

# Asset Forfeiture in Oregon 2017

# Report from the Asset Forfeiture Oversight Advisory Committee to the Oregon Legislature

April 2018

Criminal Justice Commission State of Oregon

#### Foreword

The purpose of this report is to provide the number and nature of asset forfeitures in Oregon in 2017. State and local government agencies electronically report seizures they have made for the purpose of civil and criminal forfeiture using the Oregon Asset Forfeiture (FluidReview) website. The staff at Oregon Criminal Justice Commission (CJC) uses the information reported by state and local agencies to compile this report for the Asset Forfeiture Oversight Advisory Committee (AFOAC). Statutory direction for the AFOAC, the CJC, and these reporting requirements are found at ORS 131.600, ORS 131A.450, & ORS 131A.455.

The Asset Forfeiture Committee met on April 3, 2018 to discuss the findings represented in the 2017 annual report.

During the 2018 legislative short session, HB 4056 was passed. This new legislation made the following changes to ORS Chapter 131A Civil Forfeiture:

- Language change- HB 4056 strikes the term 'drug courts,' and adds 'support for specialty courts' defined as Drug, Veteran and Mental Health courts. This change broadens the use of forfeiture proceeds deposited in the Oregon Criminal Justice Commission Drug Courts account.
- Addition of New Distribution The Oregon 529 College Savings Plan will receive 10% of forfeiture proceeds as of July 1, 2018. The funds will come from the forfeiting agency's proceeds and will specifically be distributed to the scholarship fund subaccount for children of public safety officers who have 'suffered a qualifying death or disability,' ie: line of duty injury or fatality.

#### Recommendations

- The committee proposes to support legislation that will amend the statute regarding publication of forfeiture cases. The committee recommends that the civil and criminal forfeiture statutes be amended to provide for publication in a newspaper of general circulation one time rather than four times and that the notice of seizure for forfeiture be posted for thirty days on the forfeiting agencies official web site.
- ORS Chapter 131A provides a mechanism for the forfeiture of the proceeds or instrumentalities of specified criminal conduct which is generally commercial in nature. This is referred to in the statutes as "prohibited conduct". The commission of prohibited conduct can produce significant revenue, usually in cash, which often results in the need for the offender to launder this revenue. Money laundering is therefore a natural extension and sometimes required part of the criminal undertaking of prohibited conduct. However, money laundering itself is not included in the definition of prohibited conduct for civil forfeiture. In order to further the purposes of the civil forfeiture statutes, the committee recommends a statutory fix to amend ORS 131A.005(12) to include laundering a monetary instrument ORS 164.170 to ORS 164.174.

#### Asset Forfeiture Oversight Advisory Committee (AFOAC) Members

The committee consists of two legislators appointed by the Senate President and two legislators by the Speaker of the House of Representatives. The Governor appoints three members, and the Attorney General appoints three members. The 2017 members are as follows:

#### Senate Appointees:

Senator Floyd Prozanski (AFOAC Chair) Senator Ted Ferrioli (until November 2017)

#### House Appointees:

Representative Andy Olson (AFOAC Vice-Chair) Representative Carla Piluso

#### Governor's Appointees:

Leslie Westphal, Senior Counsel, Madison Associates, Inc. Lt. Gregg Withers, Oregon State Police Andrew Kohlmetz, Attorney, Kohlmetz, Steen & Hanrahan, P.C.

#### Attorney General's Appointees:

Jason Myers, Sheriff, Marion County Elijah Michalowski, AAG, Oregon Department of Justice Colin Benson, Senior AAG, Oregon Department of Justice

#### Staff:

Michael Schmidt, Executive Director, Criminal Justice Commission Julie Vaughn, Asset Forfeiture Liaison, Criminal Justice Commission

# 2017 OREGON ASSET FORFEITURE TOTALS

Cash Seized (Criminal):	\$	214,290.32
Cash Seized (Civil):	\$	2,027,160.15
Total Cash Seized:	\$	2,241,450.47
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Total Receipts Available for Distribution:	\$	2,329,387.20
Total Costs:	\$	346,283.14
	·	,
Total Distributions:	\$	949,031.26
Total Proceeds:	\$	1,034,072.80

