



OFFICE OF CRIMINAL JUSTICE PLANNING

Providing Support to Criminal Justice Agencies,
Victim Service Organizations, and Crime Prevention
Programs.



**GEORGE DEUKMEJIAN
GOVERNOR**

MAJOR NARCOTIC VENDORS PROSECUTION PROGRAM

Annual Report To The Legislature
January 1987

105430

State of California
GEORGE DEUKMEJIAN
Governor



Office of Criminal Justice Planning

G. Albert Howenstein, Jr.
Executive Director

G. Kevin Carruth
Deputy Director

Joan Kawada Chan
Deputy Director

105430

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
**California Office of Criminal
Justice Planning**

to the National Criminal Justice Reference Service (NCJRS)

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

OFFICE OF CRIMINAL JUSTICE PLANNING
OFFICE OF THE DIRECTOR
1130 K STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814



CALIFORNIA MAJOR NARCOTIC VENDORS PROSECUTION PROGRAM

ANNUAL REPORT

FOREWORD

The California Major Narcotic Vendors Prosecution (MNVP) Program demonstrates the commitment of Governor George Deukmejian and the California Legislature to support intensified efforts by district attorneys' offices to prosecute producers and sellers of narcotics and dangerous drugs.

The MNVP Program funds specialized prosecution units in fourteen district attorneys' offices. These units consist of experienced prosecutors and investigators who employ proven techniques in major drug cases, which include vertical prosecution, resisting the pretrial-release of a defendant, reducing trial delays, and attempting to secure the most severe authorized sentence on convicted defendants.

The following report details the activities and accomplishments of the MNVP Program as administered by the Office of Criminal Justice Planning in accordance with Chapter 1424, Statutes of 1984.

Requests for additional copies of this report or questions concerning this program should be directed to the Crime Suppression Division at (916) 324-9100.

A handwritten signature in cursive script, reading "G. Albert Howenstein, Jr.".

G. ALBERT HOWENSTEIN, JR.
Executive Director

GAH:SS:jmf

NCJRS

JUN 12 1987

ACQUISITIONS

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND BACKGROUND	
A. Introduction.....	1
B. Background.....	2
II. PROGRAM DESCRIPTION	
A. Program Goal.....	2
B. Crime Categories.....	3
C. Defendant Characteristics.....	4
D. Prosecutorial Discretion.....	4
E. Program Components.....	5
III. PROGRAM ACCOMPLISHMENTS	
A. Evaluation Methodology.....	6
B. Project Activities.....	7
C. Objective Achievement.....	8
D. Selected Site Achievement.....	11
IV. RECOMMENDATION.....	20
V. Appendices	
Chapter 1424, Statutes of 1984.....	A
Chapter 1563, Statutes of 1985.....	B

CALIFORNIA MAJOR NARCOTIC VENDORS PROSECUTION PROGRAM

ANNUAL REPORT

I. INTRODUCTION AND BACKGROUND

A. Introduction

The California Major Narcotic Vendors Prosecution (MNVP) Program commenced with the passage of Senate Bill (SB) 1982, Chapter 1424, Statutes of 1984 (Appendix A). In 1984, the Legislature recognized that the production and sale of narcotics was an ever increasing problem because of the substantial profits derived from illegal narcotic activities. The threat to public welfare and safety was also recognized, because a disproportionate amount of serious crime was associated with the cultivation, manufacturing and sale of narcotics.

The MNVP Program was designed to intensify prosecution efforts which target the producers and sellers of narcotics and dangerous drugs and was developed in consultation with with the California Council on Criminal Justice (CCCJ). This report describes the operation and results of the MNVP Program. The enabling legislation specified that the annual report assess all fiscal and workload burdens imposed by the MNVP Program upon the local public defenders office. However, in the FY 85/86 Budget Act funds were appropriated to OCJP to implement the Vertical Defense for Indigents (VDI) Program. This funding enables public defenders to vertically represent defendants in cases vertically prosecuted by the MNVP Program. Since the VDI Program will evaluate the effectiveness of their effort, this has not been addressed in this report.

