



Utah Commission
on Criminal and
Juvenile Justice

2019 Utah Annual Forfeiture Report

June 30, 2020

TABLE OF CONTENTS:

- **I.** Background and Legislative Overview.....page 1
- **II.** State Forfeiture Report - *State Case Evaluation*.....pages 2 - 5
- **III.** State Forfeiture Report - *Use of State Forfeiture Funding in 2019*.....pages 5
- **IV.** Federal Forfeiture Report - *Federal Case Evaluation*.....pages 6 - 8
- **V.** Federal Forfeiture Report - *Use of Federal Forfeiture Funding in 2019*.....page 8-9

I. Background and Legislative Overview:

Over the past 18 years, the forfeiture process in Utah has gone through various procedural changes along with changes to how funding is to be allocated and used. During the 2015 Utah General Legislative Session, Senate Bill 52 was passed creating additional reporting requirements for state and federal forfeitures. During the 2017 Utah General Legislative Session, Senate Bill 70 was passed building on the reporting requirements found in S.B. 52. The additional reporting requirements imposed by S.B. 52 and S.B. 70 are presented here along with the basic forfeiture reporting requirements that have been in place since 2005. The new legislation aims to improve the current understanding of the characteristics of these cases, including the nature of the alleged offense, type (and quantity) of the property forfeited, and the nature of the case dispositions. The following is a brief chronology of some of the key changes in the use and allocation of forfeiture funding since 2000.

2000 - The Utah Property Protection Act (Initiative B): A state ballot initiative passed in 2000 that placed significant restrictions on State and Federal forfeiture in the State of Utah. Specifically, Initiative B restricted the ability for law enforcement and prosecutors to forfeit property seized from individuals charged with criminal activity; Established uniform procedures for the forfeiture of property; Prohibited use of any funds by law enforcement resulting from forfeiture and mandated that all liquidated assets from forfeitures be given to the Utah Uniform School Fund.

2004 - Senate Bill 175 (S.B. 175): Legislation passed in the 2004 Legislative General Session for the purpose of modifying some aspects of Initiative B, including restoring the ability of law enforcement to use money gained from state and federal forfeitures. S.B. 175 also created the State Asset Forfeiture Grant Program (SAFG) and tasked the Utah Commission on Criminal and Juvenile Justice (CCJJ) with the administration of all state forfeiture funds remitted by law enforcement to the Criminal Forfeiture Restricted Account (CFRA). Through S.B. 175, CCJJ was tasked with gathering information and reporting on how law enforcement agencies were using federal forfeiture money. CCJJ continues to fulfill these responsibilities today. Additionally, through S.B. 175, the Utah Legislature also created specific allowable and unallowable uses of state and federal forfeiture funding.

2014 - House Bill 427 (H.B. 427): Legislation passed in the 2014 Legislative General Session for the purpose of expanding the allowable uses of state asset forfeiture funding. Specifically, H.B. 427 authorized CCJJ, as the administrative agency for the SAFG program, to award grants in support of the state crime victims' reparation fund.

2015 - Senate Bill 52 (S.B. 52): Legislation passed in the 2015 Legislative General Session for the purpose of expanding the annual reporting requirements for law enforcement agencies receiving state and federal asset forfeiture awards. S.B. 52 substantially increased the information to be collected each year by CCJJ from law enforcement agencies.

2017 - Senate Bill 70 (S.B. 70): Legislation passed in the 2017 Legislative General Session for the purpose of further expanding the annual reporting requirements for law enforcement agencies receiving state and federal asset forfeiture awards. Some of the key reporting provisions of S.B. 70 include: information on related criminal charges, the value of seized property, the agency's share of property received from a federal forfeiture case, the agency's costs incurred in making the required reports, the

Agencies costs incurred for storage of storing seized property and the legal costs incurred by the prosecuting attorney.

