

**River Bend Police Department**  
**Property and Evidence Control**  
**General Order 84**  
**Effective Date 09/01/2018**

**84.01**      A.     All property confiscated, seized, or found pursuant to NCGS Chapter 15, Article 2, Record and Disposition of Seized, etc., Articles will be logged in the agency's records on a daily basis. Exceptional circumstances include:

1. Property that requires drying prior to submission. A property sheet / or AEGIS entry must be completed and submitted indicating the property's location.
2. For circumstances in which the urgency to continue the investigation will not allow for the submission process to be completed and with the supervisor's approval, property will be secured in the evidence locker. The time secured and location of the property will be documented in the notes of the Property Sheet or AEGIS entry.
3. Cases in which the volume of evidence will not allow the officer(s) to complete the submission process prior to the end of duty requires the supervisor's approval. The time secured and location of the property will be documented in the notes of the Property Sheet / or AEGIS entry. Property will be secured in an evidence locker or other location approved by a supervisor. No property will be taken home or left in an officer's / employee's vehicle.
4. Property subject to immediate return to the rightful owner. This release of property will be documented on the Property Sheet and AEGIS entry. If no contact is made with the rightful owner, such property must be submitted by the end of the officer's tour of duty.
5. The chain of custody of property will be clearly denoted on the Property Sheet and AEGIS entry as to any delay in submission of property.

    B.    Employees shall turn over to Property and Evidence Control all lost, stolen, recovered, abandoned, or evidentiary material which comes into their possession as a result of the performance of their official duties. All such material shall be turned over prior to the completion of the tour of duty during which the material came into the possession of the employee.

    C.    All offense reports shall include the circumstances and descriptions of

evidence or property. Found property only requires a case report if involved in a crime.

D. The following guidelines will be utilized for packaging and labeling property prior to storage:

1. Employees must properly handle, package, seal, label, and document all property / evidence collected prior to submission to Property and Evidence Control. The property may be submitted directly to Property and Evidence Control Officers if they are available to receive the item(s) or locked in a locker in the evidence room. If the item is too large for the evidence lockers, it must be submitted directly to a Property and Evidence Control officer.
2. Property and Evidence Control Officers will submit property or evidence to the SBI via the Forensic Advantage website at [www.crimelab.ncdoj.gov/FAPortal](http://www.crimelab.ncdoj.gov/FAPortal) upon request of the submitting officer(s).
3. Packaging type: All property / evidence collected must be packaged based upon their type or category. Each item collected from a scene must be packaged individually or with property of the same type:
  - a. Bio-hazards—Any item containing, on or within, a natural or produced pathogen that may be spread / released through human contact.
  - b. Controlled substance—Any substance defined within the North Carolina Controlled Substance Act. Note: If requesting items be sent to the SBI lab, specifically pills for analysis, the items must be packaged separately.
  - c. Firearms—Any portable firearm such as handguns, rifles, and shotguns that fire a projectile through means of an explosive ordinance. This shall include mock or BB guns.
  - d. Jewelry—Objects used for personal adornment such as necklaces, rings, bracelets, or brooches, especially those that are made of precious metals, gems, pearls, and / or other organic matter that are considered as fine crafted.
  - e. Money / counterfeit money—Any form of US or foreign currency including counterfeit. Note: Counterfeit money should be packaged separately from other collected currency. (The amount of counterfeit money must be verified by two officers)

- f. Other property—All other types of evidence / property.
- 4. The item(s) must be packaged in a reasonable sized container relevant to the type of item(s) being submitted. Various containers may be used including paper and plastic bags, pouches, tubes, boxes, cans, envelopes, etc.
  - a. Proper packaging:
    - 1. Enables the employee to positively identify property / evidence that he / she has submitted.
    - 2. To testify to its unaltered condition throughout its custody, and
    - 3. Serves to protect the property / evidence from damage and / or deterioration.
  - b. Sealing Evidence:
    - 1. Evidence will be sealed using only evidence tape.
    - 2. After sealing the evidence the employee's initials and date must overlap both the seal and package.
  - c. With the exception of evidence being taken to court the Property and Evidence Control officers must approve any request to remove and or break the seal of any stored evidence and:
    - 1. The officer requesting access to the evidence must send an email to the Property and Control Officers indicating justification for the request.
    - 2. The Property and Evidence Control officers will email the requesting officer with approval / disapproval of the request.
    - 3. If approval of the request is given the requesting officer will arrange to break the seal in the presence of a Property and Evidence Control Officer. At the completion of the review that required the seal to be broken, the officer will re-seal the evidence package in the presence of the Property and Evidence Control Officer. The officer will be required to document in a supplement the following:
      - a. Justification for the request