B. Background

The MNVP Program was modeled after the Career Criminal Prosecution (CCP) Program, a successful special emphasis program administered by the Office of Criminal Justice Planning (OCJP). Program operations began on February 1, 1985, when twelve district attorneys' offices received MNVP Program funding. \$1,425,000 in local assistance grants supported program operations in Alameda, Humboldt, Kern, Los Angeles, Mendocino, Orange, Riverside, Sacramento, San Diego, Santa Clara, Santa Cruz, and Ventura Counties. In October 1985, additional MNVP project sites in Butte and Trinity Counties were added to the program with the passage of SB 1139, Chapter 1563, Statutes of 1985 (Appendix B). These programs were fully operational by May 1, 1986.

II. PROGRAM DESCRIPTION

A. Program Goal

The goal of the program is to support increased efforts by district attorneys' offices to prosecute dangerous drug producers and sellers through organizational and operational techniques that have been proven effective. This goal is being achieved through the use of specialized case management policies and procedures which are described in Section II E of this report. These policies and procedures constitute the basic components of the MNVP Program.

B. Crime Categories

The MNVP Program statute and Program Guidelines set forth the specific categories of crimes which can be prosecuted by MNVP projects. These crime categories target individuals who are under arrest for any of the following Health and Safety (H&S) Code violations:

1. 11351 H&S - Possession for sale of designated controlled substances;
2. 11352 H&S - Transportation, sale, giving away, etc., of designated controlled substances;
3. 11358 H&S - Unauthorized cultivation, harvesting or processing of a controlled substance;
4. 11378 H&S - Possession for sale of non-narcotic controlled substances;
5. 11378.5 H&S - Possession for sale of phencyclidine;
6. 11379 H&S - Transportation, sale, manufacture, etc. of non-narcotic controlled substances;
7. 11379.5 H&S - Transportation, sale, manufacture, etc. of phencyclidine (PCP); and
8. 11383 H&S - Possession with intent to manufacture methamphetamine, N-ethylamphetamine or phencyclidine.

Since 1984 legislation has modified sections of the H&S Code covering crimes relating to controlled substances. For example, in 1986 Section 11351 of the H&S Code was modified to include Section 11351.5, which increased the penalty for possession for sale of rock cocaine. OCJP has directed MNVP projects to prosecute individuals consistent

with the intent of the authorizing legislation. The MNVP Program Guidelines will be modified in 1987 to reflect legislative changes occurring since 1984 which affect the crime categories.

C. Defendant Characteristics

The Program Guidelines define certain defendant characteristics that qualify cases for prosecution under the MNVP Program. The defendant must be:

1. a financier of an illegal drug operation or deal;
2. a laboratory operator;
3. a wholesaler;
4. the head of a criminal organization involved in the sale or distribution of illegal drugs;
5. the head of a structured drug distribution organization;
6. a cultivator in a case involving illegal drugs;
7. a distributor in a case involving illegal drugs;
8. a retailer in a case involving illegal drugs; or
9. a key conspirator in a case involving illegal drugs.

D. Prosecutorial Discretion

A defendant is also subject to MNVP prosecution if, in the reasonable exercise of the prosecutor's discretion, extraordinary circumstances require the departure from these policies in order to promote the general purposes and intent of the MNVP Program.

E. Program Components

Enhanced prosecution efforts for major narcotic vendors include, but are not limited by, the following program components:

1. Vertical prosecution - One attorney prosecutes a case from the initial filing through sentencing.
2. Experienced prosecutors and investigators - Sites selected for funding use full-time, highly qualified MNVP investigators and attorneys. MNVP units are made up of attorneys and investigators with several years of criminal trial or investigative experience.
3. Reduced caseloads - MNVP attorneys and investigators must have significantly reduced caseloads compared to other felony trial attorneys and investigators. This gives the MNVP staff more time to investigate and prepare major drug cases accepted by the unit.
4. Resist pretrial release - MNVP units attempt to keep major drug suspects in custody as long as possible to discourage flight from prosecution and to discourage defendants from participating in additional illegal activities while on bail. Cases also tend to have fewer continuances and move through the criminal justice system faster when the defendant is incarcerated.
5. Impose the most severe authorized sentence - MNVP attorneys attempt to convince the court to impose the maximum penalty authorized by law on a convicted person.

6. Reduce trial delays - All reasonable prosecution efforts are made to reduce the time between the arrest and the disposition of charges against major drug suspects. With vertical prosecution, deputy district attorneys can become familiar with the case and knowledgeably oppose delaying tactics by the defense.

