

KRISTI FURMAN
Clerk of the Board



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COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 Low Gap Road • Room 1090
Ukiah, California 95482

August 28, 2007

RECEIVED

SEP 10 2007

The Honorable Cindee Mayfield, Presiding Judge
Superior Court of California
County of Mendocino
Mendocino County Courthouse
Ukiah, CA 95482

MENDOCINO COUNTY GRAND JURY
POST OFFICE BOX 629
UKIAH, CA 95482

Re: Response to the 2006-2007 Grand Jury's Final Report:
SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE
"Law Enforcement is the principal objective of Forfeiture"

Dear Judge Mayfield:

Enclosed is the official response to the findings and recommendations contained in the 2006-2007 Grand Jury's Final Report regarding SHARE AND SHARE ALIKE, A Report On Asset Forfeiture, "Law Enforcement is the principal objective of Forfeiture".

The Mendocino County Board of Supervisors approved this response on August 28, 2007, which meets the statutory 90-day deadline.

Sincerely,

Kendall Smith

Kendall Smith, Chair
Mendocino County Board of Supervisors

KS/dkm

Enclosures

cc: County Executive Office
Grand Jury
File 2007-08-28 GJ-Share Alike

THE BOARD OF SUPERVISORS

MICHAEL M. DELBAR
First District

JIM R. WATTENBURGER
Second District

JOHN PINCHES
Third District

KENDALL SMITH
Fourth District

J. DAVID COLFAX
Fifth District

RESPONSE PROCEDURE TO GRAND JURY REPORTS

The governance of responses to Grand Jury Final Report is contained in Penal Code § 933 and § 933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days. Governing bodies (for example: the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand jury Foreperson and the CEO's office.

Report Title : SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE

Report Date : May 24, 2007

"Law Enforcement is the principal objective of Forfeiture."

Response by : BOARD OF SUPERVISORS
Contact Person: Jennifer Wyatt, Deputy Chief Executive Officer

Findings

- I (we) agree with the findings numbered:
2,5,6,7,9-18,20-24,28,30,31
- I (we) disagree wholly or partially with the Findings numbered:
1,3,4,8,19,25-27,29,32

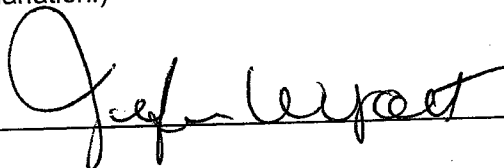
(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

- Recommendations numbered: 5,9,10,13
have been implemented. (attach a summary describing the implemented actions.)
- Recommendations numbered: 4,6,7,8,12
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)
- Recommendations numbered: 2,3,11,14
require further analysis. (attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- Recommendations numbered: 1
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 08/17/07

Signed: _____



RESPONSE PROCEDURE TO GRAND JURY REPORTS

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Report Title : SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE
"Law Enforcement is the principal objective of Forfeiture."

Report Date : May 24, 2007

Response by : Jennifer Wyatt, Deputy Chief Executive Officer

Findings

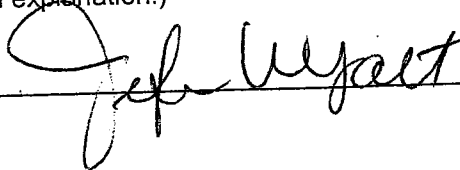
- I (we) agree with the findings numbered:
2,5,6,7,9-18,20-24,28,30,31
- I (we) disagree wholly or partially with the Findings numbered:
1,3,4,8,19,25-27,29,32

(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

- Recommendations numbered: 5,9,10,13
have been implemented. (attach a summary describing the implemented actions.)
- Recommendations numbered: 4,6,7,8,12
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)
- Recommendations numbered: 2,3,11,14
require further analysis. (attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- Recommendations numbered: 1
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 05/17/07 Signed: _____



RESPONSE PROCEDURE TO GRAND JURY REPORTS

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Report Title: SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE

Report Date: May 24, 2007

Response by: THOMAS D. ALLMAN, Sheriff-Coroner

Findings

I (we) agree with the findings numbered:

7-8, 12-14, 18-19 & 27-32.

I (we) disagree wholly or partially with the Findings numbered:

9, 10 & 17.

(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore)

Recommendations

Recommendations numbered: 5, 9, 10 & 11
have been implemented. attach a summary describing the implemented actions)

Recommendations numbered: 4
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)

Recommendations numbered: 2 & 3
require further analysis. (attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)

Recommendations numbered: 7, 12 & 14
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation)

RESPONSE PROCEDURE TO GRAND JURY REPORTS

The governance of responses to Grand Jury Final Report is contained in Penal Code § 933 and § 933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days. Governing bodies (for example: the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand jury Foreperson and the CEO's office.

Report Title: Share and Share Alike

Report Date : May 24, 2007

Response by: Wesley M. Forman

Title: Chief Probation Officer

Findings

- I (we) agree with the findings numbered:
12, 13, 14, 17 and 31
- I (we) disagree wholly or partially with the Findings numbered:
15 and 16
(see attachment A)

Recommendations

- Recommendations numbered: _____
have been implemented.
- Recommendations numbered: _____
have not yet been implemented, but will be implemented in the future.
- Recommendations numbered: 2, 3, 5, 6, 7, 11, 13, and 14
require further analysis.

(see attachment A)
- Recommendations numbered: _____
will not be implemented because they are not warranted and/or are not reasonable.

Date: 7-18-07 Signed: Wesley M Forman

Total number of pages attached: 1

RESPONSE PROCEDURE TO GRAND JURY REPORTS

The governance of responses to Grand Jury Final Report is contained in Penal Code § 933 and § 933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days. Governing bodies (for example: the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand jury Foreperson and the CEO's office.

Report Title: Share and share alike

Report Date: 5/24/07

Response by: Meredith Ford, Auditor-Controller

Findings

- X I (we) agree with the findings numbered: 15, 24, 28, 31

- X I (we) disagree wholly or partially with the Findings numbered: 25, 26
(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

- X Recommendations numbered: 9, 10
have been implemented. (attach a summary describing the implemented actions.)