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- b. Employees present at the time the seal was broken and resealed, and
  - c. All actions taken in relation to the manipulation of the evidence package.
5. SBI Sexual Assault Evidence Collection Kits and SBI Subject Evidence Collection Kits have detailed instructions as to how to collect and submit the kits for analysis.
6. SBI Sexual Assault Evidence Collection Kits and SBI Subject Evidence Collection Kits are NOT to be refrigerated unless:
  - a. Liquid and Blood samples or Urine have been added to the Kit and you are not where you can have the nurse separate the samples, then refrigerate the kit as soon as possible until such time as the collecting nurse can separate the samples from the kit.
  - b. The SBI will NOT ACCEPT a Sexual Assault Collection Kit that has a liquid blood sample or urine in it.
  - c. At the time you receive the kit, ask the nurse if anything has been added specifically, urine and blood samples. If these samples have been added, then have the nurse separate the liquid blood and urine samples and follow the insert instructions per the SBI for proper packaging of those properties. Remember liquid blood is different from a DNA sample that is generally collected in the kits.
  - d. Liquid samples and urine ARE to be refrigerated and are to be separate from the Sexual Assault Evidence Collection and / or Subject Kit.
7. SBI Sexual Assault Evidence Collection Kits are:
  - a. Provided by the hospital ONLY and,
  - b. Collected by qualified hospital personnel (This kit was previously referred to as "Victim Kit").
8. SBI Subject Evidence Collection Kits are:
  - a. Provided by the police department and located in the Property and Evidence room.
  - b. Collected by qualified hospital personnel (This kit was previously referred to as a "Suspect Kit").

- c. If collection is needed, this kit will need to be provided to the hospital by the officer.
- 9. Special Attention: Certain property delivered to the Property and Evidence Room requires special attention when packaging. It is very important that the Property and Evidence Control Officers are made aware of the potential danger in handling special attention items. The employee submitting an item requiring special attention will use a red marker to mark the packaging with the word WARNING and specifying the type of item and the reason it requires special handling. The following types of property require special attention:
  - a. Ammunition: The ammunition contained within a magazine, clip, cylinder, drum, or other ammunition storage / feeding device will be stripped from the device and counted unless processing is needed. If this is the case, contact the Property and Evidence Control Officers.
  - b. Batteries: All batteries must be removed from electronic items prior to being packaged / submitted. If the removal of the batteries will cause a loss of important information or if the removal is difficult, the items(s) must be in the power off position prior to packaging / submitting.
  - c. Bio-Hazardous Materials: All known or suspect bio-hazardous materials must be packaged in accordance with OSHA requirements. Bio-hazard materials, if wet, must be air dried and then packaged using paper material or bags, not plastic. A bio-hazard sticker must be placed on the outer container. If a sticker is not available, the words "Bio-Hazard" must be written on the outer container using a red marker.
  - d. Controlled substances: All controlled substances must be clearly described via physical description, quantity, and, weight if possible to include color, shape, and imprints on pills. If weight is used as a description, officers should describe weight as an approximate weight to allow for natural weight loss through evaporation. All felony drugs case evidence should be photographed prior to being submitted into evidence. Unless the controlled substances are to be destroyed. Property and Evidence Control Officers will not open the packaging for these items. Do not use plastic evidence bags for wet, damp, or undried plant material.
  - e. Firearms: If an employee is submitting a firearm to Property and Evidence Control, the firearm must be rendered safe by removing the ammunition from the weapon. If the condition of the weapon

prevents the employee from removing the ammunition the employee will request assistance from a Firearms Instructor. If a Firearms Instructor is not available, and the weapon must be submitted in a loaded state, the employee will make every effort to make safe the weapon and mark the package for Special Attention, writing the words "WARNING—LOADED FIREARM" to warn the Property and Evidence Control Officers of pending danger. Property and Evidence Control Officers should consider all firearms as being loaded. Property and Evidence Control Officers will inspect and if necessary, seek assistance from a Firearms Instructor to confirm that the weapon is unloaded.