II. State Forfeiture Report - State Case Evaluation

The following provides a summary of aggregated responses from the 2018 state case evaluation questions and use of funds information:

- **There were 24 state and local agencies reporting on 225 state forfeiture cases in 2019.**
- **67% of all cases were forfeited in Civil Court** with the remaining 28.5% adjudicated in Criminal Court and about 5% not identified.
- **Enforcement stops were the primary enforcement action (52%),** followed by the use of a search warrant (36%), a category called “other offense” (6%), and an arrest warrant (1%).
- **Almost all forfeiture cases were the result of alleged narcotic offenses (88%).** The narcotics charges include: Possession with intent to distribute a controlled substance (58%), distribution or arranging to distribute (24%), possession/purchase of a controlled substance (5.3%), conspiracy to distribute (<1%), and manufacturing (< 1%).
- **Cash was the type of property seized in 87% of state cases reported in 2018,** with a median cash value of **\$1,756.**
- **Default judgment was the primary reason code underlying the final disposition (51%),** followed by guilty plea or verdict in a criminal forfeiture (23.6%), summary judgment (12%) and stipulation of the parties.
- **90 percent of cases reported that a criminal charge was associated with the seizure,** with 56 percent resulting in a conviction.
- **\$1,053,186 in state forfeiture funding** was awarded through the State Asset Forfeiture Grant Program (SAFG) from the Criminal Forfeiture Restricted Account (CFRA) in 2019 (FY2020). At year-end 2019, **\$18 million in state forfeiture funding** has been remitted to the Criminal Forfeiture Restricted Account (CFRA) by Utah law enforcement agencies since 2004.

The data summarized in this section is based on self-reported data pertaining to 225 state forfeited court cases in 2019. Because this section is based on self-reported data, the summarized information is only as accurate as the information reported by each individual agency. Each table below provides the agency responses to individual questions in the state forfeiture reporting form.

Fewer cases were tried in civil court in 2019 (67%) compared to 2018 (69%). Ninety percent of these cases reported that a criminal charge was associated with the seizure, with nearly two-thirds resulting in a conviction (56%).

The average number of individuals with a known property interest was 1.3 (max: 6). None of the 225 cases involved transferring property to a federal agency or government entity not created under or applicable to Utah state law.

The sum of all reported cash forfeitures amounted to \$1,747,945 (compared to \$1,912,952 in 2018; \$2,180,290 in 2017 and \$1,410,307 in 2016). The median cash value was \$1,756 (min: \$107 and max: \$451,130). The estimated market value of all other non-cash property forfeited amounted to \$133,684. This included items such as cars, coin pushers and gambling machines. The reported dollar amount of property that was returned to any claimant was \$131,715 (min: \$807 and max: \$44,235). The following tables provide aggregated data taken from agency responses to the forfeiture questionnaire:

TABLE A - Indicate the type of enforcement action that resulted in the seizure.

Enforcement Stop	118	52%
A Search Warrant	81	36%
An Arrest Warrant	2	1%
Other	13	6%
Multiple enforcement actions indicated	2	1%
Unknown or Unresponsive	9	4%
Total	225	100%

TABLE B - Type of Property Seized?

Cash	196	87.11%
Car	10	4.44%
Firearm	0	0%
Real Estate	0	0%
Cash, Other	1	.44%
Cash, Car, Other	1	.44%
Car, Cash	16	7.11%
Unknown or Unresponsive	1	.44%
Total	225	100%

TABLE C - Indicate the Alleged Offense that was the Cause for Seizure of the Property.

Narcotics Offense	198	88%
Money Laundering	6	2.67%
Other Offense	6	2.67%
Multiple offenses indicated	8	3.56%
Unknown or Unresponsive	7	3.1%
Total	225	100%

TABLE D - If you selected "Narcotics Offense" Table C, Indicate the Most Serious Offense that Applies.

Possession / Purchase of a Controlled Substance (CS)	12	5.3%
Possession with Intent to Distribute a C.S.	130	58%
Conspiracy to Distribute a C.S.	1	.44%
Manufacture of a C.S. / Clandestine Laboratory	1	.44%
Distribution or Arranging to Distribute a C.S.	55	24%
Multiple offenses indicated	4	2%
Unknown or Unresponsive	22	10%
Total	225	100%

TABLE E - Were Criminal Charges Filed Regarding the Alleged Offense Indicated in Table C?

Yes	203	90%
No	7	3%
Unknown or Unresponsive	15	7%
Total	225	100%

TABLE F - If You Answered "Yes" in Table E, Please Indicate the Final Disposition of Each Charge.

Conviction	126	56%
Acquittal	0	0%
Dismissal	20	9%
Final Disposition Pending	38	17%
Multiple dispositions in cases with Multiple charges	19	8%
Indicated No in Table D or No Response (NR)	22	10%
Total	225	100%

TABLE G - Indicate the final disposition of the forfeiture case.