- X Recommendations numbered: 4, 7, 8, 12
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)

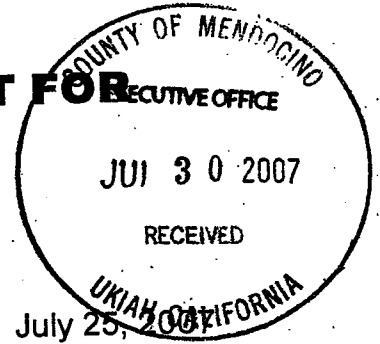
- X Recommendations numbered: 6
require further analysis. (attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)

Recommendations numbered:
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 7-9-07

Signed: Meredith Ford

**REPORT TRANSMITTAL AND REQUEST FOR
RESPONSES - FORMAT**



REVISED

Mendocino County District Attorney's Office
P.O. Box 1000
Ukiah, Ca. 95482

RE: Report Titled SHARE AND SHARE ALIKE
Dated: May 24, 2007

Enclosed is a courtesy copy of the above report by the 2006/2007 Mendocino County Civil Grand Jury. 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. Public release will occur two (2) days after the date of this letter.

Response to Grand Jury Reports is not an option, but is required pursuant to Penal Code §933.05 (copy enclosed). Penal Code §933.05 also requires your response to the Findings and Recommendations contained in the report be in writing within **60 days** for elected officials and **90 days** for appointed officials. The Penal Code is specific as to the format of responses. The enclosed Response to Grand Jury Report Form should be used.

Please provide one hard copy and one digital copy of the response to: The Presiding Judge, Superior Court, and Foreperson, Mendocino County Grand Jury.

Your responses should follow the following format :

Findings

- I (we) agree with the findings numbered:
2, 5, 6, 9, 11, 13, 16, 18, 19, 20, and 22
- I (we) disagree wholly or partially with the Findings numbered:
1, 3, 4, 12, 14, 15, 17, 21, 24, 25, 26, 28, 29, 30, and 31

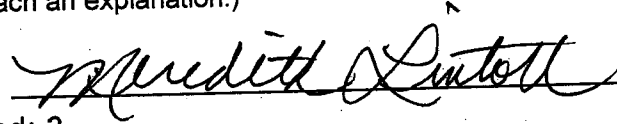
(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

- Recommendations numbered: 4, 5, 9, 10, 11, and 13
have been implemented. (attach a summary describing the implemented actions.)
- Recommendations numbered: 2
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)
- Recommendations numbered: _____
require further analysis. (attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- Recommendations numbered: 3, 7, 12, and 14
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: July 24, 2007

Signed: _____



Total number of pages attached: 3

Your responses are public records. The clerk of the public agency affected must maintain a copy of your response. Should you have any questions, please contact me at 463-4320 or at the above address.

Sincerely,

[Current Foreperson] _____, Foreperson

Disclaimer: A juror had a potential conflict of interest with respect to this report and was not involved in its writing or adoption by the Grand Jury.

SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE
“Law Enforcement is the principal objective of Forfeiture.”

May 24, 2007

The following acronyms will be referred to throughout this report:

AF (Asset Forfeiture)
BNE (Bureau of Narcotics Enforcement)
BOS (Mendocino County Board of Supervisors)
CHP (California Highway Patrol) Garberville and Ukiah Divisions
COMMET (County of Mendocino Marijuana Eradication Team)
CSP (California State Parks)
FBPD (Fort Bragg Police Department)
H&SC (California Health and Safety Code)
LEAA (Law Enforcement Administrators Association)
MCACO (Mendocino County Auditor-Controller's Office)
MCAFU (Mendocino County Asset Forfeiture Unit)
MCDA (Mendocino County District Attorney)
MCDAO (Mendocino County District Attorney's Office)
MCEO (Mendocino County Executive Office)
MCPD (Mendocino County Probation Department)
MCS (Mendocino County Sheriff)
MCSO (Mendocino County Sheriff's Office)
MMCTF (Mendocino Major Crimes Task Force)
MOU (Memorandum of Understanding)
UPD (Ukiah Police Department)
WPD (Willits Police Department)

SUMMARY

The 2006/2007 Grand Jury conducted an oversight of AF funds, their distribution, use, and accountability. The Grand Jury examined accounts and records of AF funds that included revenue and expenditures. The procedures of the MCACO were reviewed to verify that oversight and accountability was provided. AF on the surface appears to be a somewhat simple subject, however, it is very complex, involving many areas of responsibility. In some cases no clear guidance is provided by the governing statutes dealing with expenditure of AF funds. Contained within this report is a brief summary of each agency or organization that plays an active role in AF. The Grand Jury reviewed

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A REPORT ON ASSET FORFEITURE
"Law Enforcement is the principal objective of Forfeiture."
May 24, 2007

local law enforcement procedures, requirements, and compliance as defined within State mandated guidelines.

BACKGROUND

The State authority for AF is documented in H&SC §11369-§11495. "Civil forfeiture is intended to be remedial by removing the tools and profits from those engaged in the illicit drug trade." A brief summary is given below of the structure of organizations and/or agencies, who take part in AF seizures, distribute AF funds, receive AF funds or provide oversight and accounting. In order to ensure the proper utilization of the State laws permitting the seizure and forfeiture of property, limited guidelines have been established. (**Ref: Appendix A and B**)

The following agencies or organizations are in one way or another bound by these guidelines: COMMET, MCAFU, MCDA, MMCTF, LEAA, MCACO, MCPD.

COMMET is staffed by one full time Sergeant and one Deputy provided by the MCSO. In addition, volunteer reservists assist with routine documentation. COMMET interacts with various multi-agency law enforcement task forces, organized expressly to assist smaller local sheriff's departments in their efforts to eradicate marijuana cultivation and drug trafficking in California. Without COMMET, the local MCSO would not have the resources to effectively eradicate marijuana production within the County.

MCAFU consists of the MCSO, MCDA, UPD, FBPD, WPD, CHP (Garberville and Ukiah divisions), and a special agent of BNE. MCAFU may provide forfeiture services to the participating agencies. This unit has an operational MOU to which all parties are signatory. MCAFU also determines the distribution of seized AF funds to its members based on a sharing formula within the operational MOU as illustrated in **Fig. 1; Method A**. For comparative purposes, an illustration of the H&SC sharing formula is shown in **Fig. 1; Method B**.

MCDA maintains an AF division consisting of one AF Officer, an attorney; an AF Investigator, a sworn law enforcement officer; and a paralegal, who assists in AF matters. MCDA receives AF funds to defray the legal costs involved with AF. In addition to receiving AF funds, MCDA dispenses AF funds to the members of MCAFU as directed.

