



## **2017 Utah Annual Forfeiture Report**

**June 30, 2018**

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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.

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 2017 state case evaluation questions and use of funds information. Overall, the findings from the 2017 Annual State Forfeiture Report were similar to the 2016 and 2015 reports.

- **There were 24 state and local agencies reporting on 334 state forfeiture cases in 2017.**
- **88% of all cases were forfeited in Civil Court with the remaining 12% adjudicated in Criminal Court.**
- **Enforcement stops were the primary enforcement action (74%),** followed by the use of a search warrant (19%), a category called “other offense” (6%), and an arrest warrant (2%).
- **Almost all forfeiture cases were the result of alleged narcotic offenses (96%).** The narcotics charges include: Possession with intent to distribute a controlled substance (53%), distribution or arranging to distribute (29%), possession/purchase of a controlled substance (10%), conspiracy to distribute (3%), and manufacturing (< 1%).
- **Cash was involved in the vast majority (93%) of the type of property forfeited,** with a median cash value of **\$1,071.**
- **Default judgment was the primary reason code (64%) underlying the final disposition,** followed by summary judgment (20%), guilty plea or verdict in a criminal forfeiture (10%) and stipulation of the parties (4%).
- **87 percent of cases reported that a criminal charge was associated with the seizure,** with 58 percent resulting in a conviction.
- **\$686,635 in state forfeiture funding** was awarded to Utah law enforcement and drug courts in 2017. **\$15.6 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 334 state forfeited court cases in 2017. 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.

Similar to the findings in the 2016 report, the vast majority of cases were tried in civil court (88%). Eighty-seven percent of these cases reported that a criminal charge was associated with the seizure, with nearly two-thirds resulting in a conviction (66%).

The average number of individuals with a known property interest was 1.4 (max: 12). None of the 334 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 \$2,180,290 (compared to \$1,882,047 in 2015 and \$1,410,307 in 2016). The median cash value was \$1,071 (min: \$50 and max: \$907,930). The estimated market value of all other non-cash property forfeited amounted to \$401,653. This included items such as cars and a gambling machine. The following tables provide aggregated data taken from the agency responses to the forfeiture questionnaire:

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

Enforcement stop	246	74
A search warrant	62	19
An arrest warrant	6	2
Search warrant and other enforcement action	1	.3
No Response (NR) or Other Offense	19	6
<b>Total</b>	<b>334</b>	<b>100%</b>

**TABLE B - Type of Property Seized?**

Cash	312	93%
Car	6	2%
Firearm	0	0%
Real Estate	0	0%
Other	2	1%
Other Property, Cash	2	1%
Car, Cash	11	3%
No Response (NR)	1	.3%
<b>Total</b>	<b>334</b>	<b>100%</b>

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

Narcotics Offense	321	96%
Money Laundering	1	.3%
Other Offense	9	3%
Narcotics Offense and Money Laundering	3	1%
<b>Total</b>	<b>334</b>	<b>100%</b>

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

Possession / Purchase of a Controlled Substance (CS)	33	10%
Possession with Intent to Distribute a C.S.	178	53%
Conspiracy to Distribute a C.S.	9	3%
Manufacture of a C.S. / Clandestine Laboratory	1	.3%
Distribution or Arranging to Distribute a C.S.	97	29%
No Response (NR)	16	5%
<b>Total</b>	<b>334</b>	<b>100%</b>

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

Yes	292	87%
No	42	13%
<b>Total</b>	<b>334</b>	<b>100%</b>

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

Conviction	194	58%
Acquittal	1	.3%
Dismissal	15	4%
Plea Agreement	0	0%
Final disposition pending	74	22%
Multiple dispositions in cases with multiple charges	6	2%
Indicated No in Table D or No Response (NR)	44	13%
<b>Total</b>	<b>334</b>	<b>100%</b>

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

Default,	215	64%
Summary judgment	68	20%
Guilty plea or verdict in a criminal forfeiture	35	10%
Stipulation of the parties	14	4%
Other jury award	0	0%
Multiple dispositions in cases with multiple charges	3	1%
<b>Total</b>	<b>334</b>	<b>100%</b>

**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. The median is reported whenever the average response is influenced by high and/or low observations, thereby representing the most typical response.

