

# CITY OF CLAYTON

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*City Council*  
DAVID T. SHUEY, *MAYOR*  
HOWARD GELLER, *VICE MAYOR*  
JIM DIAZ  
KEITH HAYDON  
JULIE K. PIERCE

July 8, 2015

VIA U.S. REGULAR MAIL AND  
REQUESTED EMAIL TO: [clope2@contracosta.courts.ca.gov](mailto:clope2@contracosta.courts.ca.gov)

Sherry Rufini, Foreperson  
Contra Costa County Civil Grand Jury, 2014-15  
725 Court Street  
P O Box 431  
Martinez, CA 94553-0091

**Re: City Response to Civil Grand Jury Report No. 1510**  
**“Community Courts – Unburdening the Traditional Court System”**

Dear Ms. Rufini:

Pursuant to the June 9, 2015 letter regarding release of Report No. 1510 by the Contra Costa County Civil Grand Jury for 2014-15, the City of Clayton provides its attached Response as required by California Penal Code section 933.05(a). At its regular public meeting of July 7, 2015, the Clayton City Council reviewed, considered and then approved its attached Response.

Should any questions arise regarding our reply, please do not hesitate to contact us or our city manager at 925.673-7300.

Sincerely,



David T. Shuey  
Mayor

Attachment: 1. City Response to Civil Grand Jury Report No. 1510 [4 pp.]

cc: Honorable Clayton City Council Members



**CITY OF CLAYTON RESPONSE TO  
CIVIL GRAND JURY REPORT NO. 1510  
"COMMUNITY COURTS"**

**2014-15 CONTRA COSTA COUNTY CIVIL GRAND JURY**

The City of Clayton, California provides the following response to Civil Grand Jury Report No. 1510, "Community Courts", issued on 09 June 2015 by the 2014-15 Contra Costa County Civil Grand Jury. Pursuant to pages 7 and 8 of the Report, this City is required to respond to Finding No. 6 and Recommendation No. 1 adhering to format guidelines prescribed by the California Penal Code (Section 933.05).

**FINDING**

6. *The city does not have a Community Court program.*

**City Response**

The City of Clayton partially disagrees with the Finding.

As noted in attached "Exhibit A", since March 2015 the City of Clayton has established an inter-agency relationship with the adjacent City of Concord to participate in its Community Court program.

# # #

**RECOMMENDATION**

1. *The city should consider establishing a Community Court.*

**City Response**

The recommendation has been implemented.

Reference is made to the attached "Exhibit A" which direction was authorized by the Clayton City Manager in February 2015 for this City to participate in the Community Court program established by the City of Concord. To date our City has referred one case to this Community Court, which case hearing is pending at this time.

Due to community variables and low volume of eligible cases, it is prudent for some local governments to evaluate and explore options for joint venture in consideration of economies of scale and duplication.

Attachment: Exhibit A [3 pp.]

# # #

City of Clayton  
 Police Department  
 6000 Heritage Trail  
 Clayton, Ca. 94517



Chris Thorsen  
 Chief of Police

DATE: February 11, 2015  
 TO: Gary Napper-City Manager  
 FROM: Chris Thorsen, Chief of Police  
 SUBJECT: Community Court

02-12-15  
 4:35PM  
 Talked to Chief - no downside.  
 Told him to move forward.  
 CR

**Summary:**

Community Court is a pre filing diversion program which allows offenders the possibility of handling their low level criminal proceedings outside of the traditional justice system. The program is voluntary and allows low level offenders to avoid the formal court process. The program is "self funding", violators pay for the services of a judge advocate to hear and adjudicate their cases. Additionally, violators must pay for any treatment or work programs they are assigned as part of their sentence. A portion of fines collected are returned to the City. Though not intended to be a profit generator, the costs of administering the program are offset by the violator.

**Background:**

Community Court programs have been in existence since the early 70's. They follow the "restorative justice" model. That is to say, the overarching goal is to have the offender recognize the harmful nature of their actions and apply sanction/consequences that are both contemporaneous to the act and sufficient to curb future criminal acts.

The program is completely voluntary; the violator may opt to have his/her case heard in the traditional court system. Typically, in cases referred to community court, guilt or innocence is not in question. The proceedings generally take place within 60 days of the violation, reinforcing the cause and effect of the offender's actions. Penalties range from monetary fines to community service hours, to substance abuse counseling or some combination thereof.