III. PROGRAM ACCOMPLISHMENTS

A. Evaluation Methodology

1. Data Collection

Each MNVP project regularly submits two reporting documents to OCJP: quarterly progress reports (QPRs), completed four times annually, and evaluation data forms (EDFs) for all completed cases. Data compiled for this report is from QPRs submitted by twelve of the fourteen MNVP projects. Butte and Trinity Counties are not included in the statistical compilations because these projects were implemented in mid-1986 and had little case data to report as of July 1, 1986. Data from both of these projects will be included in the next annual report. However, some highlights of these two projects are contained in Section III D.

2. Case Sampling

The EDFs submitted by three of the MNVP projects, Humboldt, Sacramento, and San Diego, for the period January 1, 1986 through June 30, 1986, were reviewed in detail to secure comprehensive information on specific MNVP defendant prosecutions. These counties were selected for the sample because they represent rural, medium and large jurisdictions. The jurisdictions also

represent California regions (north, south and central) and a full range of narcotic activities including cultivation of marijuana, the manufacture of illicit drugs, and smuggling.

The sample provides a data base of 296 cases, (44.8 percent) of the 660 new MNVP Program prosecutions. Of the 296 cases, 117 (39.5 percent) have been concluded and the remainder are open. Results of the program sample are used for discussions of all objectives and conviction data.

B. Project Activities

1. Case Handling

Using data submitted by twelve projects, MNVP unit attorneys reviewed a total of 964 cases and accepted 660 cases during the period July 1985 to June 1986. This equals an average yearly workload of 55 new cases for each MNVP unit and a 68.3 percent acceptance rate for cases referred to the units. MNVP units spend a substantial amount of time in reviewing cases referred to them by law enforcement agencies. The cases not accepted by the MNVP unit are prosecuted by other felony attorneys in the district attorney's office.

2. Convictions

MNVP attorneys in the sample counties completed prosecutions on 117 cases and 199 defendants. Sixty-seven defendants (34 percent) had their charges dismissed or they were acquitted. The remaining 132 defendants were convicted. This represents a total program

conviction rate of 66 percent. This is a good conviction rate: Unit deputies accept more challenging cases; co-defendants are often dismissed prior to conviction; and suspects need not be repeat offenders to qualify for MNVP unit prosecution.

C. Objective Achievement

1. Prosecute MNVP cases using vertical prosecution techniques.

Vertical prosecution is a key distinguishing characteristic of MNVP units. True vertical prosecution involves using a single attorney at the three major stages of a criminal trial: initial filing or arraignment, trial and sentencing. MNVP units also often utilize mixed-vertical prosecution (also known as team or unit prosecution), in which two attorneys handle the three major prosecution stages. For example, one attorney may handle the arraignment while another handles the trial and sentencing phases.

Of the 117 completed major narcotic cases in Humboldt, Sacramento and San Diego, 71 cases (60.7 percent) were prosecuted in either a true vertical or unit vertical fashion. Of this total 50 cases (42.7 percent) were prosecuted using true vertical prosecution and 21 cases (18 percent) were unit prosecutions. The remaining 46 cases (39.3 percent) were prosecuted non-vertically with more than two attorneys participating in the trial process. True vertical prosecution is a major component of this program. The achievement level of 42.7 percent true vertical is quite high considering most MNVP units have only one funded attorney. It is a priority,

however, for continuing projects to take steps to achieve an even higher level of true vertical prosecution.

2. Assign highly qualified attorneys and investigators to MNVP cases.

Most MNVP projects have been assigned senior attorneys and investigators with several years experience. At a minimum, the assigned attorneys are required to have one year felony trial experience. In addition to having experienced staff assigned, OCJP sponsors two training seminars each year to provide updates on legal and investigative issues. Other training attended by project personnel include the California District Attorney's Association Narcotic Prosecution Seminar, and training available through the California Narcotic Officer's Association, the Western States Information Network, and the California Department of Justice.

3. Demonstrate a significant reduction in the caseload for unit prosecutors and investigators.

The reduction in caseloads for all MNVP units continues to be significant. The average MNVP unit attorney has a monthly caseload of 21.6 prosecutions versus 39.5 prosecutions for other felony attorneys. This is a 45.3 percent reduction in the standard prosecution caseload. A reduced caseload allows MNVP attorneys to improved case preparation and coordinate more effectively with law enforcement.

4. Demonstrate that all reasonable prosecution efforts have been made to resist the pretrial release of a charged defendant.

