



## 2015 Utah Annual Forfeiture Report (UCA 24-4-118)

**Background and Key Findings:** In the past 16 years, the forfeiture process in Utah has gone through various procedural changes along with changes to how funding is allocated and used. During the 2015 Utah General Legislative Session, Senate Bill 52 was passed creating additional reporting requirements for state and federal forfeitures. The new statutory reporting requirements found in [24-4-118](#), expands upon the existing 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 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 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 Crime Victim Reparations 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.

## Key Findings from the 2015 Annual Forfeiture Report:

- **All 393 cases were forfeited in State Court**
- **The vast majority of cases pertained to civil cases (94%)**
- **Enforcement stops were the primary enforcement action (62.3%)**, followed by the use of a search warrant (29.1%), and an arrest warrant (4.6%)
- **Almost all forfeitures pertained to alleged narcotic offenses (97.5%)**. Possession with intent to distribute represented close to 60 percent of these cases, followed by distribution (24.2%), possession/purchase (10.4%), conspiracy to distribute (4.7%), and manufacturing (1.3%)
- **Cash represented the vast majority of the type of property forfeited (86.4%)**, with a median cash value of \$1,324
- **The average number of individuals with a known property interest was 1.4** (max: 19)
- **Default judgment was the primary reason underlying the final disposition (61.3%)**, followed by *summary judgment* (21.6%), *stipulation of the parties* (11.5%), and *guilty plea or verdict in a criminal forfeiture* (5.6%)
- **13 percent of cash only forfeitures resulted in funds being returned to the claimant(s) post disposition**. On average, 45 percent of the forfeited amount was returned to these claimant(s)
- **\$3.6 million in state and federal forfeiture funding** was awarded to Utah law enforcement agencies and drug courts in 2015
- **\$13.8 million in state forfeiture funding** has been transferred to the Criminal Forfeiture Restricted Account by Utah law enforcement agencies since 2004

**Organization:** This report is divided into two sections. The first section - *Forfeiture Case Report* - covers the new forfeiture reporting requirements while the second section - *Use of State and Federal Forfeiture Funds in 2015* - summarizes how forfeiture awards were expended by recipient agencies in 2015.

