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OFFICE OF THE  
CITY MANAGER

CITY OF SACRAMENTO  
CALIFORNIA

CITY HALL  
ROOM 109  
915 I STREET  
SACRAMENTO, CA  
95814-2684

916-449-5704

March 28, 1990

Budget & Finance and  
Transportation & Community Development Committee

Honorable Members in Session:

SUBJECT: Policy for the Expenditure of Asset Seizure Funds

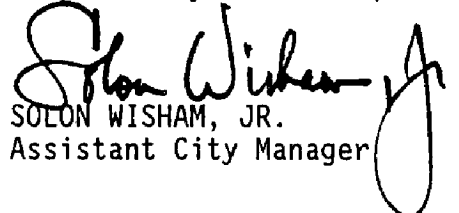
SUMMARY

The attached report describes the policies recommended for the management of the Police Department's Asset Seizure Program and addresses the concerns identified when this report was last presented.

RECOMMENDATION

It is recommended that the Joint Committees review and approve for full City Council action the attached report on policies for the expenditure of funds generated through the Asset Seizure Program.

Respectfully submitted,

  
SOLON WISHAM, JR.  
Assistant City Manager

Contact Person: Solon Wisham, Jr.  
Assistant City Manager  
449-5704

Attachment

April 3, 1990  
ALL DISTRICTS



OFFICE OF THE  
CITY MANAGER

CITY OF SACRAMENTO  
CALIFORNIA

CITY HALL  
ROOM 109  
915 I STREET  
SACRAMENTO, CA  
95814-2684

916-449-5704

March 28, 1990

City Council  
Sacramento, California

Honorable Members in Session:

SUBJECT: POLICY FOR THE EXPENDITURE OF ASSET SEIZURE FUNDS

SUMMARY

State and Federal law allow for the seizing of assets accumulated by the manufacture, distribution, or sale of illegal narcotics. The law also requires that a portion of assets seized be returned to the law enforcement agency "to support and enhance law enforcement."

This report recommends that the City Council, by resolution, adopt the policy for the expenditure of Asset Seizure Funds.

BACKGROUND

The Sacramento Police Department has been participating in State and Federal asset seizure programs since 1984. Sections 11470 through 11492 of the State's Health and Safety Code and the Comprehensive Crime Control Act of 1984 provide the authority for law enforcement to seize that portion of an individual's assets that have been accumulated by the manufacture, distribution, or sale of illegal narcotics. The seizing of assets derived by illegal activities is recognized as an effective deterrent and punishment for offenders as well as a method to help defray the costs associated with this type of law enforcement.

The amount and type of seizure determines if the forfeiture proceedings are submitted to the State or Federal agencies (DOJ for the State and FBI or DEA for the Federal). Current federal regulations require forfeiture proceedings be

presented to, and rejected by, a state agency prior to being submitted to a federal agency. Because of the federal regulations, approximately 98% of the recent forfeiture proceedings are handled at the state level.

Health and Safety Code Section 11489(d) mandates the proceeds from asset seizure returned to the law enforcement agency be used "exclusively to support law enforcement efforts...and shall not supplant any state or local funds that would [otherwise] be made available" to the agency. The 1989 Asset Seizure and Forfeiture Manual published by the State Department of Justice states "This limitation is an expression of legislative intent that forfeiture proceeds should enhance law enforcement."

