

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)**

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

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

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:

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

Response MUST be submitted, per Penal Code §933.05, no later than: 8/21/2010

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 - 12, 14 - 18, 20 - 22, 26a - e, 27, 31, 33
- 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.
13, 19, 23, 24, 25, 26(f), 28, 29, 30, 32

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:
2, 5
- 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:

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, 3, 4, 6

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: Meredith J. Lintott

Title: District Attorney of Mendocino County

Signed:  Date: 1/25/11

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

Finding No. 13:

The MOU for the *Distribution of Seized & Forfeited Funds* state that local law enforcement agencies (UPD, WPD, FBPD, MCSO) receive approximately \$46 of every \$1,000 forfeited. (Appendix A)

Response:

The conclusion that local law enforcement agencies receive \$46 of every \$1,000 is inaccurate. The MOU for the Distribution of Seized & Forfeited Funds has been revised providing for a distribution providing more funds to the MCSO, UPD, FBPD and WPD. The current Asset Forfeiture Distribution Flow Chart is attached as Exhibit A.

Finding No. 19:

California Health and Safety Code §11489 states that: AF funds may not be used to supplant expenses in a budget that would ordinarily be incurred, and are not required to be spent on narcotics enforcement.

Response:

Health and Safety Code section 11489D(d) states: "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."

Finding No. 23:

Some recent AF funds have been used to purchase vehicles, a fork lift, radios and related equipment, to upgrade property and evidence room equipment, electronics and software, a microwave communication system and equipment, officer overtime, and a *Bear Cat* rescues vehicle, (with matching funds from a Homeland Security Grant).

Response:

The District Attorney contributed to the purchase of the microwave communication system (\$250,000), and the Bear Cat rescue vehicle. The District Attorney contributed \$18,922 to the expansion of the MCSO impound yard. The District Attorney paid \$33,550 to improve the basement of the Family Support Building so it could be used by the Investigation Unit following the closure of the Willits Courthouse. Asset forfeiture monies have been used to pay for "extra help" attorneys and for training. Monies have

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

been used for computers, office equipment, and 1 vehicle (insurance paid most of the cost of replacement). Other expenditures have included equipment necessary for investigations such as cameras, software, and a Universal Forensic Extraction Device (to retrieve cell phone information).

For the benefit of law enforcement: speaker's fees have been paid for the following: The Amazing Adolescent Brain presentation by Linda Chamberlain, PhD MPH, Dr. Gilmartin (assists law enforcement to deal with stress) and Gordon Graham Training.

District Attorney asset forfeiture money has funded many youth programs for drug prevention and anti-gang areas in an effort to support crime prevention. These groups have included some of the following: Gang Resistance is Paramount (GRIP) [note, in the last 4 years the District Attorney has contributed three times more than any other law enforcement agency]; Mendocino Youth Project, Teen Court, SPACE, Nuestra Casa (after school program); Boys & Girls Club, Big Brother's and Sister of Mendocino County, Safe and Sober Graduations, Friends of Drug Court, IMPACT, a program for juvenile offenders, Death to Meth, & sports programs for youth.

The District Attorney cannot respond as to asset forfeiture monies contributed by other agencies.

Finding No. 24:

Other permissible uses of AF funds include training, storage rent, and donations to local non-profits.

Response:

The permissible uses described in this finding could be permissible under the law if they support the law enforcement and prosecutorial efforts of the agencies utilizing them for such purposes.

Finding No. 25:

Permissible uses of Federal funds are restricted to law enforcement for investigations, training, detention facilities, equipment, travel and transportation, awards and memorials, drug and gang education and awareness programs, matching funds, pro-rata funding for asset fund accounting and tracking, language assistance services, transfers to other law enforcement agencies, and support of community-based programs.

Response:

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

The permissible uses described in this finding could be permissible under the law if they follow the Federal guidelines for the individual forfeiture case as defined at the time of distribution. Each agency must annually report the use and possession of federal forfeiture distributions to the distributing federal agency by way of an annual certification report.

Finding No. 26(f)

Impermissible uses of Federal funds are:

(f) Salaries are impermissible except for:

- Express statutory authorization,
- Overtime for officers and investigators,
- New positions and temporary or not to exceed 1 year appointments,
- Salary of an officer hired to replace an officer assigned to a Task Force,
- Specialized programs

Response:

The finding 26 f., bullet point "*salary of an officer hired to replace and officer assigned to a Task Force*" would not be allowed if that position had ever been previously budgeted for, as doing so would constitute supplanting.