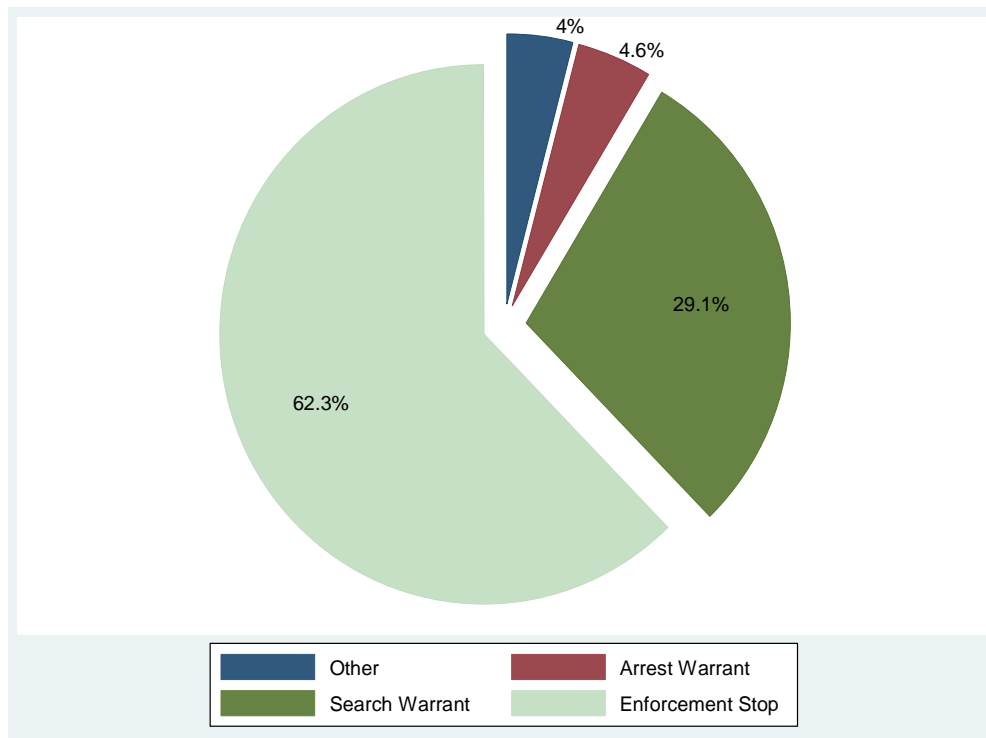
## Section 1: Forfeiture Case Report

The information summarized in this section is based on self-reported data pertaining to 393 forfeited court cases in 2015. A random sample of cases was verified for accuracy through the Utah Court-Exchange System. Since this is the first year that requires additional reporting requirements, no comparison could be made to previous years.

The majority of cases was tried in civil court (94%)<sup>1</sup> and was reported by agencies in the Wasatch front (84%). The average number of individuals with a known property interest was 1.4 (max: 19). None of the 393 cases involved transferring property to a federal agency or government entity not created under or applicable to Utah state law.

Enforcement stops represented nearly two thirds of the type of enforcement action taken and is seen in Figure 1. This was followed by the use of a search warrant (29.1%), use of an arrest warrant (4.6%), and a category labeled as “other” (4%). The “other” category included for example, probation searches and the reporting of a suicidal subject.<sup>2</sup>

**Figure 1. Type of Enforcement Action**

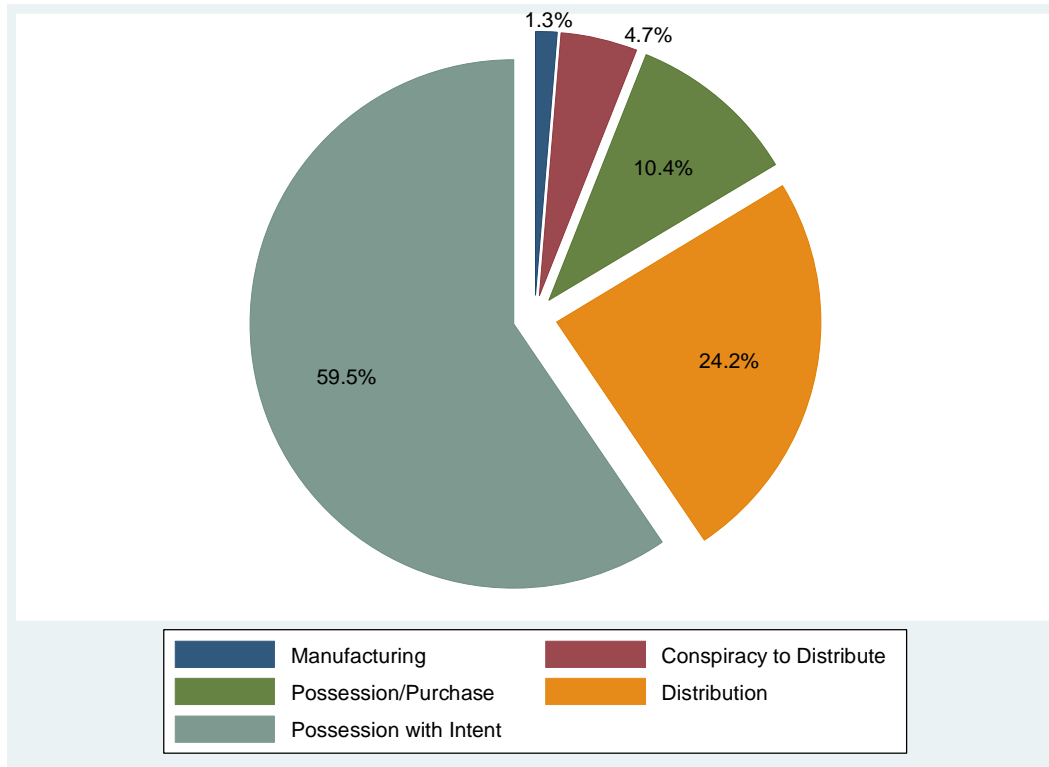


<sup>1</sup> It is not known how many cases included a successful criminal prosecution of the individual(s) charged.

