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Mendocino County District Attorney Response to State Auditor Report **Executive Summary and Points and Authorities**

California Constitution

The first California Constitution was drafted in the fall of 1849 at the Monterey Constitution Convention. The voters approved this first constitution on November 13, 1849, which became effective on December 20, 1849. This constitution allowed California to petition Congress for statehood, which Congress granted on September 9, 1850.¹ Under the California Constitution, Article XI, Section 1(b) requires that each county have an elected district attorney.

On February 18, 1850, during the first session of the California State Legislature, 27 original counties were formally established, of which Mendocino County was one of the 27. More counties were added as time passed, eventually reaching the current total of 58 counties.

Separation of Powers – “Separate but Equal”

California follows a separation-of-powers governance model at both the state and county levels, very similar, if not the same as the federal system.

At the state level, the California Legislature makes laws, the Governor, as the state executive, enforces laws, and the Judiciary interprets laws.

At the county level, the local Board of Supervisor constitutes the legislative branch, the District Attorney, as the county’s chief law enforcement officer, serves as the de facto head of the executive branch, and the local Superior Court is the judiciary. As these separate but equal branches of governance interact with one another in favor of what should be in the best interests of the citizenry, the key rule is that one branch cannot significantly interfere with or usurp the core functions of another.

¹ A second (current) California Constitution was drafted in 1878-1879, adopted by the voters on May 7, 1879, which then became effective on July 4, 1879. This 1879 constitution – while heavily amended over time – remains the one still in effect today.

District Attorney

Unlike non-constitutional county departments created by the Board of Supervisors to handle the administration of local county business, the Office of the District Attorney is an original (1850) long-standing constitution-based public office. By statute, the office of district attorney is one of the “officers of a county” under California Government Code section 24000. The principal statutory authority for a California DA’s functions is codified in the California Government Code section 26500, et seq.

Pursuant to Government Code section 26500.5, **the DA has other duties tied to the office beyond direct prosecutions — under statute a DA “may sponsor, supervise, or participate in any project or program to improve the administration of justice.”** [Emphasis added.] According to the California Supreme Court, prosecutorial discretion is broad and generally insulated from judicial or board of supervisors interference — the local board cannot dictate how the District Attorney exercises investigative or prosecutorial discretion. (See, *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820.)²

Again, the District Attorney in each county is the chief law enforcement official and head of the executive branch of government at the local (county) level. In that role, the District Attorney enforces state law and exercises independent administrative and prosecutorial discretion, subject to judicial oversight and limited state executive oversight. Though District Attorneys are locally elected county officials, they function within a broader statewide enforcement framework — and the Attorney General retains supervisory and, in certain circumstances, direct prosecutorial power.

Mendocino County’s Office of the District Attorney has its primary office in Ukiah, the county seat, and a satellite coastal office in Fort Bragg.

The Fort Bragg coastal satellite office has a senior (DDA IV) prosecutor assigned to it, with two in-house legal secretaries, a Victim-Witness advocate, and one senior (peace officer-status) investigator. That said, the staffing level at the Fort Bragg office remains below standard.

The primary courthouse office in Ukiah is where four-term elected District Attorney Eyster and his Ukiah-based deputy prosecutors have their offices, where the DA’s financial managers are located, where the DA’s primary clerical unit is situated, where the DA’s Bureau of Investigations is located, and where the primary DA’s Victim-Witness office is located. Those units and location noted, the staffing level in all units of the Ukiah office remain below standard.

The District Attorney also supervises contractual outside counsel working in specialized assignments, which include sworn special deputy district attorneys assigned to and responsible for Asset Forfeiture, Habeas Corpus actions, Sexually Violent Predator (SVP), and conflict matters.

² When preparing to and prosecuting crimes, a district attorney represents the state and is not in that context considered a policy maker for the county. (*Pitts v. County of Kern* (1998) 17 Cal.4th 340, 362.) Likewise, a district attorney does not represent the county when training staff and developing policy in the area of criminal investigation and prosecution. In *Pitts*, the California Supreme Court concluded that “[n]o meaningful analytical distinction can be made between these two functions [i.e., prosecuting crime on the one hand, and training/policymaking regarding criminal investigation and prosecution on the other].”

In-house Financial Team

The highly qualified financial team that interacted with the time-consuming information requests of and remote conferencing discussions with the State Auditor were primarily three knowledgeable District Attorney employees -- Carmen Macias³, the office's Administrative Services Manager II (and a DA office employee since 1984); Kathryn Cavness⁴, the office's Administrative Services Manager I (and a DA office employee since 2008); and Mandi Hamilton⁵, the office's Departmental (finance) Analyst (and a DA office employee since 2024).

Statutory Audit Authorization

California Government Code section 8546.1 authorizes the State Auditor to conduct financial and performance audits of any local governmental agency — including counties — if directed by statute or requested by the Legislature.

Government Code section 8546.11(a), effective June 29, 2024, directed the State Auditor to conduct an audit of Mendocino County as a whole by January 1, 2026 with the scope of authorization defined as covering potential waste, fraud, abuse, mismanagement; and the county's administration of the 2024 elections, contracting, and procurement.⁶

As part of the section 8546.11(a) legislative directive, the State Auditor initiated contact with Mendocino County's Office of the District Attorney on or about July 23, 2025, with review that continued through November 2025.

³ Moving up through the ranks from a secretary solely responsible for preparing the legal pleadings on 7,000+ child support enforcement cases to her present position in the criminal division, Mrs. Macias has successfully worked in most areas of the District Attorney's office. She has educational experience in accounting and has had long-standing responsibility for accuracy checking and fraud review, as well as signing off on the office's payroll and financials since 2000, meaning she has maintained accuracy and consistency responsibilities during the consecutive terms of three different elected district attorneys - DA Vroman, DA Lintott, and DA Eyster. Mrs. Macias is currently a lead member of the DA's annual budget-drafting team.

⁴ Kathryn Cavness has had an extensive career and education in budget and finance. Unlike some currently working elsewhere in county finance, Ms. Cavness holds a master's degree in Business Administration with an emphasis in Accounting. Currently a Board member for the Mendocino County Employees Retirement Association, Ms. Cavness has been a member of the Audit and Budget Committee of that Association since 2014, was elected as Vice Chair of the Retirement Board in December 2016 and was elected as Chair of the Board in December 2018 through December 2020. Ms. Cavness has in the past also served on the State Association of County Retirement Systems (SACRS) Board of Directors. She was Secretary for the SACRS FY 2017-18 through FY 2020-21 and then elected Vice President for FY 2021-22.

⁵ Mandi Hamilton, the newest member of the DA's financial team, was a Philanthropy Operations and Services Manager for Adventist Health before joining the District Attorney's office. Key responsibilities of that former managerial position were data and database management, including conducting audits; gift processing and finance coordination, including coordinating with the finance department for monthly reconciliation and annual audits; process improvement and system optimization; reporting and analytics; vendor and budget management; and communications support. Ms. Hamilton prior work experience also includes working as an executive assistant for Adventist Health, and both as an office manager and licensed insurance associate in Lake County.

⁶ A concluding state report – entitled *Mendocino County: Review Report: Internal Control Over Financial Reporting* -- for Mendocino County's then Office of Auditor-Controller/Treasurer-Tax Collector was released on July 1, 2024, covering the time period of July 1, 2020 through June 30, 2022. That review report was not accompanied by a follow-on response from Mendocino County's then acting Auditor-Controller/Treasurer-Tax Collector.

SPOILER ALERT

The state audit of the Mendocino County District Attorney's Office did **NOT** uncover waste, fraud, abuse, mismanagement; contracting issues, or procurement problems in the District Attorney's non-asset forfeiture day-to-day tax dollar-funded budget transactions and the handling of money.