- f. Latent print cards or digital media shall be delivered to Evidence and Property Control properly packaged and submitted via the evidence lockers along with the appropriate evidence examination request.
- g. Money: All paper currency and coins shall be counted and documented by denomination on the evidence packaging before sealing. A supervisor or second officer must verify the count and sign the evidence packaging on the line indicating the cash amount. Negotiable currency shall never be packaged with the counterfeit money. Currency in excess of \$500.00 shall not be deposited in a locker and must be given directly to an Evidence and Property Control Officer.
- h. Sharps: Knives, needles, razor blades, glass, etc., must be packaged in a manner so that the packaging material will not be penetrated while being handled. Examples: knife blades, razors, and glass can be secured by wrapping a piece of cardboard around sharp edges. Syringes and needle can be secured by placing them in a plastic tube with a cork insert.

- E. The following secured areas are utilized as controlled property / evidence storage for the department:
- F. Employees will make every attempt to locate the owner(s) of found / recovered (non-evidentiary) property before submitting said property. If possible the employee will release the item(s) directly to the owner(s) and note the transaction on the property sheet which the employee will enter into AEGIS. The officer / employee receiving found or recovered stolen property will attempt to notify the owner and:
  1. The owner will be advised what property has been found / recovered and if or when the property may be picked up.

2. If the officer / employee and or the Property and Evidence Control Officers are unable to determine the owner of the property, it will be held for six months and then disposed of per general statutes.

G. Establishing procedures for the temporary and final release of property from the control of the Property and Evidence Section. The following procedures will be followed:

1. Officers are responsible for obtaining in a timely manner, the appropriate court judgement for their cases that involve evidence recovery. Property and Evidence Control will annually provide to each officer a complete listing of their property and evidence for disposition purposes. The employee will review the case and check to ensure there are no further court actions or investigations pending. Officers will update the property disposition information in AEGIS. If the item(s) can be disposed of, the employee will check the appropriate disposition, sign the form, make any additional comments, and forward all written documentation including the court judgement to the Property and Evidence Control Officers by the designated due date. If the item(s) are not to be released, the employee will indicate the reason for retention on the form, sign it, and return it to the Property and Evidence Control Officers by the due date.
2. Seized property will be disposed of pursuant to the Comprehensive Crime Control Act of 1984 in addition to NCGS Chapter 15, Article 2, Record and Disposition of Seized, etc., Articles. Disposition may include returning the property to the rightful owner, returning the property to another law enforcement agency investigating the theft of the property, forfeiting the property for use by the department or for auction, or destroying the property.
3. Unclaimed property: Found / recovered property which remains unclaimed by the owner for a period of 180 days after receipt thereof will be disposed of pursuant to NCGS Chapter 15, Article 2, Record and Disposition of Seized, etc., Articles. Bicycles remaining unclaimed by the owner for a period of 60 days after receipt thereof will be donated pursuant to NCGS Chapter 15, Article 2, Record and Disposition of Seized, etc., Articles to a charitable organization exempt under section 501(c)(3) of the Internal Revenue Code or auctioned.
  - a. The public notice shall state that if they are not claimed the department intends to donate these bicycles to a charitable organization.
  - b. The charitable organization requesting the donation must present the Chief of Police a written request for the unclaimed bicycles and must specify that they are exempt under Section 501(c)(3) of the Internal Revenue Code.

- c. The Chief of Police or designee will determine which requests will be granted.
  - d. Bicycles not donated will be auctioned.
4. All media recorded on MVR or any other police department recording device will be held for a minimum of two (2) years before being erased and recycled. Recorded media containing evidence of a crime or civil litigation, IA, or administrative action will be held until the case is disposed of and all appeals are exhausted and have been released by the courts, the prosecutor and / or the City Attorney or Human Resources.
5. Court ordered illegal narcotics will be destroyed bi-annually at a department approved facility.

