

Managing the Drug Fund

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A joint presentation of MTAS and CTAS



Consultants



David Moore
MTAS



Rex Barton
MTAS



Clint Shrum
CTAS



Derrick Woods
CTAS

What are we going to do?

- We're going to learn what the drug fund is and what you can buy with the money.
- We're going to learn how to document or account for cash transactions.
- We'll learn what "sensitive" property and evidence is.
- Then, we'll learn when and how you should dispose of sensitive property and evidence.

Getting Credit – 4.0 hours

POST #23-133

CMFO

COCTP

Introduction

- MTAS
- CTAS

The “Drug Fund”

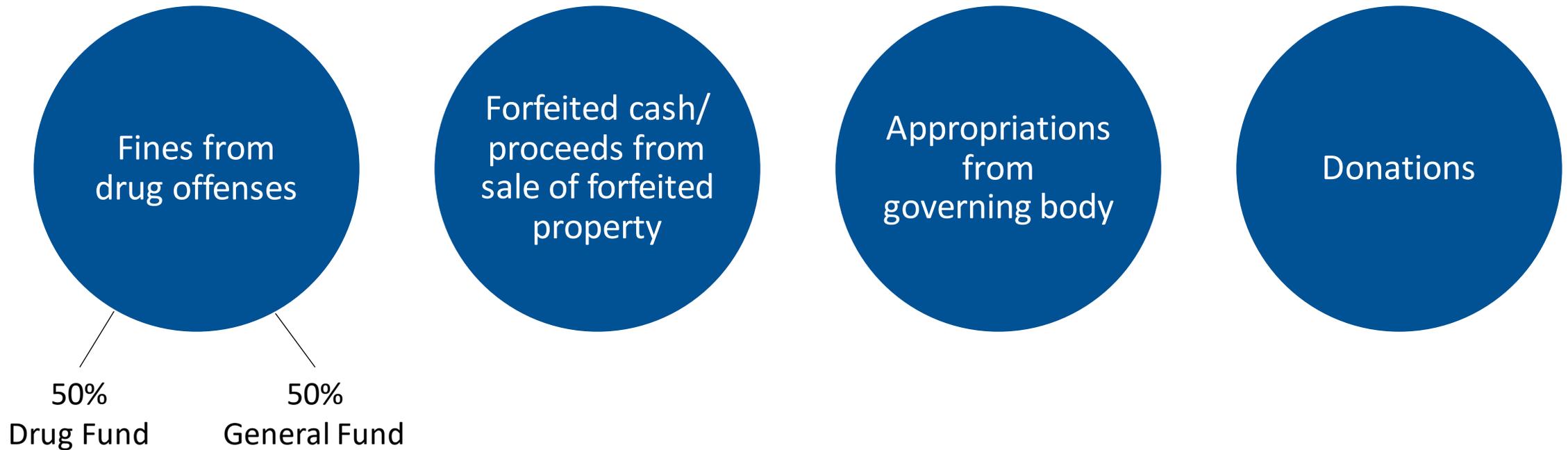
Special Revenue Account

Just like solid waste fund account
or street aid fund account

Under the control of the
city recorder/county trustee !!

** Confidential expenditures funded from a
separate account (confidential account)*

Sources of Revenue



Fines

**Forfeited Cash/Proceeds
from sale of
Forfeited Property**

Donations

Appropriations

50%

**Special Revenue
Account**
(City Recorder/Trustee)

50%

General Fund

***Does NOT include the proceeds from
the sale of DUI and DRL vehicles*

Legitimate Expenditures

General Categories

Local
Drug Treatment
**Drug Court Treatment*

Local
Drug Education

Drug
Enforcement
** Operational/Confidential Expenses*

*General Law
Enforcement
Expenditures
(non-recurring)*

Automated
Fingerprint
Machines**

Drug Education

Drug Abuse Resistance
Education (D.A.R.E.)

Drug awareness
program materials

Drug Enforcement

Purchase, maintenance,
operation of vehicles

Telephone charges,
including monthly
cellular charges

Office supplies
and equipment

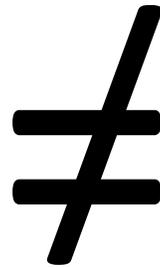
Drug
Identification Kits

Drug Enforcement
Training

Drug dogs, maintenance,
incl. feed/vet service



General
Drug Enforcement
Expenditures



Confidential

*Must follow city/county
purchasing guidelines*

General Law Enforcement Expenditures (non-recurring)

** Not drug investigation related*

Patrol or
administrative
vehicles

Blue lights, sirens,
radios, and
radar units

Video cameras,
including body
cameras

Handguns,
shotguns, rifles,
but not
ammunition



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General Law Enforcement Expenditures (non-recurring)

** Not drug investigation related*

Patrol Dogs

(non-drug dogs), but not feed or
veterinary services

** Treat dual trained dogs
as drug dogs*

Fax machine or
copier

Computers

Original software
purchase, but not
maintenance or
upgrades



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General Law Enforcement Expenditures (non-recurring)

** Not drug investigation related*

Body
armor

Tasers
(not refill cartridges)

Cell phones, incl.
smart phones

(not monthly bills)



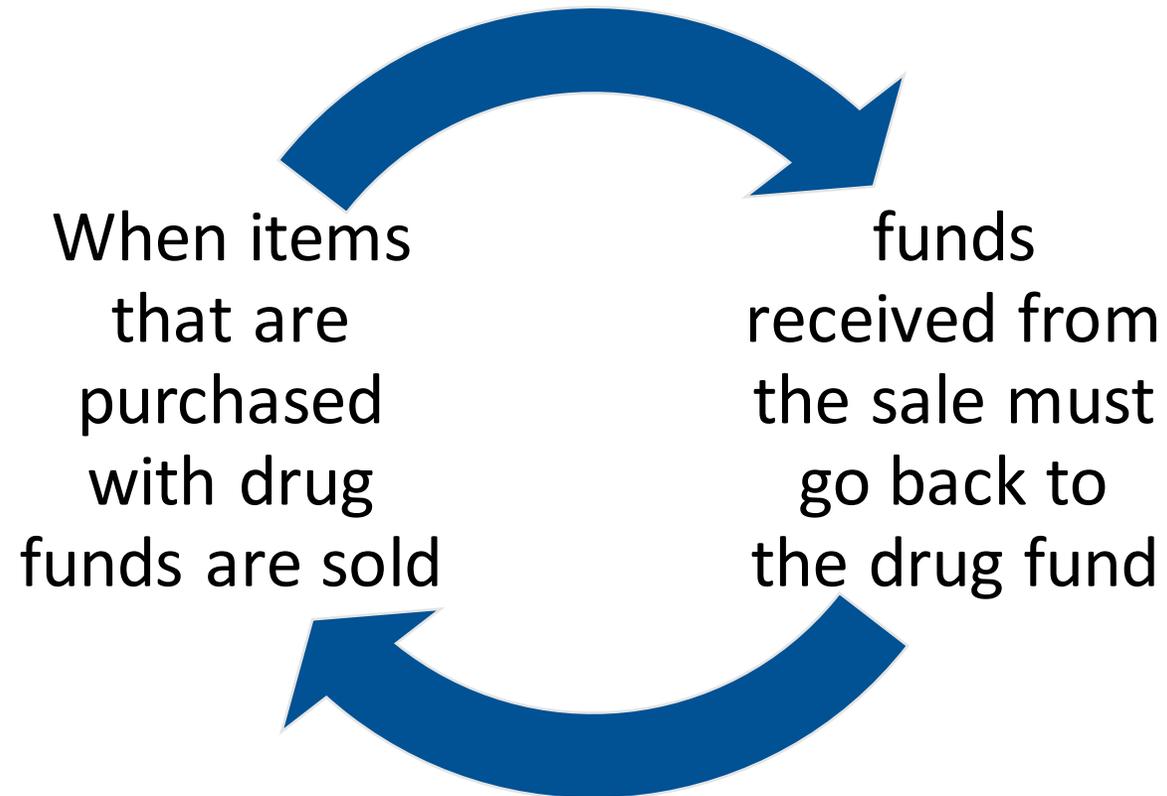
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Automated Fingerprint Machines

- Must set aside 20% of drug fund revenues until machine is purchased or have an agreement with another agency (having a machine)
- After purchase or agreement, may use 20% of revenues to pay for line charges and maintenance
 - *This may become important next year if the TBI stops paying for the line charges.*



Residual Value



Donations

Any charitable donation
must follow state law

Any donation from the
drug fund *must* fit an
allowable category!

Cities: TCA 6-54-111

Counties: TCA 5-9-109

Remember These Categories?

Local
Drug Treatment

**Drug Court Treatment*

Local
Drug Education

Drug
Enforcement

** Operational/Confidential Expenses*

General Law
Enforcement
Expenditures
(non-recurring)

Automated
Fingerprint
Machines**

Donations, generally speaking



Donations

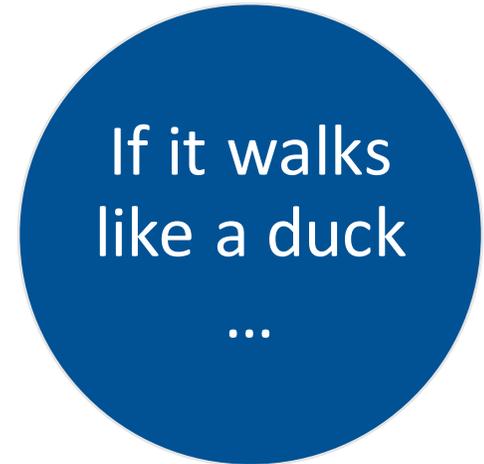


Sponsoring a sports team is NOT drug education!



