



## **2018 Utah Annual Forfeiture Report**

**June 30, 2019**

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## **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 27 state and local agencies reporting on 215 state forfeiture cases in 2018.**
- **69% of all cases were forfeited in Civil Court** with the remaining 31% adjudicated in Criminal Court.
- **Enforcement stops were the primary enforcement action (59%),** followed by the use of a search warrant (30%), a category called “other offense” (7%), and an arrest warrant (2%).
- **Almost all forfeiture cases were the result of alleged narcotic offenses (95%).** The narcotics charges include: Possession with intent to distribute a controlled substance (66%), distribution or arranging to distribute (21%), possession/purchase of a controlled substance (6.5%), conspiracy to distribute (1%), and manufacturing (< 1%).
- **Cash was the type of property seized in 98% of state cases reported in 2018,** with a median cash value of **\$1,731.**
- **Default judgment was the primary reason code underlying the final disposition (64%),** followed by summary judgment (12.5%), guilty plea or verdict in a criminal forfeiture (6%), stipulation of the parties (6%) and other jury award (<1%).
- **89 percent of cases reported that a criminal charge was associated with the seizure,** with 60 percent resulting in a conviction.
- **\$1,266,703 in state forfeiture funding** was awarded through the State Asset Forfeiture Grant Program (SAFG) from the Criminal Forfeiture Restricted Account (CFRA) in 2018 (FY2019). **\$17.3 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 215 state forfeited court cases in 2018. 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 2018 (69%) compared to 2017 (88%). Eighty-nine percent of these cases reported that a criminal charge was associated with the seizure, with nearly two-thirds resulting in a conviction (60%).

The average number of individuals with a known property interest was 1.3 (max: 4). None of the 215 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 \$1,912,952 (compared to \$2,180,290 in 2017; \$1,410,307 in 2016 and \$1,882,047 in 2015). The median cash value was \$1,731 (min: \$59 and max: \$900,663). The estimated market value of all other non-cash property forfeited amounted to \$748,963. This included items such as cars, coin pushers and gambling machines. The reported dollar amount of property that was returned to any claimant was \$804,251 (min: \$126 and max: \$720,000). 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	127	59%
A Search Warrant	65	30%
An Arrest Warrant	5	2%
Other	14	7%
Multiple enforcement actions indicated	2	1%
No Response (NR)	2	1%
<b>Total</b>	<b>215</b>	<b>100%</b>

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

Cash	203	94%
Car	3	1%
Firearm	0	0%
Real Estate	0	0%
Other	1	.5%
Other Property, Cash	1	.5%
Car, Cash	7	4%
No Response (NR)	0	0%
<b>Total</b>	<b>215</b>	<b>100%</b>

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

Narcotics Offense	205	95%
Money Laundering	4	2%
Other Offense	2	1%
Multiple offenses indicated	4	2%
No Response (NR)	0	0%
<b>Total</b>	<b>215</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)	14	6.5%
Possession with Intent to Distribute a C.S.	141	66%
Conspiracy to Distribute a C.S.	3	1%
Manufacture of a C.S. / Clandestine Laboratory	1	.5%
Distribution or Arranging to Distribute a C.S.	46	21%
Multiple offenses indicated	2	1%
No Response (NR)	8	4%
<b>Total</b>	<b>215</b>	<b>100%</b>

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

Yes	191	89%
No	24	11%
<b>Total</b>	<b>215</b>	<b>100%</b>

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

Conviction	121	56%
Acquittal	0	0%
Dismissal	14	7%
Final Disposition Pending	51	24%
Multiple dispositions in cases with mMultiple charges	7	3%
Indicated No in Table D or No Response (NR)	22	10%
<b>Total</b>	<b>215</b>	<b>100%</b>

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

Default	138	64%
Summary Judgment	27	12.5%
Guilty Plea or Verdict in a Criminal Forfeiture	13	6%
Stipulation of the Parties	13	6%
Other Jury Award	1	.5%
Multiple dispositions in cases with multiple charges	6	3%
No Response (NR)	17	8%
<b>Total</b>	<b>215</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 3% provided a dollar cost - Total cost reported \$813 (median cost = \$137) (high = \$230, low = \$36.40).**
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 \$13,123 (average cost = \$3,281) (high = \$10,308, low = \$27.50).**
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 44% provided a dollar cost - Total cost reported \$274,242 (median cost = \$322) (high = \$181,133, low = \$27.80).**