MNVP unit attorneys commonly use two techniques to resist the pretrial release of a defendant. These are: Penal Code (PC) 1275, a motion to require the defendant to show a legitimate source for the money offered for bail; and PC 1269(c), a motion to request an increase over the county bail schedule. In 64.1 percent of the 117 sample cases one or both of these techniques were applied, and approximately half of these defendants remained in custody at the time of trial. This is significant because: bail in California is a constitutional right of a defendant, absent a reasonable belief that the defendant may fail to appear or is a danger to society; and jails are seriously overcrowded and because of this, judges are reluctant to retain defendants in custody.

5. Impose the most severe authorized sentence in MNVP cases.

State prison convictions were received by 64 (32.1 percent) of the 199 major narcotic defendants prosecuted in the sample counties. The average length of prison sentences received by these individuals was 3.5 years. This is a high rate considering that first time narcotics offenders qualify for prosecution under the MNVP Program. MNVP unit attorneys report that state prison commitments are frequently hard to obtain for those convicted defendants who are first time offenders.

6. Demonstrate a reduction in the amount of time required to prosecute a MNVP case.

The average length of time to prosecute a MNVP case in the sample counties was 197 days. MNVP unit attorneys report an average trial time for a major felony prosecution of 365 days, or a 46 percent reduction in the time to prosecute a MNVP case. Cases are considerably shorter because the attorneys are able to better prepare them and can resist delaying tactics commonly employed by defense attorneys.

D. Selected Site Achievement

Many of the MNVP project highlights outlined below include instances of cooperation and coordination with law enforcement agencies. Although this is not a program requirement, it signifies the cooperative attitude and relationships that developed as a result of program implementation.

1. Alameda County

In November 1985, the Alameda MNVP attorney and investigator assisted the Alameda Sheriff's Department Strike Force in the investigation of a neighborhood which was being taken over by local drug dealers. The MNVP investigator acted in an undercover capacity for the Strike Force during the six to eight week surveillance. As a result of the investigation, over one hundred officers from six local police agencies arrested twenty-one individuals and served search warrants at seven different

residences. The MNVP attorney acted as legal advisor, drafting the search warrants and making sure that police procedures were legally correct. All twenty-one persons arrested were charged with felony offenses. According to local law enforcement personnel, the arrest of these individuals dramatically reduced drug trafficking in that neighborhood.

2. Butte County

In April 1986, two adults and a juvenile were arrested in Oroville pursuant to a search warrant. Officers located a methamphetamine laboratory and seized over four pounds of methamphetamine, approximately eighty weapons which were confirmed stolen, and other miscellaneous stolen property. The MNVP attorney worked directly with the officers who prepared the search warrants, handled the preliminary hearing and all of the motions to suppress evidence. The case is now set for a jury trial in the Superior Court and will be vertically prosecuted through the case's conclusion. Because of the number of witnesses, and the complexity of the case, it is anticipated the case will be completed by the end of 1986.

3. Humboldt County

Between July and September 1986, the MNVP investigator assisted the Humboldt County Drug Task Force with a case involving the seizure of the largest illicit methamphetamine laboratory on the north coast. The investigation netted five arrests for manufacturing and conspiracy to manufacture and distribute

methamphetamine. The MNVP investigator personally provided the following services: he prepared the search warrants; assisted in the lab investigation and post-arrest lab processing; and initiated the financial assets investigation of several of the principal defendants. At the time of the arrest, a 1985 Corvette worth about \$22,000, and \$100,000 in cash were seized pursuant to the warrant. A safe was located in the house which contained significant assets, including gold jewelry, gemstones, expensive watches, and silver bars. These will be subject to federal forfeiture proceedings.

4. Kern County

In 1986, the Kern County MNVP project joined forces with law enforcement to concentrate police and prosecution efforts on the deluge of "rock cocaine" that was being openly trafficked on the streets of Bakersfield. An MNVP attorney was assigned to collect and organize the rock cocaine cases into a major conspiracy and trafficking prosecution effort. She worked with the Bakersfield Police Department, federal Drug Enforcement Administration, and the Los Angeles Police and Sheriff's Departments. These agencies pooled their efforts to reach beyond local and Los Angeles youth street dealers (with gang related connections) to their sources of supply. All of the rock cocaine conspiracy cases have been assigned to the Kern MNVP unit.

5. Los Angeles County

The Los Angeles County MNVP unit is experiencing increasingly

large seizures of cash in conjunction with substantial seizures of cocaine. In the third quarter of 1986, 264 pounds of cocaine and \$200,000 belonging to three defendants were seized. Another major case involved 140 pounds of cocaine and \$160,000 in cash. In that case five defendants were bound over for trial. Because the amount of cocaine seized per case continues to escalate, the MNVP unit decided to set its case acceptance at a minimum of eleven pounds absent extraordinary circumstances.

