

## DEKALB POLICE DEPARTMENT

Subject: **Asset Forfeiture Procedure**

Policy #: **406.5**

Effective Since: 8-21-03

Rescinds/Replaces: Motor Vehicle Forfeitures

Revision Effective: 1-1-19

FTO Training Task: # 15

Reference Material: ILCS Article 36

ILEAP Standards Covered: OPR.02.08, OPR.11.03

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**PURPOSE:** The purpose of this policy is to outline the procedures for seeking asset forfeitures.

**POLICY:** It is the policy of the DeKalb Police Department to seek forfeiture of property or vehicles only as allowed for under state law. Asset forfeitures follow procedures listed in ILCS Article 36 or other applicable statutes with permission from the State's Attorney's office.

### DEFINITIONS:

TRU - Targeted Response Unit

ISP - Illinois State Police

### PROCEDURE:

- A. The seizing officer shall complete all paperwork as required in this policy and state statute. [ILEAP OPR.02.08(a)]
- B. The seizing officer will provide a copy of this paperwork to the DeKalb County States Attorney's Office, Deputy Chief and Targeted Response Unit (TRU) Sergeant.
- C. The Deputy Chief will manage and process all pending seizures.
- D. The TRU Sergeant will be responsible for maintaining seized property while it is in custody of the DeKalb Police Department. [ILEAP OPR.02.08(b)].
- E. Seized vehicles may be towed or moved by the department for secure storage, entered for inventory searches pursuant to Policy 406.1, and should be started monthly to maintain working order.
- F. The Deputy Chief will maintain a list of the assets seized and the distribution or release of assets.
- G. The Deputy Chief or their designee will monitor the proceeds **from forfeited assets**. [ILEAP OPR.02.08(c)]
- H. The Deputy Chief is responsible for compliance with state and federal guidelines for asset forfeiture. [ILEAP OPR.02.08(d)]
- I. The Deputy Chief is primarily responsible for the agency's asset forfeiture program. [ILEAP OPR.02.08(e)]
- J. It will be the seizing officer's responsibility to document the items seized in a particular case.
- K. The Deputy Chief will maintain a log identifying:
  1. An inventory of the items seized.
  2. Funds received through seizure.
  3. How seized funds are spent
  4. These items will be reported to the Illinois State Police (ISP) at the beginning of each year.
- L. For all seizures, a receipt of property seized needs to be left with the person from whom seizure occurred or at the location of seizure.
- M. Article 36 seizures will be administered by the ISP in the same way drug and money laundering seizures occur:
  1. ISP utilizes an electronic system through which Forfeiture Form 4-64 filings will be communicated to ISP after approval by the State's Attorneys. The link is: <https://sjw.justware.com/IL-SPAFJweb/>
  2. In drug seizures of cash, amounts less than \$100 may not be seized for possession with intent to deliver cases or manufacture/delivery cases. For possession only cases, less than \$500 may not be seized.
  3. In drug seizures, for possession only cases, the officer will need to prove at trial that the person possessed more than two-unit doses of a controlled substance.
  4. In cannabis cases, the officer will need a felony amount for cash seizures (100 grams for possession only, 10 grams for possession with intent to deliver or manufacture/delivery).

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5. Money Laundering cases do not have any minimum amount of cash seizure.
- N. Preliminary Determination Hearings:
  1. Hearings will be required for money laundering cases within 28 days.
  2. Hardship hearings may be requested within 28 days of the preliminary determination hearings, but they must allege facts that they have not created the hardship on themselves.
  3. There is no provision for hardship release of vehicles in money laundering cases.
- O. Form 4-64 delivery deadlines from date of seizure:
  1. Within 28 days of seizure in drug cases.
  2. Within 60 days of seizure in money laundering cases.
  3. Within 28 days of seizure in Article 36 cases.
- P. State's Attorneys have 28 days from the receipt of the 4-64 to file a Notice of Pending Forfeiture.
- Q. Notice of Pending Forfeiture documents and Complaints for Forfeiture must be served, with the first attempt made within 28 days of the form 4-64 being received or of the verified claim being filed either by the following means:
  1. Personal service, or
  2. By mailing certified and first-class mail to defendant and/or vehicle owner (address given at time of arrest, for vehicles the address of record with the Secretary of State), and if no return receipt card received, then a second mailing by both certified and first-class mail. If no return receipt card is received on the second mailing or no response from a documented claimant, then an attempted personal substitute service must be made at their address three times (substitute service includes delivery to anyone at that location over 13 years of age). If no service is made at address by the third attempt, then a posting at the address must be taped to the door.
  3. For out-of-state residents and all businesses, certified and first-class mail needs sent only one time.
  4. If it is reasonably known that a claimant is incarcerated, certified and first-class mail needs to be sent to the place of incarceration as well.
  5. If the address or claimant is unknown, then publication notice needs to be made.
  6. After one successful service, all other documents need only be mailed certified and first class, no return receipt card is required.
- R. The burden of proof on the State for successful seizure is preponderance of the evidence.  
[ILEAP OPR.11.03]

**Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police.**

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.