

RESOLUTION NO. 2019-0247

Adopted by the Sacramento City Council.

June 11, 2019

Fiscal Year (FY) 2019/20 Asset Forfeiture Expenditure Master Plan

BACKGROUND

- A. The Sacramento Police Department receives a portion of proceeds from seized/forfeited assets pursuant to the Federal Comprehensive Crime Control Act of 1984, State of California Health and Safety Code Sections 11469 through 11495, Penal Code Sections 186 through 186.8 and joint agreements with other government agencies.
- B. Depending on the agency that secured the forfeiture, and applicable Federal and State legislation, the revenues are deposited into the following Externally Funded Program (EFP) projects:
 - 1. State Asset Forfeiture, California Health & Safety Code Sections 11469-11495
 - a. E11008000: Narcotics
 - b. E11008100: Narcotics (Burton Fund)
 - 2. Federal Asset Forfeiture, Federal Comprehensive Crime Control Act of 1984
 - a. E11008200: Department of Treasury
 - b. E11008300: Department of Justice
- C. The administration, budgeting, and expenditure of asset forfeiture funding is governed by the US Department of Treasury's Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies; the US Department of Justice's Guide to Equitable Sharing for State and Local Law Enforcement Agencies; California Health and Safety Code Sections 11469 through 11492; and California Penal Code Sections 186 through 186.8.
- D. Pursuant to Resolution 2014-0175, the FY2019/20 Asset Forfeiture Expenditure Master Plan is included as Exhibit A to this Resolution.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager, or the City Manager's designee, is authorized to implement the FY2019/20 Asset Forfeiture Expenditure Master Plan; and

- Section 2. The City Manager, or the City Manager’s designee, is authorized to establish parent projects E11008000, E11008100, E11008200, and E11008300; and.
- Section 3. The City Manager, or the City Manager’s designee, is authorized to adjust the revenue and expense budgets in the Asset Forfeiture EFP parent projects (E11008000, E11008100, E11008200, E11008300) by \$642,933; and
- Section 4. The City Manager, or the City Manager’s designee, is authorized to adjust Asset Forfeiture Expenditure Master Plan allocations based on the operational requirements of the Sacramento Police Department.

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Exhibit A: FY2019/20 Asset Forfeiture Expenditure Master Plan

Adopted by the City of Sacramento City Council on June 11, 2019, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Jennings, Schenirer, Warren and Mayor Steinberg

Noes: None

Abstain: None

Absent: None

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2019.08.07 08:42:54
-07'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.



FY2019/20 ASSET FORFEITURE EXPENDITURE MASTER PLAN

The Sacramento Police Department (SPD) respectfully submits its annual Asset Forfeiture Expenditure Master Plan (Master Plan). The Master Plan includes an overview, revenue summary, proposed expenditure plan, and funding restrictions and guidelines.

OVERVIEW

The general intent of Asset Forfeiture programs is to provide law enforcement with a mechanism to permanently deprive criminals from accessing assets and proceeds generated by illegal activities. Asset Forfeiture funding supports anti-drug/gang programming for youth and law enforcement needs through legal and equitable acquisition of assets through due process.

Asset Forfeiture funds are generated by SPD as a result of the Department's participation in the seizure and subsequent forfeiture of tangible property or cash resulting from successful investigations. The Asset Forfeiture Program (Program) is regulated by the Federal Comprehensive Crime Control Act of 1984, State of California Health and Safety Code Sections 11469 through 11492, Penal Code Sections 186 through 186.8, and joint agreements with other government agencies. Depending upon the reason for forfeiture and the parties involved, the revenues are deposited into the Externally Funded Program Fund (fund 2703) and distributed into Externally Funded Projects (EFPs).

Federal and State regulations require the program funding be used by law enforcement agencies for law enforcement purposes and prohibit funds from being used to supplant resources that would otherwise be made available to existing programs. In addition, guidelines specifically prohibit projecting forfeiture revenue. Specific details on the regulations pertaining to the expenditure of program funds are provided in the following pages.

