



2016 Utah Annual Forfeiture Report

July 6, 2017

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I. Background and Legislative Overview:

Over the past 17 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 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 (see page 13).

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. See Tables 1 and 2 on pages 8 and 9 respectively for the list of reporting agencies and the forfeiture questionnaire that CCJJ sent to 33 law enforcement agencies in 2015.

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 2016 state case evaluation questions and use of funds information. Overall, the findings from the 2016 Annual State Forfeiture Report was similar to the 2015 report.

- **There were 400 state forfeiture cases identified in 2016**
- **The majority of cases pertained to civil cases (90%)**
- **Enforcement stops were the primary enforcement action (69%),** followed by the use of a search warrant (23%), a category called “other” (7%), and an arrest warrant (1%)
- **Almost all forfeitures pertained to alleged narcotic offenses (97%).** Possession with intent to distribute was the highest severity among 62 percent of these cases, followed by distribution (29%), possession/purchase (6%), conspiracy to distribute (2%), and manufacturing (< 1%)
- **Cash was involved in the vast majority (> 99%) of the type of property forfeited,** with a median cash value of **\$1,031**
- **6 percent of forfeitures that (only) involved cash resulted in funds being returned to the claimant(s) post disposition.** On average, 46 percent of the forfeited amount was returned to these claimant(s)
- **Default judgment was the primary reason code (72%) underlying the final disposition,** followed by *stipulation of the parties* (12%), *summary judgment* (10%), and *guilty plea or verdict in a criminal forfeiture* (6%)
- **93 percent of cases reported that a criminal charge was associated with the seizure,** with 63 percent resulting in a conviction
- **\$1.2 million in state forfeiture funding** was awarded to Utah law enforcement and drug courts in 2016. **\$14.6 million in state forfeiture funding** has been remitted to the Criminal Forfeiture Restricted Account (CFRA) by Utah law enforcement agencies since 2004

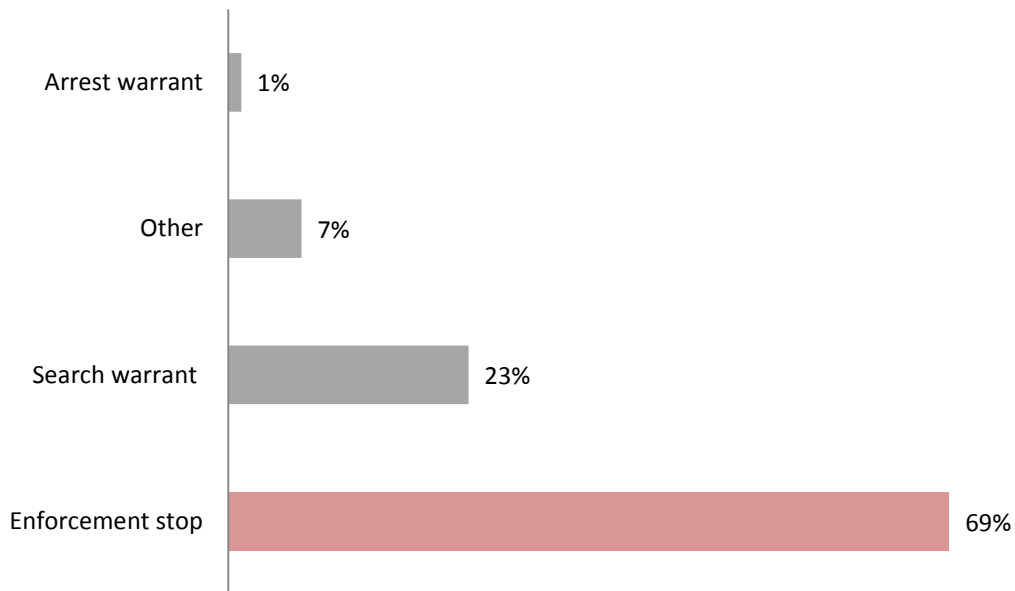
The data summarized in this section is based on self-reported data pertaining to 400 state forfeited court cases in 2016. Because this section is based on self-reported data, the summarized information is only as accurate as the information reported by each individual agency.

Similar to the findings in the 2015 report, the vast majority of cases were tried in civil court (90%). Ninety-three percent of these cases reported that a criminal charge was associated with the seizure, with nearly two-thirds resulting in a conviction (63%). While 27 percent of cases reported that the final disposition was pending, ten percent reported that the case was dismissed.

The average number of individuals with a known property interest was 1.3 (max: 10). None of the 400 cases involved transferring property to a federal agency or government entity not created under or applicable to Utah state law.

