



SUBJECT: Property and Forfeiture

TO: Department Members

This Order establishes department policy and member responsibilities for the following:

<u>Section 62.1</u>	FORFEITURE OF SEIZED PROPERTY	2
<u>62.1.1.</u>	Responsibility	2
<u>62.1.2.</u>	District/Division Forfeiture Review Responsibility	3
<u>62.1.3.</u>	General Provisions	3
<u>62.1.4.</u>	Controlled Substances Article of the Public Health Code	6
<u>62.1.5.</u>	"Omnibus" Provisions of the Revised Judicature Act of 1961	12
<u>62.1.6.</u>	Other Statutorily Authorized Property Forfeitures	17
<u>62.1.7.</u>	Handling Property Pending Forfeiture	27
<u>62.1.8.</u>	Property Ordered Returned	31
<u>62.1.9.</u>	Property Declared Forfeited	31
<u>62.1.10.</u>	Joint Investigations and Federal Forfeitures	37
<u>62.1.11.</u>	Final Forfeiture Disposition	37
<u>Section 62.2</u>	RECORDS AND STORAGE OF SEIZED AND RECOVERED PROPERTY	39
<u>62.2.1.</u>	Identification of Property	39
<u>62.2.2.</u>	Money Seized During the Execution of a Search Warrant	40
<u>62.2.3.</u>	Storage and Security of Property	40
<u>62.2.4.</u>	Property Record Files	43
<u>62.2.5.</u>	Inspection of Records and Property	44
<u>62.2.6.</u>	Evidence Submitted to Laboratories	44
<u>62.2.7.</u>	Evidence Removed for Court Purposes	45
<u>Section 62.3</u>	POLICY FOR DISPOSAL OF PROPERTY/EVIDENCE	46
<u>62.3.1.</u>	Property that is Disposed of at the Post or Work Unit Level	46

62.3.2.	Property Which May Be Disposed of at a Laboratory	51
62.3.3.	Property to be Turned Over to Headquarters	52
62.3.4.	Property to be Turned Over to the Department of Technology, Management, and Budget (DTMB)	52
62.3.5.	Found Property	52
62.3.6.	Gambling Equipment	53
62.3.7.	Motor Vehicles	53
62.3.8.	Controlled Substances	54
62.3.9.	Firearms, Weapons, and Other Devices	55
62.3.10.	Disposition of Confidential Records Obtained from the Department of Treasury	60
Section 62.4	STAMPING SERIAL NUMBERS ON UNNUMBERED FIREARMS	60
62.4.1.	General Information	60
62.4.2.	Initial Post Responsibility	60
62.4.3.	Laboratory Responsibility	61
62.4.4.	Forfeited Weapons Unit at the Training Division Responsibility	61
Section 62.5	REVISION RESPONSIBILITY	61

62.1 FORFEITURE OF SEIZED PROPERTY

62.1.1. 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:
- (1) 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.
 - (2) The effect the forfeiture will have on the operation of a criminal enterprise.
 - (3) The ability of the work unit to securely store and account for the property.
 - (4) Whether the anticipated revenue is adequate to cover the costs of the forfeiture action.
 - a. 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.

- b. 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 stored with a private vendor, costs may be prohibitive since the forfeiture process is lengthy, frequently lasting two years or more.
- c. Real Property
 - i. Forfeiture of real property is considerably more complicated than other forfeiture actions.
 - ii. Any seizure or forfeiture of real property must be closely coordinated with the prosecutor's office.
 - iii. The prosecuting attorney must file legal documents consisting of, Matter 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 multijurisdictional task force shall be processed by their assigned work unit, with all funds turned over to the Budget and Financial Services Division (BFSD).

62.1.2. 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 follow the law and department policies and procedures.
- B. The district/division commander or designee shall review all forfeiture cases to ensure:
 - (1) Probable cause existed for initial seizure.
 - (2) Proper documentation for each forfeiture case in the narrative and property section of the department records management system report.
 - (3) Proper final disposition of all items.
- C. A listing of all cases involving forfeiture shall be maintained by the district/division commander or his/her designee. The listing shall indicate if the forfeiture portion of the case is open or closed, and when it has been reviewed.

62.1.3. GENERAL PROVISIONS

- A. Compliance with Applicable Statutory Provisions

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

- (2) 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.
- (3) Forfeiture Action: Forfeiture of seized property requiring court proceedings resulting in a court order declaring all or some of the property forfeited.

C. Required Forms

- (1) The following forms must be utilized and maintained as provided in this Order:
 - a. 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.
 - i. If a CID-012 is required to be used under this Order or the applicable statutory authority, originals must be provided to the person(s) given notice and copies must be provided to the prosecutor.
 - b. CID-013: The Record of Seizure is used to itemize the seized property for the file and for providing notice to the prosecutor.
 - i. A copy must be provided to the prosecutor to ensure the prosecutor is immediately notified of the seizure.
 - ii. 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.
 - iii. A CID-013 shall be forwarded even if the CID-012 has not yet been served, if applicable.
 - iv. 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.
 - v. 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.
 - c. CID-014: The Notice of a Claim of Interest is used to record claims of property owners and interested parties may make to the seized property.
 - i. If a CID-014 is required or permitted to be used under this Order or the applicable statutory authority, copies must be provided to the prosecutor and a copy must be provided to the person making the claim.
 - ii. 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.
 - iii. 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).

- d. CID-015A: The Forfeiture Cash/Expense Report.
 - i. The CID-015A must be completed when any of the following occurs:
 - 1) Cash is seized and disposed of.
 - 2) Property other than cash is disposed of.
 - 3) Forfeiture expenses are incurred.
 - ii. The CID-015A must be completed upon completion of the forfeiture, as provided in this Order. 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.
 - iii. The work unit commander shall forward a copy of the CID-015A to their respective district/division commander.

(2) 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.

(3) 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			

(4) Recording Certain Information on the Forfeiture Forms

- a. 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.
- b. 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.
- c. 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.

- (5) Instructions for using each form may depend on which statute(s) authorize the seizure and forfeiture of the property. Further detail is discussed later in this Order, but the requirements listed above apply to all forfeitures.

D. File Maintenance and Incident Reports

(1) Open Forfeiture Cases

- a. The file shall contain, at a minimum, the following documents: CID-013, CID-015A, DD-020, and copies of any relevant court orders.
- b. Each forfeiture case within the open file shall be reviewed monthly by a worksite supervisor.
- c. 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.

(2) Closed Forfeiture Cases

Closed forfeiture cases shall be maintained in the closed forfeiture file until completion of the annual district inspection.

(3) Incident Report Requirements

- a. The incident report shall remain open while the forfeiture is pending final disposition.
- b. The incident report shall contain a specific heading titled "Probable Cause for Forfeiture," which explains the probable cause for forfeiture of the property seized.
- c. 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).
- d. 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.

62.1.4. CONTROLLED SUBSTANCES ARTICLE OF THE PUBLIC HEALTH CODE, [MCL 333.7101 TO MCL 333.7545](#)

A. Property Subject to Seizure and Forfeiture

- (1) 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 and 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.

(2) Marihuana-related Seizures

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 MCL 333.26430](#).

- 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 the 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.

(3) Vehicle-related Seizures

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 333.7403(2)(c) or (d) for the possession of marijuana, LSD, peyote, or schedule 5 controlled substance; for a violation of MCL 333.7404 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.

(4) Seizure of Money

- a. 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.
- b. 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).

- c. Enforcement members shall indicate in the incident report the information that led to the conclusion that the money was properly seized under a circumstance described above.
- d. The lack of what the investigating 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:
 - i. Investigative activity linking the money to trafficking.
 - ii. Statements from witnesses, suspects, or other subjects supporting the seizure.
 - iii. Documented intelligence information.
- e. Section 62.1.7. addresses procedures for handling seized money.

(5) Seizing Real Property

- a. Real property generally may be considered for forfeiture under the following circumstances:
 - i. Real property utilized in the commercial distribution of controlled substances. A pattern of distribution will be required before the prosecutor will authorize forfeiture action.
 - ii. Real property utilized for the storage of commercial amounts of controlled substances.
 - iii. Real property utilized in the manufacture of controlled substances (i.e., large-scale marijuana grows or clandestine methamphetamine labs).
 - iv. Real property purchased from proceeds of controlled substance distribution.
- b. Section 62.1.7. addresses procedures to take upon seizing real property.

(6) Innocent Owners and Parties with Property Interests

- a. 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.
- b. 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

Property listed under [MCL 333.7521](#) may be seized under [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 a 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

- (1) 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.
- (2) Property Exceeding \$50,000 and Real Property
 - a. 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.
 - b. The following property may only be forfeited through a Forfeiture Action:
 - i. The total value of the property exceeds \$50,000.
 - ii. Real property.
- (3) Property with Total Fair Market Value of \$50,000 or less
 - a. Administrative Forfeiture
 - i. Property of \$50,000 or less may be Administratively Forfeited pursuant to the procedures under [MCL 333.7523\(1\)\(a\) to \(d\)](#).
 - ii. The enforcement member shall complete a CID-012 for all of the following persons and provide the person the CID-012 in the manner required below:
 - 1) The person from whom the property was seized.
 - 2) All property owners.
 - 3) Any person with an interest in the property.
 - 4) Any person charged with a crime.
 - iii. The 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.