<sup>2</sup> It should be noted that a small number of cases reported multiple types of enforcement actions per case. These categories are not mutually exclusive.

Almost all of the reported forfeitures pertained to alleged narcotics offenses (97.5%). The remaining 2.5 percent pertained to money laundering offenses and a category labeled as “other.”<sup>3</sup> Figure 2 depicts a breakdown of the alleged offense associated with the narcotics cases. Possession with intent to distribute a controlled substance represented close to 60 percent of these narcotics offenses, followed by distribution/arranging to distribute a controlled substance (24.2%), possession/purchase of a controlled substance (10.4%), and conspiracy to distribute (4.7%). A small number of cases (1.3%) pertained to manufacturing.<sup>4</sup>

**Figure 2. Break-Down of Alleged Offense**

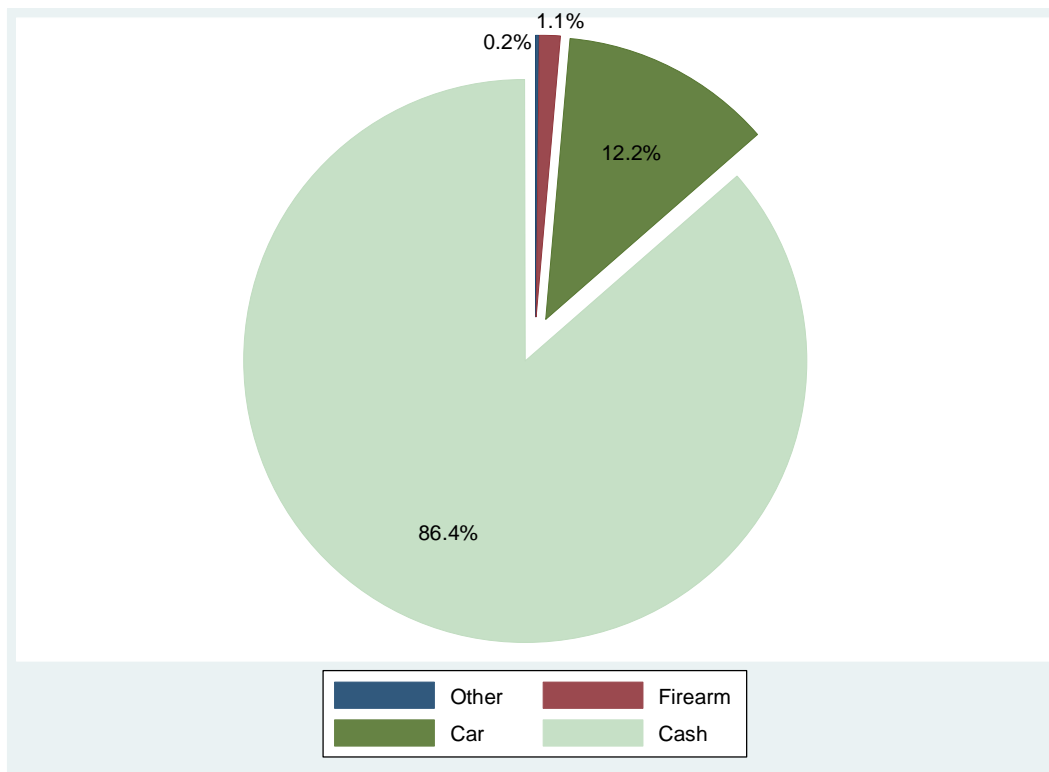


<sup>3</sup> The “other” category was comprised of offenses related to fleeing, fraud and assault.