1. Is information on the direct cost to your agency in preparing this report reasonably available?  
**Fewer than 8% provided a dollar cost - Total cost reported \$3,637 (median cost = \$62) (high = \$547, low = \$20).**
2. Is information on the direct cost to your agency in obtaining and maintaining the seized property (as described in 24-4-115(3)(a) reasonably available?  
**Fewer than 2% provided a dollar cost - Total cost reported \$22,382 (average cost = \$3,730) (high = \$10,308, low = \$770).**

3. Is information on the legal costs and attorney’s fees paid to the prosecuting attorney (as described in 24-4-115(3)(b) reasonably available?  
**More than 47% provided a dollar cost - Total cost reported \$376,194 (median cost = \$205) (high =\$181,586, low = \$47).**

**List of Reporting Agencies:**

<b>Agency Name</b>	<b>Number of Cases</b>
Attorney General's Office (SECURE TF)	4
Cache Co. Sheriff's Office	1
Cache Rich Drug Task Force	7
Carbon Metro Drug Task Force	4
Cottonwood Heights City PD	3
Davis Metro Narcotics Strike Force	13
Iron Co. Sheriff's Office	1
Utah Department of Public Safety - UHP	25
Murray City PD	10
Price City PD	5
Provo City PD	1
Salt Lake City PD	131
Sandy City PD	4
South Jordan City PD	1
South Salt Lake City PD	3
Spanish Fork City PD	2
Unified Police Department	43
Uintah/Duchesne Drug Task Force	8
Utah Co. Major Crimes Task Force	9
Vernal City PD	1
Washington Co. Drug Task Force	4
Weber/ Morgan Narcotics Strike Force	31
West Jordan City PD	11
West Valley City PD	12
<b>Total</b>	<b>334</b>

**III. State Forfeiture Report - Use of State Forfeiture Funding in 2017**

**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 FY 2005 through the first three quarters of FY 2018 approximately \$15.6 million has been collected in the CFRA account. CCJJ has awarded approximately \$13.8 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 FY2019.

**Calendar 2017 (FY 2018) 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 2017 (FY2018) from the CFRA in:

1. **\$250,000** was made available to the Utah Department of Human Services - Division of Substance Abuse and Mental Health in support of Utah Drug Courts in calendar 2017 (FY2018). *Funding was declined by the Department of Human Services due to a conflict over indirect cost conditions of their federal indirect cost rate agreement.*
2. **\$350,609** awarded to the Weber/Morgan and Davis Metro multi-jurisdictional drug and crime task force projects in calendar 2017 (FY2018). 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. **\$273,526** awarded to twenty-four (24) 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 \$1,250 in calendar 2017 (FY2018). 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.

#### **2017 SAFG Award Summary by Grant:**

- Box Elder DTF (\$7,000) - narcotics officer training.
- Cache/Rich DTF (\$2,600) - surveillance/investigations equipment.
- Carbon Metro DTF (\$3,600) - Confidential Informant (CI) buy money.
- Cottonwood Heights City PD (\$19,000) - officer training, patrol vehicle.
- Davis Metro Drug and Major Crimes task Force (\$122,957) - CI funds, agent O/T, surveillance.
- ***DHS - Substance Abuse & Mental Health (\$0) - pass-thru to local drug court authorities for treatment, testing and case management.***
- Helper City PD (\$1,250) - Taser (less-than-lethal).
- Iron Co. Sheriff (\$3,500) - surveillance/search and rescue drone.
- Logan City Police (\$1,250) - covert tracker subscriptions.
- Murray City Police (\$12,065) - mobile surveillance, entry tools, officer protection equip.
- Orem City PD (\$1,250) - body-worn cameras for officers.
- Price City PD (\$1,700) - patrol rifle.
- Provo City PD 2 (\$1,300) - rifle suppressors and tactical communications gear.



- Salt Lake City Police (\$39,100) – Naloxone Rescue Kits, narcotics officer training, C/I.
- South Jordan City PD (\$1,250) - officer worn body cameras.
- South Salt Lake PD (\$3,700) - in-car rifle racks and optics.
- Spanish Fork City PD (\$1,250) - communications equipment.
- Tooele City PD (\$1,067) - white board and projector.
- Unified Police Department (UPD) (\$38,700) - riot control gear, forensics equipment.
- Utah Attorney General’s Office (\$20,300) - communications, body armor.
- Utah Chiefs’ of Police Association (\$3,500) - annual conference costs.
- Utah Department of Public Safety (\$78,800) - crime lab and SBI equip. & training.
- Utah Department of Wildlife Resources (DWR) (\$5,250) - Naloxone Rescue Kits.
- Vernal City PD (\$2,138) - narcotics officer training.
- Weber Co. Attorney’s - Homicide Task Force (\$9,656) - communications/surveillance equipment.
- Weber/Morgan Drug and Major Crimes Task Force (\$227,652) CI funds, agent O/T, surveillance.
- West Valley City Police (\$14,300) - officer worn body cameras.
- CCJJ Admin. (up to 3% of appropriation) (\$62,500) - staff time to administer program and prepare reports, etc.

