

ILLINOIS STATE POLICE DIRECTIVE OPS-055, STATE ASSET SEIZURE AND FORFEITURE

RESCINDS: OPS-055, 2022-146, revised 03-10-2022.	REVISED: 01-03-2023 2023-080
RELATED DOCUMENTS: ENF-016, OPS-201	RELATED CALEA STANDARDS (6th Edition): 84.1.8

I. POLICY

The Illinois State Police (ISP) will:

- I.A. Leverage its authority under Illinois and federal law to deprive criminals of the profits and proceeds of their illegal activities while recognizing the rights of innocent property owners.
- I.B. Manage its asset forfeiture program in complete compliance with Illinois and federal law, the National Code of Professional Conduct for Asset Forfeiture published by the United States Department of Justice, the USDOJ “Guide to Equitable Sharing for State and Local Law Enforcement,” and Administrative Rules.

NOTE: The fiduciary policies and procedures of Metropolitan Enforcement Groups (MEGs) established in conformance with the intergovernmental Drug Laws Enforcement Act and Task Forces (TFs) established pursuant to the intergovernmental Cooperation Act with an approved fiduciary agreement shall control the practices of sworn ISP officers assigned to such MEGs and TFs when spending local monies.

II. AUTHORITY

- II.A. 5 ILCS 810/1 et. seq., “Seizure and Forfeiture Reporting Act”
- II.B. 410 ILCS 620/3.23, Legend drug prohibition, “Illinois Food, Drug and Cosmetic Act”
- II.C. 415 ILCS 5/44.1, “Environmental Protection Act”
- II.D. 510 ILCS 68/105-55, Illegal collecting devices; public nuisance “Herptiles-Herps Act”
- II.E. 515 ILCS 5/1-215, Illegal fishing devices; public nuisance, “Fish and Aquatic Life Code”
- II.F. 520 ILCS 5/1.25, “Wildlife Code”
- II.G. 720 ILCS 5/17-10.6, Financial institution fraud, “Deception and Fraud”
- II.H. 720 ILCS 5/28-5, Seizure of gambling devices and gambling funds, “Gambling and Related Offenses”
- II.I. 720 ILCS 5/29, “Money Laundering”
- II.J. 720 ILCS 5/33G-6, Remedial proceedings, procedures, and forfeiture, “Illinois Street Gang and Racketeer Influence and Corrupt Organizations Law”
- II.K. 720 ILCS 5/36-1 et seq., “Seizure and Forfeiture of Vessels, Vehicles, and Aircraft”
- II.L. 720 ILCS 5/47-15, Dumping garbage upon real property, “Nuisance”
- II.M. 725 ILCS 5/124B-5 et. seq., “Forfeiture”
- II.N. 725 ILCS 150/1 et. seq., “Drug Asset Forfeiture Procedure Act”
- II.O. 725 ILCS 175U/1 et. seq., “Narcotics Profit Forfeiture Act”
- II.P. 740 ILCS 147/1 et. seq., “Illinois Streetgang Terrorism Omnibus Prevention Act”

- II.Q. 815 ILCS 5/1 et. seq., "Illinois Securities Law of 1953"
- II.R. 720 ILCS 550/1, et seq., "Cannabis Control Act"
- II.S. 720 ILCS 570/100, et seq., "Illinois Controlled Substances Act"
- II.T. 720 ILCS 648/1, et seq., "Methamphetamine Precursor Control Act"
- II.U. 19 U.S.C. §1607, "Seizure; value \$500,000 or less, prohibited articles, transporting conveyances"
- II.V. 21 U.S.C. §881, "Forfeitures"