Default	115	51%
Summary Judgment	27	12%
Guilty Plea or Verdict in a Criminal Forfeiture	53	23.6%
Stipulation of the Parties	13	5.6%
Other Jury Award	0	0%
Multiple dispositions in cases with multiple charges	6	2.7%
No Response (NR)	11	4.9%
Total	225	100%

List of Reporting Agencies:

Agency Name	Number of Cases
Cache Rich Drug Task Force	8
Cottonwood Heights City PD	9
Davis Metro Narcotics Strike Force	14
Logan City PD	5
Murray City PD	14
Ogden City PD	11
Orem City PD	10
Price City PD	4
Provo City PD	5
Salt Lake City PD	24
Sandy City PD	9
Saratoga Springs City PD	2
Sevier Co. Sheriff's Office	1
South Salt Lake City PD	4
St. George City PD	1
Summit Co. Sheriff's Office	2
Unified Police Department	22

Utah Attorney General's Office	4
Utah Co. Sheriff's Office	2
Utah Co. Major Crimes Task Force	10
Utah Highway Patrol (DPS)	32
Weber/Morgan Narcotics Strike Force	17
West Jordan City PD	7
West Valley City PD	8
Total	225

III. State Forfeiture Report - Use of State Forfeiture Funding in 2019 (FY2020)

Background: State and local law enforcement agencies are required by law to liquidate assets forfeited in state court and deposit the cash from those assets in the state Criminal Forfeiture Restricted Account (CFRA).

UCA 24-4-117(8) A recipient state agency, local law enforcement agency, multijurisdictional law enforcement agency, or political subdivision shall use awards only for law enforcement purposes as described in this section or for victim reparations as described in Subsection (2)(g), and only as these purposes are specified by the agency or political subdivision in its application for the award.

Calendar 2019 (FY 2020) SAFG Grant Awards: CCJJ made SAFG grants available to all Utah law enforcement agencies last year. Funding was allocated to all agencies that wished to apply following a block grant program similar to the federal JAG grant. Opening the grants up to all law enforcement agencies did stretch the available funding thin, but doing so benefited many more agencies than in prior years, particularly in rural communities.

- \$500,000** was awarded to the Utah State Crime Lab to help address and clear up the sexual assault test kit backlog. Was set aside for Utah Drug Courts in FY 2020.
- \$503,000** awarded to the Weber/Morgan, Davis Metro, Salt Lake Area Gang and Utah multi-jurisdictional drug and crime task force projects in FY 2020. Utah has seventeen multi-jurisdictional drug and crime task force projects operating throughout the state this year. In addition to asset forfeiture money, other state resources along with federal grant funding (HIDTA) is used to assist each of the task force projects.
- \$463,300** state and local law enforcement block grants. Funding was made available to all Utah law enforcement agencies last year with about eighty (80) responding to the invitation to apply. Grant funding was used for among other things: officer safety equipment, narcotics interdiction support, surveillance equipment, body-worn cameras, officer training and to enhance crime scene investigation capabilities.

Total SAFG Funds Awarded in FY 2020 - \$1,466,300

IV. Federal Forfeiture Report - Federal Case Evaluation

Background: The primary mission of the federal government's forfeiture program is to assist law enforcement with crime deterrence by depriving criminals of the profits and proceeds of their illegal activities and to weaken criminal enterprises by removing the instrumentalities of crime. Another purpose of the program is to enhance cooperation among federal, state, and local law enforcement agencies through the equitable sharing of federal forfeiture proceeds. The period of this report is January 1, 2019 through December 31, 2019.

The following provides a summary of aggregated responses from the 2018 federal case evaluation questions and use of funds information:

- There were **7** state and local agencies reporting on **45** federal forfeiture cases in 2019.
- **Nearly 75% of all reported cases were handled by the DEA (34 cases)**, followed by the FBI 6.7% (3 cases), IRS 6.7% (3 cases), ATF 2.2% (1 case), CBP 2.2% (1 case) and unknown/unresponsive 6.7% (3 cases).
- **Nearly 56% of all reported federal cases were handled as an Administrative forfeiture.** 38% in Criminal Court, with 2.2% adjudicated in Civil Court.
- **Search Warrants were the primary enforcement action (31%).**
- **Most federal forfeiture cases were the result of alleged narcotic offenses (82.2%).** The narcotics charges breakdown as follows: Possession with Intent to Distribute a Controlled Substance (88.9%) percent of these cases, followed by Distribution or Arranging to Distribute (2.2%), with Possession/Purchase of a Controlled Substance (CS) at 2.2%.
- **Cash was involved in the vast majority of the type of property forfeited (73%).** The median cash value was \$7,844 (min: \$6, max: \$230,412, total of all cases \$1,073,098).
- **Guilty plea or Verdict in a Criminal Forfeiture was the primary reason code underlying the final disposition (33.3%)** followed by Default judgment (4.4%).
- **58 percent of cases reported that a criminal charge was associated with the seizure,** with 47 percent resulting in a conviction.

