

PROCEDURE MANUAL

12-02



MICHIGAN STATE POLICE

Forfeiture of Seized Property

Purpose: This manual establishes the department procedures and member responsibilities for the forfeiture of seized property.

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Definitions:

Summary Forfeiture: An automatic, absolute forfeiture of certain property, as authorized by a specific statute, and does not depend on criminal conviction.

Administrative Forfeiture: No one files a claim to contest the seizure of property subject to forfeiture. Administrative forfeiture does not require court proceedings resulting in a court order declaring the property forfeited.

Forfeiture Action: Forfeiture of seized property requiring court proceedings resulting in a court order declaring all or some of the property forfeited.

Section 1: Forfeiture of Seized Property

1.1 Responsibility

- a. The work unit commander has the responsibility for ensuring that property seized with the intent to forfeit is in compliance with the law and department policies and procedures. The commander of the seizing work unit shall also administer the forfeiture process, including authorization for payment of forfeiture expenses incurred by the work unit and custody and disposition of seized property. The following factors shall be considered when making a decision regarding forfeiture:
 - i. The policy and practice of whoever is legally handling the case, whether it is the prosecutor in the county where the forfeiture will take place, the State Attorney General, or the U.S. Attorney.
 - ii. The effect of forfeiture will have on the operation of a criminal enterprise.

- iii. The ability of the work unit to securely store and account for the property.
- iv. Whether the anticipated revenue is adequate to cover the costs of the forfeiture action.
 - 1. Real property used, for example, as a site for a clandestine drug lab may be contaminated and remain hazardous. Costly cleanup and potential long-term liability shall be considered before initiating forfeiture.
 - 2. Special consideration shall be given to property seized pursuant to the [Chop Shop Statute, MCL 750.535a](#). Such property is frequently too large and cumbersome to store at work units. If the property is store with a private vendor, costs may be prohibitive since the forfeiture process is length, frequently lasting two or more years.
 - 3. Real Property
 - a) Forfeiture of real property is considerably more complicated than other forfeiture actions.
 - b) Any seizure or forfeiture of real property must be closely coordinated with the prosecutor's office.
 - c) The prosecuting attorney must file legal documents consisting of: Matter of Affecting Title to Realty, Complaint for Forfeiture, Interrogatories, etc., which requires extensive background information and investigation on the part of the investigating enforcement member, as well as title search, liens, mortgages, tax records, etc.
- b. Forfeitures initiated by a member who is not assigned to a multi-jurisdictional task force shall be processed by their assigned work unit, with all funds turned over to the Budget and Financial Services Division (BFS).

1.2 District/Division Forfeiture Review Responsibility

- a. It is the responsibility of the district/division commander to ensure that all actions taken by their work unit relating to the forfeiture of property follows the law and department policies and procedures.
- b. The district/division commander or designee shall review all forfeiture cases to ensure:
 - i. Probable cause existed for initial seizure.
 - ii. Proper documentation for each forfeiture case in the narrative and property section of the department records management system report.
 - iii. Proper final disposition of all items.
- c. Listing of all cases involving forfeiture shall be maintained by the district/division commander or their designee. The listing shall indicate if the forfeiture portion of the case is open or closed, and when it has been reviewed.

1.3 General Provisions

- a. Compliance with Applicable Statutory Provisions

- i. Forfeiture of seized property is authorized and governed by different statutes. Enforcement members shall only seize property for forfeiture if it is authorized by law and shall comply with all statutory requirements that apply under that specific legal authorization.
- b. Required Forms
 - i. The following forms must be utilized and maintained as provided in this manual.
 - 1. CID-012: The Notice of Seizure and Intention to Forfeit is used to provide notice of seizure to property owners and those with interests in the property.
 - a) If a CID-012 is required to be used under this manual or the applicable statutory authority, originals must be provided to the person(s) given notice and copies must be provided to the prosecutor.
 - 2. CID-013: The Record of Seizure is used to itemize the seized property for the file and for providing notice to the prosecutor.
 - a) A copy must be provided to the prosecutor to ensure the prosecutor is immediately notified of the seizure.
 - b) Within 72 hours of seizing property with the intent to forfeit, the work unit commander shall forward a copy of the CID-013 to their respective district/division commander.
 - c) A CID-013 shall be forwarded even if the CID-012 has not yet been served, if applicable.
 - d) A CID-013 shall be forwarded even if a decision has been made to discontinue the forfeiture action. A notation shall be included on the CID-013 indicating which items are no longer being pursued for forfeiture.
 - e) If the items are too numerous to be itemized on the CID-013, a copy of that portion of the incident report itemizing the property shall be attached as additional pages.
 - 3. CID-014: The Notice of a Claim of Interest is used to record claims of property owners and interested parties may make to seized property.
 - a) If a CID-014 is required or permitted to be used under this manual or the applicable statutory authority, copies must be provided to the prosecutor and a copy must be provided to the person making the claim.
 - b) A Claim of Interest need not be on a CID-014 and may be accepted through mail or in-person. However, it must meet any requirements established under the applicable statutory authority. If not contrary to statutory requirements, a Claim of Interest may be completed by an enforcement member, however, it must be signed by the claimant for it to be valid.

- c) A Claim of Interest filed for property seized under the Controlled Substances Article of the Public Health Code must be filed on MC 311, a form developed by the State Court Administrative Office, pursuant to MCL 333.7523(1)(c).
 - 4. CID-015A: The Forfeiture Cash/Expense Report.
 - a) The CID-015A must be completed when any of the following occurs:
 - a. Cash is seized and disposed of.
 - b. Property other than cash is disposed of.
 - c. Forfeiture expenses are incurred.
 - b) The CID-015A must be completed upon completion of the forfeiture, as provided in this manual. However, multi-jurisdictional task force teams do not have to complete a CID-015A if they are entering forfeiture data in the eAICS and Grant Activity Reporting records management system.
 - c) The work unit commander shall forward a copy of the CID-015A to their respective district/division commander.
 - ii. The original forms, and copies of the CID-012, must be placed in the work file or be kept with the incident report until the forfeiture is completed. Upon completion, the original forms, and any copies of the CID-012 must be placed in the master file.
 - iii. Forfeiture Form Distribution- Summary

	Claimant	Work File- Master File	Prosecutor	District/Division	Field Operations Bureau
CID-012 MC 311	X (original)	X	X		
CID-013		X	X	X	X
CID-014 or Other Claim	X	X	X		
CID-015A		X		X	X
Court Orders		X			

- iv. Recording Certain Information on the Forfeiture Forms
 - 1. The item number and description of the seized property must be identical on each form and shall coincide with the item number in the property segment of the department records management system.
 - 2. Seized drugs, recovered “buy money”, and recovered stolen property for which an owner has been identified shall not be recorded on the forfeiture forms. All other property seized, including firearms and drug paraphernalia of value (e.g., grow equipment) shall be reported.

3. At the discretion of the work unit commander, recovered buy money may be recorded on the forfeiture report forms, if necessary, to protect the identity of a confidential informant.
 - v. Instructions for using each form may depend on which statute(s) authorize the seizure and forfeiture of the property. The requirements above apply to forfeitures.
- c. File Maintenance and Incident Reports
 - i. Open Forfeiture Cases
 1. The file shall contain, at a minimum, the following documents: CID-013, CID-015A, DD-020, and copies of any relevant court orders.
 2. Each forfeiture case within the open file shall be reviewed monthly by a worksite supervisor.
 3. The supervisor completing the monthly review of the open forfeiture case shall document the status and progression of the forfeiture case on the journal for the corresponding incident in the department records management system.
 - ii. Closed Forfeiture Cases
 1. Closed forfeiture cases shall be maintained in the closed forfeiture file until completion of the annual district inspection.
 - iii. Incident Report Requirements
 1. The incident report shall remain open while the forfeiture is pending final disposition.
 2. The incident report shall contain a specific heading titled "Probable Cause for Forfeiture", which explains the probable cause for forfeiture of the property seized.
 3. Once a forfeiture action is initiated, the incident report shall remain open, pending a final disposition of the forfeiture action and the property. Updates to the forfeiture action shall be included in the narrative portion of the department records management system report. The narrative shall include information including if items were administratively forfeited, authorized settlements, return of property, and court orders. In addition, the final disposition shall be included in the report (e.g., sold at auction, retained, released to owner, released to school, destroyed, etc.). The narrative shall include the property item number(s).
 4. The property segment of the department records management system shall be completed if the seized property is in the custody of, or is to be accounted for, by the work unit. This may include items of value such as bank accounts.