# **Criminal Forfeiture**

SEIZING AGENCY	# OF SEIZURES	TOTAL RECEIPTS*
Clatsop County Sheriff	61	\$38,928.99
Coburg Police Department	3	\$13,435.00
Cornelius Police Department	1	\$1,339.00
<b>Deschutes County Sheriff's Office:</b> Central Oregon Drug Enforcement Team (1) Redmond Police Department (2)	3	\$2,300.00
Eugene Police Department	1	\$12,821.67
Grand Ronde Tribal Police Department	1	\$5,000.00
Lane County Interagency Narcotics Team	1	\$5,899.74
Lane County Sheriff's Office	1	\$4,180.00
Medford Police Department: Jackson County Sheriff's Office (2) Medford Police Department (24)	26	\$104,996.75
Oregon State Police	4	\$4,318.97
Union County District Attorney's Office: Union County Sheriff's Office	1	\$1,282.00
Washington County District Attorney: Hillsboro Police Department	1	\$8,559.00
TOTAL: 14 Seizing Agencies	104	\$203,061.12

Note:

- The number of seizures represents the seizures made in 2017. Items seized in 2017 are not necessarily forfeited in the same calendar year due to the necessary time it takes for a case to proceed through the court system, and for a seizure to become forfeited. Therefore, the "Total Receipts" column reflects some items seized in the previous calendar year, and necessarily some items seized in 2017 will not be reflected in this year's total receipts column.
- Agencies in bold are reporting agencies.
- The numbers in the parentheses reflect the sub agency's portion of the total number of seizures.

\*Total receipts includes actual cash forfeited at time of judgment, interest earned on forfeited cash pending judgment, and value of liquidated proceeds of other proper

## CRIMINAL FORFEITURE- SEIZURE DATA

Class of Property Seized for Forfeiture		
Currency	104	
Other Personal	1	
Property		
Real Property	0	
Conveyance	0	
Weapons	0	
Computer Equipment	0	
Vehicle Hidden	0	
Compartment		

Drug-Related Cases	
Methamphetamine	55
Heroin	43
Marijuana	24
Cocaine	8
Other Known	6
Oxycodone	6
Unknown	4
Meth. Precursor	3
Hydrocodone	3
Methadone	2
LSD	1
Fentanyl	0
Amphetamine	0

Estimated Value of Property (EXCLUDES cash) Seized	
Less than \$1,000	1
\$1,000 - 5,000	2
\$5,001 – 10,000	1
\$10,001 – 25,000	1
\$25,001 – 100,000	0
Over \$100,000	1

Nature of Prohibited Conduct	
Controlled Substances -	77
Delivery	
Controlled Substances -	73
Possession	
Controlled Substances -	26
Manufacture	
Other Conduct	17
Money Laundering	6
Controlled Substances -	3
Conspiracy	
Forgery I	2
ID Theft	2
DUII	1
Controlled Substances -	0
Attempt Solicitation	
Prostitution	0
DWS/R	0

<b>Circumstances of Search/Seizure</b>		
Search Warrant/Seizure	64	
Order		
Probable Cause (no	22	
warrant)		
Other Consent to	16	
Search		
Incident to Arrest	12	
Vehicle Consent	9	
Inventory	1	
Public Health/Safety	0	

Claims Filed:		
Yes	2	
Other	2	
Financial Institution	0	
No	102	

## CRIMINAL FORFEITURE- DISPOSITIONAL DATA

Declined?	
Yes	1
No	96

Property was:	
Proceeds	91
Instrumentalities	37
Prior Similar Conduct	0

Proportionality Hearing?		
Forfeiture Mitigated	2	
Forfeiture Not Mitigated	101	

Was This an Ancillary Hearing:	
Yes	1
Sustained	2
Partially Sustained	0
Denied	3
No	55

Appeal	
None Filed	101
Filed by Claimant	1
Filed by Defendant	2
Filed by Government	0
Unknown, appeal time not yet expired	0

If property returned to claimant prior to judgement, to whom was it returned?	
Person from whom seized	0
Financial Institution	0
Other:	2

