

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: June 3, 2010

RE: Report Titled: Preventing Crime is a Priority - A Report on the Fort Bragg Police Department

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** 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: *Preventing Crime is a Priority - A Report on the Fort Bragg Police Department*

Report Dated: June 9, 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: 7/12/2010

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.
11, 12, 15, 16, 18

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:

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, 5, 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: 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:

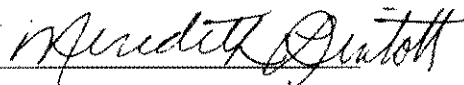
- The Grand Jury Foreperson at: grandjury@co.mendocino.ca.us
- The Presiding Judge: grandjury@mendocino.courts.ca.gov
- The County's Executive Office: ceo@co.mendocino.ca.us

Second Step: Mail all originals to:

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

Printed Name: Meredith J. Lintott

Title: District Attorney of Mendocino County

Signed:  Date: 8/5/10

**Grand Jury Report: Preventing Crime is a Priority
District Attorney Response**

Finding No. 11:

The MCDAO subpoenas multiple officers to testify. Officers must travel to Ukiah and are required to allot a minimum of four hours, leaving the FBPD short staffed.

Response:

The District Attorney agrees that many officers are subpoenaed to court, as their testimony is required to prosecute criminal cases. The majority of FBPD cases are handled in the Ten Mile Branch of the Mendocino County Superior Court; consequently travel time is not required.

As to preliminary hearings and jury trials (typically only the more serious felony cases), which the Ten Mile Judge transfers to Ukiah, travel to Ukiah is necessary to present testimony. The District Attorney has no information of the FBPD's "allotment" of time for travel. As to short staffing for the FBPD, the District Attorney understands that this can be a problem and has encouraged prosecutors to subpoena only the officers necessary for the case. There is no point in the FBPD submitting cases for prosecution, unless the officers are willing and able to attend court to present evidence. It is part of a law enforcement officer's duty, training, and experience to testify in court to obtain convictions of criminals.

Finding No. 12:

It was reported that habitual offenders are often not charged by the MCDAO.

Response:

Whether or not a particular suspect has a criminal history (i.e. habitual offender) is an important element in deciding whether or not a case should be charged. This finding presents no information regarding the type of crime allegedly not charged. The District Attorney has heard that there were a few cases of persons drunk in public (Penal Code section 647(f)) that FBPD claims were not charged in criminal complaints.

Typically, a person who is drunk in public is placed in the jail. These individuals can be released by the jail with a date to appear in court once they sober up. Many judges are of the opinion that extreme alcoholism is better addressed through treatment programs rather than jail sentences, which contribute to jail overcrowding. The District Attorney has requested that law enforcement advise when they consider a drunk a danger to the community so that we can ensure charges are brought.

We have many times filed new complaints on habitual public intoxication offenders.

**Grand Jury Report: Preventing Crime is a Priority
District Attorney Response**

Finding No. 15:

Evidence should be released by the MCDAO, when a case is dismissed or adjudicated. Certain evidence, such as weapons, drugs, and evidence obtained with a search warrant, requires a court order for release.

Response:

Certain evidence requires a court order for release. Law enforcement, especially in the area of drugs, obtains the court order directly from the court, without the involvement of the District Attorney's Office. In other instances, criminal defense counsel requests an order for the release of evidence.

The District Attorney disagrees that evidence should be "released" by the District Attorney's Office. At all times, evidence collected by the FBPD is in the care, custody and control of the FBPD, except when an officer brings evidence to court and the evidence is admitted by the Court, at which time the evidence is in the care, custody and control of the Court. Consequently, the District Attorney does not "release" evidence.

When a case has been adjudicated or dismissed, any person (victim or defendant) may sign a request for release of evidence. Our office promptly reviews these requests and, except for contraband evidence such as drugs, returns the signed release to the person requesting it for that person to take to the law enforcement agency holding the evidence.

Finding No. 16

The Information Technology Department created a software program to list dismissed and adjudicated cases using data from the MCDAO records.

Response:

The District Attorney has no knowledge of whether the Information Technology Department of the FBPD created a software program. However, the District Attorney's Office facilitated a "query" with the Mendocino County Information Services Department, which allowed the evidence clerks to access the Court and District Attorney's Office information directly. This information, including the Information System Specialist's name and phone number, was given to LEAs at the August 14, 2008, Major Crimes Task Force Executive Board meeting by the District Attorney. Mike Richards, Lieutenant, Fort Bragg Police Department was in attendance.

**Grand Jury Report: Preventing Crime is a Priority
District Attorney Response**

In 2008, a Fort Bragg evidence clerk contacted the Mendocino County information system specialist regarding the "query" to obtain the necessary information. The District Attorney understands that the FBPD evidence clerk is now able to process the retention/destruction of evidence directly, without the assistance of the Fort Bragg District Attorney staff.