MMCTF is a partnership formed between BNE, CSP, CHP and local participating agencies. It "endeavors to effectively enforce the controlled substance laws in California as expressed in State and Federal laws, relating to the trafficking of controlled substances." MMCTF is governed by an MOU signed by each participating party. The management and supervision of MMCTF is the responsibility of the assigned BNE task force commander.

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A REPORT ON ASSET FORFEITURE
“Law Enforcement is the principal objective of Forfeiture.”
May 24, 2007

LEAA is a panel consisting of the MCS, a police chief selected by the other chiefs in the County, the MCDA, and the MCPD. AF funds distributed to the LEAA are “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. Those programs that have been evaluated as successful shall be given priority.”

MCACO exercises general supervision over the accounting of all AF funds, and maintains separate accounts which are subject to mandated controls and annual audits of all deposits and expenditures. In addition, “the Controller, county auditor, or treasurer shall maintain a record of these disbursements which records shall be open to public inspection, subject to the privileges contained in Sections 1040, 1041, and 1042 of the Evidence Code.” “Upon request of the governing body of the jurisdiction in which the distributions are made, the Controller, auditor, or treasurer shall conduct an audit of these funds and their use.” (H&SC §11495)

MCPD is an integral part of the criminal justice system specializing in community supervision, and promoting public safety by reducing criminal behavior and its impact upon the community. This department is dedicated to offender accountability, cost-effective protection, swift and sure punishment, effective supervision in the community, advocacy for victim services and rights, and involvement of the community in developing and supporting a system of restorative justice with prevention, intervention, and treatment programs.

METHODS

The Grand Jury interviewed members of COMMET, MMCTF, and MCAFU. In addition, the Grand Jury interviewed staff of the MCACO, the MCSO, and MCCPD. Current and former staff of MCDAO were also interviewed. The accounts and records of each organization or agency were reviewed as necessary to confirm adherence to State mandated guidelines. A review of the operational MOU for MMCTF and MCAFU was conducted. The Grand Jury toured the MCSO evidence room and compound area, where seized autos, trucks, generators, etc. are kept until either given back to the owner or sold. State statutes and other documents governing AF were reviewed extensively and form the basic foundation of this report. Legal counsel was sought to clarify the State forfeiture guidelines and provide guidance.

SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE
“Law Enforcement is the principal objective of Forfeiture.”
May 24, 2007

FINDINGS

1. AF was instituted to deprive persons of profits made and tools used in illegal activities. “Law enforcement is the principal objective of forfeiture.”

Response (Board of Supervisors):

The Board of Supervisors disagrees in part with this finding. H & S Code 11469 with subsections actually states: (a) Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens. (j) Although civil forfeiture is intended to be remedial by removing the tools and profits from those engaged in the illicit drug trade, it can have harsh effects on property owners in some circumstances. Therefore, law enforcement shall seek to protect the interests of innocent property owners, guarantee adequate notice and due process to property owners, and ensure that forfeiture serves the remedial purpose of the law.

Response (County Executive Office):

The County Executive Office disagrees in part with this finding. The language in H & S Code 11469 differs in that the finding only states part of the language in the H & S Code and should include the whole paragraph to understand the context intended.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office disagrees with the finding. The statement that “Law Enforcement is the principal objective of forfeiture” is taken out of context. To be understood this phrase must be read together with the rest of H&SC § 11469. subdivision (a). The intent of this section is that law enforcement, that is the prosecution and conviction of the guilty for drug offences, shall not be subordinate to gathering of revenue through forfeiture. Likewise the due process rights of citizens, officer safety and investigative integrity shall not be subordinate to gathering of asset forfeiture funds.

2. When AF money is seized, it is deposited into a trust fund account and held until it is either returned to the owner or forfeited.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office agrees with the finding.

SHARE AND SHARE ALIKE
A REPORT ON ASSET FORFEITURE
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May 24, 2007

3. If the seized money is claimed by the owner and the AF officer deems the money is “ill gotten”, then a civil court case will be pursued.

Response (Board of Supervisors):

The Board of Supervisors disagrees in part with this finding. The Board of Supervisors cannot agree with this finding, because the legal interpretation of H & S Code 11469-11495, and the subdivisions as related to this finding is not within the Board of Supervisors expertise and would require further analysis or would have to be referred to Counsel.

Response (County Executive Office):

The County Executive Office disagrees in part with this finding. The County Executive Office cannot agree with this finding, because the legal interpretation of H & S Code 11469-11495, and the subdivisions as related to this finding is not within the County Executive Office expertise and would require further analysis or would have to be referred to Counsel.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office disagrees with the finding. The evaluation done by the asset forfeiture attorney in determining whether to file a civil action in response to a claim opposing forfeiture depends on a more complex analysis than just whether the funds are “ill-gotten.” For property other than cash in amounts greater than \$25,000 filing of a forfeiture action depends on whether there is a prior conviction for a predicate drug trafficking offense (see of H&SC § 11470) or an underlying predicate offense connected with the seizure. If either of these is present the second step is to determine whether sufficient evidence exists to show a nexus between the drug trafficking offense(s) and the property for which forfeiture is sought. Only if both prongs of this analysis are satisfied is a civil forfeiture instituted. This analysis is consistent with the requirements of H&SC § 11469, subdivision (a). When there is a cash seizure of more than \$25,000 a conviction for a predicate offense is not necessary and the analysis turns on whether there is clear and convincing evidence that shows a nexus between the seized funds and drug trafficking.

4. The MCDAO AF division handles the civil portion of AF cases. Any case, which may involve criminal marijuana or drug activity is referred to the criminal division of the MCDAO.

Response (Board of Supervisors):

The Board of Supervisors disagrees in part with this finding because the Board of Supervisors has not been informed as to the detailed process of case referrals to the criminal division of the MCDAO.

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Response (County Executive Office):

The County Executive Office disagrees in part with this finding because the County Executive Office has not been informed on the detailed process of case referrals to the criminal division of the MCDAO.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office disagrees with the finding. Every case handled by the asset forfeiture division is concurrently evaluated by the criminal division and criminally prosecuted when sufficient evidence exists. Criminal prosecutions are undertaken without regard for the effect that any prosecution or case settlement may have on the forfeiture case. This is consistent with the requirements of H & SC § 11469.