The FY2019/20 Master Plan is consistent with City Council policy for the expenditure of Asset Forfeiture Funding (Resolution 2014-0175).

PROPOSED EXPENDITURE PLAN

Since the adoption of Resolution 2018-0230, the SPD has received an additional \$642,933 in asset forfeiture disbursements and interest earnings.

Project Name/Number	Fund	New Forfeiture Revenue¹
State Asset Forfeiture – Narcotics ² (E11008000)	2703	517,102
State Asset Forfeiture – Narcotics, Burton Fund ² (E11008100)	2703	94,785
Federal Asset Forfeiture – US Department of Treasury ³ (E11008200)	2703	7,655
Federal Asset Forfeiture – US Department of Justice ³ (E11008300)	2703	23,392
Total		642,933

¹Includes FY2018/19 interest earnings; all amounts rounded to the nearest dollar.

²As required by California Health & Safety Code (HS) Section 11489 (HS §11489), of the 65 percent of forfeited assets received by SPD, 15 percent is deposited and maintained in a separate account and is used for the “sole purpose of funding programs designed to combat drug abuse and divert gang activity [...] to cause the development and continuation of positive intervention programs for high-risk elementary and secondary school-age students.”

³As prohibited by HS §11471.2, SPD has neither requested nor received any portion of proceeds of federally-forfeited property unless the defendant was convicted in a related criminal proceeding for an offense for which property is subject to forfeiture pursuant to HS §11470 or HS §11488. A criminal conviction is not required in “any case in which the forfeited property is cash or negotiable instruments of a value of not less than forty thousand dollars (\$40,000)” (HS §11471.2).

The SPD proposes the funding to be allocated in alignment with the priorities listed in the Asset Forfeiture Policy 2014-0175:

Allocation Category	Allocation Amount
Enhancement of Safety Equipment for Front-Line Law Enforcement (e.g., Tasers)	139,835
Integration of Technology Advancements (e.g., Replacement and repair of specialized vehicles and aircraft, security cameras, ShotSpotter)	173,023
Support for Anti-Drug and Gang Prevention and Intervention Programs (e.g., Criminal Justice Magnet Academies)	72,859
Support for Specialized Law Enforcement Programs, Investigations and Operations (e.g., Neighborhood Watch, Informant Pay, Equipment)	249,096
Administration of Asset Forfeiture Program (e.g., Towing of Seized Vehicles, Asset Forfeiture Training)	8,120
Total	642,933

Below are descriptions of each of the proposed allocation categories:

Enhancement of Safety Equipment for Front-Line Law Enforcement: The SPD proposes an allocation of \$139,835 for the purchase of safety equipment for front-line law enforcement purposes. Examples of anticipated requirements include less than lethal weapons, ammunition, and tasers.

Integration of Technology Advancements: The SPD proposes to allocate \$173,023 for the purchase of technology improvements to support front-line law enforcement operations. Examples of anticipated requirements include replacement and repair of specialized vehicles and aircraft, expansion of security cameras and continuation of ShotSpotter.

Anti-Drug and Gang Prevention and Intervention Programming: The SPD proposes an allocation of \$72,859 to provide funding for anti-drug/gang prevention and intervention programs as required by the State of California Health and Safety Code Section 11489. Following is a description of programs currently funded.

Each of the identified programs is geared towards high-risk elementary and high school students. These programs also include drug abuse and anti-gang activity education and have a proven track record of success. Also, all programs are collaborative and involve partnerships with educators, parents, sworn law enforcement officers, community-based organizations, and local businesses. The following is a summary of each program:

Sacramento Police Foundation, Criminal Justice Magnet Academy: The Sacramento Police Foundation is an independent 501(c)(3) charitable, non-profit organization that provides an opportunity for citizens and businesses to assist in providing resources and programs that will

help prevent and reduce crime while developing stronger relationships with the community. The Foundation provides support to the Criminal Justice Magnet Academies in operation at John F. Kennedy, C.K. McClatchy, Hiram W. Johnson, and Grant Union High Schools.