Finding No. 18:

The Mendocino County District Attorney has not adopted the *Mendocino County District Attorney's Office Disposition-Evidence Release Memo*

Response:

The District Attorney agrees with the finding No. 18. However, it should be clarified that the Memo was not created by the District Attorney or her staff. The Memo, using the name of the District Attorney's Office, was created by a clerk employed by the Mendocino County Sheriff's Office. Please see the District Attorney's response to Recommendation No. 6 below for the explanation of why the District Attorney will not adopt the Evidence Release Memo created by a Sheriff's Office clerk.

Recommendation No. 1:

The Fort Bragg City Council request asset forfeiture funds from the District Attorney to temporarily fund three community service officers.

Response:

The District Attorney recognizes the importance of community service officers. However, the use of the funds in the manner suggested is prohibited. 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. "

According to H&S Code § 11489D(d), asset forfeiture money is designated for the prosecutorial efforts of the District Attorney's Office.

Recommendation No. 2.

**Grand Jury Report: Preventing Crime is a Priority
District Attorney Response**

The Fort Bragg Unified School district request asset forfeiture funds from the District Attorney to temporarily fund the position of school resource officer. (Finding 5)

Response:

The District Attorney recognizes the importance of a school resource officer. However, the use of the funds in the manner suggested is prohibited. 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. "

According to H&S Code § 11489D(d), asset forfeiture money is designated for the prosecutorial efforts of the District Attorney's Office.

Recommendation No. 3:

The District Attorney fund anti-drug and gang prevention programs in all Mendocino County School Districts using asset forfeiture funds for the 2010-2011. (Finding 5)

Response:

So long as funds are available, the District Attorney will continue funding anti-drug and gang prevention programs.

Over the past four years, the District Attorney has contributed more than three times that of the law enforcement agencies, who receive asset forfeiture money designated for education, to Gang Resistance is Paramount (GRIP). GRIP serves 5th grade students throughout Mendocino County, providing education and tools to resist gang activities and drug use.

Total Donations

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 see a thank you letter from Annie Robinson, Senior Program Specialist, dated July 6, 2010, attached as Exhibit A.

Grand Jury Report: Preventing Crime is a Priority District Attorney Response

Other programs supported by the District Attorney include: the Mendocino Youth Project, Teen Court (Coast and Inland); Boys & Girls Clubs, SPACE, youth sports programs, and IMPACT, a youthful offender program, to name a few.

The Grand Jury made no inquiry of the law enforcement agencies or recommendations to other agencies **REQUIRED** to fund anti-gang and anti-drug education due to the fact that they receive specified funds for this purpose (H&S code § 11489 (a)(i)). **Although the District Attorney does not receive additional asset forfeiture funds designated for education pertaining to anti-drug and anti-gang programs, as to the other law enforcement agencies, the District Attorney is committed to prevention, education and guidance for our youth.** Consequently, the District Attorney has a strong record of supporting important youth programs. The District Attorney does not have information as to what programs have been supported by the other law enforcement agencies.

Recommendation No. 5:

The Mendocino County District Attorney notify all evidence rooms of case disposition immediately upon resolution. (Finding 15)

Response

Essentially, this same recommendation was made in the Grand Jury Report dated June 24, 2008. The complexity of the problem was discussed in the District Attorney's Response. The District Attorney pledged to work on the problem, and has done so.

The Grand Jury made no inquiry, for purposes of this report, to determine what progress was made and the changes which were instituted.

A proposed policy regarding the destruction/ retention of evidence was discussed by the Mendocino County Major Crimes Task Force Executive Board from May 8, 2008 to January 8, 2009.

The District Attorney's Office facilitated a "query" with the Information Services Department which allows evidence clerks to access the Court and District Attorney's Office information directly. This information, including the Information Services Clerk's name and phone number, was given to LEAs at the August 14, 2008, Major Crimes Task Force meeting. Consequently, the recommendation that the District Attorney staff be responsible for the evidence clerk's duties is unnecessary.

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

Grand Jury Report: Preventing Crime is a Priority District Attorney Response

Recommendation No. 6:

The Mendocino County District Attorney adopt and use the *Mendocino County District Attorney Disposition-Evidence Release Memo*. (Finding 18)

Response:

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

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.

**Grand Jury Report: Preventing Crime is a Priority
District Attorney Response**

District Attorney Comment:

The District Attorney notes that the Grand Jury conducted a site visit to the FBPD, interviewed officers and staff, and inspected the facilities including the holding cells to gather information contained in the report titled *Preventing Crime is a Priority*. 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 and proposed funding of law enforcement officers resulted in an unfounded and biased report.



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
DISTRICT ATTORNEY

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 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