



# Asset Forfeiture

HUNTINGTON BEACH POLICE DEPARTMENT

# What is asset forfeiture?

- ▶ Asset forfeiture is a valuable tool used by law enforcement agencies, against criminals and criminal organizations to ensure criminals do not benefit from their ill-gotten gains through seizure of these assets.



# Why do we use asset forfeiture?

- ▶ To disrupt criminal organizations
- ▶ To remove the tools of the trade from criminals
- ▶ To return assets to victims
- ▶ To protect communities
- ▶ To deter criminals from engaging in illicit activity

# What laws/guidelines govern asset forfeiture?

- ▶ Federal
  - ▶ United States Constitution
  - ▶ Department of Justice (DOJ) Asset Forfeiture Policy Manual (204 pages)
- ▶ State
  - ▶ Health & Safety Codes 11469-11495
  - ▶ Senate Bill 443 (*Effective January 1, 2017*)
- ▶ Municipal
  - ▶ Huntington Beach Police Department Policy 606
  - ▶ Orange County District Attorney's Office
- ▶ Case Law
  - ▶ Multiple Court Decisions



# Huntington Beach Police Department

## *Training & Experience*

- ▶ Detectives appointed by the Chief of Police as forfeiture reviewers receive POST approved training on asset forfeiture with a focus on:
  - ▶ Federal and State statutes
  - ▶ Legal requirements and limitations
  - ▶ Probable cause and nexus
  - ▶ Ethical considerations
- ▶ Forfeiture reviewers receive annual continued training in asset forfeiture.

# Prior to January 1, 2017

- ▶ California state law *required a criminal conviction* before real estate, vehicles, boats and cash *under \$25,000* could be forfeited to the government.
- ▶ Federal law *did not require a criminal conviction*, and therefore state and local law enforcement agencies received up to 80% of the forfeiture proceeds from the Federal action (referred to as “equitable-sharing”). This was often referred to as an “asset forfeiture loophole.”



# Senate Bill 443 (SB 443)

*Effective January 1, 2017*

- ▶ Requires a criminal conviction before agencies can receive equitable-sharing payments from the federal government on forfeited real estate, vehicles, boats and cash valued at under \$40,000.
- ▶ Under California state law, the threshold to forfeit seized cash was raised from \$25,000 to \$40,000. Any amount under \$40,000 still requires a criminal conviction.



# Huntington Beach Police Department

## *Policy 606*

- ▶ The Huntington Beach Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime, and reduce the economic incentive of crime.
- ▶ The potential for revenue should never compromise the effective investigation of criminal offenses, officer safety, or any person's due process rights.
- ▶ It is the policy of the Huntington Beach Police Department that all members shall comply with all state and federal laws pertaining to forfeiture.

Policy  
**606**

Huntington Beach Police Department  
Huntington Beach PD Policy Manual

### **Asset Forfeiture**

#### **606.1 PURPOSE AND SCOPE**

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.



# Seized Assets

- ▶ The proceeds from seized assets are separated on an 85% (Fund 214) and 15% (Fund 971) split.
- ▶ The 15% is designated to fund programs designed to combat drug abuse and divert gang activity.
- ▶ Federal equitable-sharing funds are accounted for separately depending on the source - Department of Justice (Fund 212) and Department of Treasury (Fund 242).

# Permissible Uses of Forfeited Funds

*Spending must supplement and may not supplant funding*

- ▶ Support of investigations and operations that further the law enforcement goals or missions.
- ▶ Law enforcement training and education.
- ▶ Law enforcement, public safety, and detention facilities.
- ▶ Law enforcement equipment.
- ▶ Joint law enforcement/public safety operations.
- ▶ Contracts for services.
- ▶ Law enforcement travel and per diem.
- ▶ Law enforcement awards and memorials.
- ▶ Drug, gang, and other prevention or awareness programs.
- ▶ Support of community-based organizations.



# Impermissible Uses of Forfeited Funds

- ▶ Salaries and benefits.
- ▶ Uses contrary to state or local laws.
- ▶ Personal or political use of shared assets.
- ▶ Purchase of food and beverages.
- ▶ Extravagant or wasteful expenditures and entertainment.
- ▶ Cash on hand, secondary accounts, and stored value cards.
- ▶ Transfers to other law enforcement agencies.
- ▶ Purchase of items for other law enforcement agencies.
- ▶ Costs related to lawsuits.