The Criminal Justice Magnet Academy is a four-year program (9th through 12th grades), structured as a “school within a school.” These academies serve nearly 600 students per year and operate within a close family-like atmosphere, integrating academic and career technical education. The curriculum is law enforcement focused, coordinated with related academic classes and includes lessons on the dangers of drug abuse and gang involvement. In addition to the Foundation, the Academies are operated in partnership with the California Department of Education, Sacramento City Unified School District, Twin Rivers School District, Closing the Gap (Non-Profit 501(c)(3)), Harvego Family Foundation, and the Target Foundation. The Academy has a proven track record of success that includes a 96 percent graduation rate and a 98 percent college entrance rate.

Sacramento Police Foundation, Cadet Program: The Foundation, in partnership with SPD and local businesses, restored the Cadet Program for teenagers and young adults, 14-21 years of age. The Program includes a curriculum that prepares youth for a future in law enforcement or other community service-based careers. Participants receive education on the various aspects of the SPD as well as the criminal justice system, community oriented policing, and other law enforcement-related subjects. Additional life-building skills such as drug and gang education, public speaking, résumé building, grooming standards, work ethic, and teamwork complete the curriculum. Cadets are required to perform community service in the Sacramento area which may include assisting with traffic control, security, decoy operations, and fingerprinting. Asset forfeiture funding will only be used to support teenagers, ages 14-18, participating in the program. Financial support for young adult participants will come from alternative sources.

Sacramento Police Activities League (SacPAL): SacPAL is a 501(c)(3) non-profit organization that serves over 700 high-risk elementary and high school students each year by teaching positive citizenship principles through anti-drug and gang education and recreational and civic programs. The organization consists of SPD employees and community members, and partners with the City of Sacramento Parks and Recreation Department, Sacramento City Unified School District, Sacramento County Probation, Sacramento Housing and Redevelopment Agency, Kops-N-Kids (non-profit 501(c)(3)), Boys and Girls Club, Salvation Army, Positive Coaching Alliance, and local businesses. The programs administered by SacPAL include rugby, mountain biking, teen nights, fishing derbies, and boxing.

Kops-N-Kids, Summer Camp: Since 1986, the Kops-N-Kids organization (Non-Profit 501(c)(3)) has partnered with local, state, and federal law enforcement agencies, local fire departments, educators, parents, local businesses and community volunteers to provide a week-long summer day camp for high-risk elementary and high school students in the Sacramento area. The Kops-N-Kids Summer Camp features curriculum in gang resistance, drug awareness, and violence prevention. Approximately 300 participants have attended the camp each year.

Boys & Girls Clubs of Greater Sacramento: The Boys & Girls Club of Greater Sacramento has a long-standing history of contributing to the growth and positive development of high-risk secondary and high-school students in the Sacramento area. The Boys & Girls Club provides youth with a safe environment to participate in positive activities while instilling a sense of competence, usefulness and belonging. Friday night programs, better known as D4 Live has two main focuses

– one on our intramural basketball program and the other on career preparedness. Through this program hundreds of at-risk youth were able to get a hot meal, get in touch with career pathways, and play in a highly competitive basketball league. Funding helps to provide staffing and a facility for approximately 300 students to play basketball, video games, arts and crafts, and dance while learning about the dangers of gangs and drug abuse. Also, the Club partners with the SPD to provide an internship program for high school students during summer months.

City of Refuge, Sacramento: The City of Refuge is a 501(c)(3) non-profit organization that provides intervention/supportive services following on-campus programs for school-aged youth. Efforts include: one-on-one mentoring and intervention services for students needing emotional support, experiencing trauma, and/or needing to complete community service for probation. The City of Refuge provides youth positive opportunities to engage outside of school such as paid internships through a youth workforce readiness program. The City of Refuge’s goal is to help create and foster a more healthy, inclusive and restorative school climate at each school served. Efforts in youth workforce development are aimed at students most at-risk for potential gang involvement and or other activities that would hinder their growth and success. The City of Refuge works closely with students who are on the fringes and are guided back towards healthy opportunities and provided community support. The 2019 City of Refuge efforts will be placed at American Legion Continuation High School, Father Keith B Kenny Elementary, and Oakridge Elementary beginning in the 2018/19 and 2019/20 school years.