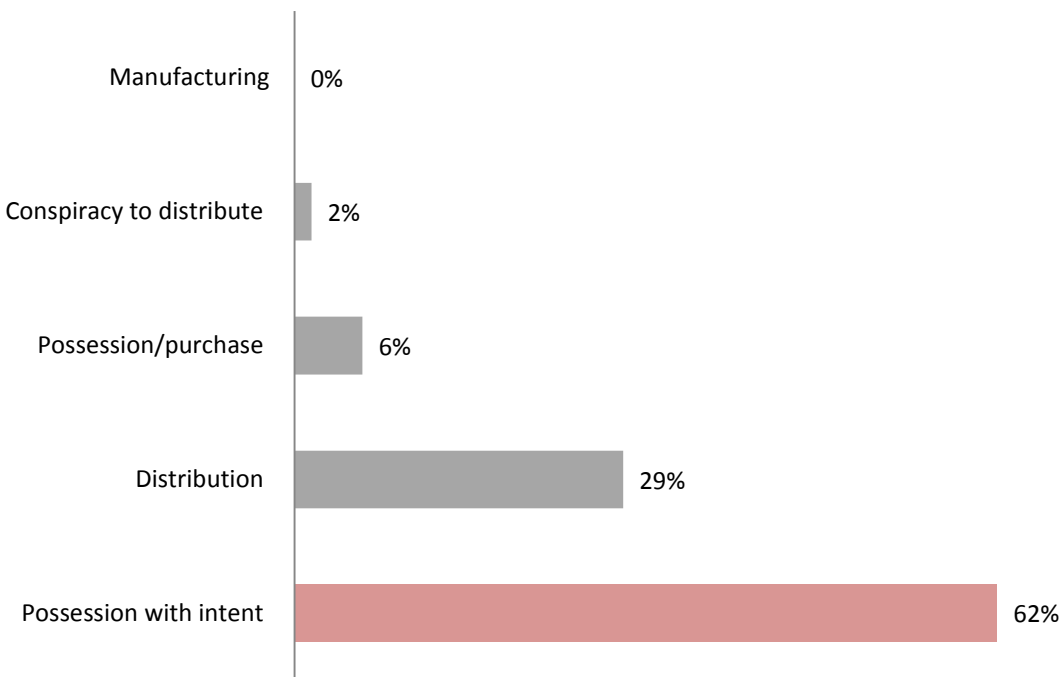
The distribution of the type of enforcement action was similar to 2015, with enforcement stops representing about two thirds of the type of enforcement action taken (seen in Figure 1). This was followed by the use of a search warrant (23%), a category labeled as “other” (7%), and an arrest warrant (1%). The “other” category varied by case and included for example, response to a shooting and a probation home visit.

Figure 1. Type of Enforcement Action (in %)



Almost all (97%) of the reported forfeitures pertained to alleged narcotics offenses. The remaining cases pertained to money laundering offenses and a category labeled as “other.”¹ Figure 2 depicts a breakdown of the alleged offense associated with these cases. Similar to the 2015 report, possession with intent to distribute a controlled substance represented nearly two-thirds of these narcotics offenses, followed by distribution/arranging to distribute a controlled substance (29%), possession/purchase of a controlled substance (6%), and conspiracy to distribute (2%). A small number of cases (< 1%) pertained to manufacturing.

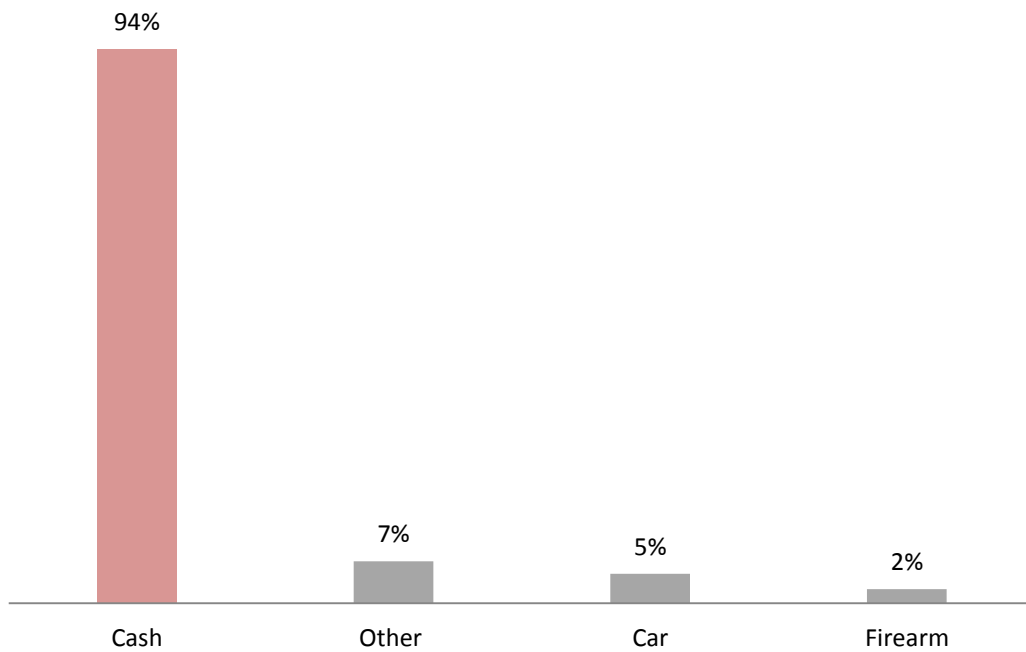
Figure 2. Break-Down of Alleged Offense (in %)