State law requires proceeds from asset seizures be apportioned among several state and local agencies. The law enforcement portion is based upon the percentage of agency involvement. As outlined in the 1989 Asset Seizure and Forfeiture Manual, asset seizure proceeds are divided as follows:

1. 10% goes to the State Office of Criminal Justice Planning's Asset Forfeiture Distribution Fund. This money is prioritized with the Department of Mental Health getting the first \$1.5 million on an annual basis to fund various prevention programs. Remaining funds are divided between the Commission on Police Officer Standards and Training (P.O.S.T.) for drug related training provided to peace officers, and to a statewide program of education, training, and research for local public prosecutors.
2. 76.5% goes to the law enforcement agency or agencies, based on proportionate contribution, who participated in the seizure (excluding federal agencies). Most asset seizures in Sacramento involve the contribution of several agencies (County Sheriff, State Bureau of Narcotic Enforcement, etc.) and the Police Department's portion is usually in the 20% range. Percentage contribution is determined by the agency who initiated the investigation. Factors considered when determining the percentage of contribution include the amount of involvement in the investigation, number of work hours expended, extraordinary costs incurred, and the total period of time an agency participated in the investigation.
3. 13.5% goes to the prosecuting agency which processed the forfeiture.

#### FINANCIAL DATA

The asset seizure program has been in effect since 1984. Attachment 1 provides a history of gross assets seized, the amount of money actually returned to the City, and expenditures by fiscal year.

The Asset Seizure Fund had a balance as of December 31, 1989, of \$476,900. It is projected that the Asset Seizure Fund will receive an additional \$232,500 during the last two quarters of the 89/90 fiscal year. Therefore, the projected beginning balance for the 90/91 fiscal year is \$709,400. It is also projected that an additional \$525,000 will be recovered during the 90/91 fiscal year. Attachment 2 is a projected cash flow and available resources chart by quarter for the 90/91 fiscal year.

The current recurring commitment for Asset Seizure Fund supported employee services will be approximately \$200,000 for the 90/91 fiscal year. This represents approximately 40% of the current annual asset seizure revenue. The substantial increase of assets seized during the last two years indicates a "window of opportunity" present for increasing asset seizure funds. The Police Department is examining staffing related to seizing and processing assets to insure that we are in a position to take the fullest advantage of this program. The results of this study, as well as any recommendations, will be reported to the City Council in the proposed 90/91 Master Plan.

After funding the recurring commitment for employee services for the 90/91 fiscal year and establishing a reserve to fund the employee services commitment for one fiscal year, it is anticipated that the Asset Seizure Fund will have a balance of \$621,900 available for disbursement during the 90/91 fiscal year.

#### POLICY CONSIDERATIONS

The Police Department has been operating an asset seizure program since 1984 following both State and Federal law. A policy adopted by the City Council for the use of asset seizure funds will facilitate the expenditure of these funds and promote compliance with State and Federal laws. The following general policy is offered for consideration:

It is the policy of the City of Sacramento that:

- Asset Seizure funds will not be used to supplant other local funds. Conversely, expenditures identified and approved to be funded by the Asset Seizure Fund will not be supplanted by the General Fund.
- Funds received by the Sacramento Police Department for Asset Seizure be expended in a manner consistent with State and Federal requirements.
- Asset Seizure funds will be expended in a manner which will enhance officer safety and improve the performance of the Police Department.

The following priorities will be used in developing the expenditure master plan:

1. Maintenance of the personnel required to administer the Asset Seizure Program. This is to be accomplished by prohibiting the balance of the Asset Seizure Fund to fall below the amount needed to fund one full year of administrative costs.
  2. Establish programs and/or purchase and maintain equipment which will enhance the safety and performance of narcotic related activities of the Sacramento Police Department.
  3. Establish programs and/or purchase and maintain equipment which will enhance the safety and performance of general law enforcement activities of the Sacramento Police Department.
  4. Purchase and maintain equipment and/or establish programs which will enhance crime and/or drug prevention programs administered by the Sacramento Police Department.
- The Police Department will create an Asset Seizure Expenditure Master Plan and will update the plan on a yearly basis. The Asset Seizure Expenditure Master Plan and updates will be approved by the City Council before any transfer of funds will be authorized.