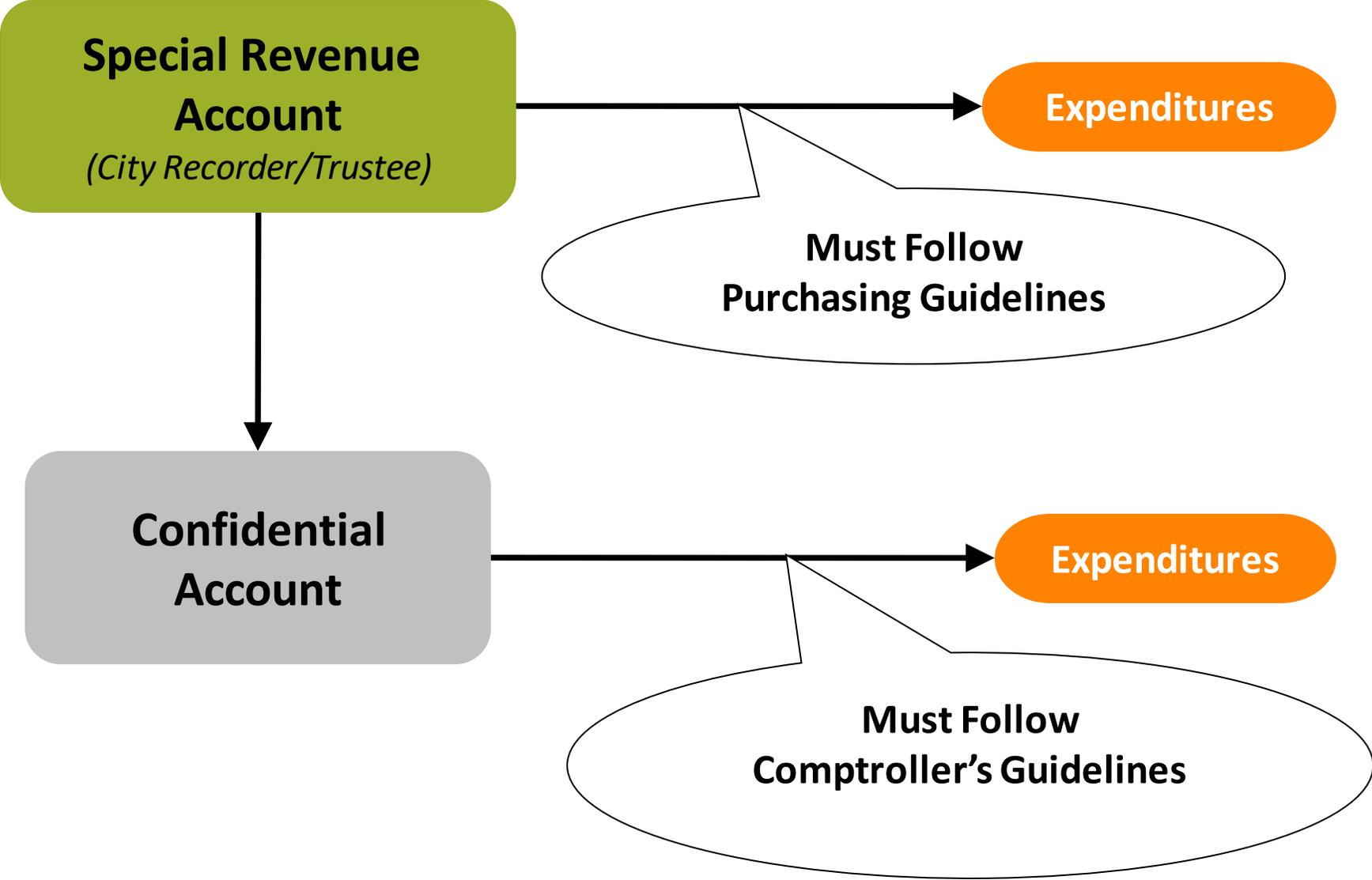
Ask:

“What is the true purpose of the expenditure?”



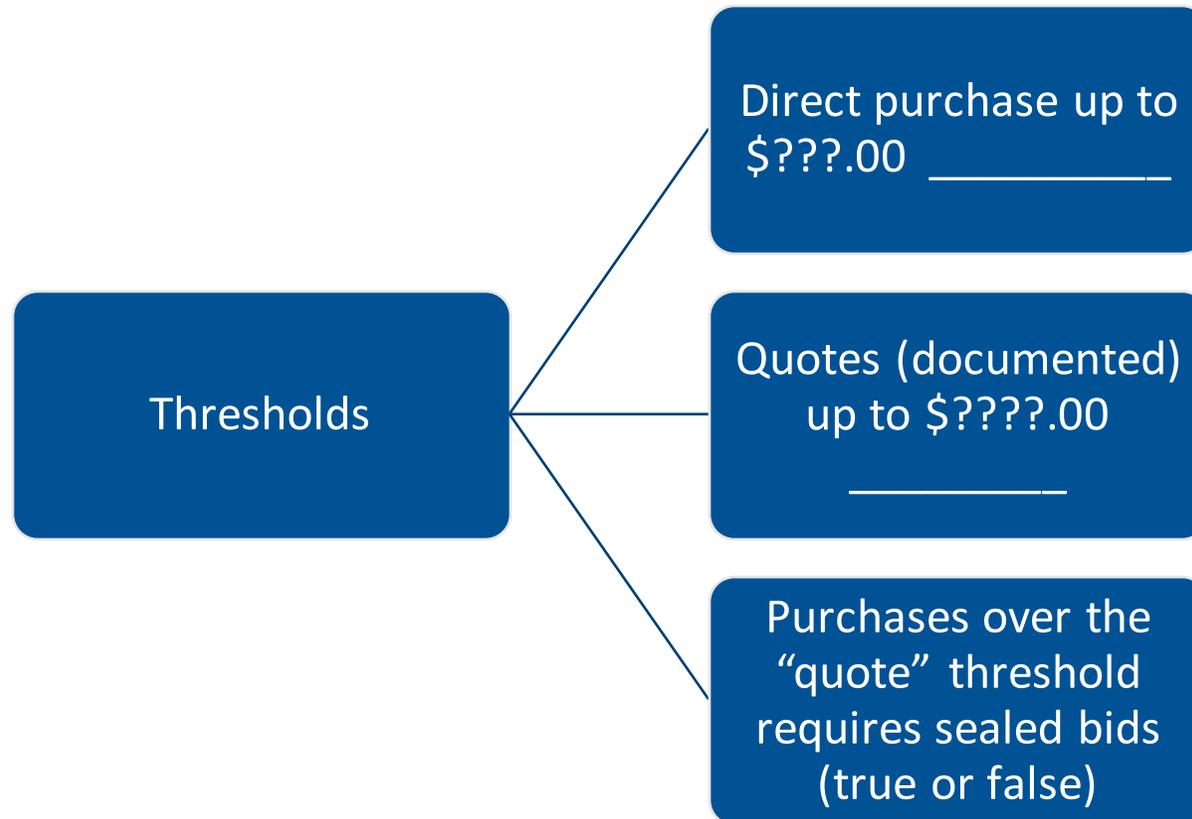
If it walks like a duck ...

- Putting “Just say no to drugs,” on a sports team jersey does not justify the expenditure
- Buying an ad in the high school yearbook is not drug education



Purchasing Guidelines

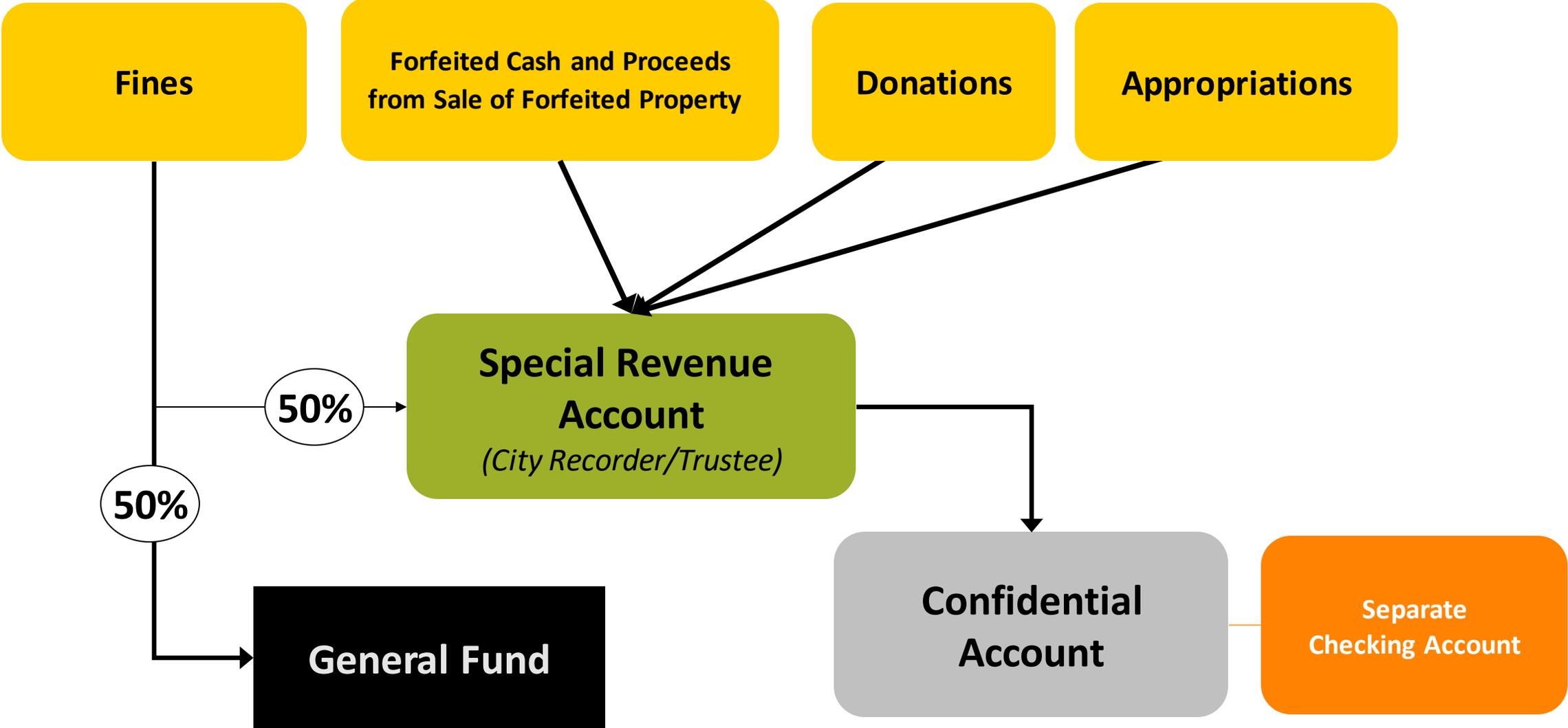
Every city or county is different and depends on which purchasing law they adopted or any private acts impacting purchasing.