#### Criminal Forfeiture Distributions Sources of Forfeiture Funds

## **Total Receipts Available for Distribution**

(includes interest earned for forfeited cash pending judgment & liquidated proceeds of other property):

# \$203,061.12

Costs	
Publication / Notice	\$3,007.02
Towing / Storage	\$0.00
Maintenance / Service	\$43.49
Other Costs	\$0.00
Total Costs:	\$3,050.51

## **Net Proceeds Available for Distribution**

(Total Receipts Available for Distribution minus Costs):

## \$200,010.61

Required Distributions		
DEQ Illegal Drug Cleanup Fund	\$14,130.20	
AFOAC	\$6,055.78	
State General Fund	\$20,185.95	
Drug Treatment Programs	\$80,743.86	
Total Distributions:	\$121,115.79	

# **Total Criminal Forfeiture Proceeds**

(Receipts minus Costs & Distributions):

### \$78,894.82

# **Civil Forfeiture**

SEIZING AGENCY	# OF SEIZURES	TOTAL RECEIPTS
Albany Police Department	1	\$3,539.00
Clackamas County:		
Clackamas County (3)	5	\$51,611.00
Clackamas County Interagency Task Force (2)		
Deschutes County Sheriff's Office:	26	\$64,266.00
Central Oregon Drug Enforcement Team	20	<b>ψ04,200.00</b>
Douglas Interagency Narcotics Team	18	\$90,936.68
Gresham Police Department	36	\$268,013.04
Lane County Sheriff's Office- Interagency Narcotics Team	22	\$224,265.12
Medford Police Department:		
Jackson County Sheriff's Office (3)	67	\$228,683.24
Medford Police Department (63)	07	
Talent Police Department (1)		
Multnomah County Sheriff's Office	12	\$99,425.64
Oregon State Police	22	\$311,157.22
Polk County Sheriff's Office	4	\$3,722.00
Portland Police Bureau	65	\$176,044.01
Salem Police Department	12	\$257,508.07
South Coast Interagency Narcotics Team:		
Coos County Sheriff's Office (1)		
Myrtle Point Police Department (1)	11	\$18,787.16
North Bend Police Department (4)		
South Coast Interagency Narcotics Team (5)		
Springfield Police Department	15	\$48,538.22
Umatilla County District Attorney's Office:	1	\$0.00
Oregon State Police	•	<b>\$0.00</b>
Washington County District Attorney:	24	\$246,484.36
Washington County Sheriff's Office		
Yamhill County Interagency Narcotics Team	2	\$25,485.64
Yamhill County Sheriff's Office:	1	\$7,899.68
Yamhill County Interagency Narcotics Team	-	
TOTAL: 24 Seizing Agencies	345	\$2,126,326.08

Note:

• The number of seizures represents the seizures made in 2017. Items seized in 2017 are not necessarily forfeited in the same calendar year due to the necessary time it takes for a case to proceed through the court system, and for a seizure to become forfeited. Therefore, the "Total Receipts" column reflects some items seized in the previous calendar year, and necessarily some items seized in 2017 will not be reflected in this year's total receipts column.

- Agencies in bold are reporting agencies.
- The numbers in the parentheses reflect the sub agency's portion of the total number of seizures.
- \*\* The agency did not report the value of the property seized.
- ~ Includes value of Personal Property
- \*Total receipts includes actual cash forfeited at time of judgment, interest earned on forfeited cash pending judgment, and value of liquidated proceeds of other property.

## CIVIL FORFEITURE- SEIZURE DATA

Class of Property Seized for Forfeiture	
Currency	315
Conveyance	40
Other Property	12
Vehicle Hidden	3
Compartment	
Weapons	3
Real Property	1
Computer Equipment	1

Drug-Related Cases		
Methamphetamine	171	
Heroin	162	
Marijuana	49	
Cocaine	48	
Other, known	16	
Oxycodone	9	
Hydrocodone	3	
Meth Precursor	2	
Methadone	1	
Fentanyl	1	
Amphetamine	1	
Unknown	1	
LSD	0	

Estimated Value of Property (excludes cash) Seized	
Less than \$1,000	9
\$1,000 - 5,000	29
\$5,001 – 10,000	17
\$10,001 – 25,000	9
\$25,001 – 100,000	5
Over \$100,000	1