1.4 Controlled Substances Article of The Public Health Code [MCL 333.7101](#) to [MCL 333.7545](#)

- a. Property Subject to Seizure and Forfeiture

- i. Property that may be seized for a violation of the Controlled Substances Article is listed under [MCL 333.7521](#). It includes real and personal property, controlled substances, other illegal drugs and related materials, equipment, containers, records, research, vehicles, money, and “anything of value”. MCL 333.7521 also requires that specific circumstances must be met depending on the type of property at issue.
- ii. Marihuana-Related Seizures
 1. Members shall exercise sound judgement in light of the protections of legally possessed marihuana under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), [MCL 333.27951 to MCL 333.27967](#), and the Michigan Medical Marihuana Act, [MCL 333.26421 to MCL333.26430](#).
 - a) Before seizing marihuana for a violation of the Public Health Code or under MCL 333.27965 of MRTMA, enforcement members shall have consulted with the local prosecutor or otherwise act consistent with the local prosecutor’s guidance.
 - b) Marihuana in a vehicle or otherwise possessed on one’s person may not alone establish probable cause that marihuana is evidence of a crime or contraband subject to seizure and shall not be seized under the plain view doctrine without additional facts.
 - c) When making an arrest unrelated to marihuana, an enforcement member shall avoid seizing marihuana possessed by the arrestee unless there is no readily available alternative to seizing the marihuana.
 - d) Subject to a change in legal authority, if marihuana is seized, it may not be returned to the individual or any other person.
- iii. Vehicle-Related Seizures
 1. The following vehicles (or aircrafts and vessels) shall not be seized for forfeiture:
 - a) Common carrier unless the owner/person in charge of the common carrier appears to be a consenting party to the violation.
 - b) A vehicle owner who did not have knowledge or consent to the violation. In such cases, charging an administrative fee or “selling back” the vehicle to the owner is not permissible.
 - c) A vehicle cannot be forfeited for a violation of MCL 333.4103(2)(c) or (d) for the possession of marihuana, LSD, peyote, or schedule 5 controlled substances; for a violation of MCL 333.4104 for the unauthorized use of a controlled substance; or for a violation of MCL 333.7341(4) for the unauthorized use or possession of imitation controlled substances.
 - d) A vehicle forfeiture is limited by any bona fide security interests of a secured party who did not have knowledge of or consent to the violation.

iv. Seizure of Money

1. Money found in “close proximity” to property listed under [MCL 333.7521](#) is presumed to be subject to forfeiture. Despite this presumption, enforcement members shall not presume that it is proper to seize money simply because the money is in close proximity to property listed under MCL 333.7521.
2. An example of an improper action is the seizing of cash from a driver and passengers in a vehicle simply because a small amount of an illegally possessed controlled substance was found in the vehicle (basing the seizure only on close proximity).
3. Enforcement members shall indicate in the incident report the information that led to the conclusion that the money was properly seized under the circumstance described above.
4. The lack of what the investigation enforcement member believes is a credible reason explaining the existence of the money is not a sufficient reason to seize it. There must be some evidence or information supporting the seizure such as:
 - a) Investigative activity linking the money to trafficking.
 - b) Statements from witnesses, suspects, or other subjects supporting the seizure.
 - c) Documented intelligence information
5. Section 1.7 addresses procedures for handling seized money.

v. Seizing Real Property

1. Real property generally may be considered for forfeiture under the following circumstances:
 - a) Real property utilized in the commercial distribution of controlled substances. A pattern of distribution will be required before the prosecutor will authorize forfeiture action.
 - b) Real property utilized for the storage of commercial amounts of controlled substances.
 - c) Real property utilized in the manufacture of controlled substances (i.e., large-scale marijuana grows or clandestine methamphetamine labs).
 - d) Real property purchased from proceeds to take upon seizing real property.
 - e) Section 1.7 addresses procedures to take upon seizing real property.

vi. Innocent Owners and Parties with Property Interests

1. Generally, property is not subject to forfeiture under the Controlled Substances Article if the party claiming ownership or an interest did not have knowledge of or consent to the violation or crime.

2. Members shall record relevant information demonstrating involved individuals' knowledge of or consent to a violation of the Controlled Substances Article in the incident report.
- b. Seizing Property Subject to Forfeiture
- i. Property listed under [MCL 333.7521](#) may be seized [MCL 333.7522](#) in the following circumstances:
 1. With a court order issued by a court having jurisdiction over the property upon probable cause the property is subject to seizure.
 2. Without a court order if any of the following apply:
 - a) Incident to a lawful arrest, or pursuant to a search warrant or administrative inspection warrant.
 - b) The property is subject to prior judgement from a forfeiture proceeding under the Controlled Substances Article.
 - c) There is probable cause to believe the property is directly or indirectly dangerous to health or safety.
 - d) There is probable cause to believe the property was used, or is intended to be used, in violation of the Controlled Substances Article.
 3. [MCL 333.7525](#) authorizes schedule 1 controlled substances, and plants from which schedule 1 or 2 controlled substances are derived, to be summarily seized and forfeited.
- c. Initiating and Processing a Forfeiture
- i. Upon seizing any property under the Controlled Substances Article, the enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
 - ii. Property exceeding \$50,000 and Real Property
 1. If a Forfeiture Action is required, under [MCL 333.7523](#), the prosecutor has the responsibility to file a complaint and summons with the circuit court having jurisdiction to promptly initiate forfeiture proceedings.
 2. The following property may only be forfeited through a Forfeiture Action:
 - a) The total value of the property exceeds \$50,000.
 - b) Real Property
 - iii. Property with Total Fair Market Value of \$50,000 or less
 1. Administrative Forfeiture
 - a) Property of \$50,00 or less may be Administratively Forfeited pursuant to the procedures under [MCL 333.7523\(1\)\(a\) to \(d\)](#).

- b) The enforcement member shall complete a CID-012 for the following persons and provide the person the CID-012 in the manner required below:
 - a. The person from whom the property was seized.
 - b. All property owners.
 - c. Any person with an interest in the property/
 - d. Any person charged with a crime.
- c) The CID-012 must be hand delivered or sent via certified mail, or return receipt requested. To be considered properly serviced, the owner must sign the certified mail receipt.
 - a. However, if the appropriate name(s) and address(es) are not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, notice must be sent to the Attorney General's Office to post on its webpage and published in a newspaper of general circulation in the county where the property was seized for 10 successive publishing days. It is not necessary to publish this notice in the newspaper's "Legal Notices" section, which usually costs more.
 - b. A copy of each CID-012 must be included in the work file and provided to the prosecutor. If making a copy is not practical when providing the notice to the person from whom the property was seized, the service of the CID-012 must be recorded in the incident report.
 - c. If ownership cannot be established, a CID-012 shall be served on the suspected interested party at the discretion of the investigating enforcement member. Ownership of property shall be established to the satisfaction of the prosecutor in charge of the case.
- d) If no claim is made in 20 days, the property may be declared Administratively Forfeited and be disposed of as provided under [MCL 333.7524](#) and this manual. If criminal proceedings are pending, written consent of the prosecutor is required before the property may be disposed of. That writing must be placed in the work file as an external document.

2. When a Claim is Made on the Property

- a) Any person receiving notice of the seizure and intent to forfeit the property must file a claim within 20 days of the notice.
 - a. The claim must be on [MC 311](#), a form developed by the State Court Administrative Office, pursuant to MCL 333.7523(1)(c).
 - b. A claim may be accepted by mail or in-person.

- c. A member shall not offer or suggest that a claim be made by completing a CID-014. If the member is provided a purported claim on a document other than the MC 311, it should be immediately forwarded to the prosecutor for guidance.
 - d. If a member receives a MC 311 for the property, the member shall place it in the work file, and provide a copy to the claimant. A copy must be also be provided to the prosecutor whether the claim is filed within the 20-day period.
- b) The prosecutor has the responsibility of promptly initiating forfeiture proceedings if a claim is made in 20 days. However, under [MCL 333.7523a](#), the Forfeiture Action will not proceed, and will be stayed, until after the defendant is convicted of or pleads guilty to a violation of the Controlled Substances Article.
- c) Exceptions to the Stay in Proceedings
 - a. Under [MCL 333.7523a](#) and [MCL 333.7521a](#), the Forfeiture Action will proceed after any of the following occur, even if the defendant has not been convicted of or pled guilty to a crime:
 - i. A claim was filed on the MC 311 but was later withdrawn. Enforcement members shall consult with the prosecutor to determine whether the claim was properly withdrawn.
 - ii. The requirement for a guilty plea or conviction was waived and a Forfeiture Action was elected.
 - iii. Charges have been filed, but the defendant cannot be reasonably extradited to Michigan or cannot be located for arrest despite reasonable law enforcement efforts.
 - iv. Property that cannot be legally possessed by anyone or is dangerous to health or public safety may be immediately destroyed.

3. Duty to Return Seized Property

- a) Unless an exception to the stay in forfeiture proceedings applies, property must be returned within 14 days after any of the following occur:
 - a. 90 days have passed since the property was seized and no warrant has been issued.
 - b. The charges are dismissed, or the person(s) charged are acquitted.
 - c. The court issues an order directing the return of the property or an order ending the Forfeiture Action because the prosecutor failed to meet the applicable burden.

- b) Members responsible for the seizure of property shall consult with the prosecutor before the 14-day period expires to determine whether the prosecutor intends to or has filed a motion for the extension allowing the property to be retained for a longer period.

iv. Handling and Disposing of Property

1. Handling Seized Property Pending Forfeiture

- a) Seized property shall be handled in accordance with Sections 1.7 and 1.8 while the forfeiture remains pending.
- b) Under [MCL 333.7523](#), property seized under the Controlled Substances Article must be handled in one of the following ways, as applicable:
 - a. Placed under seal.
 - b. Removed and placed as designated by the court.
 - c. Require the Michigan Board of Pharmacy (or its designated authority) to take custody and legally dispose of the property.
 - d. Deposit money into an interest-bearing account in a “financial institution”. Before depositing the money, an attorney for a person charged with a crime shall be given 60 days, from the date notice of the seizure was provided, to examine the money.

