

County of Mendocino  
Grand Jury  
[www.co.mendocino.ca.us/grandjury](http://www.co.mendocino.ca.us/grandjury)

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

Meredith Lintott  
District Attorney  
100 N. State Street  
Ukiah, CA 95482

**Date: June 9, 2010**

**RE: Report Titled: *A Mountain of Evidence***

**Dated: June 9, 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](mailto:grandjury@co.mendocino.ca.us) or at the address above.

Sincerely,

Katharine Wylie  
Foreperson  
Mendocino County Grand Jury

## 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: *A Mountain of Evidence***

*Report Dated: June 9, 2010*

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***Response Form Submitted By:***

Meredith Lintott  
District Attorney  
100 N. State Street  
Ukiah, CA 95482

***Response MUST be submitted, per Penal Code §933.05, no later than: August 9, 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:  
\_\_\_\_\_12\_\_\_\_\_
- 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.  
\_\_\_\_\_9, 10, 11, 13, 14, 15, 16, 17\_\_\_\_\_

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

- The following Recommendation(s) have \_\_\_\_\_ 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:

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*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](http://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](mailto:grandjury@co.mendocino.ca.us)
- The Presiding Judge: [grandjury@mendocino.courts.ca.gov](mailto:grandjury@mendocino.courts.ca.gov)
- The County's Executive Office: [ceo@co.mendocino.ca.us](mailto:ceo@co.mendocino.ca.us)

Second Step: Mail all originals to:

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

Printed Name: Meredith J. Lintott

Title: District Attorney of Mendocino County

Signed:  Date: 8/6/10

**Grand Jury Report: A Mountain of Evidence  
District Attorney Response**

**Finding No. 9:**

There are an estimated 96,000 items of evidence in the 5,000 square foot facility.

**Response:**

The District Attorney cannot agree or disagree with this finding, as she has no knowledge of how many items of evidence are in the possession and control of the MCSO or the size of the storage facility.

The District Attorney is aware that she used District Attorney asset forfeiture funds in the amount of \$18,893.00 to pay for the expansion of the Sheriff's impound yard.

**Finding No. 10:**

The GJ observed the facility to be at maximum storage capacity.

**Response:**

The District Attorney cannot agree or disagree with this finding, as she has no knowledge of what the GJ observed regarding the facility.

**Finding No. 11:**

Evidence is returned or disposed of when the court determines it is no longer needed or upon notification by the MCDAO, or by staff, or claimed by the owner.

**Response:**

The District Attorney cannot agree or disagree with this finding, as she has never seen the Sheriff's Office retention/destruction of evidence policy to know their procedures. During the time the Major Crimes Task Force Executive Board was reviewing the adoption of a joint Law Enforcement Property Retention Policy, (Spring 2008 through January 2009) the MCDAO emailed (on or about June 4 2008) all the county law enforcement agencies requesting a copy of the agency's policy of evidence destruction. No response was received from the MCSO.

Notification from the MCDAO is not required for the destruction of evidence; it is suggested for serious violent crimes and for cases remaining under investigation.

**Finding No. 13:**

**Grand Jury Report: A Mountain of Evidence  
District Attorney Response**

If there is no court order for disposal, and the property is not claimed, the evidence remains stored in the facility.

**Response:**

The District Attorney cannot agree or disagree with this finding, as she does not have knowledge of evidence in the care, custody and control of the MCSO. See also response to Finding No. 11 above.

**Finding No. 14:**

The MCSO form *Authorization for Release/Disposition of Property*, is approved by the Evidence Technician, but not utilized by the MCDAO. (See Appendix A)

**Response:**

The District Attorney's Office is not familiar with the form attached as Appendix A. Reviewing the form indicates that the MCSO provide the partially completed form to the MCDAP, who would then pull the requested file, check the appropriate box and return the form to the MCSO.

During the past year the MCSO evidence clerks have made no requests to the District Attorneys Office to review files for potential evidence retention/destruction. Such a request could be accompanied by the MCSO form.

As stated by the District Attorney in her Response to the Grand Jury report "I'll Be Able to Hear You Pretty Soon" dated June 24, 2008: In practice, the Sheriff's Office has presented a list of cases for which they would like to destroy the evidence. . . . Ultimately, it is the Sheriff's Office's responsibility to dispose of the property in the manner prescribed by law."

Since the MCSO has not presented a list of cases or the form attached to this report, the MCDAO has not responded. The District Attorney cannot utilize a form that they are not provided.

**Finding No. 15**

A form, the *Mendocino County District Attorney's Office Disposition-Evidence Memo*, has not been adopted or utilized by the MCDAO. (See Appendix B)

**Response:**

The memo was not prepared by the MCDAO, but rather by a MCSO clerk.

## **Grand Jury Report: A Mountain of Evidence District Attorney Response**

The MCDAO reviewed a copy of the memo during the time that the Major Crimes Task Force was reviewing the adoption of a joint Law Enforcement Property Retention Policy. (Spring 2008 through January 2009). The proposed policy and discussion regarding the evidence destruction issues were discussed by the Task Force from May 8, 2008, to January 8, 2009.

A solution was found by way of the District Attorney's Office contacting the County Information Services. The IS department developed a "query" in the JALAN system for the MCSO and other agencies to use in determining case status for the purpose of making a determination regarding the destruction of evidence. The District Attorney provided the name of the county technician and her phone number, as well as a sample query printout at the August 14, 2008, Major Crimes Task Force Executive Board meeting.

The District Attorney has no information as to whether the Sheriff directed the evidence clerks to use the query to assist in researching the case status when seeking to purge evidence. The information requested in the memo can be accessed by the evidence clerk using the query system established for this purpose.

