

Letter: Grand Jury Response

August 28, 2024



August 15, 2024

Honorable Darren McElfresh

Presiding Judge

450 H Street, #209

Crescent City, CA 95531

Your Honor,

This letter is a response to the 2023/124 Del Norte County Grand Jury report regarding a complaint received by the Jury and in compliance with Penal Code §933.

I want to recognize the difficult task that the Jury undertakes and acknowledge the effort that was given for the betterment of our community. However, I am greatly disturbed by the flawed investigative practice that has led to their report.

In their zeal to protect the confidentiality of the complainant, the Jury failed to inform me of the specific allegations that were made, choosing instead to ask broad and general questions regarding the operation of

Juvenile Probation and the detention of youth now that the Juvenile Hall is closed. They declined to offer specific information when I requested it of them in my interview. Naturally, the Jury was provided with general information in response to their general questions and when I was asked who else they should speak to I did not refer them to Assistant Chief Anderson who oversees the Reentry Unit and transport of youth, as well as being well informed of juvenile detention practices as the previous Facility Manager of the Juvenile Hall. Nor did I refer them to Supervising Deputy Probation Officer Johnson who oversees the Juvenile Services Unit and interacts regularly with our detained youth and their attorneys, typically being the representative of the Department in all juvenile court proceedings.

As a result of their flawed practices, the Jury received skewed information regarding the heart of the complaint: a deprivation of the right to counsel for Del Norte County juvenile offenders which then led to flawed findings and recommendations.

Now knowing the specific complaint, I would categorically disagree that the Department is denying this fundamental right to our youth and the Jury's conclusion that the complaint has merit.

While my response to the specific findings and recommendations are listed below, there are several other points I believe are critical to the discussion. First, it is an attorney's responsibility to provide legal counsel to their client, not the Department's. Beyond the basic rights that youth are informed of when they are detained by us and which are required by law and regulation, we are not the appropriate party to provide legal guidance. While we should, and have worked to facilitate in-person meetings for youth when they are in the county for court or other appointments, it is incumbent upon the attorney to communicate with the Department what their needs are and to put in as much effort to that end as the Department. In addition, while in-person meetings are needed and preferred, attorneys always have access to their clients through phone or the use of Zoom or other virtual meeting programs.

Second, while the Jury makes no recommendations regarding communication between the Department and attorneys, I have always recognized that this is the most challenging component of coordinating meetings between youth and their counsel. To streamline and clarify that communication, we will be implementing an online form that can be used both by attorneys and parents/guardians to request the facilitation of a visit with youth. That form will be live on the Department's website within the week. It will provide a consistent and standard method of communication for attorneys who wish to schedule visits with their clients outside of the time that we have set aside as a matter of standard practice.

FINDINGS:

F1. – I disagree with the finding.

The Grand Jury states that "Insufficient preparation time is provided before court appearances for the incarcerated youth to meet with their legal counsel."

The Department's standard practice is to have youth in the holding facility one hour before court hearings to make them available for visits with counsel or others. The Department is willing and able to facilitate more time for meetings with counsel, however, this must be requested by counsel prior to the transport day so that alternate arrangements can be made.

F2. – I disagree with the finding.

The Grand Jury states that "The incarcerated youths are being transported back to The Facilities immediately after court appearances in Del Norte County without an opportunity for an exit interview with their legal counsel."

There is no such thing in law or practice as an "exit interview" with youth after a court hearing. The Department is willing and able to facilitate time for meetings with counsel, however, this must be requested by counsel prior to the transport day so that arrangements can be made. The Department has been as flexible as possible to facilitate meetings with counsel after court when requested, but these will be dependent on the safety and security of the youth in our custody as well as other factors that may be case-dependent.

F3. – I disagree partially with the finding.

The Grand Jury states that there "...is a breakdown in communication between the Del Norte County Probation Department and legal counsel for the incarcerated."

Communication is always challenging in systems with multiple moving parts, and the same applies to this situation. Although there is always room for improvement, I would contend that the Department's staff have consistently communicated with counsel regarding transport schedules and been available to make adjustments if requests are made. There have been few to no requests made.

F4. – I disagree with the finding.

The Grand Jury states that "There is no particular space reserved for confidential attorney-client meetings."

In this finding, the Jury blatantly ignores the information I provided them during their investigation. I walked them through the holding and processing section of the Juvenile Services / Youth Opportunity Center building and discussed the fact that we hold youth in that space both during processing after a new arrest as well as during transports. The holding space consists of 3 holding rooms, an interview/processing room, and a pre-booking room. All of these can be and have been utilized by counsel to meet with their clients.

RECOMMENDATIONS:

R1. – This recommendation has been previously implemented.

The Grand Jury recommends that the “Del Norte County Probation should transport the incarcerated youths to arrive at the Del Norte Juvenile Hall with adequate time before court, which is agreed upon by both probation and legal counsel, so the attorneys can have proper, adequate, confidential meeting time to prepare for court.”

This has been and will continue to be the Department’s standard practice.

R2. – The recommendation will not be implemented as a universal policy because it is not warranted or reasonable.

The Grand Jury recommends that the “Del Norte County Probation should return the incarcerated youth(s) to the Del Norte Juvenile Hall after court, where they will not be returned to The Facilities until the attorney has sufficient time to discuss what happened in court.”

As stated previously, there is no such thing in law or practice as an “exit interview” with youth after a court hearing. The Department is willing and able to facilitate time for meetings with counsel, however, this must be requested by counsel prior to the transport day so that arrangements can be made. The Department will remain as flexible as possible to facilitate meetings with counsel after court when requested, but these will be dependent on the safety and security of the youth in our custody as well as other factors that may be case-dependent.

With regards,

Lonnie Reyman

Chief Probation Officer