5. Seized assets, other than cash or bank accounts, may include autos, coins, jewelry, real property, or other personal property.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office agrees with the finding.

6. Assets, other than cash, are held in evidence rooms or in the MCSO compound.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office agrees with the finding.

7. COMMET is a grant funded division of the MCSO. COMMET is staffed by a Sergeant and a Deputy. They are aided by unpaid volunteers.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

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A REPORT ON ASSET FORFEITURE
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Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Sheriff's Office):

Response (County of Mendocino Marijuana Eradication Team):

The Mendocino County Sheriff's Office ~ County of Mendocino Marijuana Eradication Team agrees with this finding.

8. The Grand Jury heard testimony regarding the recent application for COMMET grant money. It became necessary to “beg the Board of Supervisors to take the money” to fund the program.

Response (Board of Supervisors):

The Board of Supervisors disagrees in part with this finding. The Board of Supervisors approved the grant application on April 17, 2007. According to the minutes on April 17 2007, the discussion by the Board of Supervisors was “...the value of the grant to enable law enforcement to concentrate on large marijuana garden grows and its relevance to Prop 215 and Measure G”. There are no recorded minutes stating this finding or testimony.

Response (County Executive Office):

The County Executive Office disagrees in part with this finding. The most recent COMMET grant application submitted to the Board of Supervisors on April 17, 2007, was approved. The County Executive Office cannot agree with this finding nor find in any public records of discussion related to this testimony or finding.

Response (Mendocino County Sheriff's Office):

Response (County of Mendocino Marijuana Eradication Team):

The Mendocino County Sheriff's Office ~ County of Mendocino Marijuana Eradication Team agrees with this finding.

9. The primary task of COMMET is the prevention and eradication of non-medical marijuana production.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

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A REPORT ON ASSET FORFEITURE
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Response (Mendocino County Sheriff’s Office):

Response (County of Mendocino Marijuana Eradication Team):

The Mendocino County Sheriff’s Office ~ County of Mendocino Marijuana Eradication Team disagrees with Finding #9. The primary task of COMMET is the investigation of crimes involving the illegal cultivation, processing, distribution, transportation and sales of marijuana. Primary activities include the eradication of illegal marijuana gardens and the arrest and prosecution of persons responsible for these crimes.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office agrees with the finding.

10. COMMET makes a limited number of raids in cooperation with the Federal authorities. These raids result in larger seizures than other operations.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Sheriff’s Office):

Response (County of Mendocino Marijuana Eradication Team):

The Mendocino County Sheriff’s Office~ County of Mendocino Marijuana Eradication Team disagrees partially with Finding #10, only insofar as the term “seizure” is used. The number of raids conducted in cooperation with federal authorities will vary from year to year. These raids may result in larger asset seizures even if they do not result in larger plant seizures.

11. MMCTF is multi-jurisdictional, and consists of a BNE Commander, local law enforcement, and other State agencies. Their primary work involves hard drugs. The MMCTF uses their monthly meetings to discuss strategy, on-going investigations, planning drug raids, and probation sweeps.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office agrees with the finding.

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12. The LEAA function is to direct AF funds toward anti-drug and anti-gang education and community based programs.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department agrees with this finding.

Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. It is one of many functions, but it is not the sole function of the LEAA, to direct the expenditure of the "Law Enforcement Education Administrator Association Education Fund." This fund derives from distribution of all asset forfeiture moneys distributed pursuant to the H & SC § 11489, subdivision (b)(2)(A)(i). This is also set forth in the asset forfeiture memorandum of understanding. These funds are used to fund programs designed to combat drug abuse and divert gang activity, and whenever possible involve educators, parents, community-based organizations and local businesses, and uniformed law-enforcement officers. These funds do not include the rest of the funds distributed pursuant to H & SC § 11489, subdivision (b)(2)(A).

13. The LEAA does not have an MOU.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office agrees with the finding.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department agrees with this finding.

Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

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14. The LEAA has not held a meeting as a stand alone panel.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office disagrees with the finding. The LEAA holds a meeting every month as a stand-alone panel unless the meeting is cancelled due to scheduling conflicts.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department agrees with this finding.

Response (Mendocino County Sheriff’s Office):

The Mendocino County Sheriff’s Office agrees with this finding.

15. LEAA funds are distributed annually. H&SC §11489(b) requires these funds to be distributed quarterly. (See Appendix B)

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Auditor-Controller’s Office):

The County Auditor-Controller agrees with the finding. The District Attorney needs to request this distribution quarterly. Currently, the Auditor-Controller disburses these funds upon the DA’s request.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office disagrees with the finding. The requirement pursuant to H & SC § 11489, subdivision (b) that funds are to be distributed and transferred quarterly is a limitation and does not preclude for frequent distribution. Asset forfeiture funds are distributed immediately upon closure of the case that is their source. The result is that asset forfeiture funds are distributed more frequently than once per quarter. This subdivision does not impose upon LEAA or any of the receiving law-enforcement agencies a limitation regarding how or when asset

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forfeiture funds are spent. The LEAA is not precluded from accumulating funds and distributing them to anti-gang and anti-drug abuse programs on an annual basis.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department (*dis*)agrees wholly or partially with this finding. The Mendocino County Probation Department agrees that H&SC Section 11489(b) requires these funds to be distributed quarterly. However, the MCPD is unaware of any previous distribution schedule.

Response (Mendocino County Sheriff's Office):

Without further information, the Mendocino County Sheriff's Office can neither agree nor disagree with Finding #15. This finding should be directed to the District Attorney's Office.

16. LEAA funds are held in a separate County account until disbursement.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office agrees with the finding.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department disagrees with this finding, it is not aware of where the LEAA funds are held.

Response (Mendocino County Sheriff's Office):

Without further information, the Mendocino County Sheriff's Office can neither agree nor disagree with Finding #16. This finding should be directed to the District Attorney's Office.

17. The MCPD has not been asked for input or opinion regarding the distribution or spending of LEAA funds.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

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Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office disagrees with the finding. The Chief Probation Officer is a member of the LEAA panel that determines the distribution of the H&SC Section 11489, subdivision (b)(2)(A)(i) funds. The Chief Probation Officer has been present and participated in decisions regarding how this money is spent.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department agrees with this finding.

