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## Asset Forfeiture Procedure

### 606.1 PURPOSE

This document establishes procedures, regulations, and guidelines which will govern the Union City Police Department's (UCPD) asset forfeiture program.

UCPD derives its state statutory authority for asset seizure from the California Health and Safety Code, Chapter 8 of Division 10, and federal statutory authority from title 21, United States Code, Section 881(e), and other federal laws.

Law enforcement is the principal objective of asset forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

### 606.2 ASSET FORFEITURE TRAINING

Detectives assigned to investigating narcotic offences should attend the basic and annual asset forfeiture classes conducted by the California District Attorneys Association (CDA). Additional training may be provided as determined by the Investigations Manager.

Health and Safety Code Section 11469(e) states that seizing agencies shall implement training for officers assigned to forfeiture programs and this training should be ongoing.

### 606.3 ASSET FORFEITURE ACCOUNTABILITY

The UCPD asset forfeiture program operates under the direct supervision of the Special Services Unit (SSU) Supervisor. The SSU Supervisor will report on the status of the asset forfeiture program to the Investigations Manager on a quarterly basis and/or upon request. These reports will be rectified with Union City Accounting Department to ensure account accuracy.

### 606.4 ASSET FORFEITURE SEIZURE PRIMARY CRITERIA

In determining whether or not to seize monies, negotiable instruments, securities and other items of value, other than vehicles or real property, detectives will consider the appraised and/or face value of the item. As a general rule, when US currency seized is less than \$750.00 and other asset items have a forfeitable value less than \$1,000.00 each, careful consideration should be given before requesting forfeiture. The final decision of the seizure shall rest with the SSU Supervisor.

The following items are subject to seizure per Section 11470 of the Health and Safety Code:

1. All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.
2. All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.
3. All property except real property or boats, airplanes, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

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4. All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.
5. The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, which has been used as an instrument to facilitate the possession for sale of 14.25 grams ( $\frac{1}{2}$  ounce) or more of heroin or cocaine base; 28.50 grams (1 ounce) or more of a Schedule I substance; 10 pounds dry weight or more of Marijuana, Peyote or Psilocybin (mushrooms); 28.5 grams (1 ounce) of pure cocaine HCL or pure methamphetamine; 57 grams (2 ounces) of a substance containing cocaine HCL or methamphetamine; or 28.5 grams (1 ounce) of a Schedule II substance. The vehicle may not be seized if it is the only vehicle available to the family.
6. All monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all monies, negotiable instruments, or securities used or intended to be used to facilitate any violation of possession for sale or manufacture of a controlled substance or conspiracy to commit possession for sale or manufacture of a controlled substance. Seizure must occur within five years of the offense that is the basis for the forfeiture.
7. The real property of any property owner who is convicted of violating Health and Safety Sections 11366 - maintaining a place for unlawfully providing controlled substances; 11366.5 - place for manufacturing or providing controlled substance; 11366.6 - utilizing building designed to suppress entry. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

The primary criteria for initiating a financial investigation or asset forfeiture seizure are the negative effect on the violator. Cost effectiveness must also be considered when determining which cases to actively pursue. Detectives should always measure the potential cost of the investigation/seizure and subsequent litigation versus the potential impact on the violator.

Criteria should be established for seizing US currency, negotiable instruments, securities, vehicles personal property and real property assets, and minimum estimated values for forfeiture should be established.

Detectives should consider the appraised and/or face value of the asset in determining whether to seize it.

#### **606.5 REAL ESTATE SEIZURE CRITERIA**

Prior to the seizure of any real property, there shall be a property appraisal and determination of equity. As a rule, most real property forfeitures should have a least \$50,000.00 in available equity available for seizure. Approval shall be obtained from the state or federal asset forfeiture attorney prior to any real property forfeiture is initiated.

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#### **606.6 SEIZURE OF POSSIBLY CONTAMINATED ASSETS**

Detectives should exercise caution before seizing any asset which may be contaminated by the storage or presence of hazardous materials. Examples of possibly contaminated assets are vehicles, trailers, motor homes, and real property associated with clandestine drug laboratories. If any contamination is suspected a health threat appraisal shall be conducted by a licensed hazardous materials handler to determine the extent of contamination, if any. Approval will be obtained from the SSU Supervisor prior to the seizure of any asset known or believed to be contaminated.

