



Legislation Text

File #: 2022-0914, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Sheriff's Office

Staff Name and Phone Number: Marta Llamas, 565-3928

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

Annual Federal Equitable Sharing Agreement and Certification with the U.S. Department of Justice and the U.S. Treasury.

Recommended Action:

Authorize the Chairperson of the Board of Supervisors to execute an annual Federal Equitable Sharing Agreement and Certification with the U.S. Department of Justice and the U.S. Treasury, as timely annual reporting ensures eligibility for future funding derived from forfeited assets.

Executive Summary:

Upon execution of the Agreement and certification, the Sheriff's Office will be authorized to continue to participate in the Department of Justice Equitable Sharing Program. Through this program, the Department of Justice distributes an equitable share of forfeited property and proceeds to participating state and local law enforcement agencies that directly participate in an investigation or prosecution that result in a federal forfeiture. For example, if the Sheriff's Office investigates a narcotics trafficking case that is prosecuted federally, the Sheriff's Office will receive a proportionate share of any forfeited assets from the case.

Each year, the Sheriff's Office must submit an agreement and certification within 60 days of the close of its fiscal year. The Sheriff's Office must report all equitably shared funds received during the last fiscal year and how those funds were spent.

Discussion:

The action requested of your Board is an annual activity required since 1997. It allows the Sheriff's Office, when working with federal agencies to enforce federal criminal laws, to receive the County's equitable share of federal asset forfeiture proceeds. The U.S. Department of Justice and Treasury requires the Chairperson of the Board of Supervisors to execute an annual Federal Equitable Sharing Agreement and Certification that confirms the proceeds received are allocated as required by federal statutes and regulations established by the U.S. Department of Justice and Treasury. The Agreement sets forth the statutory and regulatory requirements for participating in the program, and the restrictions upon the use of federally forfeited case property, proceeds, and any interest earned. All shared assets are required to be used only for law enforcement purposes. Backfilling locally funded programs with the County's share of forfeitures is not allowed.

These laws and regulations require that:

1. Forfeited funds or property must be kept separate from state or other forfeitures.
2. A federal Equitable Sharing Agreement and Certification be filed annually with both agencies.
3. A record shall be maintained of the funds or property and any expenditures; and
4. Funds exceeding \$100,000 shall be audited annually.

The Sheriff's Office complies with all of the above listed laws and regulations. These funds are audited annually as part of the Single Audit of Federal Funds, which is performed by the Sonoma County Auditor-Controller-Treasurer-Tax Collector's Office.

The forfeited proceeds received through the Equitable Sharing Agreement vary greatly year to year (from \$0 to several hundred thousand) as the receipt of funds are based on the resolution of specific court cases.

Equitable shares allocated to a law enforcement agency such as the Sheriff's Office must bear a reasonable relationship to the agency's direct participation in the investigation or law enforcement effort resulting in the forfeiture. The U.S. Department of Justice ordinarily determines equitable shares by comparing the number of work hours expended by each agency participating in the seizure. Where the work hours alone do not reflect the contribution of a law enforcement agency, the U.S. Department of Justice considers qualitative factors in making a sharing allocation. When received, monies are placed into special asset forfeiture funds and must be used for law enforcement purposes only.

The Sheriff's Office received \$0 in federally forfeited funds during the FY 2021-2022. For the fiscal year end 2021-2022 the fund balances in the Department of Justice and the Treasury special funds are \$580,314 and \$34,503 respectively. Funds are held in two separate Special Revenue Funds as prescribed by the Guide to Equitable Sharing for State and Local Law Enforcement Agencies. Funds in the amount of \$631,614 were spent for the replacement of the mobile command center and \$177,386 for a project to bring Sheriff's radios in compliance with the State Department of Justice's encryption requirements and to improve interoperability functionality during the FY 21-22 reporting year.

Due to the unpredictable nature of revenue receipts, consistent with permitted uses, the Sheriff's Office usually recommends these funds be used for critical one-time projects. Expenditure appropriations in asset forfeiture special funds are approved by the Board either through the Board's annual budget adoption process or through a separate Board Item, depending on the timing of the project requiring funding. Past examples include the computer aided dispatch (CAD) system, security enhancements for the property\evidence storage annex, the purchase of an oceangoing coastal patrol vessel, coastal resident deputy housing, build-out of Sheriff's main office shell space to reduce reliance on leased office space, and body worn cameras for Patrol deputies. For FY 22-23, \$200,000 of DOJ funds are budgeted for continuation of the State Department of Justice's encryption project, which will restrict the transmission of criminal justice information. In addition, \$8,000 is appropriated for a non-Peace Officers Standards and Training reimbursable executive management team building workshop.

In January 2015, the Attorney General announced that the Justice Department was taking an important step to

prohibit federal agency adoptions of state and local seizures. This major state policy change to asset seizures has negatively impacted the level of proceeds that are distributed to local law enforcement which has resulted in fewer dollars coming to the County regardless of our level of investigation participation.

The Certification Report included with the Agreement requires an electronic signature by the Agency Head (the Sheriff) and the Governing Body Head (the Chair of the Board) to certify under penalty of perjury that the County understands its obligations under the Agreement and 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 Certification and has recommended that a letter accompany the Certification stating that it is being signed with the understanding that it is a *pro forma* document which does not require either the Sheriff or the Chair of the Board to personally verify the matters being certified.

Strategic Plan:

N/A

Prior Board Actions:

Board approval for the Federal Equitable Sharing Agreements and Annual Certification Reports for the past 24 years (1997 through 2021), most recently August 24, 2021.

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses	\$200,000		
Additional Appropriation Requested			
Total Expenditures	\$200,000		
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	\$200,000		
Use of Fund Balance			
Contingencies			
Total Sources	\$200,000		

Narrative Explanation of Fiscal Impacts:

Action on the Equitable Sharing Agreement does not have a direct fiscal impact to the current fiscal year budget. The Agreement allows the Sheriff's Office to participate in the Federal Equitable Sharing Program which may result in unanticipated revenue for the County.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Equitable Sharing Agreement and Certification

Accompanying Cover Letter

Related Items “On File” with the Clerk of the Board:

N/A