Response (Mendocino County Sheriff’s Office):

The Mendocino County Sheriff’s Office disagrees with Finding #17. The Chief Probation Officer is a member of the Major Crimes Task Force Council and the Law Enforcement Administrators’ Association. As such he has the same access to information about proposed expenditures and the same voting privileges as any of the other members.

18. The MCDAO disperses AF funds, as directed by the MCAFU. H&SC §11489(b) requires these funds to be distributed quarterly. (See Appendix B)

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Sheriff’s Office):

The Mendocino County Sheriff’s Office agrees with this finding.

Response (Mendocino County District Attorney’s Office):

The District Attorney’s Office agrees with the finding.

19. The sharing and spending of forfeited assets are different under Federal and State guidelines.

Response (Board of Supervisors):

The Board of Supervisors disagrees with this finding. The Federal guidelines are used by the Auditor-Controller’s Office as State guidelines.

Response (County Executive Office):

The County Executive Office disagrees with this finding. The Federal guidelines are used by the Auditor-Controller’s Office as State guidelines.

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Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office agrees with the finding.

20. Federal AF funds are kept separate from State AF funds to prevent commingling.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office agrees with the finding.

21. H&SC §11489(b)(2)(A), with the exception of subparagraphs i & ii, is mute concerning AF expenditure guidelines. (See Appendix B)

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding. However, the U.S. Department of Justice has a guide to the uses of expenditure guidelines that is detailed and is used as State guidelines as well.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. Additional restrictions on the use of asset forfeiture funds are contained in the H&SC §11489 (b)(g).

22. Up to 80% of the net seizure proceeds in Federal cases may be returned to the finder agency. An agency makes a claim, based on their contribution, on a "DAG 71" form.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

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Response (Mendocino County District Attorney's Office):

The District Attorney's Office agrees with the finding.

23. The Grand Jury heard testimony that AF monies could be spent on law enforcement equipment, supplies, salaries for new positions for a limited time, overtime pay, and anti-drug/anti-gang programs.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding in regards to the expenditures for AF. The Board of Supervisors cannot agree to what the Grand Jury heard or not heard through testimony.

Response (County Executive Office):

The County Executive Office agrees with this finding. AF can be spent on this list stated in this finding, but additionally AF can be spent on training, detention facilities, or construction expansion or improvement, pro rata funding, or the law enforcement share of costs for supporting multi-agency items or facilities and multiple pass-throughs to other agencies. The County Executive Office cannot agree in regards to what the Grand Jury heard or not heard through testimony.

24. The MCACO has not conducted AF audits on a regular basis of agencies within their jurisdiction. There is no record of external audits.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Auditor-Controller's Office):

The County Auditor-Controller agrees with the finding. There have been a number of discussions between the Auditor-Controller and District Attorney regarding performing an audit of the Asset Forfeiture program. The District Attorney has not followed through with a request for us or for any outside CPA firm to perform such an audit. This office could probably provide a more cost effective audit than an outside firm and, if requested, will be happy to do so.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. The State conducts external audits of distribution of asset forfeiture money. Those records are not in the possession of the Mendocino County District Attorney's Office.

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25. The accounting records for the MCDAO are detailed. These details are not forwarded to the MCACO when reimbursements for AF funds are requested.

Response (Board of Supervisors):

The Board of Supervisors disagrees with this finding based on information from the Auditor-Controller's Office.

Response (County Executive Office):

The County Executive Office disagrees with this finding based on information from the Auditor-Controller's Office.

Response (Mendocino County Auditor-Controller's Office):

The County Auditor-Controller disagrees with the finding. The information provided to the Auditor-Controller is sufficient for us to make the distributions according to statute.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. Invoices are submitted to the Auditor Controller in support of all requests for reimbursement to the DA's Office. The accounting records of the DA's Office are available to the Auditor-Controller, for audit purposes, at her discretion.

26. The MCACO has not matched requests for AF reimbursements with related records or invoices.

Response (Board of Supervisors):

The Board of Supervisors disagrees with this finding based on information from the Auditor-Controller's office and the County Executive Office analysis.

Response (County Executive Office):

The County Executive Office disagrees with this finding based on information from the Auditor-Controller's Office.

Response (Mendocino County Auditor-Controller's Office):

The County Auditor-Controller disagrees with the finding. In fiscal years 2005/06 and 2006/07 the Auditor-Controller has been diligent in the effort to match reimbursement requests with records and invoices. We have rejected requests for reimbursement due to lack of proper substantiation.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. The DA's Office is not able to know whether the Auditor-Controller has matched request for reimbursement to expenditures. These documents are provided and remain available to them.

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27. The AF accounting records for the MCSO and COMMET are detailed and can be readily matched with the records of the MCACO.

Response (Board of Supervisors):

The Board of Supervisors disagrees with this finding. The Board of Supervisors has not been provided with detailed accounting records on AF funds from MCSO.

Response (County Executive Office):

The County Executive Office disagrees with this finding. The County Executive Office has not been provided with detailed accounting records on AF funds from MCSO.

Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

28. AF purchases totaling \$10,000 or more, require BOS approval.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding in regards to the Sheriff's Office and the District Attorney's Office and the Board of Supervisors authority over the budget. By Board resolution transfers of AF funds over \$10,000 or more in expenditures require BOS approval.

Response (County Executive Office):

The County Executive Office agrees with this finding in regards to the Sheriff's Office and the District Attorney's Office and the Board of Supervisors authority over the budget. By Board resolution transfers of AF funds over \$10,000 or more in expenditures require BOS approval.

Response (Mendocino County Auditor-Controller's Office):

The County Auditor-Controller agrees with the finding. We agree with the recommendation of the requirement for BOS approval of Asset Forfeiture expenditures in excess of \$5,000.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. The Grand Jury cites no authority in support of a requirement that purchases with asset forfeiture funds in amounts greater than \$10,000 have BOS approval. Research by this office did not disclose any authority for this proposition. Moreover, the BOS has no oversight authority with regard to the Ukiah Police Department, Fort Bragg Police Department, Willits Police Department, and the Mendocino County Major Crimes Task Force and

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it cannot require these law enforcement agencies to seek its approval for expenditure of asset forfeiture funds.

Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

29. The MCSO used AF money for law enforcement equipment, supplies, and donations.

Response (Board of Supervisors):

The Board of Supervisors disagrees with this finding in part because the Board is not informed of all the expenditures from AF funds that the MCSO spends unless it is stated as approved in the budget, or it is over \$10,000 and is a transfer from AF funds into the MCSO budgets.