In early October 1986, the MNVP unit accepted a second degree murder and methamphetamine manufacturing case for prosecution. This case involved a clandestine methamphetamine laboratory in which three persons died from the noxious fumes produced during the manufacturing process. One person was charged with second degree murder and manufacturing of a controlled substance. Charges may be filed against other individuals for these crimes.

6. Mendocino County

Two cases in the third quarter of 1986 involved cooperation and joint prosecution with the MNVP unit in Sacramento County. Both individuals were originally charged with transportation of cocaine in Mendocino County, and both failed to appear for court proceedings. These individuals were eventually apprehended in Sacramento County. One pled guilty in Sacramento for conspiracy to import cocaine. The second is serving local time in Sacramento and Yolo Counties, and will be returned to Mendocino County to face the transportation charges in early 1987. The process of

resolving both counties' criminal charges against the defendant was simplified because the attorneys had become acquainted at an OCJP sponsored MNVP Program training seminar.

7. Orange County

In April 1986, arrests were made in a case involving approximately 1900 pounds of cocaine with a street value in excess of \$500 million and the seizure of approximately \$700,000 in cash. This case involved searches of seven residences and the arrest of ten defendants. It originated as part of an investigation from the Los Angeles Police Department, and the initial search warrants were prepared by the Los Angeles County District Attorney's Office MNVP unit. The defendants were arrested in Orange County and are being prosecuted by the Orange County MNVP unit using vertical techniques. Under pre-MNVP conditions this case would have been prosecuted non-vertically, with as many as ten attorneys handling the case.

8. Riverside County

Since the inception of the MNVP project in Riverside County, sixteen clandestine laboratories have been seized. In most of these cases an MNVP attorney was on the scene to assist with legal issues and advice. Each of these cases was vertically prosecuted, resulting in twelve completed cases. In each case, at least one defendant was sent to state prison.

9. Sacramento County

Two selected cases in Sacramento County resulted in convictions and lengthy sentences. The first case involved a methamphetamine manufacturing operation in which the principal defendant received a maximum sentence of thirty years incarceration in federal prison. Five other defendants were convicted of felony violations in this case. In the other multi-defendant methamphetamine manufacturing case, sentences of seventeen years, fourteen years, and twelve years resulted for the principal defendants. Both cases were vertically prosecuted in federal court by the MNVP attorney, who is a federal cross-designated attorney. The benefit of cross-designation is the federal law often enables the attorney to get longer sentences for the defendant.

When a case developed in a "crack" cocaine sales investigation involving a fortified residence, law enforcement officers asked for pre-arrest assistance from the MNVP unit. Prior to serving the search warrants an MNVP attorney reviewed the affidavits and identified several discrepancies that would have subjected the search warrants to attack by the defense. With the assistance of the MNVP attorney, the discrepancies were corrected. On the date of the arrest two MNVP attorneys attended the briefing of the City/County Narcotics Task Force, and were on the scene during the execution of the search warrants to provide on-site legal advice.

10. San Diego County

Of the forty defendants adjudicated in the third quarter of 1986,

thirty-one (77 percent) received commitments to county jail or state prison. Eighteen (44 percent) are serving prison time while the other thirteen (33 percent) are serving time in jail. Prior to the creation of the MNVP unit, the San Diego District Attorney's Office had very little success in getting prison sentences for narcotic offenders. Only 3.9 percent of all drug cases filed during 1983 and 1984 resulted in any type of prison commitment.

In August and September 1986, twenty-seven PC 1275 bail motions were filed by MNVP attorneys. This motion requires the defendant to show the source of funds offered for bail. It is used if the defendant is unemployed, or otherwise unable to show the means to support his lifestyle. Of the twenty-seven filings, only four (15 percent) defendants were able to prove the source of their bail or come up with a legitimate source of bail. The other defendants remain in custody. This bail technique is an important tool in retaining custody of a defendant.

Although it is commonly employed, MNVP projects use it with discretion to identify a major violator to the court.

11. Santa Clara County

The grant allowed the MNVP attorney the discretion to work closely with undercover police officers in a case that resulted in the seizure of 402 pounds of cocaine, and the arrest of an individual considered to be a major source of cocaine in Santa Clara County.