**List of Reporting Agencies:**

<b>Agency Name</b>	<b>Number of Cases</b>
Brigham City PD	1
Cache Rich Drug Task Force	6
Carbon Metro Drug Task Force	1
Cottonwood Heights City PD	14
Davis Metro Narcotics Strike Force	21
Grand Co. Sheriff's Office	1
Heber City PD	1
Moab City PD	1
Logan City PD	7
Murray City PD	13
Ogden City PD	2
Price City PD	2
Provo City PD	4
Salt Lake City PD	29
Sandy City PD	5
Saratoga Springs City PD	2
South Jordan City PD	1
South Salt Lake City PD	6
Unified Police Department	34
Utah Attorney General's Office	2
Utah Co. Sheriff's Office	2
Utah Highway Patrol (DPS)	19
Vernal City PD	8
Washington Co. Drug Task Force	3
Weber/Morgan Narcotics Strike Force	14
West Jordan City PD	3
West Valley City PD	13
<b>Total</b>	<b>215</b>

### III. State Forfeiture Report - Use of State Forfeiture Funding in 2018 (FY2019)

**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 2019, approximately \$17.3 million has been collected in the CFRA account. CCJJ has awarded approximately \$15.1 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 FY2020.

**Calendar 2018 (FY 2019) 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 2018 (FY2019) from the CFRA:

1. **\$350,000** was set aside for Utah Drug Courts in calendar 2018 (FY2019).
2. **\$398,466** awarded to the Weber/Morgan, Davis Metro and Utah multi-jurisdictional drug and crime task force projects in calendar 2018 (FY2019). 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.
3. **\$664,910** awarded to eight-teen (18) state and local law enforcement agencies using a funding formula based on agency participation in the state forfeiture process. The FY2019 formula allowed an agency to apply for a grant award equal to at least 1/3 of the amount of state forfeiture funding they remitted to CCJJ over a twelve month collection period. Agencies not contributing funding to the CFRA during the collection period were not eligible to participate in the SAFG program last year. The base award amount was set at \$1,250 in calendar 2018 (FY2019). 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. **Beginning in FY 2020, CCJJ will modified the SAFG allocation process and funding formula to allow all Utah law enforcement agencies the opportunity to apply for an SAFG grant. Law enforcement agencies will no longer be required to contribute state forfeiture funding to the CFRA in order to be eligible for a grant.**

*\* \$141,327 was paid from the SAFG program in 2018 to a claimant to cover their cost of attorney fees and interest following a challenge to a case in which the state did not prevail.*

#### 2018 SAFG Award Summary by Grant:

- Brigham City PD (\$1,250) - officer training.
- Cache/Rich DTF (\$2,600) - surveillance/investigations equipment.
- Carbon Metro DTF (\$1,250) - confidential informant (CI) buy money.
- Cottonwood Heights City PD (\$1,250) - officer training.
- Davis Metro Drug and Major Crimes task Force (\$89,357) - CI funds, training, supplies.



- ***Drug Courts (\$0) - pass-thru to local drug court authorities for treatment, testing and case management.***
- Murray City Police (\$5,016.58) - mobile surveillance, entry tools, officer protection equip.
- Ogden City PD (\$1,250) - officer training equipment.
- Parowan City PD (\$6,350) - radios/communications.
- Price City PD (\$1,250) - 8 Simunition tactical rifle bolt conversion kits.
- Salt Lake City Police (\$43,500) - communications, surveillance, narcotics officer training, C/I.
- Sandy City PD (\$11,000) - rifles, rifle optics and range finders.
- South Jordan City PD (\$1,250) - ballistic helmets for officers.
- St. George City PD (\$5,800) - ballistic protection for officers.
- Unified Police Department (UPD) (\$25,500) - narcotics officer training, surveillance equip.
- Utah Attorney General's Office (\$112,500) - communications, body armor, surveillance, firearms, firearms training, evidence kits, lap top.
- Utah County Major Crimes Task Force (\$94,800) - CI funds, training, supplies.
- Utah Department of Public Safety (\$434,000) - crime lab and SBI equip. & training.
- Washington Drug Task Force (\$2,600) - drug test supplies.
- Weber/Morgan Drug and Major Crimes Task Force - (\$214,309) CI funds, training, supplies.
- West Jordan City PD (\$4,400) - camera equipment and evidence collection items.
- West Valley City Police (\$4,143.75) - officer training.
- CCJJ Admin. (up to 3% of appropriation) (\$62,000) - staff time to administer program and prepare reports, etc.