Response (County Executive Office):

The County Executive Office disagrees with this finding in part because the County Executive Office does not track expenditures from AF funds by the MCSO, unless the Chief Executive Officer specifically requests this information from the Auditor-Controller's Office. If it is over \$10,000, the County Executive Office receives a request to transfer AF funds and then it goes to the Board for approval.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. The DA's Office does not know what uses the Sheriff's Office has made of asset forfeiture money.

Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

30. As shown by Figure 1, the disbursement formulas contained in the MCAFU MOU and H&SC §11489(b), result in different disbursements.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding. The asset forfeiture MOU exercises the discretion pursuant to H&SC §11489(b) in distributing asset forfeiture proceeds in accord with each agency's proportionate contribution.

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Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

31. Use of AF funds to supplant budgets is forbidden.

Response (Board of Supervisors):

The Board of Supervisors agrees with this finding.

Response (County Executive Office):

The County Executive Office agrees with this finding.

Response (Mendocino County Auditor-Controller's Office):

The County Auditor-Controller agrees with the finding. We agree that the Auditor-Controller should be consulted before any Asset Forfeiture expenditures are made. As stated previously, the Auditor-Controller can provide audit services, if requested by the District Attorney's Office.

Response (Mendocino County District Attorney's Office):

The District Attorney's Office disagrees with the finding.

Response (Mendocino County Probation Department):

The Mendocino County Probation Department agrees with this finding. The H&SC §11489(b)(2)(A)(i) provides that grants made to anti-gang and anti-drug abuse programs may not be used to supplant local funding. The H&SC §11489(b) makes the same requirement as to funds distributed to law-enforcement agencies and the DA's Office.

Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

32. Testimony revealed that morale among most of the agencies is high and they work well together.

Response (Board of Supervisors):

The Board of Supervisors disagrees with this finding. The Board of Supervisors cannot agree to testimony that the Grand Jury heard or to the morale of the agencies because this information has not been provided.

Response (County Executive Office):

The County Executive Office disagrees with this finding. The County Executive Office cannot agree to testimony that the Grand Jury heard or to the morale of the agencies, because this information has not been provided.

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Response (Mendocino County Sheriff's Office):

The Mendocino County Sheriff's Office agrees with this finding.

RECOMMENDATIONS

The Grand Jury recommends that:

1. the grant application for COMMET always be approved. Without this resource, the MCSO can not effectively eradicate marijuana production within the county. (Finding 8)

Response (Board of Supervisors):

This recommendation will not be implemented, because the Board of Supervisors reserves the budgetary authority to review all grant applications for priorities set by the Board of Supervisors, and will approve the grant application or renewal based on the information provided.

Response (County Executive Office):

This recommendation will not be implemented, because the Board of Supervisors reserves the budgetary authority to review all grant applications for renewal, and based on the funding and program and priority information will make a decision accordingly. The County Executive Office will review and analyze the grant to make sure that priorities set by the Board of Supervisors are met and are consistent with the grant program.

Response (Mendocino County Sheriff's Office):

Response (County of Mendocino Marijuana Eradication Team):

The Mendocino County Sheriff's Office ~ County of Mendocino Marijuana Eradication Team wholeheartedly endorses Recommendation #1, but only the Board of Supervisors can respond.

2. an operational MOU for the LEAA panel be written, stating its mission and intended goals consistent with H&SC §11489(b)(2)(A)(ii). (Findings 12-15, 17)

Response (Board of Supervisors): This recommendation requires further analysis, and direct staff to review with the District Attorney the H & S Code and language required by statute within 6 months.

Response (County Executive Office): This recommendation requires further analysis, and The County Executive Office will work with the District Attorney to review with the District Attorney the H & S Code and language required by statute within 6 months.

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Response (Mendocino County District Attorney’s Office):

This recommendation will not be implemented on the basis that it is unwarranted or unreasonable. The LEAA is an informal association consisting of the DA, Chief Probation Officer, the Sheriff, and the Willits, Fort Bragg, and Ukiah Police Chiefs. The asset forfeiture MOU contains a section that is consistent with both the spirit and letter of H&SC §11489 (b)(2)(A)(i) and specifies how the funds described in this subparagraph are distributed. A separate MOU that governs the LEAA is not required by statute and unwarranted at present.

Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

Response (Mendocino County Sheriff’s Office):

Recommendation #2 requires further analysis. This recommendation has been referred to the Law Enforcement Administrators’ Association—the members of which also serve as the Major Crimes Task Force Council. The recommendation will appear on the Task Force / LEAA agenda for August 2007.

3. LEAA scheduled meetings be held, published, and open to the public. (Findings 13-14)

Response (Board of Supervisors):

This recommendation requires further analysis, and the Board of Supervisors will direct staff to review this and report to the Board in the future.

Response (County Executive Office):

This recommendation requires further analysis, and the County Executive Office staff will review this and report to the Board in the future.

Response (Mendocino County District Attorney’s Office):

This recommendation will not be implemented on the basis that it is unwarranted or unreasonable. Opening LEAA meetings to the public would have little benefit and would potentially compromise sensitive undercover multi-agency investigations.

Response (Mendocino County Probation Department):

This recommendation requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

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Response (Mendocino County Sheriff’s Office):

Recommendation #3 requires further analysis. I will be submitting this recommendation to the Office of County Counsel with a request for an opinion on how the state’s open meeting laws apply to meetings of the Law Enforcement Administrators’ Association.

4. funds dispersed to the LEAA occur quarterly as required by H&SC §11489(b). (Finding 15)

Response (Board of Supervisors):

This recommendation has not been implemented but the Board of Supervisors will have staff review with the Auditor-Controller and the District Attorney’s Office to ensure that this recommendation occurs in the future.

Response (County Executive Office):

This recommendation has not been implemented, but the County Executive Office will review with the Auditor-Controller and the District Attorney’s Office to ensure that this recommendation occurs in the future.

Response (Mendocino County Auditor-Controller’s Office):

The District Attorney needs to request this distribution quarterly. Currently, the Auditor-Controller disburses these funds upon the DA’s request.

Response (Mendocino County District Attorney’s Office):

This recommendation has been implemented. As stated in response to finding #15 the DA is distributing funds as they become available at the conclusion of each case. This complies with the requirements of H&SC §11489(b).