¹ The “other” category was compromised by for example, offenses related to a retail theft ring and prostitution.

The sum of all reported cash forfeitures amounted to \$1,410,307 (compared to \$1,882,047 in 2015). The median cash value was \$1,031 (min: \$16 and max: \$140,040). Cash was the main type of property forfeited (94%) and is seen in Figure 3. This was followed by a category labeled as “other”² (7%), cars (5%), and firearms (2%).

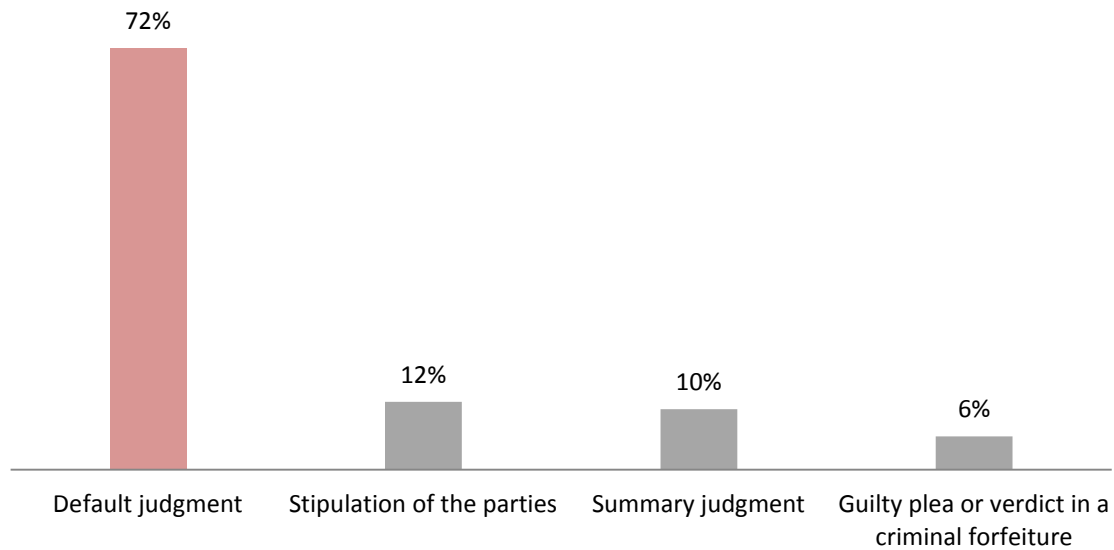
Figure 3. Type of Property Forfeited (in %)



² The “other” category included for example, prepaid Visa cards.

Figure 4 depicts the breakdown of the final disposition of the case. *Default judgment*,³ was the most common court case disposition (72%), which was followed by *stipulation of the parties* (12%).⁴ *Summary judgment*⁵ and a *guilty plea or criminal verdict in a criminal forfeiture* represented the remaining disposition types at 10 and 6 percent respectively.

Figure 4. Break-down of Disposition Type (in %)



The majority of cash (only) forfeitures were not returned to the claimant(s) post disposition (94%). The six percent of claimants that did receive a cash return received on average, 46 percent of the forfeited amount. The highest percent returned to any claimant was 87 percent.

Similar to cash forfeitures, only a small percent of forfeiture cases involving cars resulted in at least one vehicle being returned to the claimant(s) post disposition (18%). The final disposition for these cases pertained almost exclusively to *stipulation of the parties*.

³ A *default judgment* occurs when one party fails to take action, which results in a “binding judgement” favoring the other party.

⁴ *Stipulation of the parties* denotes a legal agreement between disparate parties before a pending hearing or a trial.

⁵ A *summary judgment* involves an exhaustion of factual issues that may be tried, resulting in the complaint(s) being determined upon without a formal trial.

