Managing the Drug Fund and Sensitive Property and Evidence

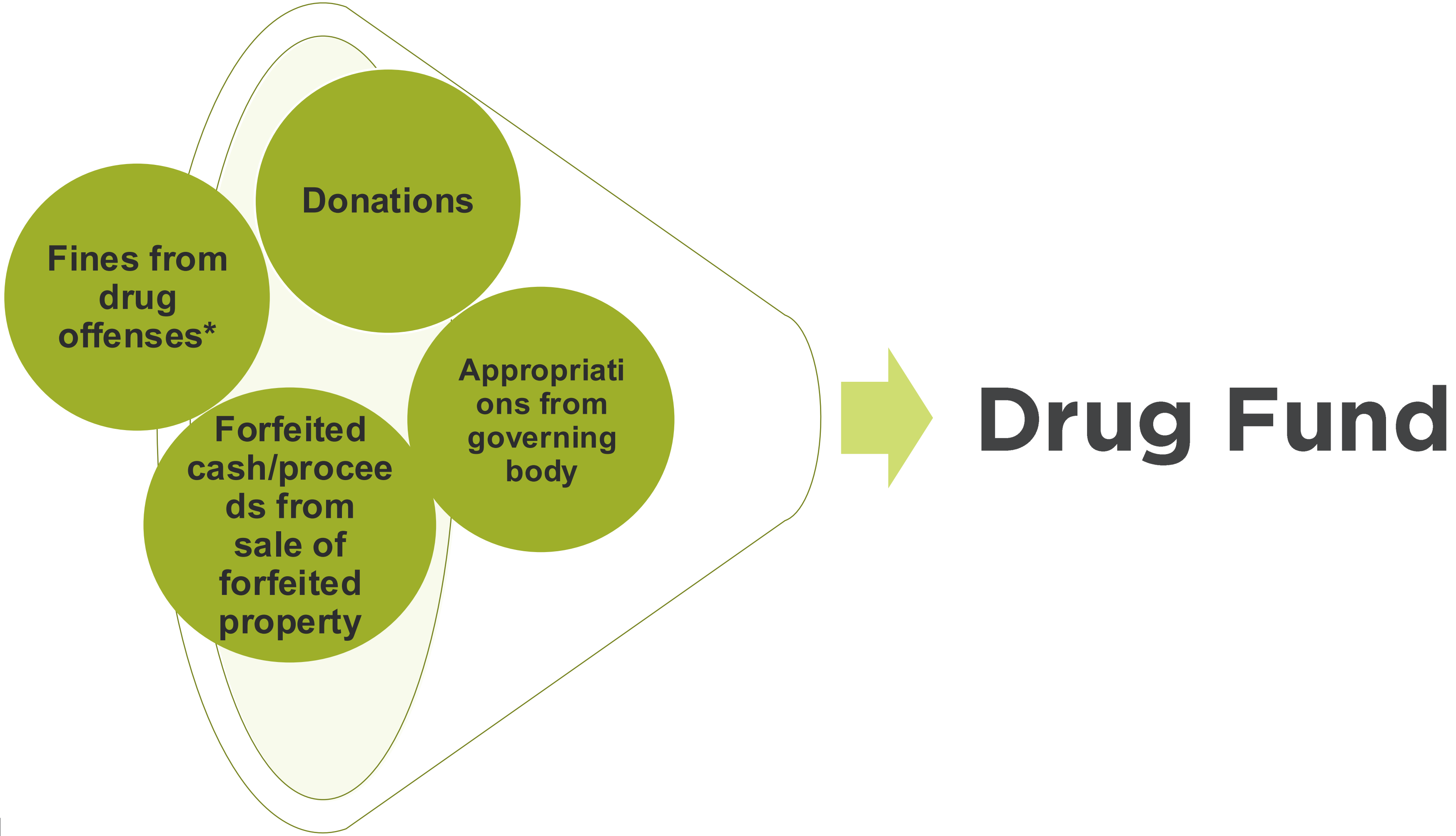
INSTITUTE *for* PUBLIC SERVICE

The “Drug Fund”