- 1) 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.
 - 2) 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.
 - 3) 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.
- iv. 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 Order. 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.
- b. When a Claim is Made on the Property
- i. A person receiving notice of the seizure and intent to forfeit the property must file a claim within 20 days of the notice.
 - 1) The claim must be on MC 311, a form developed by the State Court Administrative Office, pursuant to MCL 333.7523(1)(c).
 - 2) A claim may be accepted by mail or in-person.
 - 3) 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.
 - 4) If a member receives a claim/MC 311 for the property, the member shall place it in the work file, and provide a copy to the claimant. A copy must also be provided to the prosecutor whether or not the claim is filed within the 20-day period.
 - ii. 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.
 - iii. Exceptions to the Stay in Proceedings

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 to guilty to a crime:

- 1) 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.
- 2) The requirement for a guilty plea or conviction was waived and a Forfeiture Action was elected.
- 3) Charges have been filed, but the defendant cannot be reasonably extradited to Michigan or cannot be located for arrest despite reasonable law enforcement efforts.
- 4) Property that cannot be legally possessed by anyone or is dangerous to health or public safety may be immediately destroyed.

c. Duty to Return Seized Property

- i. Unless an exception to the stay in forfeiture proceedings applies, property must be returned within 14 days after any of the following occur:
 - 1) Ninety (90) days have passed since the property was seized and no warrant has been issued.
 - 2) The charges are dismissed or the person(s) charged are acquitted.
 - 3) 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.
- ii. Members responsible for the seizure of the 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 an extension allowing the property to be retained for a greater period of time.

D. Handling and Disposing of Property

(1) Handling Seized Property Pending Forfeiture

- a. Seized property shall be handled in accordance with Sections 62.1.7 and 62.1.8 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:
 - i. Placed under seal.
 - ii. Removed and placed as designated by the court.
 - iii. Require the Michigan Board of Pharmacy (or its designated authority) to take custody and legally dispose of the property.
 - iv. 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 Sections 62.1.9. and 62.1.11.
- b. Under [MCL 333.7524](#), property forfeited under the Controlled Substances Article must be disposed of in one of the following ways, as applicable:
 - i. Require the Michigan Board of Pharmacy (or its designated authority) to take custody and legally dispose of the property.
 - ii. Forward to the Drug Enforcement Administration, United States Department of Justice, or its successor agency.
 - iii. Retain it for official use.
 - iv. 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.
- c. Proceeds from the sale must be deposited with the State treasurer and applied in the following priority:
 - i. Payment of proper expenses of forfeiture proceedings.
 - ii. The remaining balance will be equitably distributed by the court to the agency or agencies substantially involved in the forfeiture.
- d. Money and all interests and earning therefrom must be used as follows:
 - i. For law enforcement purposes, as appropriated by the entity having budgetary authority.
 - ii. Directed to a nonprofit organization whose primary activity is 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 62.1.9.I. and MCL 333.7524(2) for further detail.

62.1.5. "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](#))

- (1) Real and personal 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.
 - a. 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.
 - b. 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 750.462h](#)), or terrorism ([MCL 750.543a to 750.543z](#)), property is subject to forfeiture if any of the following apply to the property:

- i. Contributed directly and materially to the commission of the crime.
- ii. Was used to conceal the crime.
- iii. Was used to escape from the scene of the crime.
- iv. Was used to conceal the identity of one or more of the individuals who committed the crime.

(2) Real property

- a. 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.
- b. Section 62.17.7. addresses procedures to take upon seizing real property.

B. Seizing Property Subject to Forfeiture ([MCL 600.4703](#))

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 with Property Interests

- (1) 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 or 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.

- (2) 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.

- (3) Members shall record relevant information demonstrating involved individuals' knowledge of or consent to a crime in the incident report.
- (4) Property belonging to a victim must be promptly returned to the victim, unless:
 - a. The property is contraband.
 - b. The ownership is disputed.
 - c. 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](#))

- (1) 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.
- (2) Real Property
 - a. 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.
 - b. Section 62.1.7. addresses procedures to take upon seizing real property.
- (3) Personal Property
 - a. 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:
 - i. The person from whom the property was seized.
 - ii. Any person charged with a related crime.
 - iii. 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.
 - iv. Each victim of the crime.
 - v. 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.
 - vi. 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.
 - b. Service of notice must be coordinated with prosecutor's office. A CID-012 may be served in order 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. 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 name and address of the person described in section is not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, notice must occur by publishing it 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.
 - 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.
 - iii. 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. Proof of written notice or publication shall be filed with the court having jurisdiction over the seizure of the forfeiture.
- (4) Duty to Return Property without a Conviction and Provide Notice ([MCL 600.4706](#))
- a. Seized property cannot be forfeited without a conviction for a crime.
 - b. Property must be returned within seven (7) days after any of the following occur:
 - i. 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 7-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.
 - ii. The charge(s) are dismissed or the person(s) were acquitted.
 - iii. Entry of a court order to return the property.
 - c. If the property is returned under MCL 600.4706, within seven (7) days of returning the property, notice must be provided in the same manner, and to the same individual(s), described above in Section 62.1.5.D.(3) (that is, in accordance with [MCL 600.4704](#)).
- (5) Forfeiture after a Conviction
- a. Property Exceeding a total value of \$100,000 and Real Property

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 \$100,000 must be forfeited through a Forfeiture Action.
 - b. Personal property with Total Value of less than \$100,000
 - i. Notice must be provided within 28 days after the conviction in the same manner, and to the same individual(s), described above in Section 62.1.5.D.(3) (that is, in accordance with [MCL 600.4704](#)).

- ii. 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 Order.
- iii. When a Claim is Made on the Property
 - 1) A person receiving notice of the seizure and intent to forfeit the property must file a claim within 28 days of the notice.
 - a) The claim must describe the claimant's property interests and be written, signed, and notarized with a certification that the claim is true and complete.
 - b) A claim may be accepted by mail or in-person.
 - c) A claim shall not be accepted after the 28-day period; however, the prosecutor must be notified that a claim was attempted.
 - 2) A claim may be made on a CID-014, and when practical, the claimant should be given the CID-014 to sign.
 - a) The item number and description of the property on the CID-014 must match the property segment entry and the CID-013.
 - b) If a claim is accepted without the CID-014, the form must be completed by the person accepting the claim.
 - 3) A claim received must be placed it in the work file, and a copy must be provided to the claimant.
 - 4) The prosecutor shall immediately be provided a copy of the claim/CID-014.
 - 5) The prosecutor has the responsibility of initiating a Forfeiture Action within 28 days after initial the 28-day period a person has to make a claim.
- c. Property must be returned within seven (7) 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

(1) Handling Seized Property Pending Forfeiture

- a. Seized property shall be handled in accordance with Sections 62.1.7. and 62.1.8. while the forfeiture remains pending.
- b. 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:
 - i. Placed under seal.
 - ii. Removed and placed as designated by the court.

- iii. 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.
- c. Violations of the "Fraudulent Access to Computers, Computer Systems, and Computer Networks" Act, [MCL 752.791 to MCL 752.797](#).
 - i. 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.
 - ii. Note: There is 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.

(2) Disposing of Property After Forfeiture

- a. Forfeited property shall be disposed of in accordance with Sections 62.1.9. and 62.1.11.
- b. 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.
- c. Proceeds from the sale must be applied in the following priority:
 - i. Payment of valid security interests.
 - ii. Satisfy order(s) of restitution and any other remaining claims of victims.
 - iii. Payment of governmental liens.
 - iv. Payment of proper expenses of forfeiture proceedings.
 - v. The remaining balance will be equitably distributed by the court to the agency or agencies substantially involved in the forfeiture.
- d. Money received must be used as follows:
 - i. Seventy-five percent must be used to enhance enforcement of criminal laws.
 - ii. Twenty-five percent must be used to implement the William Van Regenmorter Crime Victim's Rights Act, MCL 780.751 to 780.834.
- e. The department is responsible for reporting annually the amounts received and how it was used to the Department of Technology, Management, and Budget.

62.1.6. 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 62.1.5. shall generally apply to forfeitures under statutory authority other than the Controlled Substances Article unless a more specific provision of this Order 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.

(1) The "Chop Shop" Statute ([MCL 750.535a](#))

a. Property Subject to Seizure and Forfeiture

- i. 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 for 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).

Note: Section 62.1.7. addresses procedures to take upon seizing real property.

- ii. 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 or if a person is a bona fide purchaser for value.
- iii. Members shall record relevant information demonstrating involved individuals' knowledge of or consent to a crime in the incident report.
- iv. 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)).

b. Initiating and Processing a Forfeiture

- i. 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.
- 1) A copy of the search warrant return may suffice as a comprehensive list.
 - 2) The enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
- ii. 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.
- 1) Service of notice must be coordinated with prosecutor's office. A CID-012 may be served in order to effectuate notice if it is at the direction of the prosecutor.

- a) Notice must contain a general description of the property and any serial or registration numbers.
 - b) 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 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 a CID-012 is initially completed but later not authorized by the prosecutor, it must be discarded.
- 2) 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.
 - 3) 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, which usually costs more.
 - 4) 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
- i. 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.
 - ii. Stolen property must be returned to the rightful owner if ownership can be established to the satisfaction of the member.
 - iii. 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
- i. Handling Seized Property Pending Forfeiture
 - 1) Seized property shall be handled in accordance with Sections 62.1.7. and 62.1.8. while the forfeiture remains pending.
 - 2) Under MCL 750.535a(8), (9), and (10), property seized under the Chop Shop Statute must be handled in one of the following ways, as applicable:
 - a) Placed under seal.
 - b) Removed to a designated storage area.

- c) 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.
 - 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.
 - 3) Unclaimed stolen property may be sold, as authorized by law and policy.
- ii. Disposing of Property After Forfeiture
 - 1) Forfeited property shall be disposed of in accordance with Sections 62.1.9. and 62.1.11.
 - 2) Under MCL 750.535a(15), property forfeited under the Chop Shop Statute must be disposed of as follows:
 - a) The sale of the property must be pursuant to a court order.
 - b) 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.

(2) Gambling/Gaming

- a. Gambling Chapter of the Michigan Penal Code ([MCL 750.301 to 750.315a](#))
 - i. 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](#).
 - 1) Evidentiary property may be seized in accordance with law pertaining to the seizure of evidence.
 - 2) A Forfeiture Action is required, and Administrative Forfeiture is not available.
 - 3) Section 62.1.7. addresses procedures to take upon seizing real property.
 - ii. The enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
 - iii. The forfeiture of property requires "due notice and hearing" under [MCL 750.308a](#).
 - 1) The statute does not establish a time period in which the notice or the hearing must occur. Service of notice must be coordinated with prosecutor's office.