## **84.02**

### **Storage and Security**

- A. Property and Evidence is stored in a storage unit accessible by Property and Evidence Control Officers. Property and Evidence Control Officers are the only officers with keys to this secured location and must accompany a person(s) requiring access to these areas.
- B. All seized / recovered property will be kept in the storage unit with the exception of vehicles.
- C. Impounding of motor vehicles in accordance with applicable law must be adhered to. There are differences between impounded and seized vehicles. Impounded vehicles are vehicles which are being towed for investigation purposes and can be released back to the owner, or for safe keeping until the owner can retrieve the vehicle. A seized vehicle is a vehicle that will be turned over to the state due to a violation of the law or forfeited for use by the seizing agency. Officers may only take custody of a vehicle if the vehicle:
  1. Interferes with the flow of traffic, or
  2. Is itself evidence (used as a weapon; contains biological specimens in the vehicle), or
  3. May contain evidence and a search warrant will be issued to search the vehicle, or
  4. The vehicle is going to be seized under North Carolina General Statutes 14-86.1; 20-28.3; 20-141.5; 18B-504; and 90-112.
  5. When impounding a vehicle the case officer will have three working days to determine whether or not said vehicle is of evidentiary value. The

officer will, in writing, notify the Property and Evidence Control Officers the reason for keeping the vehicle impounded or to allow the owner to claim the vehicle towed. The Property and Evidence Control Officers will notify the owner of the vehicle that they have ten (10) calendar days to claim the vehicle. If the owner does not claim the vehicle within ten (10) calendar days, the vehicle will be turned over to the towing agent who towed stored the vehicle to allow them to conduct a civil process on the vehicle.

- D. The River Bend Police Department secure storage area is located at the Town Contracted Wrecker Service. The secure building will be utilized for storage of vehicles as evidence.
- E. The Town Contracted Tow Service will be responsible for the towing of vehicles that will be used as evidence or that will be stored for seizure purposes. Vehicles that have evidence contained within and a search warrant needing to be conducted, will be towed by the Town Contracted Tow Service and will be impounded in the secure storage area for impoundment until such time that the search warrant is served and completed.
- F. Vehicles being impounded and held for investigative purposes shall be reviewed with the DA's office or appropriate supervisor within 10 days to determine if the vehicle should be released to the owner or held in the secure storage area until final disposition. The results of the DA's / supervisor review shall be documented in a supplement as well as in the property files.

#### **84.03**

#### **Temporary Security**

Anytime Property and Evidence Control Officers are not available to accept property and evidence, items should be placed in the evidence lockers. If the item is a bio-hazard requiring refrigeration officers will contact one of the Property and Evidence Control officers to come in and secure the item. If the item is too large to be placed in an evidence locker officers will contact a Property and Evidence Control Officer to come in and secure the item.

#### **84.04**

#### **Security and Accountability for Controlled Substances and Weapons for Training**

- A. Seized controlled substance and weapons may be used for investigative or training purposes upon receipt of a court order that allows such use of the item(s). The Property and Evidence Control Unit shall be responsible for maintaining the security and integrity of these items in the same manner that all other items of evidence or property are secured, controlled, and inventoried. Access to these items is restricted to personnel assigned to specialized units who can demonstrate a legitimate training or investigative need.

B. Controlled substances seized as a result of violations of state or federal law may be converted to training aids upon authorization by a court order. The order should specify the drug type, amount, purpose, and receiving agency.

#### **84.05**

#### **Records, Status of Property**

Property and Evidence Control records will reflect the status of all property / evidence held by the River Bend Police Department. Included in this status will be:

1. Owner, Victim, and / or Suspect's name
2. Date / Time reported
3. OCA number
4. Description of the item(s)
5. Recovering / Collecting employee's name
6. Location the item will be stored
7. Release date, released by, and released to

#### **84.06**

#### **Inspection and Report**

The purpose of an inspection / audit is to ensure the continuity of the chain of custody and not to require the accounting of every single item of property. An audit of the inventory should be sufficient to ensure the integrity of the system and the accountability of the property. Careful attention should be paid to proper documentation, at a minimum the following procedures will be adhered to:

1. The inspector will randomly select five numbers from the range of property numbers used from each of the past five years and;
2. Confirm information and locations as listed on the property sheets, in the logbook and in AEGIS.
3. Each item noted on the randomly selected Property Sheets must be physically located and examined for proper packaging and labeling.
4. Within the twenty five (25) selected property sheets, a minimum of 100 items will be verified or more property numbers will be selected at random to reach the minimum count.