While there was (and continues to be) documentation and paper trails for all DA financial transactions, the auditors made suggestions on areas of improvement for adding to (padding) current documentation protocol.

Notwithstanding the DA financial team handling and processing on average over 1,200 financial transactions annually through the local auditor's office since 2020, no secret payroll codes were found to have been used in DA transactions, no DA financial hanky-panky was uncovered, and, most importantly, **neither the District Attorney nor any DA employee was found by the state auditors to have been personally enriched through misappropriation or hidden financial manipulations.**

There are points of disagreement between the auditors and the District Attorney and his staff in the category of non-taxpayer money and involving the use of asset forfeiture funds legally seized and forfeited from criminal defendants. The points of disagreement relate to what is and is not prohibited by California state law (not to be confused with the different rules and guidelines relating to federal asset forfeiture monies) and the long-standing discretion afforded elected District Attorneys in this regard in all 58 counties.

The Audit Process

While the District Attorney finds benefit in the review and audit exercise and some of the proffered opinions of the state auditors, the underlying process was at times difficult because, in part, the audit team did not have – or at least would never disclose that they had -- a criminal justice subject matter expert with prosecutorial experience that would better allow the Sacramento team to understand the long-standing public safety mission – and discretion – afforded all elected California district attorneys.

The question of whether the state auditor had ever audited a district attorney's office prior to landing in Mendocino County was a question that was asked but one that went unanswered. At times the local team perceived there was a predetermined, yet undisclosed agenda leading to a focused outcome as a fait accompli.⁷ The audit methodology, which allowed for "identity withheld" input from individuals who might have an axe to grind, risked inviting and injecting incomplete, inaccurate, and out-of-context attacks by innuendo or worse. Having to repeat and correct already shared information was reportedly a common experience for the local team.

⁷ The term "fait accompli" refers to a situation or outcome that has already occurred and cannot be changed. It is often used to describe decisions or actions that have been completed and must be accepted, as there is no way to reverse them. The power of "fait accompli" lies in its imposition of reality, circumventing debate, silencing dissent, and presenting a situation as unchangeable, often rendering opposition futile. This term is commonly used in legal, political, and business contexts to denote decisions or actions that have been completed and must be accepted. It implies that decisions have been made, actions have been taken, and the outcome is a done deal, regardless of whether consultation and input, consent, or negotiation occurred beforehand.

The required effort was also difficult due to insufficient local staffing. The state auditors appeared from a distance to have adequate resources to conduct their side of business on multiple fronts. The same cannot be said for the local team. Taking on the added responsibility of providing significant input – thus, taking time away from time-sensitive office responsibilities to explain local culture, procedures, and lawful District Attorney discretion to the Sacramento team more often than not on a short fuse timeline -- wore down the local team and added work hours and stress to their work days and weekends in order to cover in-house public safety duties and responsibilities. The state auditors unnecessarily created stress on the local team by imposing unrealistic and arbitrary deadlines for the local team to complete tasks when the time imposed was often insufficient for the tasks being demanded.

Another point of contention between the Sacramento auditors and the local team was the expectation that the Sacramento auditors would be following certain audit standards (e.g., GAAS, ISA, PCAOB, GFOA, etc.), which includes that an auditor not create his or her own definitions that alter the meaning of terms used in law, legislative intent, regulation, or policy; and that an auditor not introduce a definition that narrows, broadens, or otherwise shifts a meaning in a way that effectively changes what the entity was authorized or required to do.

This became important when the entire audit seemed to focus almost entirely on the District Attorney's use of his asset forfeiture account. In discussions with a retired prosecutor who participated in the drafting of the core framework of the current version of California's asset forfeiture legislation and who was part of the team that negotiated with the Legislature to pass the "Burton Bill" in 1994⁸, he made clear California's asset-forfeiture framework—primarily found in the Health & Safety Code sections 11469 through 11495 and later amendments—was designed with several guiding purposes. One of those purposes was to preserve **meaningful law-enforcement discretion**, but only within a system meant to balance public-safety goals with due process protection.

The legislative intent of California's current version of its asset forfeiture law remains as originally enacted -- strengthening law enforcement through providing greater non-tax, non-supplantable resources from disruption of criminal enterprise profits, while maintaining law enforcement-related spending discretion – with certain safeguards in place to prevent abuse (e.g., forfeiture proceeds must be deposited into a special account and may only be used for law enforcement-related purposes — not as general budget supplements, not for salaries, and not for county budget supplantation).

In allowing for greater resources for law enforcement from criminal, non-taxpayer sources, the state legislation did not disallow law enforcement discretion to use AF funds for travel, education, training, equipment, and community-based investments in crime prevention and administration of justice programs.⁹ The legislative history we believe indicates a greater interest in ensuring uniform statewide

⁸ This reference to the "Burton Bill" refers to former Assemblyman John Burton and AB 114 (1993–1994 session), which was signed into law in August 1994. The procedural reforms to state asset forfeiture laws that were brought forward under AB 114 succeeded in balancing the continuing need for forfeiture (as a tool against drug trafficking, etc.) with stronger procedural safeguards: higher proof standards, conviction requirements for many cases, and reformed distribution of proceeds, which addressed some longstanding criticisms (incentives, "policing for profit," due-process concerns).

⁹ Primary statewide training and guidelines for prosecutors on their use of asset forfeiture funds has traditionally been left to the California District Attorneys Association, as well as other statewide associations for the Sheriffs and Police Chiefs. The CDAA asset forfeiture trainings have generally included long-standing examples explaining what asset

standards, protecting due-process rights, and preventing overstepping and misuse by law enforcement improperly pursuing forfeitures for profit. There was less interest – and thus little prohibitive language – to limit law enforcement discretion in spending decisions and how to achieve the best public safety outcomes in different regions, communities, and law enforcement agencies serving culturally different populations.

In addition to this immediate response, the District Attorney and his team will make time heading into the New Year to understand (1) the true scope of the findings; (2) the severity of issues; (3) the identification, if possible, of root causes of problems; (4) further consider supporting evidence (versus unsupported opinions); (5) identify state/local misunderstandings and/or inaccuracies; (6) evaluate whether a core executive functions were correctly weighed and considered; and (7) whether there has been non-standard overreach into policy-making or improper second-guessing of lawful discretion.

Some Additional Good News

To best (or better) handle and process the over 1,200 annual incoming and outgoing financial transactions required to meet and exceed the constitutional and statutory mandates properly imposed on the District Attorney so that he can effectively and ethically investigate local crime, effectively and ethically prosecute those charged with crimes, and effectively engage in programs, which include trainings, to improve the administration of justice, the District Attorney has the following financial “best practices” in place:

1. Clear guidelines and written procedures;
2. Segregation of Duties (“No One Person Controls Everything”);
3. Strong Approval and Authorization Controls;
4. Accurate and Complete Documentation (“Not Required to Duplicate”)
5. Consistent Use of Purchase Orders;
6. Timely Entry and Recording of Transactions;
7. Regular Reconciliations;
8. Controlled Access to Financial Tools and Systems;
9. Cash Handling Controls (“Always count cash with two people present”);
10. Vendor Management & Verification;
11. Ethical Standards and Conflict-of-Interest Controls;
12. Travel & Reimbursement Controls (“Pre-approval required for travel”);

forfeiture funds may lawfully be spent towards. These examples, provided to the auditors, include: “**Equipment and Training** [Asset forfeiture funds may be used to supplement existing LE budgets for the acquisition of various types of equipment; and travel/training]; **Operations** [Funds may cover expenses associated with the forfeiture process itself, including seizing, detaining, managing and selling forfeited property]; **Combating Drug Abuse and Drug Activity** [Funds are directed towards programs focused on these areas, often involving community stakeholders likes educators, parents, businesses, and law enforcement]; **Public Safety and Community Programs** [Funds may support initiatives that enhance public safety and benefit the community]; **Important Considerations: No Supplanting Funds** [California law prohibits the use of forfeiture proceeds to replace state and local funds that would otherwise be allocated to law enforcement and prosecutorial efforts]; **Purpose-Drive Distribution** [The laws and regulations governing asset forfeiture in California ensure that the funds are used for specific, legally-defined purposes]; **Federal and State Overlap** [Both federal and state laws influence how these funds are distributed, with **state statutes dictating usage for local and state entities**]; **Prohibition on Direct Benefits** [LE agencies are prohibited from directly benefiting financially from asset forfeiture proceeds, as this could create a conflict of interest.

