



1

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OFFICE OF THE CITY ATTORNEY

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OPINION NO. 93-13

TO: Michael L. Strope, Police Chief

FROM: Stephen M. Kemp, City Attorney

DATE: December 8, 1993

SUBJECT: Permissibility of Expenditure from State Asset Forfeiture Funds to Purchase Computer Equipment for Police Selective Enforcement Officer Use

QUESTION:

May State Asset Forfeiture funds be used to purchase Computer Work Stations for Department Selective Enforcement Officers.

OPINION:

For purposes of background, the selective enforcement unit is a unit within the Peoria Police Department dedicated to the investigation of gang activity, development of criminal intelligence, seizure and recovery of stolen property and the investigation of liquor and narcotics matters.

You have requested a determination whether State Asset Forfeiture funds may properly be used to purchase equipment for this unit. State Asset Forfeiture funds, statutorily defined as "Anti-Racketeering" funds, are subject to the provisions of A.R.S. §13-2314.01. The monies may be used for gang prevention, substance abuse prevention and education, and the investigation and prosecution of any offense defined as racketeering under A.R.S. §13-2301. Racketeering offenses under A.R.S. §13-2301 include:

1. Theft,
2. Trafficking in explosives, weapons or stolen property,
3. Offenses involving Marijuana, other prohibited chemicals and substances,
4. Criminal Syndicates (Any group of persons "gang" who associate on a continual basis for the purpose of committing one or more felonies).

Clearly, the purposes of the selective enforcement unit meet the statutory definition related to racketeering under the statute. The intent of the unit is to investigate conduct that constitutes racketeering as defined under Arizona Law. The question then becomes; does the purchase of computers and related equipment for assigned offices constitute expenses necessary to the investigation and prosecution of racketeering offenses.

It is our opinion that such an expenditure from forfeiture funds is allowed. In this era of "information superhighways" and mass data, it is reasonable for a law enforcement officer to require access to a computer work station in order to process the massive information likely to be involved in racketeering offenses. It is conceivable that, in some cases, the criminal intelligence maintained on computers is equally valuable to that acquired through traditional means, like interviews.

Therefore, it is our opinion that using State Asset Forfeiture funds to purchase of computer work stations for selective enforcement officers is a legally permitted expenditure. If you should have any questions, please do not hesitate to contact me.

cc: Honorable Mayor and Council