

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 300 BUSINESS/BUDGET</p>	<p>OPR: SS</p>
	<p>DEPARTMENT ORDER: 308 MANAGEMENT OF RICO FUNDS</p>	<p>SUPERSEDES: DO 308 (06/09/97)</p>
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PURPOSE

This Department Order provides a consistent and uniform method of acquisition, disbursement, approval and reporting of Racketeering Influenced Corrupt Organizations (RICO) funds.

APPLICABILITY

This Department Order applies to any conduct giving rise to forfeiture under A.R.S. Title 13, Chapter 23, Chapter 34 or Chapter 39, which occurs within the jurisdiction of, or comes to the attention of, the Department.

PROCEDURES

308.01 RICO ASSET FORFEITURE PROGRAM

- 1.1 The Inspector General shall:
 - 1.1.1 Establish a RICO Asset Forfeiture Program (AFP).
 - 1.1.2 Appoint a RICO Fund Coordinator to administer the AFP.
 - 1.1.3 In conjunction with the Administrative Services Division and the Chief Procurement Officer, enter into Intergovernmental Agreements with each county for evidence retention services.
- 1.2 The RICO Fund Coordinator shall:
 - 1.2.1 Chair the AFP Committee.
 - 1.2.2 Submit a completed Request for Transfer, Allocation or Encumbrance of Funds or Property (Arizona Attorney General Financial Remedies Unit Form S12), to the Office of the Attorney General, Chief Counsel, Criminal Division, and forward a copy to the Financial Services Bureau Administrator.
 - 1.2.3 Serve as liaison between case officers and the various county, state and federal agencies to monitor and track assets from seizure to court award.
 - 1.2.4 Monitor the status of assets or cash seized for forfeiture, account for asset-related expenditures, coordinate the assignment of forfeited assets, and document and report the use of forfeited assets.
 - 1.2.4.1 A file shall be established and maintained by case name and number to document all information pertaining to seizure of cash.
 - 1.2.5 Ensure that all funds forfeited are deposited into the Attorney General's ADC RICO account.
- 1.3 Criminal Investigations Units shall:
 - 1.3.1 Seize evidence, property or funds discovered to be within the Department's jurisdiction and determined to be subject to forfeiture.

- 1.3.2 Ensure that seized evidence, even if subject to forfeiture, is preserved in accordance with Department Order #909, Inmate Property, until the final resolution of any pending criminal case that has arisen in connection with the property.
- 1.3.3 Ensure that seized cash that is forfeited is deposited in an interest-bearing account maintained by the appropriate prosecuting agency.
- 1.3.4 Ensure that seized property that is not evidence is maintained in a manner that will reasonably preserve its value.
- 1.3.5 Complete the Request for Transfer, Allocation or Encumbrance of Funds or Property (Arizona Attorney General Financial Remedies Unit Form S12) for every instance in which RICO property or funds are seized for forfeiture, and send the completed copy to the RICO Fund Coordinator.

308.02 ACCOUNTING FOR FORFEITED ASSETS/FUNDS - The RICO Fund Coordinator shall:

- 1.1 Arrange with the county of jurisdiction for the disposal of forfeited assets, the proceeds of which shall be deposited with the Office of the Attorney General.
- 1.2 Coordinate with the Financial Services Bureau the acquisition and disposition of those forfeited assets that will be used by the Department, in accordance with Department Order #304, Equipment and Inventory System.
- 1.3 Report quarterly to the AFP Committee and the Director the type, amount and availability of forfeited assets or funds.
- 1.4 Forward forfeited cash to the Office of the Attorney General for deposit into the Department's RICO account.
- 1.5 Document forfeited cash on report ACJC SAC002, which shall be submitted quarterly to the Criminal Division of the Office of the State of Arizona Attorney General on or before January 15, April 15, July 15 and October 15 of each year for each previous quarter.

308.03 PROCEDURE FOR DISBURSEMENT OF RICO FUNDS

- 1.1 Requests for use of forfeited funds shall be submitted in memorandum form through each Division's chain-of-command to the RICO Fund Coordinator, who shall present them to the AFP Committee for consideration. The list shall be updated not less than quarterly.
- 1.2 The RICO Fund Coordinator shall seek an opinion from the Department's Attorney General Liaison prior to presenting the recommended list to the Director for approval.
- 1.3 Expenditures shall be authorized per the approved list as funds become available.
- 1.4 Qualified disbursements are listed in A.R.S. 13-2314.01(D), 13-2314.03, 13-4315(C) and the "Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies," published in March 1994 by the Department of Justice, Executive Office of Asset Forfeiture, and include, but are not limited to:
 - 1.4.1 Gang prevention programs.
 - 1.4.2 Substance abuse programs.

- 1.4.3 Substance abuse education programs.
 - 1.4.4 Reimbursement for costs of investigating and prosecuting racketeering offenses, including payments to informants.
 - 1.5 The RICO Fund Coordinator shall:
 - 1.5.1 Submit approved requests for disbursements to the Chief Counsel, Criminal Division, Office of the Attorney General.
 - 1.5.2 Transmit checks received from the Office of the Attorney General to the Financial Services Bureau Administrator for deposit into appropriate accounts to pay for approved projects.
- 308.04 PROCEDURE FOR DISBURSEMENT OF PROPERTY OR CASH NOT FORFEITED BY THE COURT** - If property or cash is not forfeited, it shall be returned by the applicable prosecution agency, with any interest earned on cash, to the person who is determined by the court to be the rightful owner.

DEFINITIONS

AFP - The Department's Asset Forfeiture Program.

AFP COMMITTEE - A Department committee chaired by the RICO Fund Coordinator and comprised of the Division Director for Offender Operations, and the Community Corrections Operations Director and the Inspector General.

EVIDENCE - Property or cash possessing evidentiary value, which must be maintained in the same condition as when it was seized, in accordance with Department Order #909, Inmate Property.

FORFEITED ASSETS OR CASH - Any assets or cash forfeited to the seizing agency upon final court resolution.

RICO FUNDS - Any monies or proceeds of property within the jurisdiction of the Department that are obtained as a result of a forfeiture under the authority cited in this Department Order and in accordance with Department Order #909, Inmate Property.

SEIZED ASSETS OR CASH - Any assets or cash held until final resolution is reached by the courts.

SEIZING AGENCY - Any department or agency of this State or its political subdivisions that regularly employs Peace Officers, and which employs the Peace Officer who seizes property for forfeiture, or such other agency as the seizing agency may designate in a particular case by its chief executive officer or designee.

SEIZURE FOR FORFEITURE - Seizure of property/cash by a Peace Officer, coupled with an assertion by the seizing agency or by an attorney for the state that the property/cash is subject to forfeiture.

{Original Signature on File}

Charles L. Ryan
Director

AUTHORITY

A.R.S. 13-2314.01 through 13-2314.03, Racketeering; Civil Remedies by this State.

A.R.S. 13-4315, Allocation of Forfeited Property.