

**COUNTY OF SONOMA
AGENDA ITEM
SUMMARY REPORT**

Clerk of the Board Use Only
Meeting Date **Held Until**
 / / / /
Agenda Item No: **Agenda Item No:**

Department: Sheriff-Coroner

() **4/5 Vote Required**

Contact:
Jim Piercy

Phone:
(707) 565-2998

Board Date:
8/25/09

Deadline for Board Action:

AGENDA SHORT TITLE:
Federal Equitable Sharing Agreement and Certification.

REQUESTED BOARD ACTION:
Authorize the Chairperson of the Board of Supervisors to execute a Federal Equitable Sharing Agreement and Certification with the U.S. Department of Justice and the U.S. Department of the Treasury.

CURRENT FISCAL YEAR FINANCIAL IMPACT

<u>EXPENDITURES</u>		<u>ADD'L FUNDS REQUIRING BOARD</u>	
Estimated Cost	\$	Contingencies	\$
		(Fund Name:)	
Amount Budgeted	\$	Unanticipated Revenue	\$
		(Source:)	
Other Avail Approp.	\$	Other Transfer(s)	\$
(Explain below)		(Source:)	
Additional Requested:	\$	Add'l Funds Requested:	\$

Explanation (if required):

Prior Board Action(s):

Resolutions dating back from 1997 through 2007. In 2007 one combined reporting form was required. Prior resolutions were individually prepared for Federal Equitable Sharing Agreements and Annual Certification Reports.

Alternatives - Results of Non-Approval:

The Department's of Justice and the Treasury require an annual submission of a Federal Equitable Sharing Agreement and Certification which enables the County to share the proceeds of federal forfeitures. Loss of potential revenue will result if not approved.

Background:

The Comprehensive Crime Control Act of 1984 authorized the sharing of federal forfeiture proceeds with state and local law enforcement agencies which work with federal agencies to enforce federal criminal laws.

When state or local agencies, such as the Sonoma County Sheriff's Office, work with federal agencies to enforce federal criminal laws, they may apply for an equitable share of any forfeited proceeds. To obtain such proceeds, the state or local agency must sign an Equitable Sharing Agreement and certify that the forfeited proceeds received are allocated as required by federal statutes and regulations established by the U.S. Department of the Treasury and the U.S. Department of Justice. These laws and regulations require that:

- forfeited funds or property must be kept separate from state or other forfeitures;
- a federal Equitable Sharing Agreement and Certification be filed annually with both agencies;
- a record shall be maintained of the funds or property and any expenditures; and
- funds exceeding \$100,000 shall be audited annually.

In 2007 the Department of Justice enacted an electronic reporting process to streamline and simplify the reporting of funds received by local agencies. This process requires participating agencies to use a reporting form that combines the Equitable Sharing Agreement and Certification Report which will be submitted electronically.

The Agreement sets forth the statutory and regulatory requirements for participating in the program for receipt of the funds, and the restrictions upon the use of federally forfeited cash, property, proceeds and any interest earned. All shared assets are required to be used only for law enforcement purposes.

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Attachments: Resolution

On File With Clerk:

CLERK OF THE BOARD USE ONLY

Board Action (If other than "Requested")

Vote:

Background: (Continued)

The Certification Report included with the Agreement requires signature by the Agency Head (the Sheriff) and the Governing Body Head (the Chairperson of the Board, inter alia) to certify that the County understands its obligations under the Agreement and, under penalty of perjury, certify that the reported financial information regarding the County's receipt and expenditure of the funds is true and correct. County Counsel has reviewed the language of the Certificate, and has authorized a requested change in the language to include a caveat that the certified information is true and correct based on the signer's information and belief (rather than their personal knowledge).

The forfeited proceeds received through the Equitable Sharing Agreement vary greatly year to year (from \$0 to a few \$100,000's), as the receipt of funds are based on the resolution of specific court cases. When received, the monies are placed into special asset forfeiture funds. The ending fund balances in the Department of Justice and the Treasury special funds at the end of the 2008-2009 fiscal year are \$666,300 and \$5,282 respectively. It has been the Department's long term practice to use these funds for critical one-time projects. Past examples include the computer aided dispatch – CAD system, and security enhancements for the property\evidence storage annex located at the Sheriff's Main office.

The Board is requested to Authorize the Chairperson of the Board to execute the federal Equitable Sharing Agreement and Certification with the Department of Justice and the Department of the Treasury, for receipt of forfeited funds for the 2009-2010 fiscal year.