Special Revenue Account



** Confidential expenditures MUST follow Comptroller's guidelines*



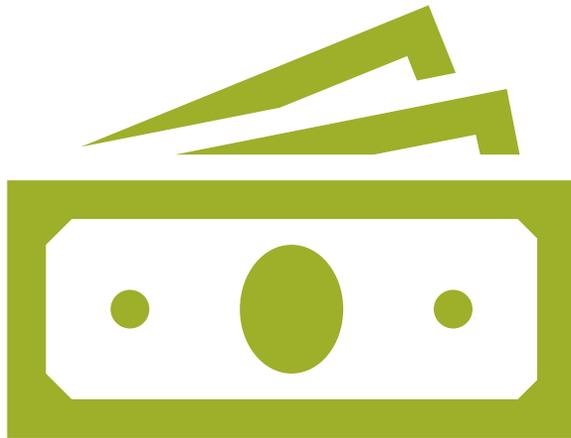
Confidential Account



Source:

Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs

Confidential Expenditures



- Payments made to an informant
- Payments made to an undercover agent
- Money spent to purchase drugs as part of an investigation
- Gasoline or maintenance for *undercover* vehicle or informant's vehicle
- Hotel Rooms
- Cell phones minutes



**PROCEDURES FOR HANDLING
CASH TRANSACTIONS**

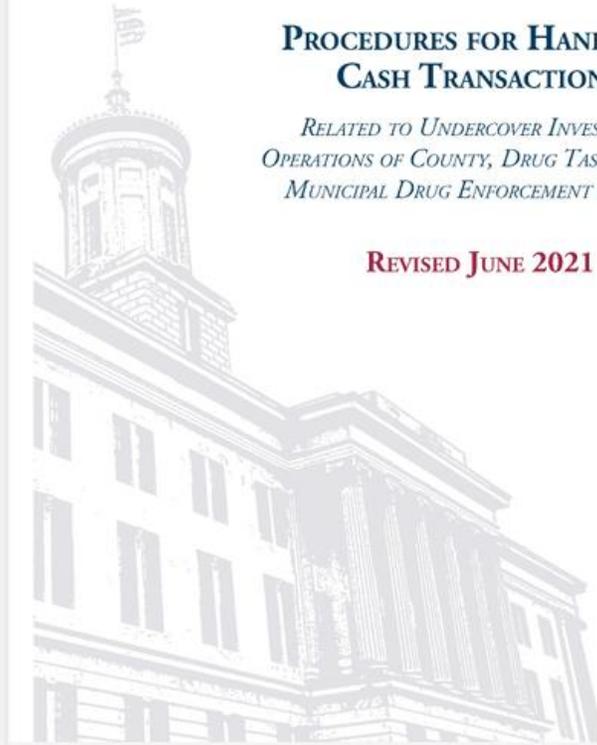
*RELATED TO UNDERCOVER INVESTIGATIVE
OPERATIONS OF COUNTY, DRUG TASK FORCE AND
MUNICIPAL DRUG ENFORCEMENT PROGRAMS*

REVISED JUNE 2021

Jason E. Mumpower
Comptroller of the Treasury



**DIVISION OF
LOCAL GOVERNMENT AUDIT**



comptroller.tn.gov

Separate Checking Account

Per Comptroller's rules, funds disbursed by the recorder/trustee to the chief/sheriff go into a separate checking account *(or daily cash journal)*

Chief will write a check to the agent requesting funds

Canceled check for each disbursement

Disbursement of Confidential Funds



Disbursements of confidential funds must be made by ***official prenumbered checks.***



All checks shall be signed by the chief law enforcement official or his designated employee and shall be made payable to the person receiving the funds, either the chief law enforcement official or an employee.



All employees handling cash transactions in any capacity shall have a fidelity bond to protect the law enforcement agency.

Request for Funds – Confidential Operations



Should not exceed a
45-day supply

53-11-415. Special revenue fund.

(a) Except as provided in subsection (b), the county or municipality shall account for those funds received under title 39, chapter 17, part 4 in a special revenue fund. **Upon demand of the chief executive of the arresting law enforcement agency, the county or municipality shall pay to that agency the funds demanded for use in cash transactions related to undercover investigative drug enforcement operations.** The amount of the funds demanded and the requirement to pay the funds are subject to the **availability of funds and budgetary appropriations for that purpose.**

Documentation

Documentation for every exchange of funds

Custodian

- Exchanges from/to Recorder/Trustee (R-1)
- Exchanges to/from agents (A-2)

Agents

- Every exchange of funds, (A-4) and
- Receipt from informant (A-5), witnessed

Audit Logs

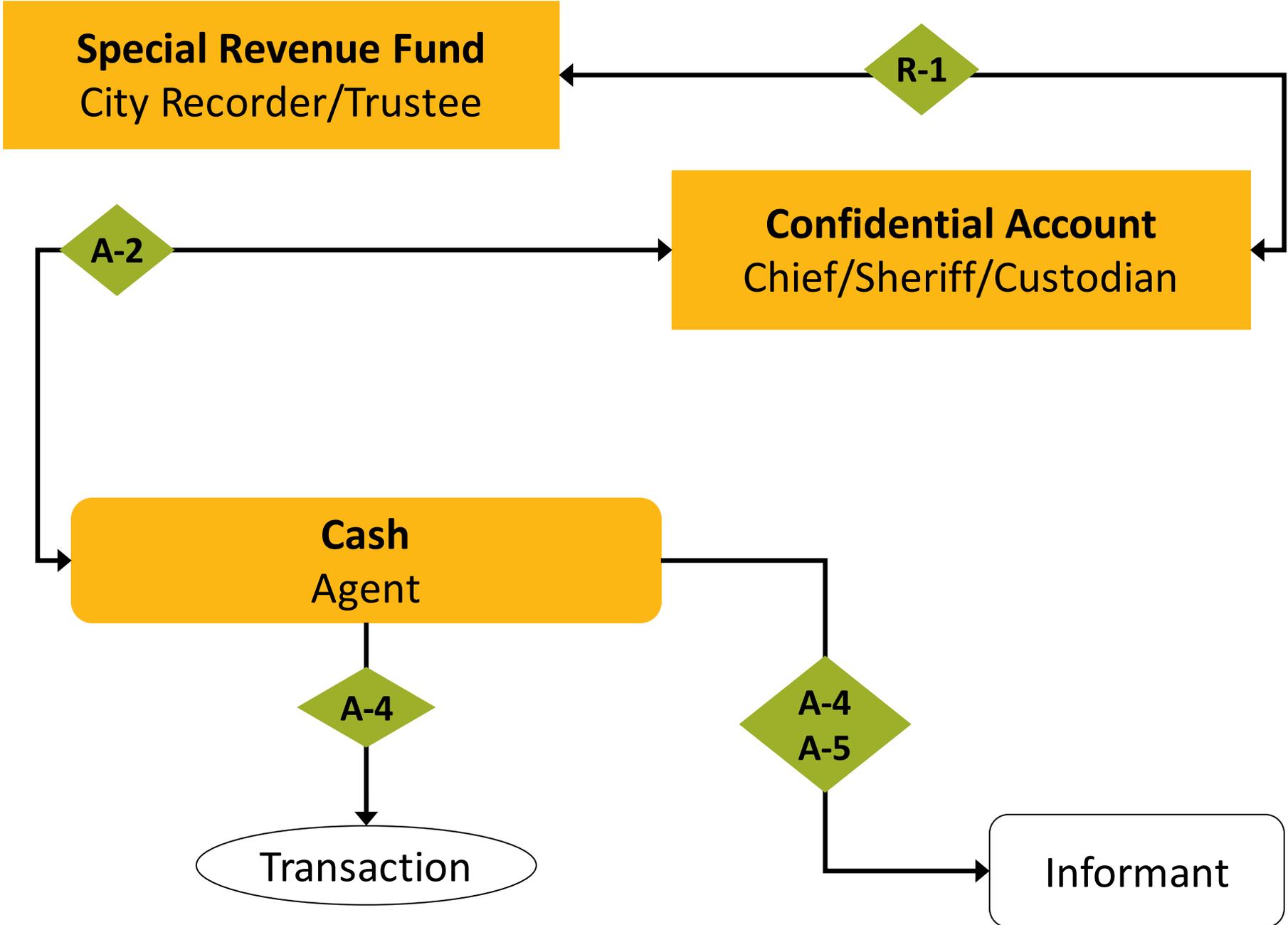
(Balance Ledger)

