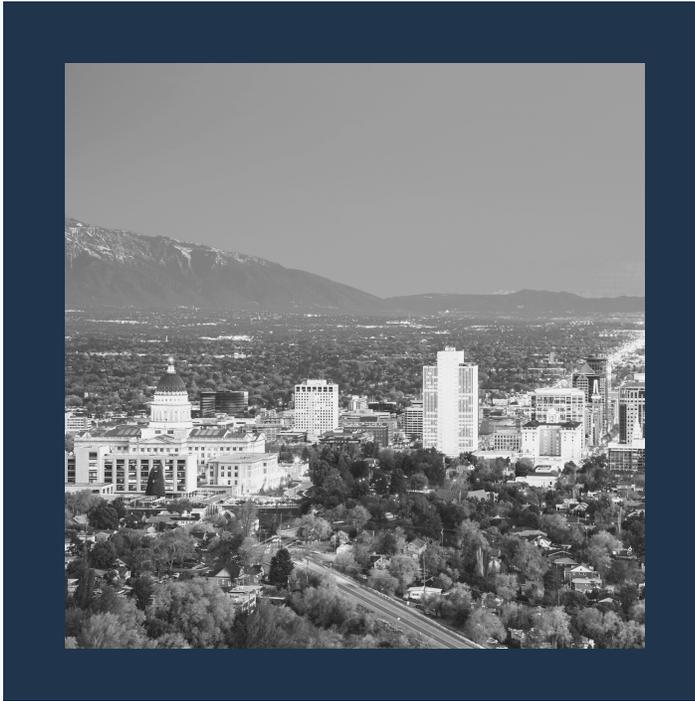


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UTAH COMMISSION ON
CRIMINAL & JUVENILE JUSTICE

2020 ASSET FORFEITURE IN UTAH

JULY 2021





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BACKGROUND & LEGISLATIVE OVERVIEW

Over the last two decades, 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.

BACKGROUND &
**LEGISLATIVE
 OVERVIEW
 (CONTINUED)**

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.

Key Forfeiture Legislation

SB 175 - Protection of Private Lawfully Obtained Property

HB 427 - Asset Forfeiture Revisions

SB 52 - Asset Forfeiture Amendments

SB 70 - Asset Forfeiture Transparency Amendments

STATE CASE EVALUATION

The following provides a summary of aggregated responses from the 2020 state case evaluation questions and use of funds information:

- **There were 23 state and local agencies reporting on 130 state forfeiture cases in 2020.**
- **79% of all cases were forfeited in Civil Court** with the remaining 21% adjudicated in Criminal Court.
- **Enforcement stops were the primary enforcement action (58%),** followed by the use of a search warrant (29%), a category called "other offense" (12%), and an arrest warrant (2%).
- **Almost all forfeiture cases were the result of alleged narcotic offenses (89%).** The narcotics charges include: Possession with intent to distribute a controlled substance (64%), distribution or arranging to distribute (24%), possession/purchase of a controlled substance (6%), conspiracy to distribute (2%), and manufacturing (0%).
- **Cash was the type of property seized in 94% of state cases reported in 2020 with a median cash value of \$1,188.**

STATE FORFEITURE REPORT

- **Default judgment was the primary reason code underlying the final disposition (71%),** followed by guilty plea or verdict in a criminal forfeiture (16%), stipulation of the parties (5%), and summary judgment (3%).

- **91% of cases reported that a criminal charge was associated with the seizure,** with 67 percent resulting in a conviction.

- **\$1,106,854 in state forfeiture funding** was awarded through the State Asset Forfeiture Grant Program (SAFG) from revenue in the Criminal Forfeiture Restricted Account (CFRA) in 2020 (FY2021). At year-end 2020, \$19 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 130 state forfeited court cases in 2020. 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.

More cases were tried in civil court in 2020 (79%) compared to 2019 (67%). Ninety one percent of these cases reported that a criminal charge was associated with the seizure, with more than two-thirds resulting in a conviction (67%).

STATE CASE EVALUATION (CONTINUED)

The average number of individuals with a known property interest was 1.3 (max: 3). None of the 130 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 \$1,103,741 (compared to \$1,747,945 in 2019; \$1,912,952 in 2018; and \$2,180,290 in 2017). The median cash value was \$1,188 (min: \$410 and max: \$183,730). The estimated market value of all other non-cash property forfeited amounted to \$39,523. This included items such as cars and cell phones. The reported dollar amount of property that was returned to any claimant was \$70,056 (min: \$660 and max: \$35,257).