- 2) 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.
 - 3) 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) A copy 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.
- iv. 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.
 - v. 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.
- b. Michigan Gaming Control and Revenue Act ([MCL 432.201 to 432.226](#))
 - i. 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 seizure and forfeiture under [MCL 432.219](#).
 - c. The handling and disposition of seized and/or forfeited property relating gambling and gaming forfeitures must be in accordance with the applicable statues cited above and with Sections 62.1.7., 62.1.8, 62.1.9., and 62.1.11.
- (3) Criminal Enterprises Chapter of the Michigan Penal Code (Racketeering) ([MCL 750.159f to 750.159x](#))

The seizure and forfeiture of property relating to a violation of [MCL 750.159j](#) may be occur in either of the following circumstances:

- a. Pursuant to a court order as a part of a criminal sentence for a conviction under [MCL 750.159j](#).
 - i. The court order will direct the proper scope and manner of the seizure.
 - ii. 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 750.159k](#).
 - iii. Property forfeited shall be disposed of in accordance with [MCL 750.159j](#) and [MCL 750.159r](#) and with this Order.
- b. Through civil procedures pursuant to [MCL 750.159m to MCL 750.159q](#).

- i. 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.
- ii. 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.
- iii. Real property shall not be seized without notice and a hearing. Seizures of real property must be pursuant to consultation with the prosecutor.

Note: Section 62.1.7. addresses procedures to take upon seizing real property.

- iv. Personal property may be seized pursuant to a court order, initiated by the prosecutor, if the court determines it is supported by probable cause.
- v. Personal property may be seized without a court order under circumstances described under [MCL 750.159n\(4\)](#).
 - 1) The enforcement member shall complete the CID-013 and ensure the prosecutor is immediately notified by providing a copy of the CID-013.
 - 2) The prosecutor is responsible for providing notice of the seizure and intent to forfeit within 14 days under [MCL 750.159o](#).
 - 3) The prosecutor is responsible for receiving claims to the property under [MCL 750.159p](#). If a member receives a claim, it must be immediately provided to the prosecutor.
 - 4) If no claim is made, the prosecutor declares the property Administratively Forfeited.
 - 5) If a timely claim is made, the prosecutor is responsible for initiating a Forfeiture Action.
 - 6) 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](#).
- vi. Seized property shall be handled in accordance with [MCL 750.159n\(8\)](#) and Sections 62.1.7. and 62.1.8. while the forfeiture remains pending. Seized property must be handled in one of the following ways, as applicable:
 - 1) Placed under seal.
 - 2) Removed and placed as designated by the court.
- vii. Property forfeited shall be disposed of in accordance with [MCL 750.159r](#) and Sections 62.1.9. and 62.1.11.
 - 1) Forfeited property may be sold, as long as it is not required by law to be destroyed and is not harmful to the public.

- 2) 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 governmental liens.
 - d) Payment of proper expenses of forfeiture proceedings.
 - e) The remaining balance will be equitably distributed by the court to the agency or agencies substantially involved in the forfeiture.
 - 3) 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 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.
- Note: Section 62.1.7. addresses procedures to take upon seizing real property.
- f. Property of \$50,000 or less may be Administratively Forfeited pursuant to the procedures under [MCL 445.79b\(1\)](#).
 - i. 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.
 - ii. Service of notice must be coordinated with prosecutor's office. A CID-012 may be served in order 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.
 - iii. 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.

- iv. 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.
 - 1) 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 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.
 - 2) 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.
- v. 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.
- vi. A person receiving notice of the 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 \$5,000.
 - 1) A claim may be made on a CID-014, and when practical, the claimant should be given the CID-014 to sign.
 - 2) A claim received must be placed in the work file, and a copy must be provided to the claimant.
 - 3) The prosecutor shall immediately be provided a copy of the claim/CID-014 and the bond.
 - 4) The prosecutor has the responsibility of promptly initiating forfeiture proceedings if a claim is made in 20 days.
- vii. Seized property shall be handled in accordance with [MCL 445.79b](#) and Sections 62.1.7. and 62.1.8. while the forfeiture remains pending. Seized property must be handled in one of the following ways, as applicable:
 - 1) Placed under seal.
 - 2) Removed and placed as designated by the court.
 - 3) Take custody and legally dispose of the property.
 - 4) Deposit money into an interest-bearing account in a "financial institution."
 - a) 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.
- viii. Property forfeited shall be disposed of in accordance with [MCL 445.79c](#) and Sections 62.1.9. and 62.1.11.

- 1) Forfeited property must be disposed of in one of the following ways, as applicable:
 - a) Retain it for official use.
 - b) Take custody and legally dispose of the property.
 - c) 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.
- 2) 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, subject to a court order directing otherwise.
 - b) The remaining balance will be equitably distributed by the court to the entity or entities having budgetary authority over the seizing agency(s).
- 3) Money and all interests and earning therefrom must be used for law enforcement purposes, as appropriated by the entity having budgetary authority.

(5) Firearms

- a. Firearms Chapter of the Michigan Penal Code ([MCL 750.222 to MCL 750.239a](#))
 - i. 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.
 - 1) Exception - Felonious Assault, [MCL 750.82](#), and Reckless Carrying of a Firearm, [MCL 752.863a](#)
 - 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 firearm 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.
 - ii. 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.

- iii. 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.
 - iv. In addition, 30 days' notice must be provided on the department's website, including a description and serial number. The owner has 30 day to claim the firearm.
- b. Firearms Act ([MCL 28.421 to MCL 28.435](#))
- i. 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 62.1.6.C.(5).a.iii. and iv. shall apply.
 - ii. Exceptions for "Pistols" and "Portable Devices that Use Electro-muscular Disruption Technology" (Tasers)
 - 1) If carried contrary to the Firearms Act, they are subject to the Omnibus provisions, not Summary Forfeiture, under [MCL 28.425g](#).
 - 2) 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).
- c. Michigan Retired Law Enforcement Officer's Firearm Carry Act ([MCL 28.511 to MCL 28.527](#))
- i. 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](#).
 - ii. 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.
- d. Disposal policies for firearms are discussed in Section 62.3.9. of this Order.

(6) Additional Statutes

- a. Vehicles subject to forfeiture for certain violations of the Michigan Vehicle Code pursuant to [MCL 257.625n](#).
- b. Vehicles and its cargo subject to forfeiture for certain violations of the Motor Fuel Tax Act pursuant to [MCL 207.1129](#).
- c. Various property subject to forfeiture for violations of the Tobacco Products Tax Act pursuant to [MCL 205.429](#).

- d. Various property may be subject to forfeiture as a declared nuisance under [MCL 600.3801](#).
- e. 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)).
- f. Certain violations of the Continuing Care Community Disclosure Act may subject property to forfeiture pursuant to the Omnibus provisions. [MCL 554.985](#).
- g. 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](#).

62.1.7. 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
 - (1) 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.
 - (2) 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
 - (1) 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.
 - (2) After initiating a forfeiture action against real property, the following procedure shall be followed:
 - a. 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.
 - b. The property segment of the department records management system describing the property and a CID-013 shall be completed.

periods are addressed above in this Order within the discussions of specific statute(s).

- iii. 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.
 - iv. The seal on the envelope containing the seized money shall remain sealed until the financial institution's count at the time of deposit.
 - v. The deposit slip shall be attached to the back of the duplicate copy of the Official Receipt, ADM-027.
 - vi. 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).
 - vii. The deposit receipt should be attached to the ADM-028 (or equivalent) and filed by date.
 - viii. The ADM-028 (or equivalent) shall be retained until the retention date of the corresponding Official Receipt Book has expired.
 - ix. When approved, the money shall be deposited in an interest-bearing forfeiture account regardless of the current 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.
 - x. Interest that is earned on the forfeiture account shall be recorded as net forfeiture proceeds and transferred to the non-adjudicated account.
 - xi. 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.
 - xii. Expenses related to the care and maintenance of personal or real property that is pending forfeiture shall be paid from the operating account.
- d. Work units other than a multi-jurisdictional task force:
- i. 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.
 - ii. "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.
 - iii. Immediately after depositing the money in the financial institution, one copy of the deposit slip and a completed ADM-028 shall be sent directly to BFSD. The original deposit receipt and the deposit confirmation slip shall be affixed to the duplicate receipt in the Official Receipt Book.

- e. 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.

(2) Recovered Buy Money

Recovered "buy money" is money that can be traced to an undercover purchase for which an Imprest Cash Receipt has already been submitted.

- a. If buy money is recovered from an individual other than to whom it was delivered, the work unit commander shall determine if the money will be processed as recovered buy money or money seized subject to forfeiture.
 - i. 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.
 - ii. 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.
- b. 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.
 - i. 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.
 - ii. 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.
- c. 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 BFSM with the final forfeiture packet. See Section 62.1.15A of this Order.
- d. The completed ADM-028 and one copy of the financial institution deposit slip shall be forwarded to the BFSM.
- e. One copy of the deposit slip and the deposit confirmation receipt shall be attached to the property receipt.

(3) Reverse Buy Money

Money received in a reverse transaction shall be processed as seized money subject to forfeiture.

(4) Motor Vehicles

Vehicles seized for forfeiture shall be considered impounded and shall be inventoried according to the procedures outlined in Official Order No. 48.

62.1.8. PROPERTY ORDERED RETURNED

A. Property seized pending forfeiture and later ordered returned shall be disposed of according to this Order, with special consideration for the following:

- (1) 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 62.1.11.B. of this Order.
- (2) 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

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

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 62.1.5.D.(3) that the property has been returned to the owner.

62.1.9. 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 the BFSD. The property receipt shall be forwarded to the BFSD on completion of forfeiture. See Section 62.1.11.A of this Order.

B. Real Property

- (1) Once real property is ordered forfeited, the prosecutor shall ask the court to appoint a receiver who may do all of the following:
 - a. List the forfeited real property for sale.
 - b. Make whatever arrangements are necessary for the maintenance and preservation of the forfeited real property.
 - c. Accept offers to purchase the forfeited real property.
 - d. Execute instruments transferring title to the forfeited real property.