This case began when an individual sold two grams of cocaine to an undercover officer. Through negotiations with the MNVP attorney and law enforcement officer, this individual became an informant and revealed to undercover officers his cocaine source. A total of six individuals were subsequently arrested and became informants. In each of the cases, the defendant pled guilty to a felony narcotic charge and provided the investigator with the name of his supplier. Without the ability of the attorney to meet with the officer and the informants, it is highly unlikely that the source of supply would have been discovered in this case. A significant aspect in this case is that no buy money was expended to reach the source of supply. Frequently, the payment of money is the only tool law enforcement has to encourage suspects to reveal the name of their supplier. However, the defendants in this case became informants in an effort to stay out of state prison, but received sentences of county jail time, probation and fines.

12. Santa Cruz County

MNVP funding enabled a senior trial attorney and an experienced investigator to participate in the multi-agency Santa Cruz County Narcotic Enforcement Team. This coordinated effort by the district attorney's office and law enforcement agencies has successfully targeted major drug dealers for arrest and prosecution. In the last year, \$648,909 was seized from drug dealers as drug-related assets. In September 1986, in federal court \$88,000 of this total was ordered forfeited and distributed

to the agencies participating in the Narcotics Enforcement Team.

13. Trinity County

The state Judicial Council has been working on an increased felony bail schedule for several years. The majority of counties have extremely low bail schedules for felony narcotic arrests. In Trinity County, the bail schedule for cultivation of marijuana was \$1,000 until the arrest of a local grower. This individual had \$1,000 in his possession and told the arresting officers it was his bail money. The MNVP attorney had been working with the local judges for some time to get the bail increased. When he was advised the grower was coming to town with bail money in his pocket, the attorney went to the judge and had the bail increased to \$10,000. Subsequently, the MNVP attorney was successful in getting the local judicial bail schedule increased to \$10,000 for cultivation of marijuana.

14. Ventura County

The MNVP Program grant assisted the Ventura County District Attorney's Office to establish a three attorney MNVP unit to vertically prosecute all sales of heroin and cocaine cases. The MNVP unit is able to back up a tough "no plea bargaining" stand on drug sales cases with experienced prosecutors. These prosecutors are assigned the cases from the time they are first investigated by a local law enforcement agency. This is in sharp contrast to the way in which drug cases were handled (on an assembly line basis) before the MNVP Program grant. The results are better

cases and longer sentences.

IV. RECOMMENDATION

The MNVP Program completed its first year of operation showing impressive results in objective achievements. Currently, this is the only tool many district attorneys' offices have to combat the growing number of major narcotics crimes in their counties. An unstated achievement of the program is the strong state network of prosecutors who can assist one another with multi-county prosecutions, contacts in their county, or legal advice on issues ranging from forfeiture laws to the preparation of complicated search warrants.

Another by-product of program funding is it has allowed MNVP attorneys to establish closer liaison with law enforcement officers, and provide them with the necessary legal assistance to build stronger cases. It is therefore recommended that the Legislature continue funding to the MNVP Program.

CHAPTER 9. CALIFORNIA MAJOR NARCOTIC VENDORS PROSECUTION LAW

Section

13880. Legislative findings, declarations, and intent.
13881. California major narcotic vendors prosecution program; establishment; administration, disbursement and allocation of funds; application for funding; guidelines; report.
13882. Duties of prosecution units receiving funds; enhanced prosecution efforts and resources.
13883. Persons subject to prosecution under law; prosecutorial discretion.
13884. Policies for prosecution of cases; discretionary departure from policies.

Chapter 9 was added by Stats.1984, c. 1424, p. —, § 1, urgency, eff. Sept. 26, 1984.

§ 13880. Legislative findings, declarations, and intent

The Legislature finds and declares that the production and sale of narcotics is an ever increasing problem because of the substantial illicit profits derived therefrom. The Legislature further finds and declares that a substantial and disproportionate amount of serious crime is associated with the cultivation, processing, manufacturing, and sale of narcotics.

The Legislature intends to support intensified efforts by district attorneys' offices to prosecute drug producers and sellers through organizational and operational techniques that have been proven effective in selected jurisdictions in this and other states.

(Added by Stats.1984, c. 1424, p. —, § 1, urgency, eff. Sept. 26, 1984.)

