



Asset Forfeiture 101

Police Department

City Council
November 1, 2016

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AUTHORITIES

State

1. Health & Safety Code § 11469 – 11493

Uniform Controlled Substances Act -
Provides guidelines in all cases where
property is seized and forfeited to the
state or local government entity.



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PRINCIPAL OBJECTIVE IS LAW ENFORCEMENT

Federal

1. 21 U.S.C. § 881(e)(1)(A) and (e)(3)
2. 18 U.S.C. § 981(e)(2)
3. 19 U.S.C. § 1616a
4. Title 31 U.S.C. 9703

Provides guidelines for which types of properties are subject to seizure, seizure procedures, custody of property, disposition of forfeited property, civil forfeitures, and managerial accountability and flexibility.



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PRINCIPAL OBJECTIVE IS LAW ENFORCEMENT

1. Removes tools of crime
2. Deprives wrongdoers of profits and proceeds of criminal activities
3. Weakens criminal enterprises by removing instrumentalities of crime



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PRINCIPAL OBJECTIVE IS LAW ENFORCEMENT

4. Recovers property that may be used to compensate victims
5. Enhances cooperation among federal, state and local law enforcement agencies



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STATE FORFEITURES

1. Investigation/seizure
 - A. RPD alone – referred to District Attorney (D.A.)
 - 1) Provide police reports to D.A.
 - 2) Consult with D.A. regarding possible forfeiture action



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STATE FORFEITURES

- 3) Seized evidence remains with RPD **through case resolution**
- 4) **Upon court order**, evidence is either returned to claimant or sent to the D.A.'s Office for distribution

Annual reporting, subject to audit



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Administrative Forfeitures

Civil action – when uncontested, probable cause is sufficient to sustain the forfeiture.

1. Notice of action must be served on all potentially interested parties;
2. Notice of proceeding must be published in a newspaper of general circulation;



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Administrative Forfeitures

3. If no claim opposing forfeiture is filed during the statutorily required period of actual or published notice, item is declared forfeited by D.A.;
4. If claim opposing forfeiture is filed, administrative forfeiture proceeding halts, and matter is converted into a judicial forfeiture action.



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Federal Forfeitures

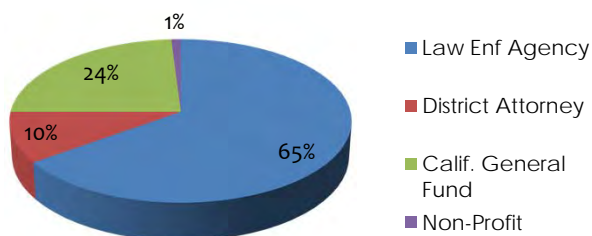
1. Federal task forces or agencies – DOJ or Treasury involvement
 - A. Seized evidence is maintained by U.S. Marshal Service
2. California Bureau of Narcotics Enforcement task force, Inland Crackdown Allied (INCA)
 - A. May work with federal task forces and/or local agencies
3. Federal – Agency notifies department to submit a sharing request on-line or hard copy



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STATE DISTRIBUTION OF REMAINING FUNDS



15% of Law Enforcement Share to "diversion fund" for funding programs to combat drug use and divert gang activity.



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RESOLUTION/DISTRIBUTION

Federal

1. Determined by federal agency depending upon participation
2. Electronic transfer (DOJ) or check (Treasury)

INCA task force

1. Determined by MOU
2. Check

Annual reporting, subject to audit



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RESOLUTION/DISTRIBUTION

Forfeiture is never guaranteed - process can take months or years

1. Local – DA sends court order to either return the seized evidence to the claimant or send the evidence or proceeds of the sale of evidence to D.A. for distribution
2. Distributed per H&S section 11489



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WHERE'S THE MONEY?

1. Three City trust accounts:
 - A. State (District Attorney)
 - B. Department of Justice
 - C. Treasury Department
2. Distributed funds remain in trust accounts until City Council authorizes appropriation of funds to asset forfeiture expenditure accounts



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USE OF FUNDS

1. **CANNOT** be spent without Council approval
 - A. Department considers potential uses
 - B. Always more requests than available funds
 - C. Prioritized by Command Staff, presented to Council
2. ONLY used for law enforcement
3. Federal controlled and prohibited expenditures



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REPORTING

1. Subject to audit
2. Annual federal reports of receipts and expenditures
3. State information is reported at the county level



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EXAMPLES OF PURCHASES

1. Training, including travel and per diem
2. Vehicles – purchases and rentals; emergency equipment, MDCs and radios
3. “Buy” money
 - A. (undercover/confidential funds)



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EXAMPLES OF PURCHASES

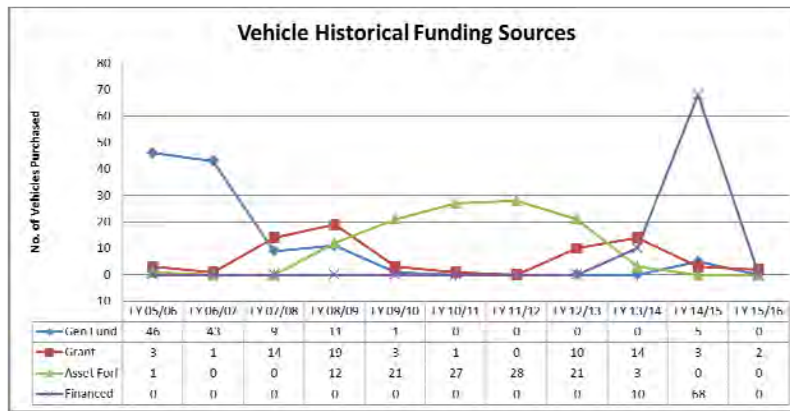
4. Portion of annual audit
5. Weapons
6. Agility course
7. Helicopter repairs



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VEHICLE PURCHASES



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STATE AF EXPENDITURES FY 2015/16 (Non-General Fund)

Professional Services	\$ 68,772
General Office Expense	\$ 15,703
Software Purchase/Licensing	\$ 54,185
Computer Equip't < \$5,000	\$ 14,426
Special Dept. Supplies	\$ 3,394
Travel & Meeting	\$ 1,844
Training	\$ 14,885
Automotive Equipment	\$ 58,300
TOTAL	\$231,509

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SOURCES

Funds for State expenditures were carried over from cases originating from 2011 – 2014, including one 2012 forfeiture case distributed in February 2014, with a PD share of \$543,632.



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FEDERAL DOJ AF EXPENDITURES FY 2015/16 (Non-General Fund)

Professional Services	\$ 1,602
Maint/Repair of Buildings	\$ 24,983
Surveillance Equipment	\$ 2,187
Clothing/Linen/Safety Supplies	\$105,383
General Office Expense	\$ 2,354
Special Dept. Supplies	\$ 2,623
Travel/Training	<u>\$ 25,545</u>
TOTAL	\$164,677

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SOURCES

Funds for Federal DOJ expenditures were provided by a combination of 100 cases from 2008-2014 and distributed in FY 13/14.



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FEDERAL TREASURY AF EXPENDITURES FY 2015/16 (Non-General Fund)

Professional Services	\$13,879
Telephone - Cellular	\$21,171
Equipment Rental	<u>\$15,779</u>
TOTAL	\$50,829



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SOURCES

Funds for the Federal Treasury expenditures were provided by a combination of 4 cases distributed in FY 13/14.

**TOTAL NON-GENERAL FUND FY2015/16
EXPENDITURES FROM ASSET FORFEITURE
ACCOUNTS: \$447,014**



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RECOMMENDATION

That the City Council receive this report for file.



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