(2) On sale of the real property, the applicable requirements of this Section 62.1.9. and Section 62.1.11. 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

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.
 - i. A Notice of Sale shall be posted conspicuously at a minimum of three public locations in the county in which the property will be sold.
 - ii. 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.
 - 1) It is not necessary to publish this notice in the newspaper's "Legal Notices" section, which usually costs more.
 - 2) The notice of sale shall contain the following:
 - a) A listing of the items to be sold using generic terms (e.g., gold-colored jewelry, rings with stones).
 - b) Where and when the property may be inspected.
 - c) Where, when, and how bids will be accepted.
 - d) Terms of sale, including minimum bid amounts, if any.
 - e) A statement that the sale shall be by cash or check made payable to the State of Michigan and a deadline for payment shall be included.

- f) A statement that "All items will be sold as is with no implied guarantee in regard to condition, value, or suitability to any purpose."
- g) 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.

- h) Instructions to bidders to submit bids in a sealed envelope with "SEALED BID" printed on the lower left corner, along with their name.
 - i) 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 incident 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 Section 62.1.9.C(2)a of this Order shall be followed, except items dealing specifically with sealed bids.
 - i. 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.
 - ii. Professional Auctioneer
 - 1) If the services of a professional auctioneer are needed, the state-contracted auctioneer shall be used, if available. The current state contract auctioneer may be determined by contacting the Resource Management Unit, Management Services Section, BFSD.

- 2) 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.

- 3) If a professional auctioneer is used, the auctioneer may sign the property receipt.

c. Proceeds

- i. At the time of sale, the amount received for each item and the sales tax shall be recorded in the property segment.
- ii. 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.
- iii. 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.
- iv. A completed ADM-028 and one copy of the financial institution deposit slip shall be forwarded to the BFSB.
- v. 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 BFSB on completion of forfeiture.
- vi. Section 62.1.11 of this Order shall be followed to close forfeiture action.

(3) 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.

- i. 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.
- ii. The seizing work unit shall attach a copy of the DMB-0222 to the incident report and forward a copy to the BFSD.

E. Special Considerations

(1) 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 Order.
- 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 Section 62.3.9. of this Order.
- 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.

(2) 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.

F. Vehicles Retained for Official Use

- (1) To determine if there is an official need for a vehicle, the Field Operations Bureau shall be contacted.
- (2) 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:

- a. A property receipt listing each vehicle signed by an official from Vehicle Travel Services and returned to the seizing agency.
 - b. A true copy of the court order or a copy of the consent agreement of forfeiture.
 - c. A LEIN/SOS printout showing the lien holder, if any.
 - d. The exact amount of the lien and the name and phone number of the party representing the lien holder shall also be included.
 - e. A copy of the CID-013.
- (3) A multi-jurisdictional task force may also retain and title vehicles according to its own internal policies and procedures.

G. Other Property Retained for Official Use

- (1) Forfeited property retained for department use shall be placed on inventory according to Official Order No. 26. 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.
- (2) 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.
- (3) 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.
- (4) 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: complaint number, description, date retained, location, and final disposition.

H. Property Turned Over to Another Agency

- (1) 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.
- (2) If the property is money, or if the property is sold, the proceeds shall be deposited, and payments shall be prepared according to Section 62.1.11 of this Order.
- (3) 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.

I. Disposition of Scales and Grow Equipment Forfeited under the Controlled Substances Article

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.

62.1.10. 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.

- (1) 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.

- (2) 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 outlined 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.

- (3) 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.

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.

62.1.11. FINAL FORFEITURE DISPOSITION

- A. Disposition of adjudicated cash, bonds, or proceeds from forfeited items.

- (1) 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.
- (2) 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.
- (3) 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

- (1) 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.
 - a. Special expenses may be incurred by the seizing unit under the Omnibus Forfeiture Act, [MCL 600.4708](#).
 - b. 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.
- (2) 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.
- (3) Any original bills shall be attached to the CID-015A. All bills shall match any expenses listed on the CID-015A.
- (4) 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.

- (1) Completed CID-015A.
- (2) A copy of the court order or consent agreement, if any.
- (3) Any original bills that correspond to the "expense" entry on the CID-015A.
- (4) A machine copy of the DTMB-0222 for property that was turned over to Department of Technology, Management, and Budget for auction.
- (5) Original property receipts for cash that was deposited.

D. Forfeiture Accounts and Expenditures

- (1) 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).

- (2) 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.
 - (3) 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:
- (1) CID-013
 - (2) CID-014
 - (3) CID-015A
 - (4) Court Order
 - (5) Consent Agreement
 - (6) DAG-71
 - (7) Other pertinent documentation

62.2. RECORDS AND STORAGE OF SEIZED AND RECOVERED PROPERTY

The following procedures shall be followed in order to ensure that a proper record is maintained of all property and evidence recovered, received, seized, or held in custody in connection with police duties by any member of the department. For purposes of this Order, property recovered, received, seized, or held in custody is referred to as "received." Unless otherwise stated, when used in this Order, the term "property" also includes tangible evidence.

62.2.1. IDENTIFICATION OF PROPERTY

- A. Property received that is associated with an incident number taken prior to January 1, 1999, shall be identified by attaching a Property Label, properly completed with all necessary identifying information. Serial and model numbers, if available, shall be included with the description of the property. A number corresponding to the item number on the UD-014B shall be entered on the Property Label as well.
- (1) When appropriate, Property Evidence Bags, Property Evidence Envelopes, or Property Evidence Envelopes, may be used in lieu of tags or stickers with the identifying information placed on the bags or envelopes.
 - (2) If all property listed on one Property Report/Receipt, UD-014B is contained in one receptacle, a machine copy of the UD-014B may be attached as a means of identification.
- B. Whenever property that is associated with an incident number taken prior to January 1, 1999, is received, transferred, removed, replaced, or disposed of, the applicable sections

of the Property Report/Receipt, UD-014B, shall be completed. The signature of each person who has custody of property is required.

- C. Property received that is associated with an incident number taken on or after January 1, 1999, shall be identified by attaching a self-sticking evidence label generated by the department records management system. Refer to Official Order No. 5 for property segment entry instructions.
- D. When property that is associated with an incident number taken after January 1, 1999, is received, transferred, removed, replaced, or disposed of, the property segment of the department records management system shall be updated with the appropriate journal or final disposition information. Refer to Official Order No. 5 for journal completion instructions and final disposition information.

62.2.2. MONEY SEIZED DURING THE EXECUTION OF A SEARCH WARRANT

- A. Money seized during the execution of a search warrant shall be counted by two officers before leaving the scene.
 - (1) If the person from whose possession or premises money was taken is present at the execution of the search warrant, the money shall be counted in this person's presence.
 - (2) If the person from whose possession or premises the money was taken is not present, it shall be counted in the presence of another police officer.
- B. Money seized during the execution of a search warrant must be preserved for trial and not be deposited. Worksites shall retain such money at the department worksite in a locked container within the property room.
 - (1) Worksites holding money seized during the execution of a search warrant shall contact the local prosecutor and request court approval to deposit the money.
 - a. If approval is denied, the money shall continue to be held as provided above. The reason for the denial shall be documented in the report.
 - b. If approval is provided, the money shall be deposited in the State Treasurer's account utilizing an ADM-028. Multi-jurisdictional Task Forces shall deposit money based on the internal policies and procedures as approved by the Board of Directors.
 - (2) See Section 62.1.3 of this Order for additional information.

62.2.3. STORAGE AND SECURITY OF PROPERTY

- A. Commanders are responsible for custody and security of all property listed in their property records.
- B. The work unit's property room and property storage locker are the only authorized areas for storage of property and/or evidence.

The only exceptions are items too large or too hazardous to be kept in those locations. The storage location of such items shall be indicated on the property reports and in the department records management system.

- C. To increase security and accountability for property in department property rooms, one officer shall be responsible for each individual property room and its contents, and a limited number of officers shall have primary access to the room.

- (1) The work unit commander may be personally in charge of the property room or may delegate supervision of the property room to one sergeant, lieutenant, or duly authorized civilian employee who shall manage the room itself in conjunction with authorized key holders. In either case, the work unit commander has final responsibility.
- (2) The work unit commander, and as many of his or her command officers as deemed necessary, shall be issued keys to the property room. No one else shall be permitted in the property room unless accompanied by an authorized key holder.

A command officer assigned a key shall not give up possession of the key at any time, except to another authorized key holder.

- (3) Sufficient individual, locking-type storage lockers shall be provided at each worksite for investigating officers' use. These lockers shall be located outside the property room for temporary storage of property. Property deposited in a locker shall be properly identified with a self-sticking evidence label. Property associated with an incident number taken prior to January 1, 1999, shall be accompanied by all copies of the Property Report/Receipt, UD-014B.

After use, the key to the locker shall be secured in the locked locker if duplicate keys are available, in a locked key box if duplicate keys are not available, or with a property room key holder.

- (4) The property, and UD-014B if required, shall promptly be removed from the locked lockers by the worksite commander or an authorized property room key holder and placed in the property room or disposed of as provided in this Order.
- (5) Work unit commanders shall consider periodically changing the locks on property rooms. However, the decision to do so will be left up to them.
- (6) A separate locked locker shall be provided in the property room for money and narcotics.
 - a. Drug enforcement teams whose primary responsibility is the enforcement of state and federal drug laws may request exemption from the required use of separate lockers in the property room. Exemptions may be granted by the division commander contingent upon the team agreeing to institute strict security measures for evidence in their property room, adhere to audit controls, and provide adequate physical security in the form of alarms, dead bolt locks, solid core doors, and the absence of exterior doors and windows in the chosen property room.
 - b. Exemptions shall be in writing and shall be maintained at the local worksite.

- D. Due to the physical layout of the various property rooms throughout the state, two systems are permitted for storage of property. Commanders shall use one of the following in their property room:

- (1) Bin System: The number of the bin in which the property is stored shall be entered on the corresponding UD-014B or entered in the bin field of the property segment of the department records management system.