III. DEFINITIONS

- III.A. Asset Seizure and Forfeiture Manual (ISP 2-513) - a training tool and reference resource explaining specific actions and responsibilities for officers involved in the asset forfeiture process.
- III.B. Claimant – The owner or other subject having a vested, legal interest in the asset(s) to be seized.
- III.C. Conveyance – any motorized vehicle, vessel, watercraft, or aircraft.
- III.D. Declaration of Forfeiture - a non-judicial administrative forfeiture issued by a state's attorney in drug and money laundering proceedings that declares a claimant's interest in the asset terminated and subsequently forfeited to the Director.
- III.E. Troop/Zone Seizure Coordinator - a sworn officer assigned by an ISP Troop/Zone Commander to maintain asset seizure/forfeiture operational and administrative functions within their respective troop/zone. Guidance and training regarding asset seizure/forfeiture will be made available from the ISP Asset Forfeiture Section and disseminated to troop/zone personnel through the Troop/Zone Coordinator.
- III.F. Forfeiture - an action that terminates a claimant's financial or material interest in a seized asset. Forfeiture can occur administratively through a Declaration of Forfeiture from the state's attorney; judicially through an Order of Forfeiture from a court having jurisdiction over forfeiture proceedings; or by Settlement Agreement, between the state's attorney and claimant of seized property, which is approved by a court having jurisdiction over forfeiture proceedings.
- III.G. Lis Pendens - a recorded written notice that a Complaint for Forfeiture has been filed on real property, involving either the title to the property or a claimed ownership interest in it. Recording a lis pendens against a piece of property alerts a potential purchaser or lender that the property's title is in question, and the ultimate decision of the ownership interest is determined by the court.
- III.H. Notice of Preliminary Review – written notice provided to the interest holder(s) by the seizing officer upon seizure of their property, advising that within 14 days of the seizure, a preliminary review will be held in a court of law to determine if probable cause exists to warrant the forfeiture of the seized property. This hearing will be held within the county where the seizure occurred. This form may be provided by the respective county in which the seizure occurred. If it is not provided by the state's attorney's office, please use the Notice of Preliminary Review (ISP 2-635).
- III.I. Order of Forfeiture - a judicial decree declaring a claimant's interest in the asset is terminated and orders the asset destroyed, sold at public auction, disbursed, or awarded to a law enforcement agency.
- III.J. Secure Location - a storage location in a troop or zone headquarters designed to ensure adequate safekeeping and record keeping of related items.
- III.K. Seizure - the act of a law enforcement officer taking control of an asset used in violation of one of the Acts or Articles prior to the commencement of forfeiture proceedings in court.
- III.L. Seizure Warrant - a court-issued order that commands a law enforcement officer to take control of an asset for forfeiture proceedings.

IV. RESPONSIBILITIES

IV.A. The Director will determine whether any vehicle seized shall be considered a luxury vehicle for purposes of utilizing such vehicles in the ISP fleet for covert assignment.

IV.B. Office of Finance/Asset Forfeiture Section

The Director has designated the Office of the Director, Office of Finance (OOF), Asset Forfeiture Section (AFS) to ensure the Department's compliance with executing the statutory requirements of forfeiture purchasing and accounting functions for the Agency. Accordingly, the OOF and AFS will:

- IV.B.1. Receive and deposit seized and forfeited funds for the Department in locally held bank accounts.
- IV.B.2. Record and track all assets from time of seizure to final disposition.
- IV.B.3. Initiate Return of Forfeited Property Agreements for the Director's signature approving the return of forfeited property to ISP units or outside agencies.
- IV.B.4. Dispose of all forfeited assets.
- IV.B.5. Disburse all forfeited funds and the proceeds from the sale of forfeited property.
- IV.B.6. Establish and maintain a public database that includes annual aggregate data for each law enforcement agency that reports seizures of property under state statute, and receives distributions of forfeiture proceeds, or reports expenditures of forfeiture proceeds subject to the Illinois Seizure and Forfeiture Reporting Act.
- IV.B.7. Maintain automated seizure accounting computer systems to:
 - IV.B.7.a. Track forfeiture activities
 - IV.B.7.b. Provide internal/external reporting
 - IV.B.7.c. Initiate letters for disbursements
 - IV.B.7.d. Provide check writing for seized and forfeited funds

IV.B.8. Provide guidance and training regarding asset seizure/forfeiture to the Troop/Zone Seizure Coordinators.

IV.C. Arresting/Seizing Officers will:

- IV.C.1. Follow the procedures for seizure as outlined in Section V. of this directive.
- IV.C.2. Complete a field/investigative/TraCS report prior to the end of his/her tour-of-duty. The officer shall give all applicable reports to the Shift Supervisor/Squad Leader as well as the Troop/Zone Seizure Coordinator.
- IV.C.3. Consult the Asset Seizure and Forfeiture Manual (ISP 2-513) and/or AFS as needed or required.

IV.D. Shift Supervisors/Squad Leaders will:

- IV.D.1. Review reports or preliminary reports of arresting/seizing officers to ensure the legal requirements, as outlined in statute, are present.
- IV.D.2. Review case packets to ensure all required reports and supporting documents are included and properly completed.
- IV.D.3. Ensure a hold has been placed on a seized conveyance.
- IV.D.4. Upon ensuring a seizure is valid, inform the Troop/Zone Commander, Lieutenant, Vehicle Investigation Officer (VIO) or Seizure Coordinator, and the arresting officer of this decision via email.
- IV.D.5. Complete this review process within 48 hours from the time of notification of the seizure. In the event of an ongoing operational emergency, the Shift Supervisor/Squad Leader must complete the review at the first opportunity.