Nature of Prohibited Conduct	
Controlled Substances -	299
Delivery	
Controlled Substances -	297
Possession	
Controlled Substances -	65
Manufacture	
Other Conduct	19
Money Laundering	9
Controlled Substances -	10
Conspiracy	
Forgery I	2
ID Theft	2
DUII	1
Controlled Substances -	0
Attempt Solicitation	
Prostitution	0
DWS/R	0

Circumstances of Search/Seizure		
Incident to Arrest	143	
Search Warrant/Seizure	116	
Order		
Probable Cause	112	
Vehicle Consent	59	
Inventory	55	
Other Consent to	53	
Search		
Public Health/Safety	0	

Claims Filed:		
Yes 58		
Other	58	
Financial Institution	0	
No	286	

### CIVIL FORFEITURE- DISPOSITIONAL DATA

Declined?	
Yes	16
No	300

Was Property Owner Represented/Assisted by Counsel?	
Yes, sometime other than judgment	53
Yes, at Judgment	17
Assisted Only	33
Not Represented	252

Defendant represented by counsel other than	20
defense counsel	20

Was the entire forfeiture case declined by forfeiture counsel?	
Yes	17
No	277

Was the associated criminal case also declined by forfeiture counsel?	
Yes	17
No	272

Attorney Fees and Costs Awarded	
Yes	16
No	317

Case Type	
Judgment of Civil Forfeiture	266
Default Judgment	55
Contraband	2

Stay of Proceedings	
By Government	5
By Claimant	0
Jointly	1

# CIVIL FORFEITURE- DISPOSITIONAL DATA (CONTINUED)

Outcome of Petition for Probable Cause or Expedited Hearing	
Affirmative Defense Proved	1
Receiver Appointed to Manage Property	0
Probable Cause Found	1
Property returned during pendency of hearing	0
Claimant Petition Denied	0
Hearing Not Held	1

Contested Hearing	
For Claimant	1
For Government	1
Mixed Verdict	0
Summary Judgment for Claimant	0
Summary Judgment for Government	0

Fact Finder	
Jury	0
Court	13
Arbitration/Mediation	0

Other Disposition	
Settled by Stipulated Judgment	31
Dismissed by Forfeiture Counsel	9
Stipulated judgment in conjunction with related criminal	3
case	
Forfeiture count only was dismissed for failure to appear;	0
forfeiture count refiled as civil forfeiture	
Other	3

If property returned to claimant, to whom was it returned?	
Person from whom seized	15
Financial Institution	0
Other:	6

## **Civil Forfeitures Distributions** Sources of Forfeiture Funds

Total Receipts Available for Distribution (Includes actual cash forfeited at time of judgment, interest earned on forfeited cash pending judgment, and liquidated proceeds of other property): \$2,126,326.08

# Costs Publication / Notice \$50,168.57 Attorney Fees \$144,113.51 Towing / Storage \$59,780.24 Maintenance / Service \$2,565.51 Other Costs \$86,604.80 Total Costs: \$343,232.63

#### **Net Proceeds Available for Distribution**

(Total Receipts Available for Distribution minus Costs):

## \$1,783,093.45

Required Distribution	S
DEQ Illegal Drug Cleanup Fund	\$102,332.72
AFOAC	\$45,954.67
OCJC Drug Court Fund	\$501,021.13
Early Learning Division Fund	\$178,606.95
Total Distributions:	\$827,915.47

#### **Total Civil Forfeiture Proceeds**

(Receipts minus Costs & Distributions):

#### \$955,177.98

### Local Government Use of Proceeds Purchases made in 2017 with Asset Forfeiture Funds from both Civil and Criminal Cases