2. Disposing of Property After Forfeiture

- a) Forfeited property shall be disposed of in accordance with the Sections 1.9 and 1.11.
- b) Under [MCL 333.7524](#), property forfeited under the Controlled Substance Article must be disposed of in one of the following ways, as applicable.
 - a. Require the Michigan Board of Pharmacy (or its designated authority) to take custody and legally dispose of the property.
 - b. Forward to the Drug Enforcement Administration, United State Department of Justice, or its successor agency.
 - c. Retain it for official use.
 - d. Sold, if it is not required by law to be destroyed and is not harmful to the public. The court may appoint a receiver who is responsible for selling the property.
- c) Proceeds from the sale must be deposited with the State Treasurer and applied in the following priority:
 - a. Payment of proper expenses of forfeiture proceedings.

- b. The remaining balance will be equitably distributed by the court to the agency or agencies substantially involved in the forfeiture.
- d) Money all interests and earnings therefrom must be used as follows.
 - a. For law enforcement purposes, as appropriated by the entity having budgetary authority.
 - b. Directed to a nonprofit organization whose primary activity it to assist law enforcement agencies with drug-related criminal investigations and obtaining information for solving crimes.
- 3. Scales and grow equipment are authorized for donation to schools. See Section 1.9.8 and MCL 333.7524(2) for further detail.

1.5 “Omnibus” Provisions of the Revised Judicature Act of 1961, [MCL 600.4701 to MCL 600.4710](#)

- a. Property Subject to Seizure and Forfeiture ([MCL 600.4702](#))
 - i. Real and person property that is proceeds, substituted proceeds, or instrumentalities of crime (as those terms are defined under [MCL 600.4701](#)) are subject to seizure and forfeiture.
 - 1. The statute defines “crime” under MCL 600.4701(a) by listing multiple criminal statutes. The violation at issue must be listed under the definition of “crime” in order for the property to be subject to seizure and forfeiture.
 - 2. In addition to proceeds, substituted proceeds, and instrumentalities of the crime, for the crimes of animal fighting ([MCL 750.49](#)), human trafficking ([MCL 750.462a to 450.462h](#)), or terrorism ([MCL 750.543a to 750.543z](#)), property is subject to forfeiture if any of the following apply to the property:
 - a) Contributed directly and materially to the commission of the crime.
 - b) Was used to conceal the crime.
 - c) Was used to escape from the scene of the crime.
 - d) Was used to conceal the identity of one or more of the individuals who committed the crime.
 - ii. Real Property
 - 1. The primary residence of a spouse or dependent child is not subject to forfeiture unless the spouse or child had prior knowledge of the crime and consented to it.
 - 2. Section 1.7 addresses procedures to take upon seizing real property.
- b. Seizing Property Subject to Forfeiture ([MCL 600.4703](#))
 - i. Property listed under [MCL 600.4702](#) may be seized under the following circumstances:

1. With a court order issued by a court having jurisdiction over the property upon probable cause the property is subject to seizure.
 2. Without a court order if any of the following apply:
 - a) Incident to a lawful arrest, or pursuant to a search warrant or administrative inspection warrant.
 - b) The property is subject to a prior judgement from a forfeiture proceeding under the Omnibus provisions.
 - c) There is probable cause to believe the property is directly or indirectly dangerous to health or safety.
 - d) There is probable cause to believe the property is subject to forfeiture and exigent circumstances prevent obtaining a court order.
- c. Innocent Owners and Parties and Property Interests
- i. Generally, property is not subject to seizure or forfeiture under the Omnibus provisions if the party claiming ownership or an interest did not have knowledge of a consent to the violation or crime.

Note: The property of a “willfully blind” owner/interested party may nevertheless be subject to forfeiture. “Willfully blind” means the intentional disregard of objective fact that would lead a reasonable person to conclude that the property was derived from unlawful activity or would be used for an unlawful purpose.
 - ii. Property is not subject to forfeiture if the property owner gave written and timely notice to an appropriate law enforcement agency and to the person committing the crime upon learning of the crime.
 - iii. Members shall record relevant information demonstrating involved individuals’ knowledge or consent to a crime in the incident report.
 - iv. Property belonging to a victim must be promptly returned to the victim, unless:
 1. The property is contraband,
 2. The ownership is disputed.
 3. The property must be retained as evidence under the Crime Victim’s Rights Act, [MCL 780.754](#).
- d. Initiating and Processing a Forfeiture ([MCL 600.4704](#))
- i. Upon seizing any property under the Omnibus provisions, the enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
 - ii. Real property
 1. The prosecutor is responsible for providing notice of the seizure and intent to forfeit real property to those entitled to notice. The prosecutor is also responsible for filing a lien notice against the real property.

2. Section addresses procedures to take upon seizing real property

iii. Personal Property

1. Within 28 days after the personal property is seized, the enforcement member shall provide notice to all of the following persons in the manner required below.
 - a) The person from whom the property was seized.
 - b) Any person charged with a related crime.
 - c) Each person with a known ownership or security interest in the property, and each person with a security interest or lien that appears on the certificate of title or is on file with the Secretary of State.
 - d) Each victim of the crime.
 - e) For a watercraft more than 28 feet long or has a capacity of 5 net tons or more, each holder of a preferred ship mortgage of record in the appropriate public office.
 - f) For an aircraft, aircraft engine, or aircraft propeller, or part of those things, each person with a security interest recorded in the appropriate public office.
2. Service of notice must be coordinated with the prosecutor's office. A CID-012 may be served to effectuate notice if it is at the direction of the prosecutor. If a CID-012 is initially completed but later not authorized by the prosecutor, it must be discarded.
3. The notice/CID-012 must be hand delivered or sent via certified mail, return receipt requested. To be considered properly served, the owner must sign the certified mail receipt.
 - a) However, if the name and address of the person described in this section is not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, notice must occur by publishing it in the newspaper of general circulation in the county where the property was seized for 10 successive publishing days. It is not necessary to publish this notice in the newspaper's "Legal Notices" section.
 - b) A copy of each notice/CID-012 must be made for the work file and provided to the prosecutor. If making a copy is not practical when providing the notice to the person from whom the property was seized, the service of the CID-012 must be recorded in the incident report.
 - c) If ownership cannot be established, notice/CID-012 shall be served on the suspected interested party at the discretion of the investigating enforcement member. Ownership of property shall be established to the satisfaction of the prosecutor in charge of the case.

4. Proof of written notice or publication shall be filed with the court having jurisdiction over the seizure of the forfeiture.
- iv. Duty to Return Property without a Conviction and Provide Notice ([MCL 600.4706](#))
 1. Seized property cannot be forfeited without a conviction for a crime.
 2. Property must be returned within seven days after any of the following occur:
 - a) A warrant is not issued against a person within 28 days after the property was seized. Members responsible for the seizure of the property shall consult with the prosecutor before the seven-day period expires to determine whether the prosecutor intends to or has filed a motion for an extension allowing the property to be retained for an additional 28 days.
 - b) The charge(s) are dismissed, or the person(s) were acquitted.
 - c) Entry of a court order to return the property.
 3. If the property is returned under MCL 600.4706, within seven days of returning the property, notice must be provided in the same manner, and to the same individual(s), described above in Section 1.5.d that is in accordance with [MCL 600.4704](#).
 - v. Forfeiture after a Conviction
 1. Property Exceeding a total value of \$100,00 and Real Property
 - a) The prosecutor has the responsibility to file a complaint and summons with the circuit court having jurisdiction to promptly initiate forfeiture proceedings within 28 days of the conviction. Real property and property exceeding \$100,00 must be forfeited through a Forfeiture Action.
 2. Property with Total Value of less than \$100,00
 - a) Notice must be provided within 28 days after the conviction in the same manner, and to the same individual(s), described above in Section 1.5.d (that is in accordance with [MCL 600.4704](#))
 - b) If no claim is made in 28 days, the property may be declared Administratively Forfeited and be disposed of as provided under [MCL 600.4708](#) and this manual.
 - c) When a Claim is Made on the Property
 - a. A person receiving notice of the seizure and the intent to forfeit the property must file a claim within 28 days of notice.
 - i. The claim must describe the claimant's property interests and be written, signed, and notarized with a certification that claim is true and complete.