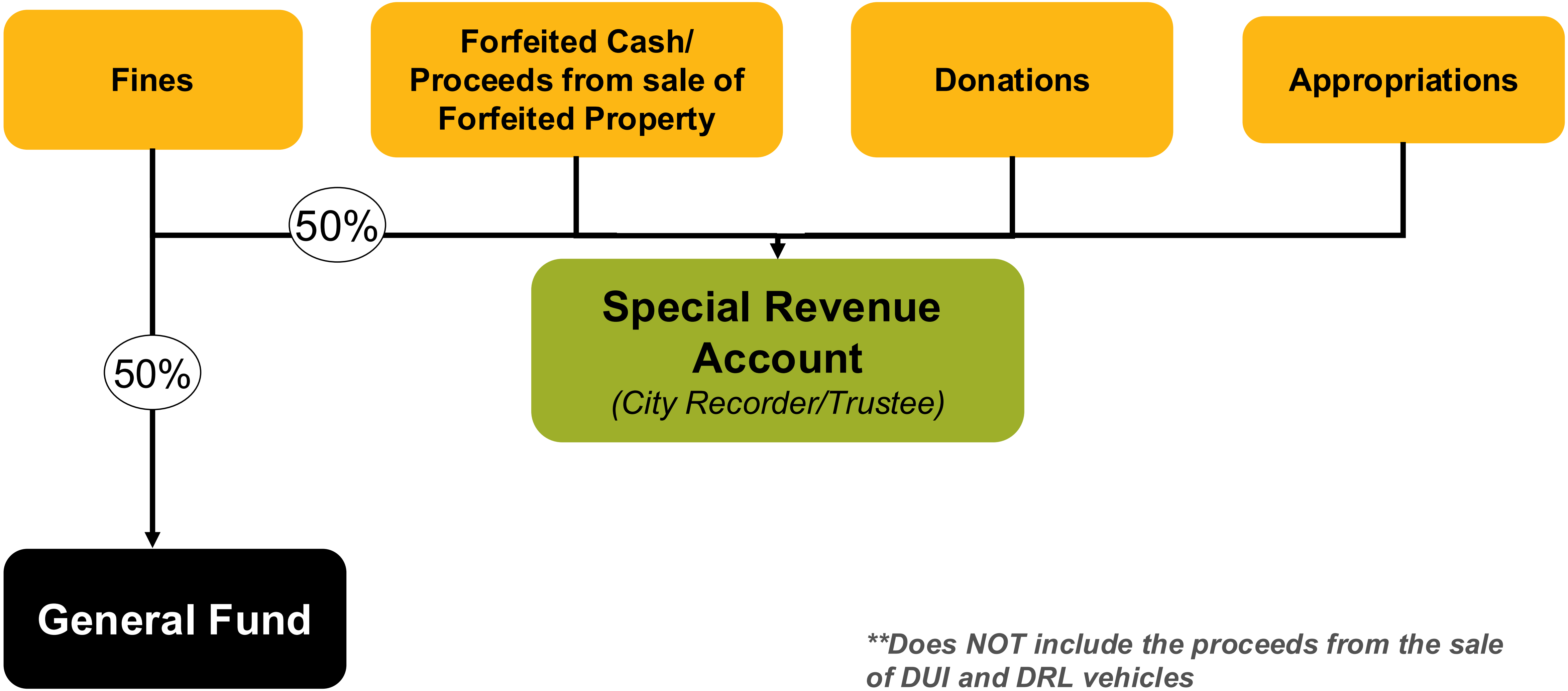
1. Special Revenue Account
2. Budget approved annually
3. Controlled by city recorder/ county trustee

Note: Confidential expenditures funded from a separate account (confidential account)

Sources of Revenue



50% Drug Fund
50% General Fund



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

Expenditures

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**

TCA § 39-17-420 (2023)

Drug Treatment

Drug Court???

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 Non-Recurring LE Expenditures

What are some examples of allowable general non-recurring expenditures?