IV.E. Troop/Zone Seizure Coordinator

IV.E.1. The Troop/Zone Seizure Coordinator may be the Troop's VIO or another officer as determined by the Troop/Zone Commander.

IV.E.2. The Troop/Zone Seizure Coordinator may work laterally with or have functional authority over other troop/zone personnel in asset seizure/forfeiture matters as determined by the Troop/Zone Commander.

IV.E.3. The Troop/Zone Coordinator will:

IV.E.3.a. Review the arresting/seizing officer's reports to verify completeness.

IV.E.3.b. Obtain any lien-holder name/address information for the seizure submission.

IV.E.3.c. Upon review of all case documents, seek approval from Troop/Zone Command.

IV.E.3.d. Obtain the original or a copy of the tow bill.

IV.E.3.e. Forward all reports documenting the seizure, and associated criminal case, if applicable, to the State's Attorney within 5 calendar-days of the seizure to ensure the 14-day preliminary review for probable cause is met.

IV.E.3.f. Maintain contact with the State's Attorney to determine if probable cause to proceed with forfeiture is granted or declined, in part or in whole.

IV.E.3.g. Ensure the "Illinois State Police Notice/Inventory of Seized Property," form ISP 4-64a is filed via the JusticeWeb portal with the State's Attorney within 28 calendar-days of the seizure. (NOTE: Forms ISP 4-64a, formerly ISP 4-64, and ISP 4-64b, "Illinois State Police Notice/Inventory of Seized Property – Supplemental Form," are identical in substance and form to formerly numbered ISP 4-64.)

IV.E.3.h. Upon approval of seizure for forfeiture from the State's Attorney, ensure the ISP 4-64a is submitted to the AFS via the AFS asset forfeiture reporting program.

IV.E.3.i. Monitor the status of each seizure case to ensure updates regarding forfeiture, notice of dismissal, or other issues are documented.

IV.E.3.j. Submit updates, to include any supporting documents (court orders, Disbursement of Forfeiture forms (DOFs), tow bills, etc.), to the AFS asset forfeiture reporting program (JusticeWeb).

IV.E.3.k. Maintain electronic and/or paper files for each seizure case pending forfeiture. Once the case is submitted to the AFS program, JustWare will track all reports.

IV.E.3.l. Disseminate guidance and training regarding asset seizure/forfeiture made available to them by the Asset Forfeiture Section to troop/zone personnel.

IV.F. The Troop/Zone Commander

IV.F.1. The Troop/Zone Commander may delegate to this officer the authority to review and approve or disapprove seizures and complete tasks required to promote the efficient and effective administration of the Program in the Troop/Zone on behalf of that Troop/Zone Commander.

IV.F.2. The Troop/Zone Commander will:

IV.F.2.a. Ensure seizure/field reports are reviewed/completed by the Troop/Zone Seizure Coordinator.

IV.F.2.b. Ensure seizure reports are forwarded to the State's Attorney according to the guidelines contained within Sections IV.D. and V. of this directive.

IV.F.2.c. Communicate any fleet needs to the chain-of-command and the AFS.

IV.F.2.d. Designate available secure locations to which seized conveyances may be towed.

V. PROCEDURES

V.A. Seizures - The following applies to all seizures conducted pursuant to forfeiture:

V.A.1. Officers must first make an arrest for a qualifying offense to initiate a seizure under Article 36. A list of qualifying offenses can be found in ISP form 2-537 or in 720 ILCS 5/36-1 of the Illinois Criminal Code.

V.A.2. Officers must have probable cause to believe the asset(s) is being used, or intended to be used, in violation of the specific statute giving authority to the seizure to initiate a seizure under an Act other than Article 36 of the Illinois Criminal Code.

V.A.3. Receipt – Upon seizure, the seizing unit/officer shall provide the person possessing the property with an itemized receipt of the assets seized via an Illinois State Police Evidence Inventory and Receipt (ISP 1-10). In the absence of a person to whom the receipt could be given, the officer shall leave the receipt in the place where the property was found, if possible.