- (2) Numerical System: Property shall be stored in numerical order according to the incident number.

E. Use of Heat-Seal Evidence Packaging

- (1) The following procedure shall be used when packaging evidence in a heat-seal envelope:

- a. Place the envelope in a clear plastic heat-seal envelope and seal it approximately one inch from its opening's edge. Inspect the seam and ensure that the envelope is sealed along its entire length.

Members shall not use heat-seal envelopes that are smaller than 8" x 12" and shall not cut envelopes down from the minimum size of 8" x 12", even for very small items.

- b. Complete the Property Label and make certain that the description of the property on the label is identical to the description in the property section of the incident report.
- c. To place the Property Label on the heat-sealed envelope, first ensure that the heat-sealed end is on your right. Peel the backing off the label and place it on the upper-right corner of the envelope so that it covers both the heat-seal and the envelope's original opening.
 - i. The back side of the envelope should be kept clear so that its contents can be viewed.
 - ii. If applied correctly, the Property Label will tear if someone tampers with or tries to remove it.

- F. The only items that may be stored in property rooms are those items reported on a UD-014B or entered into the property segment of the records management system and properly identified manufactured evidence. Exceptions to this policy are provided in the completion instructions for the UD-014B and in Section 62.3 of this Order.

Explosives, including fireworks, shall not be stored in a worksite at any time. Small quantities of ammunition including department issued are not included in this explosives restriction. Refer to Section 62.3 of this Order and Official Order No. 18 for further policy regarding explosives.

G. Felony Cases

- (1) Property used as evidence in a felony conviction shall not be disposed of until the appeal period has ended.
- (2) Property associated with unsolved felony cases shall be held indefinitely or until authorized for destruction by the prosecutor with jurisdiction over the case.

H. Biological Material

Biological Material is defined as all original evidence and its derivatives upon which biological fluids were located. Derivative evidence includes the cuttings and/or swabbings from the original evidence as well as DNA extracts.

- (1) Pursuant to [MCL 770.16](#) any biological material associated with the case shall be retained until the person incarcerated in connection with that case is discharged from sentence if all of the following conditions apply:
 - a. There was a felony conviction that occurred before January 8, 2001.
 - b. The felony conviction was obtained by trial and not by a plea; and
 - c. The convicted person is currently serving a prison sentence for this felony (i.e., still under the jurisdiction of the court, such as incarceration, probation, or parole).
- (2) The retention of biological material obtained as evidence in all other cases shall be governed by usual investigative and prosecutorial needs or as determined through the normal post-conviction review process.
- (3) Biological material should be stored at room temperature. For worksites that have property rooms separate from the main building, steps should be taken to ensure those property rooms are as close to room temperature as possible.

62.2.4. PROPERTY RECORD FILES

- A. Each worksite handling property shall maintain property files.
- B. Pending Property Files for UD-014Bs
 - (1) The white, blue, goldenrod (and pale yellow, if not forwarded to the laboratory) parts of the UD-014B showing pending property, shall be filed in the pending property file by incident number until disposal of all property recorded has occurred. The pink part of the UD-014B shall be attached to the work copy of the incident report and the green part forwarded to the Criminal Justice Information Center.
 - (2) Work units may establish "PROPERTY AT OTHER LOCATIONS" and "PROPERTY TO BE PICKED UP AT THE LABORATORY" files as subdivisions of the pending property file. These files are not required but may be used to track open property.
 - a. A "PROPERTY AT OTHER LOCATION" file may be created as a subdivision of the pending property file. When property is at a different work location, the goldenrod copy of the UD-014B shall be placed in this file.
 - b. A "PROPERTY TO BE PICKED UP AT THE LABORATORY" file may be created as a subdivision of the pending property file. When the lab report, FSD-006, is received, indicating the property is ready to be picked up, it shall be attached to the goldenrod copy of the UD-014B and placed in this file.
- C. Closed Property Files for UD-014Bs

The white copy of the UD-014B showing final disposition of the property shall be filed in the master incident file and the blue copy in the closed property sub-file of the master incident file. The goldenrod copy shall be attached to the work copy of the incident report, replacing the pink copy of the UD-014B. Incident reports shall not be closed until final disposition of all property is obtained or until receipt of a UD-014B indicating that the property is in long-term storage.

62.2.5. INSPECTION OF RECORDS AND PROPERTY

A. Inspection and Report

Property inspections shall be conducted regularly according to Official Order No. 26.

B. Evidence of Inspection for UD-014Bs.

- (1) On completion of an inspection of all pending property received since the previous inspection, the inspecting officer shall initial the front upper right corner of the white copy of the corresponding UD-014B.
- (2) On completion of the inspection of all property records and pending property, the inspecting officer shall note in the Incident Book that, "All property has been accounted for through _____ incident number." The inspecting officer shall then sign and date this entry.
- (3) Exceptions to the above shall have prior approval at the bureau level.

C. Evidence of Inspection for Property Recorded in the Department Records Management System

Upon completion of an inspection of pending property received since the previous inspection, the inspecting officer shall generate a property audit report. This report shall list all the property that the inspecting officer audited during the current inspection.

D. Property/Evidence Report Discrepancies

Discrepancies that cannot be satisfactorily explained in the inspection report shall be documented in a special report from the worksite commander.

- (1) The special report shall be submitted through channels to the Director.
- (2) The original special report with endorsements attached shall be returned to the originating worksite.
 - a. For property recorded on UD-014Bs: This report shall be attached to the white UD-014B and shall serve as authorization to close the property report with respect to the property in question.
 - b. For property recorded in the department records management system: This report shall be filed in the master file and serve as authorization to assign a final disposition status of retained in the property segment. Retained status in such instances serves as authorization to close the property with respect to the property in question.

62.2.6. EVIDENCE SUBMITTED TO LABORATORIES

A. Evidence shall be submitted to a laboratory for analysis according to the Field Officer's Guide for Evidence Collection and Packaging.

B. Evidence may be shipped by the U.S. Postal Service using First Class, Registered, or Certified Mail. Commercial carriers such as the United Parcel Service (UPS), Federal Express, or Airborne Express are alternate methods of shipping. Proof of delivery shall be obtained when using these services.

- C. All evidence submitted to the Forensic Science Division laboratories by U.S. mail shall be placed in a container of sufficient size that will enable a separate transmittal envelope to be securely attached to the outside of the container.
- (1) The transmittal envelope shall contain a completed Request for Laboratory Examination FSD-007. Other forms and/or copies of reports may be placed in the transmittal envelope if space allows.
 - (2) Latent lifts do not require a UD-014B or other form of property receipt. They shall be submitted with the Request for Laboratory Examination, FSD-007, and a copy of the incident report.
- D. Evidence requiring laboratory comparison or analysis shall be submitted to one of the Forensic Science laboratories as soon as possible to avoid delays in obtaining the results. Evidence shall not be submitted to non-department laboratories, or identification units, for examination or testing without prior approval from the Forensic Science Division commander. This procedure shall also be followed when the suspect has confessed to the offense.
- E. Evidence recorded in the department records management system that is submitted to a laboratory shall be updated with the status of temporarily removed from agency property, and the appropriate bin shall be selected to indicate which lab is in possession of the evidence.

Because latent lifts and biological samples (i.e., blood, urine) are not returned to the work site, such evidence recorded in the department records management system that is submitted to a laboratory shall be updated with the status of "Released."

62.2.7. EVIDENCE REMOVED FOR COURT PURPOSES

- A. Evidence that is removed from the property room for evidentiary court purposes and remains in the member's custody shall be accounted for in the following manner:
- (1) Evidence recorded in the department records management system shall be updated with the status of temporarily removed from agency property, and the evidence bin shall be selected to indicate to which court the member has taken the property.

When the property is returned to property storage, the property screen in the department records management system shall be updated with the status of returned to agency property, and the evidence bin shall be selected to indicate the location of the property.
 - (2) Property that is associated with an incident number taken prior to January 1, 1999, shall contain a notation in addition to the signature of the member on the UD-014B. This notation shall state that the property is in possession of the member for evidentiary court purposes and to which court the property was taken. When the property is returned, there shall be a notation that the property was returned to the property room.
 - (3) External documents, such as original written confessions, shall be treated the same as property in regard to court proceedings. When an external document is removed from the Master File for court purposes, a notation shall be made on the case supervision sheet detailing the removal, and return, of the external document(s) from the Master File. External documents are not to be turned over to the prosecutor or court, except when entered into evidence.

- B. Evidence that is removed from the property room for evidentiary court purposes and remains in the custody of the court shall be accounted for in the following manner.
- (1) Weapons and contraband shall only be remanded to persons who are legally permitted to possess the items.
 - (2) Evidence recorded in the department records management system shall be updated with the status of temporarily removed from agency property, and the evidence bin shall be selected to indicate which court is in possession of the evidence.
 - a. A property receipt shall be printed and signed by the subject who takes custody of the property.
 - b. When the property is returned to the worksite, electronic records shall be updated with the status of returned to agency property, and the appropriate bin shall be selected.
 - (3) Evidence that is associated with an incident number taken prior to January 1, 1999, shall contain a notation in the signature portion of the UD-014B if the property is to remain at court. The notation shall describe where the property is stored.
 - a. The subject who takes custody of the property shall sign the UD-014B.
 - b. When the property is returned to the worksite, the UD-014B shall indicate that the property is returned to the property room.
 - (4) Under no circumstances is property to be left at court for longer than necessary for the trial/hearing. Property shall be kept at the worksite pending any appeal as directed by the court or prosecutor's office.

62.3. POLICY FOR DISPOSAL OF PROPERTY/EVIDENCE

This Section establishes policy for disposition of property/evidence received by members as a result of the investigation of an incident. General guidelines are established with specific items covered in detail. If property is received that is not covered under a specific area, it shall be disposed of under one of the general guidelines. The term "property" also includes tangible evidence. Property used as evidence in a felony conviction shall not be disposed of until the appeal period has elapsed.