#### **606.7 FRANCHISE TAX BOARD (FTB) NOTIFICATION**

In accordance with Health and Safety Code Sections 11488(b) and 11471.5; the Asset Forfeiture DA will notify the Franchise Tax Board of all cash and property seizures of between \$5,000 and \$25,000. The SSU detective assigned to the case will notify the Franchise Tax Board of seizures of \$25,000 or more within 30 days of seizure. This notification may be made by mail as long as the Franchise Tax Board employee is notified, and the date and time of the notification is memorialized in a UCPD police report or the automated asset tracking system. The Franchise Tax Board notification form for assets included at the end of this manual.

#### **606.8 CONTACTS WITH DISTRICT ATTORNEY, CITY ATTORNEY OR U.S. ATTORNEY**

When a detective seizes assets from a county other than Alameda County, the seizing detective should contact the prosecuting attorney who will be adjudicating that particular case for procedures required by their office within 15 days of seizure. This is particularly important in cases dealing with the seizure of real property.

#### **606.9 SEARCH WARRANTS AND SEIZURE ORDERS**

If US currency and/or property is seized pursuant to a search warrant and the wording regarding seizure for asset forfeitures is not in the search warrant, the Detective shall prepare and obtain an "Order for Conversion" or release to remove the US currency and/or property from the jurisdiction of the search warrant and the court.

#### **606.10 INITIATING ASSET INVESTIGATION AND SEIZURE**

In order to seize assets, the detective must show probable cause that the assets are proceeds from the sales of controlled substances or that the assets were used to facilitate the sales of controlled substances listed under Health and Safety Code Section 11470.

In general, the following steps should be followed to be successful in forfeiting assets connected with a narcotics violation:

1. Obtain as much information as possible regarding the suspect's financial background prior to his/her arrest for Health and Safety Code violations. This information can include, but may not be limited to, employment history, other courses of legitimate income, monthly expenses, obvious assets, lifestyle, bank accounts, and possible hidden assets.

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2. Question the suspect about the source of his/her assets. This questioning should include, but need not be limited to, the source of the assets, sources of income (legal and illegal), when their last tax filing was, who else may have claim to the assets, and bank accounts. It may be desirable for a detective other than the case detective to conduct this interview.
3. The detective who conducts the asset interview will prepare a supplemental report outlining the details of the interview. If the interview is conducted by a detective other than the case detective a copy of the report will be forwarded to the case detective for review. The case detective will determine if the case needs further investigation. The case detective may choose to personally conduct the follow up investigation. This section does not preclude other detectives from conducting asset forfeiture investigations.
4. The decision to proceed with the seizure must be made within fifteen (15) days of the seizure. In making this decision any possible innocent ownership issues will be fully explored so that property may be promptly returned if the situation warrants return.
5. The property may be held beyond fifteen (15) days if it is being held as evidence or for some other legal reason.
6. In almost all cases a criminal conviction as specified in Health and Safety Code Section 11470 in an underlying or related criminal action of a drug trafficking offense is required for forfeiture.

#### **606.11 SEIZURE OF US CURRENCY**

When an investigation indicates that probable cause exists to seize US currency the following steps shall be followed during the seizure process:

1. A property receipt will be prepared listing the exact amount of US currency being seized. The denominations will be broken down with an exact number of each denomination.

Example:

\$100 x 15= \$ 1,500.00

\$ 50 x 10= \$500.00

\$ 20 x 75= \$ 1,500.00

\$ 10 x 50= \$500.00

\$ 5 x 20= \$100.00

Total \$ 4,100.00

2. US currency will always be counted by two detectives at the scene of the seizure. If two detectives are not available for the count another police officer may be used. In all cases both persons making the count will initial the envelope which is sealed and booked into UCPD property as soon as practical. US currency will be listed on a separate receipt from vehicles and other property.
3. A notice of intent of forfeit will be issued to the party from whom the seizure is made and any other interested parties by the Alameda County District Attorney's Office, or if the asset case is adopted by a federal agency for prosecution, by the

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United States Attorney General's Office. In all cases, the SSU Supervisor will obtain a memorandum from the prosecuting DA or AUSA stating that the case has been accepted for prosecution or prosecution has been declined. This memorandum will be placed in the investigation file.

