



Instruction Sheet Asset Forfeiture Oversight Advisory Committee Form 1 / Seizure Information – AF104

Thank you for your cooperation in completing these forms. We are providing the following instructions to assist you. If there are any questions this instruction sheet does not answer, please contact Mike Stafford at 503-378-4845 or email mike.stafford@state.or.us.

ORS Chapter 475A allows for civil forfeiture of property pursuant to drug related offenses, and other offenses for which forfeiture is provided. Any forfeiture under local ordinances must conform to this statute, including reporting to the Asset Forfeiture Oversight Advisory Committee (AFOAC). This statute also establishes the AFOAC and charges this committee with reporting to the legislature the number and nature of forfeitures as described in ORS 475A.155 (5)(a).

The information needed for this report is gathered through a reporting process developed in consultation with forfeiture counsel, defense counsel, and private citizens to ensure that the necessary information is being gathered in an efficient and effective manner (ORS 475A.155(5)(b)). Chapter 666, 2001 Oregon Laws, also provides for the forfeiture of property as an additional count in a criminal indictment. Forfeitures under that provision are also subject to reporting to the AFOAC. In the following instructions, references are provided to ORS 475A (civil forfeiture) and the criminal forfeiture law, codified as a temporary statute before ORS Chapter 131.

This form is to be completed by forfeiture counsel and submitted to the AFOAC at the address provided on the form as soon as reasonably possible following conclusion of the forfeiture proceedings regardless of whether or not forfeiture results in entry of judgment ORS 475A.120 (3). When the proceedings do result in entry of judgment, a copy of the judgment is to accompany this form. ORS 475A.110 (5) and Chap. 666, 2001 OR Laws.

Case Identification

Civil, Criminal Forfeiture, or Criminal Re-filed as Civil: Please indicate whether the forfeiture was a civil or criminal case. If, for example, the investigation resulted in a count of criminal forfeiture, but the defendant failed to appear and the case was re-filed as a civil forfeiture, please indicate.

Owner or Defendant's Name and SID: Please provide the name, and, if available, the SID (state identification number) of the person who owns the property or from whom it was seized and is the defendant to the criminal charge from which the forfeiture, whether civil or criminal, arises.

Agency and Court Case Numbers: Provide the law enforcement agency case number associated with this case. This number is used as a key reference number and should be entered on all forms in the same format. Please include the court case number, as well, when available.

Court: Enter the name of the court assigning the case number listed above.

Principal Seizing Agency: Identify the primary law enforcement agency that has seized the property for forfeiture. If a joint drug task force conducted the seizure, the task force should be listed as the principal seizing agency.

Forfeiting Agency: Identify the State of Oregon or political subdivision that has accepted for forfeiture property seized by a seizing agency, or that is processing the forfeiture case. This applies to civil forfeitures only. In criminal forfeiture, the rights to the property remain with the seizing agency.

Forfeiture Counsel: Identify the attorney designated to represent a forfeiting agency in civil forfeiture actions or proceedings, or represents the State in a criminal proceeding.

Telephone and e-mail: Provide contact information for the forfeiture counsel named above.

Date of seizure: Provide the date the property was physically or constructively seized by the principal seizing agency.

Date of seizure for forfeiture: Provide the date the property was seized for forfeiture if different from the above, otherwise please enter "same."

Date of judgment / Final disposition: Provide the date that forfeiture proceedings were concluded.

Form completed by: Provide the name, title, and contact information of the person completing this form.

Date Completed: Provide the date on which this form was completed.

Seizure Data

- 1: Identify all types of property seized for forfeiture. For purposes of this form, currency is defined to include any negotiable instrument of US currency, including travelers' checks and money orders, balance in deposit or other account and securities. Coin collections and foreign currency should be listed as "other personal property." (ORS 475A.020 (1)-(8))
- 2: Describe the nature of the prohibited conduct (crime) establishing grounds for forfeiture. Check all categories that apply. For offenses not listed, please enter the offense(s) giving rise to the forfeiture in the space provided using the ORS or local ordinance citation.
- 3: For drug-related cases, indicate all drugs that were suspected in association with the investigation that led to this seizure regardless of whether they were present at the time of seizure. As an example, a person is suspected of conspiracy to manufacture methamphetamine and possession of marijuana: at the time of the seizure, there is no methamphetamine present, however there is evidence of conspiracy to manufacture methamphetamine consisting of drug records and lab equipment and a user amount of

marijuana. There is also a small quantity of cocaine found. Marijuana, Cocaine and Methamphetamine should all be checked.

- 4:** Identify whether a person or entity filed a claim on the seized property. A claim is filed when a person prepares and files notice with counsel for the forfeiting agency stating that he/she has an interest in the seized property. ORS 475A.055 (3)
Person from whom property is seized - when the signer on the statement of interest is the person from whom the property was seized.
Other is any person claiming an interest in seized property not including the person from whom the property was seized or financial institutions.
Financial Institutions are any persons lawfully conducting business as described in ORS 475A.005 (4) (a-j).

- 5:** Identify the legal basis for the seizure.

