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August 12, 2015

The Honorable John Laettner
Presiding Judge of the Contra Costa Superior Court
A.F. Bray Court House, Department 25
1020 Ward Street
Martinez, CA 94553

Re: **Contra Costa County Grand Jury Report: "Community Courts" (Report 1510)**

Dear Judge Laettner:

On behalf of the Antioch City Council, this letter responds to Contra Costa County Grand Jury Report: "Community Courts." The City Council authorized this response at its meeting on August 11, 2015.

We appreciate the time and effort that you and the Grand Jury spent considering these matters. We trust that the Grand Jury also appreciates the City time spent reviewing and responding to Grand Jury reports, particularly given Antioch's reduced staffing. Pursuant to California Penal Code § 933.05, the City will respond to the applicable finding and recommendation.

Findings

Finding # 6: "The City does not have a Community Court program."

The City agrees with this finding.

Recommendations

Recommendation # 1: "The city should consider establishing a Community Court."

The recommendation will not be implemented because it is not warranted or is not reasonable, with the following explanation.

In May 2015, a member of Antioch Police management was tasked to attend, observe, and report back on a session of Community Court in a neighboring jurisdiction. Information obtained from this observation of Community Court raised several concerns.

There was no court reporter or other recording mechanism in place to ensure the conversations and interactions with the Offender were properly and accurately documented. This could be problematic later if the Offender alleges any failed promises, misrepresentation of facts, or any other wrongdoing.

One of the cases heard involved an Offender who was Spanish speaking only, and the translation was conducted by a bilingual staff member who was not a court recognized interpreter. This, coupled with no recording of the dialogue, could lead to allegations of misunderstandings and inaccurate statements between the Offender and the Hearing Officer.

It appears questionable if Offenders are aware of and/or understand due process. Offenders did not seem to have a good grasp of the true voluntary nature of the hearings. It was implied that failing to participate in the program would result in charges being filed against them by the District Attorney's Office, which may not have been accurate. In two separate cases, the arrest reports certainly met the criteria of probable cause necessary to make an arrest. However, it is questionable whether either contained sufficient burden of proof to meet a threshold of "beyond a reasonable doubt."

In the above examples, one Offender agreed to pay a fine and the other agreed to complete community service so that their cases would not be forwarded to the District Attorney's Office. However, based on the City's experience in filing cases with the District Attorney's Office, there is a strong likelihood that neither of these cases would have been accepted for filing. As such, both Offenders agreed to pay compensation (monetary and service commitment) to avoid prosecution on cases that, in all probability, would not have been prosecuted.

To correct the first two issues, additional funding would be required to protect the City from liability associated with allegations of misrepresentation and/or miscommunication (either unintentional or deliberate). The City believes in order to have a fair and professional Community Court, a court reporter would be required to properly document these proceedings. Additionally, a court recognized interpreter would be necessary for those who do not speak English in order to ensure accurate translation between all parties.

The issue of questionable due process raises ethical concerns for the City. The process of taking a person arrested for a crime and then giving them the opportunity to pay a fee in order to avoid the case being presented to the District Attorney's Office for **possible** criminal filing can appear to be a money-making scheme.

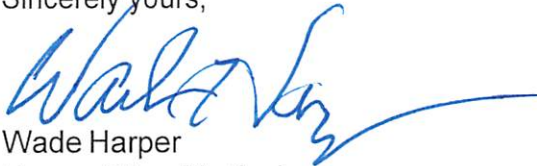
This is not the true intent of the Legislature when they enacted California Penal Code § 14150-14156. What is described in these sections as a Community Conflict Resolution program is designed to mediate conflicts between an Offender and a Victim, and both parties are **required** to participate. The intent, according to § 14150(d), is "*by bringing the parties together, these programs may reduce conflict within the community by facilitating the settlement of disputes which are causing repeated misdemeanor criminal conduct...*"

To properly identify cases worthy of the Community Court process, significant staff hours would be required to screen, review, print, and package the necessary documentation. Criminal RAP sheets would need to be requested for all subjects to ensure they are first time offenders. A Police Manager would need to act as a liaison with Community Court Services, tracking cases assigned to the program, attending hearings, following up on cases not yet assigned a hearing date (for statute of limitation purposes), financial recordation and auditing of the entire program.

The above mentioned steps needed to participate in Community Court make the program cost prohibitive for the City of Antioch. Staffing levels in the Antioch Police Department cannot support managing a program such as this. To do so, those involved would be unable to complete other necessary duties currently required of them. As such, the City does not intend to participate in Community Court.

We trust the Grand Jury will find these responses helpful. In an effort to get an even deeper perspective, the City of Antioch suggests the Grand Jury query the Contra Costa County Office of the Public Defender, as their office is a stakeholder in the criminal justice process as well.

Sincerely yours,



Wade Harper
Mayor, City of Antioch

cc: Sherry Rufini, Contra Costa County Grand Jury Foreperson, 725 Court Street, Martinez, CA 94553
Steve Duran, City Manager
Derek P. Cole, Interim City Attorney