<sup>4</sup> A small percent of cases reported more than one level of alleged offense. In these cases, the highest severity was selected.

Cash was the main type of property forfeited (86.4%) and is seen in Figure 3. This was followed by cars (12.2%), while a small percent pertained to a category labeled “other”<sup>5</sup> (0.2%) and firearms (1.1%).<sup>6</sup>

**Figure 3. Type of Property Forfeited**



<sup>5</sup> The “other” category included items such as, computers and TV’s.

<sup>6</sup> 14 percent of cases involved more than one type of property forfeited. These categories are not mutually exclusive.

The sum of all reported cash forfeitures amounted to \$1,882,047. The median cash value was \$1,324 (min: \$50 and max: \$156,670), with the median cash value being higher for criminal cases than civil cases (\$3,481 vs. \$1,301). The distribution of cash forfeitures comparing Wasatch Front counties to non-Wasatch Front counties is depicted in Figure 4. The majority of forfeitures for both groups were between \$500 and \$2,500 per case (>50%). Agencies along the Wasatch Front reported the largest cash forfeitures, with 4 percent of cases reporting a cash value above \$30,000. Seventeen percent of cases along the Wasatch Front reported less than \$500 per case compared to 13 percent of cases outside the Wasatch Front.

**Figure 4. Distribution of Cash Value: Wasatch Front vs. Non-Wasatch Front Agencies**

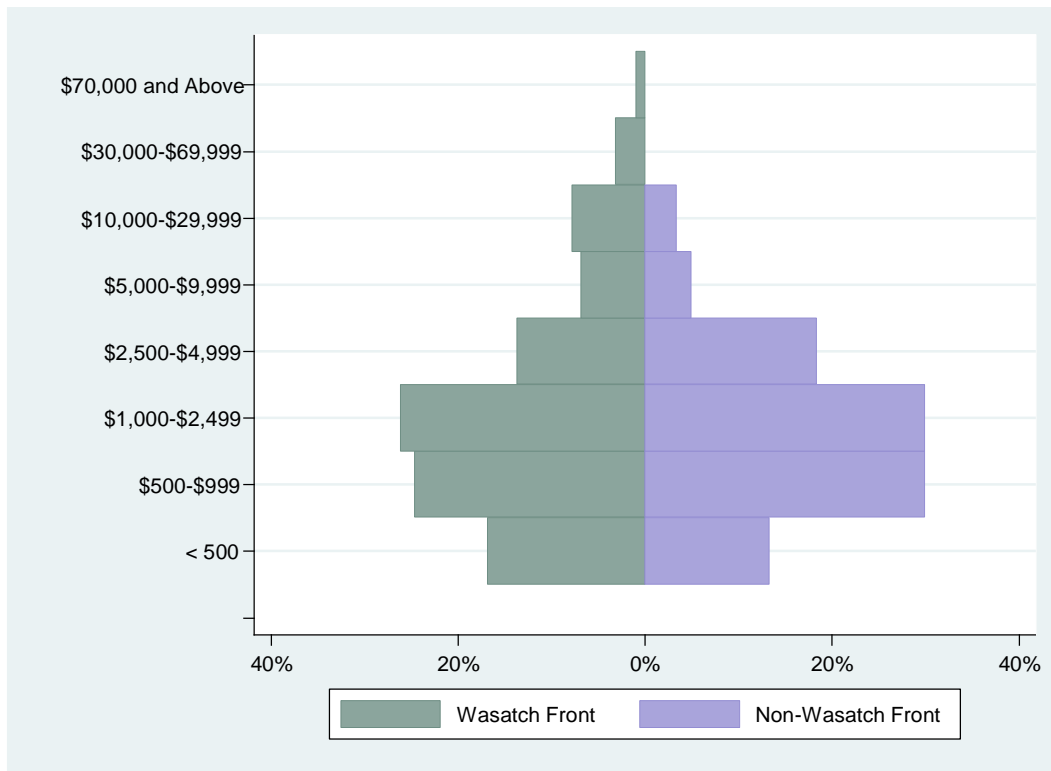
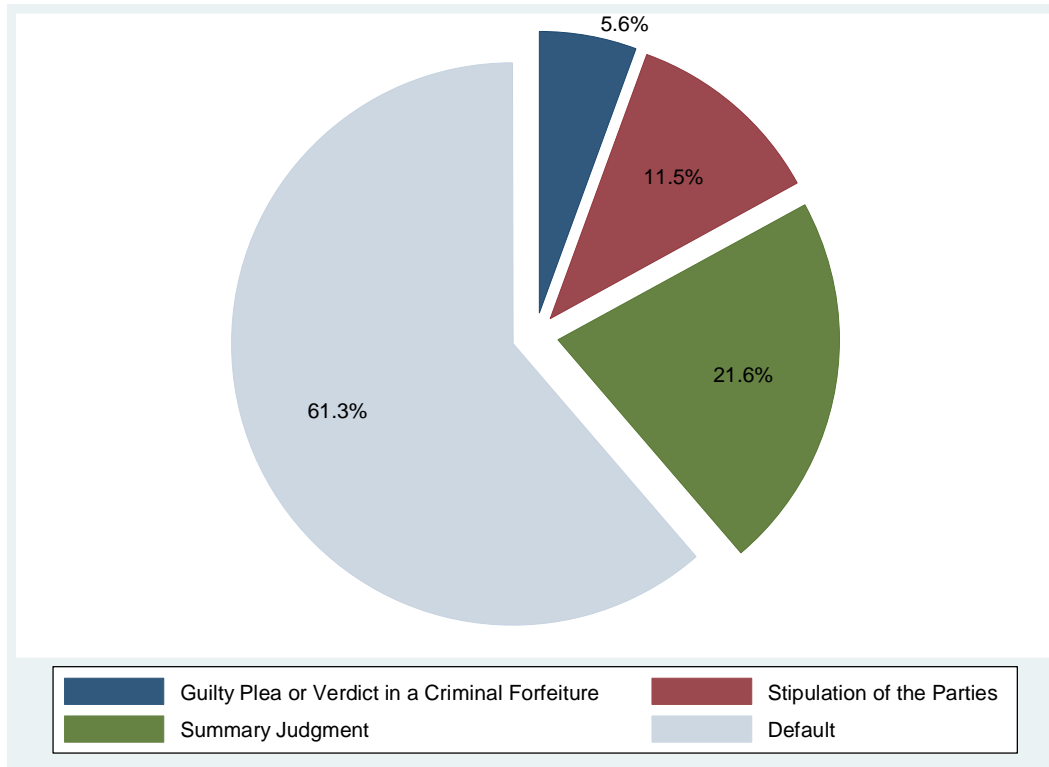


Figure 5 depicts the breakdown of the final disposition of the case. *Default judgment*,<sup>7</sup> was the most common court case disposition (61.3%), followed by a *summary judgment*<sup>8</sup> (21.6%). *Stipulation of the parties*<sup>9</sup> and a *guilty plea or criminal verdict in a criminal forfeiture* represented the remaining disposition types at 11 and 6 percent respectively.

**Figure 5. Break-down of Disposition Type**



The majority of cash only forfeitures were not returned to the claimant(s) post disposition (87%). The 13 percent of claimants that did receive a cash return received, on average, 45 percent of the forfeited amount. The highest percent returned to any claimant was 84 percent.

Similar to cash forfeitures, 13 percent of car forfeiture cases resulted in at least one vehicle being returned to the claimant(s) post disposition, with an additional four cases indicating that a vehicle(s) was returned upon payment made by the claimant.<sup>10</sup> The final disposition for these cases pertained almost exclusively to *stipulation of the parties* and *summary judgment* (>95%).

<sup>7</sup> A *default judgment* occurs when one party fails to take action, which results in a “binding judgment” favoring the other party.