13. Use of County Procurement Card (“Required monthly statements with receipts”)
14. Review and Audit (“Periodic internal audits and spot checks”); and
15. Training and Awareness.

Legal Compliance: Are There Financial Safeguards In Place re Asset Forfeiture?

Does Mendocino County as a whole follow state law and have required safeguards in place? As shown below, the answer is yes.

Mendocino County as a whole, as well as the District Attorney specifically, is compliant with statewide legal and statutory framework for state asset forfeiture. Pursuant to the California Health and Safety Code, when assets are seized and forfeiture is ordered by the courts and final, the forfeited assets are handled pursuant to the code, which means:

When cash is seized pursuant to state asset forfeiture, its seizure is documented by the seizing LE agency and the cash is taken to the District Attorney’s Office in Ukiah for further counts by a money machine. DA protocol requires two money runs through the machine. When completed, the receipt for each run must show the same amount was counted on each run. The two counting runs through the machine must take place in front of at least two sworn peace officer witnesses. The money machine used by the District Attorney also digitally records images of the bills – front and back – as it is counting as an additional safeguard and source of documentation.

- When vehicles and other large personal property is seized, such property is normally maintained in a locked vehicle yard at the Sheriff’s Low Gap Facility, pending court-ordered forfeiture and conversion to cash proceeds by an out-of-county auction yard.
- When smaller items of personal property capable of being held in a safe (i.e, stocks, bonds, precious metals, money orders, jewelry, etc.) are seized, such property is held in a limited-access safe at the District Attorney’s Office, pending court-ordered forfeiture and conversion to cash proceeds.
- Seized cash, once documented and has passed through the counting protocol, is deposited into a pre-forfeited account maintained by the county auditor. Health and Safety Code section 11495 requires that funds “be deposited into an account maintained by the county auditor and that disbursements be recorded and subject to public inspection.
- Per state law, disbursement from that pre-forfeited account to valid claimants or specific law enforcement agencies is to happen only at the direction of the processing office, meaning the District Attorney. The county financial officers must maintain documentation of the DA directions and distributions.
- The court-ordered money or cash proceeds that have been finalized as forfeited are distributed per distribution instructions issued by the District Attorney per statutory formula.
- After valid claimants are paid, the statutory formula mandates:

65% to the local law enforcements that participated in the seizure -- divided proportionally among contributing agencies. In Mendocino County, all law enforcement agencies have agreed to a distribution formula that ensures that smaller LE agencies -- whether they participated in a specific seizure or not -- receives an equitable share, documented by a MOU¹⁰, of all assets finalized and ordered forfeited.

Of that 65%, each LE agency must designate and spend at least 15% of their share to community-based programs (drug-abuse prevention, gang-activity diversion and prevention, youth intervention, etc.) rather than as a supplement to annual board or council LE budgeting.¹¹

Ten percent (10%) of the cash value of the forfeited assets goes to the District Attorney for its role in record-keeping and processing the assets from seizure through court-ordered forfeiture through distribution.

Twenty-four percent (24%) of the cash value of the forfeited assets are to be directed from the county to the state's General Fund.

One percent (1%) of the cash value of the forfeited assets are to be directed to Cal EPA in Sacramento. or environmental enforcement and training activities.

As with all forfeited assets distributed to local law enforcement, that "outside funding" must not "supplant" funds the county would otherwise have to provide the LE agency in question (i.e., forfeited assets are meant to be a LE additive, not a replacement.)

Finally, state law requires that all state forfeiture proceeds be held in a separate account for the specific LE agency to whom the money has been distributed -- not commingled with general county or city funds.

Two unanswered requests to the county auditor made by the District Attorney and the former Sheriff over ten years ago remain unanswered. The District Attorney and the former Sheriff requested that the county auditor maintain the Sheriff's and the DA's asset forfeiture funds in interest-bearing accounts for reasons that were explained at that time. Follow-on inquiries remain unanswered as to whether this was done or not and, if done, requesting an accounting of the amount and location of the interest for each account. Perhaps the instant audit will provide the opportunity and impetus for the Board to require that these questions be answered.

¹⁰ The Mendocino County law enforcement MOU demonstrative distribution flowchart is included herewith as Attachment A.

¹¹ A 2025 in-house audit of DA funding of community-based programing found that the District Attorney -- from 2011 to present -- continues to stay in compliance with this 15% funding mandate, having annually approved community-based funding requests at an overall average rate of 15.19 percent per annum.

The former Sheriff and the District Attorney also previously requested that a former county auditor authorize and set up a separate interest-bearing account to receive a 15% asset forfeiture allocation for “special fund distribution” per statute. That request was denied, forcing local law enforcement agencies to separately comply as a work around (versus committee compliance) with community-based funding requests, yet still maintaining the community-based funding spirit of the legislation.¹²

It became abundantly clear from the first video conference to present that the state auditor came to Mendocino County pre-focused on the law enforcement’s use of asset forfeiture funds versus, to a much lesser degree, budgeted taxpayer dollars. Over the past decade and a half there has been an ongoing movement in California to reduce or redirect the use of asset-forfeiture proceeds by law-enforcement agencies, especially in supposedly cash-starved jurisdictions. Is the focus of the recent audit a part of that movement? That question has not been answered but should not be dismissed out of hand. Perhaps an objective look at the “concerns” identified, the underlying source of the funding for those “concerns,” and the justifications provided to the state auditors (and now the Board and the general public) may be telling for those willing to read through the information and legal analyses presented herein.

Context and Facts

In no particular order and in addition to the information and law discussion above, the following transactions focused on by the state auditors will be discussed either individually or as a group to add context, facts, and citations to applicable laws.

1. Office Desk Water Bottles (40 count) - \$572.01 to the California District Attorneys Association (CDAA) [Documented payment source: District Attorney’s distributed Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA’s annual operating budget] - Was approved internally by DA team and independently approved by the county auditor’s office.

As the local judiciary has been publicly saying for years (pending the funding, construction and completion of the new courthouse), there are health and safety issues inherent and present in the current aged Ukiah courthouse, including but not limited to asbestos, limited access to potable water, and aged lead water supply pipes.¹³

¹² This is not the first time that the county auditor has prevented the DA from segregating separate source and purpose monies in interest-bearing county accounts in order for the DA team to better account for those special purposes monies. The DA receives monies on an irregular basis to be specifically used on environmental-based expenditures, including community-based clean-ups and gang tagging remediation. The DA also receives monies from statewide consumer fraud and other similar litigation. Those monies come from different sources to be used for different purposes but are commingled by the local auditor in a single account. When the county auditor was asked to create separate county accounts for these monies for better accounting and transparency, the DA’s request was denied.