***\*Claimant Refund (\$141,327.14) - attorney fees and interest.***

***Total SAFG Funds Awarded in Calendar 2018 - \$1,266,703.47***

#### **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, 2018 through December 31, 2018.

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

- There were **10** state and local agencies reporting on **57** federal forfeiture cases in 2018.
- **Nearly 88% of all reported cases were handled by the DEA (50 cases)**, followed by the FBI <9% (5 cases), ATF <1% (1 case) and USPIS <1% (1 case).
- **More than 61% of all reported federal cases were handled as an Administrative forfeiture.** 21% in Criminal Court, with 16% adjudicated in Civil Court.
- **Search Warrants were the primary enforcement action (47%),** followed by Warrantless Probable Cause Seizure (31.5%).
- **Most federal forfeiture cases were the result of alleged narcotic offenses (93%).** The narcotics charges breakdown as follows: Possession with Intent to Distribute a Controlled Substance (77%) percent of these cases, followed by Distribution or Arranging to Distribute (10.5%), Conspiracy to Distribute (3.5%), with Possession/Purchase of a Controlled Substance (CS) and Manufacturing both at 2%.
- **Cash was involved in the vast majority of the type of property forfeited (75%).** The median cash value was \$23,004 (min: \$789, max: \$429,600, total of all cases \$1,974,957).
- **Guilty plea or Verdict in a Criminal Forfeiture was the primary reason code underlying the final disposition (42%)** followed by Default judgment (10%).
- **56 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 57 federal forfeited court cases in 2018. 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	5	9%
A Search Warrant	27	47%
An Arrest Warrant	1	2%
Federal Seizure Warrant	2	3.5%
Warrantless PC	18	31.5%
Other	3	5%
Multiple enforcement actions indicated	1	2%
No Response (NR)	0	-
<b>Total</b>	<b>57</b>	<b>100%</b>

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

Cash	43	75%
Car	10	17.5%
Firearm	0	-
Real Estate	1	2%
Other	1	2%
Multiple types indicated	2	3.5%
No Response (NR)	0	-
<b>Total</b>	<b>57</b>	<b>100%</b>

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

Narcotics Offense	53	93%
Money Laundering	1	2%
Other Offense	0	-
Multiple offenses indicated	3	5%
No offense indicated	0	-
<b>Total</b>	<b>57</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)	1	2%
Possession with Intent to Distribute a C.S.	44	77%
Conspiracy to Distribute a C.S.	2	3.5%
Manufacture of a C.S. / Clandestine Laboratory	1	2%
Distribution or Arranging to Distribute a C.S.	6	10.5%
No Response (NR) or not a narcotics case.	3	5%
<b>Total</b>	<b>57</b>	<b>100%</b>

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

Yes	32	56%
No	25	44%
No Response (N/R)	0	-
<b>Total</b>	<b>57</b>	<b>100%</b>

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

Conviction	27	47%
Acquittal	0	-
Dismissal	1	1.75%
Plea Agreement	0	-
Final Disposition Pending	2	3.5%
Indicated No in Table D or No Response (NR)	26	46%
Multiple dispositions in cases with multiple charges	1	1.75%
<b>Total</b>	<b>57</b>	<b>100%</b>

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

Default,	6	10%
Summary Judgment	1	2%
Guilty Plea or Verdict in a Criminal Forfeiture	24	42%
Stipulation of the Parties	1	2%
Other Jury Award	0	-
Multiple dispositions in cases with multiple charges	1	2%
Unknown Disposition or No Response	24	42%
<b>Total</b>	<b>57</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 one agency reported any cost information - Total cost reported \$230.**
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 9% of cases provided a dollar cost - Total cost reported \$62,152 (median cost = \$3,069) (high = \$38,391, low = \$1,774).**
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 2018**

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

- \$4,767 - Attorney General
- \$12,700 - Carbon Metro Drug Task Force
- \$12,299 - Davis Metropolitan Narcotics Strike Force
- \$33,810 - Department Of Public Safety, Utah Highway Patrol
- \$771,509 - Salt Lake/DEA Metropolitan Narcotics Task Force
- \$1,085 - Safe Streets Task Force
- \$316 - Sandy City Police Department
- \$25,553 - Washington County Area Task Force
- \$146,705 - Weber - Morgan Narcotics Strike Force
- \$350 - West Jordan City Police Department

*\*The 2018 U.S. DOJ equitable sharing report indicated that \$350 in federal forfeiture funding was received by the Unified Police Department (UPD). UPD was able to provide all requested reporting on the State forfeiture funding received in 2018, however, they were unable to match any case(s) to the \$350 in federal forfeiture indicated by the U.S. DOJ.*

***Total Reported Federal Sharing Funds Received for Calendar Year 2018 - \$1,009,110. During Calendar Year 2018, 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