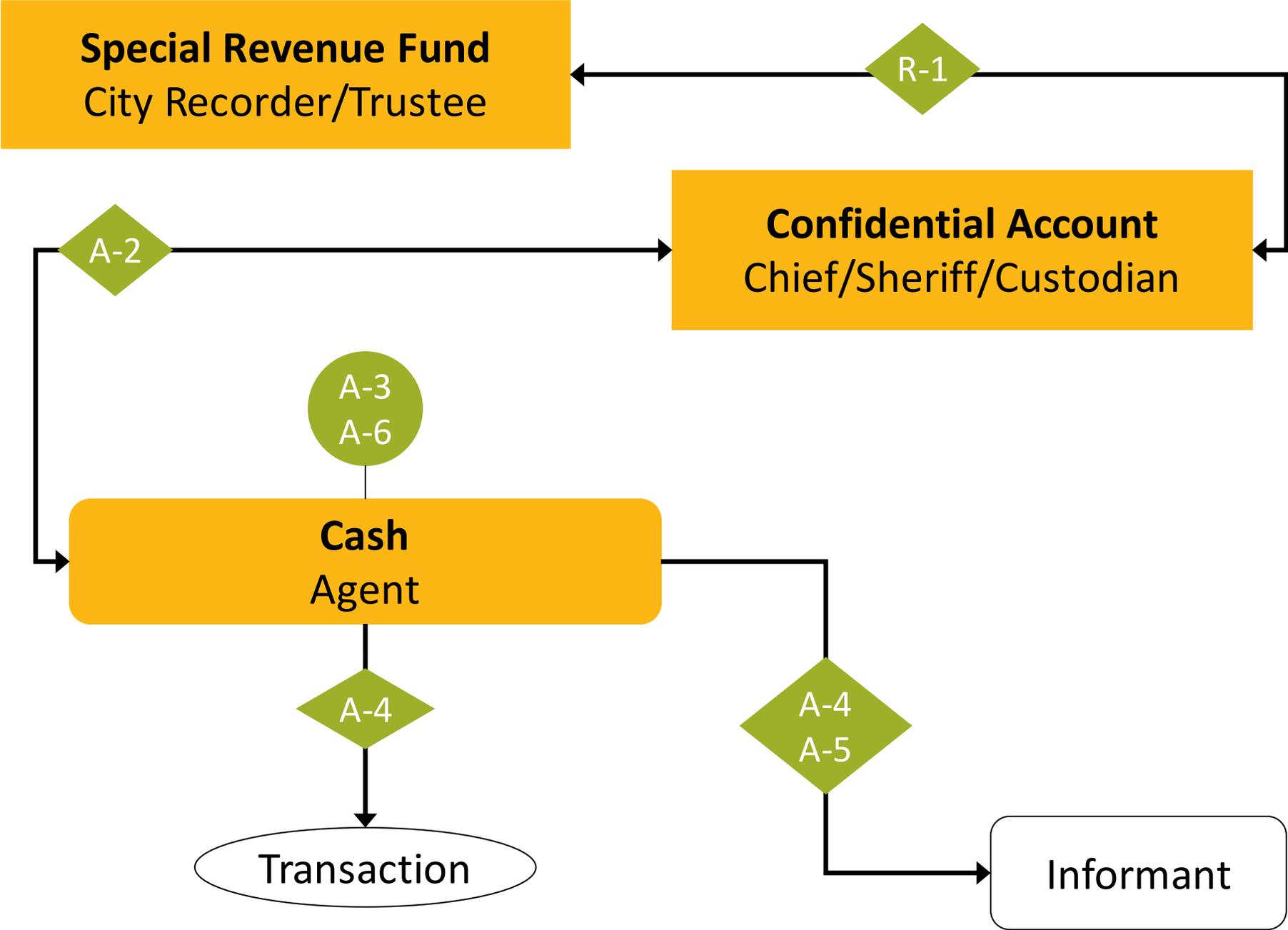
Custodian

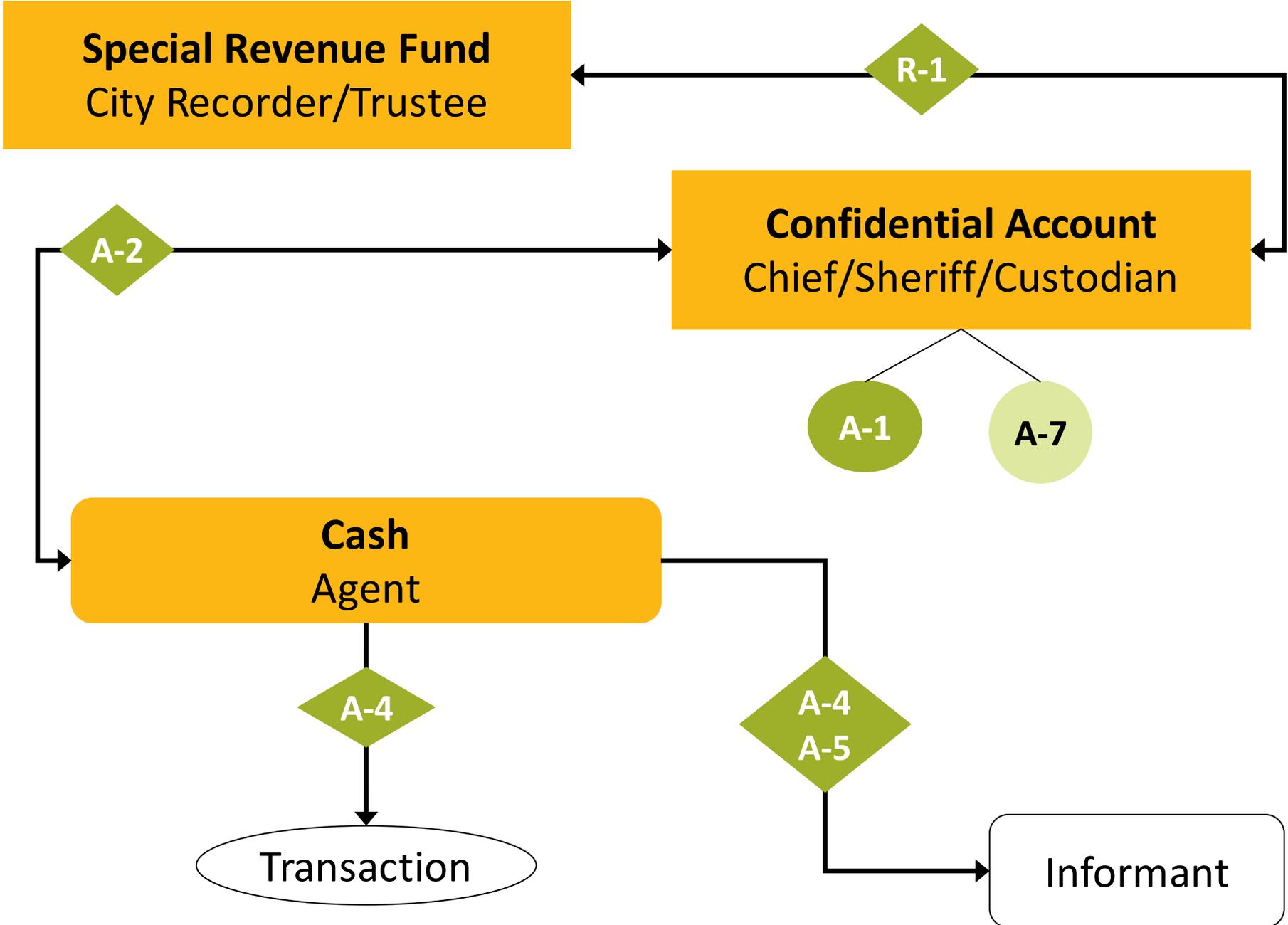
- “Custodian’s Activity Log for Confidential Transactions” Balance sheet (A-1)

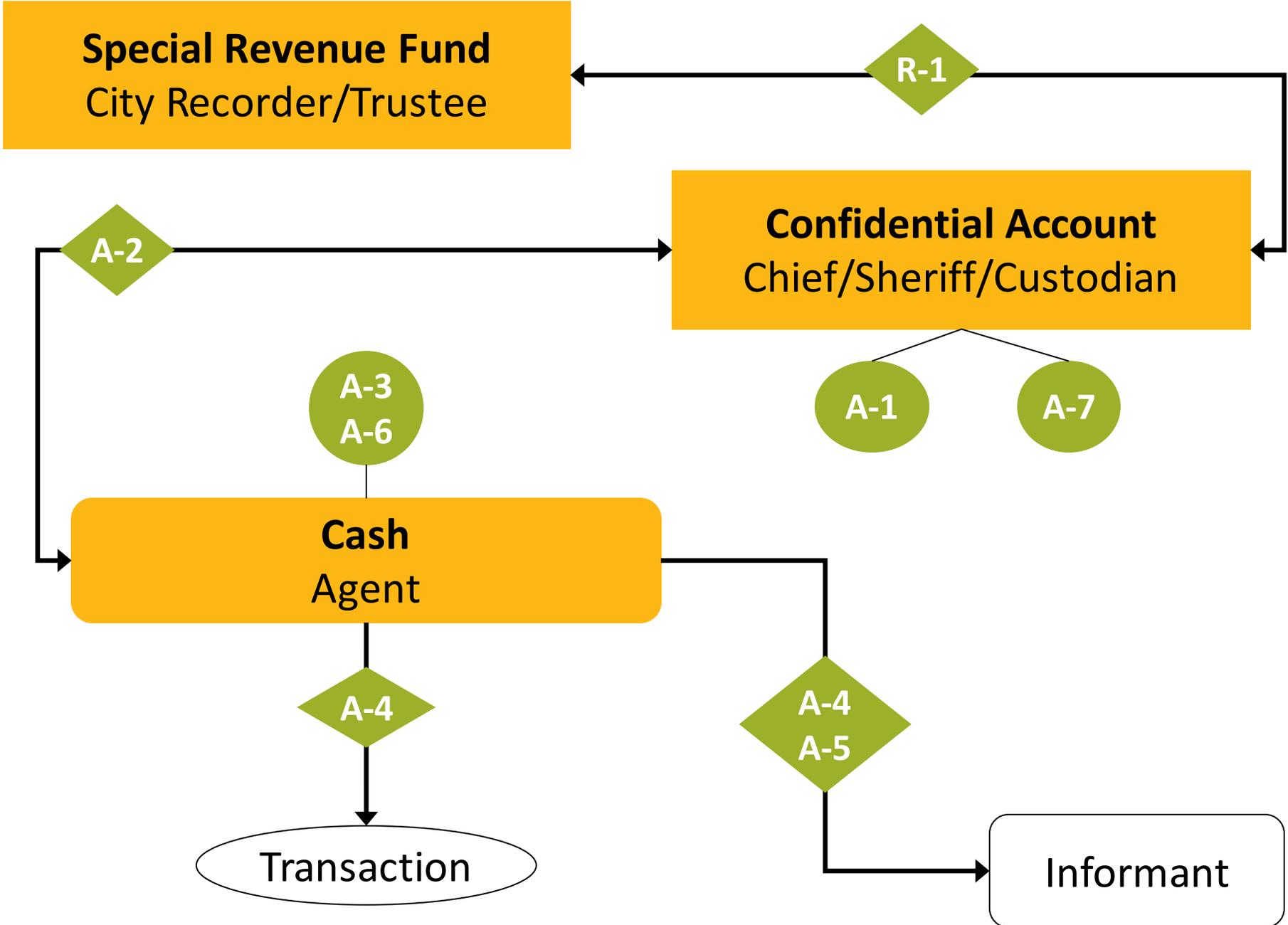
Agent

- “Agent’s Activity Log for all Confidential Funds” Balance Sheet (A-3)
- “Summary Informant Log”, for each informant (A-6)









Internal Audits

- We recommend cooperative “spot audits”
- Spot audits catch the “uh oh’s” before they become “oh, crap’s”
- Look for the required documentation for each transaction
- Check to see that agents have ALL cash not documented as having been spent
- Regular and scheduled



Managing Informants?

Best Practices



Managing Informants

- Criminal history for all informants? Update?
- Command approval?
- Documentation of informant activity history?
- Correlate informant activity to arrests and convictions?

Informant Information

- Remember, an auditor can demand to see the informant file to verify that an informant does exist.
- Unlikely to happen in an annual audit, but more likely during an investigative audit.

Proper Disposal of Property and Evidence

Authority



State law authorizes the comptroller's office to promulgate rules for municipal and county processes



Maintain the public's confidence



The law requires counties and municipalities to meet compliance standards.