The Major Crimes Task Force Executive Board reviewed the Butte County Law Enforcement Property Retention Policy for a matter of months with the District Attorney facilitating with other LEAs to determine whether a similar policy should be adopted by Mendocino County. Two agencies responded to the District Attorney's Office that, although their systems were not perfect, they could work with their current system. After gathering comments on the Retention Policy, the District Attorney advised the Executive Board that she believed that another agency should take the lead as one agency (not the Sheriff), had commented that **"The DA is not telling us how/when to do our jobs" [in reference to evidence destruction] and "The Evidence Release memo doesn't change our responsibility to research before purging/holding and make the decision for our agency. Hence—we are not "clerks" and the DA is not telling us what to do – or not to do."**

The District Attorney remains ready and willing to work with the Sheriff and other LEAs to improve policies and procedures related to evidence retention and destruction.

### **Finding No. 16:**

The lack of sufficient personnel assigned to the identification Unit, and the lack of notification of adjudicated cases by the MCDAO, has resulted in an overburdened evidence and property system.

### **Response:**

**Grand Jury Report: A Mountain of Evidence  
District Attorney Response**

The District Attorney agrees insufficient staffing levels at the MCSO have backlogged the evidence/property system. The District Attorney does not agree that lack of notification of adjudicated cases has caused the backlog. Please see response to Response to Finding No. 14 & 15. The evidence clerks are able to access the information they need for destruction/retention of evidence without the assistance of the MCDAO staff.

**Finding No. 17:**

Purging and disposition of evidence requires that staff:

- Choose a container with an old date,
- Research the case number in the Sheriff's Arrest Records to find the name of the perpetrator; there are often several suspects on one report,
- Search for the names in the MCDAO and court records,
- Check the name of each individual to determine if there is an active arrest,
- Check the statute of limitations for the particular crime; some evidence must be held for as long as 99 years.

**Response:**

The District Attorney agrees with Finding No. 17, but submits that this is not an all inclusive list of the steps required to properly dispose of evidence.

**Recommendation No. 7.**

The Mendocino County District Attorney adopt either the *Mendocino County District Attorney's Office Disposition-Evidence Memo* or the *Authorization for Release/Disposition of Property*. (Findings 9-17).

**Response:**

The memo was not prepared by the MCDAO, but rather by a MCSO clerk. The MCDAO reviewed a copy of the memo during the time that the Major Crimes Task Force was reviewing the adoption of a joint Law Enforcement Property Retention Policy, (Spring 2008 through January 2009). The proposed policy and discussion regarding the evidence destruction issues were discussed by the Task Force from May 8, 2008, to January 8, 2009. As set forth before, the suggested memo is not necessary for the MCSO to dispose of evidence.

A solution was found by way of the District Attorney's Office contacting the County Information Services. The IS department developed a "query" in the JALAN system for the MCSO and other agencies to use in determining case status for the purpose of making



## **Grand Jury Report: A Mountain of Evidence District Attorney Response**

a determination regarding the destruction of evidence. The District Attorney provided the name of the county technician and her phone number, as well as a sample query printout at the August 14, 2008, Major Crimes Task Force Executive Board meeting. The Sheriff attended that meeting.

The District Attorney has no information as to whether the Sheriff directed the evidence clerks to use the query to assist in researching the case status when seeking to purge evidence. The information requested in the memo can be accessed by the evidence clerk using the query system established for this purpose.

The Major Crimes Task Force Executive Board reviewed the Butte County Law Enforcement Property Retention Policy for a matter of months with the District Attorney facilitating with other LEAs to determine whether a similar policy should be adopted by Mendocino County. Two agencies responded to the District Attorney's Office that, although their systems were not perfect, they could work with their current system. After gathering comments on the Retention Policy, the District Attorney advised the Executive Board that she believed that another agency should take the lead as one agency (not the Sheriff), had commented that **"The DA is not telling us how/when to do our jobs" [in reference to evidence destruction] and "The Evidence Release memo doesn't change our responsibility to research before purging/holding and make the decision for our agency. Hence—we are not "clerks" and the DA is not telling us what to do – or not to do."**

The memo creates duplication of efforts. The evidence clerks are now able to obtain the information without the assistance of District Attorney Staff. Again, as stated in the District Attorney's Response to "I'll Be Able to Hear You Pretty Soon" dated June 24, 2008, "the recommendation serves to transfer part of the consuming task from a larger organization [whose legal duty is to process the evidence] to a smaller organization." In essence, this memo would require District Attorney Staff to do the work of the Sheriff's Office staff.

As stated above, the MCSO has not presented the MCDAO with case inquiries regarding evidence destruction .

The Grand Jury, without speaking to the District Attorney, makes a conclusion that "Items may not be purged until notification from the MCDAO:" An incorrect assumption. The adoption of the memo is not the panacea that the Grand Jury believes it is. In the opinion of the District Attorney, the Sheriff's Office needs more evidence clerks and the implementation of the new case management system before the backlogged evidence will be processed.

The District Attorney remains ready and willing to work with the Sheriff and other LEAs to improve policies and procedures related to evidence retention and destruction.

**Grand Jury Report: A Mountain of Evidence**  
**District Attorney Response**

**District Attorney Comment:**

The District Attorney notes that the Grand Jury conducted a site visit to the MCSO's main storage Evidence Room to gather information contained the report titled *A Mountain of Evidence*. The GJ did not contact the District Attorney's Office. The District Attorney further notes that this report contains findings and a recommendation concerning the District Attorney's Office.

In order to provide unbiased, informed decisions regarding important law enforcement issues, information should be received from the District Attorney's Office before forming any opinions regarding the Office. The failure to contact the District Attorney to gather facts and information pertaining to evidence destruction resulted in an unfounded and biased report.