§ 13881. California major narcotic vendors prosecution program; establishment; administration, disbursement and allocation of funds; application for funding; guidelines; report

(a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Major Narcotic Vendors Prosecution Law. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which the California Major Narcotic Vendors Prosecution Law is implemented in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Major Narcotic Vendors Prosecution Law, be made available to support the prosecution of felony drug cases. Funds available under this program shall not be subject to review, as specified in Section 14780 of the Government Code.

(d) On or before January 1, 1985, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Major Narcotic Vendors Prosecution Program consistent with this chapter, which shall be submitted to the chairpersons of the Criminal Law and Public Safety Committee of the Assembly and the Judiciary Committee of the Senate. These guidelines shall permit the selection of a county for the allocation and award of funds only on a finding by the Office of Criminal Justice Planning that the county is experiencing a proportionately significant increase in major narcotic cases. Further, the guidelines shall provide that any funds

received by a county under this chapter shall be used only for the prosecution of cases involving major narcotic dealers.

(e) Annually, commencing January 1, 1986, the executive director shall, in cooperation with public defender representatives, prepare a report to the Legislature describing the operation and results of the statewide program and assessing any and all fiscal and workload burdens imposed by the statewide program upon local public defender offices and assigned counsel, with recommendations where appropriate.

(Added by Stats.1984, c. 1424, p. —, § 1, urgency, eff. Sept. 26, 1984.)

§ 13882. Duties of prosecution units receiving funds; enhanced prosecution efforts and resources

California major narcotic vendors prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 13883. Enhanced prosecution efforts and resources shall include, but not be limited to, all of the following:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a drug case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) Assignment of highly qualified investigators and prosecutors to drug cases.

(c) Significant reduction of caseloads for investigators and prosecutors assigned to drug cases.

(Added by Stats.1984, c. 1424, p. —, § 1, urgency, eff. Sept. 26, 1984.)

§ 13883. Persons subject to prosecution under law; prosecutorial discretion

(a) An individual may be the subject of the California Major Narcotic Vendors Prosecution Law prosecution efforts who is under arrest for the commission or attempted commission of one or more felonies relating to controlled substances in violation of Section 11351, 11352, 11358, 11378, 11378.5, 11379, 11379.5, or 11383 of the Health and Safety Code.

(b) In applying the criteria set forth in subdivision (a), a district attorney may, consistent with the provisions of subdivision (d) of Section 13881, elect to limit drug prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) if crime statistics demonstrate that the incidence of that felony or felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by this section, the district attorney shall consider (1) the character, background, and prior criminal background of the defendant, and (2) the number and the seriousness of the offenses currently charged against the defendant.

(Added by Stats.1984, c. 1424, p. —, § 1, urgency, eff. Sept. 26, 1984.)

§ 13884. Policies for prosecution of cases; discretionary departure from policies.

(a) Each district attorney's office establishing a California major narcotic vendors prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for the California Major Narcotic Vendors Prosecution Law cases:

(1) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant selected for prosecution under the California Major Narcotic Vendors Prosecution Law.

(2) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution under the California Major Narcotic Vendors Prosecution Law.

(3) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charge against an individual selected for prosecution under the California Major Narcotic Vendors Prosecution Law.

(b) The selection criteria set forth in Section 13883 shall be adhered to for each California Major Narcotic Vendors Prosecution Law case unless, in the reasonable exercise of prosecutor's discretion, extraordinary circumstances require the departure from those policies in order to promote the general purposes and intent of this chapter.

(Added by Stats.1984, c. 1424, p. —, § 1, urgency, eff. Sept. 26, 1984.)

Senate Bill No. 1139

CHAPTER 1563

An act to add Section 11485 to, and to add and repeal Section 11361.8 of, the Health and Safety Code, relating to controlled substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985. Filed with Secretary of State October 2, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1139, Keene. Marijuana laws: county costs.

(1) Existing law provides for the forfeiture of property seized in connection with a controlled substance offense, upon the conviction of a defendant for that offense. Existing law does not provide for the forfeiture of seized property with respect to which no prosecution of a defendant results.

This bill would provide that seized personal property suspected of being used in the unlawful planting, cultivation, harvesting, drying, processing, or transporting of marijuana, and with respect to which no prosecution of a defendant results, shall, under certain circumstances, be deemed abandoned and may, after notice is given, be disposed of by sale or transfer, as specified.

(2) Existing law provides for various crimes involving marijuana.

This bill would make specified legislative findings and declarations relative to the costs associated with marijuana production.