<sup>8</sup> A *summary judgment* involves an exhaustion of factual issues that may be tried, resulting in the complaint(s) being determined without a formal trial.

<sup>9</sup> *Stipulation of the parties* denotes a legal agreement between disparate parties before a pending hearing or a trial.

<sup>10</sup> Because the questionnaire did not explicitly ask if the claimant received the vehicle upon a payment, it is possible that additional cases required the claimant to make a payment before the vehicle(s) was returned.

**Table 1. List of Reporting Agencies**

<b>Agency Name</b>	<b>Number of Cases</b>
Beaver Co. Sheriff	1
Box Elder DTF	3
Cache/Rich DTF	7
Carbon Co. Sheriff	1
Carbon Metro DTF	2
Cottonwood Heights PD	1
Davis Metro DTF	26
Draper City PD	2
Emery Co. Sheriff	1
Heber City PD	1
Logan City PD	1
Murray City PD	7
Orem City PD	3
Price City PD	2
Salt Lake City PD	92
Salt Lake Metro DTF	1
Sandy City PD	5
Saratoga Springs City PD	1
South Jordan City PD	6
South Salt Lake City PD	16
Springville City PD	1
Summit Co. Sheriff	1
Tooele City PD	1
Uintah/Duchesne DTF	1
Unified Police Dept.	106
Utah Co. Sheriff	1
Utah Dept. of Public Safety -UHP	24
Utah DTF	3
Vernal City PD	10
Washington DTF	10
Weber/Morgan DTF	25
West Jordan City PD	8
West Valley City PD	23
<b>All Agencies</b>	<b>393</b>



**Table 2. Individual Agency Questionnaire**

1) Name of Seizing Agency:
2) Court Case #:
3) Date or dates the seizure was conducted (eg., 01/01/2015):
4) # of individuals having a known property interest in each seizure of property:
5.a) Type of property seized (select from the drop-down menu all that apply):
Cash
Car
Firearm
Other
5.b) If you selected "Cash" in question 5a, indicate the amount (in \$):
5.c) If you selected "Other" in question 5a, please specify:
6.a) Indicate the alleged offense that was the cause for seizure of the property (select from the drop-down menu all that apply):
Narcotics Offense
Money Laundering
Other
6.b) If you selected "Other" in question 6a, please specify:
6.c) If you selected "Narcotics Offense" in question 6a, please (select from the drop-down menu all that apply):
Possession / Purchase of a Controlled Substance (CS).
Possession with Intent to Distribute a C.S.
Distribution or Arranging to Distribute a C.S.
Manufacture of a C.S. / Clandestine Laboratory
Conspiracy to Distribute a C.S.
6. d) If none of the options in 6c applies; please indicate here a response that does apply.
7.a) Indicate the type of enforcement action that resulted in the seizure (select from the drop-down menu all that apply):
Enforcement Stop
A search Warrant
An Arrest Warrant
Other
7.b) If you selected "Other" in question 7a, please specify:
8) Was the forfeiture procedure for the case identified in question 2 Civil or Criminal?
9) Indicate the final disposition of the case identified in question 2 (select from the drop-down menu all that apply):
Default
Summary judgment
Guilty plea or verdict in a criminal forfeiture
Stipulation of the parties
10) Indicate the \$ amount of property (if any) that was returned to any claimant:
11) Was the property associated with the case number identified in question 2 transferred to a federal agency or any governmental entity not created under and subject to state law (Y or N) (if Yes, respond to questions 12 - 18)?
12) Date of the transfer:
13) Name of the federal agency or entity to which the property was transferred:
14) Indicate which reason under *UCA 24-4-114(1)(a) justified the transfer (select from the drop-down menu all that apply):
The conduct giving rise to the investigation of seizure is interstate in nature and sufficiently complex to justify the transfer.
The property may only be forfeited under federal law.
Pursuing forfeiture under state law would unreasonably burden prosecuting attorneys or state law enforcement agencies.
15) Court or agency where the forfeiture case was heard:
16) Date of the order of transfer of the property:
17) Value of the property transferred to the federal agency, including currency:
18) Estimated market value of any tangible property:

## Section 2: Use of State and Federal Forfeiture Funds in 2015

### State Forfeiture:

**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 FY2016 approximately \$13.8 million has been collected in the CFRA account. CCJJ has awarded approximately \$12.1 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 FY2017.