Dispositional Data

- 6:** For civil forfeitures only, at any time during the forfeiture proceeding was the owner of the property represented or assisted by counsel?
Represented: a person is considered represented if they have formally retained counsel to act on their behalf in a matter that may bind them.
Assisted: a person is considered to be assisted by counsel if they have not retained counsel, however, they have received guidance from an attorney in an informal manner.
For example, if the property owner was represented at the time they filed a claim, but was not represented at the time of judgment, you would check “yes, at some time other than judgment.” If a claimant was not represented until the final judgment was entered you would check “yes, at time of judgment.” If a claimant was represented throughout the proceeding (when claim was filed and at final judgment) you would check both “yes” boxes. It does not need to be the same defense attorney throughout the proceeding in order for both “yes” boxes to be checked.
If the claimant was not represented at any time during the forfeiture proceeding, check “no.”
Example: a claimant has not retained counsel on the civil forfeiture, however they are being represented in the associated criminal matter. The attorney representing the claimant in the criminal matter offers some advice regarding whether or not the individual should file a claim. Regarding the forfeiture matter, this claimant was assisted.
- 7:** Was the owner of the property or the defendant to a criminal action represented by counsel other than defense counsel in the criminal case? In other words, did the person who was charged with a crime retain a “forfeiture specialist” to defend their interest in the forfeiture case or count?
- 8 a & b:** Did forfeiture counsel decline the entire case for any reason? Only discontinue completion of the form if the **entire** case or all forfeiture counts were declined. Also indicate if the associated criminal charge was dropped.

- 9:** In civil forfeitures only: did the court award the claimant attorney fees and costs resulting from this proceeding pursuant to ORS 475A.110 (6) (a), ORCP 68C? If yes, what was the amount awarded?
- 10:** This question applies to civil forfeitures only. Indicate whether this was a “voluntary” forfeiture, which would include part of a stipulated judgment in an associated criminal case, an “abandoned property” forfeiture in which no one claimed the property, or a forfeiture of “contraband.” **Example:** a criminal forfeiture count is filed in a criminal case, but the defendant fails to appear for trial. The forfeiture count is dismissed and re-filed as a civil forfeiture. This would be an “abandoned property” forfeiture. If the “abandonment” was due to failure to file a claim, or if the claim was defective, please indicate.
- 11:** If there was a request for a stay of the forfeiture proceeding, who made the request?
- 12:** Did a claimant file a petition requesting an expedited hearing pursuant to ORS 475A.045(8) or 475A.060 (1) or Oregon Laws Chapter 666 (criminal forfeiture)? If so, check any combination of boxes that applies.
Check “Affirmative defense proved” if found pursuant to ORS 475A.065 that the petitioner had proven an affirmative defense as provided in 475A.085.
Check “Receiver appointed” if the court appointed a third party to manage the property during the pendency of the hearing.
Check “Property returned” if the property was returned to the claimant during the pendency of the hearing with the knowledge that the property may be forfeited upon judgment.
Check “Claimant petition denied” if the court denied the claimant’s petition for an expedited hearing.
Check “Probable cause found” if pursuant to ORS 475A.045 (8) the court has determined probable cause exists regarding the forfeiture of property.
Check “Hearing not held” if no expedited hearing was held.
- 13:** If there was a trial or other proceeding that led to judgment in whose favor did the court rule?
Claimant: The interested party having filed the claim.
Government: The seizing or forfeiting agency.
Mixed Verdict: Partial finding for claimant and government. For example, cash and a vehicle are seized. The cash is forfeited to the government and the vehicle is returned to the claimant.
Summary Judgment-Claimant: See ORCP 47
Summary Judgment-Government: See ORCP 47
If a trial/other proceeding was held, who was the fact finder: a jury, the court or an arbitrator or mediator?
- 14:** If the judgment was not entered as a result of a voluntary / contraband / abandoned property forfeiture or a contested hearing, what was the final disposition of the case?
Dismissed by forfeiture counsel: Forfeiture case was filed but later dismissed with formal pleading.
Settled by stipulated judgment: A negotiated settlement was reached.

Stipulated judgment involving related criminal case: An agreement was reached pursuant to global resolution ORS 475A.055 (7).

Failure to Appear: The defendant to a criminal forfeiture failed to appear and the case was re-filed and reported as a civil forfeiture.

- 15:** Applies to criminal forfeitures only: check one or both boxes if the property forfeited was proceeds of prohibited conduct or was property used to commit or facilitate the conduct (instrumentalities). If the proceeds involved prior similar conduct, check the third box.
- 16:** What was the result of the proportionality phase of the judgment, was the forfeiture mitigated in some way, or were all of the assets forfeited?
- 17:** Applies to criminal forfeitures only: if the claims of innocent third parties were considered in an ancillary hearing, were those claims sustained, partially sustained, or denied?
- 18:** Upon judgment, was an appeal filed by a party involved in the forfeiture proceeding? If unknown at the time this form is completed please do not check any of the boxes.

Accounting Data

- 19:** This is the total value (in US dollars) of currency, as defined in Question 1. This amount **does not** include the value of coin collections or foreign currency.
- 20:** This is the total value of the seized currency listed in line 19 that was returned to the claimant upon judgment.
- 21:** This is the total value of the currency listed on line 19 that is forfeited by claimant at time of judgment. Line 19 minus Line 20 should equal Line 21.
- 22:** Select the range that best fits the estimated value of property at the time of seizure. If coin collections or foreign currency were seized, their value should be included in this estimate. The value of seized cash or the estimated value of drugs seized **should not** be included.
- 23:** Does the estimated value marked above include an amount for real property?
- 24:** Was any property returned to parties filing claims prior to judgment? If so, into what category does the claimant fall?