Not restricted to financial matters, *includes processes*

Property and Evidence

Secure property and evidence storage facility

Procedures for property and evidence:
Institutional Control

- Evidence that you follow the procedures
- Officers store stuff in personal locker?

Annual inventory of sensitive items

Short term storage?

On a Budget?



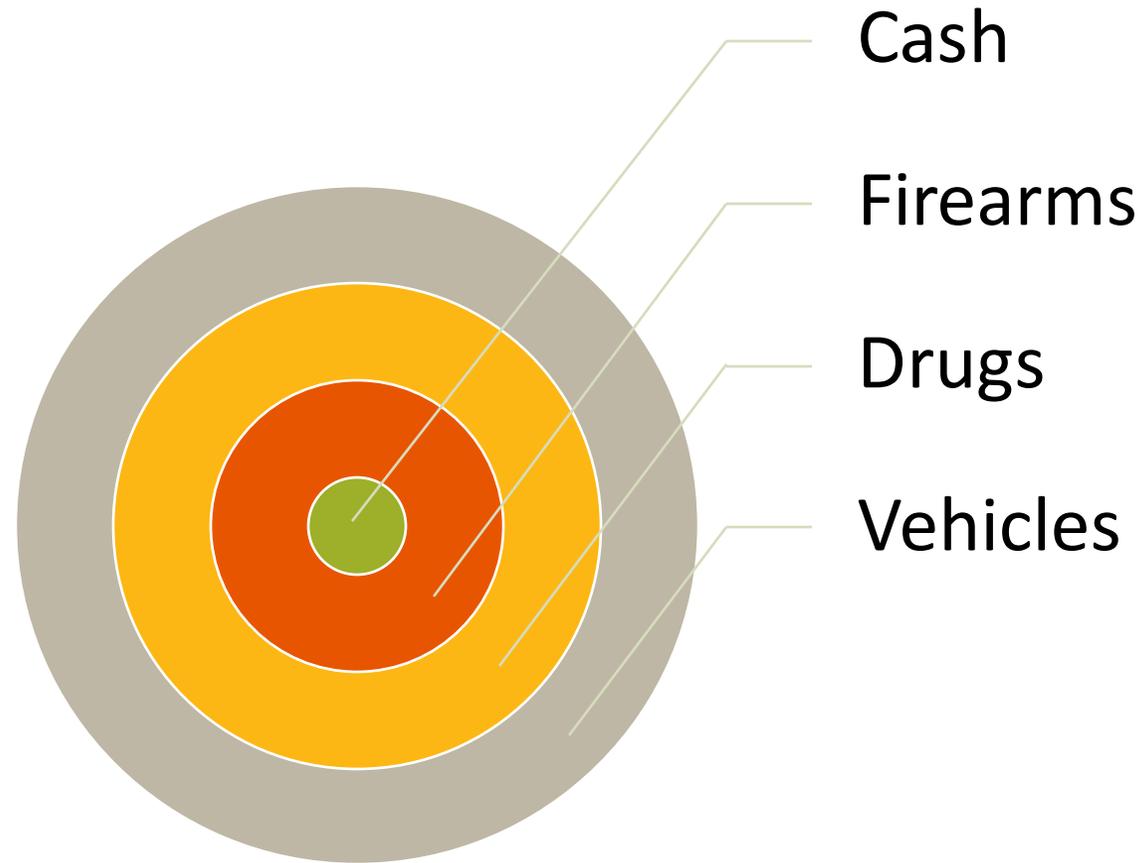
When Budgets Allow



Please Don't Do This!



Sensitive (Priority) Items





Cash

Cash

- Unless cash required as evidence, ***do not keep cash.***
- Check with the local DA to determine the need to maintain cash as evidence (case by case basis)
- Deposit in a bank
- If needed, the city/county can issue a check to return money
- Absolutely, do not keep in drawer or locker



Cash

All funds received by cities and counties must be deposited in the bank within ***three (3) business days***.

Cities: TCA 6-56-111(a)

Counties: TCA 5-8-207



Interest Bearing Account?

- Do you deposit the seized money in an interest-bearing account?
- If you lose the forfeiture hearing, you may owe the earned interest to the defendant.
- You may be required to provide an IRS 1099 form.
- Multiple deposits: Interest for which deposit?





Firearms

Firearms

- TCA 39-17-1317 requires firearms that were held as evidence in a case or otherwise used or possessed illegally to be sold, exchanged or retained for LE purposes
- Also applies to abandoned and unclaimed firearms
- Pursuant to court order
- Action must take place between 60 and 180 days after the last legal proceeding involving the weapon



Firearms

Sell

- Contract with a licensed firearms dealer

Retain

Exchange

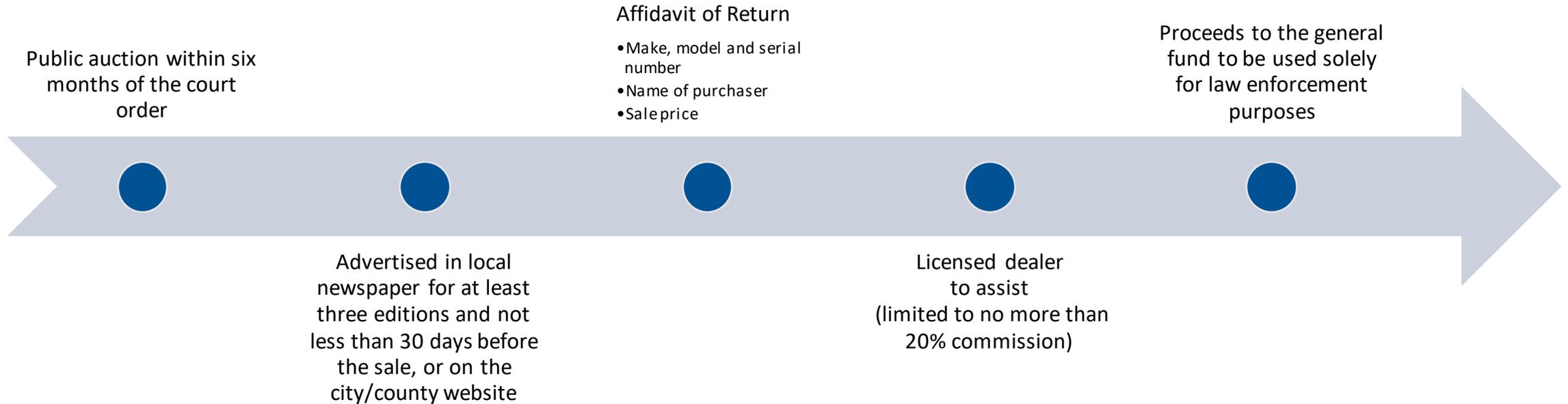
- Ammo, firearms, body armor, or other legitimate equipment

Destroy

- IF unsafe or inoperable

*** All of this must be PURSUANT TO A COURT ORDER by a judge of a court of record with criminal jurisdiction.*

Sale of Firearms



Retain Firearms

Court order gives
the police
department “title”

If it is later sold, use
the procedure for
the Sale of Firearms

Exchange Firearms

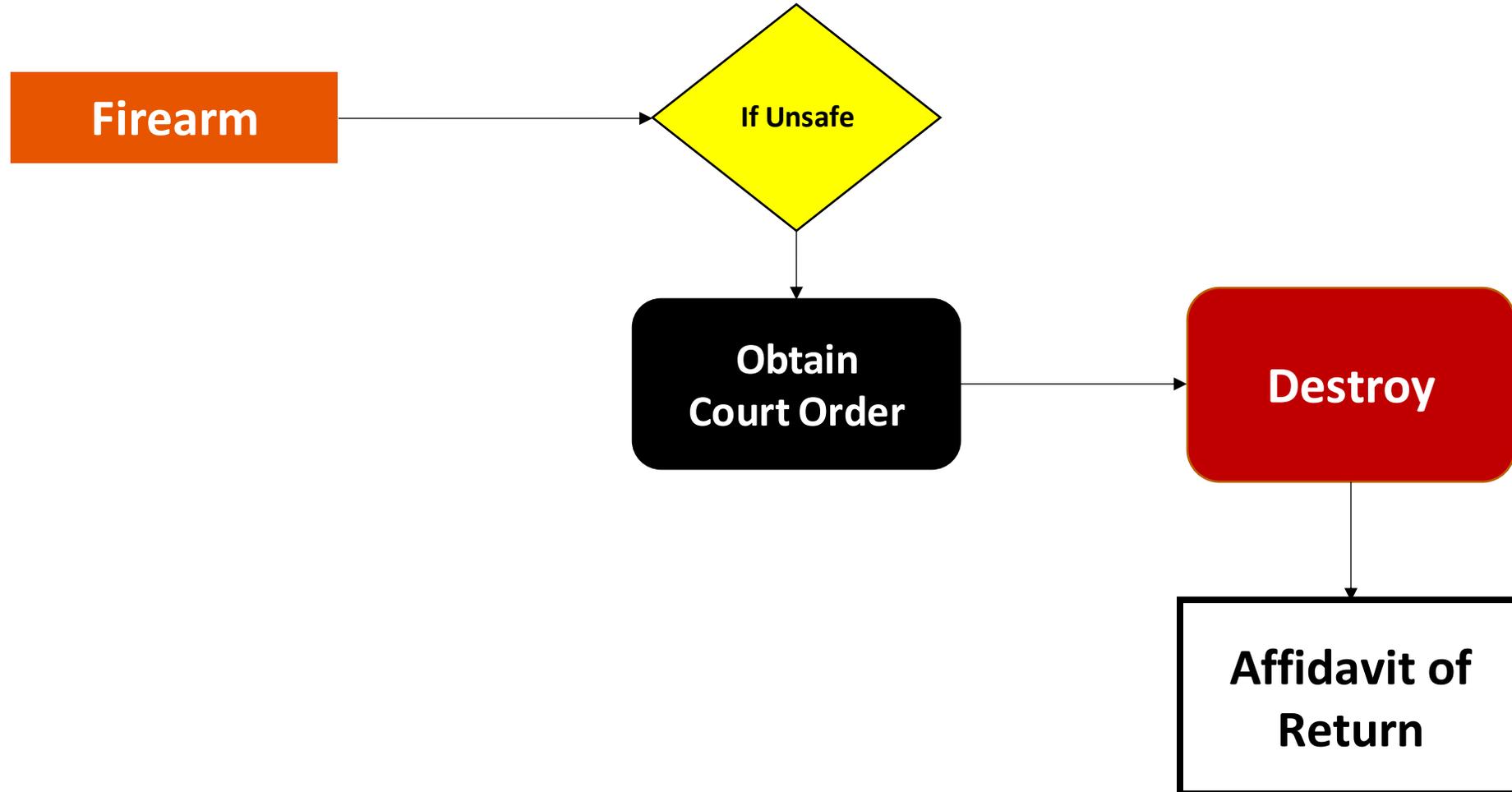
- The statute (TCA 39-17-1317) provides that an agency can exchange firearms previously titled to the department.
- First, obtain a court order giving the agency “title” to the firearm
- Obtain a court authorizing the exchange with a qualified law enforcement firearms dealer
 - Other firearms
 - Ammunition
 - Body armor
 - Or equipment suitable for legitimate law enforcement purposes