#### **84.06.01      Semi-annual Inspection**

An inspection to determine adherence to procedures used for the control of property is conducted semi-annually by the person responsible for the Property and Evidence Control function or his / her designee. At least semi-annually the Property and Evidence Supervisor will conduct an inspection of the evidence room to determine adherence to procedure used for the control of property. At a minimum, 20 high risk property items will be inspected. The semi-annual inspection will be documented and include:

1. Property and evidence area is clean, safe, and orderly.
2. Integrity of the property / evidence is being maintained.
3. Property / evidence is being safeguarded against damage and deterioration.
4. Location of a few samples of property of / evidence to assure they are in the proper place.
5. Proper accountability procedures are being followed.
6. Property with no further evidential value is being disposed of properly and in a timely manner.
7. Verification of security systems.
8. Ensure that records are neat and orderly and accurately reflect appropriate cross reference.
9. Property and Evidence Control complies with all applicable department policies and procedures.

#### **84.06.02      Change of Custodian Audit**

An audit of property occurs whenever the Property and Evidence Custodian is assigned to and / or transferred from the position and is conducted jointly by the newly designated property and evidence custodian and a designee of the CEO to ensure that records are correct and properly annotated. Whenever a new property custodian is designated, an audit of the evidence / property will be conducted to ensure that the records are correct and properly annotated:

1. This audit will be conducted jointly by the newly designated property custodian and a designee of the Chief of Police.

2. A sampling of the total amount of high risk property (money, precious metals, jewelry, firearms, and drugs) must be reviewed with respect to documentation and accountability.
3. An error rate that exceeds four percent will require a full inventory of all high risk property.
4. The new property custodian should ensure that records are current and properly annotated. Any discrepancies will be documented prior to the assumption of property accountability by the newly designated property custodian.
5. The inspector will identify the total number of high risk and general property items collected in the previous 12 months by completing a search of the department's Records Management System. From the high risk property item search / report, the inspector will randomly select a minimum of 10 items covering each of the previous 12 months. From the general property items, the inspector will randomly select a minimum of 10 items covering each of the previous 12 months.
6. For each property item selected the inspector will confirm information and locations as listed on the Property Sheets, in the log book, and in the department's records management system.
7. Each item noted on the randomly selected property sheets must be physically located, examined for proper packaging, and labeling as described in general order 84.01.

#### **84.06.03**

#### **Annual audit**

An annual audit of property and evidence held by the agency is conducted by a supervisor not routinely or directly connected with control of property and evidence.

1. The purpose of this inspection is to ensure the continuity of the chain of custody and to require the accounting of every single item of property. Careful attention should be paid to proper documentation. Property can be identified as any object or material a member of the department collects in the performance of his or her duty. Special attention should be given to property items described as high risk. High risk items include controlled substances, money, firearms, and jewelry. All other items will be considered general property.
2. Annually the Chief of Police will designate a supervisor or designee not routinely or directly connected with control of the Property and Evidence Control Unit to conduct an audit of property and evidence.

- a. The inspector will identify the total number of high risk and general property items collected in the previous 12 months by completing a search of the department's Records Management System. From the high risk property item search / report, the inspector will randomly select a minimum of 10 items covering each of the previous 12 months. From the general property items, the inspector will randomly select a minimum of 10 items covering each of the previous 12 months.
- b. For each property item selected, the inspector will confirm information and locations as listed on the property sheets, in the logbook, and in the department's Records Management System.
- c. Each item noted on the randomly selected Property Sheets must be physically located and examined for proper packaging and labeling as described in general order 84.01.
- d. Property and evidence storage areas are clean, safe, and orderly.
- e. Integrity of the property / evidence is being maintained.
- f. Property / evidence is being safeguarded against damage and deterioration.
- g. Property with no further evidential value is being disposed of properly and in a timely manner.
- h. Verification of security systems.
- i. Ensure that records are neat and orderly and accurately reflect appropriate cross reference.
- j. Property and Evidence Control complies with all applicable department policies and procedures.

