**Asset Forfeiture FAQ**

Below are frequently asked questions by DDAs who have criminal cases with companion Asset Forfeiture matters. These questions usually arise at a time when the DDA needs a quick answer. For example, the DDA receives a call from an officer who is out in the field conducting an investigation, DDA is in the middle of filing the criminal case, or the DDA is resolving the criminal case in court. The purpose of this FAQis to provide DDAs with a resource to their common questions that they can access at any time and receive quick answers.

**Pre Filing**

1. An officer has called me and asked for authorization to seize money from someone they are arresting, what do I do?
	1. Tell the officer to call the Asset Forfeiture DDA (currently Jackie Hunter 707-889-1919)
	2. What if the officer can’t reach the AF DDA?
		1. Call CDDA Mark Murphy
		2. If CDDA Murphy isn’t available, then DA Mike Ramsey
2. The report in my case says that the officers took money, but there is no stipulation in the file.
	1. If the amount of money is over $1,000, contact the AF DDA or Tina Casaulong to see if there is an associated AF case. We do not pursue AF if the money to be seized is under $1,000.
	2. Sometimes officers seize money as evidence but Asset Forfeiture isn’t appropriate. Thus, it is possible money was taken as evidence and Asset Forfeiture was declined. Confirm with the officer whether the money was seized for Asset Forfeiture or as evidence.

**Resolving The Criminal Case**

1. The defense attorney wants to resolve the criminal case and says the defendant wants part of the money back OR the defense attorney says some of the money came from a legitimate source, what do I tell them?
	1. “I cannot ethically negotiate the asset forfeiture case and the criminal case. Please contact the AF DDA to discuss alternative resolutions regarding asset forfeiture.”
	2. \*\*\***DO NOT NEGOTIATE ASSET FORFEITURE**\*\*\*
2. The defendant wants to plead to a non-drug sales charge. Can I change the offer?
	1. Possibly. Check with the AF DDA to see if a plea to the drug sales charge is required.
	2. If the defendant does not want to stipulate to AF then there should be no offer. DO NOT dismiss the drug sales charges without a stipulation to AF.
3. This is a co-defendant case and I want to resolve it by having one defendant pled and dismissing the case against the other.
	1. As long as one defendant pleads and BOTH defendants sign a stipulation, you can dismiss the criminal case against them, if that is how you would like to resolve your criminal case. DO NOT dismiss a case against a co-defendant without a stipulation to AF.
4. I need to dismiss the criminal case in its entirety, what do I do about AF?
	1. Tell the AF DDA **IMMEDIATELY**. The money will need to be returned ASAP. We **DO NOT** forfeit money if we are dismissing the criminal case against someone (exception: co-defendants, see above).
	2. **NEVER** dismiss a criminal case for a stipulation to asset forfeiture. **This is against our office policy.** It is also highly unethical. We do not forfeit someone’s money if we cannot prove a criminal case against them.
5. Defendant wants to plead as charged, open, and not stipulate to AF. Can they do this?
	1. Yes. If a defendant pleads as charged, then it is no longer a negotiated disposition. We cannot stop them from pleading as charged. We cannot stop them from refusing to stipulate to forfeiture.

**Signing and Submitting the Stipulation to Asset Forfeiture**

1. The defendant is pleading and agreed to stipulate to asset forfeiture. What do I do?
	1. Have the defendant and defense attorney sign the stipulation
	2. Sign the stipulation yourself
	3. Give the stipulation to the clerk and have the stipulation filed in the criminal case
	4. Immediately notify the AF DDA or paralegal that the stipulation was signed and filed
	5. The AF DDA or paralegal will handle filing of the forfeiture order
2. The defense attorney needs a copy of the stipulation to have the defendant sign outside of court OR needs an electronic copy to email to the defendant OR lost the copy you gave them. What do I do?
	1. Check the file cabinet of your case. There should be a PDF version of the stipulation in Epro. You can either email the PDF to defense or print a hard copy for them.
	2. DO NOT send an editable (Microsoft Word) version of a stipulation to the defense.
	3. If you send an electronic copy of a stipulation to the defense attorney, and they provide you with a signed copy, ALWAYS review the copy to ensure it is IDENTICAL to the stipulation in Epro. Defense attorneys have provided us with altered stipulations in the past.
3. The defense attorney doesn’t want to sign the stipulation because they are not representing the defendant in the asset forfeiture matter.
	1. Inform the defense attorney that their signature is required. They are signing to indicate that they explained the stipulation to their client and agree with their client’s choice to stipulate to forfeiture (it is the same as when the defendant pleads and the defense attorney states they advised their client and agree with the choice to plead). The defense attorney’s signature does NOT mean that they are assuming representation of the defendant in the asset forfeiture case.
	2. **If the defense attorney refuses to sign the stipulation then the case cannot be resolved**.

**The Criminal Case Is Set For Jury Trial**

1. The criminal case is set for jury trial, what happens with the forfeiture case?
	1. Immediately notify the AF DDA as soon as a case with AF is set for trial.
	2. Under certain circumstances the forfeiture case has to be heard by the same jury as the criminal case. If those circumstances apply in your case the AF DDA will need to set the AF case for trial on the same dates and participate in the trial with you.