

Grand Jury Report

RESPONSE FORM

Grand Jury Report Title : DRUG DEALERS SUPPORT LOCAL LAW
ENFORCEMENT.
A REPORT ON ASSET FORFEITURE.

Report Dated : June 21, 2010

Response Form Submitted By:

BOS
c/o Executive Office
Attn: Steve Dunicliff
501 Low Gap Road
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than:

September 19, 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: _____
- 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.
Findings 1-33 (See Attached)

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)

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:

1,2,3,4,5,6 (See Attached)

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

Number of Pages attached: 4

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

ATTEST:

Carmel J. Angelo, Clerk of the Board
Mendocino County Board of Supervisors



DEPUTY

Printed Name: CARRE BROWN

Title: Chair, Mendocino County Board of Supervisors

Signed: 

Date: SEP 14 2010

ATTACHMENT:

**REPORT: DRUG DEALERS SUPPORT LOCAL LAW ENFORCEMENT!!!
A REPORT ON ASSET FORFEITURE**

FINDINGS:

Findings 1-33: The Mendocino County Board of Supervisors has no specific information regarding these findings and therefore incorporates by reference herein, the response to findings prepared by the Mendocino County District Attorney's Office.

RECOMMENDATIONS:

The Mendocino County Board of Supervisors has no ability to implement Recommendations 1-6.

Findings – General

1. Law enforcement is the principal objective of AF. Forfeited funds are used to supplement the cost of law enforcement for the eradication of illegal drugs. AF is a civil, not a criminal matter.
2. The primary objective of the Task Force is the prevention of sales and distribution of narcotics and illegal marijuana.
3. The primary objective of the County of Mendocino Marijuana Eradication Team, (COMMET), is the eradication of non-medical marijuana.
4. Members of the Task Force and local law enforcement are required to use the *Code of Conduct* when enforcing the law.
5. California law permits marijuana to be grown for medical purposes. Illegal marijuana grows and sales are a primary source of AF funds.
6. The MCDAO is in charge of collection and distribution of AF funds, seized under State law.
7. When cash or property is seized, the owner is advised of his/her right to claim the cash and/or property within 30 days. If no claim is made, the property is forfeited.
8. If the owner claims the assets and the AF Officer deems the assets ill-gotten, then a civil court case is pursued. It is estimated that more than half of the seizures are claimed. Unclaimed funds of \$25,000 or less do not require a court process.
9. Seized assets may include: cash, bank accounts, autos, coins, jewelry, and other personal and real property.
10. Cash seized is deposited and held in a trust account until it is either returned to the owner or forfeited.
11. Equipment and vehicles seized are stored until returned to the owner or sold

- at auction. Other assets are held in evidence rooms.
12. As provided in the Health and Safety Code §11489(b)(1), the MCDAO shall be reimbursed for all expenditures made or incurred in connection with the sale of property.
 13. The MOU for the *Distribution of Seized & Forfeited Funds* states that local law enforcement agencies (UPD, WPD, FBPD, MCSO) receive approximately \$46 of every \$1,000 forfeited. (Appendix A)

Findings – Federal vs. State

14. The process for Federal and State AF is different and the funds are separated to prevent co-mingling.
15. When assets are seized under Federal law, the Federal Government retains 20% of the amount for administrative fees, and returns 80% of the funds to the MCSO or finding agency.
16. When the Federal Agents decide not to prosecute, the case may be turned over to the MCDAO.
17. Federally seized equipment, autos, etc. can be purchased for 20% of their value by local law enforcement for agency use. Other assets are sold at auction.
18. Assets seized under State law must be sold at auction, and the net proceeds are returned to the MCDAO for distribution in accordance with the MOU.
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.
20. Federal AF funds generally may not be spent for uses that are not approved by the State.
21. AF funds may be spent on law enforcement equipment, vehicles, computers, supplies, salary for a new position for a limited time, overtime pay, training expenses, etc.
22. According to their reporting period, (fiscal or calendar), Federal and State AF proceeds were distributed to local law enforcement agencies in 2009, as follows:

MCSO, State	\$ 166,114	FBPD, State	\$46,913
MCSO, Federal	\$0	UPD, State	\$63,893
COMMET, State	\$3,176	WPD, State	\$84,096
COMMET, Federal	\$384,894	Task Force, State	\$76,839
MCDAO, (10%)	\$154,743	MCDAO, (33 1/3%)	\$241,744

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* rescue vehicle, (with matching

- funds from a Homeland Security Grant).
24. Other permissible uses of AF funds include training, storage rent, and donations to local non-profits.
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.
26. Impermissible uses of Federal funds are:
- a. use of forfeited property by non-law enforcement personnel,
 - b. payment of education related costs, for non-law enforcement classes,
 - c. uses contrary to the law of the State or local jurisdictions,
 - d. non-official government use of shared assets,
 - e. to make permanent improvements on the property of others.
 - 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.

27. On March 31, 2010, the balances of accumulated and unspent AF monies for the following County accounts were:

MCDAO	\$886,563	COMMET, State	\$39,643
MCSO, State	\$414,599	COMMET, Federal	\$617,135
MCSO, Federal	\$577		

Findings – LEAA

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.
29. 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.
30. Contradictory to Health & Safety Code, LEAA funds are distributed annually by the MCDAO. California Health and Safety Code §11489(b) requires these funds to be distributed quarterly.
31. The last LEAA distribution studied by the GJ was paid in May 2009, in the

- amount of \$32,500 to each of the following: MCSO, FBPD, UPD, and WPD.
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.
 33. MCDAO does not receive LEAA funds. In 2009, the MCDAO used AF funds to donate \$73,472 to local programs and non-profit organizations.

Recommendations

The Grand Jury recommends that:

1. all law enforcement personnel be given quarterly training regarding the *Code of Conduct*, (Finding 4)
2. the Mendocino County District Attorney Asset Forfeiture Unit be diligent in discovering ill-gotten assets, (Findings 6, 16-17)
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)
4. the Mendocino County District Attorney distribute the unused portion of AF funds in the MCDAO account to local law enforcement agencies, (Findings 13, 33)
5. the Law Enforcement Administrators Association Board update the MOU, to distribute the *Discretionary Funds*, in consideration of the special needs of the participating agencies, (Findings 13, 22, 27)
6. MCDAO distribute LEAA funds on a quarterly basis, as per Health & Safety Code §11489. (Finding 30)