Inoperable or Unsafe Firearms

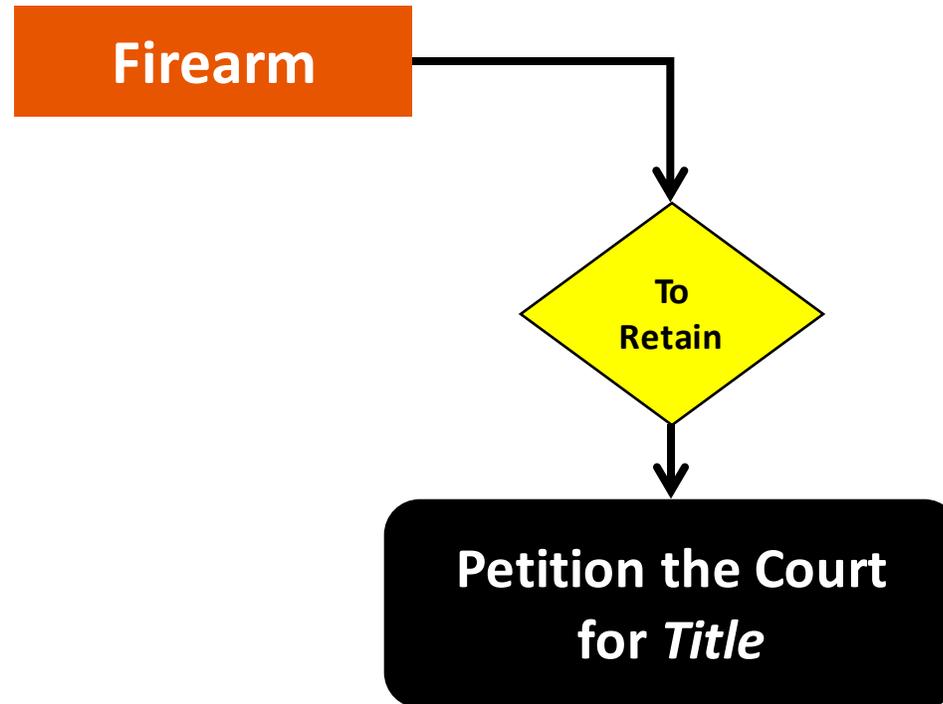
Obtain a court order
for destruction
or recycling