The following tables provide aggregated data taken from agency responses to the forfeiture questionnaire:

The following tables show descriptive statistics regarding asset forfeiture offences and/or cases. The first column list the type, the second column shows the total number of cases, and the third column represents the percentage.

STATE FORFEITURE REPORT

FIGURE 1: Type of Enforcement Action that Resulted in Seizure

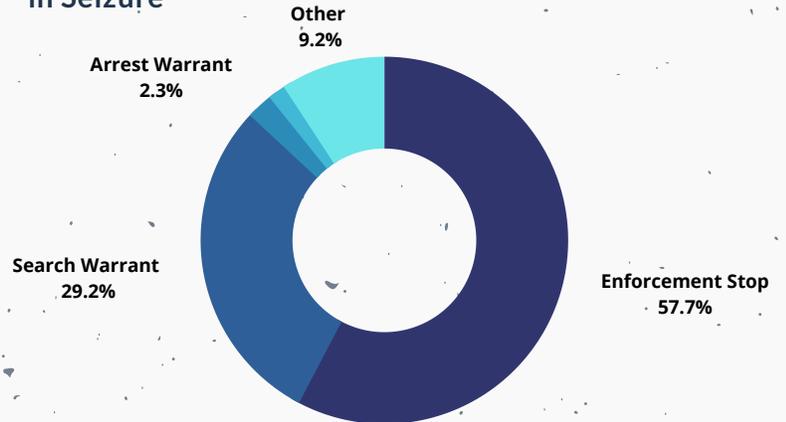


TABLE A: Type of Property Seized

Cash	122	94%
Car	0	0%
Firearm	0	0%
Real Estate	0	0%
Cash, Other	3	2%
Cash, Car, Other	1	1%
Cash, Car	4	3%
Unknown or Unresponsive	0	0%
Total	130	100%

TABLE B: Alleged Offense that was the Cause for Seizure of the Property

Narcotics Offense	116	89%
Money Laundering	2	2%
Other Offense	1	1%
Multiple offenses indicated	11	8%
Unknown or Unresponsive	0	0%
Total	130	100%

TABLE C: Most Serious Offences Applicable - Narcotics Offenses

Possession / Purchase of a Controlled Substance (CS)	8	6%
Possession with Intent to Distribute a C.S.	84	64%
Conspiracy to Distribute a C.S.	2	2%
Manufacture of a C.S. / Clandestine Laboratory	0	0%
Distribution or Arranging to Distribute a C.S.	31	24%
Multiple offenses indicated	2	2%
Unknown or Unresponsive	3	2%
Total	130	100%

STATE CASE EVALUATION (CONTINUED)

Where criminal charges filed regarding the alleged offenses indicated in Table B?

Yes - 118 Cases or 91%

No - 8 Cases or 6%

Unknown or Unresponsive - 4 Cases or 3%

FIGURE 2: Final Disposition of Each Criminal Charge (For Respondents)

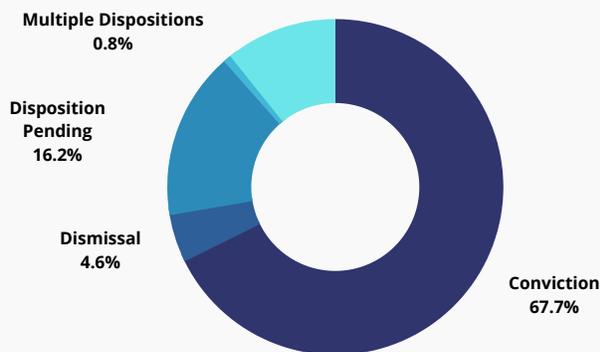


TABLE D: Final Disposition of the Forfeiture Case

Default	93	71%
Summary Judgment	4	3%
Guilty Plea or Verdict in a Criminal Forfeiture	21	16%
Stipulation of the Parties	6	5%
Other Jury Award	2	2%
Multiple dispositions in cases with multiple charges	0	0%
No Response (NR)	4	3%
Total	130	100%