62.3.1 PROPERTY THAT IS DISPOSED OF AT THE POST OR WORK UNIT LEVEL

- A. Property shall not be converted to department use without the authorization of the appropriate bureau commander.
- B. Property shall be destroyed at the work unit level only when authorized by the work unit commander.

All such destruction shall be witnessed by the work unit commander, or his or her designee, and one other enlisted member, which may include a shift supervisor.
- C. Authorization for the release or destruction of a firearm or other weapon shall only be given by a work unit commander, as instructed in Section 62.3.9 of this Order.
- D. Controlled substances shall only be disposed of at the work unit as instructed in Section 62.3.8 of this Order.

- E. The items listed below may be destroyed at the work unit level:
- (1) Property of no value for which an owner has not been located and is not covered elsewhere in this Order.
 - (2) Liquor
 - (3) Beer and wine. Returnable containers (bottles, cans, and kegs) may be destroyed locally or redeemed following destruction of the beverage. Deposit money received shall be deposited and reported to Headquarters according to instructions for the ADM-028.
 - (4) Fireworks
 - a. Only illegal fireworks, or packages containing illegal fireworks, shall be confiscated for fireworks law violations.
 - b. The law divides fireworks into the following four categories as defined by the American Pyrotechnics Association Standard 87-1:
 - i. Novelties
 - 1) Paper/Plastic caps
 - 2) Party poppers
 - 3) Snappers
 - 4) Smoke devices (under 5g)
 - 5) Snakes
 - 6) Sparklers (packaged 8 devices or less)
 - ii. Low-impact fireworks
 - 1) Cylindrical fountains
 - 2) Cone fountains
 - 3) Smoke devices (5g – 100g)
 - 4) Sparklers (packaged more than 8 devices)
 - iii. Consumer fireworks
 - 1) Firecrackers
 - 2) Bottle rockets
 - 3) Roman candles
 - 4) Aerial shells (under 1.75 inches in diameter)
 - iv. Display fireworks

Large professional type used for municipal displays two inches or larger in diameter is considered an explosive.

c. A guide to help determining if a firework is a consumer or display firework is as follows:

i. Consumer fireworks

- 1) Colorful wrappings
- 2) Sold in retail facilities
- 3) D.O.T. placard "explosive 1.4"



ii. Display fireworks

- 1) Brown paper wrapping
- 2) Sold wholesale to entities with federal explosive licenses
- 3) D.O.T. placard "explosive 1.3"



iii. Anyone can possess, transport, and use low-impact or consumer fireworks without any type of permit, except for the following circumstances:

- 1) A person cannot use consumer fireworks at the following locations without permission (MCL 28.462):
 - a) Public property
 - b) School property
 - c) Church property
 - d) Property of another
- 2) A person cannot use consumer or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of both (MCL 28.462)
- 3) The current law allows for seizure of fireworks, but the Department of State Police does not have any facilities that meet legal requirements for storing fireworks. This should be considered and a supervisor consulted before any seizure of fireworks occurs.

iv. If low-impact or consumer fireworks are seized, they are never to be stored in any post or building where people work.

v. Low-impact or consumer fireworks may temporarily be stored (no longer than 24 hours) in a vehicle or shed.

- 1) Not in a garage connected to an occupied building.

- 2) The vehicle or shed should not be in close proximity to the building or area of heavy pedestrian traffic.
 - 3) Notice shall be made to all personnel at the worksite of the fireworks storage.
- d. The Bomb Squad shall be contacted within a reasonable amount of time for guidance of continued storage or disposal.
 - e. Under no circumstances are fireworks to be disposed of by the local work unit by:
 - i. Soaking in water
 - ii. Dismantling
 - f. Display fireworks are to be handled as explosives and not disturbed or transported.

The Bomb Squad shall be called immediately.

- g. Unclassified/modified/illegal fireworks
 - i. Will not have DOT or CPSC warning labels
 - ii. May appear homemade
 - iii. Such devices may include:
 - 1) M-80
 - 2) M-1000
 - 3) Cherry bombs
 - 4) Silver salutes
 - iv. The Bomb Squad shall be notified immediately.
- h. To sell low-impact or consumer fireworks, the retailer must either register or obtain a license from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services.

All licensing violations should be turned over the Bureau of Fire Services. Bureau of Fire Services may be contacted at (517) 241-XXXX.

- (5) Seized registration, including valid, improper, expired, found, and those used in commission of a crime shall be destroyed by cutting in half or cutting off the two lower corners of the plates.
 - a. When a registration plate recorded in department records management system has been destroyed, the Certificate of Registration (if available) and a copy of the Property Report/Receipt shall be forwarded to the Department of State. The department records management system Property Entry shall list the plate number and year and the name and agency of the person destroying the property. In addition, the information in Section 1E(5)bi below shall be noted in the "Description of Property" section.
 - b. When registration plates recorded in the department records management system have been destroyed, the Certificate of Registration (if available) and a copy of the department records management system Incident Property Report for

the specific property system number shall be forwarded to the Department of State.

- i. Registration plates shall be entered on the Vehicle Screen with a Class Type of 25-License Plate. The Vehicle Type, Plate Number, Plate Type, Plate month/year, State, and Value Fields shall be completed.

In addition, the following information shall be noted in the Description Field:

- 1) Vehicle owner's name/address.
- 2) Plate owner's name/address (if different from vehicle owner).
- 3) Reason the plate was confiscated.
- 4) Plate owner's involvement in the incident.

- ii. Example:

Vehicle Owner: John Smith, 120 Elm, Kalamazoo, MI
 Plate owner: Fran Spitz, 140 Elm, Kalamazoo, MI
 Recovered stolen registration plates.
 Owner not present in vehicle.

- c. Note on the incident report narrative that a copy of the UD-14B or department records management system Incident Property Report was forwarded to the Department of State.

- d. The following address shall be used to notify the Department of State:

Michigan Department of State
 Records and Information Services Division
 Balance and Update Unit
 7064 Crowner Drive
 Lansing, Michigan 48918

- (6) Operator's licenses (expired), including all out-of-state licenses.
- (7) Credit cards, if the owner is not located or the card is expired.
- (8) Equipment of no value and narcotic paraphernalia used in violation of controlled substance laws which have been forfeited to the state by court process. See Section 62.1.4 of this Order.
- (9) Gambling equipment, if the court orders the gambling equipment to be destroyed or if the court refuses to make a final disposition.

- F. The property listed below may be disposed of at the work unit level by turning the property over to an authorized person. Firearms and weapons shall be disposed of according to Section 62.3.9 of this Order.

- (1) Valid and mutilated operator's licenses (all states) shall be turned over to the area Michigan Department of State office.
- (2) Social Security cards, including forged and altered cards, shall be turned over to the local Social Security office.
- (3) Military identification cards shall be turned over to the local military police station or to the local military recruiter.

- (4) Cigarettes and Other Tobacco Products, seized for violations of the Michigan Tobacco Tax Act, shall be turned over to the Michigan Department of Treasury and disposed of in accordance with the act.
 - (5) Other property, except contraband, shall be returned to an appropriately identified owner.
- G. When officers confiscate suspended or revoked Michigan licenses, improper vehicle registration plates or certificates (including failed to pay appropriate fees), MPSC registration cards, MPSC decals, or the driver's license of person arrested for OUIL whose BAC is .08% (or more) or who refuses a breath test; the confiscated driver's license, registration plate, certificate or card, or decal may be destroyed by the confiscating officer subject to the following guidelines:
- (1) Confiscated Michigan driver's licenses, registration plates, certificates or cards, or decals shall only be destroyed on return to the worksite. Officers shall make every attempt to destroy the property out of view of the suspect. Destroyed items shall be completely and properly disposed of at the worksite.
 - (2) When a driver's license is confiscated for an OWI arrest or refusal to take a chemical test, a Breath Blood, or Urine Test Report, DI-177, shall be completed and the LEIN Alcohol File (F "Breath: OUIL/OUID Law Entry Form") shall be executed to notify the Secretary of State.
 - (3) An entry into the department records management system Property Segment is not required in the above situations.
 - (4) This destruction procedure only applies when the driver's license, registration plate, certificate or card, or decal is confiscated for destruction. If the item will be retained, entry into the department records management system Property Segment is required and destruction procedures outlined in Section 62.3.1F above shall be followed.

62.3.2. PROPERTY WHICH MAY BE DISPOSED OF AT A LABORATORY

- A. Property held by a laboratory, which has no value and is no longer needed, shall be destroyed by the laboratory when authorized by the work unit initiating the incident report.
- B. A laboratory may dispose of controlled substances.
- C. When property will be destroyed by a laboratory:
 - (1) Property shall be destroyed at the laboratory only when time permits.
 - (2) At least two laboratory specialists/analysts from different work units shall be present when property is destroyed. The laboratory commander, or designee, shall witness the destruction of controlled substances.
 - (3) Property which is transported to the laboratory shall be picked up or authorization shall be given to destroy the property as soon as possible after receiving the laboratory report indicating the examination has been completed.
 - (4) Blood, urine, tissues (liver, brain, lung, etc.) taken from a person's body for blood alcohol determination, or to determine the presence of drugs or poisons, will be destroyed by the laboratory 180 days after examination, unless notification is received to retain them.

- D. If a laboratory decides to transfer firearms evidence to an open shooting file, and a UD-014B exists, the firearms examiner shall sign the UD-14B in the "Release of Property" area and return them to the worksite. If the firearm is reported in the department records management system no further action is required. Bullets transferred to an open shooting file will normally be returned to the originating post approximately one year after submission. Circumstances may dictate that a laboratory maintain open shooting evidence for more than a one-year period.

62.3.3. PROPERTY TO BE TURNED OVER TO HEADQUARTERS

- A. Firearms and weapons shall be handled according to Section 62.3.9 of this Order.
- B. Money Turned Over to the BFS

When final disposition of money, other than a coin collection, will be made, the money shall be deposited in the State Treasurer's account. The date such conversion takes place shall be noted on the incident report narrative, which may then be closed. The deposit shall be recorded on an ADM-028, which shall be forwarded to the BFS.

