer these comments on this subject, and will continue to participate with County justice agencies in evaluating and considering the possibility for developing special, jail-located, arraignment courtrooms in the County, along with any other related court facilities improvements.

Respectfully submitted,

A handwritten signature in black ink that reads "Gary M. Blair". The signature is written in a cursive style with a large, stylized initial "G".

Gary M. Blair
Superior Court Executive Officer

cc: Grand Jury
Superior Court Executive Committee
Jim Anderson, County Sheriff
Thomas W. Sneddon, Jr., District Attorney
James Egar, Public Defender
Michael Brown, County Administrator