
Asset Forfeiture

603.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

603.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Urbana Police Department seizes property for forfeiture or when the Urbana Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

Property subject to forfeiture -

- (a) Profits, proceeds, property, etc. derived from or used for the following crimes may be subject to forfeiture after a successful criminal prosecution:
1. Involuntary servitude or certain prostitution offenses (725 ILCS 5/124B-300)
 2. Obscenity (725 ILCS 5/124B-405)
 3. Child pornography offenses (725 ILCS 5/124B-500)
 4. Computer crimes (725 ILCS 5/124B-600)
 5. Women, Infants and Children (WIC) fraud (food program for women, infants and children) (720 ILCS 5/17-6.3; 725 ILCS 5/124B-700)
 6. Terrorism (725 ILCS 5/124B-800)
 7. Animal offenses (725 ILCS 5/124B-905)
 8. Calculated and gang criminal drug conspiracies (720 ILCS 570/405; 720 ILCS 570/405.2)
- (b) Profits, proceeds, property etc. forfeitable through civil action under the Illinois Controlled Substances Act, the Cannabis Control Act, the Illinois Food, Drug and Cosmetic Act, or the Methamphetamine Control and Community Protection Act (725 ILCS 150/3)
- (c) Counterfeit trademark items and instrumentalities used for a violation of the Counterfeit Trademark Act (765 ILCS 1040/9)

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- (d) Vehicles, vessels or aircraft used with the knowledge and consent of the owner in the commission of, or in the attempt to commit, many enumerated offenses (720 ILCS 5/36-1)

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

603.2 POLICY

The Urbana Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Urbana Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

603.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

603.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property that is subject to forfeiture because it constitutes evidence of a crime and may be legally seized as part of a criminal investigation, search warrant or by other court order.
- (b) Property may be seized without a court order when there is probable cause to believe that the property is subject to forfeiture under the Illinois Controlled Substances Act; the Cannabis Control Act; the Illinois Food, Drug and Cosmetic Act; the Methamphetamine Control and Community Protection Act; or the Counterfeit Trademark Act and the property is seized under circumstances in which a warrantless seizure or arrest would be reasonable (i.e., property would be lost without immediate seizure) (720 ILCS 570/505; 720 ILCS 550/12; 410 ILCS 620/3.23; 720 ILCS 646/85; 765 ILCS 1040/9).
- (c) Vessels, vehicles and aircraft may also be seized without a court order when there is probable cause to believe that the property is subject to forfeiture under 720 ILCS 5/36-1 and the property would be lost without immediate seizure. Officers may request the Attorney General or any state attorney seek a court order to seize property when there is probable cause to believe that it may be subject to forfeiture upon a successful criminal prosecution (725 ILCS 5/124B-805; 725 ILCS 5/124B-150).

Officers may request the Attorney General or any state attorney seek a court order to seize property when there is probable cause to believe that it may be subject to forfeiture upon a successful criminal prosecution (725 ILCS 5/124B-805; 725 ILCS 5/124B-150).

Whenever practicable, a court order for seizure prior to making a seizure is the preferred method.

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A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

603.3.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the state attorney's current minimum forfeiture thresholds should not be seized.
- (b) If reasonably known to the officer, property held by a person known as an "innocent owner" or a "lender" who did not have knowledge or intent that would reasonably justify a seizure (725 ILCS 5/124B-130; 725 ILCS 150/8).

603.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete the applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture."

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

603.5 MAINTAINING SEIZED PROPERTY

The Property and Evidence Division supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.

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- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

603.6 FORFEITURE REVIEWER

The Chief of Police will appoint a forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly 725 ILCS 150/3 et seq., 725 ILCS 5/124B-100 et seq., and the forfeiture policies of the state attorney.
- (b) Serving as the liaison between the Department, the state attorney and the Illinois State Police and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate.
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use.
- (g) Reviewing each asset forfeiture case to ensure that:
 - 1. Written documentation of the seizure and the items seized is in the case file.
 - 2. Forward reports for legal review of the circumstances and propriety of the seizure in a timely manner.
 - 3. Property is promptly released to those entitled to its return.
 - 4. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
 - 5. Any cash received is deposited with the fiscal agent.
 - 6. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
 - 7. Current minimum forfeiture thresholds are communicated appropriately to officers.
 - 8. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

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- (h) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.
- (i) Upon completion of any forfeiture process, ensuring that no property is retained by the Urbana Police Department unless the Chief of Police authorizes in writing the retention of the property for official use.
- (j) Forwarding a copy of inventories related to property seized and an estimate of the property's value to the Director of the State Police, when applicable.
- (k) Ensuring that vehicles seized under 720 ILCS 5/36-1 are delivered to the Sheriff of the county of seizure with applicable documentation.
- (l) Notifying the state attorney as soon as practicable to ensure that a probable cause hearing can be called within 14 days of the seizure for any property subject to forfeiture under the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act. When the property seized for forfeiture is a vehicle, notification to the Secretary of State shall be made immediately (725 ILCS 150/5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives.

603.7 DISPOSITION OF FORFEITED PROPERTY

Distribution and use of forfeited assets related to obscenity offenses are set forth in 725 ILCS 5/124B-420. Use this statute for enforcing laws or ordinances governing obscenity and child pornography.

Distribution and use of forfeited assets related to computer crimes are set forth in 725 ILCS 5/124B-605. Use this statute for training or enforcement purposes related to detection, investigation or prosecution of financial crimes, including computer fraud.

Distribution and use of forfeited assets related to WIC fraud are set forth in 725 ILCS 5/124B-710. Use this statute for enforcing laws related to WIC fraud.

Distribution and use of forfeited assets related to the Illinois Controlled Substances Act are set forth in 720 ILCS 570/505. (use for the enforcement of laws governing cannabis and controlled substances or for security cameras used for the prevention or detection of violence).

Distribution and use of forfeited assets related to the Illinois Cannabis Control Act are set forth in 720 ILCS 550/12. Use this statute for enforcing laws governing cannabis and controlled substances or for security cameras used for the prevention or detection of violence.

Distribution and use of forfeited assets related to the Food, Drug and Cosmetic Act are set forth in 410 ILCS 620/3.23. Use this statute for enforcing laws.

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Distribution and use of forfeited assets related to the Methamphetamine Control and Community Protection Act are set forth in 720 ILCS 646/85.

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.