General Law Enforcement Expenditures
(non-recurring)

- Patrol or administrative vehicles
- Blue lights, sirens, radios, and radar units
- Video cameras, including body cameras
- Handguns, shotguns, rifles, but not ammunition

* Not drug investigation related

General Law Enforcement Expenditures
(non-recurring)

Patrol Dogs

**non-drug dogs*
(not feed or veterinary services)

**Treat dual trained dogs as drug dogs*

Fax machine or copier

Computers

Original software purchase

not maintenance or upgrades

* Not drug investigation related

General Law Enforcement Expenditures
(Non-recurring)

Body Armor

Tasers
(not refill cartridges)

Cell Phones
(not monthly bills)

* Not drug investigation related

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 revenue to pay for line charges and maintenance.

! *This may become a year-to-year concern if TBI stops paying for the line charges.*

Sale of Drug Fund Purchased Equipment

Residual Value

Donations

Charitable donations ***must*** follow state law

Donations from the drug fund ***must*** fit an allowable category!

Cities: TCA 6-54-111

Counties: TCA 5-9-109

Donations, Generally Speaking

- Must be 501(c)(4) or (6) organizations
- Must provide financial reports, including audit, to government
- Notice must be published in a newspaper of general circulation, specifying amount and purpose (must be an allowable expenditure from the drug fund)
- Must be approved by governing body

Donations

Sponsoring a sports team is **NOT** drug education!

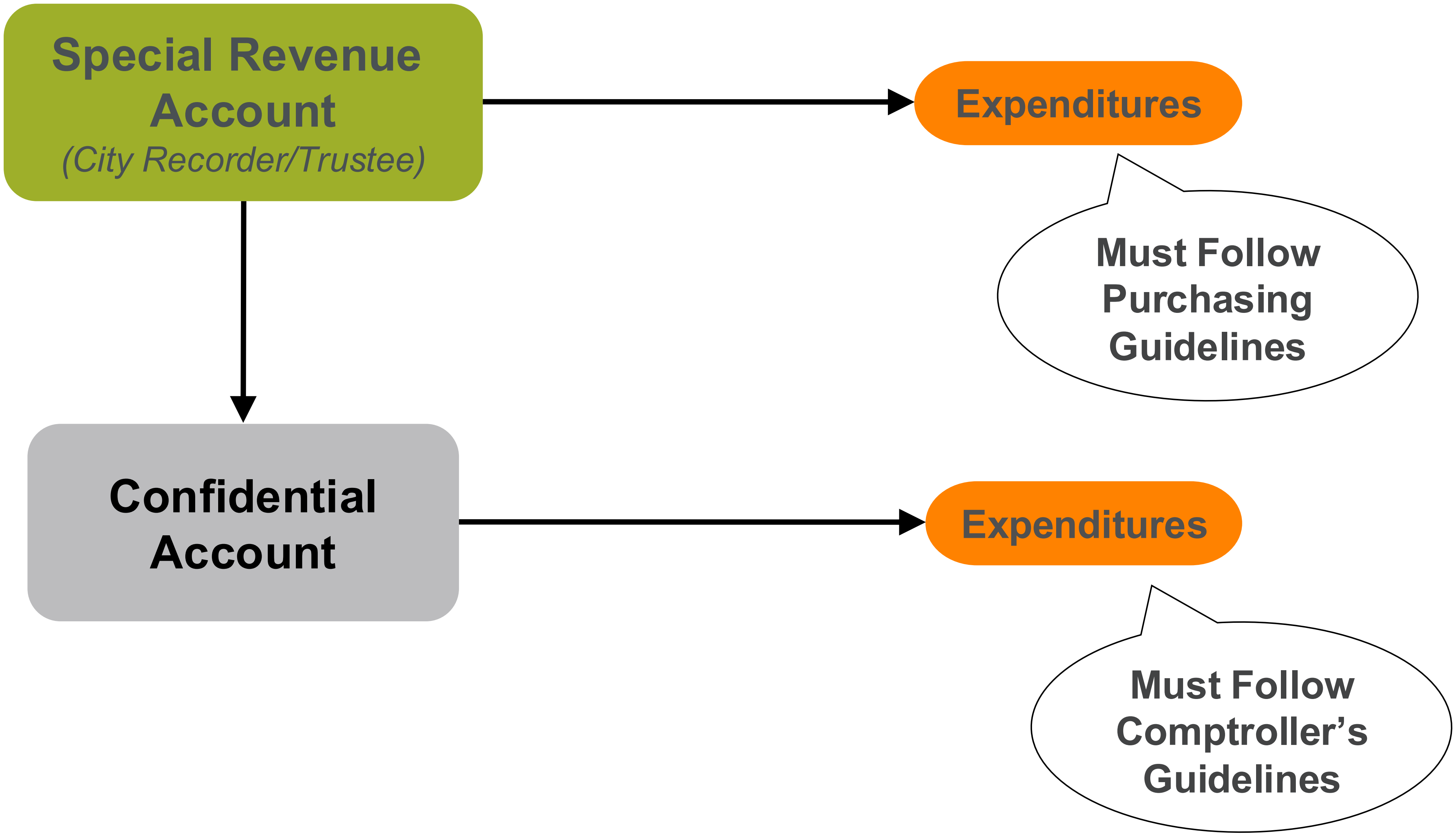
- Putting "Just say no to drugs," on a sports team jersey does not justify the expenditure
- Buying an ad in the high school yearbook is not drug education