- ii. A claim may be accepted by mail or in-person.
 - iii. A claim shall not be accepted after the 28-day period; however, the prosecutor must be notified that a claim was attempted.
 - b. A claim may be made on a CID-014, the form must be completed by the person accepting the claim.
 - i. The item number and description of the property on the CID-014 must match the property segment entry on the CID-013.
 - ii. If a claim is accepted without the CID-014, the form must be completed by the person accepting the claim.
 - c. A claim received must be placed in the work file, a copy must be provided to the claimant.
 - d. The prosecutor shall immediately be provided a copy of the claim/CID-014.
 - e. The prosecutor has the responsibility of initiating a Forfeiture Action within 28 days after the initial 28-day period.
- 3. Property must be returned within seven days if the court issues an order ending the Forfeiture Action because the prosecutor failed to meet the applicable burden.
- e. Handling and Disposing of Property
 - i. Handling the Seized Property Pending Forfeiture
 - 1. Seized property shall be handled in accordance with Sections 1.7 and 1.8 while the forfeiture remains pending.
 - 2. Under [MCL 600.4703\(5\) and \(6\)](#), [MCL 600.4704\(4\)](#), property seized under the Omnibus provisions must be handled in one of the following ways, as applicable:
 - a) Placed under seal.
 - b) Removed and placed as designated by the court.
 - c) Deposit money into an interest-bearing account in a “financial institution”. Before depositing the money, an attorney for a person charged with a crime shall be given 56 days, from the date notice of the seizure was provided, to examine the money.
 - 3. Violations of the “Fraudulent Access to Computers, Computer Systems, and Computer Networks” Act, [MCL 752.791 to MCL 752.797](#).
 - a) For seizures of property involving a violation of this Act, copies of information contained on computers and computer storage devices must be immediately made under the court’s supervision.

- b) Note: there is an additional authorization under [MCL 752.796b](#) for seizure and forfeiture of property used in connection with a violation of [MCL 752.791 to MCL 752.797](#), which must be in accordance with the Omnibus provisions.

- ii. Disposing of Property After Forfeiture

1. Forfeited property shall be disposed of in accordance with Sections 1.9 and 1.11.
2. Under [MCL 600.4708](#), property forfeited under the Omnibus provisions may be sold, as long as it is not required by law to be destroyed and is not harmful to the public.
3. Proceeds from the sale must be applied in the following priority:
 - a) Payment of valid security interests.
 - b) Satisfy order(s) of restitution and any other remaining claims of victims.
 - c) Payment of government liens.
 - d) Payment of proper expenses for forfeiture proceedings.
 - e) The remaining balance will be equitably distributed by the court to the agency or agencies substantially involved in the forfeiture.
4. Money received must be used as follows:
 - a) Seventy-five percent must be used to enhance enforcement of criminal laws.
 - b) Twenty-five percent must be used to implement the Willian Van Regenmorter Crime Victim's Rights Act, MCL 780.751 to 780.834.
5. The department is responsible for reporting annually the amounts received and how it was used to the Department of Technology, Management, and Budget.

1.6 Other Statutorily Authorized Property Forfeitures

- a. If property is not subject to seizure and forfeiture under the Controlled Substances Article or the Omnibus provisions, there may be other statutes that authorize and control the seizure and forfeiture.
- b. The other statutes authorizing property seizure and forfeiture provide varying levels of detail regarding the applicable requirements and procedures. As a result, the policies applicable to initiating and processing a forfeiture under the Omnibus provisions described under Section 1.5 shall generally apply to forfeitures under statutory authority other than the Controlled Substances Article unless a more specific provision of this manual or of the applicable statute applies.
- c. The following are examples of additional statutes that authorize the seizure and forfeiture of property arising from a violation of law.
 - i. The "Chop Shop" Statute ([MCL 750.535a](#))

1. Property Subject to Seizure and Forfeiture

- a) Property listed under MCL 750.535a(5), such as stolen motor vehicles, a major component part(s), or other personal property or real property used in a chop shop operation, may be seized with an order from the court having jurisdiction over the property. It may also be seized without a court order under the circumstances listed under MCL 750.535a(6). Section 1.7 addresses procedures to take upon seizing real property.
- b) Generally, property is not subject to seizure or forfeiture under MCL 750.535a if the party claiming ownership or an interest did not have knowledge of or consent to the violation or crime if a person is a bona fide purchaser for value.
- c) Members shall record relevant information demonstrating the involved individuals' knowledge of or consent to a crime in the incident report.
- d) The forfeiture of property seized under MCL 750.535a requires a conviction under MCL 750.535a (or other criminal violations listed under MCL 750.535a(5)).

2. Initiating and Processing a Forfeiture

- a) Upon seizing personal property and as soon as a comprehensive list of the property is completed, the prosecutor must be contacted to file the Forfeiture Action. A Forfeiture Action is required, and Administrative Forfeiture is not available.
 - a. A copy of the search warrant return may suffice as a comprehensive list.
 - b. The enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
- b) A property owner is entitled to notice of the seizure and forfeiture at least 10 days before the forfeiture hearing. Notice shall also be provided to the person from whom the property was seized.
 - a. Service of notice must be coordinated with the prosecutor's office. A CID-012 may be served to effectuate notice if it is at the direction of the prosecutor.
 - i. Notice must contain a general description of the property and any serial or registration numbers.
 - ii. If a CID-012 is used, a copy must be made for the work file and provided to the prosecutor. If making a copy is not practical when providing notice to the person from whom the property was seized, the service of the CID-012 must be recorded in the incident report.

- iii. If a CID-012 is initially completed but later not authorized by the prosecutor, it must be discarded.
 - b. The notice/CID-012 must be hand delivered or sent via certified mail, return receipt requested. To be considered properly served, the owner must sign the certified mail receipt.
 - c. If the property owner is not known or cannot be found, notice may be served by publishing notice of the hearing not less than 10 days before the hearing in a newspaper of general circulation in the county where the hearing will be held. Notice still must contain a general description of the property and any serial or registration numbers. It is not necessary to publish this notice in the newspaper's "Legal Notices" section.
 - d. If ownership cannot be established, notice/CID-012 shall be served on the suspected interested party at the discretion of the investigating enforcement member. Ownership of property shall be established to the satisfaction of the prosecutor in charge of the case.
- c) Return of Property
- a. Property seized without a court order must be returned 14 days after the seizure unless a hearing has been scheduled. The date must be set, but the hearing does not have to occur within the 14-day period.
 - b. Stolen property must be returned to the rightful owner if ownership can be established to the satisfaction of the member.
 - c. A bond of 1.5 times the property's value may be posted by the owner or a licensed parts dealer to retain the property unless the property is being held as evidence.
- d) Handling and disposing of property
- a. Handling Seized Property Pending Forfeiture
 - i. Seized property shall be handled in accordance with Sections 1.7 and 1.8 while the forfeiture remains pending.
 - ii. Under MCL 750.535a(8), (9), and (10), property was seized under the Chop Shop Statue must be handled in one of the following ways, as applicable:
 - 1. Placed under seal.
 - 2. Removed to a designated storage area.
 - 3. Petition the court to appoint a custodian to take the property and legally dispose of it. This

process must be done in consultation with the prosecutor's office.

4. Deposit money into an interest-bearing account in a "financial institution". Before depositing the money, an attorney for a person charged with a crime shall be given 60 days, from the date notice of the seizure was provided, to examine the money.

- iii. Unclaimed stolen property may be sold, as authorized by law and policy.

b. Disposing of Property After Forfeiture

- i. Forfeited property shall be disposed of in accordance with Sections 1.9 and 1.11.
- ii. Under MCL 750.535a(15), property forfeited under the Chop Shop Statute must be disposed of as follows:
 1. The sale of property must be pursuant to a court order.
 2. The proceeds of the sale will be equitably distributed by the court to the entity or entities having budgetary authority over the seizing agency(s).
 3. Twenty-five percent of the money received must be used to enhance law enforcement efforts pertaining to the Chop Shop Statute.

ii. Gambling/Gaming

1. Gambling Chapter of the Michigan Penal Code ([MCL 750.301 to 750.315a](#))

- a) A court order is required for the seizure and forfeiture of real or personal property relating to gambling within a "gaming" or "gambling" house pursuant to [MCL 750.308](#).
 - a. Evidentiary property may be sized in accordance with law pertaining to the seizure of evidence.
 - b. A Forfeiture Action is required, and Administrative Forfeiture is not available.
 - c. Section 1.7 addresses procedures to take upon seizing real property.
- b) The enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.

- c) The forfeiture of property requires “due notice and hearing” under [MCL 750.308a](#).
 - a. The statute does not establish a time limit in which the notice or the hearing must occur. Service of notice must be coordinated with the prosecutor’s office.
 - b. At the direction of the prosecutor, a CID-012 may be served on the person from whom the property was seized. If a CID-012 is initially completed but later not authorized by the prosecutor, it must be discarded.
 - c. If ownership cannot be established, notice/CID-012 shall be served on the suspected interested party at the discretion of the investigating enforcement member. Ownership of property shall be established to the satisfaction of the prosecutor in charge of the case.
 - d. A copy of the notice-CID-012 must be made for the work file and provided to the prosecutor. If making a copy is not practical when providing the notice to the person from whom the property was seized, the service of the CID-012 must be recorded in the incident report.
 - d) The statute does not specifically address filing a Claim of Interest on the property. Persons claiming an interest in the property who want to challenge its seizure and forfeiture must be directed to contact the prosecutor in charge of the case.
 - e) Property forfeited shall be disposed of in accordance with the court order pursuant to [MCL 750.308a](#). Money shall be deposited with the State Treasurer.
2. Michigan Gaming Control and Revenue Act ([MCL 432.201 to 432.226](#))
- a) Real or personal property used, obtained, or received in violation of the Act, including equipment, gambling devices, money, material of gaming, proceeds, or substituted proceeds are subject to [MCL 432.219](#).
 - b) The handling and disposition of seized and/or forfeited property relating to gambling and gaming forfeitures must be in accordance with the applicable statutes cited above with Sections 1.7, 1.8, 1.9, and 1.11.
3. Criminal Enterprises Chapter of the Michigan Penal Code (Racketeering) ([MCL 750.159f to 750.159x](#))
- a) The seizure and forfeiture of property relating to a violation of [MCL 750.159i](#) may occur in either of the following circumstances:
 - a. The court order will direct the proper scope and manner of seizure.

