

County of Mendocino
Grand Jury
www.co.mendocino.ca.us/grandjury

Post Office Box 939
Ukiah, CA 95482
grandjury@co.mendocino.ca.us

**Grand Jury Report Transmittal
(with Instructions and Response Form for Required Respondents)**

C. David Eyster
Mendocino County District Attorney
POB 1000
Ukiah, CA 95482

Date: May 26, 2011

RE: Report Titled: Please Help Me

Report Dated: March 16, 2011

Your response to the attached report by the 2010/2011 Mendocino County Civil Grand Jury is required pursuant to Penal Code §933.05 (enclosed). Penal Code §933.05 also requires that your response to the Findings and Recommendations contained in the report be in writing and be submitted within **60 days for individual responses from elected county officers or agency head** or within **90 days for governing bodies** (including such entities as school boards, city councils and the Board of Supervisors).

Penal Code §933.05(f) specifically prohibits disclosure of the contents of this report by a public agency or its officers or governing body prior to the release to the public. The report will be released to the public and posted on the grand jury website two (2) or more days after the date of this letter.

The Penal Code is specific as to the format of responses. Complete and sign the enclosed Response Form and attach any additional comments as required.

Should you have any questions after reviewing the enclosures, please contact me at **grandjury@co.mendocino.ca.us** or at the address above.

Sincerely,

Katharine Wylie

Katharine Wylie
Foreperson
Mendocino County Grand Jury

For Your Information

SUMMARY OF PENAL CODE 933.05

Penal Code § 933.05 provides for only two (2) acceptable responses with which agencies and/or departments (respondents) may respond with respect to the **findings** of a Grand Jury report :

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the findings, *in which case the respondent shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.*

Penal Code § 933.05 provides for only four (4) acceptable responses with which agencies and/or departments (respondents) may respond with in respect to the **recommendations** of the Grand Jury.

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis, with a timeframe for the matter to be prepared for discussion by the officer or head of the agency/department being investigated or reviewed, including the governing body of the public agency when applicable. *This timeframe shall not exceed six (6) months from the date of publication of the Grand Jury Report.*
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with a detailed explanation therefore.

However, If a finding and/or recommendation of the Grand Jury addresses **budgetary** or **personnel** matters of a county agency/department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address **all** aspects of the findings or recommendations affecting his or her agency/department.

**Grand Jury Report
RESPONSE FORM**

RE: Report Titled: *Please Help Me*

Report Dated: March 16, 2011

Response Form Submitted By:

C. David Eyster
Mendocino County District Attorney
POB 1000
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: July 26, 2011

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- I (we) agree with the Findings numbered:
1,3,4,7,11,19,20,23,24,25,26
- I (we) disagree wholly or partially with the Findings numbered below, and have **attached, as required**, a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
22

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:
1,3,4
- The following Recommendation(s) have not yet been implemented, but will be implemented in the future, **attached, as required** is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

- The following Recommendation(s) require further analysis, and attached as required, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
-

- The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable, attached, as required is an explanation therefore:

2

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 2

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.co.mendocino.ca.us/grandjury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail responses (word documents or scanned pdf file format) to:

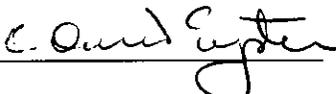
- The Grand Jury Foreperson at: grandjury@co.mendocino.ca.us
- The Presiding Judge c/o: sally.nevarez@mendocino.courts.ca.gov
- The County's Executive Office: angeloc@co.mendocino.ca.us

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: C. David Eyster

Title: District Attorney

Signed:  Date: 11/4/2011

Grand Jury Report: **Please Help Me**
District Attorney's Response

Findings:

#22 A victim can obtain a Criminal Protective Order under Penal Code §136.2, either before trial or after trial, as a probation condition when a criminal charge is filed. A victim can also obtain a domestic violence restraining order (Family code §6300 et seq.) in civil court regardless of whether or not criminal charges have been filed.

