



The Attorney General's Guidelines on the Asset Forfeiture Program

July 2018



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I. INTRODUCTION

The Attorney General issues *The Attorney General's Guidelines on the Asset Forfeiture Program (Guidelines)* to set forth the Asset Forfeiture Program's fundamental goals and policies. These guidelines supersede the July 1990 "Attorney General's Guidelines on Seized and Forfeited Property," as later amended in November 15, 2005, and any other conflicting policy guidance. The *Guidelines* have been updated to reflect changes and to promote efficient administration of the Asset Forfeiture Program and the Department of Justice's Assets Forfeiture Fund (AFF).

II. GOALS

The Asset Forfeiture Program (the Program) has four primary goals:

1. To punish and deter criminal activity by depriving criminals of property used in or acquired through illegal activities.
2. To promote and enhance cooperation among federal, state, local, tribal, and foreign law enforcement agencies.
3. To recover assets that may be used to compensate victims when authorized under federal law.
4. To ensure the Program is administered professionally, lawfully, and in a manner consistent with sound public policy.

To achieve these goals the Department of Justice should use asset forfeiture to the fullest extent possible to investigate, identify, seize, and forfeit the assets of criminals and their organizations while ensuring that due process rights of all property owners are protected. Asset forfeiture plays a critical role in disrupting and dismantling illegal enterprises, depriving criminals of the proceeds of illegal activity, deterring crime, and restoring property to victims. The effective use of both criminal and civil asset forfeiture is an essential component of the Department of Justice's efforts to combat the most sophisticated criminal actors and organizations—including terrorist financiers, cyber criminals, fraudsters, human traffickers, and transnational drug cartels.

III. ROLES AND RESPONSIBILITIES

A. The Attorney General

As the nation's chief law enforcement officer, the Attorney General supervises and directs the administration and operation of all aspects of the Program including exercising and delegating statutory forfeiture authorities, establishing program goals and policies, and managing the Assets Forfeiture Fund (AFF).

B. The Deputy Attorney General

The Deputy Attorney General or his designee advises and assists the Attorney General in the formulation and implementation of program policies and provides supervision and direction to all Department organizational units that participate in the Program.

C. United States Attorney's Offices (USAOs), Department of Justice Litigating Divisions, and the Executive Office for United States Attorneys (EOUSA)

The USAOs and the Department's litigating divisions are responsible for the prosecution of criminal and civil forfeitures sought by the federal government, the prosecution and defense of forfeiture-related litigation to which the United States is a party, and the collection of forfeiture-related debts owed to the United States. The USAOs also coordinate with the Money Laundering and Asset Recovery Section (MLARS) in the processing of certain equitable sharing requests, petitions for remission and mitigation, restoration requests, and the development and delivery of forfeiture-related training at all levels of government.

EOUSA is responsible for managing all forfeiture-related budget and contract personnel, and for conducting all CATS-related training and compliance activities for the USAOs. With assistance from MLARS, EOUSA provides training to personnel throughout the Program. The Department's Law Enforcement Coordinators (LECs) within USAOs promote and facilitate the Program with federal, tribal, state, and local law enforcement agencies through coordinated training with each USAO's Asset Forfeiture Chief or Coordinator.

D. The Money Laundering and Asset Recovery Section (MLARS)

The Money Laundering and Asset Recovery Section (MLARS), in the Criminal Division, is responsible for coordination, direction, and general oversight of the Program. MLARS handles civil and criminal litigation, provides legal support to the USAOs and Department of Justice litigating divisions, establishes policies and procedures, coordinates multi-district asset seizures, administers equitable sharing of assets, acts on petitions for remission and mitigation and restoration requests, coordinates international forfeiture and sharing, and develops training for all levels of government. In coordination with other Program participants, MLARS authors policies and procedures that provide additional guidance to address issues that arise under these Guidelines.

