Legislation Text

File #: 19-1398, **Version:** 1

DATE: November 5, 2019

TO: Board of Supervisors

SUBMITTED BY: Kirk Haynes, Chief Probation Officer

SUBJECT: Amended Equitable Sharing Agreement and Annual Certification Report with the Federal Government for the Probation Department to participate in the Federal Equitable Sharing Program

RECOMMENDED ACTION(S):

1. **Approve and authorize the Chairman to execute an amended Equitable Sharing Agreement and Certification with the Federal Government authorizing the Probation Department to participate in the Federal Equitable Sharing Program from September 1, 2019 through August 31, 2020, and certifying as to funds received and expended during FY 2018-19; and**
2. **Authorize the Chief Probation Officer to submit the amended Equitable Sharing Agreement and Certification and any and all "Application for Transfer of Federally Forfeited Property (Form DAG-71)," and other required documents, as appropriate, and authorize the Chief Probation Officer to designate a department employee to accept forfeited property, transfer documents, and/or receive money.**

There is no Net County Cost associated with the recommended actions, which will allow the Probation Department to participate in Federal asset forfeiture cases. Your Board approved and authorized the Chairman to sign the Equitable Sharing Agreement and Certification on August 20, 2019. An amended certification is required due to revenue received in July 2019 for FY 2018-19 that was not included in the original certification approved by your Board. The recommended actions will approve the amended form showing the additional revenue. The submission of the annual Equitable Sharing Agreement and Certification is a requirement to participate in the Federal Equity Sharing program. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended actions are not approved, the Probation Department will lose these Federal asset forfeiture funds, for which they would have been eligible if the Equitable Sharing Agreement and Certification were amended.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. The amended Agreement allows the Probation Department to participate in Federal asset forfeiture cases, and the certification is an accounting of federal monies received and expended during FY 2018-19. A total of approximately $21,011 in Federal asset forfeiture funds were received during FY 2018-19. The beginning fund balance as of July 1, 2018 was approximately $35,496, and $764 in interest was earned in FY 2018-19 in the Federal Asset Forfeiture Special Revenue Fund. On May 7, 2019, your Board approved the use of $42,000 in Federal Asset Forfeiture funds for the purchase of a replacement K-9 officer vehicle. The $42,000 funded the difference between a standard police vehicle and a Tahoe Identifier that included the necessary upgrades for the K9 Unit. The balance in Federal Asset Forfeiture funds as of June 30, 2019 is approximately $15,271.

DISCUSSION:

In order for the County of Fresno to receive a share of asset forfeitures, as a result of the Probation Department's involvement in an arrest and confiscation of property/cash in accordance with asset forfeiture laws, an executed Federal Equitable Sharing Agreement and Certification must be on file with the Federal Government. The previous Equitable Sharing Agreement and Certification was approved by your Board on August 21, 2018. The Federal Equitable Sharing Agreement sets forth the requirements for participation in the Federal Equitable Sharing Program, and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned, which are equitably shared with the participating law enforcement agencies. Your Board approved and authorized the Chairman to sign the Equitable Sharing Agreement on August 20, 2019. An amended certification is required due to revenue received in July 2019 for FY 2018-19 that was not included in the original certification approved by your Board.

Shared funds must be used to increase or supplement the resources of the receiving state or local law enforcement agency. Shared resources shall not be used to replace or supplant the resources of the state or local law enforcement agency.

The annual Equitable Sharing Agreement and Certification report is a requirement to participate in the program. Additionally, the Department of Justice requires that state and local law enforcement agencies requesting an equitable share of proceeds, complete and electronically submit an Application for Transfer of Federally Forfeited Property (Form DAG-71) within 45 days of the seizure. The field office will make a recommendation on the agency's sharing percentage based upon the information reported on this form. These percentages are ultimately approved by either the seizing agency headquarters, U.S. Attorney's Office, or the Criminal Division.

During FY 2018-19, the Probation Department did participate in search and seizure operations. A total of $21,011 in Federal Asset Forfeiture funds were received in FY 2018-19. The Affidavit certifies that the Agency Head, Chief Probation Officer and the Governing Body Head (Chair of the Board of Supervisors) have read and understand their obligations under the Equitable Sharing Agreement, that the information submitted in conjunction with the document is an accurate accounting of funds received/spent by the Agency under the Justice and/or Treasury Guidelines during the reporting period, and the recipient Agency is in compliance with the National Code of Professional Conduct for Asset Forfeiture. This includes certifying that the recipient Agency (Probation) is in compliance with the nondiscrimination requirements of the laws cited therein, which prohibit discrimination based on race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. It also certifies that the Probation Department has not suffered an adverse finding on claims that the Agency has violated the discrimination statutes, or entered into a settlement of such claims.

Approval of the recommended actions will allow the Probation Department to continue to participate in Federal asset forfeiture cases, ensure that the forms submitted by the Department are accurate and reflect all the funds received by the Department, and will allow the Department to submit the required forms in the event of an asset seizure.

REFERENCE MATERIAL:
BAI #32, August 20, 2019
BAI #56, May 7, 2019
BAI # 33.1, August 21, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:
On file with Clerk - Equitable Sharing Agreement and Certification

CAO ANALYST:
Samantha Buck