Finding No. 28:

The LEAA Board consists of the Mendocino County sheriff, the three Chiefs of Police (Willits, Ukiah, and Fort Bragg), Mendocino County district Attorney, and the MCDAO Chief of Detectives, the Mendocino County Chief probation Officer, the Commander of the Highway Patrol, and the Commander of the Task force. The chair of the LEAA Board is elected by the Board members.

Response:

The LEAA Board does not include the MCDAO Chief of Detectives.

Finding No. 29:

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

The AF funds distributed to the LEAA are for the sole purpose of funding programs to combat drug abuse, anti-gang programs, and for educators, parents, community organizations and local businesses to involve their interest in the programs.

Response:

Use of the funds distributed pursuant to Health and Safety Code Section 11489(2)(A)(i) are directed in this excerpt from the actual law as written: "This fund shall be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers....."

Finding No. 30:

Contradictory to Health & Safety code, LEAA funds are distributed annually by the MCDAO. California Health & Safety code §11489(b) requires these funds to be distributed quarterly.

Response:

Health and Safety Code Section 11489(b) states: "*The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:*" Which is referring to all distributions, not just those described in Health and Safety Code section 11489(2)(A)(i). Mendocino County distributes all asset forfeiture cases as they are adjudicated or very soon thereafter, thus the distribution within the meaning of the law is occurring more frequently than quarterly. The predetermined way to divide those distributed LEAA Education funds, as described in the LEAA Asset Forfeiture MOU, annually is permissible as they have already been legally distributed within the meaning of the law and the annual division is simply a process as dictated in Health and Safety Code section 11489(2)(A)(ii).

Finding No. 32:

In 2009, LEAA funds were used for various programs, including the Police Activity Program, National Child Safety Council, Nuestra Alianza, Kid's Club, AODP/GRIP Program, Mendocino Juvenile Drug Court, after-school soccer programs, Big Brothers Big sisters, Teen Peer Court, Ukiah Dolphins, little League, Girl Scouts, Sober Graduation, YES Camp, and Manzanita Services/Healing Hands.

Response:

Law enforcement agencies, by law, receive an additional 15% of asset forfeiture money to be "used for the sole purpose of funding programs designed to combat drug abuse and

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers.....” GC§11489(2)(A)(i).

The District Attorney’s Office does not receive the 15% additional LEAA funds designated for the purposes described above. However, as part of the mandate to use AF money for prosecutorial efforts, the District Attorney has directed contributions which serve the purposes of crime prevention including anti-gang and anti-drug education.

For examples of asset forfeiture contributions made toward these programs by the District Attorney, please see Response to Finding No. 23 above.

The District Attorney cannot respond as to contributions made by other LEAs.

Recommendation No. 1:

All law enforcement personnel be given quarterly training regarding the *Code of Conduct* (Finding 4)

Response:

Health and Safety Code section 11469(e) states that: “*Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing.*” Peace Officers in Mendocino County that have not received this initial and ongoing training are not allowed to seize assets for asset forfeiture purposes. This training is provided at least annually. This training includes instruction on the “Code of Conduct.” It would be impractical and very costly to do this training quarterly unless there were a reasonable number of new officers needing the training. All officers trained and allowed to conduct Asset Forfeiture Seizure are required to follow the “Code of Conduct.”

Recommendation No. 3:

All agencies within the County request reimbursement from AF funds to defray costs to the County for employees’ time spent tracking and accounting AF funds. (Findings 6, 12, 25)

Response:

Recommendation No. 3 is not supported by the law or the Findings listed; consequently, should agencies requested funds as suggested, the request will be denied. Finding No. 6 simply states that the MCDAP is in charge of collection and distribution of AF funds. Finding No. 12 discusses the fact that the MCDAO can recover the costs of selling seized

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

property. For example, if a vehicle must be towed for storage, the tow fees would be properly paid. Health & Safety Code section 11489(b)(1) states:

To the state agency or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary costs of notice required by Section 11488.4, and for any necessary repairs, storage, or transportation of any property seized under this chapter.

There is no support for the recommendation for “employees’ time spent tracking and accounting AF funds.”

Finding No. 25 refers to federal asset forfeiture uses, not state uses.

Recommendation No. 4

The Mendocino County District Attorney distributes the unused portion of AF funds in the MCDAO account to local law enforcement agencies, (Findings 13, 33).