Ask:

"What is the true purpose of the expenditure?"

If it walks like a duck …

Confidential Account

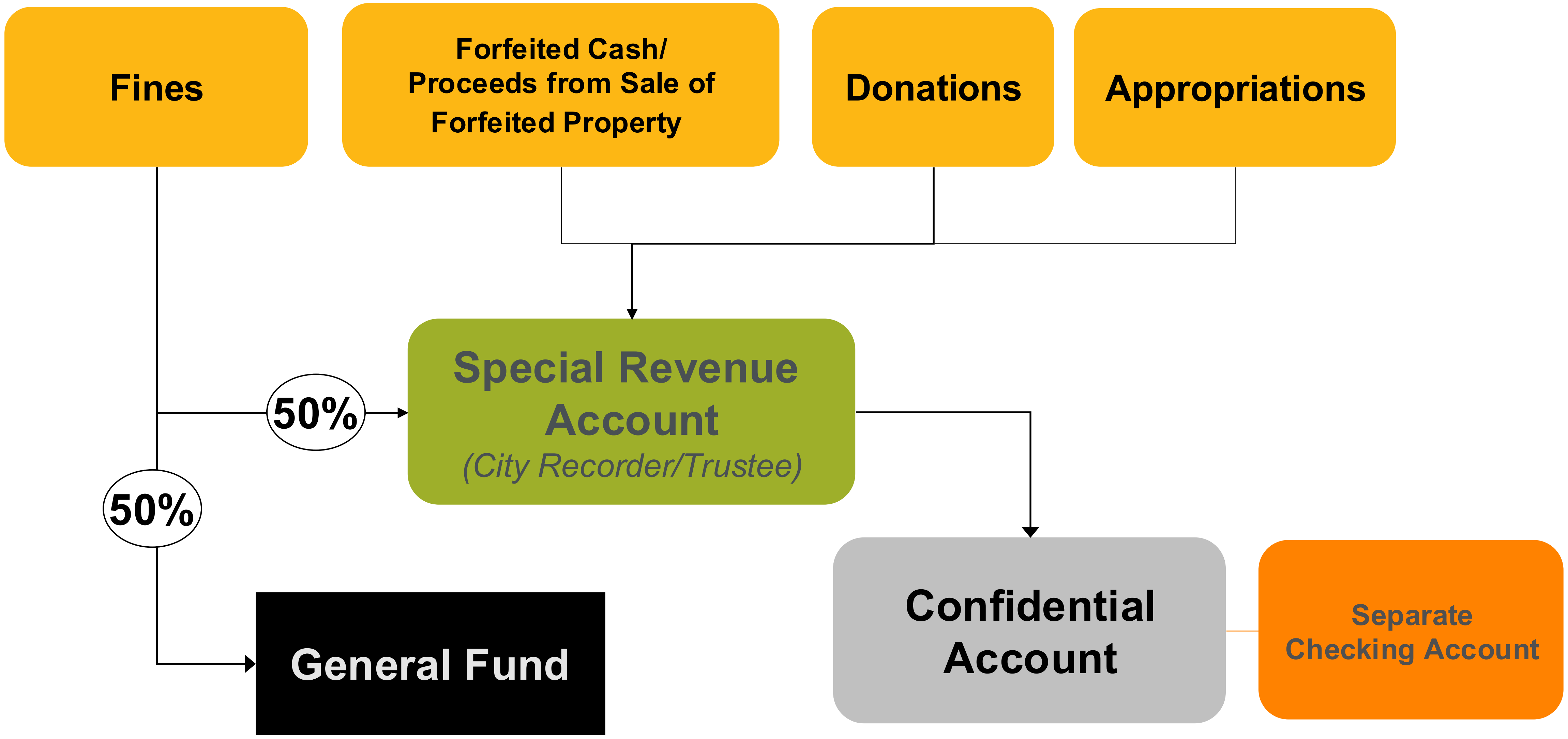

Special Revenue Account
(City Recorder/Trustee)
Expenditures
Must Follow Purchasing Guidelines
Confidential Account
Expenditures
Must Follow Comptroller's Guidelines

