

	<b>STANDARD OPERATING PROCEDURE</b> State Form 39870(R/S-06)	Reference Number <b>INV-013</b>
	Subject <b>Property Seized for Forfeiture</b>	
	Special Instructions <b>Replaces INV-010 Dated October 4, 2011</b>	Effective Date <b>September 10, 2019</b>

## **I. PURPOSE**

Establish guidelines for processing assets seized in anticipation of forfeiture under state statutes and federal guidelines.

## **II. POLICY**

Department personnel shall process all seized assets in accordance with this standard operating procedure, state and federal guidelines and Orders of Forfeiture.

## **III. PROCEDURES**

### **A. Guidelines for Seizures and Forfeitures.**

1. The case officer (to whom the case is assigned) will be responsible for initiating forfeiture proceedings if the facts warrant such action. If necessary, the case officer shall consult with his/her supervisor and/or the Department's legal advisor to determine if forfeiture action is warranted or justified. Once forfeiture action is initiated, notification shall be made to the Special Investigations Division, Asset Forfeiture Program Director (AFPD).

a. Notification shall be made by email by the end of the next calendar day following the seizure.

b. Notification shall include:

- (1) The [Indiana State Police Forfeiture Form](#);
- (2) The criminal incident number;
- (3) A description of the item(s) seized, if money, include the amount seized;
- (4) The county where the seizure took place; and
- (5) Whether the forfeiture will be pursued as a state forfeiture or a federal forfeiture.

c. Completed documentation shall be forwarded to the AFPD within 5 days of the date of the seizure and shall include:

- (1) A copy of the criminal incident report;
- (2) Property receipts;
- (3) Signed disclaimers;
- (4) Copies of all search warrants and returns;
- (5) Copies of all probable cause affidavits to include probable cause for forfeiture; and
- (6) Copies of prosecutorial notification (for state seizures), or for federal seizures, copies of all motions and orders for Transfer of Property and identification of the adopting federal agency.

2. Requests for state seizures require written notification to the appropriate prosecutor, making notification of the seizure, outlining the items seized and including a request for state forfeiture action. State forfeiture actions shall be in compliance with [IC 34-24-1](#).

3. Department members routinely participate in multi-agency cooperative investigations. In the event forfeiture is pursued from a federal standpoint, participating officers shall make every effort to coordinate that process. Preferably, federal agency notification and participation shall occur prior to any seizure taking place. If involvement by a federal agency takes place after a seizure, any subsequent forfeiture is considered to be adoptive.

4. When property has been seized without any prior involvement on behalf of a federal agency, a federal agency may still agree to adopt the investigation and pursue federal forfeiture. In this instance, the applicable case officer must acquire an **original [Order for Transfer of Property](#)** from the prosecuting attorney of venue. Documents must have an original court seal affixed to them.

The United States Attorney's Office and the applicable federal agency cannot adopt a forfeiture without such an order.

NOTE: It is the policy of the Indiana State Police to place a priority on criminal prosecution over asset forfeiture. Therefore, in cases that involves both asset forfeiture and criminal prosecution, always seek approval from the relevant prosecuting attorney before proceeding with the forfeiture.

#### **B. Vehicles seized for conversion to money**

1. Federal seizures: When a vehicle is seized and is of the type or mechanical/body condition that would prevent it from being added to the Department's fleet, the seizing officer shall cause the vehicle to be delivered to the vehicle impound lot located at the Indianapolis post complex unless a federal agency takes possession of the vehicle. A seized vehicle must have a retail value of more than \$10,000.00.

2. State seizures: When a vehicle is seized and is of the type or mechanical/body condition that prevents it from being added to the Department's fleet and the vehicle does not qualify for federal asset forfeiture, the seizing officer shall arrange for the vehicle to be temporarily stored at a district headquarters or at the least expensive secure storage facility in the vicinity of the seizure location pending transfer to the appropriate sheriff for sale in accordance with [IC 34-24-1-4](#) and [IC 34-24-1-6](#). The vehicle must have a retail value of more than \$7,500.00.

#### **C. Vehicles seized for the Department's fleet**

1. When a vehicle is seized and is of the type and mechanical/body condition that would be of value to the Department, the seizing officer shall cause the seized vehicle to be delivered to the district headquarters or to the GHQ garage, whichever is closer, for evaluation by a Department mechanic.

a. A vehicle shall only be considered for fleet service if it has less than 100,000 miles on the odometer and appears to be in above average mechanical/body condition. Only the Assistant Chief of Staff (AC/S) Logistics may make exceptions to this standard.

b. A Department mechanic shall evaluate the seized vehicle and shall complete a [Vehicle Evaluation Form](#) and return it to the seizing officer.

c. The seizing officer shall forward the [Vehicle Evaluation Form](#) and all of its applicable attachments to the AFPD.

d. The AFPD shall communicate with the Special Investigations Division Commander in regards to any vehicle being evaluated for forfeiture.