¹³ As discussed in a plethora of environmental studies, lead in pipes, solder, and flux were banned in 1986 thanks to the United States’ Safe Drinking Water Act Amendments. However, pre-existing plumbing materials were not affected by this ban, meaning lead contamination in drinking water remains a widespread health issue. Older cities with aging infrastructure, such as Ukiah and the downtown courthouse, are among the most likely areas to have water pipes that

There is no potable water source available in the NW basement clerical unit or in the north wing DA offices.

Outside of the sinks in the public restrooms, there is only one public drinking fountain on the basement level of the courthouse where the majority of the DA offices are located, a fountain that is often taped off with yellow “caution” tape, if even working.

There is one sink and water faucet in the SE wing that is only recommended for washing dishes or one’s hands.

To address SEIU and employee concerns regarding safe and healthy work conditions, especially during the pandemic and after, the office provides centralized potable water stations¹⁴ for filling take-back-to-your-work desk reusable water bottles. There are stations in the south wing conference room, in the basement clerical unit, in the north wing, in the top floor, and in the Fort Bragg satellite office.

To facilitate that the understaffed employees stay at and work more efficiently from their desks, the office purchased 40 personal metal water bottles from the CDAA at a bulk sale price. Forty was the office’s global staffing level at that time. It was calculated that the reusable metal water bottles were a better financial deal in the long term versus the ongoing cost of small one-use paper cups.

It was also investigated that reusable metal water bottles ranged in price on the open market at that time from about \$13 to \$45 or more, depending on the brand and features. The CDAA reusable water bottles were purchased for roughly \$14 per bottle.

This one-time purchase of CDAA reusable metal water bottles also had another advantage. Not only did it allow for safe and ongoing hydration of DA employees while they worked on their PCs generating necessary court documents and pleadings, the water bottle purchase also supported the training and education function of the CDAA¹⁵, which is a legal and permissible use of state asset forfeiture funds.

While this expenditure was one questioned by the Sacramento auditors, the District Attorney respectfully asserts this was an appropriate and legal expenditure both in need, reasoning and funding

exceed the lead action level set by the EPA. In adults, lead exposure may result in health complications like elevated blood pressure, fertility issues, nervous system damage, and cognitive decline.

¹⁴ The auditors also questioned why the DA’s Office funds a water service for staff use. It is likely the auditors did not realize the lack of available potable water in this aged facility.

¹⁵ The California District Attorneys Association (CDAA) represents thousands of prosecutors statewide, including the local District Attorney and all attorneys who work for him (as terms of that employment), and offers State Bar-mandated training, publications, and online resources to its members.

source. No personal or political gain was achieved by the transaction, save for office morale and solving a health and safety issue in an aging courthouse.

2. Lake County Sheriff's Office Evidence Collection Satchel/Kit from Antique Society (Sebastopol) - **\$70.00** [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget] – **Was approved internally by DA team and independently approved by the county auditor's office.**

This Lake County law enforcement-branded evidence collection satchel/kit was discovered for sale in a secondhand store in Sonoma County. It is an item that shouldn't be available to the general public, as it could be used to mislead a targeted victim and act as a prop for a person to assume a false law enforcement identity.

In advising the former Lake County Sheriff of what had been located and where, he had no information on the provenance of this item and assumed that this Lake County Sheriff-branded piece of equipment had either been inadvertently lost, stolen, or maybe taken as a "trophy" by an unknown person.

As the Mendocino County DA's Office had ongoing business in that area of Sonoma County and the Lake County Sheriff had staffing issues that prevented him from immediately acting on the information provided, it was agreed that the Mendocino County DA would provide the Lake County Sheriff non-emergency mutual aid and recover the Lake County property.

Using Penal Code section 11108.5 as analogous guidance, when a law-enforcement agency locates lost or stolen property, the finding agency/personnel is/are required to notify the person or the agency entitled to recover that property within 15 days of finding the property in question, which was done in this situation as just mentioned.

In talking with a cooperative store manager, she also did not know the provenance of this piece of Lake County equipment. Based on available information, it was concluded that the secondhand dealer did not know that the item was lost or stolen, and she did not realize that it should not be sold to the public for reasons also mentioned above.

It was concluded that it was equitable to pay a reduced price (\$70) to the secondhand dealer to take possession of the item so that this piece of law enforcement equipment could be promptly returned to the Lake County Sheriff, a transfer which was accomplished almost immediately thereafter by Mendocino County DA investigators.

California law does not prohibit payment to a secondhand dealer for the surrender of a lost or stolen item, particularly a piece of law enforcement equipment. Rather than burden Mendocino County

taxpayers for the recovery, asset forfeiture funds were legally used to regain ownership of the Lake County item so it could be returned to the law enforcement agency of origin.

While this expenditure was one questioned by the Sacramento auditors, the District Attorney respectfully asserts this was – and continues to be -- an appropriate legal expenditure both in need, reasoning and funding source. No personal or political gain was achieved by engaging in non-emergency mutual aid for a neighboring and allied law enforcement agency.

3. St. Mary's of the Angels School - \$5,000 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget] – **It was approved internally by the DA team and independently approved by the county auditor's office.**

Apparently relying on discriminatory misinterpretations of the U.S. Constitution and California state law, the state auditor has wrongly opined that a disbursement of \$5,000 to St. Mary's of the Angels was constitutionally defective and constitutes a prohibited “gift of public funds” to, in their pointed description, a local “religiously affiliated school.”

The District Attorney strenuously disagrees with these characterizations, as well as with the legal analysis on which the auditors relied in reaching incorrect conclusions.

Correct Constitutional Analysis

The U.S. Constitution's rules for any government entity providing funding to a religiously affiliated institution come primarily from the Establishment Clause and the Free Exercise Clause of the First Amendment. Modern Supreme Court doctrine currently allows such funding when certain safeguards are followed.

First, the Supreme Court has consistently held that government-funded programs may include religiously affiliated schools if the funds are used for secular, neutral programs, and not for religious indoctrination or worship. The correct constitutional rule is that a benefit derived from a government source cannot be denied solely because the recipient is religious, as long as the funds do not pay for religious use.¹⁶

¹⁶ Key legal principles for these assertions emanate from U.S. Supreme Court precedent, including but not limited to *Carson v. Makin*, 596 U.S. 767 (2022) [restrictions on vouchers violated the Free Exercise Clause, as they discriminated against religious schools and the parents who chose them for their children]; *Espinoza v. Montana Dept. of Revenue*, 591 U.S. 464 (2020) [publicly-funded school-choice scholarship program could not exclude religious schools when scholarship program was generally available to other private schools]; *Trinity Lutheran Church v. Comer*, 582 U.S. 449 (2017); *Mitchell v. Helms*, 530 U.S. 793 (2000); and *Zobrest v. Catalina Foothills School District*, 509 U.S. 1 (1993) [allowed a deaf student to receive a publicly funded ASL interpreter at his Catholic high school].

Second, a targeted benefit approved from a law enforcement asset forfeiture account are typically treated like any other public funds earmarked for a public purpose. When, as in California, a state statute¹⁷ or policy permits distribution of forfeiture funds for secular, community-benefit purposes (e.g., drug-prevention programming, anti-gang programming, classroom improvement, and/or student safety and security), then religiously affiliated schools are eligible for consideration of such benefits on equal terms as a non-religious school.