Support for Specialized Programs, Investigations, and Operations: The SPD proposes an allocation of \$249,096 to support specialized programs, investigations, and operations. For example, this funding will be used for the purchase of specialized equipment for the Special Weapons and Tactics (SWAT) Team, K-9 Unit, Gang Enforcement Team (GET), Investigations, as well as Neighborhood Watch programs.

Administration of Asset Forfeiture Program: The SPD proposes to allocate \$8,120 for the administration of the Program. This allocation will primarily fund the cost to tow seized vehicles and Asset Recovery and administration training.

FUNDING RESTRICTIONS AND GUIDELINES

Depending upon the Federal or State legislation by which an asset is recovered, revenues are deposited into the following Externally Funded Program (EFP) projects:

State Asset Forfeiture

- 1) Narcotics Investigations, E11008000
- 2) Narcotics Investigations, Burton Fund, E11008100

Federal Asset Forfeiture

- 1) Department of Treasury, E11008200
- 2) Department of Justice, E11008300

Following is a description of each of the projects, accompanied by applicable guidelines:

State Asset Forfeiture, Narcotics Investigations (E11008000)

In accordance with California Health and Safety Code Sections 11469 through 11492, and subsequent memorandum of understanding with the Sacramento County District Attorney’s Office, all property forfeited under the provisions of this code shall be distributed amongst the seizing agency(ies), the

Sacramento County District Attorney's Office, the State of California, and a private nonprofit organization comprised of local prosecutors that provide education and training for prosecutors and law enforcement in program ethics and proper application of laws of the applicable Health and Safety Code sections.

Guidelines for Use

- Funding must be used to support law enforcement efforts (HS §11489(d))
- Funding shall not be used to replace or supplant local resources (HS §11489(d))
- No sworn law enforcement officer's employment or salary shall be made dependent upon the level of forfeitures (HS §11469(b))
- Forfeiture proceeds shall be maintained in a separate fund or account subject to the appropriate accounting controls and annual financial audits (HS §11469(h))
- Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing (HS §11469(e)).

State Asset Forfeiture, Narcotics Investigations, Burton Fund (E11008100)

In accordance with California Health and Safety Code Sections 11469 through 11492, and subsequent memorandum of understanding with the Sacramento County District Attorney's Office, 15 percent of funds distributed to the State Narcotics Investigations Project (E11008000) must be maintained in a separate account for youth programming dedicated to anti-drug/gang education. Expenditures must be approved by a panel consisting of the Chief of Police, Sacramento County Sheriff, Sacramento County District Attorney, and the Sacramento County Chief Probation Officer.

Guidelines for Use

- Funding must be used to support law enforcement efforts (HS §11489(d))
- Funding shall not be used to replace or supplant local resources (HS §11489(d))
- No sworn law enforcement officer's employment or salary shall be made dependent upon the level of forfeitures (HS §11469(b))
- Forfeiture proceeds shall be maintained in a separate fund or account subject to the appropriate accounting controls and annual financial audits (HS §11469(h))
- Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing (HS §11469(e)).
- Funds shall be used "for the sole purpose of [supporting] programs designed to combat drug abuse and divert gang activity" (HS §11489(b)).
- Funding "shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers" (HS §11489(b)).
- Programs must cause the development and continuation of positive intervention programs for high-risk elementary and secondary-age students (HS §11489(b)).
- Distribution of funding must be approved by a panel consisting of the Chief of Police, Sacramento County Sheriff, Sacramento County District Attorney, and the Sacramento County Chief Probation Officer (HS §11489(b)).