- V.A.4. Upon seizure, the seizing unit/officer will provide the subject with a “Notice of Preliminary Review” (ISP 2-635). Some State’s Attorneys may require the use of their own form. If so, the officer will utilize that form.
- V.A.5. As outlined in Section IV C.2 of this directive, seizures will be documented via field report, investigative report, or TraCS report. The completed report will be forwarded to the State’s Attorney in the county of seizure. The State’s Attorney may use these reports in a hearing to confirm probable cause to support the seizure and to make a determination whether or not to pursue forfeiture in part or in whole. The ultimate decision to seek forfeiture of seized assets is at the discretion of the State’s Attorney of the county in which the seizure occurred or under some seizures, the Attorney General’s Office.
- V.A.6. “Illinois State Police Notice/Inventory of Seized Property” (ISP 4-64a).
 - V.A.6.a. Effective July 1, 2018, the statutory requirement of submitting the ISP 4-64a shall be met by submitting the seizure/forfeiture case to the Illinois State Police Asset Forfeiture Reporting System, via the JusticeWeb portal. Please contact the Asset Forfeiture Section for URL address.
 - V.A.6.b. Within 28 days of seizure, with the exception of money laundering which is within 60 days of seizure, the seizing unit/officer will forward an ISP 4-64a and further supporting documents to the State’s Attorney in the county of seizure. This submission will be done via the JusticeWeb portal. Depending upon the desires of the State’s Attorney in the county of seizure, the forwarding of this information may be provided by simply submitting the case to JusticeWeb or by way of printing the AF Case Summary report available for printing upon making a case submission to JusticeWeb.
 - V.A.6.c. Upon receiving the ISP 4-64a, the State’s Attorney will have 28 days to file a forfeiture claim against the asset(s).
- V.A.7. Unless otherwise noted within this directive, all seized assets, other than real property, will be handled in accordance with ISP Directive OPS-201, “Evidence – Collecting and Handling.”
- V.B. United States Currency
 - V.B.1. Currency seized by ISP units and not required to be held as evidence will be transferred, within 15 business-days by the unit, into the ISP Seized Funds Account after case acceptance by the State’s Attorney. The transfer can be made via deposit at a financial institution approved by the ISP Chief of Finance or his/her designee, via an electronic transfer, or by forwarding a certified check made payable to the “Director Illinois State Police” to the AFS by way of certified mail or hand delivery to the AFS.
 - V.B.2. All deposits, transfers, or checks will denote the seizing agency/unit case number associated with the seizure. If the seizure is approved by the State’s Attorney, the case number on the submitted ISP 4-64a shall match that denoted on the deposit/transfer/check. All receipts related to the deposit, transfer, or check issuance will be maintained in JusticeWeb under the associated case number.
 - V.B.3. Currency not being held as evidence that cannot be deposited prior to the conclusion of the officer’s shift will be placed into an ISP drop locker. The currency must be accompanied by a Cash Inventory Record Form, ISP 5-723, as well as an Evidence Inventory and Receipt Form, ISP 1-10, with an indication on the ISP-10, that the associated item(s) of currency is not evidence. The officer securing the currency will document the date, time, location, and manner in which the currency was secured, in an appropriate written or electronic report (Investigative Report Form, ISP 4-3, Field Report Form, ISP 5-048. Prior to the end of his/her shift, the officer securing the currency shall notify his/her supervisor or shift commander, as well as the Troop or work unit evidence custodian, of the currency securement in the ISP drop locker.
- V.C. Conveyances (vehicles, vessels, watercraft, aircraft)
 - V.C.1. Conveyances may be seized regardless of the value, condition, or presence of liens.
 - V.C.2. The AFS will handle all matters regarding liens on conveyances.
 - V.C.3. Establish ownership/knowledge and consent
 - V.C.3.a. The arresting/seizing officer will, via LEADS, check the following to assist in determining ownership of the conveyance: registration, driver’s license, and title

search by VIN (HULL # for vessels/watercraft). These checks should be printed and included in the officer's report.

V.C.3.b. Whenever appropriate, the arresting/seizing officer will interview the driver to determine/verify who holds ownership or sole control of the conveyance. This interview should be documented in the officer's report.

V.C.3.c. If the driver is not the owner, the arresting/seizing officer should attempt to interview the owner, and any co-owners, to determine if the conveyance was being used with the knowledge and/or consent of the owner/co-owner. These interviews should be documented in the officer's report.

V.C.4. Tow the vehicle

V.C.4.a. The vehicle should be towed to a secure location pending forfeiture or return to the owner/claimant.