Table 1. List of Reporting Agencies

Agency Name	Number of Cases
Attorney General's Office (SECURE TF)	2
Box Elder Strike Force	2
Cache Rich Drug Task Force	1
Cache-Rich Drug Task Force	8
Carbon Metro Drug Task Force	4
Cottonwood Heights City PD	9
Davis Metro Narcotics Strike Force	13
Department of Public Safety - UHP	21
Helper City PD	2
Logan City PD	4
Murray City PD	19
Orem City PD	1
Price City PD	7
Provo City PD	2
Salt Lake City PD	167
Sandy City PD	5
South Jordan City PD	1
South Salt Lake City PD	6
Spanish Fork City PD	1
Springville City PD	1
St. George City PD	2
Tooele City PD	1
Unified Police Department	56
Uintah/Duchesne Drug Task Force	8
Utah Co. Major Crimes Task Force	5
Vernal City PD	3
Wasatch/Summit Drug Task Force	1
Washington Co. Drug Task Force	8
Weber/ Morgan Narcotics Strike Force	19
West Jordan City PD	1
West Valley City PD	20
Total	400

State Agency Costs: Several questions in S.B. 70 request information on the cost to agencies as they move through the seizure/forfeiture process. Agencies are required to provide this information, but only if the cost information is reasonably available to them. Ninety percent of cases reported that the information on the direct cost to their agency in preparing the report was not reasonably available. Among the agencies that reported a cost, the average cost of preparing the report was \$78. Furthermore, close to 90 percent of cases reported that the information on the direct cost to their agency in obtaining and maintaining the seized property was not reasonably available. Among the

agencies that reported a cost, the median cost was \$2,085. Similarly, close to 90 percent of cases reported that the legal costs and attorney fees paid to the prosecuting attorney were not reasonably available to the agencies.

III. State Forfeiture Report - Use of State Forfeiture Funding in 2016

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). Since the beginning of the SAFG grant program in FY2005 through the first three quarters of FY2017 approximately \$14.6 million has been collected in the CFRA account. CCJJ has awarded approximately \$13.9 million in grants from the CFRA during the same time period. The difference between the amount collected and the amount awarded will be granted to Utah criminal justice agencies in FY2018.

Calendar 2016 SAFG Grant Awards: CCJJ awards funding from the CFRA account to state and local criminal justice agencies in four purpose areas: 1) Drug Courts; 2) Drug & Crime Task Force projects; 3) Law Enforcement Support grants; 4) Funding in support of the Utah Crime Victim Reparations . Below is a summary of the projects funded in 2016 from the CFRA in:

- 1. \$350,000** awarded to the Utah Department of Human Services - Division of Substance Abuse and Mental Health in support of Utah Drug Courts. Calendar 2016 SAFG funding was used for treatment, case management, and drug testing for Utah Drug Courts throughout the State. The Division of Substance Abuse and Mental Health provides support for Adult Felony, Juvenile, and Family Dependency Drug Courts.
- 2. \$432,250** awarded to the Weber/Morgan, Davis Metro, Salt Lake Area Gang Project and Utah County multi-jurisdictional drug and crime task force projects in calendar 2015. Utah has Seventeen multi-jurisdictional drug and crime task force projects operating throughout the state this year. In addition to asset forfeiture funds, other state resources along with federal grant funds (HIDTA) assist each of the task force projects.
- 3. \$372,234** awarded to twenty-eight (28) state and local law enforcement agencies using a funding formula based on agency participation in the state forfeiture process. The current formula allows an agency to apply for a grant award equal to at least 1/3 of the amount of state forfeiture funding remitted to CCJJ over a twelve month collection period. Agencies not contributing funding to the CFRA during the collection period will not be eligible to participate in the SAFG program that year. The base award amount was set at \$1,500 in calendar 2016. Grant funding was used primarily to provide officer safety equipment, narcotics interdiction support, surveillance equipment, body-worn cameras, officer training and to enhance crime scene investigation capabilities.

2016 SAFG Award Summary by Grant:

- Bountiful City PD (\$1,500) - camera/surveillance equipment.
- Box Elder DTF (\$3,100) - narcotics officer training.
- Carbon Co. Sheriff (\$2,150) - In-car cameras.
- Clearfield City PD (\$1,474) - Naloxone rescue kits (opioid over-dose rescue).