Response:

Recommendation No. 4 reflects the fact that the Grand Jury does not understand the laws regarding asset forfeiture or the role of the District Attorney as the chief law enforcement office for the County. Health & Safety Code §11489(d) directs that the funds be used “to support the law enforcement and **prosecutorial efforts** of these agencies.”

Without the District Attorney’s Office, the efforts of law enforcement would become marginal. We would simply have officers taking reports and investigating crime with no consequences. The “first” responder agencies are only the first step, the beginning of a case in the criminal justice system.

The District Attorney’s Office has an investigation unit consisting of 5 highly trained law enforcement officers. Neither the Willits nor the Fort Bragg Police Departments have a detective bureau. Our investigators have been critical to assisting other agencies in obtaining confessions, witness statements and crime scene processing. Our office is also responsible for the investigation of officer involved shootings.

As listed above(response to finding No. 23), the District Attorney’s Office has used asset forfeiture funds to support extra help attorneys, purchase equipment, remodel office space for investigators (necessary due to closure of the Willits Court); assist other agencies (microwave system, payment for the expansion of the Sheriff’s impound yard, among other items necessary for the prosecution of crime.

**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

Future needs include paying, along with the Sheriff, for the implementation of the new case management system, as we do not expect the 2.2 million grant to cover the full cost of the required system.

Recommendation No. 6:

MCDAO distribute LEAA funds on a quarterly basis, as per Health & Safety Code §11489. (Finding 30)

Response:

As stated in our response to finding #30, MCDOA is already distributing funds in accordance with Health and Safety Code section 11489 as distributions within the meaning of the code section are occurring as soon as is practical after individual case adjudication.

District Attorney Comment:

In the *Discussion* portion of this report the Grand Jury states “The excessive AF fund balance in the MCDAO deprives the county of needed funds to provide services, such as AODP, GRIP, Mendocino Juvenile Court, and other anti-drug and anti-gang programs.”

As stated above in response to finding no. 32: “Law enforcement agencies, by law, receive an additional 15% of asset forfeiture money to be “used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers.....” GC§11489(2)(A)(i).

The District Attorney’s Office does not receive the 15% additional LEAA funds designated for the purposes described above.

Since the District Attorney’s Office does not receive LEAA money, the District Attorney is not responsible for depriving the county of money needed for the described services. Interestingly, the MCSO has more asset forfeiture money than the MCDAO and the legal requirement to fund anti-drug and anti-gang programs, yet the Grand Jury made no allegations against the MCSO and failed to inquire as to the sums contributed to such programs.

The facts also refute the allegations of the Grand Jury. The District Attorney has contributed three times more than any agency required to fund programs such as GRIP and has been a leader in supporting teen court, Youth Project and other programs. Please see the contributions below.