Locally, the City of Walnut Creek was the first to establish a formal Community Court process. Walnut Creek was experiencing a significant upturn in quality of life offences in and around the downtown area. Public drunkenness, public urination, littering and other low level offences were occurring with tremendous regularity. Because they are considered to be "nuisance" crimes, these offenses often don't receive serious attention from the criminal justice system. The sheer number of these low level offenses bogs the justice system down and crowd an already overburdened court system. Walnut Creek adopted the Community Court program to deal with these quality of life offenses.

Closer to home, the City of Concord started their community court program within the last three years. The Concord program is similar to the program to Walnut Creek. Concord hears a wider variety of criminal cases and affords the Community Court opportunity to juveniles as well. In March, the City of Pittsburg started a community court program similar to that in the City of Concord.

There are significant advantages to the violator. Technically, an "arrest" is completed when the suspect is officially booked. After booking, the arrest is reported to the State, and thus reflected on the violator's criminal history. Short of the booking process being completed there is no report to the State, thus no entry to the violator's criminal history. The diversion process truly provides a second chance to low level/first time offenders who make a mistake or suffer a lapse in judgment.

The Community Court program is completely voluntary. Violators are not required to participate. Violators may choose to have their case heard in criminal court at any point during the Community Court process. Not all cases or offenders are eligible for diversion through the Community Court. Driving Under the Influence (DUI) cases are never eligible for Community Court. Violent crimes and domestic violence crimes are typically not eligible for diversion through the Community Court.

Typical criminal acts that would be eligible for Community Court are petty theft, drunk in public, public urination, littering, trespassing, disturbing the peace, and other low level misdemeanor crimes. The advent of Prop 47 in California calls to question the handling of drug offenses in Community Court. The topic has not been formally decided by most agencies, and will be addressed on a case by case basis.

The following is a basic fact pattern providing a "walk through" of the Community Court process:

A violator is detained by staff at Safeway for shoplifting. The offender is an 18 year old adult who was caught stealing \$100 worth of makeup. The offender has no criminal record and has no previous contact with the Clayton Police Department. Clayton officers issue a notice to appear (citation) in court and release the violator. A police report is generated detailing the facts and circumstances surrounding the case.

In reviewing the case, a Sergeant determines the case to be eligible for Community Court. The violator is sent a letter explaining the Community Court process and offering the opportunity to handle the matter in Community Court. If the violator avails themselves to the diversion process, they are given an appearance date at the Concord Police Department. Typically, the appearance will be within 60 days.

On the day of the "trial" the offender arrives at the Concord PD. They pay directly for the services of the judge advocate to hear the case. The judge hears the facts and circumstances surrounding the case. If the judge advocate determines the case has merit, he imposes a penalty for the violation.

If the penalty is a fine only, the violator may pay the fine at the front window of the Concord Police station (credit cards accepted). Should the violator need time to pay the fine, arrangements are made. If the sanction involves community service or the completion of a school, time is allowed to complete the "sentence". At the completion of classes and/or payment of the fines, the case is successfully diverted. Because the booking process was

never completed, there is no entry to the offender's criminal history (RAP).

In some cases, the offender is booked. However, they are deemed qualified to handle the case via the Community Court program. In those cases, if the case is successfully diverted (sanctions imposed by the judge advocate are fully satisfied) a form is completed and sent to the Department of Justice advising the case has been diverted. The violator's criminal history will reflect the arrest with a note that the case was successfully diverted.

The hearing will be held at the Concord Police Station in conjunction with cases the Concord PD had referred to Community Court. Penalties will be collected at Concord. Cases that have community service or classes assigned will be tracked by the Concord Police Department on our behalf. We will be notified when the sentence has been fully satisfied.

Staff at the Concord Police Department will track fines and penalties assessed/collected from Clayton PD cases. Quarterly, the City of Concord will issue a check to the City of Clayton for funds collected on our behalf. Concord will charge a 10% fee on all fines assessed to cover their administrative costs.

**Fiscal Impact:**

The intent of the program is to be cost neutral. Violators pay the judge advocate directly for the cost of hearing the case. Fines levied as part of the diversion process are returned to the City of Clayton to offset the cost of staff time spent reviewing, preparing and following up on cases sent to Community Court. The City of Concord will keep 10% of the fines collected for handling the administrative portion of scheduling the hearings, tracking the cases and collecting any fines.

In a typical case referred to Community Court, our officers will not have to appear to testify, thus saving staff time for our officers to appear in court.

**Recommendation:**

Direct the Chief of Police to move forward with establishing a Community Court program in partnership with the City of Concord.