Federal Asset Forfeiture, Department of Treasury (E11008200)

The authority for the Department of Treasury (DOT) to share federally forfeited assets with participating federal, state, and local law enforcement agencies is established by federal law (18 USC §981(e), 19 USC §1616a(c) and 31 USC §§9703(a)(1)(G) and 9703(h)). The sharing of forfeited assets is discretionary.

Guidelines for Use:

Permissible uses for this funding are outlined in the *Guide to Equitable Sharing State, Local, and Tribal Law Enforcement Agencies* (<https://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Documents/2018-Justice-Treasury-Joint-EQS-Guide-final-equitable-sharing.pdf>). This funding can only be used for law enforcement purposes, and the DOT will terminate the sharing of asset forfeiture funds with any law enforcement agency that does not directly benefit from these funds.

Examples of permissible uses include:

- Law enforcement operations and investigations
- Law enforcement training and education
- Law enforcement, public safety, and detention facilities
- Law enforcement equipment
- Joint law enforcement/public safety operations
- Contracting for services
- Law enforcement travel
- Awards and memorials
- Drug, gang, and other prevention or awareness programs, does not support community-based organizations
- Matching funds for law enforcement grants

Examples of impermissible uses include:

- Salaries and benefits for current, permanent law enforcement personnel
EXCEPTIONS:
 - Matching federal grants
 - Overtime for officers and investigators
 - Salary of an officer hired to replace an officer assigned to a task force
 - Specialized programs
 - First-year salary for a new law enforcement position
 - Temporary or contractual appointments not exceeding six months
- Use of forfeited property by non-law enforcement personnel
- Creation of endowments or scholarships
- Uses contrary to the laws of the state or local jurisdiction
- Personal or political use of shared funds
- Purchases of food and beverages, except emergency operations
- Extravagant expenditures
- Petty cash, secondary/sub-accounts and stored value cards
- Purchase of items for or the transfer of funds to other law enforcement agencies
- Community-based organizations
- Costs related to lawsuits
- Loans
- Money laundering operations

General Guidance:

- Funding must not be used to replace or supplant local resources
- Interest income on funding is subject to the same guidelines as outlined above

- Anticipated funding should not be budgeted
- Funding should not be retained unnecessarily
- All interested earnings must remain in the project

Federal Asset Forfeiture, Department of Justice (E11008300)

Federal law allows the Department of Justice (DOJ) to share forfeited property with participating state and local law enforcement agencies (21 US §881(e)(1)(A) and (e)(3), 18 USC §981(e)(2), and 19 USC §1616a). Sharing is discretionary and not required.

Guidelines for Use

Permissible uses for this funding are outlined in the *Guide to Equitable Sharing State, Local, and Tribal Law Enforcement Agencies* (<https://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Documents/2018-Justice-Treasury-Joint-EQS-Guide-final-equitable-sharing.pdf>). The DOJ will terminate sharing of asset forfeiture funds with any law enforcement agency that does not directly benefit from these funds.

Examples of permissible uses include:

- Law enforcement operations and investigations
- Law enforcement training and education
- Law enforcement, public safety, and detention facilities
- Law enforcement equipment
- Joint law enforcement/public safety operations
- Contracting for services
- Law enforcement travel
- Awards and memorials
- Anti-Drug education and awareness programs organizations
- Matching funds for law enforcement grants

Examples of impermissible uses include:

- Salaries and benefits for current, permanent law enforcement personnel
EXCEPTIONS:
 - Overtime for officers and investigators
 - First-year salary of a new law enforcement position
 - Contractual appointments not exceeding one year
 - Officers assigned to pre-approved specialized programs that do not generally involve traditional law enforcement functions
- Payment of salaries for existing positions
- Use of forfeited property by non-law enforcement personnel
- Payment of non-law enforcement expenses
- Uses contrary to the laws of the state or local jurisdiction
- Non-official government use of shared assets
- Purchases of food and beverages
- Extravagant expenditures

General Guidance:

- Funding must not be used to replace or supplant local resources
- Interest income on funding is subject to the same guidelines outlined above

- Anticipated funding should not be budgeted
- Funding should not be retained unnecessarily
- All interest earnings must remain in the project