

Asset Forfeiture (2021) Report

Report from the Asset Forfeiture Oversight
Advisory Committee

April 19, 2022



Oregon Criminal Justice Commission

Ken Sanchagrin
Executive Director

The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.

Asset Forfeiture Oversight Advisory Committee (AFOAC) Members

The committee consists of two legislators appointed by the President of the Senate, two legislators appointed by the Speaker of the House of Representatives, three members appointed by the Governor, and three members appointed by the Attorney General.

Committee Members:

Committee Chair Senator Floyd Prozanski

Senator Dick Anderson

Representative Rick E. Lewis

Representative Marty Wilde

Andrew M. Kohlmetz

Elijah Michalowski

Jason J. Myers

Leslie J. Westphal

Note: There are two vacant committee seats at the time of this report.

Staff:

Ken Sanchagrin, Executive Director, Criminal Justice Commission

Jeni Deuchars, Asset Forfeiture Liaison, Criminal Justice Commission

Katherine Tallan, Senior Research Analyst, Criminal Justice Commission

Alex Pichel, Head of Operations, Criminal Justice Commission

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Executive Summary

In this 2021 Asset Forfeiture Report, all calendar year seizures reported to CJC before the writing of the report are included. All 2021 seizures reported to CJC before this report was written are included in the seizure tables below. This seizure information is supplemented by a dashboard¹ on the CJC website, which includes the same information as the report but is updated monthly, so that information on any 2021 seizures reported to CJC after the publishing of this report can be accessed easily online. This will make the report clearer and make accessing real-time information possible. Using this method for previous years as well, this report provides a comparison of the nature and number of forfeitures made in Oregon in 2019, 2020, and 2021.

There were 83 seizures made statewide in 2021, down from 204 made in 2020. 96.4 percent of these were made by local agencies and 86.7 percent were filed as civil forfeitures. 100 percent of all seizures were drug related. The three most common circumstances of search and seizure reported were warrant, incident to arrest, and probable cause (no warrant). The three most common natures of prohibited conduct leading to search and seizure were delivery, manufacture, and controlled substances. Further detail regarding 2021 seizures is available in Tables 1 and 3-4.

Statewide, the receipts made available for disposition in 2021 totaled \$1,494,288.16. After costs and distributions, the net proceeds for law enforcement totaled \$664,865.33. The majority of dispositions occurred under criminal forfeitures from local agencies, and the next largest number of dispositions under civil forfeitures from local agencies. There were no dispositions from state agencies. See Table 5 for more information about dispositions.

Statewide, agencies reported a total of \$669,754.00 received as a result of asset forfeiture in 2021, \$478,075.21 spent, and an end of 2021 balance of \$2,715,636.64. A more detailed look at use of proceeds broken down by agency can be found in Table 7.

There was a notable decrease in the number of seizures in 2021 from previous years. One potential cause for this decrease is that various case law and statutory changes in recent years have changed the way that asset forfeiture is performed in the state.

¹ <https://www.oregon.gov/cjc/SAC/Pages/Asset-Forfeiture-Dashboard.aspx>

Background

The 1989 Oregon Legislature enacted a comprehensive civil forfeiture statute to capture revenue from controlled substance transactions which otherwise escape taxation, and to allow the use of that revenue to improve government response to drug-related prohibited conduct. That law provided for forfeiture in a civil action of properties used in or related to drug crimes. 1989 Oregon Laws Chapter 791, amended and codified as ORS Chapter 475A in 1997, further describes how seized assets will be handled. It establishes conditions for disbursement of funds received through forfeiture, and provides for the return of assets to claimants if those assets are not found to have been used for or derived from unlawful drug activity.

The Asset Forfeiture Oversight Advisory Committee (AFOAC) was created to aid the Legislature in determining the effect of the law and the manner in which it was being applied. The AFOAC prepares “reports detailing the number and nature of forfeitures carried out” under this law. In 1997, the Legislature repealed the sunset provision of the forfeiture law, provided staff for the AFOAC, and directed the AFOAC to review the reporting process. Funding for AFOAC staff was provided from state and local forfeiture proceeds. These funds allowed the creation of one 0.5 FTE position within the Criminal Justice Commission to serve as AFOAC staff. Statutory directions for the AFOAC, the CJC, and reporting requirements are found in ORS 131.600, ORS 131A.450, and ORS 131A.455.