The data summarized in this section is based on self-reported data pertaining to 45 federal forfeited court cases in 2019. Because this section is based on self-reported data, the summarized information is only as accurate as the information reported by each individual agency. The following tables provide aggregated data taken from agency responses to the forfeiture questionnaire:

TABLE A - Indicate the type of enforcement action that resulted in the seizure.

Enforcement Stop	4	9%
A Search Warrant	14	31%
An Arrest Warrant	0	0%
Federal Seizure Warrant	0	0%
Warrantless PC	0	0%
Other	0	0%
Multiple enforcement actions indicated	9	20%
Unknown or Unresponsive	18	40%
Total	45	100%

TABLE B - Type of Property Seized?

Cash	33	73%
Car	9	20%
Firearm	0	0%
Real Estate	0	0%
Other	0	0%
Multiple types indicated	1	2.2%
Unknown or Unresponsive	2	4.4%
Total	45	100%

TABLE C - Indicate the Alleged Offense that was the Cause for Seizure of the Property.

Narcotics Offense	37	82.2%
Money Laundering	0	0%
Other Offense	5	11.1
Multiple offenses indicated	1	2.2%
No offense indicated	2	4.4%
Total	45	100%

TABLE D - If you selected "Narcotics Offense" in Table C, Indicate the Most Serious Offense that Applies.

Possession / Purchase of a Controlled Substance (CS)	1	2.2%
Possession with Intent to Distribute a C.S.	40	88.9%
Conspiracy to Distribute a C.S.	0	0%
Manufacture of a C.S. / Clandestine Laboratory	0	0%
Distribution or Arranging to Distribute a C.S.	1	2.2%
No Response (NR) or not a narcotics case.	3	6.7%
Total	45	100%

TABLE E - Were Criminal Charges Filed Regarding the Alleged Offense Indicated in Table C?

Yes	26	58%
No	0	0%
Unknown or Unresponsive	19	42%
Total	45	100%

TABLE F - If You Answered "Yes" in Table E, Please Indicate the Final Disposition of Each Charge.

Conviction	21	47%
Acquittal	0	0%
Dismissal	0	0%
Plea Agreement	0	0%
Final Disposition Pending	2	4.4%
Indicated No in Table D or No Response (NR)	21	47%
Multiple dispositions in cases with multiple charges	1	2.2%
Total	45	100%

TABLE G - Indicate the final disposition of the forfeiture case.

Default,	2	4.4%
Summary Judgment	0	0%
Guilty Plea or Verdict in a Criminal Forfeiture	15	33.3%
Stipulation of the Parties	0	0%
Other Jury Award	0	0%
Multiple dispositions in cases with multiple charges	0	0%
Unknown Disposition or No Response	28	62%
Total	45	100%

V. Federal Forfeiture Report - Use of Federal Forfeiture Funding in 2019

Utah agencies receiving federal sharing funds and/or property:

- \$1,409 - Carbon Metro Drug Task Force
- \$8,123 - Ogden City PD
- \$455,601 - Salt Lake/DEA Metropolitan Narcotics Task Force
- \$119,164 - Utah Co. Major Crimes Task Force
- \$17,184 - Washington County Area Task Force
- \$4,518 - Washington Co. Sheriff's Office
- \$56,556 - West Jordan City PD

Total Reported Federal Sharing Funds Received for Calendar Year 2019 - \$662,554. During Calendar Year 2019, agencies reported spending or planning to spend current funding on the following purposes:

- Law enforcement equipment
- Computer and technology equipment
- Surveillance/Tracking equipment

- Law enforcement operating costs (vehicle lease, maintenance, etc.)
- Communications equipment
- Narcotics test kits
- Audio and video equipment (recorders, cameras, etc.)
- Confidential informant costs
- Firearms
- Less than lethal (Tasers, etc.)
- Officer safety gear (bulletproof vests, etc.)
- Basic office equipment and supplies (copiers, paper etc.)
- Computer and technology equipment
- Officer Training