The safeguards that are locally in place for receiving funding from the District Attorney's community-based school and non-profit asset forfeiture funding program¹⁸ must be (1) neutrality and generally available; (2) religious schools cannot be excluded solely due to its religious identity (this would violate the Free Exercise Clause); and (3) the funding must be restricted to secular use. This triad keeps the local DA from endorsing religion, while also avoiding discrimination against religious organizations.¹⁹

Third, modern jurisprudence is clear that using asset forfeiture funds for secular services does *not* violate the Establishment Clause of the U.S. Constitution ["separation of church and state"]. Current Establishment Clause doctrine focuses on use, not identity, meaning a religious institution (i.e., St. Mary's school) may receive asset forfeiture funds from the Mendocino County District Attorney's Office, but those funds must not be used for religious teaching, worship, or proselytizing. If the local asset forfeiture funds, as was agreed by the school, supports, for example, science equipment, tutoring in math or reading, drug-abuse prevention programs, gang-membership prevention programs, other community outreach unrelated to religion, and/or safety or health-related programs, such a local donation is deemed secular and permissible. The U.S. Supreme Court has consistently emphasized

¹⁷ See, California Health and Safety Code section 11489 which, in pertinent part, mandates that 15 percent of the District Attorney's share of forfeited assets are to be shared with schools and non-profits for funding programs designed to combat drug use and divert gang activity. This statute expressly mandates that wherever possible educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers should be involved in the anti-drug, anti-gang influencing effort. In conflict with the auditors' "gifts of public funds" characterization, the District Attorney, the Sheriff, and other law enforcement agencies which receive asset forfeiture funds are actually mandated by statute to share same in our communities. Of special note also is the statutory directive that recipients who have previously received asset forfeiture funding and have used that funding as intended shall be given priority in future AF funding requests over new applicants.

¹⁸ See, Mendocino County District Attorney's publicly posted explanation of the local Asset Forfeiture program, the application made available for those seeking AF funding, and the required focus on what the funding, if granted, must be used for at < <https://www.mendocinocounty.gov/government/district-attorney/asset-forfeiture> >.

¹⁹ Though not the only individual involved in vetting AF funding requests, it should be mentioned that District Attorney Eyster is non-Catholic. When invited, DA Eyster has, however, made several 7th and 8th grade one-hour classroom presentations at St. Mary's on the Bill of Rights, what it includes, and how its protections remain viable and applicable to teenage and adult life in modern America. In a small, rural community like Ukiah, the lone Catholic school's administrative understanding and agreement in accepting the funding is its bond, and spot checking by DA employees demonstrated to us that the school has lived up to its secular, non-religious understanding and agreement for use of their AF funding. Instead of casting shade on a joint venture and otherwise laudable influencing effort, the auditors could have easily verified same in a single telephone call to the former well-known local St. Mary's school principal/administrator.

the need to avoid religious indoctrination at government expense. As long as the use is secular, there is no unconstitutional “establishment” of religion.

Finally, non-legal individuals may have easily missed that recent U.S. Supreme Court cases have flipped more aged rules regarding religious entities and public funds. Current jurisprudence holds that giving funds to a religion-based school for secular uses and educational services is constitutionally compliant, and a much better outcome than inviting litigation due to discriminatorily refusing to approve funds solely because the school is religious.

Though it should be obvious at this point why the wrongly criticized donation to St. Mary’s school aligns with constitutional standards, the following summary emphasizes the points made above:

- The public interest (anti-drug, anti-gang, crime prevention, and student safety) is secular and compelling.
- The asset forfeiture funds are distributed under a neutral statute, equally available to religious and non-religious institutions, based on secular criteria.
- The donation at issue was used for secular purposes by agreement, not for advancing a religious mission.
- Safeguards to guard against religious enrichment or endorsement were understood and agreed upon.
- St. Mary’s is eligible to receive funding on the same terms as others (exclusion based solely on religious status would violate Free Exercise and be discriminatory).
- The funding avoided excessive and unwarranted entanglement of local government with religion.

Again, while this expenditure was one of the items causing concern for the auditors, the District Attorney respectfully asserts this was an appropriate and legal expenditure both in need, reasoning and funding source. No personal or political gain was realized by the District Attorney by his following U.S. Supreme Court caselaw and California’s statutory mandates.

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Community-based Organizational Grouping²⁰

4. Rotary Club of Fort Bragg²¹ - \$3,000 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget]

River Oak Charter School - \$1,500 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget]

Ukiah High School Sober Graduation - \$1,500 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget]

Willits High School Sober Graduation - \$1,000 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget]

Girl Scout Troop (Girl Scouts of Northern California) - \$612 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget]

California Highway Patrol 11-99 Foundation²² - \$560 [Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budget monies involved, meaning a net zero loss to the DA's annual operating budget]

²⁰ Time and space does not allow rebuttal to all auditor concerns. Thus, not all auditor comments will be addressed herein. If not addressed, it should not be considered a waiver nor a concession. However, as one example of what appears to be petty financial criticism, the auditors were concerned and questioned why the DA's Bureau of Investigations had used (and fully documented) an expenditure of \$14.14 in forfeited state assets to purchase an office water bowl for the Board-approved Victim/Witness comfort dog ("Tinkerbelle" aka "Belle"). While a legal expenditure, the DA also believes the public and the Board of Supervisors will have no trouble understanding why this was an appropriate expenditure. In addition to plain common sense, the bowl was required to be made available to the dog in her office space by the dog's trainer.

²¹ As was documented and shown to the auditors, the Rotary Club's written request for funding expressly stated the funding would be used to fund coastal programming seeking to mitigate youth drug and gang involvement.

²² The numbers "11-99" is the radio code used by CHP dispatchers and officers to communicate "officer needs assistance." Aptly named, the CHP's 11-99 Foundation is a 501(c)(3) nonprofit organization that helps provide CHP families financial support in times of need (e.g., prolonged illness, medical emergencies, natural disasters, or death). It also awards scholarships (academic & vocational) for dependents (children) of CHP employees to attend college or a technical/vocational school. Research across sociology, criminology, public health, and education consistently points in the same direction that access to college opportunities is strongly associated with lower drug use, reduced gang involvement, and better long-term outcomes, which are also the statutory goals of the asset forfeiture legislation. On recommendation of the former Colusa County District Attorney in 2012, the Mendocino County District Attorney has long been a supporter of CHP's 11-99 Foundation and the help it provides those who help protect us.

All of the above funding actions were vetted and approved internally by DA team and independently approved by the county auditor's office.

In a similar but far less constitutional vein, the state auditor has expressed “concern” that the approval of each of the above-listed state asset forfeiture funding requests were not what they appear but might be prohibited “gifts of public funds.”²³ This is not the case factually and legally, as will now be explained.

State asset forfeiture programs encompass the seizure and forfeiture of assets (e.g., vehicles, equipment, precious metals, cash, stock and bonds, bank accounts, etc.) from individuals and organizations engaged in criminal activities. After codified due process has been given, seized assets are forfeited and, when necessary, converted into currency which is then distributed to law enforcement agencies.

In Mendocino County, there is a Memorandum of Understanding (MOU) that sets forth the sharing of and distribution percentages for each local law enforcement agency entitled to receive forfeited assets.²⁴

As already noted, California's asset forfeiture legislation requires at least 15 percent of the District Attorney asset forfeiture account to be shared with community-based organizations, particularly schools and non-profits, that have programs that combat drug use and attempt to turn youth away from gang membership and activities. While combating drug use and attempting to turn youth away from gang membership and activity reasonably takes many programmatic forms, it often includes providing activities that create bonds, fill time with commitments to wholesome activities (e.g., sports, dance, music, community service, etc.), and the continuation of education opportunities.²⁵

²³ California's “gift of public funds” prohibition comes from Article XVI, Section 6 of the California Constitution. It states that the Legislature (and by extension, state and local governments) may not make any gift of public money or thing of value to any individual, corporation, or other private entity. **There are long-standing exceptions to this rule** that apparently were not considered by the auditors. It is not a prohibited “gift” if the distribution of public funds are mandated by statute to be shared with private entities and persons, as is the situation for all of the above. In addition, the courts have also held that sharing funds is not a prohibited “gift” if the expenditure serves a legitimate public purpose -- even if private persons benefit. (See, *County of Alameda v. Janssen* (1940) 16 Cal.2d 276 [public purpose determines constitutionality, not the identity of the beneficiary]; *City of Oakland v. Garrison* (1924) 194 Cal. 298 [when the government acts for a public purpose, the payment is not a gift even if private entities incidentally benefit]). Not only mandated by statute the funding disbursements above using forfeited asset proceeds were laudable for their public purposes and use.

²⁴ A copy of the 2024 through 2029 asset forfeiture distribution MOU signed by District Attorney Eyster, Sheriff Kendall, the Chief Probation Officer Locatelli, the Chief of the Ukiah Police Department, the Chief of the Fort Bragg Police Department, the Chief of the Willits Police Department, the Ukiah area Commander of the California Highway Patrol, and the North County area Commander of the California Highway Patrol may be viewed at: <https://www.mendocinocounty.gov/home/showpublisheddocument/73810/638937907859900000> >.

²⁵ In order to comply with and honor the legislative intent of Health and Safety Code section 11489's directive to fund (not “gift”) community-based organizations and others willing to join the fight against illicit drugs and criminal gangs, the auditors may have overlooked that the District Attorney has regularly approved funding to one degree or another to all the following community-based organizations and groups that met the standardized vetting criteria, including

Despite auditors' opinions to the contrary, each of the above organizations and activities were double vetted in the normal course of business for an organizational need and connection to helping families and their youth avoid drugs, alcohol, cannabis, pills, hard drugs (fentanyl, methamphetamine, cocaine, heroin) and gangs. Each passed through the intake and secondary vetting process and conservative funding was approved in-house and further approved by the local auditor when the funding check was issued.

As just one example, since becoming the DA in January 2011, DA Eyster has encouraged applications for AF funding from schools spread around the county who seek to protect youth from themselves and others by hosting all-night sober graduation celebrations under the supervision of parent chaperones.

The District Attorney strongly believes, along with parents and others, that sober grad nights save lives and should receive helping funding.²⁶

While these expenditures were questioned individually and as a group by the state auditors, the District Attorney respectfully asserts each was an appropriate and legal expenditure both in need, reasoning and funding source. No personal or political gain was realized by the District Attorney following California Supreme Court precedent and California statutory (legislative) mandates.

but not limited to the Alex Rorabaugh Center (Ukiah ARC), the CDAA (statewide), the Devil Pups, Inc. (Ukiah), the FBHS Safe & Sober Committee (Fort Bragg), the FBHS (Fort Bragg), the Fort Bragg Rotary Club (Fort Bragg), Friends of the Round Valley Public Library (Covelo), the Girl Scouts of Northern California (Ukiah, which included county-wide senior centers), the CHP 11-99 Foundation (Granzella's) (statewide), the Harwood Memorial Park Association (Laytonville), the Mendocino County Farm Bureau Scholarship Fund (county-wide), the Mendocino Coast Sports Foundation (Fort Bragg), the Community Foundation of Mendocino County (Ukiah), Near & Arnold's School of Performing Arts & Cultural Education (Ukiah S.P.A.C.E.), the Potter Valley Parents-Teachers Association, the Redwood Parents Club (Fort Bragg), the River Oak Charter School (Ukiah), the Round Valley Unified School District (Covelo), St. Mary's of the Angels' school (Ukiah), the Timberwolf Booster Association (Fort Bragg), the UHS Senior Scram (Ukiah High's Sober Grad), the Ukiah Host Lions Club (Ukiah), the Ukiah Valley Friends of the Library (Ukiah), the Ukiah Wrestling Club (Ukiah), Ukiah Valley Adventist Health (Ukiah), and the Willits High School Sober Grad Party (Willits). All the above funding recipients (and more) met funding criteria anti-drug, anti-gang funding criteria, and were found to be stable and reliable recipients. This list is much larger and more diversified throughout the county if the time frame is enlarged to cover 2011 through 2019.

²⁶ It is well documented that late-night events around proms and graduations are high-risk for alcohol, drug use and impaired driving. A recent study of U.S. college students recalling high-school graduations and proms found that many peers perceived heavy drinking to be common during those prom and graduation events -- among those who drank, many engaged in heavy episodic drinking. National data shows that teen drivers and passengers are at high risk for self-harm and harm to others from episodic alcohol abuse. A 2021 study of motor-vehicle fatalities among 15–20-year-olds found that many young-passenger deaths involved a peer driver with a high blood-alcohol concentration — often happening on weekend nights. Because of these risks, alcohol-free, adult-supervised events such as Sober Grad Night (which began here in California in 1985) — and the broader Project Graduation movement — have been promoted as community-based responses to reduce hazardous post-graduation behavior. Thus, despite dollars-and-cent criticism, there is a plausible causal logic at play here. By helping fund supervised, sober alternatives at county-wide schools at a moment known for high risk, the District Attorney's forfeiture funds help reduce exposure to alcohol, drugs, and impaired driving, as well as other related seasonal harm to graduating youth.

5. District Attorney's 2024 End-of-the-Year Debriefing and Training - **\$3,600**

[Documented payment source: District Attorney's distributed state Asset Forfeiture account – no taxpayer or county budgeted monies involved, meaning a net zero loss to the DA's county-provided annual operating budget] This expenditure – and every one since 2011 – was pre-approved²⁷ by two different County Executives, depending on the year in question, properly documented by the DA's in-house financial team; and, independently approved by three different county auditors, depending on the year under review.

Again, the state auditors have critically opined without supportive legal underpinnings that engaging in the education and training of a prosecution office's administrators, deputy prosecutors, investigators, clerical, and employees' spouses and significant others is yet another prohibited "gift of public funds."

From a constitutional and statutory perspective, this annual education and training (1) cannot legitimately be characterized as a prohibited "gift," as it is expressly allowed by statute as a program intended to improve the local administration of justice, with an emphasis on the prosecution's role and responsibilities in the local criminal justice system; (2) it is also allowed by statute as a continuing education and training session for investigators, prosecutors, office parents with children, and other office staff and it additionally addresses future plans for and past outcomes by the overall DA's staff on combating local drug abuse, criminal gang activity, and other crime activity; and, (3) it is not expressly or impliedly prohibited by the enacted language of the state asset forfeiture statutory scheme.²⁸

From a judicial perspective, this annual education and training also cannot legitimately be characterized as a prohibited "gift" as there is no evidence to contradict that this job-related education and training of staff and spouses serves a legitimate public purpose -- even if private persons benefit. (See, again, *City of Oakland v. Garrison* (1924) 194 Cal. 298 [when the government acts for a public purpose, the payment is not a gift even if private entities incidentally benefit].

²⁷ Mendocino County Policy 18.1.3 states, "Department Heads are encouraged to contact the Chief Executive Officer or Auditor-Controller to obtain approval before expenses are incurred when they are uncertain of specific allowable circumstances." While the District Attorney was certain of the legality of the 2024 training in question, especially since it had been an asset forfeiture expenditure approved at different times by two CEO's and three Auditors dating back to 2011, he nevertheless sought and was given advance approval from CEO Antle in accordance with county policy, as reflected on the documentation submitted to the Auditor.

²⁸ This absence of prohibitive language requires a quick legal analysis involving the Latin maxim regularly used in situations involving statutory interpretation – that phrase being *expressio unius est exclusio alterius*. This phrase literally means "the express mention of one thing is the exclusion of another." In interpreting statutory language, when the law expressly includes, for example, specific and prohibitive language affecting certain items, categories, or situations, courts are to infer that anything that could be prohibited but was not included was intentionally left out by the legislative body. In the context of asset forfeiture, the absence of specific and prohibitive language supports the discretion granted to law enforcement in when and how to expend forfeited assets on training and education.

Auditor overreach regarding the offsite education and training -- and some degree of confusion as to what laws and guidelines apply -- can be seen in at least one area of the findings when it is suggested that a particular federal guideline that prohibits expenditures on food is controlling authority for state asset forfeiture law and expenditures. However, that assertion is false and, worse, a misunderstanding of hornbook law.²⁹ While the referenced federal prohibition indeed applies to federally obtained assets, that federal-specific prohibition is not part of California law and is not applicable to state law-obtained assets. In short, it is long been settled that federal policy and guidelines relating federal forfeitures are not applicable and do not override state law forfeitures and rules, unless and until a state forfeiture is adopted and removed to federal jurisdiction. For a summary comparison of significant substantive differences between the two justice systems regarding asset forfeiture, see Attachment B.

Perhaps some of that confusion may flow from the fact that the District Attorney has two separate asset forfeiture accounts long ago set up for the DA by a former county auditor. One to account for forfeited assets obtained pursuant to federal law and the other to account for forfeited assets obtained pursuant to state law and Superior Court proceedings. These accounts are separate from one another and never comingled because different laws and rules apply to one and not the other. Because it is so little and different rules apply, the District Attorney has never sought to use forfeited cash assets obtained pursuant to federal law. The lion's share of forfeited cash assets controlled by the District Attorney were obtained pursuant to state law and Superior Court proceedings.³⁰ **All of the asset forfeiture expenditures reviewed by the auditors involved state law cash assets. None involved cash or personal property assets received pursuant to federal law.**

Finally, it remains unclear whether the state auditors have gone rogue and are suggesting or implying that the Board seek to limit the discretionary authority and/or the constitutional independence of the Office of the District Attorney. With that question still an open query, it is better to be safe than sorry, especially since the state auditors made no mention of Government Code section 25303. In short, section 25303 protects the independence of the district attorney in performing core law-enforcement and prosecutorial functions, while allowing board oversight over other county officers.

Following the seminal decision in *Hicks v. Orange County Board of Supervisors* (1977) 69 Cal.App.3d 228, Government Code section 25303 was amended to read, in pertinent part:

²⁹ When an attorney refers to a legal principle as "hornbook law," that is legal shorthand that the legal principle is a basic, well-established, widely accepted legal principle -- essentially Legal 101. The phrase comes from "hornbooks," which are simple, introductory legal texts traditionally used by law students to learn foundational doctrines.

³⁰ The federally obtained cash assets on account for the District Attorney constitutes only 2% of the overall cash assets held in the two DA separate AF accounts if they were added together, while the state law cash assets constitute the remaining 98% of the 100% if the two accounts were added together for the sake of argument.

This section shall not be construed to affect the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the sheriff and district attorney of a county. The board of supervisors shall not obstruct the investigative function of the sheriff of the county nor shall it obstruct the investigative and prosecutorial function of the district attorney of a county.

At least a partial answer to the question of what constitutes a district attorney's core law-enforcement and prosecutorial functions has already been provided. Beginning with *Pitts v. County of Kern* (1998) 17 Cal.4th 340, subsequent caselaw has cited *Pitts* for the proposition that training staff and developing prosecution policy are part and parcel of the DA's core prosecutorial function and, in *Pitts*, those core functions were characterized as the DA's "state function." As already noted, there is also statutory authority supporting a DA's broad discretion to engage in programs to "improve the administration of justice," which can include training and staff development. The relevant statute in this regard is, again, Government Code § 26500.5, which authorizes the district attorney to "sponsor, supervise, or participate in any project or program to improve the administration of justice."

Moving past the legal justification for the offsite³¹ training, a secondary question may be asked as to why the DA's End-of-the-Year Debriefing and Training take place outside of business hours at an offsite restaurant? Here's the answers:

- There is no onsite location under the DA's control during business hours that will comfortably fit the number of employees and others who should attend (~ 65).
- Even if there were an available and properly sized venue available during work hours, it is literally impossible to pull all DA employees during work hours from their courtroom responsibilities, criminal investigations, and office duties, when those responsibilities and duties often cause the majority of the DA's employees to diligently work up to and often past 5 o'clock in the afternoon Monday through Friday and into the weekends.
- Rather than earn overtime during an offsite training/meeting that would be a hit on the county payroll of **\$6,722.58**, it had been agreed by those who are entitled to earn overtime to waive same if the training/meeting provided meals. This good faith agreement resulted in a net savings to the county payroll of **\$3,122.58**. This net payroll savings would be lost and expenses added for the cost of venue rental, equipment rental, set-up and clean-up if the training were to be held at an alternate venue.
- Spouses and significant others are invited because it has been learned from prior management training that including spouses and significant others whenever possible fosters a more inclusive

³¹ There have been periodic efforts to price out and consider other centrally-located restaurant venues but those other restaurant venues either did not have a room large enough, a kitchen and serving staff sufficient to handle the volume of meals that needed to be prepared and served, and/or had quoted a price significantly more than the cost of The Broiler, a law enforcement and cost-friendly restaurant in Redwood Valley with a room big enough and a staff of cooks and servers of sufficient size to handle the number of attendees.

and positive work environment, promoting a sense of family and community within the organization. It helps partners better understand what their DA employee's public safety responsibilities are at work and the interplay between different operational units, the public investment being made in their partner, and background information to better understand why there may be more than average stress or anxiety that comes home with the partner after a hard day, week, or month at the office.³²

- There has always been an agenda prepared to document the topics covered (provided in the documentation submitted to the county auditor), the names of those in attendance, and the room/meal invoice.
- The District Attorney was the meeting coordinator and legal trainer. He has been called on in the past by CDAA to serve as a legal instructor at a conference in Anaheim on upcoming new laws and how to survive their implementation. He presented the prior calendar year goals and whether those goals were achieved, the new year's goals and in-house plans to achieve same, office and court problems that were overcome the prior calendar year, a summary of new criminal justice legislation and how the staff should plan to handle same. County service pins (rarely picked up by DA employees at the Board due to work obligations) were announced and handed out. Statistics on filings, trials, and other metrics were discussed. Questions on policies and other legal issues were asked and answered. In the past, changes in office assignments were disclosed and discussed.
- Unit leads were called on to present their views on the health and well-being of their particular unit, special notices and recognition, and security/safety information.

Concluding Statement

The Mendocino County District Attorney's Office, as a constitutionally established entity under Article XI of the California Constitution and pursuant to Government Code sections 24000 and 26500 et seq., has demonstrated compliance with all applicable statutory and regulatory mandates governing its financial operations governed by Constitutional principles and applicable state law. While there are disagreements noted by both the state auditors and the District Attorney as to state law relating to state asset forfeiture, the recent audit nevertheless confirmed the absence of waste, fraud, abuse, or mismanagement in taxpayer-funded monies. As emphasized in the audit's own findings, no improper payroll practices, financial irregularities, or personal enrichment by District Attorney staff were uncovered, and all transactions were supported by at least some degree of documentation. All transactions passed through appropriate internal protocols and then were submitted to the county auditor for final approval and payment. All transactions submitted to the county auditor by the DA's staff were eventually paid, which were appropriate outcomes under all applicable laws.