- Davis Co. Sheriff's Office (\$3,406) - vehicle trackers and radios.
- Davis Drug & Crime TF (\$100,000) - building lease, vehicle lease, narcotic test kits, surveillance, agent training, CI funds.
- DHS - Substance Abuse & Mental Health (\$350,000) - pass-thru to local drug court authorities for treatment, testing and case management.
- Draper City PD (\$3,950) - officer worn body cameras.
- Kaysville City PD (\$1,500) - 40mm tear-gas launchers (2).
- Layton City PD (\$5,852) - ballistic shields, breaching ram, ear protections, cameras lens.
- Logan City Police (\$1,500) - covert tracker subscriptions.
- Murray City Police (\$17,836) - mobile surveillance camera systems, radios.
- Orem City PD (\$3,850) - body-worn cameras for officers.
- Price City PD (\$1,875) - storage for officer body-worn cameras.
- Provo City PD 2 (\$1,500) - rifle suppressors and tactical communications gear.
- Salt Lake City Police (\$24,500) - surveillance/investigations equip, narcotics officer training, C/I.
- Sandy City Police (\$12,000) - surveillance camera system.
- Saratoga Springs City PD (\$1,700) - secure prescription drug drop-box at PD.
- South Jordan City PD (\$1,500) - officer worn body cameras.
- St. George City PD (\$1,500) - officer narcotics enforcement training.
- Syracuse City PD (\$1,500) - RadKIDS prevention/diversion program training and supplies.
- Tooele City PD (\$1,641) - camera/surveillance equipment.
- Utah Attorney General's Office (\$5,750) - tactical vests for agents.
- Utah Co. Sheriff's Office (\$1,500) - hand held LIDAR (radar) for the Motors.
- Utah Department of Public Safety (\$98,000) - crime lab equip. & training, SBI radios, cameras.
- Utah Drug & Crime TF (\$116,750) - narcotics agent training, CI funds.
- UPD - (Salt Lake Co. Sheriff's Office) (\$121,250) - officer training, 2 ATV's for Off-road patrol, cameras/surveillance, Lidar, ballistic shields, night vision, search and rescue gear.
- Vernal City PD (\$5,300) - communications/surveillance equipment.
- Washington DTF (\$6,900) - officer body-worn cameras.
- Weber/Morgan Drug & Crime TF (\$215,500) - fuel, building lease, phones/utilities, trackers, agent training, CI funds.
- West Jordan City Police (\$3,400) - utility trailer, cameras.
- West Valley City Police (\$36,300) - Motor squad helmets, communications equip, officer training.
- CCJJ Admin. (up to 3% of appropriation) (\$50,000) - staff time to administer program and prepare reports, etc.

Total SAFG Funds Awarded in Calendar 2016 - \$1,204,484

IV. Federal Forfeiture Report - Federal Case Evaluation

Background: The primary mission of the federal government's forfeiture program is law enforcement -- to deter crime 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, 2016 through December 31, 2016. Emails were sent out to agencies identified by the U.S. Department of Justice and the U.S. Department of the Treasury as receiving shares of federal asset forfeiture monies and/or property.

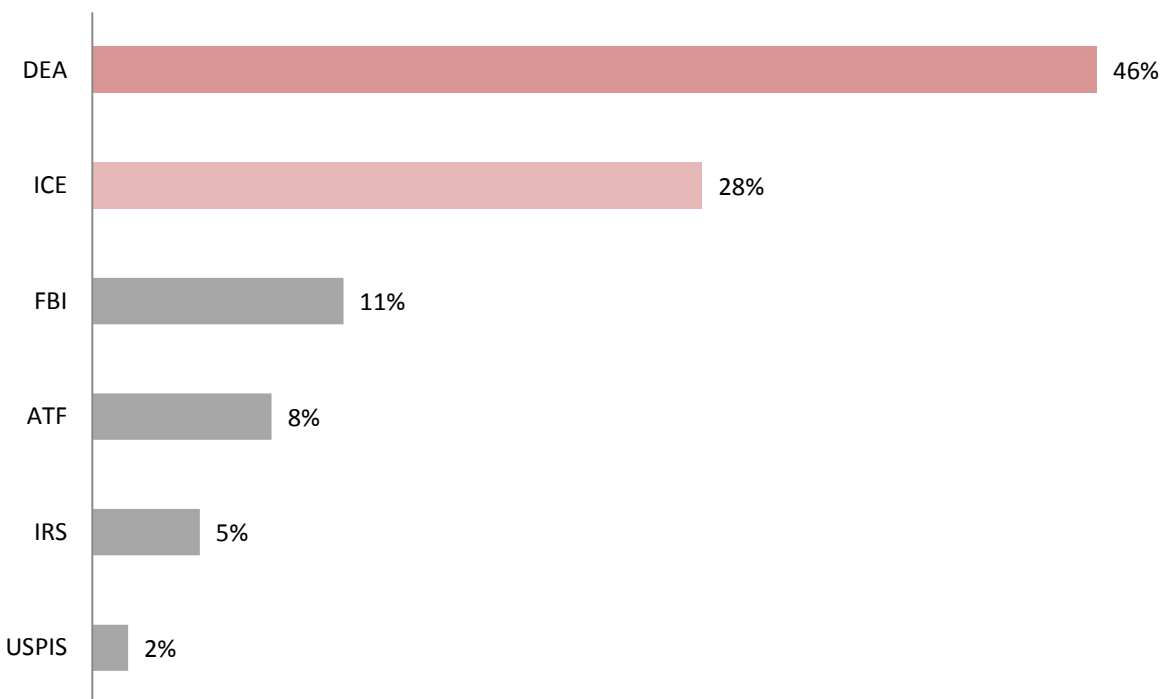
The following provides a summary of aggregated responses from the 2016 federal case evaluation questions and use of funds information.