Transfer to a
museum or
historical society

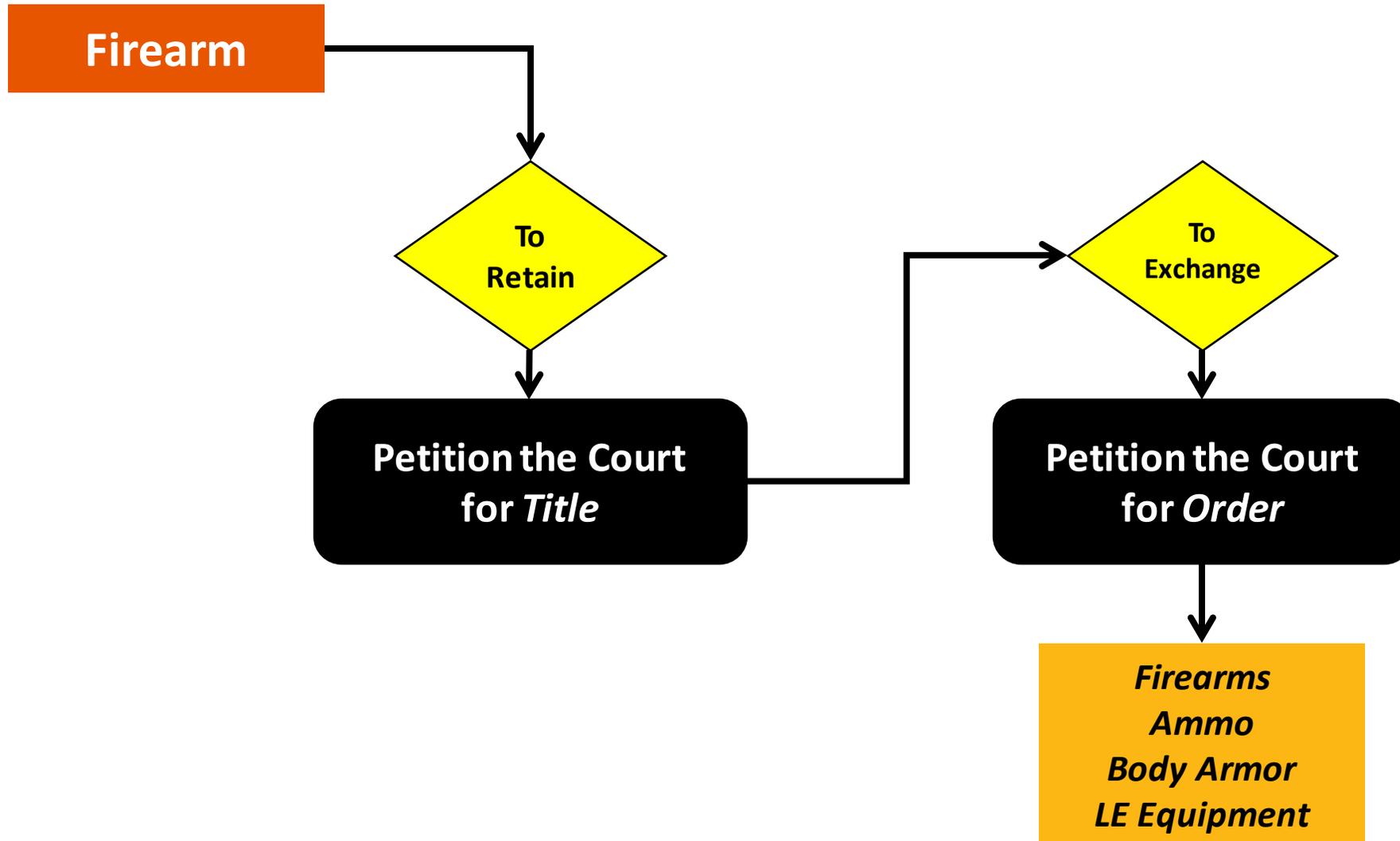
Unsafe Firearms



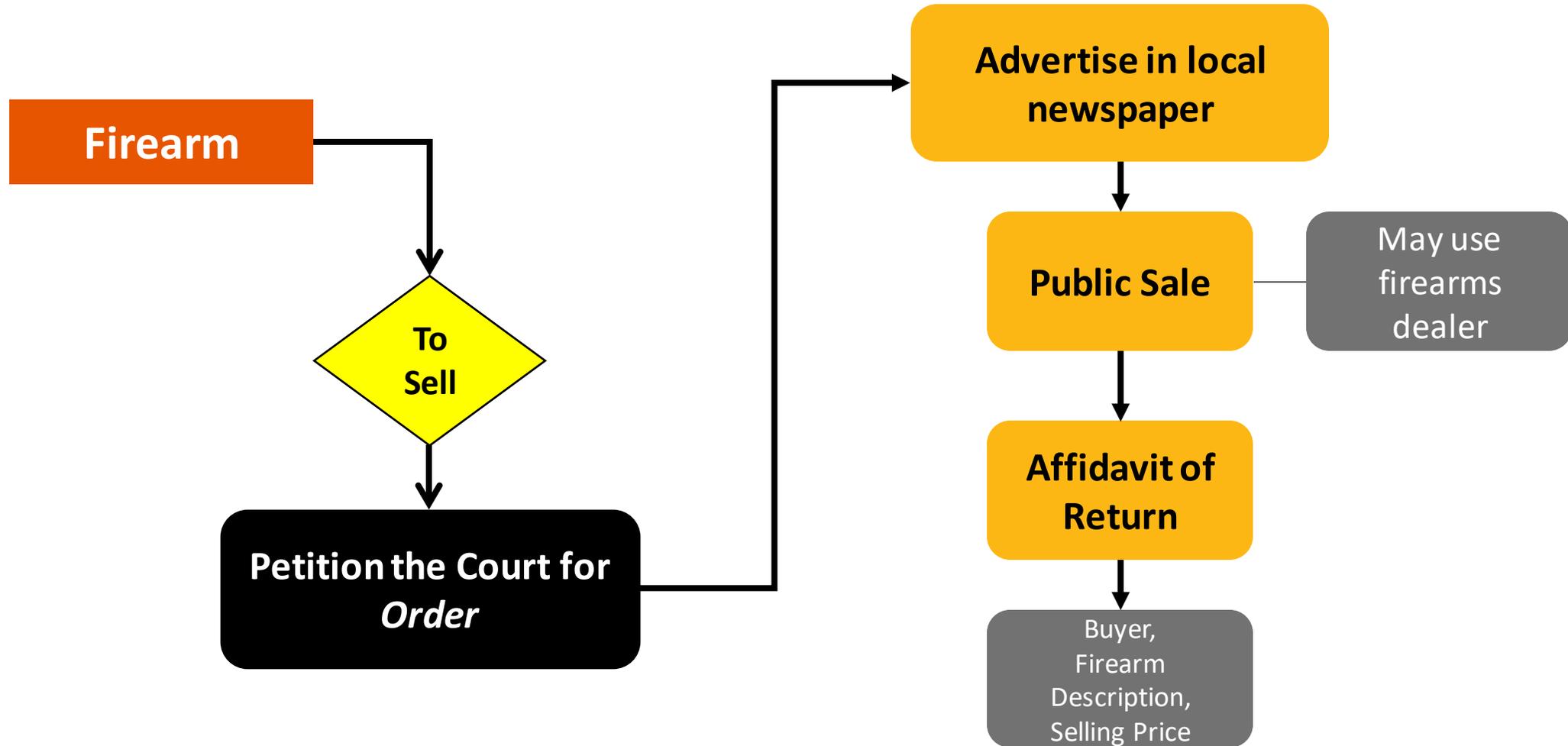
Retain Firearms



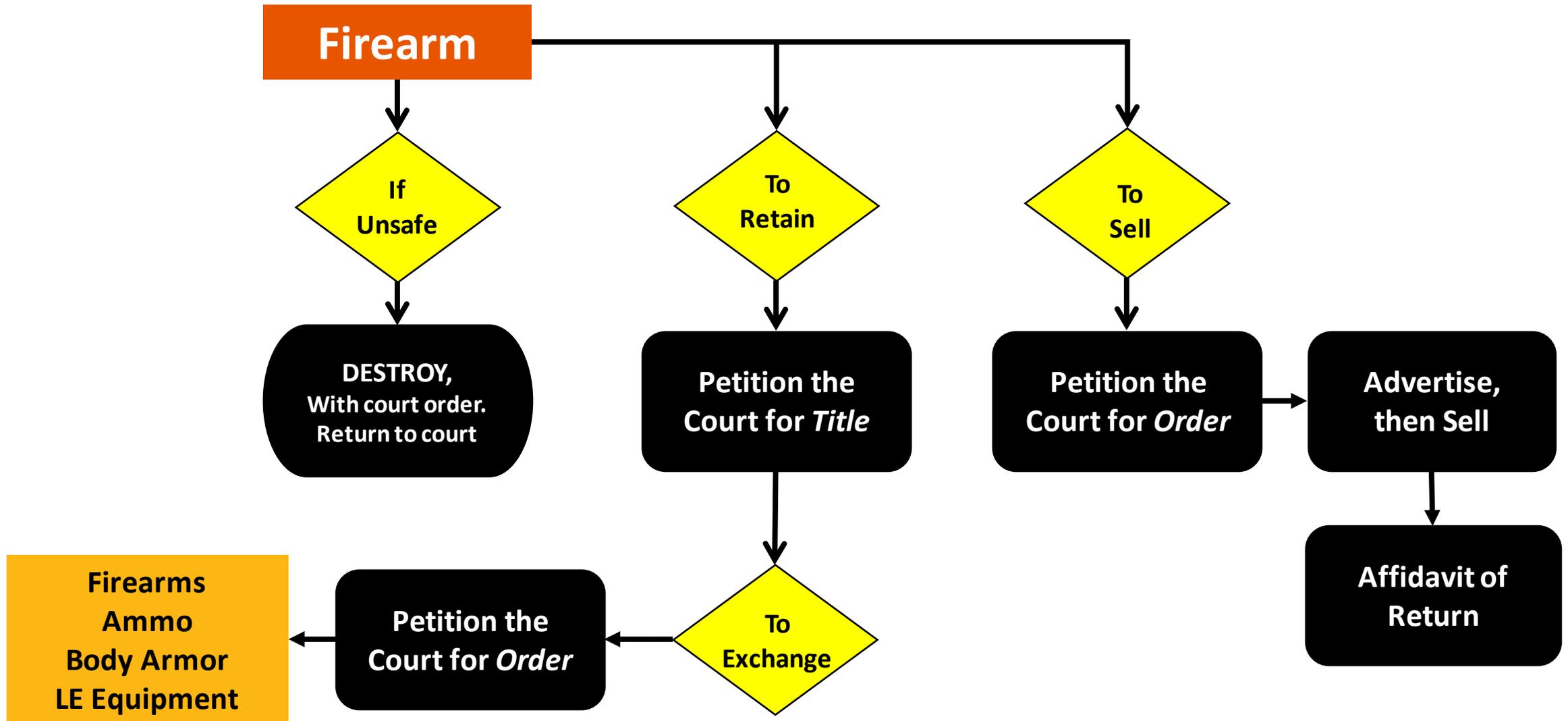
Exchange Firearms



To Sell Firearms



Firearms





Drugs

DRUGS

- TCA 53-11-451 requires the clerk of the court to inventory and dispose of drugs and paraphernalia at least annually after final adjudication
- If the case is disposed of and the drugs are still in the possession of the police department, the duty rests with the law enforcement agency



Drugs

- Drugs are contraband and are to be destroyed *after adjudication*
- Never keep more than one year beyond adjudication



What about training our drug dog?

53-14-104. License -- Required -- Application -- Fees.

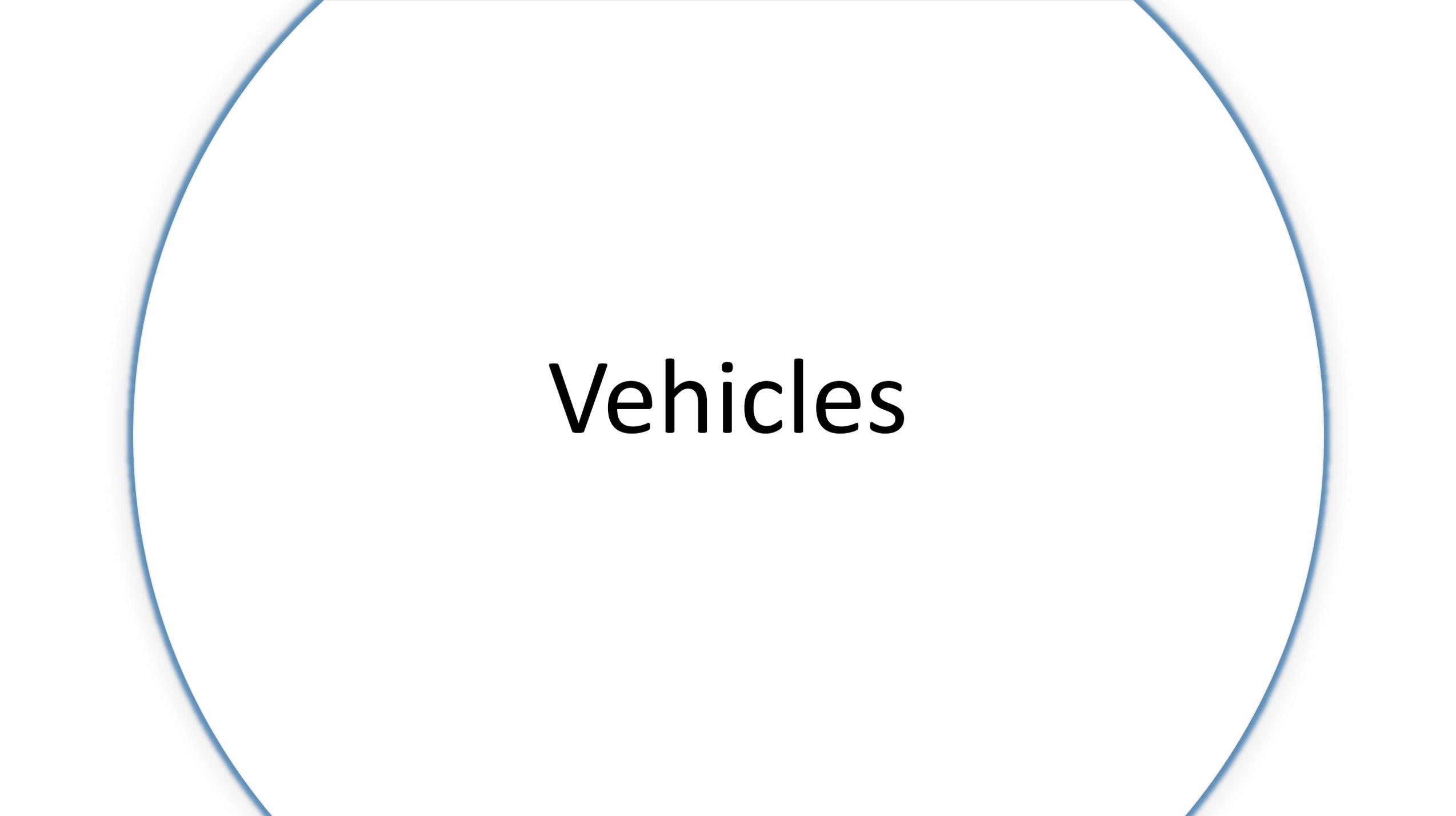
(a) No person shall manufacture, obtain, possess, administer or dispense a legend drug, controlled substance or controlled substance analogue for the purpose of scientific research, chemical analysis, **instruction or training of detection animals without having first secured a license to do so from the director.**

License for Training Drug Detection Dogs

- The department should obtain a license from the state pharmacy board and from the Drug Enforcement Administration (DEA).

License for Training Detection Dogs

- **Here are the links to get you started in the licensing process, we will also have them posted again at the end of the presentation along with any other references.*
- Federal (DEA):
 - https://www.dea diversion.usdoj.gov/online_forms_apps.html
 - Online process Form #225 – Annual Fee \$296
 - [Old 225 Form](#) – no longer used
- State: (must be approved before federal registration. \$110 fee + \$10 regulatory fee)
 - <https://www.tn.gov/content/dam/tn/health/documents/Doghandler.01-2017.pdf>