- b. The court, in conjunction with the prosecutor, is responsible for providing notice of the forfeiture order and, if applicable, conducting a forfeiture hearing under MCL [750.195k](#).
 - c. Property forfeited shall be disposed of in accordance with [MCL 750.159j](#) and [MCL 750.159r](#) and with this manual.
- b) Through civil procedures pursuant to [MCL 750.159m to MCL 750.159q](#).
- a. Generally, property is not subject to seizure or forfeiture if the party claiming ownership or an interest did not have actual prior knowledge of or consent to the violation or crime, or if the person provided notice of the crime to law enforcement. Members shall record relevant information demonstrating involved individuals' knowledge of or consent to a crime in the incident report.
 - b. A crime victim's property must be promptly returned, unless it is contraband or retaining the property is necessary until a dispute over the property is resolved.
 - c. Real property shall not be seized without notice and a hearing. Seizures of real property must be pursuant to consultation with the prosecutor. Section 1.7 addresses procedures to take upon seizing real property.
 - d. Personal property may be seized pursuant to a court order, initiated by the prosecutor, if the court determines it is supported by probable cause.
 - e. Personal property may be seized without a court order under the circumstances described in [MCL 750.159n\(4\)](#).
 - i. The enforcement member shall complete the CID-013 and ensure that the prosecutor is immediately notified by providing a copy of the CID-013.
 - ii. The prosecutor is responsible for providing notice of the seizure and intent to forfeit within 14 days under [MCL 750.159o](#).
 - iii. The prosecutor is responsible for receiving claims to the property under [MCL 750.159p](#). If a member receives a claim, it must immediately be provided to the prosecutor.
 - iv. If no claim is made, the prosecutor declares the property Administratively Forfeited.
 - v. If a timely claim is made, the prosecutor is responsible for initialing the Forfeiture Action.

- vi. Property must be returned within 28 days of a court order directing such action, and the prosecutor is responsible for providing notice of the property's return pursuant to [MCL 750.159q](#).
- f. Seized property shall be handled in accordance with [MCL 750.159n\(8\)](#) and Sections 1.7 and 1.8 while the forfeiture remains pending. Seized property must be handled in one of the following ways, as applicable:
 - i. Placed under seal.
 - ii. Removed and placed as designated by the court.
- g. Property forfeited shall be disposed of in accordance with [MCL 750.159r](#) and Sections 1.9 and 1.11.
 - i. Forfeited property may be sold, as long as it is not required by law to be destroyed and is not harmful to the public.
 - ii. Proceeds from the sale must be applied in the following priority:
 - 1. Payment of valid security interest.
 - 2. Satisfy order(s) of restitution and any other remaining claims of victims.
 - 3. Payment of governmental liens.
 - 4. Payment of proper expenses of forfeiture proceedings.
 - 5. The remaining balance will be equitably distributed by the court to the agency or agencies substantially involved in the forfeiture.
 - iii. Money received must be to enhance enforcement of criminal laws.
- 4. Identity Theft Protection Act ([MCL 445.61 to MCL 445.79d](#))
 - a) Property, including real and personal property, subject to seizure and forfeiture is listed under [MCL 445.79](#).
 - b) The property owner must have consented to or actively participated in the violation of the Act. Members shall record relevant information demonstrating involved individuals' knowledge of, consent to, or participation in a crime in the incident report.
 - c) Property may be seized pursuant to a court order or without a court order under the circumstances described in [MCL 445.79a](#).

- d) The enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
- e) Title to real property must be determined by the court in a Forfeiture Action, and Administrative Forfeiture is not available for property with a total value of more than \$50,000. Section 1.7 addresses procedures to take upon seizing real property.
- f) Property of \$50,00 or less may be Administratively Forfeited pursuant to the procedures under [MCL 445.79b\(1\)](#).
 - a. Upon seizing property that could be Administratively Forfeited, notice shall be given to the property owner, other person(s) with an interest in the property, and any person charged with a crime.
 - b. Service of notice must be coordinated with the prosecutor's office. A CID-012 may be served to effectuate notice if it is at the direction of the prosecutor. If a CID-012 is initially completed but later not authorized by the prosecutor, it must be discarded.
 - c. If ownership cannot be established, notice/CID-012 shall be served on the suspected interested party at the discretion of the investigating enforcement member. Ownership property shall be established to the satisfaction of the prosecutor in charge of the case.
 - d. The notice/CID-012 must be hand delivered or sent via certified mail, return receipt requested. To be considered properly served, the owner must sign the certified mail receipt.
 - i. However, if the appropriate name(s) and address(es) are not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, notice may be served by publishing notice of the hearing not less than 10 days before the hearing in a newspaper of general circulation in the county where the hearing will be held. Notice still must contain a general description of the property and any serial or registration numbers. It is not necessary to publish this notice in the newspaper's "Legal Notices" section.
 - ii. A copy of each notice/CID-012 must be made for the work file and provided to the prosecutor. If making a copy is not practical when providing the notice to the person from whom the property was seized the service of the CID-012 must be recorded in the incident report.
 - e. If no claim is made in 20 days or the bond described below is not given, the property may be declared Administratively

Forfeited. However, the prosecutor must provide written consent for disposition if criminal proceedings involving the property remain pending.

- f. A person receiving notice of seizure and intent to forfeit the property must file a claim within 20 days of the notice and provide a bond of 10% of the property value, but no less than \$250 or greater than \$5000.
 - i. A claim may be made on a CID-014, and when practical, the claimant should be given the CID-014 to sign.
 - ii. A claim receive must be placed in the work file, and a copy must be provided to the claimant.
 - iii. The prosecutor shall immediately be provided a copy of the claim/CID-014 and the bond.
 - iv. The prosecutor has the responsibility of promptly initiating forfeiture proceedings if a claim is made in 20 days.
- g. Seized property shall be handled in accordance with [MCL 445.79b](#) and Sections 1.7 and 1.8 while the forfeiture remains pending. Seized property must be handled in one of the following ways, as applicable:
 - i. Placed under seal.
 - ii. Removed and placed as designated by the court.
 - iii. Take custody and legally dispose of the property.
 - iv. Deposit money into an interest-bearing account in a “financial institution”.
 - 1. Before depositing the money, an attorney for a person charge with a crime shall be given 60 days, from the date notice of the seizure was provided, to examine the money.
- h. Property forfeited shall be disposed of in accordance with [MCL 445.79c](#) and sections 1.9 and 1.11.
 - i. Forfeited property must be disposed of in one of the following ways, as applicable:
 - 1. Retain for official use.
 - 2. Take custody and legally dispose of property.
 - 3. Sold, as long as it is not required by law to be destroyed and is not harmful to the public. The

court may appoint a receiver who is responsible for selling the property.

- ii. Proceeds from the sale must be deposited with the State treasurer and applied in the following priority:
 1. Payment of proper expenses of forfeiture proceedings, subject to a court order directing otherwise.
 2. The remaining balance will be equitably distributed by the court to the entity or entities having budgetary authority over the seizing agency(s).
- iii. Money and all interests and earning therefrom must be used for law enforcement purposes, as appropriated by the entity having budgetary authority.

d. Firearms

- i. Firearms Chapter of the Michigan Penal Code ([MCL 750.222 to MCL 750.239a](#))
 1. Firearms, weapons, or devices possessed or used contrary to the Firearms Chapter are Summarily Forfeited, as described in [MCL 750.239](#), are Summarily Forfeited and a conviction is not necessary.
 - a) These statutes are not in the firearms chapter and are not subject to Summary Forfeiture.
 - b) However, the underlying circumstances should be considered to determine whether the firearms was nevertheless possessed or used contrary to the Felony-Firearm statute, [MCL 750.227b](#), which is in the firearms chapter.
 2. Exception - "Computer assisted shooting" contrary to [MCL 750.236a](#) and [MCL 750.236b](#)
 - a) While these statutes are in the firearms chapter; they are not subject to Summary Forfeiture.
 - b) These violations are expressly subject to the Omnibus provisions.
 3. If a member receives a court order directing the return of a firearm that was Summarily Forfeited, the member shall immediately contact the prosecutor and the Legal Resources and Education Unit for further guidance.
 4. Before disposing of the seized firearm, LEIN must be checked to determine if it was reported lost or stolen, and if so, 30 days' written notice must be provided to the owner if the name and address can be determined. The owner must be provided 30 days to claim the firearm.