4. Once the seized US currency is accepted and documented by the UCPD Property it shall be cleared for deposit. As soon as possible, the US currency will be received from the UCPD Property Section and deposited by two detectives into the appropriate account. The State Asset Forfeiture Litigation/Holding Account is [REDACTED]. The Federal Asset Forfeiture Litigation/Holding Account is [REDACTED]. The bank receipt of deposit will be placed into Case File with a copy of given to the SSU Supervisor and placed Asset Forfeiture Report File. The SSU Supervisor should notify the Finance Department via email of a new Asset Forfeiture case.
5. A photograph of the US currency will be taken where the US currency was originally found and included into the asset forfeiture report file corresponding with that particular seizure. Digital photographs shall be placed into evidence. No photographs will be taken of US currency retrieved from other police department's evidence lockers.
6. In the event of case qualifying for Asset Forfeiture is taken by the Patrol Division, an SSU detective will handle the Asset Forfeiture for that case. The SSU detective will complete the required paperwork for Asset Forfeiture. The SSU detective will then prepare a supplemental report documenting the Asset Forfeiture portion to the charging DA.

All information and reports surrounding the seizure will be forwarded to the case detective.

#### **606.12 VEHICLE SEIZURE CRITERIA**

Health and Safety Code Section 11470(e) defines which vehicles may be seized subject to forfeiture. A vehicle should not be seized, without prior approval of the SSU Supervisor, under the following circumstances:

1. Where the net equity value of the vehicle is less than \$5,000.00 after the anticipated cost of storage and/or processing fees.
2. Where the vehicle is inoperable, to the point that necessary repairs make the seizure of the vehicle cost prohibitive.
3. Where the vehicle is undergoing substantial repair work, e.g., the vehicle is in a repair shop having major engine work or body work done (this means work in progress, not work that should or could be done). The seizure of the vehicle may be delayed until after the work is completed.
4. Where possession of the vehicle has been transferred after the vehicle becomes subject to seizure but prior to the time it may be seized. Examples:
  - (a) If a lien holder has repossessed the vehicle for reasons other than he/she knows it is subject to forfeiture. If there is probable cause to believe that this was the reason for repossession, then the vehicle may be seized.
  - (b) If, prior to seizure, the vehicle is sold to an innocent party.

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5. Where the vehicle is a rental, unless there is probable cause to believe that the owner had knowledge of its intended use in violating the law.
6. Where the vehicle was stolen or embezzled and was in this status during the violation.
7. Where the vehicle was a common carrier, unless there is probable cause to believe that the owner had knowledge of its intended use in the illegal activity.

The following are recommended steps to be followed during a vehicle seizure:

1. Initiate the criminal investigation.
2. Develop information during the investigation that indicates a possible forfeitable vehicle.
3. Case Detective to determine:
  - (a) Type of Vehicle.
  - (b) Probable cause to seize.
  - (c) Status of vehicle, i.e., condition of vehicle, physical control status, third party interest, salvages history, "grey-market" vehicle, etc.
  - (d) Location of vehicle.
  - (e) Ownership of vehicle.
4. Determine owner and lien holder's interest in vehicle per Health and Safety Code Section 11488.4(d). If needed compute the possible equity in the vehicle based on the about still owed to lien holder and value of vehicle.
5. Initiate financial investigation and develop probable cause to justify the seizure.
6. Take custody of the vehicle after the arrest of the suspect. Prepare a CHP 180 form and enter the vehicle into the Stolen Vehicle System as a stored vehicle without delay.
7. Provide a notice of intent to forfeit to the owner of the vehicle at the time of the seizure.
8. Transfer the vehicle to a storage location.
9. Photographs will be taken of the vehicle showing sides, the front and back. The photos should document any damage to the vehicle at the time of the seizure. The photographs will be placed in the asset forfeiture report file.
10. Asset forfeiture vehicle keys will be given to the SSU Supervisor to be kept in the UCPD safe.
11. As soon after the seizure as possible the vehicle will be listed in the asset seizure property log by the SSU Supervisor.