- **Almost half of the cases were handled by DEA (46%).** This was followed by ICE (28%), FBI (11%), ATF (8%), IRS (5%), and USPIS (1 case)
- **Roughly two-thirds of cases pertained to civil cases (68%)**
- **Search warrants were the primary enforcement action (73%),** followed by enforcement action (16%), and an arrest warrant (11%)
- **The vast majority of cases pertained to alleged narcotic offenses (80%).** Possession with intent and distribution were the highest severity among 80 percent of these cases, followed by conspiracy to distribute (16%), and manufacturing and possession/purchase at 2 percent respectively
- **Cash was involved in the vast majority (> 80%) of the type of property forfeited,** with a median cash value of \$10,519
- **Guilty plea or verdict in a criminal forfeiture was the primary reason code underlying the final disposition (47%),** followed by *stipulation of the parties* (27%), *default judgment* (15), and *summary judgment* (11%)
- **83 percent of cases reported that a criminal charge was associated with the seizure,** with 62 percent resulting in a conviction

The data summarized in this section is based on self-reported data pertaining to 61 federal forfeited court cases in 2016. Because this section is based on self-reported data, the summarized information is only as accurate as the information reported by each individual agency.⁶

The Drug Enforcement Administration (DEA) represented almost half of the reported cases (46%) and is seen in Figure 1. This was followed by the Immigration and Customs Enforcement (ICE) (28%), the Federal Bureau of Investigations (FBI) (11%), and the Alcohol Tobacco and Firearms (ATF) (8%). A small number of cases involved the Internal Revenue Service (IRS) and the United States Postal Inspection Service (USPIS).

Figure 1. Type of federal agency (in %)



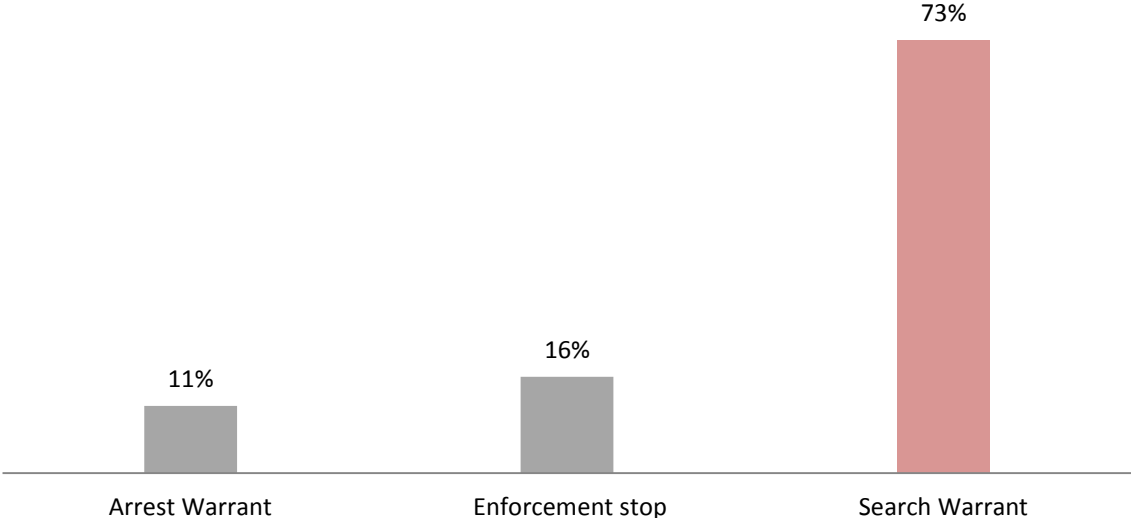
More than two-thirds of the cases were tried in civil court (68%). Eighty-three percent of these cases reported that a criminal charge was associated with the seizure, with nearly two-thirds resulting in a conviction (62%). While 34 percent of cases reported that the final disposition was pending, 4 percent reported that the case was dismissed. The average number of individuals with a known property interest was 1.2 (max: 3).⁷

⁶ It should be noted that some cases did not submit answers to all of the requested information.

⁷ 23 cases reported that the number of individuals with a known property interest was “unknown.”