Response (Mendocino County Sheriff’s Office):

Recommendation #4 has not been implemented but will be implemented in the future. During a regularly scheduled meeting of the Task Force Governing Board and LEAA held July 12, 2007, there was agreement that this change should be made.

5. the MCPD participate fully as an equal on the LEAA panel as required by H&SC §11489(b)(2)(A)(ii), and the MCAFU. (Findings 12-14, 17)

Response (Board of Supervisors):

This recommendation has already been implemented.

Response (County Executive Office):

This recommendation has already been implemented.

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Response (Mendocino County District Attorney’s Office):

This recommendation has been implemented. The Chief Probation Officer is already a member of the LEAA and participates in decisions regarding use of asset forfeiture funds. See our response to finding #17.

Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

Response (Mendocino County Sheriff’s Office):

Recommendation #5 has already been implemented. The Chief Probation Officer is a voting member of the Task Force Council and Law Enforcement Administrators’ Association.

6. all State AF funds be accumulated, transferred, and distributed quarterly to local agencies as required by H&SC §11489(b). (Finding 18)

Response (Board of Supervisors):

This recommendation has not been implemented, but the Board of Supervisor will direct staff to review with the Auditor-Controller and the District Attorney’s office to ensure that this recommendation occurs in the future.

Response (County Executive Office):

This recommendation has not been implemented, but the County Executive Office will review with the Auditor-Controller and the District Attorney’s Office to ensure that this recommendation occurs in the future.

Response (Mendocino County Auditor-Controller’s Office):

The Auditor-Controller requires further analysis. Currently, the Auditor-Controller distributes Asset Forfeiture funds as soon as each case’s information is received from the DA. We feel that this is more responsive to the participating agencies and to the public. The intent of H&S Section 11489(b) is probably to require funds to be distributed at least quarterly, but I (*the Auditor*) will seek County Counsel’s opinion as to whether we are technically meeting the statute’s requirement.

Response (Mendocino County District Attorney’s Office):

This recommendation has been implemented. As stated in response to finding #15 the DA is distributing funds as they become available at the conclusion of each case. This complies with the requirements of H&SC §11489(b).

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Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

Response (Mendocino County Sheriff's Office):

Recommendation #6 is directed to the District Attorney's Office, which distributes asset forfeiture funds. Worth noting, however, is the fact that asset forfeiture funds are currently distributed as they become available. Distributing the funds quarterly would limit the number of financial transactions to be accounted for, but it could also slow the delivery of funds to local agencies.

7. MCAFU revise their operational MOU to reflect the strictest possible definition of expenditures to avoid the appearance of supplanting. The MCEO and the MCACO should be consulted for budget and audit purposes. (Findings 23, 28, 31)

Response (Board of Supervisors):

This recommendation has not been implemented but will be implemented in the future.

Response (County Executive Office):

This recommendation has not been implemented but will be implemented in the future. The County Executive Office will review with the Auditor procedures for implementation.

Response (Mendocino County Auditor-Controller's Office):

This recommendation has not yet been implemented, but will be implemented in the future. We agree that the Auditor-Controller should be consulted before any Asset Forfeiture expenditures are made. As stated previously, the Auditor-Controller can provide audit services, if requested by the District Attorney's Office.

Response (Mendocino County District Attorney's Office):

This recommendation will not be implemented on the basis that it is unwarranted or unreasonable. The asset forfeiture MOU may not take the place of the statutory limitations on use of asset forfeiture money. This office is already in strict compliance with the statutory requirements. See our response to findings #28 and #31.

Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

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Response (Mendocino County Sheriff’s Office):

Recommendation #7 should not be implemented because it is not warranted. Supplanting is already prohibited by state law and the memorandum of understanding between parties to the Mendocino County Asset Forfeiture Unit. Health & Safety Code §11489, subsection (d), states, “All... (asset forfeiture) funds distributed to the state or local governmental entity shall not supplant any state or local funds that would... be made available to support the law enforcement and prosecutorial efforts of these agencies.” The current asset forfeiture MOU expands on this statutory language by additionally prohibiting the supplanting of federal funds that would otherwise be made available to support law enforcement or prosecutorial efforts.

8. audits of AF funds and their use be conducted annually as required by H&SC §11469(h). (Finding 24)

Response (Board of Supervisors):

This recommendation has not been implemented but will be implemented in the future.

Response (County Executive Office):

This recommendation has not been implemented but will be implemented in the future. The County Executive Office will review with the Auditor on procedures for implementation.

Response (Mendocino County Auditor-Controller’s Office):

There have been a number of discussions between the Auditor-Controller and District Attorney regarding performing an audit of the Asset Forfeiture program. The District Attorney has not followed through with a request for us or for any outside CPA firm to perform such an audit. This office could probably provide a more cost effective audit than an outside firm and, if requested, will be happy to do so.

Response (Mendocino County Sheriff’s Office):

Recommendation #8 is directed to the Auditor-Controller’s Office.

9. details of all AF expenditures with their reimbursement requests be forwarded to the MCACO in a timely manner. (Findings 24-25)

Response (Board of Supervisors):

This recommendation has already been implemented.

Response (County Executive Office):

This recommendation has already been implemented.

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Response (Mendocino County Auditor-Controller’s Office):

The Auditor-Controller believes this has already been implemented by the DA.

Response (Mendocino County District Attorney’s Office):

This recommendation has been implemented. Invoices showing expenditures of asset forfeiture money are submitted to the Auditor-Controller along with the request for reimbursement. See response to finding #24 and #25.

Response (Mendocino County Sheriff’s Office):

Recommendation #9 has already been implemented by the Sheriff’s Office. As noted in Finding #27, “The AF accounting records for the MCSO and COMMET are detailed and can be readily matched with the records of the MCACO.”

10. AF reimbursement requests be matched to records or invoices. (Findings 25-27)

Response (Board of Supervisors):

This recommendation has already been implemented.

Response (County Executive Office):

This recommendation has already been implemented.

Response (Mendocino County Auditor-Controller’s Office):

In fiscal years 2005/06 and 2006/07 the Auditor-Controller has been diligent in the effort to match reimbursement requests with records and invoices. We have rejected requests for reimbursement due to lack of proper substantiation.