#### 606.12.1 VEHICLE SEIZURE RECORD

A CHP 180 form (or other appropriate form) shall be prepared at the time of the vehicle seizure. A copy of the CHP 180 will be provided to the SSU Supervisor. Detectives will contact Fremont Dispatch for entry into the SVS computer system as a seized vehicle. The original of the CHP 180 form will be included in the asset forfeiture case file. Copies of the CHP 180 form will be sent to the prosecutor and the registered owner of the vehicle.

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#### 606.12.2 VEHICLE STORAGE AND CONTENTS INVENTORY

If at the time of seizure there are personal items of value in the vehicle, the seizing detective shall conduct an inventory of the personal items and make every effort to return to the owner at the scene, or as soon as possible. If it is necessary to seize the contents of the vehicle, loose items of value should be removed from the vehicle prior to storage. These personal items should be secured until they can be turned over to the owner.

#### 606.12.3 TRANSPORTING A SEIZED VEHICLE

The most expeditious manner should be used in transporting a seized vehicle from the scene of the seizure to a preliminary holding area will be to tow the vehicle. If towing the vehicle is impractical, a detective or other police officer may drive the vehicle from the scene. This does not preclude the case detective or SSU Supervisor from making other arrangements, where appropriate, under the given circumstances.

#### 606.12.4 STORAGE OF SEIZED VEHICLES

Seized vehicles will be stored at the Union City Corporation Yard. After forfeiture, the seized vehicle will be auctioned. When the vehicle is picked up by the auction facility, a copy of the vehicle receipt shall be provided from the driver or facility and placed in the asset report file.

#### 606.12.5 VEHICLE REPAIR AND SALE REQUIREMENTS

The SSU Supervisor shall provide the contractor a signed copy of the first amended declaration of non-judicial forfeiture from the District Attorney's Office before the conveyance can be sold.

The contractor shall have an amount for blanket authorization for repairs. When repair costs exceed the blanket amount, the cost must be submitted to the SSU Supervisor for prior written approval.

The contractor shall provide the SSU Supervisor with a cost sheet which itemizes the cost for all repairs.

#### **606.13 SEIZURE OF ITEMS OTHER THAN CASH, VEHICLES AND REAL PROPERTY**

When an investigation reveals that probable cause exists to proceed with the seizure of personal property, other than cash or vehicles, (i.e. jewelry, furniture, firearms, tools, etc.) the following steps should be taken:

1. Seize the property.
2. List all the property on a UCPD property receipt and leave a copy with the suspect.
3. Prepare a notice of intent to forfeit listing the property to be seized. All parties who may have interest in the personal property shall be provided with a notice of intent to forfeit.
4. Personal assets seized shall be secured, as soon as possible and booked into UCPD Property Section. All personal assets seized will be listed in the seizure property log.
5. As soon as the District Attorney which has responsibility for filing of the seizure determines to proceed with seizure, and it appears likely that the seizure will be

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successful, the SSU Supervisor or the case detective will contact the company responsible for the dispersal of adjudicated assets for pick-up and storage.

6. All items of personal property shall be photographed for documentary purposes. The photographs shall be placed in the asset forfeiture report file.
7. All information and reports surrounding the seizure will be forwarded to the case detective.

#### **606.14 SEIZURE OF REAL PROPERTY**

The seizure of real property (real estate) in all cases involves a judicial process. With this in mind the seizure of real property should be discussed with the local or federal prosecutor prior to proceeding with a seizure. In all cases the following steps shall be taken to determine the suitability of the property prior to seizure:

1. Conduct a complete title search to determine all possible parties who hold interest in the property.
2. Have an appraisal conducted of the property. A “curb-side” appraisal will be sufficient in the event a “walk-thru” appraisal is not possible.
3. Determine the available equity in the property based on the best possible market value and the amount of encumbrance against the property.
4. Determine the interest of all parties who are title holders, or other parties who have a foreseeable claim.
5. Access county tax records to determine the tax payment history of the property.
6. All information and reports surrounding the seizure will be forwarded to the case detective.

#### **606.15 FINANCIAL INVESTIGATION CASE NUMBER**

All asset forfeiture report files will receive a UCPD case number. Officers shall denote a case is an Asset Forfeiture case by checking the Asset Forfeiture box in ARS.