Item number 4 above was added to the policy at the direction of the Committee. The language in this section relates to the programs being administered by the Sacramento Police Department. This was included because of a legal opinion received from the City Attorney. Staff requested an opinion from the City Attorney on whether a program such as the Police Athletic League (PAL) could be funded with Asset Seizure funds. The conclusion of this opinion was as follows:

The vague language controlling what these funds may be expended on, and the absence of any case law, does not lend itself to a clear cut "laundry list" of permissible and impermissible uses of the funds. However, the plain meaning of the statute requires the funds be spent exclusively to support the law enforcement efforts of the Police Department. The fact that PAL is outside the control of the Police Department and has no plausible law enforcement role supports the conclusion that the funding of PAL would violate Section 11489(d).

Funding a Police Department program, such as PIP, hinges upon whether it is a part of the law enforcement effort of the department. This position is consistent with a letter from the Attorney General's office, dated February 27, 1990, to the Police Department analyzing Section 11489(d) of the Health and Safety Code.

MBE/WBE EFFORTS

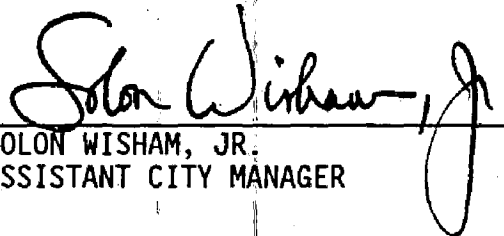
None.

City Council  
Page 5  
March 28, 1990

RECOMMENDATION

It is recommended that the City Council approve this report for an asset seizure policy by adopting the attached resolution encompassing the above policy.

Respectfully submitted,

  
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SOLON WISHAM, JR.  
ASSISTANT CITY MANAGER

RECOMMENDATION APPROVED:

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WALTER J. SLIPE  
CITY MANAGER

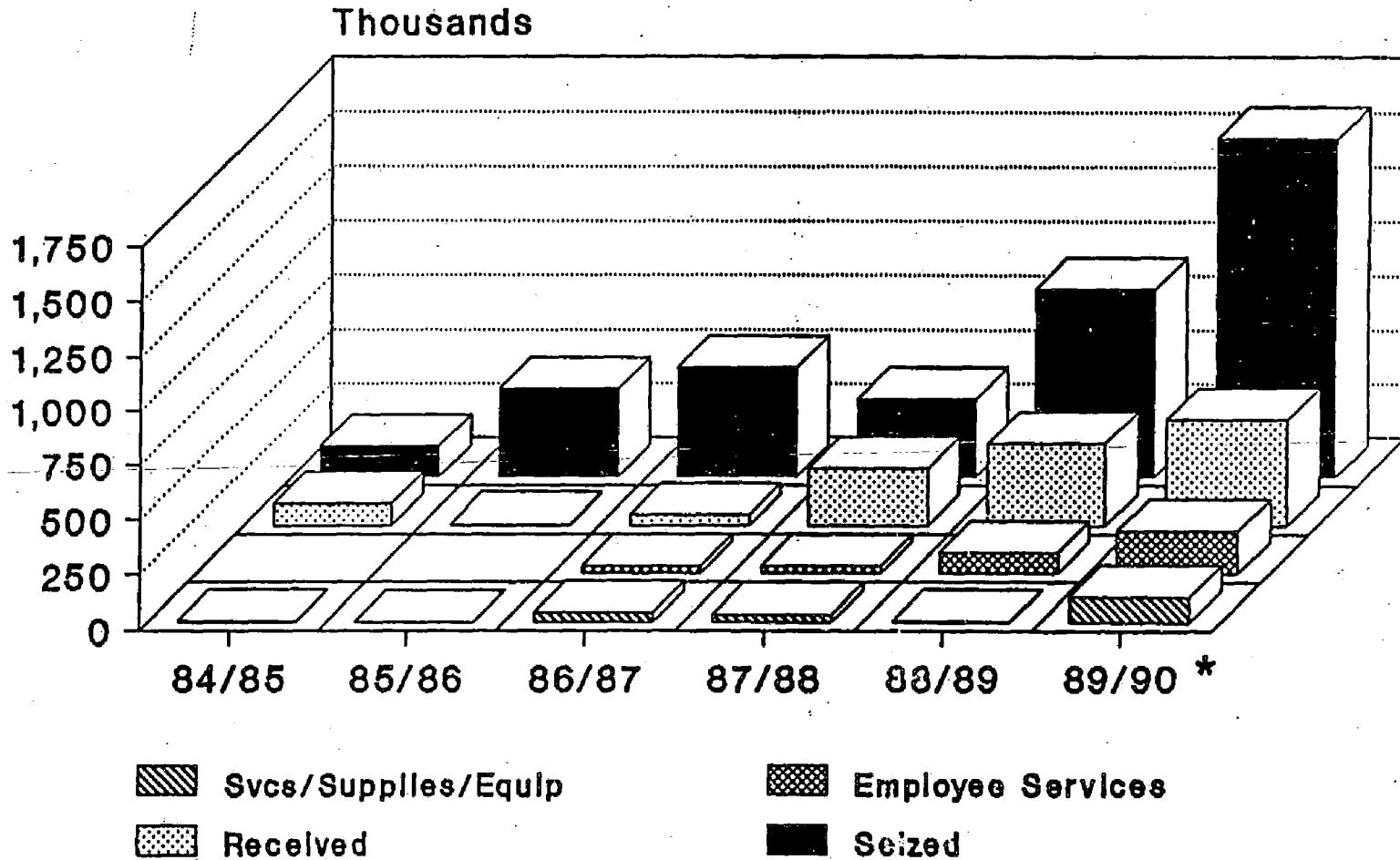
CONTACT PERSON: Solon Wisham, Jr., Assistant City Manager