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

- 1) 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.
- 2) Addition of new distribution – the Oregon 529 College Savings Plan began receiving 10% of civil forfeiture proceeds as of July 1, 2018. The 10% is taken from proceeds after forfeiture costs, as with all other distributions, and is specifically distributed to the scholarship fund subaccount for children of public safety officers who have “suffered a qualifying death or disability,” i.e. a line of duty injury or fatality.

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 CJC uses the information reported by state and local agencies to compile this report for the AFOAC.

Methodology

In reports previous to 2018, a basic description of all seizures and dispositions reported to CJC during the calendar year of the report was provided. In the 2018 and 2019 reports, we attempted to better represent the process of asset forfeiture and its reporting through a more in-depth display and discussion of the data CJC received in the report year. This allowed for some explanation of seizure and disposition changes over time and paved the way for more detailed reports in future years. From last year's report moving forward, the Asset Forfeiture Report will be supplemented by a dashboard updated frequently by CJC. This will allow us to consolidate the Seizures section of this year's report to include only 2021 seizures reported to CJC before its writing. If seizures that occurred in 2021 but were not reported before this report was written are later submitted, they will appear on the dashboard.

In order to make sense of the following data tables (particularly in comparison to previous reports), it is important to note that the nature of seizure and disposition reporting is more time-dependent than one might expect. Specifically, a seizure occurs, and generally within 30 days a seizure for forfeiture form is submitted by the forfeiting agency, then at some point following that submission, the report of the seizure is made to CJC. There is no mandated time constraint on the report of seizure to the CJC, although it is generally expected that reports of seizures (for example) in 2019 should be made in 2019, or at the very latest in 2020. There are a number of cases reported to CJC in 2020 which occurred anywhere from 2005 to 2019. In reports previous to 2018, this has not been noted or addressed, so the number of seizures reported in the 2017 report, for instance, are "inflated" by this type of latent reporting. This issue, from the 2020 report forward, will be addressed by the supplemental dashboard regularly updated by CJC.

Similarly, reports of dispositions are made quite some time after the date of seizure. This is due mostly to the fact that multiple court processes must occur between the date of seizure and the final disposition of a single case. Typically, this process takes at least 6 months to complete, so it is not possible for CJC to track all seizures made in 2021 through their final disposition in time to report them here, as many dispositions have not yet been made and will not be made until later in 2022. Consequently, CJC also received large numbers of disposition reports in 2021 stemming from seizures which occurred in 2020. To address this problem, CJC chooses to include all disposition reports received in 2021 (regardless of seizure or disposition date) and treat them similarly to a simple income. This will ensure that all dispositions into "accounts" (distributions and agencies) will be recorded over time.

The remaining sections of this report contain detailed figures and tables describing asset forfeiture, distribution of assets to funds and agencies, and agency use of proceeds in 2021.

2021 Seizures

Table 1. 2021 seizures reported to CJC

	Number	Percent
Total Number of Seizures	83	100.0%
Seizures by Local Agencies	80	96.4%
Seizures by State Agencies	3	3.6%
Civil Forfeitures	72	86.7%
Criminal Forfeitures	11	13.3%
Cases which are Drug Related	83	100%

Drug Type	Number of Cases*	Percent of (Drug Related) Cases†
Methamphetamine	49	59.0%
Heroin	34	41.0%
Marijuana/BHO	12	14.5%
Oxycodone	7	8.4%
Cocaine	6	7.2%
Fentanyl	3	3.6%
Xanax	2	2.4%
LSD	1	1.2%

Total Cash Seized‡	\$528,296.94
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*Many drug-related cases involve multiple drug types, so numbers will not add to total cases.

†Many drug-related cases involve multiple drug types, so percentages will not add to 100%.

‡The value of non-cash property seized is indeterminate.