#### **84.06.04      Unannounced inspections**

Unannounced inspections of property and evidence storage areas are conducted as directed by the agency's chief executive officer at least once a year.

1. The Chief of Police or designee not routinely or directly connected with control of Property and Evidence will conduct an unannounced inspection of

the evidence rooms when deemed appropriate by the Chief of Police or at least annually.

2. A random comparison of records with physical property should be the focal point of the inspection. A variety of activities should receive attention during each successive inspection in an attempt to avoid examining the same activities repeatedly however a selection of high risk property will be included each time. The unannounced inspection will be documented and include:
  - a. Inspection of the property and evidence areas for cleanliness and orderliness.
  - b. Locating a few samples of property / evidence to assure they are in the proper place.
  - c. Verification of security systems.
  - d. Ensure that records are kept neat and orderly and accurately reflect appropriate cross reference.
  - e. Ensure that procedures are adequate to facilitate accountability of property.
3. Controlled substance training aids are subject to periodic unannounced inspection by the Chief of Police or designee. A written report of the inspection will be submitted to the Chief of Police.

#### **84.06.05      Final Disposition**

- A. Officers are responsible for obtaining in a timely manner, the appropriate court judgement for their cases that involve evidence recovery. Property and Evidence Control will annually provide to each officer a complete listing of their property and evidence for disposition purposes. The employee will review the case and check to ensure there are no further court actions or investigations pending. Officers will update the property disposition information in AEGIS. If the time(s) can be disposed of, the employee will check the appropriate disposition, sign the form, make any additional comments, and forward all written documentation, including the court judgement, to the Forensic Evidence Unit by the assigned due date.
- B. Property and Evidence Control personnel will properly dispose of recovered and evidentiary property no later than six months and unclaimed property no later than one year after being notified the legal requirements have been satisfied.

C. In the case of misdemeanor larceny / shoplifting the property may be photographed and returned to the owner. In all other cases the property may be photographed and returned to the owner, and only with the District Attorney's approval.

**84.01.06      Property Acquired through the Civil Process**

A. Officers of the River Bend Police Department will actively pursue the seizure and subsequent forfeiture of property that constitute proceeds from criminal acts, were used in the commission of criminal acts or when such seizures are court ordered. When such property is seized, officers shall adhere to and use the following procedures set forth by the appropriate general statute listed in 84.01.06(B) (1).

B. Vehicles being seized for forfeiture or other legal reasons shall be reviewed with the US Attorney or DA's office or appropriate supervisor within 30 days to determine if the vehicle should be released to the owner or held in the secure storage area until final disposition. The results of the US Attorney / DA's / Supervisor review shall be documented in a supplemental report as well as in the property files. The investigating officer shall initiate either the forfeiture or other recommended action.

1. State forfeitures
  - a. NCGS 14-86.1 governs seizures and forfeitures of conveyances used in committing larceny in excess of \$2000.00 and similar crimes to include armed robbery or common law robbery.
  - b. NCGS 20-28.3 governs seizures, impoundments, and forfeitures of motor vehicles for offenses involving impaired driving while license revoked or without license and insurance, and for felony speeding to elude arrest.

NOTE: Officers must have the **proper paperwork completed by the courts** in order to seize vehicles under this statute. Verbal authorization is **not permitted** to allow the wrecker service to notify the state contracted provider to come and collect the vehicle.

c. NCGS 90-112 governs seizures and forfeitures of property used in violation of the North Carolina Controlled Substance Act to include:

1. Controlled substances, which have been manufactured, distributed, and dispensed or acquired in violation of the NC Controlled Substance Act.