E. The United States Marshals Service (USMS)

The U.S. Marshals Service (USMS) serves as the primary custodian of seized property for the Program. The USMS identifies and evaluates assets, and manages and disposes of the majority of the assets seized and forfeited through the Program. In coordination with USAOs and Department of Justice litigating divisions, the USMS manages the distribution of forfeited property and payments to victims of crime connected to those forfeited assets, and to tribal, state, and local law enforcement agencies that directly participate in the law enforcement effort leading to the seizure and forfeiture of assets.

F. Investigative Components

The Department of Justice's investigative components – the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); and the Federal Bureau of Investigation (FBI) – investigate criminal violations and enforce federal laws and regulations, and seize and forfeit property as part of their law enforcement missions. They work directly and in cooperation with other federal, tribal, state, and local law enforcement agencies to carry out Program goals. This may include adoption for federal forfeiture of assets seized lawfully by state and local law enforcement under their respective state laws, provided the conduct giving rise to the seizure violates federal law and the adoption comports with Department of Justice policy.

Investigative components that participate in the Program but are part of other federal agencies – including United States Postal Inspection Service; Food and Drug Administration, Office of Criminal Investigations; Department of Agriculture, Office of the Inspector General; Department of State; Bureau of Diplomatic Security; and Department of Defense, Defense Criminal Investigative Service – exercise their independent authority to investigate criminal violations and enforce federal laws and regulations. They work directly and in cooperation with other federal, tribal, state, and local law enforcement agencies to achieve Program goals. In addition, the United States Postal Inspection Service exercises its independent authority to forfeit property.

G. The Asset Forfeiture Management Staff (AFMS)

AFMS, in the Justice Management Division, has responsibility for management of the AFF, the Consolidated Asset Tracking System (CATS), program-wide contracts, oversight of program internal controls and property management, and reports on the financial integrity of the Program. In coordination with MLARS and other Program participants, AFMS develops budgets for the AFF. AFMS provides oversight and management controls to help ensure the consistency, transparency, and integrity of AFF resource allocations and expenditures across the entire Program.

IV. THE ASSETS FORFEITURE FUND

The Comprehensive Crime Control Act of 1984 (P.L. 98-473), codified in 28 U.S.C. § 524(c), established the Department's AFF as a special fund within the Treasury to receive the

proceeds of forfeitures pursuant to any law enforced or administered by the Department of Justice. The Department of Justice administers the AFF in support of the Program's goals.

The Department of the Treasury maintains its own asset forfeiture fund and program. The Secretary of the Treasury oversees the Treasury Forfeiture Fund (TFF), established under 31 U.S.C. § 9705, which receives deposits from participants in the TFF within the Department of the Treasury as well as the Department of Homeland Security.

V. MANAGEMENT AND DISPOSITION OF SEIZED AND FORFEITED ASSETS

A. General Authority

The Attorney General has authority to dispose of forfeited assets pursuant to 28 U.S.C. § 524(c) and other statutes. The exercise of these authorities is discretionary and the Attorney General may set conditions for any such disposal.

B. Owners and Lienholders

The Attorney General has the authority to grant petitions for remission or mitigation of forfeiture and restore forfeited property to owners and lienholders. In addition to innocent owners' statutory ability to challenge forfeitures, the Attorney General has promulgated regulations governing the process by which owners and lienholders may seek remission or mitigation after forfeiture.

C. Federal Financial Institution Regulatory Agencies

The Attorney General has the authority to transfer forfeited assets to federal financial institution regulatory agencies to reimburse payments to claimants and creditors and to reimburse certain losses to the agency's insurance fund as a result of a receivership or liquidation.

D. Victims

The Attorney General has the authority to grant petitions for remission and mitigation; to restore forfeited property to victims; and, in criminal cases, to take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with federal law. The Attorney General has promulgated regulations governing the process by which victims may seek compensation.

Recovering assets that may be used to compensate victims when authorized under federal law is one of the Program's primary goals. Whenever possible, prosecutors should use asset forfeiture to recover assets to return to victims of crime, as permitted by law. The Department of Justice uses asset forfeiture authorities as an important tool, and sometimes the only available tool, to ensure assets are available to compensate victims.

