



A Tradition of Stewardship  
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Agenda Date: 2/27/2018

Agenda Placement: 6B

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Kim Henderson for JOHN ROBERTSON JR. - Sheriff - Coroner  
Special Investigations Unit  
**REPORT BY:** Kim Henderson, Sheriff's Administrative Manager - 259-8674  
**SUBJECT:** Distribution of Asset Forfeiture Funds

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### **RECOMMENDATION**

Napa Special Investigations Bureau (NSIB) Governing Board requests approval of a distribution totaling \$141,576 from funds held in the Napa Special Investigations Bureau Asset Forfeiture Trust account to various law enforcement agencies in accordance with the NSIB bylaws for future equipment purchases.

### **EXECUTIVE SUMMARY**

According to California Asset Forfeiture laws, funds that have been forfeited are held in a trust account until distribution is approved by the Napa Special Investigations Bureau Governing Board. This action approves the Fiscal Year 2017-2018 distribution of Asset Forfeiture funds to various law enforcement agencies for future equipment purchases.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Asset Forfeiture Trust Fund. Fund 3650, Subdivision 23800, Program 61141.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Asset Forfeiture funds must be distributed according to State law. The Napa Special Investigations Bureau (NSIB) Governing Board has adopted bylaws that describe the distribution of assets seized during law enforcement

activities. These funds must be distributed to law enforcement agencies that participate in NSIB activities.

Is the general fund affected? No

Future fiscal impact: None.

Consequences if not approved: If this item is not approved, local law enforcement agencies will not receive the share of Asset Forfeiture funds they are entitled to per the bylaws of the NSIB Governing Board.

Additional Information:

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulation 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Section 11489 of the Health and Safety Code defines the distribution process in cases where property is seized and forfeited to the State of California or a local governmental entity. In the County of Napa, when a subject is booked on charges and property is seized, funds are deposited to a Trust Account under the subject's name. The funds remain in Trust until the case is adjudicated or dismissed. If the case is dismissed, funds are returned to the individual. If the case results in a conviction, the District Attorney's Office posts public notices seeking public interest in the forfeited funds. When the distribution of forfeiture order is complete and the cost incurred by the sale or storage of the property has been reimbursed, the District Attorney notifies the Auditor-Controller that the Trust Account should be closed and all remaining funds be distributed.

Funds held are distributed per Section 11489 of the Health and Safety Code as follows:

- I 65% to the state, local or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency. In Napa County, the Napa Special Investigations Bureau (NSIB) is the agency that typically seizes property. Section 11495 of the Health and Safety Code requires that funds received by law enforcement agencies shall be deposited into an account maintained by the Auditor-Controller and distributed to the law enforcement agency at their request. Since NSIB is composed of several law enforcement agencies, the NSIB bylaws dictate that the funds held in this special account shall be disbursed at the end of each fiscal year and according to the agreed upon percentages. If funds are allocated to Napa County law enforcement agencies (i.e. Probation, Sheriff), those funds are transferred to separate Trust Accounts under the Department's name and held there until the Department requests disbursement. The Health and Safety Code also requires 15% of the 65% (or 9.75% of the grand total of funds) be deposited into a special account that is to be used to fund programs designed to combat drug abuse and divert gang activity. The actual distribution of these special funds is to be determined by a panel consisting of the Sheriff, a police chief selected by the other chiefs in the county, the District Attorney and the Chief Probation Officer. The Auditor-Controller's Office deposits 55.25% of the funds into the NSIB Trust Account for distribution to agencies participating in NSIB per the Governing Board's bylaws and 9.75% of the funds to the NSIB Community Service Trust Account to meet the legal requirement of allocating 15% of the 65% distributed to the law enforcement agency participating in the seizure for programs designed to combat drug abuse and divert gang activity.
- I 10% to the prosecutorial agency which processes the forfeiture action.

- | 24% to the California State General Fund. The State is required to make a portion of the funds collected from all Counties available for school safety and security, upon appropriation by the Legislature.
- | 1% to a private nonprofit organization composed of local prosecutors which shall use these funds for the exclusive purpose of providing a statewide program of education and training for prosecutors and law enforcement officers in ethics and the proper use of laws permitting the seizure and forfeiture of assets. The nonprofit currently functioning in this capacity is the California District Attorney's Association.

Any interest earned while funds are held in trust are distributed according to the percentages listed in Section 11489 of the Health and Safety Code.

The Napa Special Investigations Bureau (NSIB) Governing Board requests distribution of asset forfeiture funds and interest held in trust in the amount of \$141,576 to be distributed as follows per the NSIB bylaws:

1. Napa Sheriff's Department Asset Forfeiture Special Revenue Fund- \$55,923 (39.5%)
2. Napa Police Department- \$55,923 (39.5%)
3. St. Helena Police Department-\$11,326 (8%)
4. Calistoga Police Department-\$11,326 (8%)
5. Napa Probation Department Asset Forfeiture Special Revenue Fund - \$7,078 (5%)

The NSIB Governing Board approved the request for the distribution of these funds at the January 25, 2018 meeting.

#### **SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Leigh Sharp