2. All raw materials, products, and equipment of any kind, which are used or intended to be used in selling, purchasing, manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance.
3. All property that is used, or intended for use, as a container for property described in (a) or (b).
4. All conveyances, including vehicles, vessels, or aircraft which are used or intended for use to unlawfully conceal, convey, or transport any property described in (a) or (b). No conveyances used by any person as a common carrier shall be forfeited unless the owner or person in charge of the conveyance was a consenting party or privy to the violation. No conveyance shall be forfeited if the conveyance was in the unlawful possession of a person other than the owner. No conveyance shall be forfeited unless the violation involved is a felony under this article.

d. NCGS 18B-504 governs forfeitures of property used in violations of ABC laws to include:

1. Motor vehicles, boats, airplanes, and all other conveyances used to transport non-tax paid alcoholic beverages in violation of ABC laws.
2. Containers for alcoholic beverages which are manufactured, possessed, sold, or transported in violation of ABC laws and
3. Equipment or ingredients used in the manufacture of alcoholic beverages in violation of ABC laws.

2. Federal forfeitures

- a. Under certain provisions various federal agencies can adopt drug cases for the purpose of forfeiture of assets. Each federal agency has set minimum standards that have to be met to consider a case for civil forfeiture. Primarily, the department will coordinate forfeitures with the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), and the Bureau of Alcohol, Tobacco, and Firearms (ATF).
- b. The primary purposes of the federal asset forfeiture program are to: deter crime by depriving criminals of the profits and proceeds of their illegal activities, and to weaken criminal enterprises by removing the instruments used in criminal activity.

Most assets sharing is a result of joint investigations. Joint investigations are those in which federal agencies work with state or local law enforcement agencies to enforce federal criminal laws.

- c. A state or local law enforcement agency that has seized property may request that one of the federal agencies listed in the previous section adopt the seized property and proceed with federal forfeiture. Federal agencies may adopt seized property for federal forfeiture where the conduct giving rise to the seizure is in violation of federal law and federal law provides for forfeiture. State and local agencies have thirty (30) calendar days from the date the property was originally seized to request a federal adoption. Waivers of the thirty day rule may be approved by the adopting federal agency where the state or local law enforcement agency requesting adoption demonstrates the existence of exceptional circumstances justifying the delay.
- d. Types of property subject to forfeiture under Title 21, United States Code, Section 881 (Controlled Substance Act) are as follows:
  - 1. Controlled substances
  - 2. Equipment, raw materials, or products
  - 3. Containers
  - 4. Conveyances that for example serve as location of drug deal; function as sites of drug negotiations; are used to transport persons to site of drug deal; shield drug deal in some manner; or serve as collateral to secure a drug deal. Exceptions include common carriers and stolen conveyances.
  - 5. Books, records, and research
  - 6. Assets, for example, proceeds or any “thing of value” or money, negotiable instruments, and securities.
  - 7. Real property
- e. In adoptive cases, property generally is not to be forfeited unless the equity in the property exceeds the following levels:
  - 1. Vehicles \$5000
  - 2. Aircrafts and vessels \$10,000
  - 3. Land and Improvements 20% of appraised value or \$20,000

4. All other personal property \$5000
- f. In individual cases an overriding law enforcement benefit may require the seizure of an asset that does not meet the thresholds. In such cases, the thresholds may be waived when forfeiture will serve a compelling law enforcement interest, e.g. forfeiture of a “crack house” or conveyance with hidden compartments. Any downward departure from the monetary thresholds in individual cases must be approved in writing by a supervisor of the adoptive federal agency and an explanation of the reason for the departure should be noted in the case file. The fact that the owner or person in possession of the property has been arrested or criminally prosecuted is an appropriate basis for a downward departure.
- g. No vehicles will be seized by the Drug Enforcement Administration or personal use quantities of narcotics unless the vehicle is associated with other elements of drug trafficking (i.e. drug proceeds). The DEA will be the primary agency used for cases involving drugs that are being considered for forfeiture. DEA’s policy concerning personal use amounts of narcotics is subject to change.
- h. In cases in which a vehicle is seized pending federal forfeiture officers shall:
  1. Remove all personal property and effects from the vehicle and return the property to the owner or person in control of the vehicle at the time of the seizure.
  2. Utilize a rotation wrecker or in cases where the vehicle can be driven, drive the vehicle to the River Bend Police Department’s secured storage facility at the Town’s Contracted Wrecker Service.
  3. Submit the keys to the Evidence and Control Unit with a River Bend Police Department confiscated vehicle form to be filed until the case is formally adopted.
  4. Complete a US Marshal’s vehicle inventory form.