SW:sc

Attachment

April 10, 1990  
ALL DISTRICTS

# Asset Seizure Fund Seizure and Expenditure History



\* 89/90 seized and received figures are projected for last six months

ASSET SEIZURE FUND  
 PROJECTED CASH FLOW AND AVAILABLE RESOURCES  
 FOR FISCAL YEAR 1990-91

	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER	YEARLY TOTALS
<u>STARTING BALANCE</u>	\$709,400	\$200,000	\$412,500	\$200,000	
NEW REVENUE (1)		262,500		262,500	525,000
TOTAL REVENUE AVAILABLE	\$709,400	\$462,500	\$412,500	\$462,500	\$1,234,400
<u>EXPENDITURES</u>					
EMPLOYEE SERVICES/ SUPPLIES	50,000	50,000	50,000	50,000	200,000
EQUIPMENT	459,400	0	162,500	0	621,900
TOTAL EXPENDITURES	\$509,400	\$50,000	\$212,500	\$50,000	\$821,900
ENDING BALANCE (2)	\$200,000	\$412,500	\$200,000	\$412,500	

- (1) New revenue that has actually been deposited in the Asset Seizure Fund. Does not include revenue that is expected but not yet received and deposited.
- (2) Balance maintained at a level equal to, or greater than, one year of program administrative costs.

## M E M O R A N D U M

SACRAMENTO POLICE DEPARTMENT

TO: KEVIN JOHNSON, LIEUTENANT  
PLANNING AND FISCAL SECTION

DATE: March 28, 1990

FROM: STEVE COOK, ADMIN. ANALYST II  
PLANNING AND FISCAL SECTION

REF: PF-90-3-22

SUBJECT: SURVEY - USAGE OF ASSET SEIZURE FUNDS BY OTHER AGENCIES

A survey of police departments in California was conducted to determine policies governing the usage of asset seizure funds. Four agencies responded with the following information:

Los Angeles Police Department - Lt. Frank Pegueros, Bureau of Special Investigation, (213) 485-3277

Los Angeles has a City Code that specifically states that funds received as a result of asset seizures can only be used for narcotic enforcement purposes. The money does not fund any positions and is only used for services and supplies and/or equipment purchases.