#### **606.16 MULTIPLE SUSPECTS - ASSETS FOR EACH SUSPECT**

If the criminal investigation reveals that more than one of the subjects has assets worth investigating, a separate financial investigation number may be issued for each subject, thereby keeping each individuals assets and financial dealings separate.

#### **606.17 MULTIPLE ASSETS - JOINT POSSESSION BY SUSPECTS**

If the criminal investigation reveals assets are jointly possessed by more than one individual involved in a criminal case, the investigation would focus on the assets, and, thus, only one financial investigation number should be issued.



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#### **606.18 ASSET REPORT FILES**

SSU shall maintain asset forfeiture report files that will contain all pertinent information and correspondence relating to each asset forfeiture seizure. The files shall include, but not limited to the following items:

1. All criminal case reports related to the seizure of the assets. These include reports from police agencies other than UCPD.
2. All reports generated that relate directly with the financial investigation, supporting the asset forfeiture seizure. This includes reports from police agencies other than UCPD.
3. All correspondence to or from UCPD regarding the asset forfeiture seizure.
4. All receipts generated in the asset forfeiture case including bank deposits, vehicle receipts, etc.
5. All court orders or documents related to the disbursement of the assets.

The asset forfeiture report files will be maintained separate from the criminal investigation report files. The SSU Supervisor shall be responsible for the maintenance of the asset forfeiture report files. Upon completion of the asset forfeiture case, after the court ordered disbursement of the assets, the report file will be maintained for a period of three years.

#### **606.19 SALE/AUCTION AND INVOICING REQUIREMENTS**

UCPD's contractor shall not release, transfer or sell any property without written authorization from the SSU Supervisor, i.e., sending the contractor the Declaration/Order of Forfeiture with a letter of instructions. Letters of instruction shall include direction that the contract auctioneer shall make proceeds checks payable to the City of Union City.

The contractor shall provide the SSU Supervisor with an invoice and documentation substantiating costs for each asset, except smog fees and incidentals. A copy of all invoices and documentation shall be maintained at the SSU office.

To avoid any impropriety, UCPD employees are precluded from bidding, or from using another person to bid on their behalf, on property seized from cases in which UCPD participated.

#### **606.20 ASSET FORFEITURE DISPOSITION REQUIREMENTS**

Upon completion of forfeiture, the disposition information shall be entered into the SSU asset forfeiture tracking system. A copy of the court order shall be placed into the appropriate case file. The distribution directive shall be completed, distributed and recorded into the tracking system.

#### **606.21 PROPERTY RECEIPT**

A property receipt will be used in all incidents when property is transferred to UCPD which is seized for forfeiture or during the service of a search warrant. The name and address of the person from whom the property is received will be listed on the property receipt. The receipt shall be witnessed by a second detective or another police officer.

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A full description of the property will be included on the property receipt. This is to include any model and serial number which is assigned to the property. The location will also be listed on the receipt from which the property was taken.

When a receipt form is used to document the return of property to a subject, the releasing detective's name will be entered on the top line of the form. The person receiving the property will sign the form indicating that they have received the property. The releasing detective shall also receive a witnessing officer's signature.

#### **606.22 BANK ACCOUNTS AND SAFE DEPOSIT BOXES**

Detectives shall obtain search warrants and/or seizure orders for all bank or other financial institution accounts, bank records and safe deposit boxes. A seizure order shall be used to obtain account funds. The seizure order shall direct the financial institution to render the contents of the accounts to the detective in the form of a check made payable to the City of Union City. If local authorities request that the funds be held locally, the check shall be payable to the appropriate forfeiting agency's litigation account.

#### **606.23 PROPERTY ASSETS IN CONTROL OF THIRD PARTY (OTHER THAN BANK ACCOUNTS AND SAFE DEPOSIT BOXES)**

It is not necessary to physically seize assets, such as real estate, in order to have that particular asset alleged to be forfeitable. Sections 11488.4 and 11492 of the Health and Safety Code provide legal procedures for obtaining court orders (termed protective order) to legally, but not physically, seize assets which the detective cannot, or should not, physically seize. Since it is necessary to record a lis pendens of real property, the detective must consult with the forfeiture prosecuting attorney as soon as possible.