Response (Mendocino County District Attorney’s Office):

This recommendation has been implemented. Asset forfeiture reimbursement requests are already matched to invoices.

Response (Mendocino County Sheriff’s Office):

Recommendation #10 has already been implemented by the Sheriff’s Office. Refer to Grand Jury Finding #27.

11. all AF expenditures and their purposes be directly linked to “law enforcement needs”, e.g. training, equipment, and community anti-drug programs etc. (Findings 1, 9, 12, 19)

Response (Board of Supervisors):

This recommendation requires further analysis and the Board will direct staff to review procedures and timelines for audits and monitoring to be implemented in the future.

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Response (County Executive Office):

This recommendation requires further analysis and the County Executive Office will review procedures and timelines for audits and monitoring to be implemented in the future.

Response (Mendocino County District Attorney’s Office):

This recommendation has been implemented. All asset forfeiture expenditures by this office have and will continue to be for unbudgeted, non-recurring law-enforcement needs.

Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

Response (Mendocino County Sheriff’s Office):

Recommendation #11 has already been implemented by the Sheriff’s Office. Our asset forfeiture expenditures have always been a matter of public record.

12. all County AF expenditures of \$5,000 or more require BOS approval. (Findings 23, 28-29, 31) *Ref: Fig. 1;Method 2*

Response (Board of Supervisors):

This recommendation has not been implemented but will be implemented in the future.

Response (County Executive Office):

This recommendation has not been implemented but will be implemented in the future. The County Executive Office will look to implement a budget policy manual and procedures, at which time we will address this change. Currently all AF funds over \$10,000 are reviewed by the Board.

Response (Mendocino County Auditor-Controller’s Office):

The Auditor-Controller agrees with the recommendation of the requirement for BOS approval of Asset Forfeiture expenditures in excess of \$5,000.

Response (Mendocino County District Attorney’s Office):

This recommendation will not be implemented on the basis that it is unwarranted or unreasonable. There is no authority for implementing this requirement. There have never been any deviations from the statutory permissible uses of asset forfeiture money and as such no justification for this additional oversight.

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Response (Mendocino County Sheriff's Office):

Recommendation #12 will not be implemented by the Sheriff's Office because it is not warranted. Mendocino County Policy #1 governs purchasing, leasing and contracting. The requirements set forth in this policy apply regardless of funding source.

13. AF disbursements made to the MCDAO fall within the spirit of H&SC §11469(b) and H&SC §11489(b)(2)(A). (Finding 30) **Ref: Fig. 1; Method 2**

Response (Board of Supervisors):

This recommendation has already been implemented.

Response (County Executive Office):

This recommendation has already been implemented.

Response (Mendocino County District Attorney's Office):

This recommendation has been implemented. All asset forfeiture distributions comply with both the letter and spirit of H & SC § 11489(b)(2)(A) as well as the asset forfeiture MOU. See our response to findings #15, and #30.

Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

14. MCAFU disbursements to agencies under the operational MOU, be revised to reflect H&SC §11469(b) and H&SC §11489(b)-§11489(b)(2)(A)(ii). (Findings 15, 18, 30-31) **Ref: Fig. 1; Method 2**

Response (Board of Supervisors):

This recommendation requires further analysis and will be reviewed with the District Attorney and the Auditor's Office.

Response (County Executive Office):

This recommendation requires further analysis and will be reviewed with the District Attorney and the Auditor's Office.

Response (Mendocino County District Attorney's Office):

This recommendation will not be implemented on the basis that it is unwarranted or unreasonable. No revision is necessary as the asset forfeiture MOU fully complies with the requirements of H&SC §11469 and 11489.

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Response (Mendocino County Probation Department):

Requires further analysis. The decision to implement these recommendations does not rest with MCPD. They will require consultation, collaboration and consensus of the other LEAA partners.

Response (Mendocino County Sheriff's Office):

Recommendation #14 should not be implemented because it is not warranted. The formula for asset forfeiture disbursements contained in the operational MOU is not in conflict with the applicable statutes.

COMMENTS

It became clear during the investigation, that to most people, the Asset Forfeiture program is confusing and commonly misunderstood. While the pertaining statutes and codes are clear about percentages of funds to be distributed to the law enforcement agencies, they are not as clear as they could be about how funds can be used for drug education and law enforcement needs.

It is also clear that there is confusion on how AF funds can be used, which may have resulted in some inadvertent violations of the pertinent codes and statutes. Agencies need to implement a self-policing policy to insure the proper use of AF funds. Budgets must include all items that would “normally” be purchased through a budget. Reliance upon anticipated AF funds is supplanting, regardless of how it is done.

The Grand Jury wishes to thank all the interviewees for their cooperation. They were also pleased to discover that the county's law enforcement agencies are cooperative and are performing their duties in a most professional way.

REQUIRED RESPONSES

Board of Supervisors
(All Findings; All Recommendations)

Mendocino County Executive Office
(All Findings; All Recommendations)

County of Mendocino Marijuana Eradication Team
(Findings 7-10; Recommendation 1)

Law Enforcement Administrators Association
(Findings 12-17; Recommendations 2-5, 14)

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Mendocino County Auditor-Controller's Office
(Findings 15, 24-26, 28, 31; Recommendations 4, 6-10, 12)

Mendocino County Asset Forfeiture Unit
(Findings 13-18, 30; Recommendations 2-7, 12, 14)

Mendocino County District Attorney's Office
(Findings 13-17, 25-26, 28-31; Recommendations 2-7, 9-14)

Mendocino County Probation Department
(Findings 12-17, 31; Recommendations 2-3, 5-7, 11, 13-14)

Mendocino County Sheriff's Office
(Findings 8-10, 12-19, 27-32; Recommendations 1-12, 14)

Fort Bragg Police Department
(Findings 12-17, 23, 28-32; Recommendations 2-8, 11, 13-14)

Ukiah Police Department
(Findings 12-17, 23, 28-32; Recommendations 2-8, 11, 13-14)

Willits Police Department
(Findings 12-17, 23, 28-32; Recommendations 2-8, 11, 13-14)

REQUESTED RESPONSES

California Highway Patrol, Ukiah Division
(Finding 30; Recommendations 7, 13-14)

California Highway Patrol, Garberville Division
(Finding 30; Recommendations 7, 13-14)

Mendocino Major Crimes Task Force
(Finding 11-17, 31; Recommendations 7, 14)