#### **Organizations Reporting Purchases Made in 2017**

Organization	Use of Proceeds
Albany PD	Purchased materials to build a covert surveillance camera for use in ongoing narcotics investigation. Total expenditure for the camera build totaled \$1,816.73. Note: Purchase breakdown was provided by the organization and is available upon request.
Clatsop County Sheriff	The Clatsop County Drug Task Force received \$15,669.60 in criminal forfeiture funds, of which \$15,613 was spent to purchase a vehicle to be used by the task force for undercover work. In addition, \$15,085.27 in criminal forfeiture funds was used for alcohol and drug treatment for offenders in the Clatsop County Drug Court. The money was spent during May and June to provide treatment through Choices Counseling.
Deschutes County Sheriff	The Central Oregon Drug Enforcement (CODE) team is a multi-jurisdictional narcotics task force supported by the Oregon-Idaho High Intensity Drug Trafficking Area (HIDTA) program and the following Central Oregon law enforcement agencies: Bend Police Department, Deschutes County Sheriff's Office, Redmond Police Department, Prineville Police Department, Crook County Sheriff's Office, Jefferson County Sheriff's Office, Madras Police Department, Oregon State Police, Sunriver Police Department, Black Butte Police Department, United States Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), Warm Springs Tribal Police Department, Deschutes, Crook, and Jefferson County District Attorney's, and the Oregon National Guard. After making all payments and deductions required by law, the remaining proceeds are used to off-set expenses of the joint narcotics task force (CODE). All law enforcement that outlines this. Current examples of expenditures through 2017 were for the following: vehicle leases, building rental, insurance premiums, data lines/phone lines/communication, confidential funds (buy money).
Douglas Interagency Narcotics Team	PAYROLL EXPENSES FOR DA ASSIGNED TO DINT (PROSECUTION & FORFEITURES) \$53,216.91
Gresham PD	\$150.00Advertising\$1,600.00Currency for Undercover Law Enforcement Operations\$23,527.66Drug Detection Equipment\$72,607.89Drug Detection K-9, Vehicle & Equipment\$665.00Equipment Repair & Maintenance\$3,240.00GPS Tracking Charges for Undercover Investigations\$71,888.20Motor Vehicle for Undercover Surveillance\$120.98Motor Vehicle Repair & Maintenance\$42,161.09Narcotics Processing Room & Equipment\$4,919.00Phone Charges for Undercover Investigations\$14,707.00Tactical Vests for SET\$14,574.49Undercover Surveillance Equipment\$5,293.74Vehicle Equipment for Undercover Surveillance\$255,455.05Total
Harney County DA	FORFEITURES ACCOUNT         Beginning balance = \$29,229.90         Expenditures: \$8907.25 (total)         confidential informant buy money = \$5,000 (03/30/2017)        money returned to defendant that had been previously seized = \$3,907.25 (check written on 10/18/2017, check cleared on 12/08/2017)         Revenues: \$901.59 (total)         Interest = \$338.59 (as of 12/13/2017) reimbursement for drug dog purchase from the local 4-H club (the 4-H club raised and donated money that they wanted to go to a drug dog. The drug dog was purchased with forfeiture funds in the 2016 calendar year). = \$563.00         Ending balance = \$21,224.24NOTE: Our county's HR/Admin/Finance employee informed me today that last year's ending balance was off. She thinks it might have been due to a miscalculation of the interest, it looks like maybe the interest had not been moved forward interest the donated for the provide baging in balance.
Jackson County DA	into the original 2016 beginning balance. 5 HP Elitebook 840 G3 14" - Laptop and 1 Docking station, \$6785.49 2 Kanguru DVD duplicators, 900.87 2 Fujitsu Scanners, \$1731.00