Table 2. 2021 seizures reported to CJC by agency

Principal Seizing Agency	Number of Cases	Percent Civil Cases	Total Value Seized*	Number of Claims Filed	Percent of State Total by Total Value Seized
Baker County NET	1	100.0%	\$2,700.00	0	0.5%
Bend Police Department	1	100.0%	\$17,020.00	0	3.2%
Canby Police Department	1	100.0%	\$12,757.00	1	2.4%
Central Oregon Drug Enforcement	6	100.0%	\$31,356.00	0	5.9%
Deschutes County Sheriff's Office	1	100.0%	\$8,145.00	0	1.5%
Grants Pass DPS	2	0.0%	\$2,040.00	0	0.4%
Gresham Police Department	3	100.0%	\$18,096.00	0	3.4%
Jackson County Sheriff's Office	1	100.0%	\$3,549.00	0	0.7%
Josephine County Sheriff's Office	2	0.0%	\$276.00	0	0.1%
Medford Police Department	35	88.6%	\$82,912.35	5	15.7%
Oregon City Police Department	1	100.0%	\$5,045.00	0	1.0%
Oregon State Police	3	100.0%	\$90,092.00	1	17.1%
Portland Police Bureau	5	100.0%	\$10,535.00	0	2.0%
Rogue Area Drug Enforcement	3	0.0%	\$6,301.00	0	1.2%
Salem Police Department	2	100.0%	\$48,101.00	0	9.1%
South Coast INT	3	100.0%	\$11,305.59	0	2.1%
Springfield Police Department	1	100.0%	\$725.00	0	0.1%
Washington County Sheriff's Office	12	100.0%	\$177,341.00	3	33.6%

*This does not include the value of non-cash property with no reported liquid value.

Table 3. Circumstances of search and seizure for 2021 seizures reported to CJC

Circumstance	Number of Cases*	Percent of Cases†
Warrant	23	27.7%
Incident to arrest	22	26.5%
Probable cause (no warrant)	17	20.5%
Other consent to search	9	10.8%
Inventory	8	9.6%
Vehicle consent	4	4.8%
Public health	3	3.6%
None noted	7	8.4%

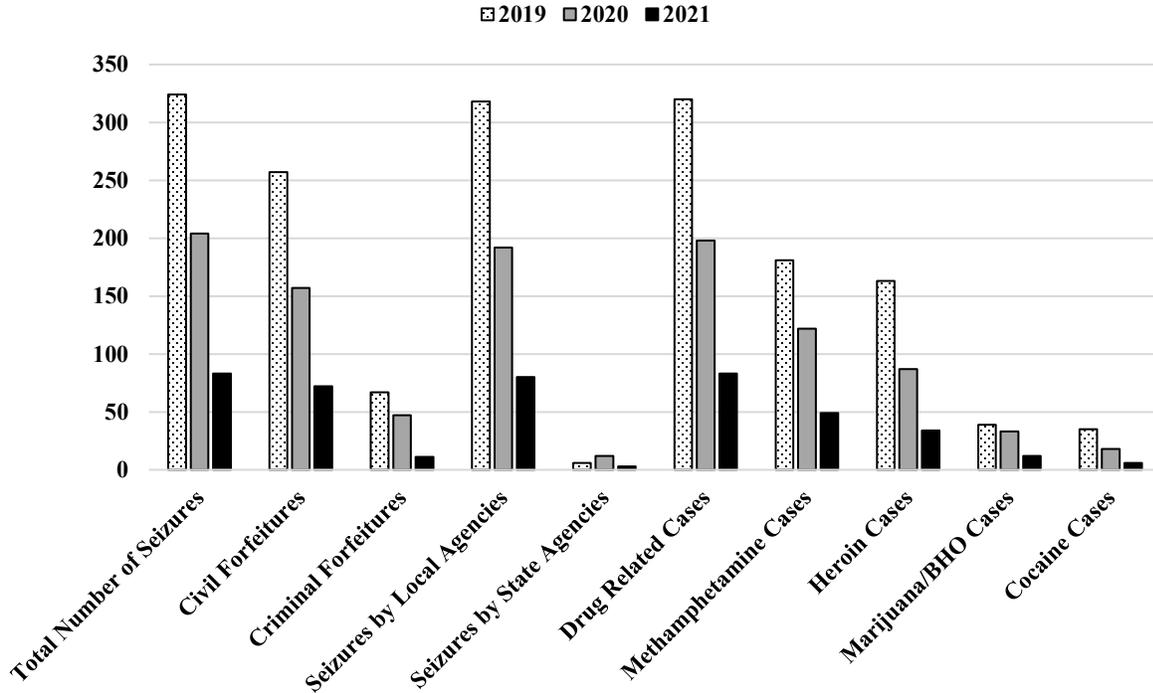
*Many cases involve multiple circumstances, so numbers will not add to total cases.