# Regional Narcotics Suppression Program (RNSP)

- ▶ It is the primary mission of the Regional Narcotics Suppression Program (RNSP) to target, investigate, and prosecute individuals who organize, direct, finance, or otherwise engage in high-level (major) illicit drug trafficking enterprises or money laundering operations.
- ▶ A high priority is placed on those subjects who are engaged in the importation of illegal drugs into or through the County of Orange, California and the interdiction of such illicit trafficking pipelines.
- ▶ 1 Sergeant and 1 Detective from the Huntington Beach Police Department are currently assigned to RNSP.



# Huntington Beach Police Department

## *Asset Forfeiture Procedures*

- ▶ When property or cash is seized, the detective making the seizure shall ensure compliance with the following:
  - ▶ Amount seized meets minimum threshold of \$1,000.
  - ▶ Identify all parties of possible ownership.
  - ▶ Property is subject to forfeiture:
    - ▶ Related to narcotics offense (H&S 11470/11470.1)
    - ▶ Related to criminal profiteering (CPC 186.2/186.3)
  - ▶ Orange County DDA approves to proceed with forfeiture.



# Huntington Beach Police Department

## *Asset Forfeiture Interview*

- ▶ Seeking to find evidence relating to proceeds from narcotics sales and/or criminal profiteering.
  - ▶ Employment: where, how long, salary
  - ▶ Additional sources of income/investments
  - ▶ Bank account information (amount in checking/savings)
  - ▶ Monthly expenses: rent/mortgage, utilities, food, entertainment, vehicle, insurance, gasoline, phone, etc.
- ▶ Calculate the monthly expenses versus income to understand gain/loss and show evidence from proceeds for sales of narcotics.




# Huntington Beach Police Department

## *Asset Forfeiture Service of Process*

- ▶ Owner of seized property shall be served with the following documentation:
  - ▶ Receipt For Seizure and Personal Notice of Intended Forfeiture form:
    - ▶ Identifies the seized property
    - ▶ Health & Safety Code(s) violated
    - ▶ Instructions for contesting the seizure
    - ▶ Proof of service.
  - ▶ Claim Opposing Forfeiture form:
    - ▶ To be filed in Superior Court within 30 days to contest seizure
  - ▶ Money Property Receipt

Receipt For Seizure and Personal Notice of Intended Forfeiture



OFFICE OF THE DISTRICT ATTORNEY  
ORANGE COUNTY, CALIFORNIA  
TODD SPITZER, DISTRICT ATTORNEY  
401 Civic Center Drive West, Santa Ana, CA 92701

RECEIPT FOR SEIZURE AND PERSONAL NOTICE OF INTENDED FORFEITURE

TO: \_\_\_\_\_  
(name of person from whom property seized)

ON: \_\_\_\_\_  
(seizure date) (address of seizure)

\_\_\_\_\_, California, Officer \_\_\_\_\_ of \_\_\_\_\_  
(city) (name) (agency)

Seized property per Health and Safety Code 11470(f) for forfeiture in connection with violation of the following California Health and Safety Code Sections: (please circle all applicable)  
  
11351 11351.5 11352 11355 11359 11360 11366.8 11378 11378.5 11379 11379.5 11379.6  
11380 11382 11383 PC182 (conspiracy to violate \_\_\_\_\_ (must be one of the above sections)

The seized property is described as follows:  
Property Description Estimated Value  
\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Section 11488.4 of the California Health and Safety Code, procedures to forfeit this property have been by the Orange County District Attorney's Office. The initiating DDA is \_\_\_\_\_

If you desire to contest the forfeiture of the property, you must file, within 30 days of the receipt of this Notice, a verified claim your interest in the seized property with the Clerk of the Superior Court, Civil Division, at 700 Civic Center Drive West, Santa Ana, California. THE CLAIM FORM IS ATTACHED. Additional claims may be obtained from the Clerk of the Superior Court. See [www.sccourt.ca.gov](http://www.sccourt.ca.gov) for more information. You must also provide the District Attorney's Office with an endorsed copy of within 30 days of filing your Claim directed to: Deputy-in-Charge, NET Division, 401 Civic Center Drive West, Santa Ana, CA 92701.