62.3.4. PROPERTY TO BE TURNED OVER TO THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET (DTMB)

The department entered into an agreement with the Department of Technology, Management, and Budget in 1994 that authorizes DTMB to conduct our department's auctions. Pursuant to this agreement, worksites shall contact a State Surplus location and schedule a time to turn the following items over to DTMB. All items turned over to a surplus location shall be listed on a UD-014B or department records management system property receipt which will be signed by State Surplus personnel in the "Received by" section of the form.

3111 W. St. Joseph Street
Lansing, MI 48917
517-373-XXXX

3060 Wright Street
Marquette, MI 49855
906-226-XXXX

Hours of operation: 8 a.m. to 4 p.m., Monday through Friday.

- A. Recovered Stolen Property
- (1) Units recovering stolen property shall hold the property for six months, during which time attempts shall be made to locate the owner and return the property.
 - (2) Recovered stolen property (except weapons); MCL 28.401, et. seq.; Lost Goods, MCL 434.1, et. seq.; Lost, Unclaimed, or Abandoned Property, MCL 434.151 et. seq., which has been held for six months without locating the owner, shall be turned in to the Department of Technology, Management, and Budget.
- B. Coin collections, along with a copy of the incident report itemizing each coin by amount, date, and mint mark, shall be turned over to the Department of Technology, Management, and Budget.
- C. Property of value which has not been covered in any other area shall be turned over to the Department of Technology, Management, and Budget.

62.3.5. FOUND PROPERTY

When an on-duty member finds property or when a private citizen turns in found property to a department facility, the procedure outlined below shall be followed:

- A. An incident report shall be submitted with an entry in the Property Segment.
- B. Firearms and weapons shall be disposed of according to Section 62.3.9 of this Order.
- C. Other contraband materials shall be destroyed by the receiving facility, forwarded to a laboratory for destruction, or forwarded to the Department of Technology, Management and Budget.
- D. Property, other than firearms and other contraband materials, shall be held for a period of six months, during which time every effort shall be made to locate the owner of the property.
- E. If the owner cannot be located within six months:
 - (1) Property found by a private citizen shall be returned to the citizen if he or she wants it.
 - (2) In all other cases, property of no value shall be destroyed as prescribed in Section 1B, and property having value shall be turned over to the Department of Technology, Management, and Budget.

62.3.6. GAMBLING EQUIPMENT

- A. Gambling equipment seized by members shall be disposed of according to [MCL 750.308a](#).
- B. The commander of the work unit which seizes gambling equipment is responsible for contacting the court which made final disposition of the case and arranging for disposition of confiscated property as soon as possible.
- C. Gambling equipment shall be disposed of as the court directs. This may be done in several ways, to include destroying the equipment at the work unit, selling the equipment at auction, turning the equipment over to the court, or turning the equipment over to the Department of Technology, Management, and Budget.
- D. When the court refuses to make a final disposition of gambling equipment, the work unit commander shall destroy items of no value, such as insurance policy slips or business cards, per the instructions listed in Section 62.3.1. of this Order. Items of value may be destroyed or turned over to the Department of Technology, Management, and Budget at the discretion of the worksite commander.

62.3.7. MOTOR VEHICLES

- A. Impoundment Order
 - (1) Pursuant to [MCL 257.904b](#), department officers shall pick up all vehicles ordered impounded where an impoundment order, in writing, has been issued by the court on a department case and directed to the department for service.
 - (2) In the event the court verbally orders a vehicle impounded on a department case, the judge shall be requested to make the order in writing. If the court refuses to issue the order in writing, the vehicle shall not be impounded by members of this department. A report of such incident shall be forwarded through channels to the appropriate bureau commander.
 - (3) The court shall also be requested to issue sufficient copies of the impoundment so that the officers may leave one copy with the party from whom the vehicle is impounded, deliver one to the impounding agency or garage, place one in the post work file, and place one in the post master file.

- (4) An impoundment order does not require the officers to physically impound the vehicle but to request a wrecker company to do so. When the pickup is made at a location other than the court or jail, officers shall accompany the wrecker driver.
- (5) A department records management system Property Segment entry is not required when a copy of the impoundment order is attached to the incident report.

B. Inventory of Impounded Vehicles

Vehicles impounded by members shall be inventoried according to the procedures outlined in Official Order No. 48.

C. Assistance to Other Agencies

This department shall not impound vehicles on an impoundment order resulting from another department's case but shall accompany an officer from that department while the vehicle is being picked up if requested to do so.

D. When an entry into the department records management system Property Segment is or is not needed.

- (1) When a member orders a vehicle towed to be held as evidence, entry into the department records management system Property Segment is required. The department records management system Property receipt shall be signed by the registered owner, or representative, on final disposition at the post level.
- (2) When a vehicle is towed in for safekeeping at the request of the owner (such as an accident or arrest situation), entry into the department records management system Property Segment is not required.

E. In the case of an abandoned vehicle, refer to Official Order No. 48.

62.3.8. CONTROLLED SUBSTANCES

A. Evidence being held for a violation of the Controlled Substances Article of the Public Health Code, when the violation is adjudicated under Section 7411 of the Act, shall be disposed of as follows:

- (1) When the subject is placed on probation by order of the district court, the evidence shall be held for 21 days before it may be destroyed.
- (2) When the subject is placed on probation by order of the circuit court, the evidence may be destroyed after 42 days with authorization of the court. If authorization cannot be obtained from the court, the evidence shall be held until completion of the probationary period before it may be destroyed.

B. Controlled substances may be destroyed by either the work unit or a laboratory using the following criteria:

- (1) Destruction of controlled substances by a laboratory shall be handled according to Section 62.3.2 of this Order.
- (2) Any evidence package containing a controlled substance which appears to have been reopened or otherwise tampered with after laboratory analysis shall be returned to the laboratory for re-analysis prior to destruction.

- (3) A work unit commander, or an officer designated by the work unit commander, may destroy controlled substances when witnessed by a Lieutenant 14 or above from another work unit.

In addition to the procedures established above, marijuana may be destroyed at the work unit level if witnessed by a commissioned officer designated by the district/division commander. Designees may be authorized only on a case-by-case basis and such authorization shall not convey continuing or blanket approval.

- (4) The examining laboratory shall retain any substance submitted for analysis which may be considered hazardous and not suitable for local destruction.
- (5) Marijuana seized pursuant to the DCESP – Domestic Cannabis Eradication Suppression Program may be destroyed at the time of seizure if witnessed by a Lieutenant 14 or above. Prior to destruction, the local prosecutor shall be consulted concerning evidentiary value of the plants.
- (6) Proper incineration is an acceptable method of destroying controlled substances. In all cases, members shall be mindful of the regulations of the Environmental Protection Agency and Department of Natural Resources when dealing with inordinate quantities of controlled substances.
- (7) Samples for Canine Training
- a. Worksites or undercover narcotics units may dispose of seized controlled substances by turning them over to the Canine Unit to serve as training samples.
 - b. The worksite or undercover narcotics unit shall show the controlled substance as turned over to the Canine Unit in its property report.

62.3.9. FIREARMS, WEAPONS, AND OTHER DEVICES

A. Definitions:

- (1) "Firearm" – Any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.
- (2) "Pistol" – a loaded or unloaded firearm that is 26 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals itself as a firearm.
- (3) "Pneumatic Gun" – Any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air. Pneumatic gun includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.
- (4) "Rifle" - a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
- (5) "Short-barreled rifle" - a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.
- (a) The general prohibition on "short-barreled rifles" does not apply to a short-barreled rifle that is lawfully made, manufactured, transferred, or possessed under federal law.

- (6) "Shotgun" - a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.
- (7) "Short-barreled shotgun" - a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.
 - (a) The general prohibition on "short-barreled rifles" does not apply to a short-barreled rifle that is lawfully made, manufactured, transferred, or possessed under federal law.

B. Destruction at the Work Unit Level

The following items may be destroyed at the work unit level when authorized and witnessed according to Section 62.3.1 B of this Order, as long as they can be destroyed in a manner that reasonably prevents anyone from being injured. If local destruction cannot be accomplished safely, the items shall be turned in to the Forfeited Weapons Unit at the Training Division as outlined in Section 62.3.E of this Order.

- (1) Blank cartridge pistols which are not capable of firing a projectile and are possessed in violation of fireworks statutes.
- (2) Knives and non-firearm weapons forfeited to the state, ordered destroyed by the court, or for which no owner can be located.
- (3) Pneumatic weapons.

C. Turned Over to an Authorized Person by the Work Unit

- (1) Recovered Lost or Stolen Property
 - a. A firearm, weapon, or device that has been reported lost or stolen, shall be returned to the reporting agency or to the rightful/legal owner on recovery provided possession of such weapon is not otherwise prohibited.
 - i. If not otherwise exempt from doing so, the owner of the pistol must be documented in the Michigan pistol entry database.
 - ii. Insurance companies which have paid the legal owner, must obtain a License to Purchase prior to release of a pistol.
 - iii. If the serial number has been removed, the Forfeited Weapons Unit at the Training Division shall be contacted to obtain approval from the Bureau of Alcohol, Tobacco and Firearms to have a new serial number stamped on the weapon.
 - b. Firearms, weapons, or devices reported lost or stolen which are used without permission by someone other than the owner contrary to MCL 28.421 - 28.434 or MCL 750.222 - 750.239 shall be returned to the owner if not otherwise prohibited. (i.e. Ordered to be destroyed by a court.).

(2) Conservation Law Violations

Weapons seized only as evidence in a conservation law violation shall either be turned over to a conservation officer or to the defendant on order of the court.