†Many cases involve multiple circumstances, so percentages will not add to 100%.

Table 4. Nature of prohibited conduct leading to seizure for 2021 seizures reported to CJC

Conduct	Number of Cases	Percent of Cases
Delivery	36	43.4%
Manufacture	27	32.5%
Controlled substances	12	14.5%
Possession	6	7.2%
Conspiracy	1	1.2%
Import/export	1	1.2%

Figure 1. 2019, 2020, and 2021 seizures*



*The values in this figure are updated from previous reports, and therefore do not match the values in reports for their respective years. This is because agencies can still submit seizure data after the report is published. For the most up-to-date data, visit the Asset Forfeiture dashboard at <https://www.oregon.gov/cjc/SAC/Pages/Asset-Forfeiture-Dashboard.aspx>

2021 Dispositions

Recall from the explanation above that dispositions typically occur months after their associated seizure. Therefore, many of the dispositions in the following tables are the result of seizures occurring in 2020 or previously. Similarly, there are many seizures reported above for which dispositions have not yet occurred and cannot yet be reported. Dispositions for these seizures will be included in reports as they occur in future years.

The distributions seen in Table 5 reflect the following distribution requirements based on case type and agency type for any given disposition:

Figure 2. Distribution percentages for civil and criminal forfeitures by agency type