If your claim is properly filed, the District Attorney will decide whether to file a Petition for Forfeiture with the Superior Court your claim. In the case where a Petition is filed and contested hearing is held, you will have the following rights which are not limited to: the right to use the subpoena powers of the court and order witnesses to attend; the right to testify on behalf; the right to submit evidence showing the legitimacy of the seized assets; and the right to cross examine the witnesses. This is a civil action. You have the additional right to represent yourself or hire your own attorney and there is no appointed counsel in this case. If no claim is properly filed within the time frame allowed, the property will be ordered forfeit State, to be disposed of according to law.

PROOF OF SERVICE: I, the undersigned declare that I am over the age of eighteen and not a party to the within action. My business address is: \_\_\_\_\_, California. I declare that I personally delivered a true copy of this Receipt for Seizure and Personal Notice of Forfeiture, and a Claim Form, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ a.m. / p.m. to \_\_\_\_\_, California. I declare under penalty of perjury that the foregoing is true and correct.

Served by: \_\_\_\_\_ (Name / I.D. No.) \_\_\_\_\_ (Agency) \_\_\_\_\_ (Date)

Agency Case No. \_\_\_\_\_ Control No. \_\_\_\_\_

THIS NOTICE IS YOUR RECEIPT FOR PROPERTY SEIZED (Health and Safety Code Section 11488 (b)).  
  
(white) District Attorney (pink) Agency copy (cyan) Interested Person

Notice of Intended Forfeiture January \_\_\_\_\_

Money Property Receipt

HUNTINGTON BEACH POLICE DEPARTMENT  
2000 Main Street Date/Time \_\_\_\_\_  
Huntington Beach, CA 92648 DR# \_\_\_\_\_  
Page \_\_\_\_\_ of \_\_\_\_\_

PROPERTY RECEIPT (MONEY)

Taken/Received from: \_\_\_\_\_

☐ Found Property ☐ Search Warrant Inventory ☐ Safekeeping ☐ Evidence

Item # _____	X \$1 Bills = \$ _____
_____	X \$1 Coins = \$ _____
_____	X \$2 Bills = \$ _____
_____	X \$5 Bills = \$ _____
_____	X \$10 Bills = \$ _____
_____	X \$20 Bills = \$ _____
_____	X \$50 Bills = \$ _____
_____	X \$100 Bills = \$ _____
_____	X _____ Bills = \$ _____
_____	X _____ Bills = \$ _____
_____	Miscellaneous coins = \$ _____
TOTAL: \$ _____.	

Taken/Received From  
(Signature): \_\_\_\_\_ Date/Time \_\_\_\_\_

Two signatures required below:

Received/Counted By: \_\_\_\_\_ Pin# \_\_\_\_\_

Verified By: \_\_\_\_\_ Pin# \_\_\_\_\_

Copies: White-Records, Yellow-S.I.B., Pink-Receipt

Claim Opposing Forfeiture

MC-200

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: \_\_\_\_\_  
NAME: \_\_\_\_\_  
FIRM NAME: \_\_\_\_\_  
STREET ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_ FAX NO.: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_  
ATTORNEY FOR (name): \_\_\_\_\_

SUPERIOR COURT OF CALIFORNIA, COUNTY OF \_\_\_\_\_  
STREET ADDRESS: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
CITY AND ZIP CODE: \_\_\_\_\_  
BRANCH NAME: \_\_\_\_\_

THE PEOPLE OF THE STATE OF CALIFORNIA

CLAIMED PROPERTY: \_\_\_\_\_  
NAME: \_\_\_\_\_

CLAIM OPPOSING FORFEITURE (Health & Saf. Code, § 11488.5)  
In response to a judicial petition for forfeiture (use existing case No.)  
In response to notice of administrative proceedings

CASE NUMBER: \_\_\_\_\_

nt (name):  
☐ individual ☐ corporation ☐ other (specify): \_\_\_\_\_  
d property (describe): \_\_\_\_\_

If claim is ☐ \$5,000 or less ☐ \$5,001 or more (Health & Saf. Code, § 11488.5(a)(3).)

