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Staffing losses curb DA pot prosecutions

By K.C. MEADOWS The Daily Journal
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A staff shortage in the Mendocino County District Attorney's Office has led DA Meredith Lintott to advise her attorneys to limit the marijuana cases they file.

In an internal memo leaked to the Daily Journal, Lintott gives the following "charging directions":

"Cases submitted for prosecution where the total plant count is under 200 plants and/or the total amount of processed marijuana involved is less than 20 pounds shall be rejected."

Factors to consider, according to the memo, separate from the plant count, are whether weapons were involved, whether any children were on scene, whether the marijuana was clearly intended for sale, whether the arrestee has a criminal history and whether there were workers on scene and if they had workers compensation insurance.

In all cases, the memo explains, the DA attorneys should use their discretion and use the memo as a guideline, not a policy.

In an interview on Thursday about the memo, Lintott said she made the decision to send out the memo after losing three experienced attorneys – one to retirement, one to a resignation and one who was fired - and having two more attorneys who are having medical issues and will be in and out of work for the coming weeks.

The experienced attorneys - known as "4s," denoting the top level of experience - are the only ones Lintott says she can use in marijuana cases. Without those three, she is left with five "4s," three in Ukiah, one in Willits and one in Fort Bragg. All of them are busy with other complex cases like murder, rape and home invasions.

Lintott said she has permission from the county to hire two extra help attorneys with asset forfeiture funds, and that both of them will be on the job soon, but that neither of them are experienced enough for marijuana cases.

The three openings created by the top level attorney departures will be filled, but not for some weeks. Lintott said she hopes to begin the interviewing process in August.

She has no idea whether any "4"-level attorneys will be in the mix.

"We do a very complex, specialized kind of work," she said in regard to finding good prosecuting attorneys. "You can't easily find 4s."

Lintott said she has not told the county supervisors about her decision nor did she request staffing help from the state Attorney General's Office, help she doesn't believe would be available anyway.

Lintott has a total of 16 attorneys in the DA's office, including herself. She said because of the increasing number of cases overall, she was planning to ask for two more from the supervisors this year, for a total of 18, but kept her

staffing level constant because of the budget crisis.

Less experienced attorneys, "2s" and "3s," handle things like traffic court, assaults, spousal abuse and lower level drug cases.

She said as soon as her office is back to full strength and she has enough experienced attorneys to do the job, the memo's limitations will be removed.

And she pointed out that not filing a case now does not mean she can't file it later when she has the staff.

"These are felonies. We've got time," she said.

The memo indicates that if a marijuana case is rejected the attorney can write on the file, "Good investigation of incident - insufficient staff," which could be a signal that it should be revisited as soon as staffing permits.

She also said that she has already talked about this with local law enforcement and told them that if they send her a marijuana case that gets rejected under these guidelines and they feel it's a case that really should be prosecuted, they can come to her and make their case.

She said her guidelines should in no way affect what law enforcement is doing out on the street. Officers have a hard time too with lack of staffing and, she said, "need to do their jobs, follow their guidelines and policies. That's important."

Lintott was not happy that the memo got out of the office.

"The number (200) makes everybody freak out," she predicted, but said that every case is still judged on its merits and that she considers the situation temporary.

"This is in no way an indication of the law, or an indication of where the DA's Office is going," she said.