Lane County DA	All forfeiture funds received by the Lane County District Attorney's Office are used by its
	Criminal Prosecution Division for the prosecution of criminal cases, including cases involving the unlawful delivery, distribution, manufacture, and/or possession of controlled substances.
Lane County Interagency Narcotics Team	The purchase and repair of equipment used to respond and support cases regarding controlled substances.
Lane County Sheriff	Mrap \$1,450.00 REVA repair \$1,277.17 HUMVEE repair \$19,408.00
Marion County Sheriff	Costs associated with Teen Marijuana Education Course
Medford PD	Civil Forfeiture Proceeds Expenditures:
	\$655.30 Amazon Splitter switch, extender, receiver
	\$999.99Coastal Liberty gun safe\$3,732.00Cascade Cabinets Property Control Shelving
	\$460.48 B & H Photo SAMIS CRF 2115 Component Series AV Rack
	\$1,708.00 B & H Photo AXIS network cameras
	\$5,685.00Quetel Motorola kits\$15,990.00Portable Surveillance Systems Security Lines US
Multnomah County Sheriff	Auction Admin Fees
	LexisNexis-Person Searches
	Buy Money
	Public Notices AT&T Nat'l Compliance Center
	L-Site GPS Subpoena
	Service Repairs/Fuel/Insurance/Other for Aircraft
	Printing Costs Communications/GPS Locator
	Support Agreement renewal for Olympus
	Travel & Training
	Subscription of Software Maint Dues & Subscriptions
	Pass-thru to other jurisdiction for their portion of proceeds
	Messenger Service
	K-9 Expenses Office Supplies/Safety Gear/Other Misc. Supply Items
	Detailing/Cleaning to prepare vehicles for auction
	Forfeiture refund
Oregon State Police	Purchases from funds obtained through Civil forfeitures
	Currency for Undercover Operations: • \$320 Confidential Funds
	Equipment:
	• \$49,846.26 Clan Lab Response Truck
	<ul> <li>\$26,652.00 Intrinsically Safe Radios (6) for Clan Lab Response</li> <li>\$26,743.93 Surveillance Equipment for drug enforcement investigations</li> </ul>
	Operating Expenses:
	• \$1,782.96 DOJ Legal Services
	<ul> <li>\$286.76 Publications</li> <li>\$18,772.00 Annual Interagency Team dues</li> </ul>
	Purchases from funds obtained through Criminal forfeitures
	Equipment:
	<ul> <li>\$8,315.39 Computer workstations (laptops-3, monitors-6 docking stations-3, keyboard/mouse-1) for drug enforcement investigations</li> </ul>
	Operating Expenses:
	\$567.82 - County DA Asset Share
Portland Police Bureau	Forfeiture Counsel (Atty) fee: \$600.00
Redmond PD	No other expenditures made from our proceeds. \$3786.36 - (3) The WRAP restraints
	\$ 255.00 - (3) Protective headgear for The WRAP restraint
	\$7000.00 - (1) Ford Explorer vehicle, used, to be used for drug and street crimes operations
	\$4900.00 - (1) Toyota Sienna, vehicle, used, to be used for drug and street crimes operations
Rogue Area Drug Enforcement	RADE Petty Cash Replenish total- \$475.00
	Meals for RADE Operations total- \$701.96 Total: \$ 1,176.96
Salem PD	Surveillance cameras for use in drug investigations; computer forensics server for analyzing computers and other digital devices related to drug investigations; and the value of two forfeited vehicles that were retained for use in undercover drug investigations.
South Coast Interagency Narcotics Team	Task Force Operations, Task Force Expenses, Task Force Investigations

Springfield PD	Crime prevention supplies, drug prevention/education supplies: 11,646.53
Union County DA	Money was or will be given to Union County Drug Task Force in order to allow them to purchase equipment and other necessities in order to run.
Washington County Sheriff	<ul> <li>Washington County Sheriff's Office uses the forfeiture funds specifically for expenses in operating joint narcotic operations (i.e. Westside Interagency Narcotics (WIN) Team) pursuant to the terms of an intergovernmental agreement such as:</li> <li>1. Investigative Overtime for WIN team not covered by HIDTA Grant</li> <li>2. Travel and Training for WIN team members</li> <li>3. Supplies and equipment for WIN</li> <li>4. Investigative cost for WIN such as PEPI and Vehicle tracker subscription</li> </ul>
Yamhill County Interagency Narcotics Team	Currency for undercover law enforcement operations: \$7,427.24 Cell phones for detectives \$1975.13
TOTAL: 23 Agencies	

# Organizations Reporting NO PURCHASES Made in 2017

Benton County Sheriff
City of Canby
City of West Linn
Clackamas County
Clackamas County DA
Coburg PD
Dallas PD
Eugene PD
Forest Grove PD
Grand Ronde Tribal PD
Grants Pass PD
Jackson County Sheriff
Josephine County DA
Multnomah County DA
Philomath PD
Polk County Sheriff
Talent PD
Yamhill County Sheriff
DOJ/CJD
TOTAL: 19 Agencies