

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)**

Gerry Gonzalez, Chief of Police  
125 E. Commercial Street, #150  
Willits, CA 95490

**Date: June 21, 2010**

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

**Dated: June 21, 2010**

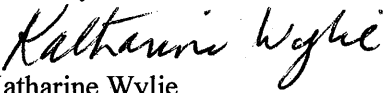
Your response to the attached report by the 2009/2010 Mendocino County Civil Grand Jury is required pursuant to Penal Code §933.05 (enclosed). Penal Code §933.05 also requires that your response to the Findings and Recommendations contained in the report be in writing and be submitted within **60 days 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](mailto: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: June 21, 2010**

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***Response Form Submitted By:***

Gerardo Gonzalez, Chief of Police  
City of Willits  
125 E. Commercial Street #150  
Willits, CA 95490

***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, 4, 14, 15, 16, 17, 18, 20, 21, 22, 31,
  
- (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.  
19, 23, 24, 25, 26f, 28, 29, 30, 32, 33

***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:  
\_\_\_\_\_

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)

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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

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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: 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](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: Gerardo Gonzalez

Title: Chief of Police City of Willits

Signed: 

Date: 08-19-2010

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Responses to Findings:

Finding #:

19. 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.”*

23. The Willits Police Department is aware that some asset forfeiture monies were collectively used to purchase the Bear Cat Rescue Vehicle, however we are unaware of how other agencies used their asset forfeiture funds.

24. 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.

25. 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.

26. 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.

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

29. 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.....”*

30. 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).

32. The use of these funds after they are divided is determined by the individual agency for their intended purpose. The Willits Police Department used their portion in 2009 to help fund the GRIP program, Nuestra Alianza, Willits Kids Club, and Willits High School: Teen CERT Program, Link, Boys Soccer Team Graffiti Removal Program, Willits Alternative Schools – School Counselor support, Baechtel Grove School WEB peer support program, National Child Safety Council Anti-Gang Literature for Schools and Community. However, the Willits Police Department does not have knowledge of how the other recipient agencies utilized their funds.

GRAND JURY REPORT  
RESPONSE FORM  
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33. The Willits Police Department is aware that the MCDAO did not receive LEAA Education Funds in 2009 and is unaware how the MCDAO used its other Asset Forfeiture funds.

Responses to Recommendations

Recommendation #:

1. 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." Currently the Willits Police Department has scheduled three Officers for additional training sponsored by the California District Attorney's Association which again offers ethics training as part of the curriculum. In the past Officers from the Mendocino Major Crimes Task Force who had received the forfeiture training have been called to assist in seizure situations.

5. Health and Safety Code Section 11489(A) states: *"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 LEAA Asset Forfeiture MOU as adopted is following the law. Updating the MOU to distribute these discretionary funds in any other manner would be contrary to the law.

6. 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.