Vehicles

Vehicles

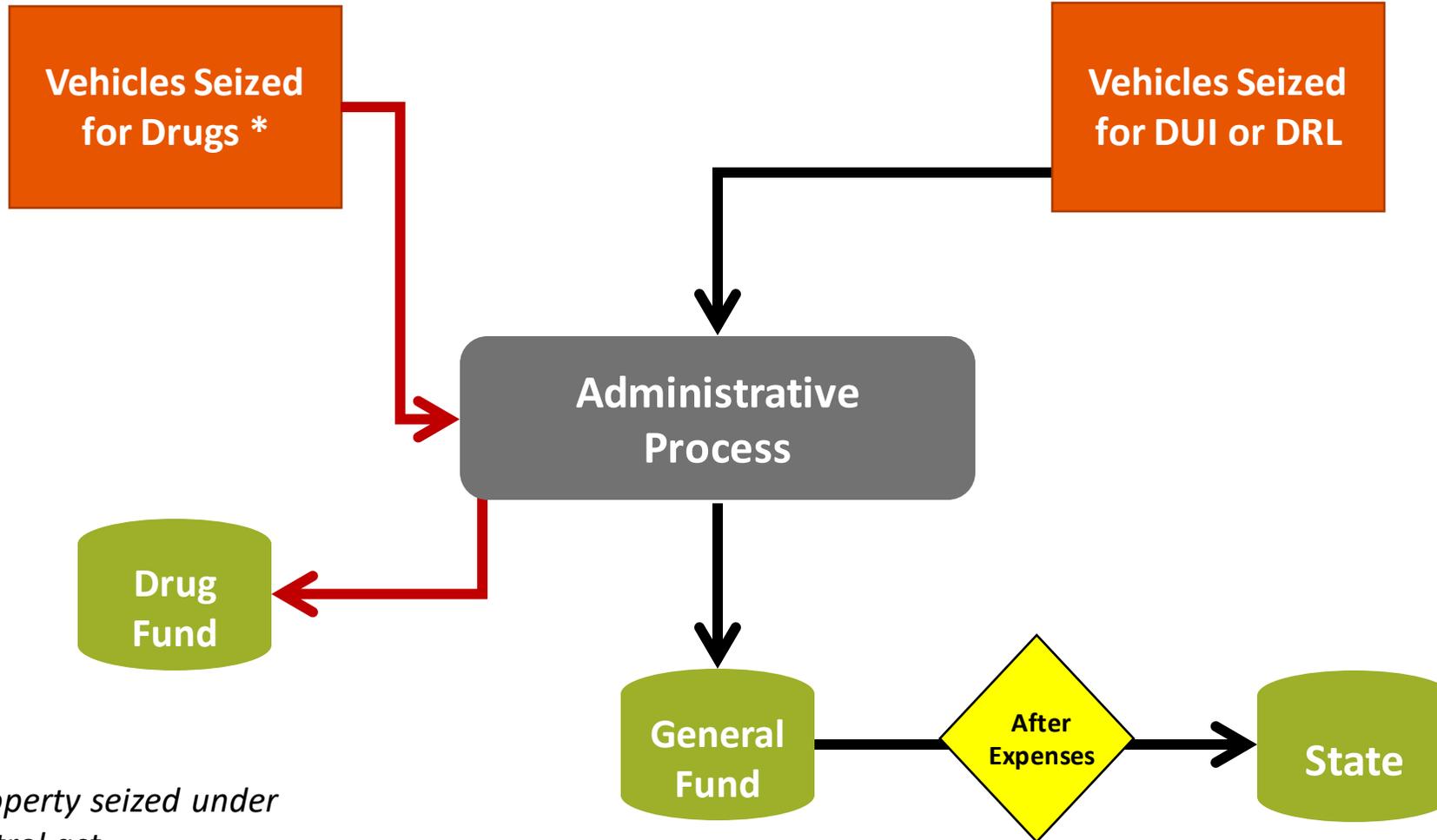
- Treat the same as any other evidence
- Annual inventory of vehicles
- Keep secure
 - In-house security
 - Vendor lot
- **Maintain adequate inventory records**
- Ensure that proceeds go where they are supposed to
- Do you have a daily storage fee for your lot?



DUI/DRL VEHICLES

- Second or subsequent offense of DUI
- Driving on Revoked Drivers License when license was revoked for DUI
- *ALL* proceeds from sale go to state department of mental health, except for *direct expenses associated with seizing, towing, storing, etc.*





** Any property seized under drug control act*

Conveyance Seizures

• **Judicial Process (40-33-101)**

- Sexual offenses
- Robbery
- Felony Theft
- Burglary
- Must be included in the indictment
- Requires Conviction
- Judge orders forfeiture

Title 40, Chapter 33, Part 1

• **Administrative Process**

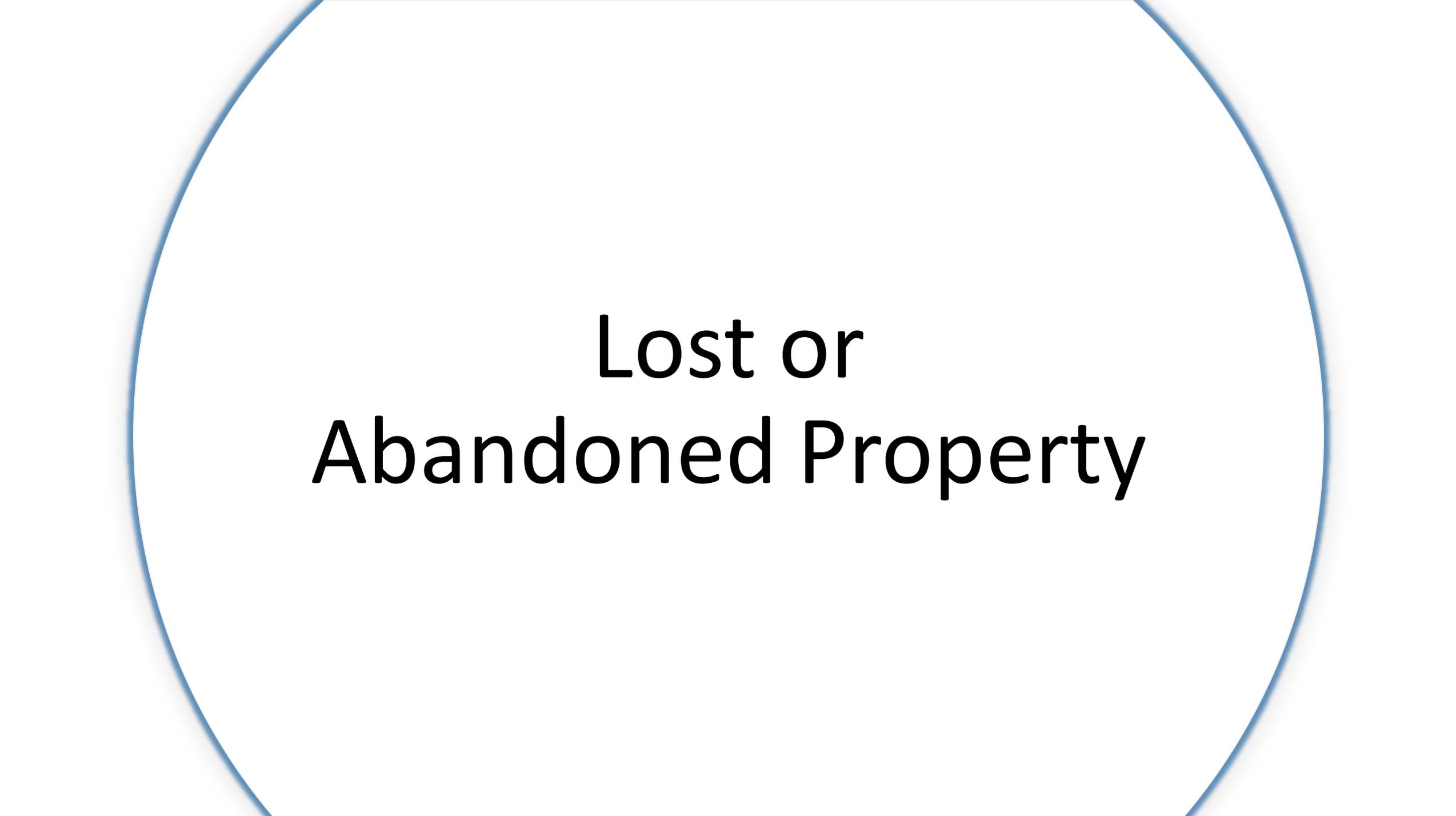
- Drugs
 - Proceeds to Drug Fund
- Sexual Exploitation of Children (TCA 39-17-1008)
- DUI/DRL
- Arson
- “Trademark Licensing” laws
- Bootleg Whiskey
 - Proceeds split with ABC
- Untaxed tobacco

Title 40, Chapter, 33, Part 2

Can You Use the Cars?

- Vehicles seized for drug violations **OR** for DUI/DRL and forfeited to the city/county may be used for **DRUG ENFORCEMENT** purposes
- Must be sold after five years.
- Vehicles forfeited under a judicial process can be used for any law enforcement purpose.





Lost or
Abandoned Property

Lost or Abandoned Property

Different for Police departments than Sheriff's departments

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graph LR; A[Different for Police departments than Sheriff's departments] --- B[Sheriff's departments follow TCA 8-8-501]; A --- C[Police Departments are subject to Uniform Disposition of Unclaimed Property Act for cash]
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Sheriff's departments follow TCA 8-8-501

Police Departments are subject to Uniform Disposition of Unclaimed Property Act for cash

TCA 8-8-501 (Sheriffs)

Dispose of all abandoned, stolen and/or recovered or worthless property which remain unclaimed

By confiscation, abandonment or by being stolen and recovered

Due diligence to return to rightful owner

Wait 90 days from date of acquisition.

Uniform Disposition of Unclaimed Property Act

All lost or abandoned property (cash) technically belongs to the state of Tennessee.



Register the cash online at the Unclaimed Property Division of the state treasurer's office



The law is silent on other unclaimed or abandoned property. MTAS recommends treating it as surplus property.

- Governing body should declare the items to be surplus.
- Sell at auction (including online auctions).

Beer and Alcohol

Beer and Alcohol

- Unopened beer/alcohol to be turned over to the state Alcohol Beverage Commission
- *57-9-115*
- State returns a percentage of proceeds from the public auction of beverages to local government
- After adjudication, dispose of open containers
- Class C misdemeanor



In closing...

Evidence

Rules of Evidence, Rule 901

- Chain of custody maintained and documented

Aside from general rules of evidence we expect as police officers

- TCA 9-2-102 requires cities and counties to follow rules of the Comptroller's office
- Internal Control and Compliance Manual

Governmental Accounting, Auditing, and Financial Reporting

Code of State Regulations (Secretary of State, effective rules)

Are we having
fun yet?

Resources



INSTITUTE *for* PUBLIC SERVICE

David Moore
UT MTAS Police Management Consultant
David.Moore@tennessee.edu
731-514-2715



SCAN ME

Rex Barton
UT MTAS Police Management Consultant
Rex.barton@tennessee.edu
423-506-0402



SCAN ME



INSTITUTE *for* PUBLIC SERVICE

Derrick Woods
CTAS Criminal Justice Consultant
derrick.woods@tennessee.edu
423-248-9989



SCAN ME

Clint Shrum
UT CTAS Criminal Justice Consultant
Clint.shrum@tennessee.edu
931-273-4736



SCAN ME