

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)**

Mark Puthuff, Chief of Police
City of Fort Bragg
250 Cypress
Fort Bragg, CA 95437

Date: 6/18/10

RE: Report Titled: *Drug Dealers Support Local Law Enforcement, A Report on Asset Forfeiture*

Dated: 6/21/2010

Your response to the attached report by the 2009/2010 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
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: *Drug Dealers Support Local Law Enforcement, A Report on Asset Forfeiture*

Report Dated: 6/21/2010

Response Form Submitted By:

Mark Puthuff, Chief of Police
City of Fort Bragg
250 Cypress
Fort Bragg, CA 95437

Response MUST be submitted, per Penal Code §933.05, no later than: 9/21/2010

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, 4, 14, 15, 16, 17, 18, 20, 21, 22, 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 Findings that are disputed with an explanation of the reasons therefore.
#19, 23, 24, 33

▪ **Explanation for findings numbered:**

- #19 **Health and Safety Code section 11489D(d) states that: “All the funds distributed to the state or local governmental entity pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (b) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies.”**
- #23 **Members of this department can only speak to radios and related equipment, electronics and software, and the Bear Cat rescue vehicle. The members of this department cannot speak to the other purchases.**
- #24 **Permissible under the law if they support law enforcement and prosecutorial efforts of the agencies utilizing them for such purposes.**
- #33 **Members of this department are not qualified to speak to this finding.**

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:

- 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: #1, 5, 6

▪ **Explanation for recommendations numbered:**

#1 Per Health and Safety Code section 11469(e) requires that agencies implement training for officers assigned to asset forfeiture programs and that the training will be ongoing. Officers that have not received the training are not allowed to seize assets for asset forfeiture purposes. The annual training includes instruction on the "Code of Conduct." All officers that are trained and permitted to conduct asset forfeiture seizure abide by the "Code of Conduct." Annual training is sufficient for the limited number of officers involved.

#5 The LEAA Asset Forfeiture MOU is based on Health and Safety Code Section 11489(A). The section specifically addresses that: "Sixty-five percent to the state, local or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency." The MOU follows the law in regard to discretionary fund distributions.

#6 This recommendation calls for action from the MCDAO. While the department can support this recommendation submitted by the Grand Jury, the implementation of the recommendation rests with the MCDAO.

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

Number of Pages attached: _____

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 (word documents or scanned pdf file format) to:

- The Grand Jury Foreperson at: grandjury@co.mendocino.ca.us
- The Presiding Judge: grandjury@mendocino.courts.ca.gov
- The County's Executive Office: ceo@co.mendocino.ca.us

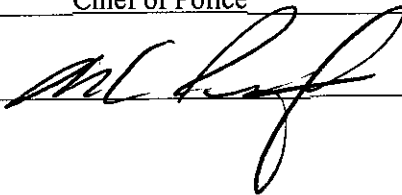
Second Step: Mail all originals to:

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

Printed Name: Mark Puthuff

Title: Chief of Police

Signed: _____



Date: July 29, 2010