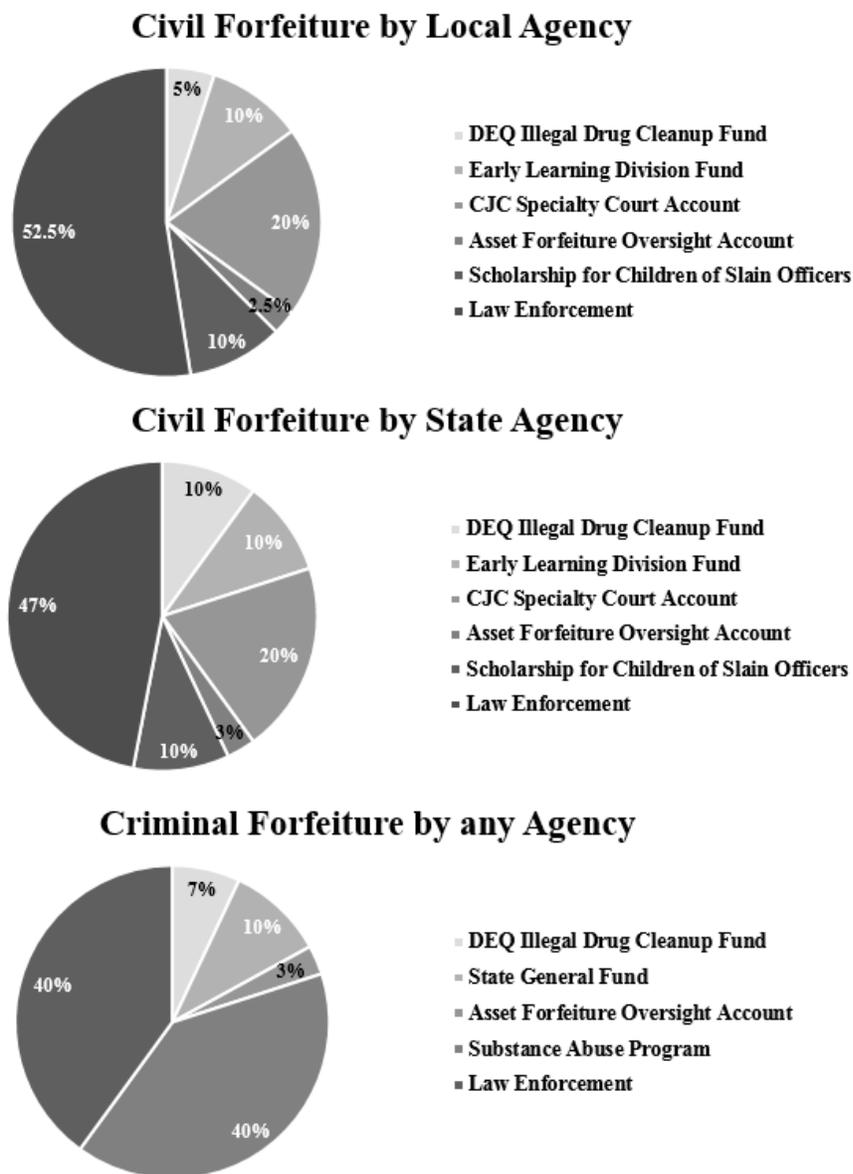


Table 5. All receipts, costs, and distributions for 2021 dispositions by case type and agency type

	Civil Forfeiture		Criminal Forfeiture		Total
	Local Agency	State Agency	Local Agency	State Agency	
Total Receipts	\$1,043,953.26	\$0.00	\$450,334.90	\$0.00	\$1,494,288.16
Total Costs	\$59,752.52	\$0.00	\$3,118.24	\$0.00	\$62,870.76
Publication	\$18,271.54	\$0.00	\$3,118.24	\$0.00	\$21,389.78
Attorney Fees	\$30,265.61	\$0.00	\$0.00	\$0.00	\$30,265.61
Towing/Storage	\$7,953.88	\$0.00	\$0.00	\$0.00	\$7,953.88
Maintenance of Property	\$660.00	\$0.00	\$0.00	\$0.00	\$660.00
Victim Restitution	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other	\$2,601.49	\$0.00	\$0.00	\$0.00	\$2,601.49
Net Receipts*	\$984,626.99	\$0.00	\$447,216.66	\$0.00	\$1,431,843.65
Total Distributions*	\$491,007.16	\$0.00	\$95,108.39	\$0.00	\$586,115.55
DEQ Illegal Drug Cleanup Fund	\$50,207.05	\$0.00	\$31,285.52	\$0.00	\$81,492.57
Asset Forfeiture Oversight Account	\$25,102.39	\$0.00	\$13,379.30	\$0.00	\$38,481.69
OCJC Account Supporting Specialty Courts	\$200,759.07	\$0.00	N/A	N/A	\$200,759.07
Early Learning Division Fund	\$100,409.63	\$0.00	N/A	N/A	\$100,409.63
State General Fund	N/A	N/A	\$44,693.24	\$0.00	\$44,693.24
Scholarship Program for Children of slain or injured Public Safety Officers	\$114,529.02	\$0.00	N/A	N/A	\$114,529.02
Substance Abuse Treatment	N/A	N/A	\$5,750.33	\$0.00	\$5,750.33
Net Law Enforcement Proceeds*	\$509,890.93	\$0.00	\$154,974.40	\$0.00	\$664,865.33

Note: All dollar values shown are rounded to the nearest dollar to account for rounding in distributions. N/A indicates that no percentage of net receipts in cases under the indicated forfeiture and agency types are distributed to the indicated fund (see Figure 2 for further information on distribution percentages).

*In theory, the sum of Total Distributions and Net Law Enforcement Proceeds should equal Net Receipts. In past reports, this has been the case. In this report, this is not the case due to changes made to the Disposition reporting process. Instead of automatic calculation of distributions by AFOAC's forms, each agency is now responsible for manually entering distribution amounts. This results in some small differences. If there are any questions regarding this matter, please contact CJC's Asset Forfeiture Liaison, Jeni Deuchars.