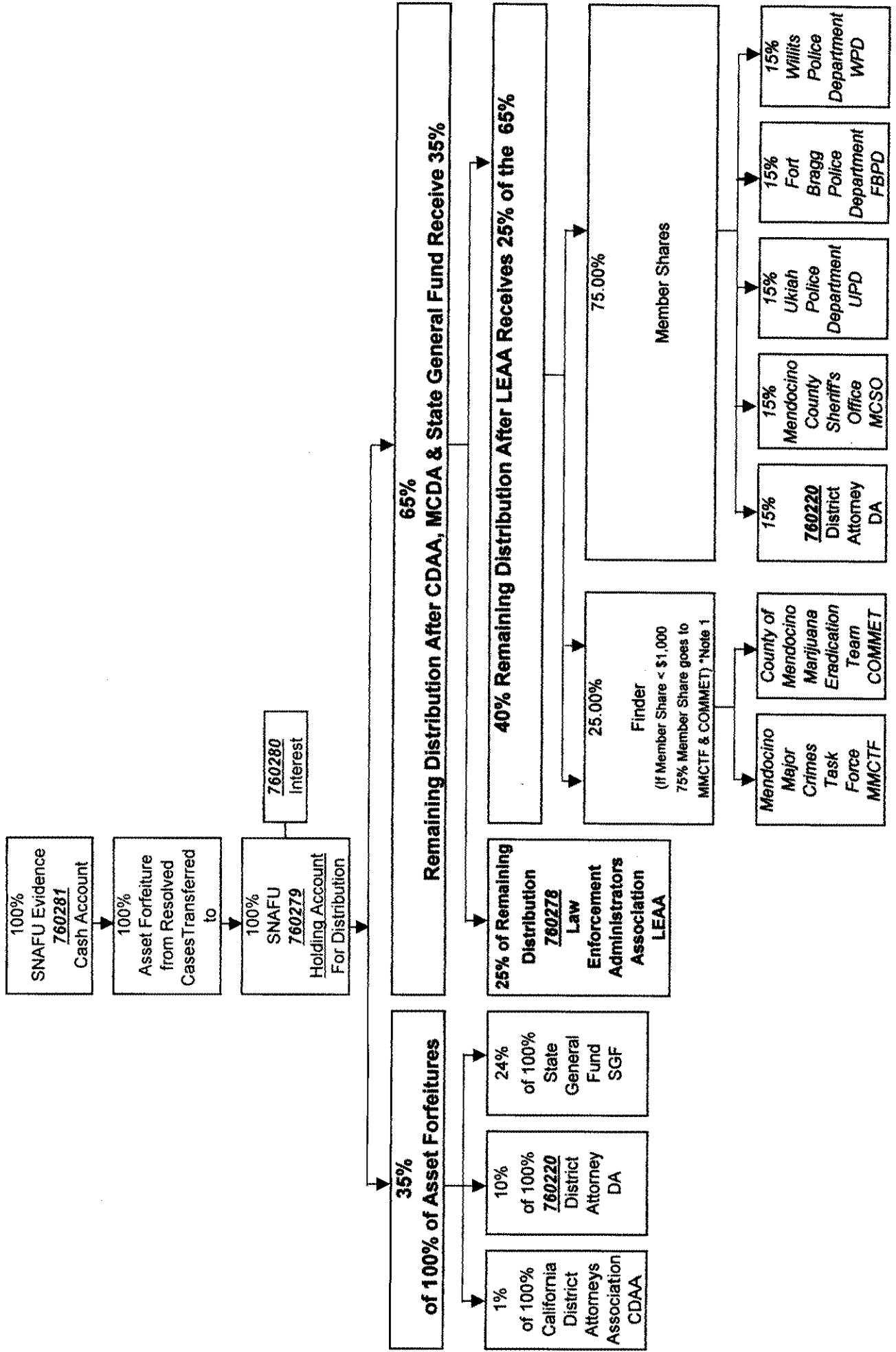
**Grand Jury Report: Drug Dealers Support Local Law Enforcement!!!
District Attorney Response**

Total Donations to GRIP

Year	MCDA	MCSO	UPD	WPD
2007	20,000	10,000		2,000
2008	20,000			6,000
2009		10,000	10,000	3,000
2010	27,000			3,000
Total	67,000	20,000	10,000	14,000

Please also see the thank-you letter dated 07/06/10 attached as Exhibit B.

**Exhibit A
Asset Forfeiture Distribution Flow Chart FY 2010/11**



Note 1: As of June 30, 2010 MMCTF will no longer receive a Finders Fee for any forfeiture unless determined by parties to this agreement at annual review.

Exhibit B



Mendocino County Health and Human Services Agency

"Healthy People, Healthy Communities"

Stacey Cryer • Interim Director

Susan Era • Interim Assistant Director



Community Health Services (Public Health Branch)

1120 S. Dora Street, Ukiah, CA 95482

(707) 472-2700 (main office)

(707) 472-2777 (Administration)

July 6, 2010

RECEIVED

JUL 08 2010

MENDOCINO COUNTY
HEALTH AND HUMAN SERVICES AGENCY

Meredith Lintott, D.A.
Mendocino County District Attorney's Office
P.O. Box 1000
Ukiah CA 95482

Dear Ms. Lintott,

On behalf of the GRIP Action Team, the Mendocino County Health and Human Services Agency Community Health Branch, and the youth of our communities, I'd like to take this opportunity to thank you and the Office of the District Attorney for the generous \$27,000 funding contribution to the Gang Resistance is Paramount (GRIP) program.

With this funding, we will be able to continue the GRIP education program in the 5th grade classrooms. This important education increases student awareness and knowledge about gang activities, behaviors, and drug use, and gives them tools to resist these threats. Our hope is that they will continue to use these tools as they reach adolescence, where the risks for unhealthy behaviors increase.

Thank you and the Office of the District Attorney for your continued support, and we look forward to further opportunities to serve the community together. If you have any questions or requests, please feel free to call.

Sincerely,

A handwritten signature in cursive script that reads "Annie Robinson".

Annie Robinson, Senior Program Specialist
Health and Human Services Agency
Prevention and Planning Unit
(707) 472-2750
robinsoa@co.mendocino.ca.us