Purchasing Guidelines

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

Thresholds

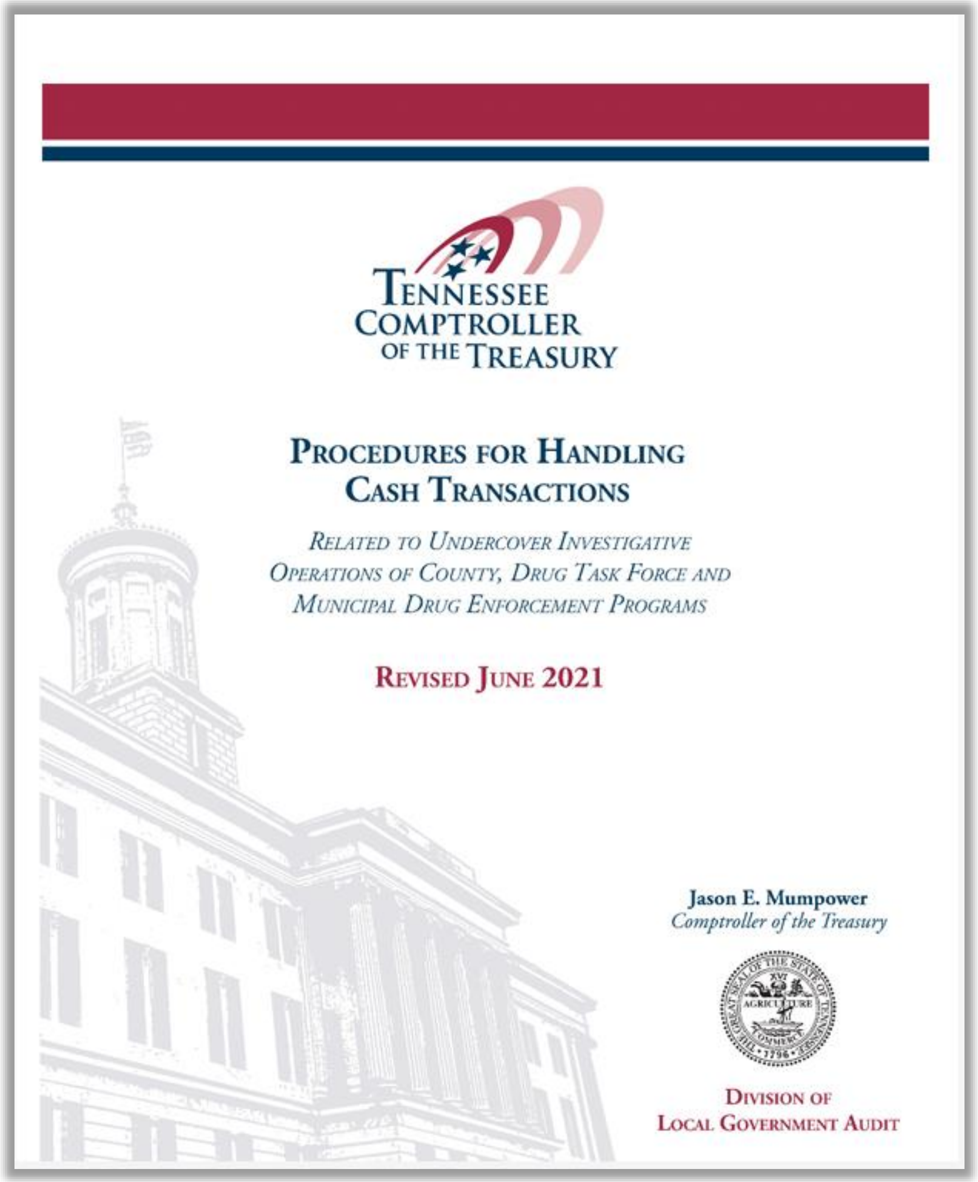
- Direct purchase up to $xxx.00 ____________
- Quotes (documented) up to $xxxx.00 ____________
- Purchases over the “quote” threshold requires sealed bids (true or false)