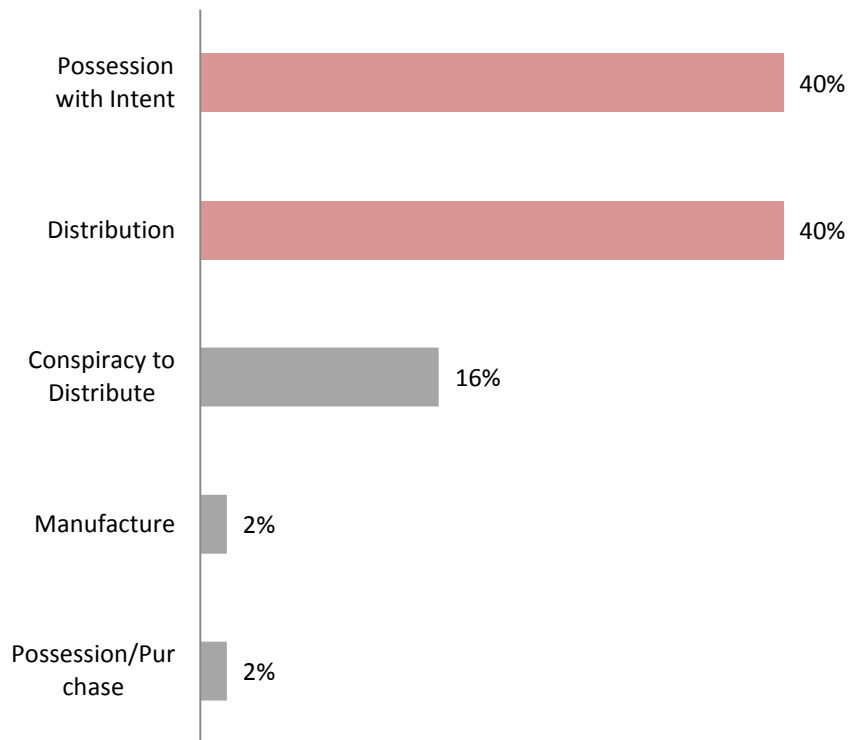
The use of a search warrant represented more than two thirds of the type of enforcement action taken (seen in Figure 2). This was followed by an enforcement stop (16%), and an arrest warrant (11%).

Figure 2. Type of Enforcement Action (in %)



The majority of cases (80%) involved of the reported forfeitures pertained to alleged narcotics offenses. The remaining cases pertained to money laundering offenses (6%) and a category labeled as “other” (10%). Figure 3 depicts a breakdown of the alleged offense associated with these cases. Possession with intent and distribution/arranging to distribute a controlled substance each represented 40 percent of these narcotics offenses, which was followed by conspiracy to distribute (16%). A small number of cases pertained to manufacturing and possession/purchase of a controlled substance (2 percent respectively).

Figure 3. Break-Down of Alleged Offense (in %)



The sum of all reported cash forfeitures amounted to \$1,261,822. The median cash value was \$10,519 (min: \$3,000 and max: \$150,001). Cash was the main type of property forfeited (84%), which was followed by cars (16%) and is seen in Figure 4.

Figure 4. Type of Property Forfeited (in %)

