

Asset Forfeiture

803.1 PURPOSE:

Narcotic Asset Forfeiture statutes were created to deter drug dealers by taking from them drug profits and their economic base. This procedure provides a guideline for the seizure and liquidation of assets associated with specified controlled substances and other criminal enterprises. This procedure applies to forfeited or seized assets in the form of currency or other items of value.

Asset Seizure Authority:

Health & Safety Code Section 11470 provides for the forfeiture of any currency, and real and/or personal property, which represents proceeds or was used to facilitate narcotics activity in violation of the Health & Safety Code Sections: 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, and 11382. In addition to, PC182 is a qualifying offense insofar as the offense involves manufacture, sale, purchase for the purpose of sale, possession for sale or offer to manufacture or sell, or conspiracy to commit one of those offenses subject to forfeiture under subdivisions (a) to (f) of section 11470.

Health & Safety Code Section 11488(a) specifies that any peace officer having probable cause, may seize all monies, negotiable instruments, securities, vehicles, boats, airplanes or other things of value which are forfeitable pursuant to Health & Safety Code Section 11470(e) or (f).

Methods of Seizures:

- A. Exchange (Cash): Exchanging drugs or pseudo for cash and "cash substitutes" (money orders etc.).
- B. Facilitation (Vehicles): Transporting drugs: Vehicles used as an instrument to facilitate the sale or possession for sales of certain minimum quantities of controlled substances:
 1. 14.25 grams (half ounce) or more of a substance containing heroin or rock cocaine.
 2. 57 grams (two ounces) or more of a substance containing powder cocaine, methamphetamine, or Schedule I or II drugs.
 3. Ten pounds (10lbs) dry weight of: marijuana, peyote or psilocybin mushrooms.
- C. Proceeds: Cash and/or real property obtained from the sales of narcotics.

803.2 DEFINITIONS:

Asset Forfeiture Coordinator (AFC): A Supervising Probation Officer (SPO), designated by the Department and is responsible for overseeing the Department's Asset Forfeiture (AF) program.

Asset Forfeiture Investigator (AFI): An SPO or Probation Officer III (POIII), designated by the Department, is assigned to investigate AF cases. The AFI will be the lead investigator on all matters regarding the seizure and forfeiture portion of an AF case.

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Asset Forfeiture Fiscal Analyst: An Accounting Technician or Accountant responsible for maintaining the financial records for AF cases.

Primary Agency: Agency responsible for conducting the criminal and AF investigation.

Secondary Agency: Agency that assists in the criminal investigation.

803.3 RESPONSIBILITIES:

I. Probation Officer:

- A. Will contact the AFC, or their designee, in the following circumstances:
 - 1. As defined in the Asset Seizure Authority section of this procedure;
 - 2. Anytime an officer is seizing funds.
- B. Provide the AFC with all pertinent information.
- C. If the AFC or their designee are unable to respond to the scene or cannot be contacted, and the officer still intends to seize currency, the officer shall:
 - 1. Contact a supervisor;
 - 2. Follow the directions outlined in section VI.A. of this procedure along with all related procedures.

II. Supervising Probation Officer/Designee:

- A. In instances where the AFC or their designee is not available, determine the feasibility of seizing the funds.
- B. Ensure officers follow the required procedures.

III. Asset Forfeiture Coordinator (AFC):

- A. Provide or arrange for AF training and updates for staff.
- B. Be the point of contact for all AF cases, questions and concerns.
- C. Review all AF related cases prior to their submission to the District Attorney's office.
- D. Provide the AF Fiscal Analyst with all necessary information upon approving a case.
- E. Complete the Basic Asset Forfeiture training and attend yearly updates pursuant to HS11469(e).

IV. Asset Forfeiture Investigator (AFI):

- A. After a preliminary investigation, determine the existence of an asset forfeiture case.
- B. Complete all required investigative documents.
- C. Conduct interviews of all persons involved concerning their possession of the seized assets, financial situations, employment, income and other financial resources.