#### **606.24 ASSET FORFEITURE TRACKING-SPREADSHEET**

SSU shall maintain a spreadsheet tracking system for the tracking of all assets seized. The asset forfeiture tracking system will be updated as information is received regarding the seizure of assets, filing of asset seizure by the District Attorney's office, storage location of the asset, and distribution of assets by declaration or court order.

The primary responsibility for maintaining and updating the asset forfeiture tracking system is with the SSU Supervisor. The Investigations Manager will also have access to the asset forfeiture tracking system and may enter updates and new files in the absence of the SSU Supervisor.

#### **606.25 ASSET SEIZURE PROPERTY LOG**

The SSU Supervisor shall keep an electronic spreadsheet that is a permanent record of all vehicles and personal property seized by UCPD. The ledger shall contain the following information:

1. Name of the detective who seized the asset.
2. Date that the asset was placed into the UCPD safe or other secure location. Location of the asset if not in the UCPD safe.

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3. Case number and name of defendant.
4. Full description of the asset or vehicle.
5. Name of the person who placed the asset into the UCPD safe.
6. Date the asset was removed from the UCPD safe or other secure location and the new storage location (contracted asset dissipater).

#### **606.26 ASSET FORFEITURE INFORMATION FILE**

UCPD will maintain an asset forfeiture information file. The information file will be available for inspection upon request. This file will contain copies of all memos and directives pertinent to asset forfeiture and financial investigations.

#### **606.27 GENERAL POLICY FOR FEDERAL FORFEITURES**

The following are guidelines for requesting an equitable transfer of property forfeited under federal law.

The Comprehensive Crime Control Act of 1984 provides for the equitable transfer of any forfeited property to the appropriate state or local law enforcement agency reflecting that agency's direct contribution to the investigation which led to the forfeiture of property.

Title 21, United States Code (USC), Section 881(e), authorizes the U.S. Attorney to dispose of forfeited property by transferring custody or ownership to a state or local agency pursuant to the Tariff Act of 1930, Title 19, USC, Section 1616.

It shall be the policy of UCPD to participate in the Federal Asset Forfeiture Program pursuant to Title 21, USC, Section 881(e) and other appropriate laws. This participation shall include making application for federally forfeited funds and assets under the equitable transfer and adoptive forfeiture provisions of federal law.

#### **606.28 INITIATION OF A FEDERAL FINANCIAL INVESTIGATION**

Federal financial investigations shall be conducted in a manner consistent with the general procedures pertaining to the state asset forfeiture law.

#### **606.29 NOTIFICATION OF SEIZURE TO FEDERAL AGENCIES**

The SSU Supervisor, or the case detective, shall notify the federal law enforcement agency via telephone as soon as practical after seizing assets that federal seizure will be sought against. Approval must be received from the federal law enforcement agency prior to proceeding with a federal seizure.

#### **606.30 VEHICLES, VESSELS, AIRCRAFT - DEA FORM 453 AND FBI FORM 635**

If the seized property includes a vehicle, vessel or aircraft, the case detective shall ensure a DEA form 453 or FBI form 635 is properly completed within ten working days of the seizure. The SSU

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Supervisor shall consider the policy of the local federal agencies to ensure all appropriate forms are completed in a timely manner.

#### **606.31 REQUESTS FOR EQUITABLE TRANSFER**

Following the seizure of the property, the SSU Supervisor shall submit a request to the appropriate federal law enforcement agency for equitable transfer of the property subject to forfeiture. The request is submitted electronically through the Asset Forfeiture Programs eShare system.

#### **606.32 VEHICLE TRANSFER AND PROCESSING**

Any vehicles seized pursuant to federal law and subsequently transferred to UCPD under the equitable transfer policy of the U.S. Department of Justice or U.S. Department of Treasury shall be sold.

#### **606.33 FEDERAL POLICY REQUIREMENTS – VARIANCES**

The policies of the U.S. Department of Justice and U.S. Department of Treasury vary with each Regional office. Any variance to UCPD policy by a U.S. Department of Justice or U.S. Department of Treasury regional office should be accommodated to facilitate transfer of the seized property.