**Calendar year 2015 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; and 4) funding in support of the Utah Crime Victim Reparations. Below is a summary of the projects funded in 2015 from the CFRA in:

1. **\$375,000** awarded to the Utah Department of Human Services - Division of Substance Abuse and Mental Health in support of Utah Drug Courts. In calendar year 2015, 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. **\$625,591** 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 year 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 some of the task force projects.
3. **\$1,898,658** awarded to nineteen (19) 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 were not eligible to participate in the SAFG program in calendar year 2015. The base award amount was set at \$2,500 in calendar year 2015. 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.

### Calendar 2015 SAFG Award Summary by Grant:

- Box Elder DTF (\$2,500) - narcotics officer training.
- Cache/Rich DTF (\$14,000) - task force vehicle.
- Cottonwood Heights City PD (\$50,000) - officer training.
- Davis Drug & Crime TF (\$125,000) - building lease, vehicle lease, narcotic test kits, surveillance, agent training, CI funds.
- DHS - Substance Abuse & Mental Health (\$375,000) - pass-thru to local drug court authorities for treatment, testing, and case management.

- Draper City PD (\$2,500) - supplies for police K-9.
- Heber City PD (\$2,500) - investigations and evidence collection equipment.
- Iron/Garfield DTF (\$2,439) - surveillance equipment.
- Logan City Police (\$2,500) - surveillance and video/audio recorders.
- Murray City Police (\$2,500) - mobile surveillance camera system.
- Orem City PD (\$2,500) - body-worn cameras for officers.
- Provo City PD 1 (required by S.B. 3, line item 39) (\$300,000) - VirTra V-300 Simulator System a 300 degree active shooter training simulator.
- Price City PD (\$2,500) - body-worn cameras for officers.
- Provo City PD 2 (\$3,000) - communications equipment, rifle.
- Salem City PD (\$2,364) - body-worn cameras for officers.
- Salt Lake Area Gang TF (\$60,652) - agent cell phones, tracking devices, agent training.
- Salt Lake City Police (\$30,000) - body-worn cameras for officers.
- Sandy City Police (\$2,265) - narcotics officer training.
- Santa Clara (Ivins)(\$2,500) - body-worn cameras for officers.
- South Jordan City PD (\$2,500) - recorder/tracker for narcotics agents.
- South Salt Lake City PD (\$7,500) - body-worn cameras for officers.
- Uintah/Duchesne DTF (\$5,000) - recording devices for agents.
- Utah Attorney General's Office (\$3,000) - five radios for agents.
- Utah Department of Public Safety (required by S.B. 2, line item 5) (\$1,000,000) - UHP body-worn cameras and video storage.
- Utah Department of Public Safety (\$387,000) - MDT's, crime lab equip & training.
- Utah Drug & Crime TF (\$162,380) - agent training, CI funds.
- UPD - (Salt Lake County Sheriff's Office) (\$84,529) - cell phones, surveillance cameras, trackers, livescan, patrol shields, officer training.
- Washington Drug & Crime TF (\$26,620) - body-worn cameras, CI funds, office supplies.
- Weber/Morgan Drug & Crime TF (\$227,000) - vehicle lease, surveillance equip. building lease, agent training.
- West Valley City Police (\$9,000) - body-worn camera storage capacity.
- CCJJ Admin. (3%) (\$50,000) - staff time to administer program and prepare reports, etc.