***Total SAFG Funds Awarded in Calendar 2017 - \$686,635***

#### **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, 2017 through December 31, 2017. 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 2017 federal case evaluation questions and use of funds information:

- **There were 13 state and local agencies reporting on 110 federal forfeiture cases in 2017.**
- **Nearly two thirds of the cases were handled by DEA (61%).** This was followed by IRS (29%), FBI (4%), ATF (4%), ICE (<1%) and USFIS (<1 case)
- **80% of all reported federal cases were forfeited in Criminal Court, with 5% adjudicated in Civil Court and 11% handled as an Administrative forfeiture.**
- **Search Warrants were the primary enforcement action (46%),** followed by Federal Seizure Warrant (40%).
- **Most federal forfeiture cases were the result of alleged narcotic offenses (69%).** The narcotics charges breakdown were as follows: *Possession with intent to distribute a controlled substance* (49%) percent of these cases, followed by *distribution or arranging to distribute* (15%), *conspiracy to distribute* (3%), and *manufacturing* (2%).
- **Cash was involved in the vast majority (76%) of the type of property forfeited,** with a median cash value of \$14,815.
- **Guilty plea or verdict in a criminal forfeiture was the primary reason code underlying the final disposition (63%),** followed by *summary judgment* (5%), and *default judgment* (2%).
- **87 percent of cases reported that a criminal charge was associated with the seizure,** with 68 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 2017. 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 the agency responses to the forfeiture questionnaire:

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

Enforcement stop	6	5
A search warrant	51	46
An arrest warrant	0	0
Federal Seizure Warrant	44	40
Warrantless PC	3	3
Incident to Arrest	2	2
Voluntary Surrender	1	1
Buy Operation	1	1
No Response (NR)	2	2
<b>Total</b>	<b>110</b>	<b>100%</b>

**TABLE B - Type of Property Seized?**

Cash	84	76%
Car	23	21%
Firearm	0	0%
Real Estate	0	0%
Other	2	2%
Car, Cash	1	1%
No Response (NR)	0	0%
<b>Total</b>	<b>110</b>	<b>100%</b>

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

Narcotics Offense	76	69%
Money Laundering	32	29%
Other Offense	0	0%
No Offense Indicated	2	2%
<b>Total</b>	<b>110</b>	<b>100%</b>

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

Possession / Purchase of a Controlled Substance (CS)	0	0%
Possession with Intent to Distribute a C.S.	54	49%
Conspiracy to Distribute a C.S.	3	3%
Manufacture of a C.S. / Clandestine Laboratory	2	2%
Distribution or Arranging to Distribute a C.S.	17	15%
No Response (NR) or Not a Narcotics Case.	34	31%
<b>Total</b>	<b>110</b>	<b>100%</b>

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

Yes	96	87%
No	9	8%
No Response (N/R)	5	5%
<b>Total</b>	<b>110</b>	<b>100%</b>

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

Conviction	75	68
Acquittal	0	0
Dismissal	1	1
Plea Agreement	0	0
Final disposition pending	20	18
Indicated No in Table D or No Response (NR)	13	12
Multiple dispositions in cases with multiple charges	1	1
<b>Total</b>	<b>110</b>	<b>100%</b>

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

Default,	2	2
Summary judgment	6	5
Guilty plea or verdict in a criminal forfeiture	69	63
Stipulation of the parties	0	0
Other jury award	0	0
Unknown Disposition or No Response	33	30
<b>Total</b>	<b>110</b>	<b>100%</b>

**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. The median is reported whenever the average response is influenced by high and/or low observations, thereby representing the most typical response.

1. Is information on the direct cost to your agency in preparing this report reasonably available? **Only two of 110 agencies reported any cost information - Total cost reported \$37.**
2. Is information on the direct cost to your agency in obtaining and maintaining the seized property (as described in 24-4-115(3)(a) reasonably available? **No cost information reported.**
3. Is information on the legal costs and attorney's fees paid to the prosecuting attorney (as described in 24-4-115(3)(b) reasonably available? **No cost information reported.**

## **V. Federal Forfeiture Report - Use of Federal Forfeiture Funding in 2017**

**Utah agencies receiving federal sharing funds and/or property:**

- \$75,879 - Attorney General
- \$101,726 - Davis Metropolitan Narcotics Strike Force

- \$189,917 - Department Of Public Safety, Utah Highway Patrol
- \$473,278 - Metropolitan Narcotics Task Force
- \$78,868 - Safe Streets Task Force
- \$2,790 - San - San Juan Narcotics Task Force
- \$60,858 - Sandy City Police Department
- \$18,678 - South Jordan City Police Department
- \$21,465 - Unified Police Department
- \$2,855 - Utah County Major Crimes Task Force
- \$16,804 - Washington County Area Task Force
- \$56,086 - Weber - Morgan Narcotics Strike Force
- \$19,646 - West Valley City Police Department

***Total Federal Sharing Funds Received for Calendar Year 2017 - \$1,118,850. During Calendar Year 2017 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