5. In addition, 30 days' notice must be provided on the department's website, including a description and serial number. The owner has 30 days to claim the firearm.
- ii. Firearms Act ([MCL 28.421 to MCL 28.435](#))
 1. Except as provided below, all pistols, weapons, or devices carried or possessed contrary the Act are Summarily Forfeited under [MCL 28.434](#). The notice process described above under Section 1.6 shall apply.
 2. Exceptions for "Pistols" and "Portable Devices that Use Electro-muscular Disruption Technology" (Tasers)
 - a) If carried contrary to the Firearms Act, they are subject to the Omnibus provisions, not Summary Forfeiture, under [MCL 28.425g](#).
 - b) If carried contrary to [MCL 28.425f](#) (failing to have identification and concealed pistol license while carrying concealed or failing to show identification or the concealed pistol license upon a peace officer's request while carrying concealed), they are immediately subject to seizure, unless the person has a state-issued identification and the member is able to verify the concealed pistol license through LEIN. The pistol or portable device that uses electro-muscular disruption technology must be returned if the person provides the identification or license within 45 days (unless the person is otherwise prohibited from possessing the pistol or device).
 - iii. Michigan Retired Law Enforcement Officer's Firearm Carry Act ([MCL 28.511 to MCL 28.527](#))
 1. A firearm carried in violation of the Act is subject to seizure and forfeiture pursuant to the Omnibus provisions, as described in [MCL 28.522](#).
 2. However, a firearm is not subject to seizure and forfeiture for a civil infraction violation under [MCL 28.425f](#) and provides a concealed pistol license within the 45-day period described above.
 - iv. Additional Statutes
 1. Vehicles subject to forfeiture for certain violations of the Michigan Vehicle Code pursuant to [MCL 257.625n](#).
 2. Vehicles and its cargo subject to forfeiture for certain violations of the Motor Fuel Tax Act pursuant to [MCL 207.1129](#).
 3. Various property subject to forfeiture for violations of the Tobacco Products Tax Act pursuant to [MCL 205.429](#).
 4. Various property may be subject to forfeiture as a declared nuisance under [MCL 600.3801](#).
 5. Certain violations of the Natural Resources and Environmental Protection Act may subject property to forfeiture pursuant to the Omnibus provisions. (E.g.

[MCL 324.41310](#) (prohibited animal species), [MCL 324.11146](#) (hazardous waste management), [MCL 324.16909a](#) (scrap tires), [MCL 324.12114](#) (liquid industrial by-products).

6. Certain violations of the Continuing Care Community Disclosure Act may subject property to forfeiture pursuant to the Omnibus provisions. [MCL 554.985](#).
7. Statutes controlling the seizure of animals, including the seizure of a wolf-dog cross under [MCL 287.1017](#), of animals used for fighting under [MCL 750.49](#), and of large carnivores under [MCL 287.1118](#).

1.7 Handling Property Pending Forfeiture

- a. Seized property is generally deemed to be in the custody of the seizing agency subject only to the order and judgment of the court having jurisdiction over the forfeiture proceedings.
- b. Once a claim of interest is made, a civil suit is filed, or a criminal case is pending, contested property shall not be disposed of and must be retained unless consent to dispose of or the return the property is given by the prosecutor in charge of the case or until a court order is issued.
- c. Agreements with Claimant
 - i. The seizing work unit may enter into a consent agreement with the claimant regarding disposition of the property. If criminal proceedings are still pending, the prosecutor in charge of the case shall authorize the release of the property.
 - ii. If the nature of the property is such that it is expensive to store or maintain, or it is depreciating in value, the prosecutor in charge of the case should be encouraged to seek an agreement with the claimant to sell the property and place the proceeds in escrow until the suit is settled.
- d. Real Property
 - i. The law provides that title to forfeited real property shall be determined by the court having jurisdiction. For this reason, forfeiture actions involving real property shall be handled by the prosecutor in charge of the case.
 - ii. After initiating a forfeiture action against real property, the following procedure shall be followed:
 1. Once real property has been seized pending forfeiture, necessary steps shall be taken to prevent unauthorized sale of the property. Ordinarily this is done by the prosecutor in charge of the case filing a notice of "Lis Alibi Pendens" (suit pending elsewhere), or lien in the circuit court where the property is located and with the register of deeds for the county.
 2. The property segment of the department records management system describing the property and a CID-013 shall be completed.
 3. If the property is occupied, the seizing work unit shall request that the prosecutor enter into an occupancy agreement with the defendant where the defendant agrees to maintain the property and pay all bills including the

- mortgage, taxes, insurance, and utilities in exchange for being allowed to occupy the property while the forfeiture action is pending.
4. If the property is vacant, the seizing work unit shall make whatever arrangements are necessary for the maintenance and preservation of the real property.
- e. Property shall be stored according to Official Order 12-03, with special consideration for the following:
- i. Seized money subject to forfeiture.
 1. County Seized Money
 - a) Whenever practical, the money seized shall be counted on scene by the seizing officer in the presence of the owner.
 - b) When not practical to count the money on scene (e.g., large sum of money, officer safety, environment not conducive to counting the money, etc.), the seizing officer shall place the money in an approved tamper- proof evidence bag and seal and initial it.
 - c) All money shall have two independent counts, plus verification by a supervisor or taken to the financial institution for machine counting and documented accordingly in the incident report.
 - d) A DD-020 shall be completed for all seized cash. The DD-020 shall be treated as an external document.
 - e) Bills shall be identified by denomination in the property description of the report.
 - f) After the count is completed, the money shall be placed in an approved tamper- proof evidence bag and sealed and initialed by the officer sealing the bag.
 2. An ADM-027 and entry into the property segment of the report shall be completed. The receipt number shall be recorded in the property segment and on a computer-generated property label. Money seized that has evidentiary value shall be stored according to the procedures in Official Order 12-01. Any money seized that must be preserved for trial shall not be deposited in the financial institution. If stored at the worksite, the money shall be placed in a locked container within the work site's property room.
 3. Financial Institution Deposits
 - a) The work unit or section commander is responsible for financial institution deposits.
 - b) Depending on the statutory authority under which the money is seized, an attorney for a person charged with a crime may have the right to examine the money before it is deposited. Those rights and mandatory

examination periods are addressed above in this manual within the discussion specific to statute(s).

- c) If the money has been administratively forfeited, work units should deposit the money seized. Any exceptions to this shall be documented in the incident report.
- d) The seal on the envelope containing the seized money shall remain sealed until the financial institution's count at the time of deposit.
- e) The deposit slip shall be attached to the back of the duplicate copy of the Official Receipt, ADM-027.
- f) Cash seized from multiple incidents may be combined into a single deposit if recorded on an ADM-028 (or equivalent local form for multi-jurisdictional task force).
- g) The deposit receipt should be attached to the ADM-028 (or equivalent) and filed by date.
- h) The ADM-028 (or equivalent) shall be retained until the retention date of the corresponding Official Receipt Book has expired.
- i) When approved, the money shall be deposited in an interest-bearing forfeiture account regardless of the status of the forfeiture proceeding. The date of deposit shall be recorded in the disposition section of the duplicate copy of the Official Receipt, ADM-027.
- j) Interest that is earned on the forfeiture account shall be recorded as net forfeiture proceeds and transferred to the non-adjudicated account.
- k) Net forfeiture proceeds and court ordered restitution should also be listed on an ADM-028 (or equivalent) and filed by date. The amount shall be transferred to the adjudicated forfeiture account.
- l) Expenses related to the care and maintenance of personal or real property that is pending forfeiture shall be paid from the operating account.

4. Work units other than a multi-jurisdictional task force:

- a) An original and three copies of a financial institution deposit receipt shall be prepared. "Narcotics Forfeiture," "Auto Theft Forfeiture," "Gambling Forfeiture," or "General Forfeiture," and the incident number shall be printed on the original and all copies of the deposit receipts. The money shall be deposited in the State Treasurer's Account. The financial institution will keep the original deposit receipt, stamp, and return the three copies and provide a financial institution deposit confirmation receipt.
- b) "Deposit Pending Forfeiture" and the date of the deposit shall be entered in the property segment of the department records

management system. The incident shall be kept open pending final disposition of the forfeiture.

- c) Immediately after depositing the money the financial institution, one copy of the deposit slip and a completed ADM-028 shall be sent directly to BFS. The original deposit receipt and the deposit confirmation slip shall be affixed to the duplicate receipt in the Official Receipt Book.
5. When the seizing work unit is a multi-jurisdictional task force, the seized money shall be deposited in a financial institution and recorded according to the task force's internal policies and procedures. A financial institution deposit receipt shall be attached to the back of the ADM-027 maintained by that task force. "Deposit Pending Forfeiture" and the date of the deposit shall be entered in the property segment of the department records management system. The incident shall be kept open pending final disposition of the forfeiture.

ii. Recovered Buy Money

1. Recovered "buy money" is money that can be traced to an undercover purchase for which an Imprest Cash Receipt has already been submitted.
 - a) At the discretion of the worksite commander, recovered buy money may be recorded on the report forms, if necessary, to protect the identity of a confidential informant.
 - b) An ADM-027 and a property segment entry shall be completed. The receipt number shall be recorded in the property segment. Any other funds seized shall be recorded in a separate entry.
2. When the money is no longer needed as evidence, an original and three copies of a bank deposit receipt shall be prepared. "RECOVERED BUY MONEY" and the incident number shall be printed on the original and all copies of the deposit receipts. The ADM-028 shall also include the accounting structure (SIGMA unit code) to credit the deposit to the appropriate account.
 - a) For worksites, other than multi-jurisdictional drug task forces, the money shall be deposited in the State Treasurer's Account. The financial institution will keep the original deposit receipt, stamp, and return the three copies, and provide a financial institution deposit confirmation receipt.
 - b) If the money used was issued from task force funds, it shall be deposited and recorded according to the internal policies and procedures of the task force.
3. Immediately after depositing the money in the financial institution, the work unit commander shall note in the property segment of the department records management system in the Seized/Received by Section "Deposited to Imprest Cash." The incident shall remain open, pending final disposition of forfeiture. It shall then be forwarded to the BFS with the final forfeiture packet. See Section 1.15 of this manual.