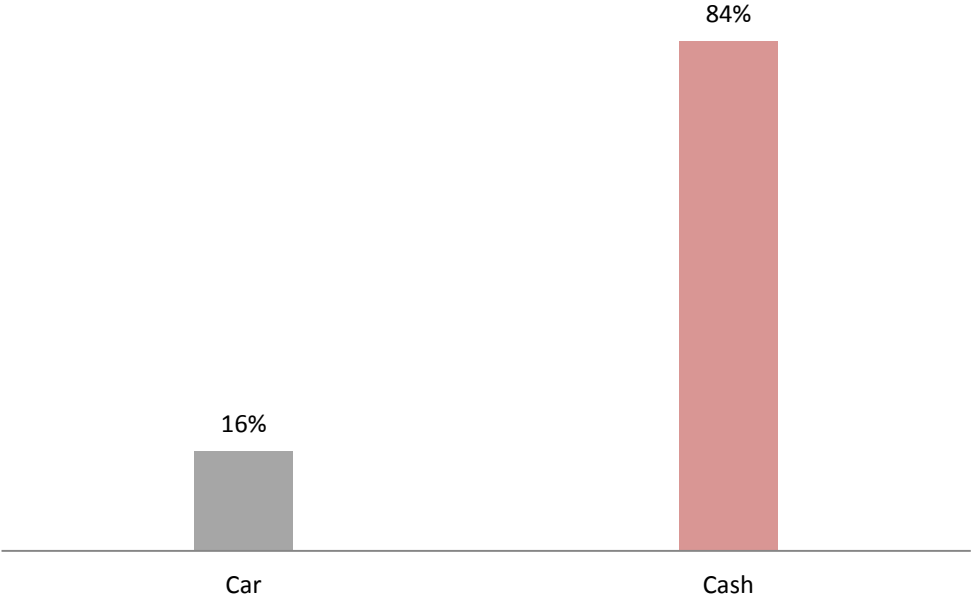
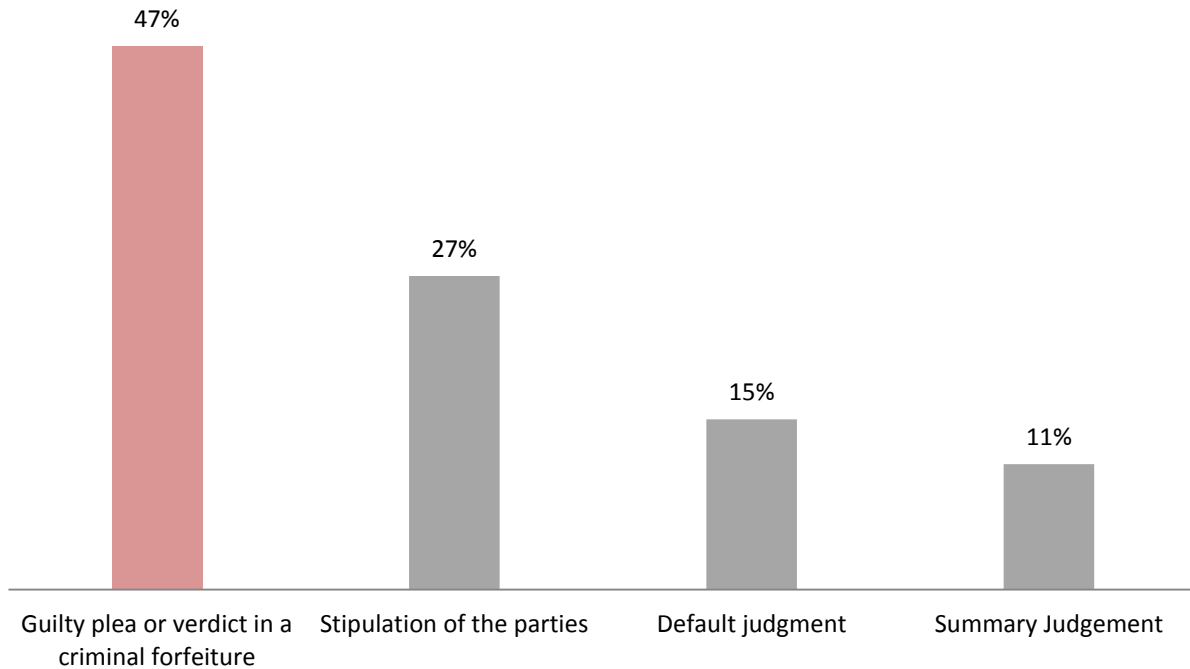


Figure 5 depicts the breakdown of the final disposition of the case. *Guilty plea or criminal verdict in a criminal forfeiture* was the most common court case disposition (47%), which was followed by *stipulation of the parties* (27%). Default judgment and *summary judgment* represented the remaining disposition types at 15 and 11 percent respectively.

Figure 5. Break-down of Disposition Type (in %)



Only one of the forfeitures (involving cash) indicated that some of the cash amount was returned to the claimant(s) post disposition. This amount was 46 percent of the original forfeited amount.

Federal Agency Costs: Several questions in S.B. 70 request information on the cost to agencies as they move through the seizure/forfeiture process. Agencies are required to provide this information, but only if the cost information is reasonably available to them. 60 percent of cases reported that the information on the direct cost to their agency in preparing the report was not reasonably available. Among the agencies that reported a cost, the median cost of preparing the report was \$60. Furthermore, close to 85 percent of cases reported that the information on the direct cost to their agency in obtaining and maintaining the seized property was not reasonably available. Similarly, close to 90 percent of cases reported that the legal costs and attorney fees paid to the prosecuting attorney were not reasonably available to the agencies.

V. Federal Forfeiture Report - Use of Federal Forfeiture Funding in 2016

Utah agencies receiving federal sharing funds and/or property:

- \$12,870.00 - Central Utah Narcotics Task Force
- \$60,790.00 - Davis Metropolitan Narcotics Strike Force
- \$20,871.00 - Department Of Public Safety, Utah Highway Patrol
- \$424,534.52 - Metropolitan Narcotics Task Force
- \$65,411.00 - Safe Streets Task Force
- \$19,008.00 - South Jordan City Police Department
- \$68,662.86 - Summit County Sheriff's Office
- \$113,872.49 - Unified Police Department
- \$92,923.53 - Utah County Major Crimes Task Force
- \$111.00 - Washington County Area Task Force
- \$1,560.00 - Washington County Sheriff's Office
- \$16,685.00 - Weber - Morgan Narcotics Strike Force
- \$1,248.00 - West Jordan Police Department
- \$15,903.40 - West Valley City Police Department

Total Federal Sharing Funds Received for Calendar Year 2016 - \$914,450.80 During Calendar Year 2016 agencies reported spending or planned to spend current funding on the following purposes:

