



Legislation Details (With Text)

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File created: 1/5/2021 **In control:** Sheriff's Office
On agenda: 2/9/2021 **Final action:**
Title: Use of Asset Forfeiture Funds to Replace Sheriff's Mobile Command Center
Sponsors: Sheriff's Office
Indexes:
Attachments: 1. Summary Report.pdf, 2. Budget Resolution.pdf

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
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To: Board of Supervisors
Department or Agency Name(s): Sheriff's Office
Staff Name and Phone Number: Connie Newton, 565-8884
Vote Requirement: 4/5th
Supervisory District(s): Countywide

Title:
Use of Asset Forfeiture Funds to Replace Sheriff's Mobile Command Center

Recommended Action:

Adopt a budget resolution programming Sheriff's asset forfeiture special funds to replace the Sheriff's disaster response vehicle and update aged communications equipment at an estimated cost of \$750,000. Project expenditures will be fully offset with the Sheriff's accumulated asset forfeiture funds, eliminating any net cost impact to the County's General Fund. (4/5th Vote Required).

Executive Summary:

The Sheriff requests the Board adopt a budget resolution to use asset forfeiture funds to cover costs related to replacing the Sheriff's aging disaster response vehicle, the Mobile Command Center (MCC). This project also includes updating and modernizing the communications equipment in the MCC and accompanying satellite truck. These vehicles are used to conduct specialized operations in the field, such as disaster response, special operations, and critical crisis intervention response. The Sheriff proposes appropriating accumulated asset forfeiture funds to pay for this project, estimated to cost \$750,000.

Discussion:

Asset Forfeitures

According to the California District Attorneys Association, forfeiture is the government seizure of property that is illegally used or obtained, without compensating the owner. For the County unincorporated area, seized property, including cash, are held as property/evidence by the Sonoma County Sheriff's Office. Cash is held in interest bearing trust accounts while criminal cases are investigated and adjudicated. Through the criminal

justice process, a portion of forfeitures from any given seizure may eventually be forfeited to the County, under Federal or State asset forfeiture statute. Once forfeited, State and Federal agency asset forfeiture funds are then transferred to the Sonoma County Sheriff's Office and are held in three Sheriff's special revenue funds depending on the type of criminal case. In addition, the Sheriff's Office maintains a Trust fund for specific asset forfeiture funds, referred to as AB 114. This fund is governed by Health & Safety Code Section 11489(b)(2)(A)(i)(ii) and controlled by the AB 114 Panel. The Sheriff is the fiduciary agent for the fund and cannot access AB 114 funds for the Office's use without submitting a request to be considered by the AB 114 Panel and approved for funding.

Federal Funds (Dept. of Justice & US Treasury Funds)

Federal asset forfeiture funds are funds that have been seized through a national asset forfeiture program. Federal funds come to the Sheriff's Office as a result of seizures by Department of Justice investigative agencies and federal agencies participating in the Department of Justice Asset Forfeiture Program. These funds have been forfeited judicially or administratively to the United States by the United States Attorney's Offices or Forfeiture Program participants. No supplanting is allowed with these funds. Federal Asset Forfeitures shall be used to increase or supplement the resources by law enforcement agencies for law enforcement purposes only. Funds shall not be used to replace or supplant the appropriated resources of the recipient. The recipient agency must benefit directly from the sharing.

State Funds

State funds come into the Sheriff's Office through the District Attorney's Office. Funds forfeited under California Asset Forfeiture Statutes are considered State funds as the subject property is taken under California forfeiture laws. The principle objective of State asset forfeiture funds is to fund law enforcement activities and needs. Permissible expenditures are less restricted than Federal Asset Forfeitures. However, California Health and Safety Code § 11489 cites that expenditures must align with law enforcement objectives and may not supplant existing budgetary funds. The legislative intent is that forfeiture proceeds should enhance law enforcement resources. Like the Federal funds, no supplanting is allowed with State funds.

Available Fund Balance

As of June 30, 2020, the total combined fund balance of the three asset forfeiture funds was \$2,921,098. Funds are held in three separate special funds, per asset forfeiture guidelines. These funds are the Federal DOJ Fund, the US Treasury Fund, and the State Asset Forfeiture Fund. The June 30, 2020 closing balance of the Federal DOJ Fund was \$1,389,553. Since 2011, the fund has received close to \$3.3 million in revenues. Of note, in FY 18-19, receipts totaling approximately \$1,060,000 were from the adjudication of an investigation that was completed in 2006. This delayed receipt demonstrates the instability and unpredictability of this revenue source. The June 30, 2020 closing balance of the US Treasury Fund was \$5,964. Since 2011, revenues have only consisted of the interest earned on the balance, totaling \$635 over the ten year period. The June 30, 2020 closing balance of the State Asset Forfeiture Fund was \$1,525,542. Since 2011, revenues have

totaled \$3,053,744. Based on the past three year's historical receipts, the State Asset Forfeiture fund is averaging \$62,104 in new revenue per year. There are six cases totaling \$539,302 pending case resolution and distribution by the District Attorney's Office.

