

SOLANO COUNTY CIVIL GRAND JURY

2020-2021

ASSET FORFEITURE – FAIRFIELD

Asset Forfeiture – Fairfield

Solano County Civil Grand Jury 2020-2021

I. SUMMARY

The 2016-2017 Solano County Civil Grand Jury investigated the processes that each of the Solano County law enforcement agencies utilizes in handling seized assets. That investigation was conducted to verify the usage of the required processes for control and management of seized assets and the administration of assets that have been forfeited. At that time a finding showed a lack of conducting a required annual financial audit of each agency's Asset Seizures Holding Account intended to identify errors or irregularities. The 2020-2021 Solano County Civil Grand Jury conducted a follow-up detailed examination of the City of Fairfield's control and management of outstanding balances of seized assets totaling more than \$200,000, which revealed several anomalies.

These anomalies included:

- Lack of verification of the General Ledger (GL) total to a control balance
- Unresolved cumulative debit balance as of June 30, 2004 and subsequent outstanding debit balances
- Significant number of aged outstanding balances
- Several outstanding balances on cases where assets were noted as returned or forfeited
- Outstanding balances without clearly identified Fairfield Police Department case numbers

II. INTRODUCTION

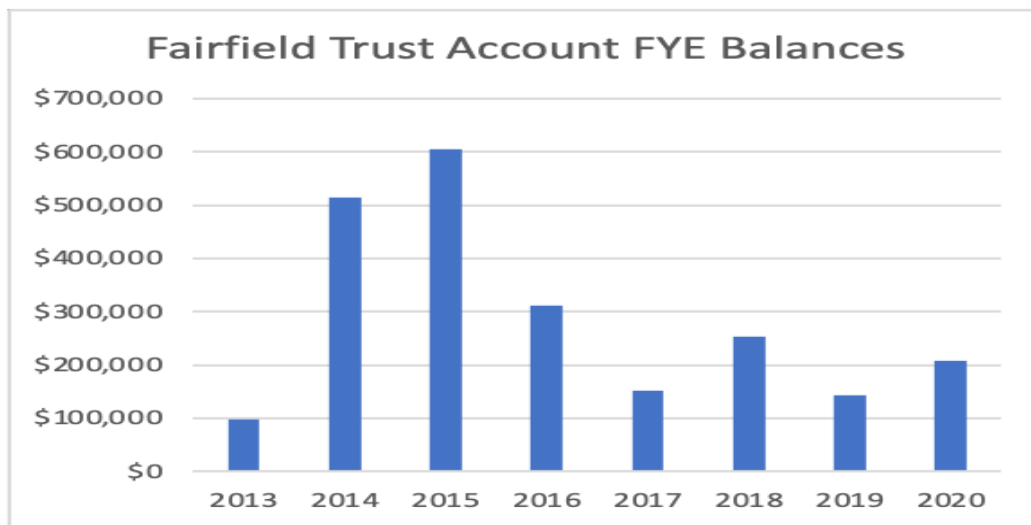
Asset forfeiture occurs when the government takes a person's property because it suspects the property was used in committing a crime or was obtained by way of criminal activity. California asset forfeiture laws can be used to seize most types of property, including houses, boats, cars, and cash. Before assets can legally be forfeited, a defendant typically must be convicted of a crime related to the property and the government must comply with certain procedural rules. California Health and Safety Code section 11488.4 describes procedures for administrative forfeiture of assets not exceeding \$25,000 in value¹. In these cases, where no claim opposing forfeiture has been filed with the court and served upon the District Attorney's Office in a timely manner, the District Attorney's Office may proceed with an administrative forfeiture of property. A conviction in an underlying or related criminal matter is only required as a condition precedent when the forfeiture is contested.

¹ Health and Safety Code section 11488.4 was amended in 2016 (taking effect in 2017), thereby reducing the threshold for administrative forfeiture from \$40,000 to \$25,000.

A 2016-17 Solano County Civil Grand Jury reported the City of Fairfield had the largest outstanding balance of seized assets within the County. A large portion of the \$604,614 balance was derived from two 2013 high-value cases. The report included a finding and recommendation for the non-performance of an annual financial audit of all credits and debits to the seized proceeds holding account as required by California Health and Safety Code section 11469.

The 2020-21 Solano County Civil Grand Jury conducted an analytical review of the City of Fairfield’s Asset Seizures Holding Account to determine its current balance. This review found there were several corrective actions taken and the outstanding balance had been reduced to \$207,311.06. (See graph below).

2013	2014	2015	2016	2017	2018	2019	2020
\$97,423	\$515,034	\$604,614	\$311,574	\$150,748	\$252,597	\$143,930	\$207,311



The focus of the review then turned to validating the procedures put in place for completing the annual financial audit of the Asset Seizures Holding Account. Data received from responses to information requests identified several anomalies.