E. International Sharing

The Attorney General or his designee may transfer any forfeited assets, as authorized by statute, to a foreign country that participated directly or indirectly in the seizure or forfeiture of the assets.

F. Federal Retention

The Attorney General has the authority to retain or transfer forfeited property for official use by any federal agency. No seized property shall be placed into official use until a final determination of forfeiture has been made and the request to place the property into official use has been approved by the appropriate official. Distributions to owners, lienholders, federal financial institution regulatory agencies, and victims take precedence over federal official use.

G. Equitable Sharing

The Attorney General has the authority to equitably transfer forfeited assets to tribal, state, and local agencies that directly participate in the law enforcement effort leading to the seizure and forfeiture of the assets. Through equitable sharing, any tribal, state, or local law enforcement agency that directly participates in a law enforcement effort that results in a federal forfeiture may either request to put tangible forfeited property into official use or to receive an equitable share of the net proceeds of the forfeiture. The Department of Justice sets requirements for tribal, state, and local agencies to establish their eligibility to request and receive equitable sharing, as well as for Department of Justice officials to determine equitable sharing amounts. Distributions to owners, lienholders, federal financial institution regulatory agencies, and victims, and federal retention, take precedence over equitable sharing.

H. Real Property Transfers

The Attorney General has the authority to warrant clear title upon transfer of forfeited real property. In certain circumstances, the Attorney General may execute a non-sale transfer of federally forfeited real property for official use; to meet other federal needs; to serve state recreational, preservation, or historic purposes; or to assist a state or local government, public, or non-profit agency in carrying out educational, treatment, rehabilitation, housing, and other community-based initiatives.

VI. CRITERIA FOR ADMISSION AND RETENTION IN THE ASSET FORFEITURE PROGRAM

A. General Policy

The Attorney General has discretion to admit or remove federal agencies from participation in the Program. Admission of a federal agency into the Program is appropriate if its admission will expand and strengthen the use of federal asset forfeiture laws and the agency agrees to abide by all policies and procedures applicable to the Program and the operation of the Assets Forfeiture Fund.

B. Minimum Standards

Federal agencies must meet the following minimum standards to participate in the program:

1. Law Enforcement Authority. The agency must be a federal law enforcement agency that directly employs law enforcement officers or prosecutors who have the authority to seize assets subject to forfeiture or to initiate judicial forfeiture proceedings on behalf of the United States.
2. Commitment of Agency Leadership. The leadership of the agency must acknowledge and agree to abide by Department Program policy and procedures including the *Guidelines*. All Program participants must commit to sound financial and property management practices.

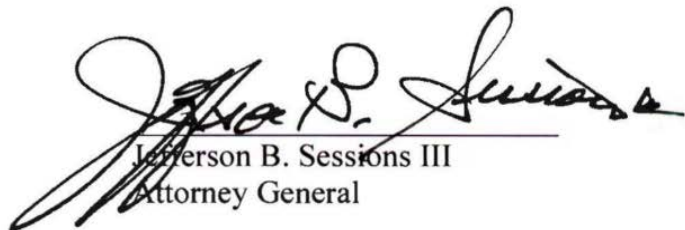
VII. REMOVAL FROM THE PROGRAM

Participants in the Program must comply with all statutory, regulatory, and policy guidance. This includes proper oversight, accountability, and transparency for how forfeiture authorities are used to promote Program goals and objectives. Non-compliance by any federal agency participating in the Program may lead to: (1) increased monitoring or reporting requirements, (2) suspension, or (3) termination from participation.

VIII. LIMITATION

The *Guidelines* are not intended to, do not, and may not be relied upon to create or confer any rights, substantive or procedural, or any privileges or benefits that may be enforced in any way by any party in any manner, civil or criminal. No limitations are hereby intended or placed on otherwise lawful prerogatives of the Department.

7/19/18
Date


Jefferson B. Sessions III
Attorney General