TABLE E: Agencies that Reported Data/Information

List of Reporting Agencies:	
Agency Name	Number of Cases
Cache Rich Drug Task Force	2
Carbon Co. Sheriff's Office	3
Carbon Metro Task Force	1
Davis Metro Narcotics Strike Force	8
Emery Co. Sheriff's Office	3
Helper City PD	1
Herriman City PD	1
Logan City PD	1
Murray City PD	8
Ogden City PD	30
Orem City PD	1
Price City PD	1
Provo City PD	1
Riverton City PD	3
Salt Lake City PD	2
Sandy City PD	5
Saratoga Springs City PD	1
Unified Police Department	26
Utah Co. Major Crimes Task Force	2
Utah Highway Patrol (DPS)	19
Washington Major Crimes Task Fore	1
West Jordan City PD	9
West Valley City PD	1
Total	130

67.7% of Cases Resulted in Conviction

USE OF STATE FORFEITURE FUNDING IN 2020

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, multi-jurisdictional 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 2020 (FY 2021) 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.

- **\$529,000** awarded to the Weber/Morgan, Davis Metro, Salt Lake Area Gang and Utah multi-jurisdictional drug and crime task force projects in FY 2021. 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.
- **\$577,854** state and local law enforcement grants. Grant funding was used for among other things: officer safety equipment, narcotics interdiction support, surveillance equipment, body-worn cameras, state crime lab training and equipment, Utah Law Enforcement Information Sharing Program (ULEISA) - Palantir Initiative, officer training and enhancement of crime scene investigation capabilities.

Total SAFG Funds Awarded in FY 2021 - \$1,106,854

**Funding for FY 2022 will include major crime task forces, drug court training, law enforcement grants (including a statewide competitive grant) and direct transfer of SAFG funding to the state crime victims' fund.*

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, 2020 through December 31, 2020.

The following provides a summary of aggregated responses from the 2020 federal case evaluation questions and use of funds information:

- There were **11** state and local agencies reporting on **58** federal forfeiture cases in 2020.
- **Nearly 79% of all reported cases were handled by the DEA (46 cases)**, followed by the FBI 12% (7 cases), ICE 3% (2 cases), IRS 2% (1 cases), ATF 2% (1 case) and CBP 2% (1 case).
- **Nearly 72% of all reported federal cases were handled as an Administrative forfeiture (42 cases)**, 26% in Criminal Court (15 cases), with 2% adjudicated in Civil Court (1 case).
- **Search Warrants were the primary enforcement action (38%).**
- **Most federal forfeiture cases were the result of alleged narcotic offenses (91%).** The narcotics charges breakdown as follows: Manufacture of a Controlled Substance (C.S.) / Clandestine Laboratory (41%), Distribution or Arranging to Distribute a C.S. (22%), Possession with Intent to Distribute a C.S. (21%), Conspiracy to Distribute a C.S. (5%), Possession/Purchase of a CS at (2%).
- **Cash was involved in the vast majority of the type of property forfeited (81%).** The median cash value was \$20,278 (min: \$1,465, max: \$427,561), total of all cases \$3,164,930).
- **Default Judgment was the primary reason code underlying the final disposition (67%)** followed by Guilty plea or Verdict in a Criminal Forfeiture (20%).
- **59 percent of cases reported that a criminal charge was associated with the seizure**, with 31 percent resulting in a conviction.

**FEDERAL
CASE
EVALUATION
(CONTINUED)**

The data summarized in this section is based on self-reported data pertaining to 58 federal forfeited court cases in 2020. 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 F: Enforcement Type that Resulted in Seizure

Enforcement Stop	7	12%
A Search Warrant	22	38%
An Arrest Warrant	1	2%
Federal Seizure Warrant	0	0%
Warrantless PC	0	0%
Other	20	34%
Multiple enforcement actions indicated	4	7%
Unknown or Unresponsive	4	7%
Total	58	100%

TABLE G: Type of Property Seized

Cash	47	81%
Car	9	16%
Firearm	0	0%
Real Estate	0	0%
Other	2	3%
Multiple types indicated	0	0%
Unknown or Unresponsive	0	0%
Total	58	100%