V.C.4.b. A Tow-In Report will be completed, either on TraCS or on form ISP 5-370. In TraCS Inventory section, "Vehicle Eligible For Release" will be marked "No," and the appropriate seizure type will be noted in the "Other Hold" section, e.g., "Article 36," "Drug Seizure," etc. If completing form ISP 5-370, box 15a, "Vehicle Eligible for Release," will be marked "No," and the appropriate seizure type will be noted in box 15c "HOLD."

V.C.4.c. A tow bill incurred by a troop/zone in reference to a seized conveyance pending forfeiture will be obtained from the tow company and forwarded to the AFS within 30 calendar-days of the vehicle being towed. A field/investigative/TraCS report should accompany the bill. The AFS will not accept tow bills that have carried over more than 30 days into a new fiscal year.

V.C.5. The Troop VIO will inspect each conveyance to verify correct VIN/HULL#, make, model, true ownership, and document the condition of the conveyance. The inspection should be documented on an ISP Inspection Report Form, ISP 5-320.

V.C.6. Storage of Conveyance

V.C.6.a. The secure location where the conveyance is stored will incur no storage fees.

V.C.6.b. The conveyance will be maintained by the seizing unit to ensure its value does not diminish (e.g. winterize, general maintenance, etc.).

V.D. Weapons

V.D.1. A weapon not being held as evidence will be securely stored by the seizing unit to ensure its value does not diminish pending forfeiture or return to the owner/claimant.

V.D.2. The seizing unit will check all weapons via LEADS and eTrace to determine if lost, stolen, or involved in a crime.

V.D.3. The seizing unit will check all weapons through the ISP Forensics Lab firearms database.

V.D.4. If the weapon is not forfeited, the seizing unit will arrange for its return to the owner/claimant.

V.E. Personal Property

V.E.1. Property not being held as evidence will be securely stored to ensure its value does not diminish pending forfeiture or return to the owner/claimant.

V.E.2. If personal property is not forfeited, the seizing unit will arrange for its return to the owner.

V.F. Real Property

V.F.1. Under no circumstances will real property be physically seized without a judicial finding of probable cause and prior consultation with the AFS.

V.F.2. The seizing unit/officer will contact the State's Attorney in the county of seizure to request the filing of a Lis Pendens against the real property. The AFS may assist with this matter.

V.F.3. Real property, wherein the manufacturing of methamphetamine was conducted in a living space, is not recommended for seizure. Structures or land not involved in the manufacturing may be seized upon consultation with the AFS.

- V.F.4. When real property is considered for seizure, the seizing unit will contact the AFS to request a title search be obtained from a licensed title company.
- V.F.5. The AFS will consider any liens, outstanding taxes, maintenance costs, and disposal expenses to determine the fiscal viability of seeking forfeiture of the real property.

VI. Forfeiture/Disposition of Seized Assets

VI.A. Notice to Asset Forfeiture Section - Troop/Zone Commanders or his/her designee will ensure:

- VI.A.1. Upon forfeiture of seized property, the seizing agency/unit will obtain a copy of the Declaration of Forfeiture, court order of forfeiture, or Settlement Agreement from the State's Attorney and submit it to the AFS by uploading it to the ISP Seizure and Forfeiture Reporting System, via JusticeWeb, under the associated case number.
- VI.A.2. If forfeiture proceedings are dismissed, stayed, or otherwise overturned, a copy of the court order or letter/email from the State's Attorney shall be submitted, by the arresting/seizing officer or Troop/Zone Seizure Coordinator, to the AFS seizure and forfeiture reporting system under the associated case number.

VI.B. Return of non-forfeited seized assets to owner(s)

For assets physically seized, where forfeiture was not initiated, declined, or dismissed:

- VI.B.1. If the subject's current address is known:
 - VI.B.1.a. Within 7 calendar-days of receiving notice of declination/dismissal or the unit's/agency's decision to not pursue forfeiture, the subject will be notified by personal service or certified mail that they must return to the seizing unit/agency with proper identification within six months from receipt of the notice to claim their property.
 - VI.B.1.b. If notice is returned undeliverable, the unit/agency will immediately publish for one day, over three consecutive weeks, in a newspaper of general circulation in the county of seizure, a notice stating the owner of the property has six months from the final date of published notice to claim their property, or the property will be declared abandoned and disposed of in accordance with 765 ILCS 1030/0.01, "Law Enforcement Disposition of Property Act."
- VI.B.2. If the subject's current address is unknown, within 7 calendar-days of receiving notice of declination/dismissal or the unit's/agency's decision to not pursue forfeiture, the ISP unit will follow the procedures in Paragraph VI.B.1.b.
- VI.B.3. Upon compliance with Paragraph VI.B.1.a or VI.B.1.b and:
 - VI.B.3.a. The asset is personal property, it will be disposed of per 765 ILCS 1030/3.
 - VI.B.3.b. The asset is currency; the AFS will ensure the funds are deposited into the Illinois General Revenue Fund.