2. The Field Support Services (FSS) Commander shall coordinate the title transfer with the Bureau of Motor Vehicles (BMV) after receiving the court orders and all other necessary documents from the AFPD. Once the vehicle is titled and commissioned, FSS and SID Commanders shall determine where the vehicle can be best utilized.

3. Seized vehicles shall not be used by Department personnel until forfeiture proceedings have been completed and the property has been released to the Department.

#### **D. Money and other property seized for use or sale**

1. In all instances, if the item seized is money, the seizing or recovering officer shall have another officer as a witness during a count of the money. The witnessing officer shall be identified in the Initial Criminal Incident or Supplemental Report in RMS.

2. Employees shall comply with the general evidence submission requirements of [SOP LAB-001](#) and [SOP LAB-010](#) when money is submitted to the Laboratory Division for evidence storage.

3. If the seizure is being adopted by a federal agency, the money shall be placed into storage and safekeeping in accordance with [SOP LAB-010](#). Once an [Order of Transfer of Property](#) has been issued allowing the federal agency to take possession of the money for purposes of forfeiture, a cashier's check shall be made payable to the applicable federal agency. Employees shall refer to [ISP Federal Transfer Order \(T.O.\) Guide](#) for additional direction.

4. In the event that seized money is going to be directly forfeited by a federal agency, an employee may relinquish the money to the federal agency contemporaneously with the event or action. This shall be documented in the officer's criminal incident report.

5. If the seizure is being pursued at the state level, the money should be submitted to the appropriate laboratory as evidence in compliance with [SOP LAB-010](#).

6. If a decision is made to not pursue a forfeiture of money, the seizing officer and the appropriate laboratory personnel shall coordinate the return of the seized money to the rightful owner. If the money cannot be returned at a Department facility with Laboratory personnel present, then a cashier's check shall be obtained and delivered to the rightful owner. A copy of the check and the PRR shall be forwarded to the AFPD for inclusion into the file.

7. The item in question shall be evaluated in order to determine whether the property should be sold or used by the Department. The criteria to be considered shall include:

- a. Current need of the Department;
- b. Condition/serviceability of the property;
- c. Convertibility to money; and
- d. Proposed use of the item.

NOTE: The seizing officer shall deliver the property to the district property officer for storage unless it has been properly disposed of and recorded on a PRR as outlined in [SOP LAB-001](#).

**E. Special Investigations Division, Commander Responsibilities:**

1. Coordinating the Department's asset forfeiture proceedings and overseeing the program documents and files;
2. Coordinate and assist the Fiscal Division to ensure the forfeited funds are being directed to the appropriate established accounts; and
3. Assist the AC/S Logistics to determine whether a seized asset should be sold or retained for the Department's use.

**F. Returning Assets:**

1. If the Department elects to or receives a court order mandating the return of an asset, the seizing officer in coordination with the Special Investigations Division AFPD, shall immediately notify the property owner by certified mail of the following:
  - a. The Department will not be pursuing forfeiture action, and
  - b. The asset is available for release to the property owner, by appointment, at a designated release site.
2. Contraband of any type shall not be returned.
3. A copy of the certified letter shall be forwarded to the Special Investigations Division AFPD and included into the forfeiture file.
4. The seizing officer is to ensure the property is returned to the rightful owner as soon as practical and in compliance with SOPs [LAB-001](#) and [LAB-002](#).

**G. Assistant Chief of Staff Logistics Responsibilities:**

1. To ensure all forfeited property is entered into the Department's inventory system.
2. Federal seizures: There is no time limitation on the use of federally forfeited property. Federally forfeited property no longer useful or serviceable shall be returned to the FSS for disposal through state surplus property procedures or other means.
3. State seizures: Property forfeited through state statute may be used for a period of time not to exceed three (3) years. FSS shall work in conjunction with the AFPD to track these assets and coordinate their return prior to this deadline. Within three (3) years following the order of forfeiture, the property is required to be sold at public sale by the sheriff of the county where the property was seized. FSS shall be responsible to coordinate the transfer of the property to the appropriate sheriff's department. The applicable sheriff shall be requested to forward any proceeds due the Department to the Special Investigations Division AFPD for deposit into the appropriate forfeiture account.

J. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies and procedures.