District Attorney's Response: While a complaining witness has the ability to request a Criminal Protective Order through the District Attorney's criminal process, the ultimate decision as to the issuance of the order is at the discretion of the Court. Pending Criminal Protective Orders that are issued at the opening of a case continue until the case has reached completion. The orders are then either terminated with a Post Trial Criminal Protective Order being issued or the order being converted to a term of the defendants' formal or summary probation. If, however, the case were dismissed or the defendant sent to state prison, or if the presiding Judge determined that there was no longer a need for the order the order would then be terminated.

With regard to the complaining witness obtaining a civil domestic violence restraining order, it is true that the victim may pursue such an order whether or not criminal charges have been or will be filed.

Recommendation:

#1 Mendocino County District Attorney's Office continues to provide the grant support to the Victim-Witness Assistance Program from their budget, (Finding 1).

District Attorney's Response: Grant support and budgetary support through the District Attorneys Office are two separate funding sources. The Victim-Witness Assistance grant is through the state of California and is administered through the California Emergency Management Agency (CalEMA). Grants, however, do not cover the entirety of Victim-Witness' necessary budget so additional budgetary support is provided from the District Attorney's overall budget.

#2 Mendocino County District Attorney's Office utilize asset forfeiture funds to augment Victim Witness Assistance Program funding (Finding 1).

District Attorney's Response: Asset Forfeiture funds cannot by law be used to augment the Victim Witness Assistance Program and may only be used as directed by statute.

#3 Victim Witness Assistance Program continues outreach to encourage those who drop from the program to continue, (Findings 6, 23).

Finding #6 – The Victim Witness Program is victim driven. Victims should be willing to cooperate with follow-up investigations and the criminal justice process. Not every victim continues to use the Victim Witness Program.

District Attorney's Response: Victim-Witness provides support for as many victims of violent crime as possible. Upon receiving a violent crime referral, an outreach letter is immediately generated and sent to the victim providing him or her with the defendant's next court date and time, as well as the contact information for the Victim-Witness Program and the name of the V-W advocate assigned to his or her matter. The Victim-Witness Program provides a myriad of services for victims and witnesses. However, it is a personal choice of a victim as to whether he or she chooses to be actively involved in any case. Where a V-W Advocate can provide court support, resource referrals for counseling, and referrals to other community services, it is still the choice of the victim as to whether they choose to participate in the process. An unsupportive victim is nevertheless still offered resource referrals and other assistance with services upon request.

Recommendation:

#4 Victim Witness Assistance Program staff continues to actively pursue annual grants for program funding, (Findings 1, 8, 12-13).

District Attorney's Response: Victim Witness continues on an annual basis to apply for the Victim-Witness Assistance Program grant, as well as any other available grants that may fit criteria supportive victim services. It should be noted, however, that grant funding continues to become more and more competitive, placing Victim-Witness services at ongoing risk.

Grand Jury Report: **Please Help Me**
District Attorney's Response

Findings:

#22 A victim can obtain a Criminal Protective Order under Penal Code §136.2, either before trial or after trial, as a probation condition when a criminal charge is filed. A victim can also obtain a domestic violence restraining order (Family code §6300 et seq.) in civil court regardless of whether or not criminal charges have been filed.

District Attorney's Response: While a complaining witness has the ability to request a Criminal Protective Order through law enforcement and the District Attorney's criminal prosecution process, the ultimate decision as to the issuance of the order is left by law to the discretion of the Court. A Criminal Protective Order (CPO) that is issued at the opening of a case continues until the case is concluded by conviction. The CPO is then either terminated when a Post Trial CPO is issued or by the CPO being converted to a term of the defendants' formal or summary probation. If, however, the case were dismissed, the defendant sent to state prison, or the Court determines the CPO is no longer needed or appropriate, the CPO is terminated.

With regard to the complaining witness obtaining a civil domestic violence restraining order, it is true that the victim may pursue such an order whether or not criminal charges have been or will be filed. Online forms for seeking such relief may be found at: <http://www.courts.ca.gov/forms.htm>

Recommendation:

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