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1. Miranda waivers are required for criminal AF seizures only. Civil seizure interviews do not require Miranda waivers.
 - D. Conduct a preliminary investigation to determine all lien holders or all persons who may have a legal interest in the seized property for further contact, investigation and notification.
 - E. Complete necessary notifications as listed in the filing packet.
 - F. Submit the completed report to the AFC.
 - G. After receiving approval from the AFC submit the following to the District Attorney:
 1. The completed report.
 2. The DA Forfeiture Application, to include all required documents as outlined on the application.
 - H. Create and maintain files for all AF cases submitted to the DA.
 - I. Complete the Basic Asset Forfeiture training and ongoing updates pursuant to HS11469(e).
- V. Accounting Technician/Designee:
- A. Assign GRC code to funds seized.
 - B. Maintain a record of all seizures and track the progress of each case via new crime case number and GRC.
 1. Maintain the electronic Asset Forfeiture Log pursuant to the Asset Forfeiture Deposits, Tracking, Proceeds and Disbursements Manual.
 - C. Maintain the Department Asset Forfeiture bank accounts.
 1. Complete deposits and withdrawals.
 2. Distribute funds pursuant to H&S11489.
 - D. Complete the Basic Asset Forfeiture training and ongoing updates pursuant to HS11469(e).
- VI. Seizures: All property seized will be processed pursuant to existing Evidence procedures.
- A. Currency:
 1. Will only be seized for AF purposes if the amount is equal to or greater than \$2000.
 2. Will be photographed at the scene in its original packaging before being counted.
 3. Will be counted by no less than two officers.
 4. The officer will complete the *Financial Tally Sheet* (Attachment A).
 5. Enclose the currency in an envelope:

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- (a) A separate envelope should be used for each location currency is found.
 - (b) Each envelope will contain the following information:
 - i. Date and time,
 - ii. Amount,
 - iii. Location,
 - iv. Name of officer who found it,
 - v. Names of officers who counted it,
 - vi. Will be sealed with tape with the officers signatures across the tape.
6. If the currency cannot be counted at the scene, the currency shall be secured in an envelope. Once at the office, the currency shall be counted.
7. If the amount of currency seized will not fit into a money envelope, it will be placed into a larger envelope or bag which must be sealed with a completed envelope affixed to the outside.
8. The seized currency will be delivered by the AFI or designated officer, to an Accounting Technician or their designee for deposit. In instances where the AFI is not available, the currency will be booked into evidence pursuant to the Evidence procedure.
9. If the Accounting Technician is unavailable:
 - (a) The currency will be stored pursuant to the Evidence procedure.
 - (b) The AFI will notify the analyst of all currency stored in the safe as soon as possible.
 - (c) Currency will not be stored in the safe for more than one (1) business day.
 - (d) The Analyst will retrieve and deposit the currency by the next business day following notification from the AFI.
- B. Vehicles:
 1. Will be seized only when all of the following circumstances are met:
 - (a) Is valued at \$25,000 or more pursuant to Kelly Blue Book.
 - (b) Is registered in the suspect's name.
 - (c) The vehicle is paid off and the title is clear of any lien holders.
 2. The AFI/AFC will consult with the DA Asset Forfeiture Unit prior to seizing any vehicle.
- C. Personal Property

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1. Seized personal property (i.e., jewelry, TV's, artwork, etc.) will be booked into the AF Property room.
2. Property seized must have a minimum auction value of \$5000.00.
3. The AFI/AFC will consult with the DA Asset Forfeiture Unit prior to seizing any personal property.

803.4 GUIDELINES:

- A. Narcotics violations will be evaluated against several factors which include, but are not limited to: protection of the community and the probationer's amenability to treatment.
- B. New crime reports should be completed by personnel from the law enforcement agency that has jurisdiction.
- C. It is anticipated that most seizures will be conducted with the assistance of other law enforcement agencies. In these instances, the Probation Department will assume a secondary role in the AF investigation.
- D. In instances where currency from illegal proceeds is less than \$2000, those funds can be seized and applied to any outstanding court fines, fees or restitution that the probationer may have as ordered by the court.
- E. The AFC, AFI and AF Accounting Technician shall adhere to the guidelines established in this procedure as well as the *San Bernardino County Probation Department's AF Manual along with the AF Deposits, Tracking, Proceeds and Disbursements Manual*.

803.5 ATTACHMENTS:

See attachment: [Asset Forfeiture Attachment A \(Lexipol 8-27-15\).pdf](#)

Attachments

Asset Forfeiture Attachment A (Lexipol 8-27-15).pdf

PROBATION DEPARTMENT
 ASSET FORFEITURE; FINANCIAL INVESTIGATION
 FINANCIAL TALLY

| DENOMINATIONS | NUMBER | AMOUNT |
|----------------------------------|--------|--------|
| | | |
| One Hundred Dollar Bills (\$100) | | |
| Fifty Dollar Bills (\$ 50) | | |
| Twenty Dollars Bills (\$ 20) | | |
| Ten Dollar Bills (\$ 10) | | |
| Five Dollar Bills (\$ 5) | | |
| Two Dollar Bills (\$ 2) | | |
| One Dollar Bills (\$ 1) | | |
| Dollars (Coin) | | |
| Half Dollars | | |
| Quarters | | |
| Dimes | | |
| Nickels | | |
| Pennies | | |

TOTAL: _____

SUSPECT: _____

DA CONTROLLER #: _____

DATE: _____

TIME: _____

SEIZING OFFICER: _____

COUNTING OFFICER: _____

Original – D.A.
 Copy to Probation file