Fines
Forfeited Cash/ Proceeds from Sale of Forfeited Property
Donations
Appropriations
50%
Special Revenue Account
(City Recorder/Trustee)
50%
General Fund
Confidential Account
Separate Checking Account

Confidential Account

1. Controlled by the *Police Chief or Sheriff*
2. Authorized by the Comptroller
3. Must follow Comptroller's guidelines

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



Tennessee Comptroller of the Treasury

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

Disbursed funds go into a ***separate checking account (or daily cash journal)***

Chief or designee 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!

TCA § 53-11-415. 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. … subject to the availability of funds..

Documenting Confidential Funds

Key Roles

Custodian	→	The Chief or Sheriff
Agent	→	Drug or Narcotics Officer
CI	→	Criminal Informant

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

Let’s Discuss Informants

Managing Informants

Do you have these in place?

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

Managing Sensitive 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?

Lessons Learned

RESULTS OF INVESTIGATION

1. THE FORMER POLICE CHIEF FAILED TO ADMINISTER PROPER OVERSIGHT OF EVIDENCE

Prior to the former chief providing the new chief with a hand-written inventory of evidence on September 29, 2023, the former chief did not maintain any known evidence log during the period reviewed. Therefore, investigators were unable to determine if the former chief properly handled all property seized as evidence. Investigators noted the following questionable evidence discrepancies and deficiencies:

B. Insufficient Evidence Organization and Missing Evidence

Investigators noted that the department's evidence storage space in July 2024 was in disarray **(Refer to Exhibit 1)**. The former chief's handwritten inventory from September 29, 2023, did not reconcile to all actual evidence in the department's evidence room, and the former chief's inventory and evidence packaging lacked sufficient information. In some instances, evidence envelopes had been opened and evidence was missing. According to the former chief, all evidence listed on his September 23, 2023, hand-written evidence inventory was physically present in the evidence room when he left employment with Due to the lack of evidence records and insufficient evidence organization, investigators could not accurately determine the amount of missing evidence.

A. No Written Evidence Policy

The former chief did not adopt or implement a comprehensive written policy regarding the accounting of the department's property seized as evidence, including the use of a perpetual inventory log. A perpetual inventory should be maintained for all evidence, and, at a minimum, should include the following: date received, defendant's name, incident or case number, description, location, signature of individuals signing evidence in and out, and disposition. The failure to properly secure and account for evidence increases the risk of theft and loss without prompt detection and may jeopardize pending or potential judicial proceedings.

Tennessee Comptroller of the Treasury

Sensitive (Priority) Items

- Cash
- Firearms
- Drugs
- Vehicles

Cash

- Unless 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, trunk 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

Sensitive (Priority) Items

- Cash
- Firearms
- Drugs
- Vehicles

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.