(3) Found Property

- a. Found firearms and other legally permitted weapons shall be handled according to the law. Found firearms shall be submitted to the laboratory for a comparison with the open shooting file if reasonable investigative information exists that materially associates the firearm with an unsolved case. Members shall check with their local laboratory to determine if the firearm should be submitted prior to its disposal.
- b. Long guns and other legally permitted weapons may be returned to the finder upon their request, provided that:
 - i. Possession of the long gun or other weapon is not prohibited, and
 - ii. The requester is not a prohibited person under federal or state statutes.
- c. Pistols that are legally registered may be returned to the registered owner when the investigation demonstrates that the return would not be prohibited by law.

(4) Other Investigations

- a. Firearms, weapons, or devices held for non-criminal investigations, careless, reckless, negligent use, or malicious destruction of property shall be returned to the rightful/legal owner unless part of a plea agreement is the destruction or forfeiture of the weapon.
- b. A firearm used in a suicide or attempt may be returned to the owner, next of kin, or administrator of the estate. If the firearm is a pistol and the next-of-kin or administrator of the estate plans to retain the pistol for personal use they must either obtain a License to Purchase a Pistol or if they have a valid Michigan Concealed Pistol License, they must complete a Pistol Sales Record.
- c. Firearms, weapons, or devices shall not be returned to the owner when:
 - i. The court orders the firearm, weapon, or device destroyed or forfeited.
 - ii. The owner is a prohibited person either under state or federal statute.
 - iii. The weapon is a pistol which is not legally registered, unless the owner is exempt from the registration requirement.
 - iv. The firearm, weapon, or device is unlawful to possess.

(5) Federal Violations

On completion of the state's case, firearms, pistols, long guns, weapons, or devices may be turned over to the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, U.S. Treasury Department, provided that:

- a. Possession of such a firearm, long gun, pistol, weapon, or device is a violation of the National Firearms Act, or

- b. There is no state statutory violation, but the rightful owner is a prohibited person as defined in the federal statutes.

(6) Forfeited Property

- a. Firearms, weapons and devices lawfully seized and forfeited under MCL 28.434 MCL 750.239, or MCL 28.522 as described in Section 62.1.6.C.5 shall be turned over to the Forfeited Weapons Unit at the Training Division, unless:
 - i. The violation was committed by someone other than the owner and the owner has reported the firearm, weapon, or device lost or stolen. If this occurs, the firearm, weapon, or device should be returned to the owner if authorized under Section 62.3.9.D(1).
 - ii. A court order is issued to turn over the firearm, weapon, or device to any individual other than a defendant convicted of the crime for which the weapon was seized. If presented with a court order for the return of a weapon to an individual who was the defendant convicted of the crime for which the weapon was seized, the local prosecutor shall be asked to contact the issuing court to have the order withdrawn. Should the prosecutor's request be denied, the court order shall be honored unless an appeal is to be made.
- b. A Concealed Pistol License which has been seized for violation of the restrictions specified on the license shall be turned over to the county clerk which issued the document, along with a copy of the incident report.

D. Property Turned in to the Forfeited Weapons Unit at the Training Division

(1) Forfeited Weapons Unit at the Training Division

Firearms, weapons, or devices not disposed of according to Sections 62.3.9.C. or 62.3.9.D. of this Order shall be turned over to the Forfeited Weapons Unit at the Training Division.

(2) Types of Property

- a. Firearms, weapons, or devices submitted to the Forfeited Weapons Unit at the Training Division, pursuant to MCL 28.434, MCL 750.239, or MCL 28.522 shall be disposed of as required by those sections.
- b. All other weapons submitted to the Forfeited Weapons Unit at the Training Division, shall be prepared for destruction on the first working day of the next month. These weapons shall be destroyed during the first scheduled gun destruction of the following month.

(3) When to Turn in Property

- a. Firearms, weapons, or devices forfeited to the state shall be disposed of according to this Order after final disposition of the case and expiration of the appeal period. The work unit commander shall first make a reasonable effort to ensure that a demand for return of the weapon is not forthcoming.
- b. Firearms confiscated from a known criminal, used to commit an armed robbery, used in the commission of a violent crime, or turned in as found property shall be

checked against the open shooting files at a laboratory if reasonable investigative information exists that materially associates the firearm with an unsolved case.

Members shall check with the local laboratory to determine if the firearm should be submitted prior to its disposal.

- c. Found firearms and other permitted weapons not disposed of according to Sections 62.3.9.C or 62.3.9.D shall be turned over to the Forfeited Weapons Unit at the Training Division, after all investigative leads for finding the rightful owner have been exhausted.

(4) Method to Turn Property In

- a. The Forfeited Weapons Unit at the Training Division shall be contacted to schedule an appointment. When the weapons are brought to the Forfeited Weapons Unit:
 - i. A department records management system Authorized to Release Receipt or Property Report/Receipt, UD-014B, completed with an accurate and complete description, shall accompany the weapon. For all firearms, the description shall include the make/manufacturer, caliber, model, number of shots, type, and serial number.
 - ii. A Confiscated Firearms Disposition Sheet (RI-054) shall be completed and shall be turned in with the weapon(s), if applicable.
 - iii. All outstanding stolen entries (EG) and recovered gun entries (ERG) shall be canceled in NCIC and Forfeited Weapons Unit responses, if applicable.
 - iv. The affected property shall be assigned a final disposition status of "released" in the department records management system property segment.
- b. Weapons shall be transported and submitted by an enlisted officer to the Forfeited Weapons Unit. Weapons may be turned in by appointment only.
- c. The supply truck shall not be used to transport a firearm, pistol, long gun, weapon, knife, or device to the Forfeited Weapons Unit at the Training Division.

(5) Assistance to Other Agencies

- a. At the discretion of the local worksite commander, members may transport firearms/weapons to the Forfeited Weapons Unit at the Training Division, for other agencies.
- b. It is the responsibility of the other agency to contact the Forfeited Weapons Unit at the Training Division, to ensure compliance with procedures for submitting and securing receipts for the firearms/weapons.
- c. Firearms/weapons received from another law enforcement agency pending transportation to the Forfeited Weapons Unit shall be tagged for proper identification. DO NOT complete an incident report.

E. Review of Incident Reports

Work unit commanders shall review all incident reports involving the release of firearms, weapons, or devices to ensure proper disposition is made.

62.3.10. DISPOSITION OF CONFIDENTIAL RECORDS OBTAINED FROM THE DEPARTMENT OF TREASURY

Official Order No.16 provides procedures for disposition of Treasury records.

62.4 STAMPING SERIAL NUMBERS ON UNNUMBERED FIREARMS

62.4.1. GENERAL INFORMATION

- A. The Federal Gun Control Act of 1968 requires that serial numbers be stamped on all firearms manufactured for sale in the United States since 1968.
- (1) A factory-assembled pistol normally will have a serial number. When a factory-assembled pistol does not have a number, the number probably was eradicated.
 - (2) Long guns manufactured for sale in the United States prior to 1968 may not have serial numbers stamped on them.
- B. In most other instances, prosecution under MCL 750.230 may be appropriate based on probable cause that a person willfully altered, removed, or obliterated the name of the maker, manufacturer's number, or other mark of identity. Mere possession of such a firearm is not presumptive evidence the possessor has altered, removed, or obliterated the firearm.

62.4.2. INITIAL POST RESPONSIBILITY

When a request is made for serial number stamping, the weapon shall be screened at the post level using the criteria in this Order. Department work units recovering or confiscating firearms without serial numbers or with altered serial numbers shall complete an incident report documenting the following steps:

- A. The firearm shall be submitted to a department forensic laboratory to ascertain whether the serial number has been removed. If it is determined the firearm was manufactured without a serial number, proceed to steps E through I.
- B. If a serial number is located or restored by the laboratory, query the serial number in LEIN/NCIC.
- C. Circumstances surrounding the alteration shall be documented.
- D. If the serial number was altered at the time the firearm was acquired by the present owner, document how the owner came into possession of the firearm.
- E. Past ownership shall be documented, including a copy of the Safety Inspection Certificate, License to Purchase, Dealer Purchase Record, or Pistol Sales Record and other ownership documentation, if any.
- F. Indicate the recommendations of the investigative officer whether a serial number should be stamped or re-stamped by the laboratory and returned to the owner.

- G. A background check on the owner, using purpose code and a NICS purpose code of 22 (Return of Handgun), 23 (Return of Long Gun), or 24 (Return of Other), shall be included to ascertain whether he or she meets the state and federal qualifications to possess a firearm.
- H. Copies of the incident report and supporting documentation shall be submitted to the Forfeited Weapons Unit at the Training Division for review and authorization by the Bureau of Alcohol, Tobacco and Firearms.
- I. Pistols that have been stamped or re-stamped with a serial number shall be released only to the registered owner.
- J. If ownership of a pistol was not previously reported to the pistol entry database due to the absence of a manufacturer's serial number, the owner must obtain a License to Purchase or Pistol Sales Record prior to release of the pistol.
- K. The work unit shall advise the affected person of the outcome of the investigation.

62.4.3. LABORATORY RESPONSIBILITY

- A. When a department work unit or law enforcement agency submits a firearm, which has had the manufacturer's serial number or other mark of identity removed, altered, or obliterated, the laboratory shall attempt to restore the information that has been removed.
- B. The laboratory shall complete a lab report, indicating the results of the investigation, and forward a copy of the report to the submitting agency.
- C. On written authorization from the Forfeited Weapons Unit at the Training Division, obtained from the Bureau of Alcohol, Tobacco and Firearms the laboratory shall stamp the firearm with the new serial number provided.
- D. The laboratory shall release the firearm to the submitting agency.

62.4.4. FORFEITED WEAPONS UNIT AT THE TRAINING DIVISION RESPONSIBILITY

- A. The Forfeited Weapons Unit at the Training Division shall authorize serial numbers to be stamped or re-stamped only if approved by the Bureau of Alcohol, Tobacco and Firearms.
 - (1) There is no charge for serial number stamping by the department.

62.5. REVISION RESPONSIBILITY

Responsibility for continued review and revision of this Order lies with the Field Operations Bureau, Field Support Bureau and Budget and Financial Services Division, in cooperation with Executive Operations.

DIRECTOR