VI.C. All Forfeitures

- VI.C.1. Upon forfeiture, the AFS will ensure all court orders are valid, information contained in the orders is correct, and all assets have correctly been forfeited to the Director, Illinois State Police.
- VI.C.2. Upon forfeiture, the AFS will wait a minimum of 45 days from the date of forfeiture to account for any appeals of the forfeiture prior to processing the forfeiture.

VI.D. United States Currency

- VI.D.1. Upon forfeiture, unless otherwise noted in the accompanying court order, the OOF/AFS will ensure all forfeited funds are disbursed per the statutory formula giving authority to the forfeiture. The AFS will also ensure the proper percentages are disbursed to any participating agencies.

- VI.D.2. Upon the court ordered dismissal (or other order of the court) of a forfeiture case, the AFS will ensure any seized currency deposited into the ISP Seized Funds Account is returned to the owner/claimant in a timely manner.

VI.E. Conveyances

VI.E.1. Liens

- VI.E.1.a. Upon forfeiture, the AFS will first ensure lien-holder rights are met.
- VI.E.1.b. Unless otherwise dictated by court, the AFS will determine if the conveyance is to be released to the lien-holder, sold at auction, or awarded. The AFS may determine the conveyance can be sold at auction, the lien amount paid off, and the remaining proceeds disbursed per statutory formula.

VI.E.2. Title

- VI.E.2.a. Upon forfeiture of ISP seized conveyances, the AFS will apply for a vehicle title through the Secretary of State, or for a vessel from the Department of Natural Resources.
- VI.E.2.b. For conveyances seized by other agencies, the AFS will apply for a title to the conveyance prior to sale at auction. If the agency requested and received approval for the awarding of the conveyance to their agency for official law enforcement use, that agency will apply for their own title.

VI.E.3. Fleet

- VI.E.3.a. Upon forfeiture, the AFS will assess all ISP forfeited conveyances for fleet viability.
- VI.E.3.b. If determined Fleet viable, the AFS or seizing unit, will arrange for a vehicle safety inspection prior to considering the vehicle for fleet use.
- VI.E.3.c. The AFS will contact the ISP Fleet Section to arrange for the vehicle to be processed into the ISP Fleet.
- VI.E.3.d. ISP Fleet will obtain an equipment number, registration, insurance and credit cards (fuel and CMS).
- VI.E.3.e. Final determination as to fleet assignment will be based upon operational need.
- VI.E.3.f. Luxury vehicles (as determined by the Director or his/her designee) will not be placed into ISP Fleet except as possible covert drug enforcement vehicles.
- VI.E.3.g. Fleet considerations will follow all statutory guidelines.
- VI.E.3.h. All forfeited conveyances put into fleet will remain titled to the ISP.
- VI.E.3.i. The Division receiving the conveyance must identify which currently assigned conveyance will be relinquished to fleet for reassignment or disposal, so there will be no increase in the fleet.
- VI.E.3.j. Upon completion of use or becoming inoperable, the conveyance will be put out of service by ISP Fleet and sold at auction by the AFS.

- VI.E.4. Upon forfeiture, if a conveyance is deemed not fleet viable, all arrangements for transfer of the conveyance to auction for sale will be made by the AFS ONLY.

- VI.E.5. Upon the sale of a forfeited conveyance, the OOF/AFS will ensure the proceeds from sale are disbursed per statutory guidelines, with consideration given to other participating agencies noted on the ISP 4-64a.

- VI.E.6. Upon the court dismissal of a forfeiture case, the AFS will ensure the seized conveyance is returned to the owner/claimant, either by the AFS or the seizing unit.

- VI.E.7. The AFS will arrange for the payment of tow-bills and any other expenses related to the transfer and sale of ISP conveyances.

VI.F. Personal Property

- VI.F.1. Upon forfeiture, if not being put into official use, the AFS will arrange for pick-up and disposition of the property via auction or destruction.

- VI.F.2. Forfeited personal property may, at the discretion of the Director or his/her designee, be awarded to the seizing unit or another unit/agency for official use as prescribed by statute.