The 2020-21 Solano County Civil Grand Jury performed more detailed analysis by comparing information from the Solano County District Attorney’s Office, the City of Fairfield asset seizure audit spreadsheet totals, and the California Attorney General annual reports concerning civil asset forfeiture in Solano County.

III. METHODOLOGY

Techniques used in deriving facts include:

- Interviewed representatives from the City of Fairfield Finance Department
- Reviewed the following data, records, documents, and logs:
 - Prior Solano County Civil Grand Jury Reports and supporting documentation:
 - 2010-11 *Unclaimed Funds and Escheatment Process Review & Responses*
 - 2016-17 *Civil Asset Forfeiture: A Functional Review & Responses* and data
 - Solano County District Attorney (DA) requested information
 - Asset Forfeiture Log 2019-2020
 - Asset Forfeiture Disbursement Reports for calendar years 2017-2019
 - Follow-up status on various large dollar, duplicate, and dismissed cases
 - City of Fairfield requested information
 - General Ledger (GL) report for Trust Deposits-Asset Seizures Holding Account for Fiscal Years Ending (FYE) June 30, 2016 through FYE 2020
 - Follow-up status/distribution on large dollar cases
 - Asset Seizures Reconciliation Procedures
 - Asset Seizure Memo for audit completed as of FYE June 30, 2020
 - Spreadsheet compiled for FYE June 30, 2020 audit
 - Office of the Attorney General (AG) – California Department of Justice Asset Forfeiture Reports 2013-2019
- Researched relevant California codes
 - California Health and Safety Code sections 11469-11495
 - California Government Code sections 50050-50057
- Completed a comparative analysis of outstanding balances on the June 30, 2020 asset seizure audit with available City, County, and State information

IV. STATEMENT OF FACTS

Health and Safety Code sections 11469–11495 establish civil asset forfeiture as a legal process allowing the seizure of private property from persons suspected of involvement in certain types of criminal activity. The funds received by law enforcement under Section 11469 (h) shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures. Section 11469 (i) indicates seizing agencies shall ensure that seized property is protected and its value preserved.

In the 2016-17 Solano County Civil Grand Jury report titled *Civil Asset Forfeiture: A Functional Review*, the City of Fairfield was cited for not performing an annual financial audit. The City's response agreed with the finding, and audit procedures were established and implemented during fiscal year 2017-18. The 2020-21 Civil Grand Jury selected the FYE 2020 audit for a detailed review. To initiate the first annual review the city obtained a one-time extract of historical data from the financial system. This information went back as far as June 30, 2004. Older data was not retrievable, resulting in a \$5,452.73 debit balance brought forward. This information was imported into a spreadsheet for use in the first audit. All subsequent review information from the current FYE is compiled and entered into the cumulative spreadsheet.

The City of Fairfield maintains the seized proceeds in a liability account that generally carries a credit balance. The General Ledger (GL) hierarchy is as follows:

Fund 561 Trust Deposits

 Type 380 Other Current Liabilities

 Group Deposits Payable

 Objective 3859 ST Asset Seizures Holding Account

The current Civil Grand Jury reviewed the city's annual Asset Seizures Reconciliation Procedures, the FYE 2020 GL report for Asset Seizures Holding Account, and the Asset Seizures Spreadsheet & Memo. The review included a comparison of information available from the Solano County District Attorney's Office, City of Fairfield data, and California Attorney General annual reports concerning civil asset forfeiture in Solano County.

The opening GL balance in the holding account as of June 30, 2019 was a credit balance of \$143,930.07. Between July 1, 2019 and June 30, 2020 there were 25 credits added, totaling \$112,797.30 and 30 debits subtracted, totaling \$49,416.31 resulting in a FYE credit balance of \$207,311.06.

Overall balance make-up of the June 30, 2020 spreadsheet is:

Credits = \$215,566.59 (96 separate entries ranging from \$1.00 to \$40,000)

Debits = \$ - 8,255.53 (17 separate entries ranging from \$.60 to \$579)

Net = \$207,311.06 credit

Review of the spreadsheet identified 114 separate balances that were needed to arrive at the GL total of \$207,311.06. This included 113 individual remaining balances and the single June 30, 2004 carryover \$5,452.73 debit balance made up of an unknown number of entries. This is significant since the debit balance indicates a potential shortage in the Asset Seizures Holding Account.

The Asset Seizures Holding Account reflects a deficit balance of \$8,255.53. The deficit includes an unresolved cumulative \$5,452.73 debit carryover and \$2,802.80 in new debit balances, potentially indicating an overpayment or mis-posting. The city's process adequately identified the make-up of the GL outstanding balance. However, interviews determined there is no reconciliation to a control balance to ascertain if the \$207,311.06 balance is accurate to ensure asset values have been protected and preserved.

