

# Memo

**To:** Honorable Barry T. LaBarbera, Presiding Judge  
San Luis Obispo County Superior Court

**From:** Gerald T. Shea, District Attorney

**Date:** July 30, 2012

**Re:** Response to Grand Jury Report entitled, "A Vital Function of the  
Judicial System: Law Enforcement Property and Evidence Rooms"

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Our office is in receipt of the above Grand Jury report dated June 5, 2012 regarding law enforcement property rooms. This memorandum is in response to Findings 13 and 14 and Recommendations 7 and 8 of that report.

1) Pursuant to California Penal Code Section 933.05(a)(1), the District Attorney's Office disagrees in part with Finding 13. Prior to the Grand Jury's report, our office had in place a medical marijuana retention/destruction policy, implemented via a memorandum of understanding with the Sheriff's Office and with the San Luis Obispo Police Department. However, our office also believes that Finding 13 is helpful in that full implementation of such a policy with all county law enforcement, along with the implementation of a general evidence retention/destruction policy countywide, would be beneficial in meeting the ends of justice.

As to Recommendation 7, its implementation had been begun prior to the issuance of this report, and will be completed in the near future. In particular, in March of 2012, the Sheriff, in conjunction with the District Attorney's Office, and with the support of all the police chiefs launched a process to develop a countywide evidence destruction/retention policy. This process will result in a formal, written property evidence retention/destruction policy for seized evidence other than marijuana.

2) Pursuant to California Penal Code Section 933.05(a)(2), the District Attorney's Office disagrees in part with Finding 14.

As noted above, there exists a formal written District Attorney medical marijuana retention/destruction policy, implemented through a memorandum of understanding with the Sheriff's Department and with the San Luis Obispo Police Department, the two largest law enforcement agencies in the county. Meetings are being conducted with the other city police departments in the county and with their respective city attorneys to finalize similar memoranda of understanding with those departments, as well.

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I would note that requests for retention/destruction of seized marijuana submitted by all law enforcement agencies are currently being processed by our office with no existing backlog.

With regard to Recommendation 8, the recommendation has been implemented since the District Attorney's Office does already have liaisons with each law enforcement agency consisting of both Deputy District Attorneys and District Attorney Investigators. Certainly, with the adoption of a countywide evidence retention/destruction policy, these liaisons will assist agencies with respect to evidence retention/destruction laws and procedures.

We wish to thank the Grand Jury for its analysis of these issues.