4. The completed ADM-028 and one copy of the financial institution deposit slip shall be forwarded to the BFSD.
 5. One copy of the deposit slip and the deposit confirmation receipt shall be attached to the property receipt.
- iii. Reverse Buy Money
 1. Money received in a reverse transaction shall be processed as seized money subject to forfeiture.
 - iv. Motor Vehicles
 1. Vehicles seized for forfeiture shall be considered impounded and shall be inventoried according to the procedures outlined in the Towing and Impounding Vehicles procedure manual.

1.8 Property Ordered Returned

- a. Property seized pending forfeiture and later ordered returned shall be disposed of according to this manual, with special considerations for the following:
 - i. To return money or a bond, a CID-015A shall be submitted to the BFSD listing the amount to be returned and the payee information in Section III of the form. The CID-015A shall be submitted only on completion of forfeiture. See Section 1.11.b of this manual.
 - ii. If the money was seized by a multi-jurisdictional task force, it shall be returned according to the internal policies and procedures of the task force.
- b. Real Property
 - i. The owner of the property shall sign the property receipt, and the prosecutor in charge of the case shall remove the "Lis Alibi Pendens".
- c. Omnibus Forfeiture
 - i. Within seven days after personal property is returned to the owner, the seizing work unit shall give notice to all persons who received notice under Section 1.5 that the property has been returned to the owner.

1.9 Property Declared Forfeited

- a. Any cash that was being held as evidence shall be deposited to the State Treasurer's account. A completed ADM-028 and one copy of the financial institution deposit slip shall be forwarded to BFSD. The property receipt shall be forwarded to the BFSD on completion of forfeiture. See Section 1.11 of this manual.
- b. Real Property
 - i. Once real property is ordered forfeited, the prosecutor shall ask the court to appoint a receiver who may do all of the following:
 1. List the forfeited property for sale.

2. Make whatever arrangements are necessary for the maintenance and preservation of the forfeited real property.
 3. Accept offers to purchase the forfeited real property.
 4. Execute instruments transferring title to the forfeited real property.
- ii. On a scale of the real property, the applicable requirements of this Section and Section 1.11 must be followed.
- c. Property that has been declared forfeited may be retained for official use, sold, turned over to another agency, or disposed of as ordered by the court. If a criminal prosecution is pending, written authorization shall be obtained on the CID-013 from the prosecutor in charge of the case before disposing of the property.
- d. Sale of Forfeited Property
 - i. Forfeited property that is not retained for official use shall be sold by sealed bid, or at public auction, or forwarded to the Department of Technology, Management, and Budget for auction.
 1. Members of the work unit responsible for the seizure, or who participated in any aspect of an investigation or litigation involving seized property, or who are involved in the selling process, shall not purchase such forfeited property, either directly or indirectly.
 - a) This includes non-departmental members who are assigned to a Michigan State Police supervised task force.
 - b) Any member of the Michigan State Police or their immediate family is prohibited from purchasing forfeited property.
 2. Property Sold by the Seizing Work Unit
 - a) Property sold by sealed bid shall be sold according to the following procedures:
 - a. A notice of sale shall be posted conspicuously at a minimum of three public locations in the country in which the property will be sold.
 - b. A Notice of Sale shall be published in two successive issues of a newspaper of general circulation in the county in which the property will be sold, not later than one week prior to the sale date.
 - i. It is not necessary to publish this notice in the newspaper's "Legal Notices" section, which usually costs more.
 - ii. The notice of sale shall contain the following:

1. A listing of the items to be sold using generic terms (e.g., gold-colored jewelry, rings with stones).
 2. Where and when the property may be inspected.
 3. Where, when, and how bids will be accepted.
 4. Terms of sale, including minimum bid amounts, if any.
 5. A statement of sale shall be cash or check made payable to the State of Michigan and a deadline for payment shall be included.
 6. A statement that "All items will be sold as is with no implied guarantee in regard to condition, value, or suitability to any purpose".
 7. A statement that the 6% Michigan sales tax will be added to the bid. No sales tax shall be added for real property. Similarly, no sales tax shall be collected for motor vehicles where a title transfer is required as motor vehicle taxes shall be collected by the Secretary of State at the time of registration. However, the sale of vehicle parts that do not need a title transfer requires collection of the 6% Michigan sales tax.
 8. Instructions to bidders to submit bids in a sealed envelope with "SEALED BID" printed on the lower left corner, along with their name.
 9. The last date bids will be accepted.
- iii. A member receiving a sealed bid at a work unit shall not open the envelope. Instead, they shall mark on the outside of the envelope the date and time the bid was received.
 - iv. The work unit commander and at least two others shall be present at the time the bids are opened. Bids shall be opened on the business day immediately following the due date for the bid. Following bid opening, all bids shall be retained in the master file with the original report.
 - v. Once the winning bidder pays for the item, they shall be given an official cash receipt showing the sale amount and the tax paid. The buyer shall sign the property receipt at the time the property is released.

- vi. In the event that the terms of sale are not met, the next highest qualified bid shall be accepted.
 - b) When forfeited property is sold by auction all procedures listed in this section of the manual shall be followed, except items dealing specifically with sealed bids.
 - a. Neither department members nor members of police agencies associated with the investigation shall conduct auctions, including the use of internet- based systems. Such sales shall be handled through an independent third party.
 - b. If a local auctioneer service will be used, competitive bids may be required. If the service cost will exceed \$99, prior approval shall be obtained from Civil Service on form [CS-138](#). The Human Resources Division shall be contacted to obtain current procedures. A multi-jurisdictional task force shall follow its internal policies and procedures to determine if it is necessary to use a competitive bidding process for the selection of a local auctioneer service.
 - c. If a professional auctioneer is used, the auctioneer may sign the property receipt.
3. Proceeds
- a) At the time of sale, the amount received for each item and the sales tax shall be recorded in the property segment.
 - b) An Official MSP Receipt, ADM-027, listing the sale amount for items purchased and sales tax collected, shall be prepared for the purchaser or auctioneer as appropriate. If an auctioneer is used, the work unit may issue one ADM-027 for the total amount of money collected at the time of the auction.
 - c) An original and three copies of a financial institution deposit receipt shall be prepared. The words "Adjudicated Narcotics Forfeiture," "Adjudicated Chop Shop Forfeiture," "Adjudicated Gambling Forfeiture," or "Adjudicated General Forfeiture" shall be printed on the original and all copies of the deposit receipts. The money shall be deposited in the State Treasurer's Account. The financial institution will keep the original deposit receipt, stamp, and return the three copies and provide a financial institution deposit confirmation receipt.
 - d) A completed ADM-028 and one copy of the financial institution deposit slip shall be forwarded to the BFS.
 - e) Immediately after depositing the money in the financial institution, the work unit commander shall note in the property segment, "Sold at Auction—Proceeds Deposited to Adjudicated Account." The property receipt shall then be forwarded to BFS on completion of forfeiture.

- f) Section 1.11 of this manual shall be followed to close forfeiture action.
- 4. Property Sold by the Department of Technology, Management, and Budget
 - a) The Department of Technology, Management, and Budget will provide services for the sale of forfeited property.
 - b) All items with the same incident number shall be grouped together and sold as a lot.
 - c) A Disposal Request, [DTMB-0222](#), shall be completed for each lot. Note the Sigma codes to be credited on the DTMB-0222.
 - d) The property shall be turned over to a state surplus location or picked up on the department truck run.
 - a. The official from DTMB who receives the property, or the driver, shall sign the property receipt in the "Received by" section under the "Release of Property" section and attach a copy to the DTMB-0222.
 - b. The seizing work unit shall attach a copy of the DTMB-0222 to the incident report and forward a copy to the BFS.
- 5. Special Considerations
 - a) Firearms and Other Weapons
 - a. Weapons that, at the time of seizure, were contraband or were carried and/or used unlawfully, shall be submitted to the Weapons Forfeiture Unit at the Training Division for disposition according to this manual.
 - b. Firearms that were seized from the legal, registered owner and are not required to be returned to that owner may be converted to official use or shall be destroyed according to Official Order 12-12.
 - c. A multi-jurisdictional task force may sell forfeited guns according to its internal policies and procedures as determined by the Board of Directors.
 - d. Weapons to be converted to official use shall be turned over to the Weapons Forfeiture Unit.
 - e. Firearms shall be checked in LEIN/NCIC at the time of seizure, and again before final disposition, in order to verify that they have not been reported stolen.
 - b) Vehicles to be Sold
 - a. Forfeited vehicles shall be titled in the name of the Michigan State Police, or in the name of the appropriate multi-jurisdictional task force fiduciary, prior to sale. When applying

for title, the required Secretary of State paperwork shall be submitted, along with a copy of the CID-013. On receipt of the appropriate Certificate of Title, the work unit commander shall be authorized to sign as the seller.