2021 Use of Proceeds

Table 6. Use of proceeds in 2021 by agency

Reporting Body	Received in 2021	Spent in 2021	End of 2021 Balance
Albany Police Department	\$0.00	\$0.00	\$4607.08
Clackamas County District Attorney's Office	\$0.00	\$0.00	\$11,102.00
Grants Pass Police Department	\$21,810.17	\$660.40	\$22,688.41
Gresham Police Department	\$3,369.00	\$6,473.00	\$221,334.00
Jackson County District Attorney	\$11,449.29	\$25,215.39	\$8,355.64
Lane County Sheriff's Office	\$0.00	\$0.00	\$92,356.57
Lane County Sheriff's Office – INET	\$0.00	\$61.20	\$83,612.59
Marion County DA	\$0.00	\$0.00	\$3,803.00
Medford Police Department	\$55,843.90	\$116,220.70	\$537,221.50
Oregon State Police	\$118,467.80	\$42,236.78	\$462,747.00
Portland Police Bureau	\$13,792.25	\$300.00	\$495,491.10
RADE	\$42,762.46	\$8,156.12	\$126,588.20
Redmond Police Department	\$0.00	\$3,920.00	\$91,947.60
South Coast Interagency Narcotics Team	\$54,745.20	\$22,562.65	\$32,182.55
Springfield Police Department	\$658.96	\$5,611.00	\$128,226.00
Talent Police Department	\$0.00	\$0.00	\$0.00
Washington County Sheriff's Office	\$346,855.00	\$226,887.10	\$384,717.30
Yamhill County Interagency Narcotics Team	\$0.00	\$19,770.81	\$8,656.08
Yamhill County Sheriff's Office	\$0.00	\$0.00	\$0.00
State Total*	\$669,754.00	\$478,075.21	\$2,715,636.64

* Includes only those bodies that reported for the 2021 calendar year before the writing of this report.

Table 7. Items purchased using proceeds in 2021 by agency

Agency*	Reported Items Purchased
Albany Police Department	N/A
Clackamas County District Attorney's Office	N/A
Grants Pass Police Department	Legal Advertisement for Forfeiture Funds.
Gresham Police Department	Buy Money, Covert Track Mapping Service TraX Analytical Subscription Currency Counter Maintenance.
Jackson County District Attorney	Minor Equipment for prosecution use, Operating/Training Expenses for prosecution.
Lane County Sheriff's Office	N/A
Lane County Sheriff's Office – INET	Administration Costs.
Marion County DA	N/A
Medford Police Department	IMET/MADGE clothing Holster Scales for drug investigations Chemical storage cabinet IPAD keyboards for MADGE/IMET Portable printers for MADGE/IMET field work MADGE/IMET vehicle maintenance Radio & Upfitting-2020 Chev Tahoe 2020 Chev Silverado includes vehicle, licensing & radio Upfit 2020 Chev Silverado LightLab Cannabis Analyzer, Service call on money counter Skid-Steer brush cutter rental, Security/protest camera parts.
Oregon State Police	Currency for undercover law enforcement operations, Publications and Annual Inter-agency Team dues.
Portland Police Bureau	City Forfeiture Attorney fees to process declined cases.
RADE	Search Warrants & Investigation Operations.
Redmond Police Department	LPR Camera System SCU Tracker upgrade, Buy money.
South Coast Interagency Narcotics Team	Taskforce Operating Expense.
Springfield Police Department	Yearly calendars with drug prevention info.
Talent Police Department	N/A
Washington County Sheriff's Office	Notices, distributions, Maintenance and operational cost for Air Support Unit, Investigative Overtime for WIN team not covered by HIDTA grant, Legal fees and services.
Yamhill County Interagency Narcotics Team	Computer Replacement, Motor Pool, Audit Expenses, Covert Track Data Plan, Cellebrite Contract, Forfeiture Counsel.
Yamhill County Sheriff's Office	N/A

*This table contains only agencies that reported proceeds spent in 2021 before the writing of this report.