In 2015, there were two sweeping regulatory changes that impacted the frequency and volume of the Sheriff's Office asset forfeitures. These changes included the legalization of marijuana in California and the Attorney General's change to prohibit the Federal Adoption of local cases. Legalization of marijuana significantly reduced the narcotics related asset forfeitures. The Attorney General's change eliminated the Sheriff's Office ability to partner with Federal authorities for the purpose of solving complex investigations by allowing Federal authorities to adopt local cases thereby turning them from local forfeitures to Federal forfeitures. Prior to 2015, this partnership generated a significant source of the Sheriff's asset forfeiture funds.

In part as a result of the legalization of marijuana and in light of deep County budget reductions, the Sheriff's Office eliminated its Narcotics Unit in FY 17-18. The Narcotics Unit focused on investigating drug crimes including marijuana, which typical involved substantial asset forfeiture activity. Since the elimination of the Unit, Sheriff's Office detectives are rarely able to conduct focused drug investigations, limiting the amount of advanced detective work that will be conducted with any particular narcotic case and further reducing the frequency of major investigations that lead to cases with asset volumes comparable to cases prior to 2015.

Budgetary Resolution

Generally, asset forfeiture funds are used when time sensitive, unbudgeted expenses arises. This has lessened the need to draw upon limited General Fund contingencies. In addition, the Sheriff has aimed to limit expenditures to one time projects that will not result in supplantation of County funds. Larger projects involving agreements with vendors/providers are subject to Board approval at the time of agreement execution, otherwise, funding has been approved through a budget resolution or as part of the County's annual budget adoption.

The Sheriff is requesting the Board approve a budgetary resolution adjusting the Sheriff's Office FY 20-21 Adopted Budget. If approved, the Resolution will appropriate \$750,000 of the nearly \$3,000,000 accumulated asset forfeiture funds to finance the Sheriff's replacement and modernization of the Mobile Command Center and Satellite Truck.

In coordination with the County's Department of Emergency Management, the Sheriff obtained the mobile command center (MCC) through a Homeland Security grant program. The vehicle was registered and put into service in 2006. This vehicle holds and is able to transport all of the equipment (primarily telecommunications equipment and electronics) necessary to conduct specialized operations in the field including disaster response, special operations, and critical crisis intervention response. Additionally, in the event of an emergency which resulted in our inability to access the Sheriff's and REDCOM's dispatch center, the MCC can potentially be used for continuity of operations for emergency dispatch services. Staff in the mobile command center have audio and visual capabilities, allowing them to better communicate with officers and staff deployed to a scene increasing overall situational awareness of the event. Typically, the MCC is deployed with the satellite truck to provide a standard level of connectivity to vital communications networks necessary to

operate a MCC.

Both the MCC and the satellite truck require updates and/or upgrades in computer and radio communications equipment as a result of the aging, non-supported equipment, as well as the advances in technology since 2006. These upgrades will require changes to the physical space within the MCC. The MCC physical space includes three separate working environments: communications (dispatch), command (operations), and a conference area designed for crisis intervention. Updates to the physical space will afford more functional space, and allow for modernizing communication and computer equipment storage.

The MCC vehicle replacement is estimated to cost \$550,000. The communications and electronics upgrades will cost between \$100,000- \$200,000 depending on how much equipment can be reused and the labor necessary to install the equipment. The total not to exceed estimated cost for the full project is \$750,000.

Prior Board Actions:

- Asset Forfeiture funds are appropriated annually by the Board through the County's annual budget adoption process and through project specific Board actions.
- 11/14/14- Approved budgetary adjustment appropriating \$250,000 in asset forfeiture funds for body worn cameras.

FISCAL SUMMARY

| Expenditures | FY 20-21 Adopted | FY21-22 Projected | FY 22-23 Projected |
|------------------------------------|---------------------|----------------------|-----------------------|
| Budgeted Expenses | | | |
| Additional Appropriation Requested | \$750, 000 | | |
| Total Expenditures | \$750,000 | | |
| Funding Sources | | | |
| General Fund/WA GF | | | |
| State/Federal | | | |
| Fees/Other | | | |
| Use of Fund Balance | \$750,000 | | |
| Contingencies | | | |
| Total Sources | \$750,000 | | |

Narrative Explanation of Fiscal Impacts:

The proposed budgetary resolution programs \$750,000 of available asset forfeiture fund balance (\$2,921,098) to the Sheriff's FY 20-21 Adopted Budget to fund critical law enforcement needs by replacing the Mobile Command Center and updating the electronics and communication equipment in both the Mobile Command Center and the accompanying satellite truck (\$750,000). Approval of this Board Item will leave an aggregate remaining asset forfeiture fund balance of \$2,171,098.

Staffing Impacts:

| Position Title (Payroll Classification) | Monthly Salary Range (A-I Step) | Additions (Number) | Deletions (Number) |
|-----------------------------------------|------------------------------------|-----------------------|-----------------------|
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Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

1. Budgetary Resolution

Related Items "On File" with the Clerk of the Board:

N/A