- b. No sales tax shall be collected for motor vehicles where a title transfer is required, as motor vehicle taxes shall be collected by the Secretary of State at the time of registration. However, the sale of vehicle parts that do not need a title transfer requires collection of the 6% Michigan sales tax.

c) Vehicles Retained for Official Use

- a. To determine if there is an official need for a vehicle, the Field Operations Bureau shall be contacted.
- b. Upon determination that the vehicle will be included in the Field Operations Bureau fleet, the vehicle shall be inspected by one of the Vehicle Travel Services garages. If Vehicle Travel Services determines that the vehicle passes mechanical inspection, the Field Operations Bureau shall instruct the seizing entity to submit the following paperwork:
 - i. A property receipt listing each vehicle signed by an official from Vehicle Travel Services and returned to the seizing agency.
 - ii. A true copy of the court order or a copy of the consent agreement of forfeiture.
 - iii. A LEIN/SOS printout showing the lien holder, if any.
 - iv. The exact amount of the lien and the name and phone number of the party representing the lien holder shall also be included.
 - v. A copy of the CID-013.

- c. A multi-jurisdictional task force may also retain and title vehicles according to its own internal policies and procedures.

6. Other Property Retained for Official Use

- a) Forfeited property retained for department use shall be placed on inventory according to Official Order 18-06. The property shall be placed on inventory and, if appropriate, an inventory tag number shall be assigned before the property is placed in service as official equipment and the incident report closed. The work unit commander must sign the property receipt.
- b) To obtain an inventory tag, the words "NARCOTICS FORFEITURE," "AUTO THEFT FORFEITURE," "GAMBLING FORFEITURE," or "GENERAL FORFEITURE," shall be placed on a printed copy of the property segment

entry, and it shall be forwarded to BFSD with a memorandum containing a request that the equipment be assigned an inventory tag number. The value of the equipment and the location where the equipment will be assigned shall also be included. Departmental Services shall provide an inventory tag, and the tag number shall be recorded on the property receipt.

- c) When closing the property segment entry, the work unit commander shall write "RETAINED FOR OFFICIAL USE" on the property receipt and sign the "Received By" section.
- d) A multi-jurisdictional task force may retain property for official use according to its own internal policies and procedures as approved by the Board of Directors. Property retained for official use shall be documented at the worksite to include compliant number, description, date retained, location, and final disposition.

7. Property Turned Over to Another Agency

- a) No forfeited property shall be given to another agency without prior authorization of the district/division commander or, in the case of a multi-jurisdictional task force, the Board of Directors.
- b) If the property is money, or if the property is sold, the proceeds shall be deposited, and payments shall be prepared according to Section 1.11 of this manual.
- c) Equipment that has been tagged and recorded in the Michigan State Police equipment inventory system is considered State of Michigan Property and shall not be traded, disposed of, or transferred to another agency without written approval from the BFSD.

8. Disposition of Scales and Grow Equipment Forfeited Under the Controlled Substances Article.

- a) Scales and lights for plant growth may be donated to elementary or secondary schools or institutions of higher education that request in writing to receive those lights or scales for educational purposes pursuant to MCL 333.7524(2). The accepting school official shall sign the property receipt. Any donation must be made in the order in which the written request(s) are received.

1.10 Joint Investigations and Federal Forfeitures

- a. A work unit may participate in a joint investigation where property is seized for asset forfeiture sharing. Ordinarily, the forfeiture process will be initiated by the agency having custody of the property. In a joint investigation, the district/division commander, or in the case of a multi-jurisdictional taskforce the board of directors, shall approve an agreement regarding the process for dividing present and future forfeiture proceeds.
- b. If the forfeiture proceeding is handled by another agency or is a federal forfeiture, only the CID-013 shall be completed and attached to the incident report or maintained in a separate

forfeiture file. All other forms shall be discarded. A property segment entry is not necessary on property in the custody of another agency.

- c. Each work unit participating in a joint federal investigation where property is seized for forfeiture shall prepare its own [Federal Forfeiture Form, DAG-71](#). A multi-jurisdictional task force will receive federal equitable sharing proceeds based on the Equitable Sharing Agreement approved by the task force's Board of Directors.
 - i. [U.S. Department of Justice Form DAG-71](#) shall be completed to request "Application for Transfer of Federally Forfeited Property." The work unit commander shall sign the form in VII Certifications, Section A.
 - ii. The DAG-71 shall be sent to the Assistant Attorney General in Charge, One Michigan Avenue, Building #400, 120 N. Washington Square, P.O. Box 30217, Lansing, MI 48909. The Assistant Attorney General will sign in Section B and return the DAG-71 to the seizing agency. Multi-jurisdictional task forces shall instruct the participating agency(s) completing the DAG-71, as outline in the Federal Equitable Sharing Agreement approved by the task force's Board of Directors, to send the DAG-71 directly to the appropriate federal agency.
 - iii. The seizing agency will then forward the signed DAG-71 to the appropriate federal agency.
- d. Once equitable asset sharing is received, an ADM-027 shall be completed.
 - i. The check shall be deposited to the State Treasurer's account and a completed ADM-028 and one copy of the financial institution deposit slip shall be forwarded to the BFSD. "Federal Adjudicated Narcotics Forfeiture Account" shall be noted on the deposit slips.

1.11 Final Forfeiture Disposition

- a. Disposition of adjudicated cash, bonds, or proceeds from forfeited items.
 - i. Once the cash and bond are adjudicated, Sections I and II of the CID-015A shall be completed. In Section I, the previously deposited funds shall be listed along with any cash held as evidence. In Section II, any bond that had been deposited in the pending state forfeiture account shall be listed.
 - ii. Since the cash and/or bond has been previously deposited, the work unit commander shall note in the property segment the words "Adjudicated Narcotics Forfeiture," "Adjudicated Auto Theft Forfeiture," "Adjudicated Gambling Forfeiture," or "Adjudicated General Forfeiture." The property receipt shall be forwarded to the BFSD with the final forfeiture packet.
 - iii. A multi-jurisdictional task force shall complete a CID-015A or make final disposition of proceeds according to its internal policies and procedures as approved by the Board of Directors.
- b. Payment of Expenses
 - i. Expenses related to seizure, storage, maintenance, forfeiture proceedings, advertising, auctions, liens, and court costs shall be paid from forfeiture proceeds before any other disbursements. This shall include any cash that has been ordered returned to the

owner. For work units other than a multi-jurisdictional task force, payment shall be initiated BFSD from the CID-015A.

1. Special expenses may be incurred by the seizing unit under the Omnibus Forfeiture Act, [MCL 600.4708](#).
 2. Section III of the CID-015A shall be completed and shall list any expenses relating to the forfeiture that shall be paid by the BFSD.
 - ii. The following information shall appear on the CID-015A for payment to be initiated: Name, Address, Social Security Number or Federal I.D. Number, and amount.
 - iii. Any original bills shall be attached to the CID-015A. All bills shall match any expenses listed on the CID-015A.
 - iv. Multi-jurisdictional task forces shall pay expenses according to their internal policies and procedures as approved by the Board of Directors.
- c. For work units other than a multi-jurisdictional task force, the following documents shall be forwarded to the BFSD on completion of the forfeiture.
- i. Completed CID-015A.
 - ii. A copy of the court order or consent agreement, if any.
 - iii. Any original bills that correspond to the "expense" entry on the CID-015A.
 - iv. A machine copy of the [DTMB-0222](#) for property that was turned over to Department of Technology, Management, and Budget for auction.
 - v. Original property receipts for cash that was deposited.
- d. Forfeiture Accounts and Expenditures
- i. Depending on the statutory authority under which the property is forfeited, there may be specific requirements regarding the application of proceeds from the sale of the forfeited property, including a priority list of payments and how the remaining balance may be used. Those requirements are addressed above in this Order within the discussions of specific statute(s).
 - ii. Except for expenses incurred in the forfeiture process, no funds shall be expended without approval of the Field Operations Bureau commander. The Field Operations Bureau commander shall ensure the net forfeited funds are expended in compliance with the forfeiture statutes.
 - iii. A multi-jurisdictional task force may expend funds according to its internal policies and procedures as approved by the Board of Directors.
- e. Once completed, the following paperwork shall be filed in the Master File with the corresponding incident report:
- i. CID-013
 - ii. CID-014

- iii. CID-015A
- iv. Court Order
- v. Consent Agreement
- vi. DAG-71
- vii. Other pertinent documentation

Review Responsibility:	Field Operations Bureau; Field Support Bureau; ; Executive Operations; Budget and Financial Services Division
Accreditation Standards:	CALEA