- VI.F.3. Upon sale of forfeited personal property, the OOF/AFS will ensure all proceeds are disbursed per statutory formula, unless otherwise dictated by court order, with consideration given to participating agencies.
- VI.F.4. Upon the court ordered dismissal (or other order of the court) of a forfeiture case, the AFS will ensure the seized property is returned to the owner/claimant by the AFS or the seizing unit/agency.

VI.G. Real Property

- VI.G.1. Upon forfeiture, the AFS will secure and maintain the property pending sale. The seizing unit/agency may be asked to assist with this matter.
- VI.G.2. The AFS will seek tax exempt status and adequate insurance on all forfeited properties.
- VI.G.3. Upon forfeiture, the AFS will arrange for the sale of the property through a licensed realtor. Alternatively, the property may be sold via public auction. Unless otherwise dictated in an associated court order, the method of disposal will be determined by the AFS Manager or his/her designee.
- VI.G.4. The AFS will ensure listing and sales contracts between the realtor and ISP are reviewed by ISP Legal and approved, via the chain-of-command, by the Director or his/her designee.
- VI.G.5. Any expenses related to taxes, liens, maintenance, or disposal of the property in part or in whole will be reimbursed to the AFS from the proceeds of sale of the real property.
- VI.G.6. Upon the sale of forfeited real property, the OOF/AFS will ensure the proceeds are disbursed per statutory guidelines, unless otherwise dictated in the forfeiture court order, with consideration given to participating agencies.

VI.H. Awarding of Forfeited Property

Upon request, forfeited property (non-currency) may be awarded to the ISP unit/seizing agency in lieu of being sold at auction.

VI.H.1. ISP Units

- VI.H.1.a. Award requests will be forwarded to the AFS and reviewed by the AFS section manager on the approved Return of Forfeited Request/Agreement Form, ISP 2-641, or on the Return of Forfeited Weapons Agreement Form, ISP 2-642.
- VI.H.1.b. The AFS section manager may deny the request, preliminarily approve the request, or require further explanation to support the request.
- VI.H.1.c. Requests denied by the AFS section manager will be communicated to the requesting unit/agency with an explanation for the denial.
- VI.H.1.d. The AFS section manager will forward approved requests to the Director or his/her designee for final judgement.
- VI.H.1.e. Per statute, forfeited property awarded to an agency must be used for a specifically articulated official law enforcement use in an investigation.
- VI.H.1.f. Per statute, the Director or his/her designee shall provide justification detailing why the asset was placed into official use.
- VI.H.1.g. Per statute, the justification shall be retained for a period of not less than 3 years.
- VI.H.1.h. All property awarded to an ISP unit will conform to the provisions contained in ISP Directive ADM-128, "Property Control."
- VI.H.1.i. Property awarded to an ISP unit that becomes inoperable may be destroyed with the consent of the AFS.
- VI.H.1.j. Property awarded to an ISP unit that is operable, but no longer in use, will be returned to the AFS for sale at auction. If deemed by the AFS to have no worth, the property will be destroyed.

VI.H.2. Outside Agencies

- VI.H.2.a. The AFS will manage all award requests, from outside agencies, made via the AFS asset seizure and forfeiture reporting system.
- VI.H.2.b. The AFS will ensure the requesting agencies abide by Illinois law for awarded property, as outlined in statute and 20 Ill. Admin. Code 1225.
- VI.H.2.c. The Director or his/her designee will render final judgement on all requests.

VI.H.2.d. Any awarded property returned to the AFS will be sold at auction, with the proceeds disbursed per statutory formula.

VII. Expenditure of Forfeiture Funds

VII.A.1. The expenditure of all federal or state forfeiture funds will conform to the applicable state and federal law, rules, regulations, and orders governing the use of public funds.

VII.A.2. Share from ISP Seizures/Forfeitures

VII.A.2.a. Federal forfeiture funds must be used for general law enforcement purposes.

VII.A.2.b. State forfeiture funds falling under the provisions of the Illinois Drug Asset Forfeiture Procedure Act will be used toward the enforcement of drug laws.

VII.A.2.c. State forfeiture funds falling under the provisions of the Money Laundering Article of the Illinois Criminal Code will be used toward the enforcement of criminal laws.

VII.A.2.d. State forfeiture funds falling under the provisions of Article 36 of the Illinois Criminal Code will be used toward the enforcement of criminal laws.

VII.A.2.e. State forfeiture funds falling under the provisions of any other state statute will be used in the manner prescribed within each particular statute.