San Diego Police Department - Lt. Burgland, Narcotic Enforcement, (619) 531-2468

San Diego has a policy that 25% of the funds received as a result of asset seizures is used for crime prevention programs. Currently the department is funding a program called D.A.R.E. (Drug Abuse Rehabilitation Effort) where officers make presentations in schools regarding the pitfalls of drug abuse. A portion of the 25% is also providing partial funding for San Diego's Police Athletic League. San Diego P.D. provides the services of a Sergeant and Police Officer to the San Diego Police Athletic League as well paying for some supplies and equipment. San Diego believes the funding of the Police Athletic League is allowable under current asset seizure legislation because the Police Department assigns full time staff to the organization. The remaining 75% of asset seizures are used for law enforcement purposes but not specifically narcotic related.

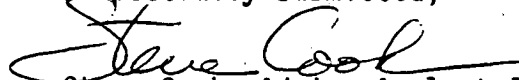
Oakland Police Department - Lt. Vomacka, Narcotic Enforcement, (415) 273-3640

Oakland has the policy that any funds received as a result of asset seizures processed through the Federal Asset Forfeiture Program are used for narcotic enforcement purposes and asset seizures processed through the State Asset Forfeiture Program are used to support agency-wide equipment purchases. Although Oakland P.D. has yet to use any of their asset seizure funds on crime or drug prevention programs, there is no policy currently in place that would prevent prevention programs from receiving funding if the funds were available.

San Jose Police Department - Officer Al Ferla, Narcotic Enforcement, (408) 277-4115

San Jose has just implemented a policy this year which allows them to use asset seizure money to fund a drug education program through their Crime Prevention Section. The program has yet to be identified. Prior to this year asset seizure money was only used to purchased equipment.

Respectfully submitted,

  
Steve Cook, Admin. Analyst II  
Planning and Fiscal Section

# RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

## RESOLUTION ADOPTING A GENERAL POLICY FOR THE POLICE DEPARTMENT TO FOLLOW WHEN REQUESTING THE EXPENDITURE OF ASSET SEIZURE FUNDS

WHEREAS the City of Sacramento Police Department receives a portion of the assets seized by them under the Federal Comprehensive Crime Control Act of 1984 and the State of California Health and Safety Code Sections 11470 through 11492.

AND WHEREAS Health and Safety Code Section 11489(d) mandates the proceeds from asset seizure be used to support and enhance law enforcement.

NOW, THEREFORE, BE IT RESOLVED that the following policy is established to prioritize the expenditure of asset seizure funds:

1. Asset Seizure funds will not be used to supplant other local funds. Conversely, expenditures identified and approved to be funded by the Asset Seizure Fund will not be supplanted by the General Fund.
2. Funds received by the Sacramento Police Department for Asset Seizure will be expended in a manner consistent with State and Federal requirements.
3. Asset Seizure funds will be expended in a manner which will enhance officer safety and improve the performance of the Police Department in it's overall mission.

The following priorities will be used in developing the expenditure master plan:

- a. Maintenance of the personnel required to administer the Asset Seizure Program. This is to be accomplished by prohibiting the balance of the Asset Seizure Fund to fall below the amount needed to fund one full year of administrative costs.

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

- b. Establish programs and/or purchase and maintain equipment which will enhance the safety and performance of narcotic related activities of the Sacramento Police Department.
  - c. Establish programs and/or purchase and maintain equipment which will enhance the safety and performance of general law enforcement activities of the Sacramento Police Department.
  - d. Purchase and maintain equipment and/or establish programs which will enhance crime and/or drug prevention programs administered by the Sacramento Police Department.
4. The Police Department will create an Asset Seizure Expenditure Master Plan and will update the plan on a yearly basis. The Asset Seizure Expenditure Master Plan and updates will be approved by the City Council before any transfer of funds will be authorized.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_