***Total SAFG Funds Awarded in Calendar 2015 - \$2,949,249***

## **Federal Forfeiture:**

**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.

**Calendar Year 2015 Federal Forfeiture Awards:** The period of this report is July 1, 2015 through December 31, 2015. Post cards were mailed to all Utah law enforcement agencies and reminder notifications made with specific 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 reporting information was also posted on CCJJ's webpage.

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

- \$28,592.67 - Davis Metro Narcotics Strike Force
- \$18,677.45 - Department of Public Safety/Utah Highway Patrol
- \$12,465.60 - Iron County Sheriff's Office
- \$343,216.36 - Metro Narcotics Task Force
- \$39,192.58 - Safe Streets Task Force
- \$4,881.13 - South Jordan Police Department
- \$62,137.24 - Summit County Sheriff's Office
- \$17,110.73 - Unified Police Department
- \$33,794.16 - Utah County Major Crimes Task Force
- \$25,514.22 - Washington County Drug Task Force
- \$9,536.75 - Weber/Morgan Narcotics Strike Force
- \$5,847.66 - West Valley City Police
- \*No Property Transferred July 1, 2015 through December 31, 2015

***Total Federal Sharing Funds Received in the Last Half of Calendar Year 2015 - \$600,967***

### **Items purchased with federal sharing funds:**

- Virtra 300 LE-1 Simulator
- Construction costs for Simulator Room
- Protective Clothing and Equipment
- Communication Equipment
- Office Chairs and Equipment
- Surveillance Equipment
- Weapons
- Holsters
- CI Informants and Buy Money
- Ballistics Protection Equipment
- SWAT Duty Belt Accessories
- Law Enforcement Equipment
- Remodeling for Police Training Rooms
- Cell Phone Expenses
- Travel for Conferences
- New K-9 and Training
- Equipment Maintenance
- Operating Costs
- UHP/Crime Lab Robotics Equipment
- Training
- Electronic Surveillance Equipment
- Law Enforcement Supplies
- Phone Pings
- Wire Intercept Fees
- Body Camera Storage
- Server Storage
- Cameras
- Computers

**Federal forfeiture funds shared with other law enforcement agencies:**

Salt Lake Metro Narcotics Task Force to:

- Cottonwood Heights PD - \$14,600.04
- Murray City Corp - \$14,600.04
- Park City PD - \$4,866.68
- Salt Lake City PD - \$116,800.32
- Sandy City PD \$10,950.03
- So. Jordan City PD - \$3,650.01
- Summit Co. Sheriff - \$14,600.04
- Unified Police Department - \$3,650.01
- Utah Department of Public Safety UHP - \$14,600.04
- West Jordan PD - \$14,600.04
- West Valley City PD - \$38,933.44

Washington Co. Drug Task Force to:

- Washington City PD - \$15,000

**Allowable/Unallowable Uses of State and Federal Forfeiture funds:**

Allowable Costs of the SAFG State Grant Program:

- Controlled substance interdiction and enforcement activities.
- Drug court programs.
- Activities calculated to enhance future investigations.
- Law enforcement training that include
  - a. Implementation of the Fourth Amendment of the federal constitution and Utah Constitution Article I, Section 7, and addresses the protection of the individual's rights of due process.
  - b. Protection of the rights of innocent property holders.
  - c. The Tenth Amendment of the federal constitution regarding states' sovereignty and the states' reserved rights.
- Law enforcement or detention facilities.
- Law enforcement operations or equipment which are not routine costs or operational expenses.
- Drug, gang, or crime prevention education programs which are sponsored in whole or in part by the law enforcement agency or its legislative body.
- Matching funds for other state or federal law enforcement grants.
- Support of the crime victim reparations fund.

Unallowable Costs of the SAFG State Grant Program:

- Payment of salaries, retirement benefits, or bonuses to any person (including over-time).
- Payment of enforcement expenses not related to law enforcement.
- Uses not specified in the agency's award application.
- Uses not approved or appropriated by the agency's legislative body.
- Payments, transfers, or pass through funding to entities other than law enforcement agencies.
- Uses, payments, or expenses that are not within the scope of the agency's functions.