



**STATE OF NEVADA
DEPARTMENT OF INDIGENT DEFENSE SERVICES**

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ONSITE VISIT REPORT

Humboldt County

Contact date: March 29, 2022

I. Brief Narrative.

On Friday, March 25, 2022, our office received a report from the ACLU that misdemeanor arraignments were happening in Humboldt County without the assistance of counsel, and that a court clerk was taking the pleas.

On Monday, March 28, our office wrote to Dave Mendiola, the Humboldt County Manager (and also BIDS Board Member) regarding the issue. Mr. Mendiola discussed the matter with Humboldt County Justice of the Peace Jim Loveless. We set a zoom meeting for the next morning, March 29, with Dave Mendiola, Judge Loveless, and the DIDS Directors.

On the zoom meeting, we discussed the ACLU's concerns, and inquired as to the procedure in Humboldt County. The Judge explained that for misdemeanors where the district attorney is not seeking jail time, the defendants are being arraigned by the Clerk, without counsel or a judge, and that the Clerk is taking pleas.

We explained that there could be a due process issue with that procedure, if any of the misdemeanors carry potential jail time (even if the prosecutor states they won't seek jail time. If so, and the defendants were not represented by counsel, there may be an *Alabama v. Shelton* issue. (Under *Shelton*, the Sixth Amendment does not permit activation of a suspended sentence upon an indigent defendant's violation of the terms of his probation where the State didn't provide him/her with counsel during the prosecution/plea.)

Judge Loveless explained that the prosecutor's office generally indicates on the face of the complaint whether they are seeking jail time, and if not, the above procedure is followed. He did acknowledge, however, that he saw the potential constitutional violation in the process. Accordingly, he said they would take steps to correct the procedure. He also stated that he would have a meeting with the public defender, to discuss what procedure should be implemented.

III. Next Steps.

We will follow-up with all parties, including the Public Defender, to assess the changes to the Humboldt County justice court procedure regarding this issue.