The bill would appropriate \$1,250,000, as scheduled, from the General Fund to the Controller for distribution in fiscal year 1985-86, to specified counties for costs associated with marijuana production.

This bill would appropriate (1) \$1,500,000 to sheriffs' departments of specified counties for marijuana eradication and investigation, as specified, (2) \$6,000 to the Department of Fish and Game for distribution of a brochure on the dangers of marijuana gardens to hunters and fishermen, and (3) \$178,000 to the Office of Criminal Justice Planning for allocation under the California Major Narcotic Vendors Prosecution Law to the district attorneys of specified counties for the prosecution of crimes involving controlled substances, including marijuana. The Office of Criminal Justice Planning would be authorized to retain up to 5% of the sums described in (3) above, for administrative expenses.

(3) Existing law permits emergency appointments by governmental agencies for a duration not to exceed 60 working days.

This bill would authorize the Attorney General to make emergency appointments to the Campaign Against Marijuana Planting which may exceed 60 working days but which shall not exceed 100 working days.

(4) The bill would take effect immediately as an urgency statute.
Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 11361.8 is added to the Health and Safety Code, to read:

11361.8. The Legislature finds and declares that the level of marijuana production in rural counties in this state and the criminality and violence associated with its production threaten the well-being not only of citizens of these counties, but of the rest of the state as well. Since some of these counties have experienced less growth in their general purpose revenues than the rest of the state and yet bear the burden of funding eradication efforts, the Legislature recognizes the need for the state to provide financial assistance for the law enforcement, criminal justice, and other costs associated with marijuana production.

This section shall remain in effect only until July 1, 1988, and as of that date is repealed.

SEC. 2. Section 11485 is added to the Health and Safety Code, to read:

11485. Any peace officer of this state who, incident to a search under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of marijuana, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first publication of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving marijuana.

SEC. 3. The sum of one million two hundred fifty thousand dollars (\$1,250,000) is hereby appropriated from the General Fund to the Controller for the 1985-86 fiscal year to be distributed to counties for costs associated with marijuana production on or before October 1, in accordance with the following schedule:

Schedule:

(a) Humboldt County	\$425,000
(b) Mendocino County	\$425,000
(c) Trinity County.....	\$150,000
(d) Butte County.....	\$250,000

SEC. 4. The sum of one million six hundred eighty-four thousand dollars (\$1,684,000) is appropriated from the General Fund in accordance with the following schedule, for the following purposes:

(a) Five hundred thousand dollars (\$500,000) to the sheriff's department of Humboldt County for marijuana investigation and eradication.

(b) Five hundred thousand dollars (\$500,000) to the sheriff's department of Mendocino County for marijuana eradication.

(c) Two hundred fifty thousand dollars (\$250,000) to the sheriff's department of Trinity County for marijuana eradication.

(d) Two hundred fifty thousand dollars (\$250,000) to the sheriff's department of Butte County for marijuana eradication.

(e) Eighty-nine thousand dollars (\$89,000) to the Office of Criminal Justice Planning for allocation under the California Major narcotic Vendors Prosecution Law (Chapter 9 (commencing with Section 13880) of Title 6 of Part 4 of the Penal Code) to the office of the district attorney of Butte County for the prosecution of crimes involving marijuana.

(f) Eighty-nine thousand dollars (\$89,000) to the Office of Criminal Justice Planning for allocation under the California Major Narcotic Vendors Prosecution Law (Chapter 9 (commencing with Section 13880) of Title 6 of Part 4 of the Penal Code) to the office of the district attorney of Trinity County for the prosecution of crimes involving marijuana.

(g) Six thousand dollars (\$6,000) to the Department of Fish and Game for allocation to the Wildlife Protection Branch for the publication of a brochure for distribution with hunting and fishing licenses, to alert persons who fish or hunt to the dangers in and around marijuana gardens.

(h) Of the sums appropriated in subdivisions (e) and (f), the Office of Criminal Justice Planning may retain up to 5 percent for administrative expenditures.

SEC. 5. Notwithstanding Section 19888.1 of the Government Code, or any regulations promulgated pursuant to that section, the Attorney General may make emergency appointments to the Campaign Against Marijuana Planting, the duration of which may exceed 60 working days, but shall not exceed 100 working days.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to effectively reduce the widespread cultivation, sale, and use of marijuana and the occurrence of marijuana-related crimes without delay, it is necessary that this bill go into immediate effect.

O