NOTICE  
You must file your claim within 30 days after you receive a notice that your property may be seized. If you do not receive personal or mailed notice, you must file your claim within 30 days after the last time it is published in a newspaper.  
Your claim must be filed in the county where the property is located. If the property was not seized, file your claim in the county where the property is located. If you have not received a notice, you can find the address of the court on the Internet.  
30 days after filing your claim, serve a copy on the Attorney or Attorney General. The copy must have the clerk's filing stamp on it.  
This notice is urgent. If you do not stand it, you must seek help.

AVISO  
1. Usted debe presentar su demanda dentro de los 30 días siguientes a la fecha en que recibe, personalmente o por correo, el aviso de que sus bienes pueden ser confiscados. Si no recibe dicho aviso, deberá presentar su reclamo dentro de los 30 días siguientes a la fecha en que el aviso se publica por última vez en un periódico.  
2. Su demanda debe presentarse en el condado donde fueron confiscados los bienes. Si los bienes no han sido confiscados, presente su demanda en el condado donde están ubicados los bienes. Si ha recibido el aviso, busque la dirección de la corte en el aviso.  
3. Dentro de los 30 días siguientes a la fecha en que presentó su demanda, envíe una copia de la notificación judicial a la oficina del Fiscal (District Attorney) o del Procurador General (Attorney General). La copia debe llevar el sello del actuario de la corte encargado de recibir las demandas.  
Esta notificación es urgente. Si usted no la entiende, debe pedir ayuda.



# Huntington Beach Police Department

## *Currency Handling*

- ▶ Currency is counted and verified.
  - ▶ Money property receipt is completed/signed/provided to owner.
- ▶ Currency is taken to the City Treasurer's office and deposited in a designated interest-bearing account.

# Huntington Beach Police Department

## *Asset Forfeiture Documentation*

- ▶ The handling Detective will complete the following documentation and forward the originals to the Orange County District Attorney's office within 15 days:
  - ▶ Asset Forfeiture Application
  - ▶ Receipt for Seizure and Personal Notice of Intended Forfeiture
  - ▶ Disclaimer of Ownership
  - ▶ Financial Tally Sheet
  - ▶ Money Property Receipt
  - ▶ Copy of Arrest Report and Asset Forfeiture Report
  - ▶ Copy of Search Warrant/Search Warrant Return
  - ▶ Vehicle Information and History Information



# Huntington Beach Police Department

## *Administrative Forfeiture Process*

- ▶ District Attorney's Office

- ▶ Must provide notice of forfeiture to owner of money/property AND anyone with potential interest in the property.
  - ▶ Publish in newspaper of general circulation
- ▶ If no claims are filed to contest the forfeiture within the prescribed time frame:
  - ▶ Declaration of Forfeiture is entered.
- ▶ If a claim is filed:
  - ▶ Forfeiture proceeds through the criminal case.

# Huntington Beach Police Department

## *Declaration of Forfeiture*

- ▶ Handling Detective submits Demand For Funds form to HBPD Payroll.
- ▶ Check for currency seized ***plus interest*** is issued to District Attorney's Office.



# Huntington Beach Police Department

## *Final Order of Forfeiture*

- ▶ District Attorney's Office issues final awarded check to City of Huntington Beach.
- ▶ Check is disbursed into two separate accounts at City Treasurer's Office:
  - ▶ "State Funds Disbursed" account receives 85%
  - ▶ "Set Aside" account receives 15%
- ▶ Asset forfeiture documentation is updated with deposit receipts.
  - ▶ Asset forfeiture log is updated by detective and verified by supervisor.