FIGURE 3: Alleged Offenses that were the Cause for Seizure of Property

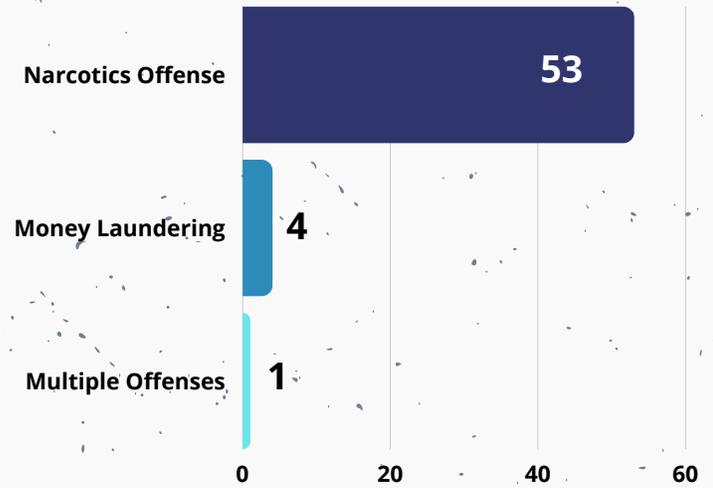


TABLE H: Most Serious Offense Applicable for Narcotics Offenses (Table I)

Possession / Purchase of a Controlled Substance (CS)	1	2%
Possession with Intent to Distribute a C.S.	12	21%
Conspiracy to Distribute a C.S.	3	5%
Manufacture of a C.S. / Clandestine Laboratory	24	41%
Distribution or Arranging to Distribute a C.S.	13	22%
No Response (NR) or not a narcotics case.	5	9%
Total	58	100%

**FEDERAL
CASE
EVALUATION
(CONTINUED)**

Where criminal charges filed regarding the alleged offense indicated in FIGURE 3?

Yes - 34 Cases or 59%

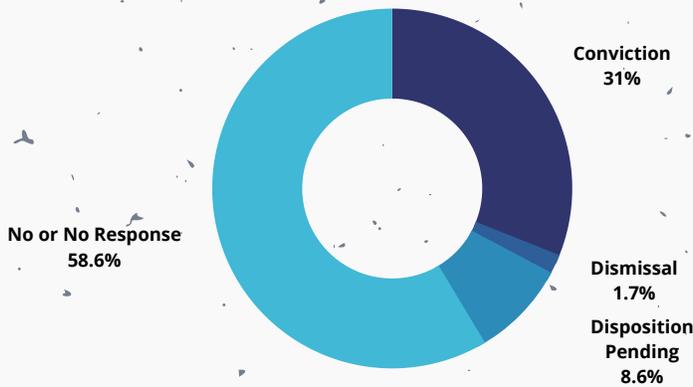
No - 22 Cases or 38%

Unknown or Unresponsive - 2 Cases or 3%

TABLE J: Final Disposition of the Forfeiture Case

Default	39	67%
Summary Judgment	0	0%
Guilty Plea or Verdict in a Criminal Forfeiture	11	20%
Stipulation of the Parties	2	3%
Other Jury Award	0	0%
Multiple dispositions in cases with multiple charges	3	5%
Unknown Disposition or No Response	3	5%
Total	58	100%

TABLE I: Final Disposition of Each Criminal Charge (For Respondents)



**USE OF
FEDERAL
FORFEITURE
FUNDING IN
2020**

Utah agencies receiving federal sharing funds and/or property as reported by the U.S Department of Justice or U.S Treasury Department:

- \$20,844.00 - Cedar City PD
- \$139,831.33 - Utah Dept. of Public Safety - UHP
- \$265,862.00 - Layton City PD
- \$2,009.00 - Utah National Guard - Counter Drug Unit
- \$141,558.00 - Ogden City PD
- \$19,516.00 - St. George City PD
- \$672,412.00 - Salt Lake City PD/DEA Metro Task Force
- \$12,902.00 - Sandy City PD
- \$11,738.00 - Santaquin City PD
- \$22,620.00 - Sevier Co. Sheriff's Office
- \$2,910.81 - Summit Co. Sheriff's Office
- \$10,724.00 - Unified Police Dept.

Total Reported Federal Sharing Funds Received by Utah Agencies for Calendar Year 2020 by U.S Department of Justice or U.S Treasury Department = \$1,322,927.14. During Calendar Year 2020, 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

Total reported federal sharing funds received by Utah agencies is \$1,322,927.14