³² As an aside and perhaps as food for local budgeting thought, it has been shared with us that the Sonoma County DA and other units of Sonoma County each receives significant monies annually from the Board spend on office teambuilding. While the Mendocino County DA's training in questions had earmarks of teambuilding, it was legally far more than that.

All points of contention identified by the state auditors seem to relate solely to the DA's lawful and community-based use of asset forfeiture funds, which remain within the prosecution core functions and discretion afforded to elected district attorneys statewide pursuant to California's asset forfeiture laws.

Accordingly, the District Attorney reaffirms his commitment to maintaining rigorous internal controls, safeguard public resources, and exercise prosecutorial independence and discretion consistent with constitutional separation of powers. The District Attorney and his staff will continue to evaluate the audit's recommendations, implement improvements where appropriate, and ensure that all financial and operational practices remain firmly within the bounds of law, legislative intent, and the overarching duty to promote justice and public safety in Mendocino County.

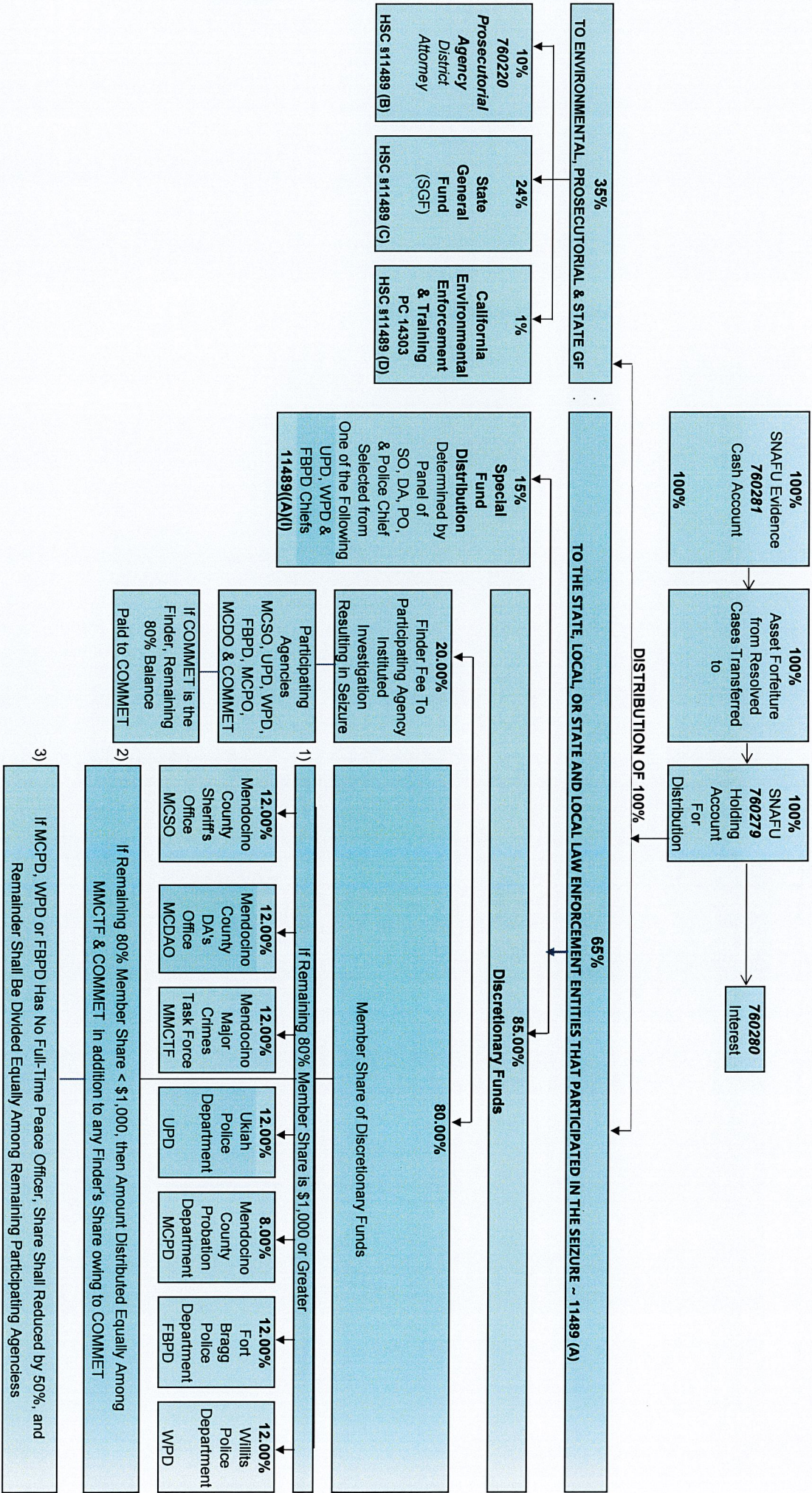
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Attachment A

ASSET FORFEITURE DISTRIBUTION FLOW CHART 2024-2029
California Code, Health and Safety Code - HSC 11489



Attachment B

California vs. Federal Asset Forfeiture: Side-by-Side Comparison

Category	California Law	Federal Law
Conviction Requirement	Criminal conviction required for most forfeitures involving cash under \$40,000, vehicles, boats, homes, and other personal property (except major trafficking or certain narcotics-related exceptions).	No criminal conviction required. Civil forfeiture can proceed independently of any criminal charge.
Burden of Proof	Uses beyond a reasonable doubt if tied to a criminal conviction; otherwise clear and convincing evidence for contested civil cases.	Preponderance of the evidence (a lower standard). Government only needs to show property is <i>more likely than not</i> linked to a crime.
Equitable Sharing (Federal Partnership for Seizures)	Restricted by SB 443 (2016) : CA agencies cannot receive federal equitable-sharing money unless the forfeiture is conviction-based. Designed to stop circumvention of state protections.	Federal agencies (DEA, DOJ, etc.) allow local police to seize property and receive up to 80% of the proceeds even where state law is stricter.
Use of Forfeiture Revenue	Revenue use is regulated in regards that revenue cannot influence policing decisions , and officer/prosecutor pay cannot depend on forfeiture amounts. Otherwise, subject to	Federal agencies keep the proceeds and can use them directly for operations, equipment, and salaries indirectly, creating strong financial incentives.
Cash Thresholds	Cash under \$40,000 generally requires a conviction to forfeit (SB 443).	No such threshold; any amount of cash can be forfeited with no conviction.
Procedure Type	California allows criminal forfeiture and limited civil forfeiture , but civil forfeiture is restricted.	Federal government aggressively uses civil forfeiture , often without charging the property owner.
Innocent Owner Protections	Stronger protections: government must often prove owner consented or was aware of wrongdoing. Burden generally falls on the prosecution.	Weaker: often the owner bears the burden of proving innocence to get property back.
Due Process & Notice Requirements	California has additional procedural safeguards: notice, timelines, and court review requirements that are stricter than federal rules.	Less protective: notice timelines exist but are more flexible and less protective of the property owner.

Category	California Law	Federal Law
Profit Incentives / “Policing for Profit” Restrictions	Explicit statutory intent: law enforcement is not to be guided by revenue motives . Salaries cannot be tied to forfeiture revenue.	Federal agencies have strong profit incentives , since forfeiture revenue goes directly to the agency’s budget.
Judicial Oversight	Greater oversight. CA statutes require judicial approval for many seizures and forfeitures.	Federal agencies can process many civil forfeitures administratively without ever going to court unless owners contest.
Protection Against Federal End-Runs	SB 443 prevents CA police from transferring seizures to federal agencies solely to bypass state conviction requirements.	Federal equitable sharing allows seizures even when they violate state-level protections (unless the state restricts participation, which California has).