VII.A.3. 10 Percent ISP Administrative Share from All Seizures/Forfeitures

The Department will adhere to the provisions governing the expenditure of forfeiture funds received as an administrative share under Illinois or federal law. The expenses shall be related to the administration and sale of seized and forfeited property.

VII.A.4. Written requests for expenditure of forfeiture funds by an ISP unit

VII.A.4.a. Must be submitted in a memorandum from the Deputy Director, through the First Deputy Director, to the Director. The memo will include:

- VII.A.4.a.1) A description of the item(s) requested
- VII.A.4.a.2) An estimated cost
- VII.A.4.a.3) Justification for the item(s)
- VII.A.4.a.4) A properly completed Material Request Form (MRF), ISP 2-043

VII.A.4.b. The requests should be consistent with the goals and objectives of the Department.

VII.A.4.c. Approved requests will be forwarded to the OOF. If funding is available, the OOF will notify the requestor the MRF has been forwarded for processing. If funding is not available, the request will be returned to the originator.

VII.A.5. All equipment purchased with forfeiture funds will conform with the provisions contained in ISP Directive ADM-128, "Property Control."

VIII. Equitable Sharing

VIII.A. In cases where ISP personnel not assigned to a MEG/TF have initiated a seizure, the ISP Zone/Troop Commander will ensure the following guidelines are adhered to:

VIII.A.1. State law mandates that in the event more than one agency participated in the law enforcement effort resulting in forfeiture, the distribution of forfeiture funds among agencies shall bear a reasonable relationship to the degree of participation by each agency.

VIII.A.2. In making the determination regarding degree of participation, the ISP Zone/Troop Commander will consider:

VIII.A.2.a. The extent to which each agency contributed information that led to the seizure.

VIII.A.2.b. The resources each agency expended to develop the information.

VIII.A.2.c. The extent to which each agency contributed unique or specialized assistance to the effort.

- VIII.A.2.d. The extent to which each agency located and identified particular assets eligible for seizure and forfeiture.
- VIII.A.2.e. The extent to which each agency contributed general agency resources for the investigation, seizure, and forfeiture process.
- VIII.A.2.f. In cases involving disagreement over the equitable sharing percentages to be distributed, the Director will make final judgement.

IX. Annual Reporting

IX.A. Per statute, each agency, including the Department, that receives proceeds from forfeitures subject to reporting under the Illinois Asset Seizure and Forfeiture Reporting Act, shall file an annual report with the Department no later than 60 days after December 31 of that reporting year. The annual report will include:

- IX.A.1. The amount of forfeiture funds distributed to each agency.
- IX.A.2. The amount of forfeited property awarded to each agency.
- IX.A.3. The amount of forfeiture funds expended by each agency.

IX.B. The AFS will:

IX.B.1. Provide the aggregate data format for the annual reports of each agency to include:

- IX.B.1.a. Total number of asset seizures reported per calendar year.
- IX.B.1.b. Monetary value of all currency seized per calendar year.
- IX.B.1.c. Number of conveyances seized and estimated value per calendar year.
- IX.B.1.d. Estimated value of all other property seized per calendar year.
- IX.B.1.e. Monetary value of distributions by the Department of forfeiture proceeds per calendar year.
- IX.B.1.f. Total amount of expenditures of forfeiture proceeds per calendar year on each of the following categories:

- IX.B.1.f.1) Crime, gang, or abuse prevention or intervention programs
- IX.B.1.f.2) Compensation or services for crime victims
- IX.B.1.f.3) Witness protection, informant fees, and controlled substances purchases of contraband
- IX.B.1.f.4) Salaries, overtime, and benefits, as permitted by law
- IX.B.1.f.5) Operating expenses, including but not limited to, capital expenditures for vehicles, firearms, equipment, computers, furniture, office supplies, postage, printing, membership fees paid to trade associations, and fees for professional services including auditing, court reporting, expert witnesses, and attorney
- IX.B.1.f.6) Travel, meals, entertainment, conferences, training, and continuing education seminars
- IX.B.1.f.7) Other expenditures of forfeiture proceeds

- IX.B.2. Ensure each agency has filed their annual report.
- IX.B.3. Ensure the totals for categories IX.B.1.a.-e. are collected from the AFS assets seizure and forfeiture reporting program
- IX.B.4. Ensure each agency's annual report is posted to a publicly accessible link on the ISP web-site.

| Indicates new or revised items.

-End of Directive-