#### **606.34 DISBURSEMENT OF FUNDS FROM UCPD LITIGATION/HOLDING ACCOUNT**

Funds will be drawn from the UCPD litigation/holding account only under the following conditions:

1. When an order from the court is received ordering the distribution of funds pursuant to forfeiture. In most cases the court order will stipulate that a check is to be made out to the District Attorney's Office for the full amount of the seizure for distribution.
2. On the direction, in writing, of the District Attorney's Office that the US currency is to be returned to the party from whom the US currency was seized.
3. When the seizure is being adopted by the United States Attorney's Office for forfeiture. A check will be issued, payable to the appropriate federal litigation account. A UCPD property receipt will document the transfer of funds to the federal agency with the name and signature of the federal employee empowered to accept the check. A copy of the check and the property receipt will be including in the asset forfeiture report file.

When funds need to be withdrawn from the litigation/holding account, UCPD will create a purchase requisition in Eden, using approval queue pd\_seizure to request that UC Finance process the disbursement. Once the purchase requisition has been submitted, City of Union City Finance Department will calculate the amount of interest earnings due on the funds and include that amount in the requisition.

#### **606.35 UCPD LITIGATION/HOLDING ACCOUNT**

A litigation/holding account will be maintained by the City of Union City. The State Asset Forfeiture Litigation/Holding Account is [REDACTED]. The Federal Asset Forfeiture Litigation/Holding Account is [REDACTED]. All US currency, or US currency like instruments, that are seized by UCPD, other than US currency held as evidence, will be deposited into this account pending

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adjudication by the District Attorney's Office having prosecutorial responsibilities for the asset seizure. This account shall be an interest-bearing account, with the interest being placed into a separate account (████████████████████) for this purpose.

When deposits are made into the account a deposit receipt will be received from the bank. This deposit receipt will be immediately returned to the SSU office and placed into the corresponding asset forfeiture report file. If a deposit is made including monies from two or more separate seizures, a deposit receipt will be received for each asset seizure.

When deposits are made into the UCPD litigation/holding account, notice shall be made in the SSU asset log and the asset tracking system as to who made the deposit and the date of the deposit.

The Union City Police Department evidence account number (████████████████████) and the police report number must be written on a duplicate deposit slip. Notification of the deposit shall be made to the City of Union City Revenue on the day of deposit, or the following work day if the deposit is made after business hours.

#### **606.36 REPORTS TO DISTRICT ATTORNEY/U.S. ATTORNEY**

It is the responsibility of the Union City Police Department to file criminal cases with the District Attorney's Office. This filing will generally result in the initiation of a forfeiture complaint being issued against the assets related to the criminal investigation. UCPD will contact the District Attorney's Office to confirm that the reports justifying the seizure have been filed. If the District Attorney's Office fails to file the forfeiture complaint at the time of the criminal filing, UCPD shall be responsible for the filing of the forfeiture complaint on the related assets.

It is the responsibility of the case detective to ensure that all UCPD asset forfeiture cases are filed with the District Attorney's/U.S. Attorney's Office. This section shall not preclude any detective from filing an asset forfeiture case with the prosecutorial agency that has jurisdiction over the seizure. Depending on the circumstances of each asset seizure the case detective may choose to file asset forfeiture cases originated by another detective.

#### **606.37 THIRD PARTY CLAIMS**

It is the policy of UCPD that all third-party claims for property seized by the Union City Police Department will be fully investigated by the case agent. If it appears that the innocent third party has a legitimate claim to the seized property, the District Attorney's Office will be immediately notified of the situation.

If the District Attorney's Office agrees with the findings that property seized is actually property of the innocent third party the property will be returned to the innocent third party as quickly as is practical. All property returned for this reason will be documented the same as any other property release.

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### **606.38 DISPOSITION OF AWARDED FUNDS**

When the District Attorney's/U.S. Attorney's Office awards seized funds to the Union City Police Department, the following will occur:

1. Supporting documentation from the awarding entity will be added to the Financial Investigation report in ARS.
2. The SSU Supervisor will update the Asset Seizure Log with the date and amount of the award.
3. Awarded funds will be deposited into the appropriate account.
  - (a) State asset forfeiture awards will be deposited into account # [REDACTED]
  - (b) Federal asset forfeiture awards will be deposited into account # [REDACTED]
4. Funds from these accounts will be used only for purposes that are outlined by the Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies and any other applicable laws.

### **606.39 REVISIONS**

Issued: March 4, 2020