## H.B.P.D. ASSET FORFEITURE LOG

DATE	HBPD DR #	A/F CONTROL #	SUSPECT	LOCATION	AMOUNT REC	AMOUNT AWARDED	A/F INVESTIGATO R
10/05/06	06-18869	10-361		14961 Hope Street Westminster, CA	\$28,997.00	\$17,538.92/\$3,095.10 <b>Total: \$20,634.02</b>	B. Jones #1018
11/15/06	06-21751	06-189		14 <sup>th</sup> /Main St. Huntington Beach, CA	\$45,330.06	\$28,133.98/\$4964.82 <b>Total: \$33,098.80</b>	O. Garcia #2113
12/22/06	06-24262	07-189		2000 Main St. Huntington Beach, CA	\$71,797.00	\$44,496.57/\$7,852.34 <b>Total: \$52,348.91</b>	O. Garcia #2113
12/23/06	06-24280	10-343		2000 Main St. Huntington Beach, CA	\$7,594.00	\$4,417.97/\$779.64 <b>Total: \$5,197.61</b>	O. Garcia #2113
10/10/07	07-18277	10-342		17 <sup>th</sup> /Grand Santa Ana, CA	\$2,204.00	\$1,268.82/\$223.91 <b>Total: \$1,492.73</b>	O. Garcia #2113
08/22/08	08-14809	10-415		20012 Beach Blvd. Huntington Beach, CA	\$1,600.00	\$887.23/\$156.57 <b>Total: \$1,043.80</b>	O. Garcia #2113
11/12/08	08-19916	08-468		Newland/Edinger Huntington Beach, CA	\$2,724.00	\$1,540.79/\$271.91 <b>Total: \$1,812.70</b>	B. Jones #1018
12/25/08	08-22432	09-345		17 <sup>th</sup> /Orange Huntington Beach, CA	\$500.00	\$257.74/\$45.48 <b>Total: \$303.22</b>	O. Garcia #2113
04/02/09	09-05271	09-701		4713 Floyd Circle Santa Ana, CA	\$34,009.00	\$13,335.49/\$2,353.32 <b>Total: \$15,688.81</b>	B. Jones #1018



# City of Huntington Beach Expenditures

- ▶ All Huntington Beach expenditures adhere to City, State, and Federal policies and procedures.
- ▶ All expenditures are approved by the Huntington Beach City Council through the budget appropriation process.

# City of Huntington Beach

## *Asset Forfeiture Accounts*

- ▶ FY 18/19

- ▶ Federal

- ▶ Fund 212 (Department of Justice – FBI, DEA, ATF, USPIS, USDA, DCSIS, DSS, FDA)

- ▶ Balance: \$520,334.53

- ▶ Revenue: \$371,483.59

- ▶ Expenditures: \$95,963.99

- ▶ Fund 242 (Department of Treasury– IRS, ICE, CBP, USSS)

- ▶ Balance: \$11,767.61

- ▶ Revenue: \$11,767.61

- ▶ Expenditures: None



# City of Huntington Beach

## *Asset Forfeiture Accounts*

- ▶ FY 18/19

- ▶ State

- ▶ Fund 214 (85%)

- ▶ Balance: \$225,247.71

- ▶ Revenue: \$25,581.82

- ▶ Expenditures: \$57,266.44

- ▶ Fund 971 (15%)

- ▶ Balance: \$60,964.66

- ▶ Revenue: \$3,752.97

- ▶ Expenditures: \$28,487.70



# Recent Cases Involving Asset Forfeiture

2018-016594

- ▶ In October 2018, Detectives from the Special Investigation Bureau initiated an investigation into a large-scale drug trafficking organization (DTO).
- ▶ In November 2018, a member of the DTO was detained.
- ▶ Detectives seized over 120 pounds of methamphetamine, heroin, cocaine, and \$352,506 in US currency.
- ▶ Currency was suspected to be proceeds from narcotics sales; therefore, asset forfeiture was initiated with Orange County District Attorney's Office.
- ▶ Forfeiture status currently pending.





# Recent Cases Involving Asset Forfeiture



2019-008365

- ▶ On 06/28/2019, a patrol officer initiated a traffic stop pursuant to a vehicle code violation.
- ▶ Investigation revealed the driver was in possession of 2 kilos of cocaine and \$328,000 in US currency.
- ▶ Suspect was previously convicted of murder in the state of Oregon and on parole.
- ▶ Currency was suspected to be proceeds from narcotics sales; therefore, asset forfeiture was initiated with Orange County District Attorney's Office.
- ▶ Forfeiture status currently pending.