A detailed review of the spreadsheet revealed a number of significantly aged remaining balances. Cases generally take up to five years to move through the court system, therefore anything over five years is considered aged. Seventy-one (63%) of the 113 outstanding cases are more than five years old with a net total of \$61,509.06. Forty-four of the 71 cases are more than a decade old.

Due to the age of most of the outstanding balances, the ability to correlate the corresponding case information between the City of Fairfield and DA records was hindered since only five years of information was requested from each agency. There were no DA case numbers found on 48 entries. Therefore, the 2020-21 Civil Grand Jury utilized available public records and an

independent review of Fairfield GL reports and DA reports collected by a prior Civil Grand Jury information request. Review of the 113 individual outstanding balances revealed the following:

- Eighteen cases had DA comments reflecting a full (11) or partial (7) return of funds.
 - a) Ten full returns did not post to the Asset Seizures Holding Account and remain outstanding. In the 11th instance, an authorized \$415 full return payment check, #409439, was issued for what appears to be a double amount of \$830 on March 31, 2015 leaving a \$415 remaining debit balance.
 - b) There are several potential causes for the seven cases with authorized partial returns.
 - Three forfeited cases reported to the AG do not reflect a return of funds indicated by the DA. Credit balances of \$360, \$721, and \$795 remain outstanding in the Asset Seizures Holding Account.
 - A fourth forfeited case with a remaining credit balance of \$1,000 appears to be due to a deposit amount difference.
 - There are two additional discrepancies of \$26 and \$4 between amounts deposited to the Asset Seizures Holding Account and amounts processed for payment.
 - The last item is a \$10 credit posted under what appears to be a sub-account of a previously closed case.
- There are 29 outstanding balances included in various AG annual reports for cases that have an identified DA case number. Appearing on the AG Report signifies that forfeiture has been authorized and the case should be closed with no remaining balance.
- There are 15 outstanding balances listed where the Fairfield Police Department case numbers are not clearly identified. The descriptions of these outstanding balances raise questions as to whether these entries are tied to asset seizure activity.

V. FINDINGS AND RECOMMENDATIONS

FINDING 1 – The City of Fairfield’s Annual Asset Seizures Reconciliation Procedures do not include verification to a control balance to confirm that the General Ledger balance is accurate. This lack of verification results in the inability to ensure that asset values have been protected and preserved.

RECOMMENDATION 1 – Upon completion of the annual audit of outstanding balances in the Asset Seizures Holding Account, the City effectively coordinate with the Solano County District Attorney’s Office (DA) to track balances for cases currently being adjudicated to ensure that balances match.

FINDING 2 – The FYE 2020 annual audit spreadsheet reflects a single unresolved, cumulative debit balance of \$5,452.73 as of June 30, 2004. New debit balances totaling \$2,802.80 are outstanding as of FYE June 30, 2020, resulting in an overall \$8,255.53 debit total. This potentially indicates either an overpayment from, or mis-postings to, the Asset Seizures Holding Account.

RECOMMENDATION 2 – The cause of the large outstanding debit balances must be researched and resolved or charged off as a loss.

FINDING 3 – The 2020 annual audit reflects many aged outstanding balances. There are 71 entries totaling \$61,509.06 aged 6 to 16 years. Forty-four of the 71 are a decade or more old. There are at least 35 instances of outstanding balances on cases where assets were noted as returned (13) or forfeited (22).

RECOMMENDATION 3a – The City of Fairfield Finance Department undertake a detailed review of all aged outstanding balances and work with the DA’s office to identify DA case numbers to facilitate comparison with the annual AG report.

RECOMMENDATION 3b – Research the City’s GL for possible posting of reversing entries to incorrect GL account(s) and, if identified, process correcting entries.

RECOMMENDATION 3c – Consult with the DA to determine if there are any circumstances in which unclaimed balances meet the statutory requirements for administrative forfeiture and distribution.

FINDING 4 – The 2020 Fairfield annual audit of the Asset Seizures Holding Account shows 42 outstanding balances totaling \$145,342.42 aged five years or less. At least eight of these cases exhibit the same exception attributes as those in the aged category associated with balances on cases where the asset status is noted as returned and/or forfeited.

RECOMMENDATION 4 – Undertake a detailed review of all outstanding balances aged 0-5 years and work with the DA’s office to determine DA case numbers to facilitate research and resolution to these balances.

FINDING 5 – The 2020 Fairfield annual audit of the Asset Seizures Holding Account has 15 outstanding balances where the Fairfield Police Department case numbers are not clearly identified.

RECOMMENDATION 5 – Research and identify a valid Fairfield Police Department case number to ensure these balances are associated with an asset seizure. Work with the Solano County DA’s office to determine DA case numbers to facilitate research and resolution to these balances.

REQUIRED RESPONSES (All Findings)

City of Fairfield Finance Director
City of Fairfield Mayor and City Council

COURTESY COPIES

Solano County District Attorney
Fairfield Police Department