Sensitive (Priority) Items

- Cash
- Firearms
- Drugs
- Vehicles

Drugs

TCA § 53-11-451 (k) 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

Annual Requirements

- **Create inventory at least annually**
- **Produce destruction list for petition**
  - Name of Case
  - Case Number
  - Date When Property was Used

Drugs

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

Sensitive (Priority) Items

Cash	Firearms
Drugs	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.*

Conveyance Seizures

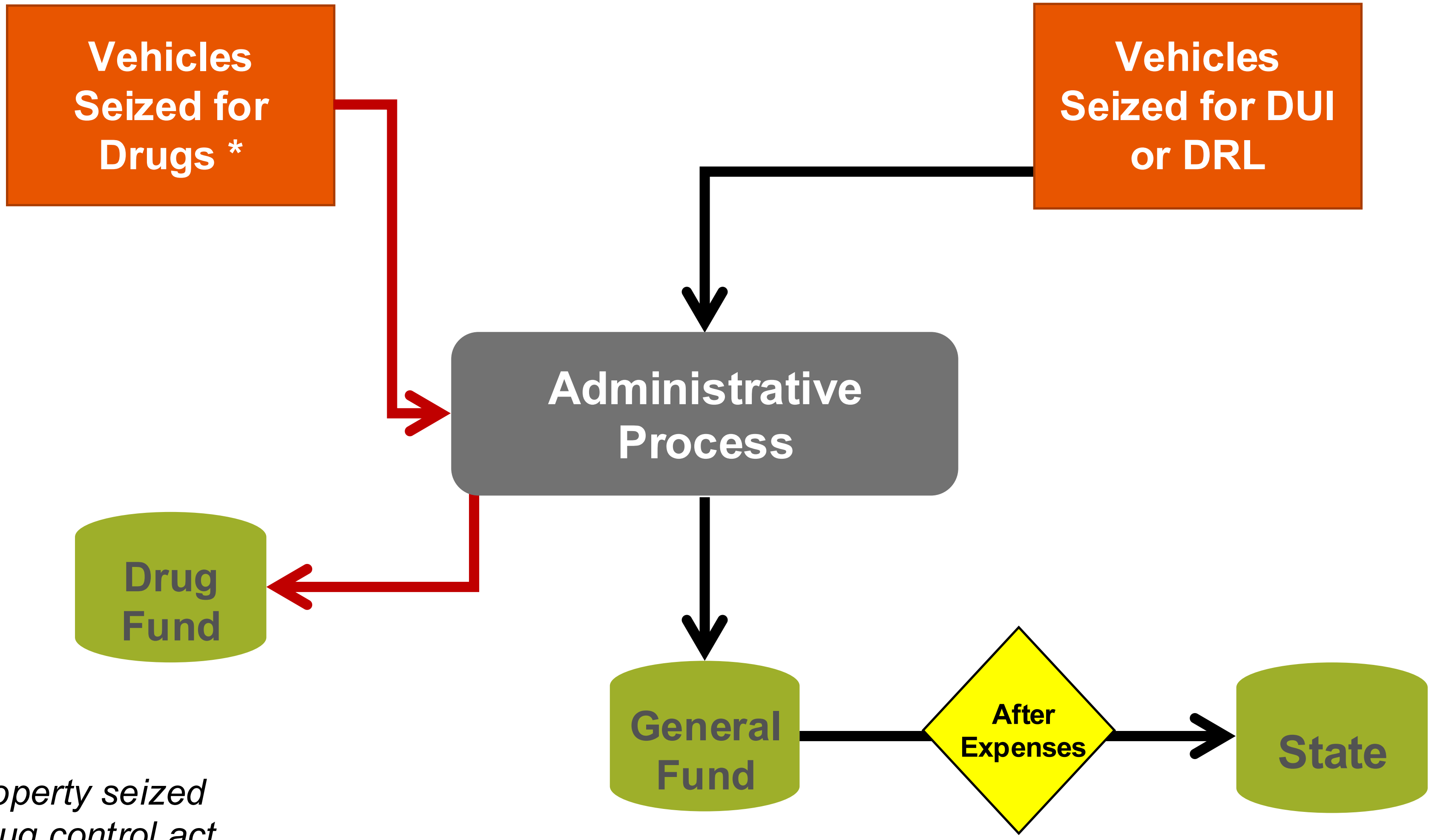
Administrative Process

Judicial Process

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



** Any property seized under drug control act*

Judicial Process

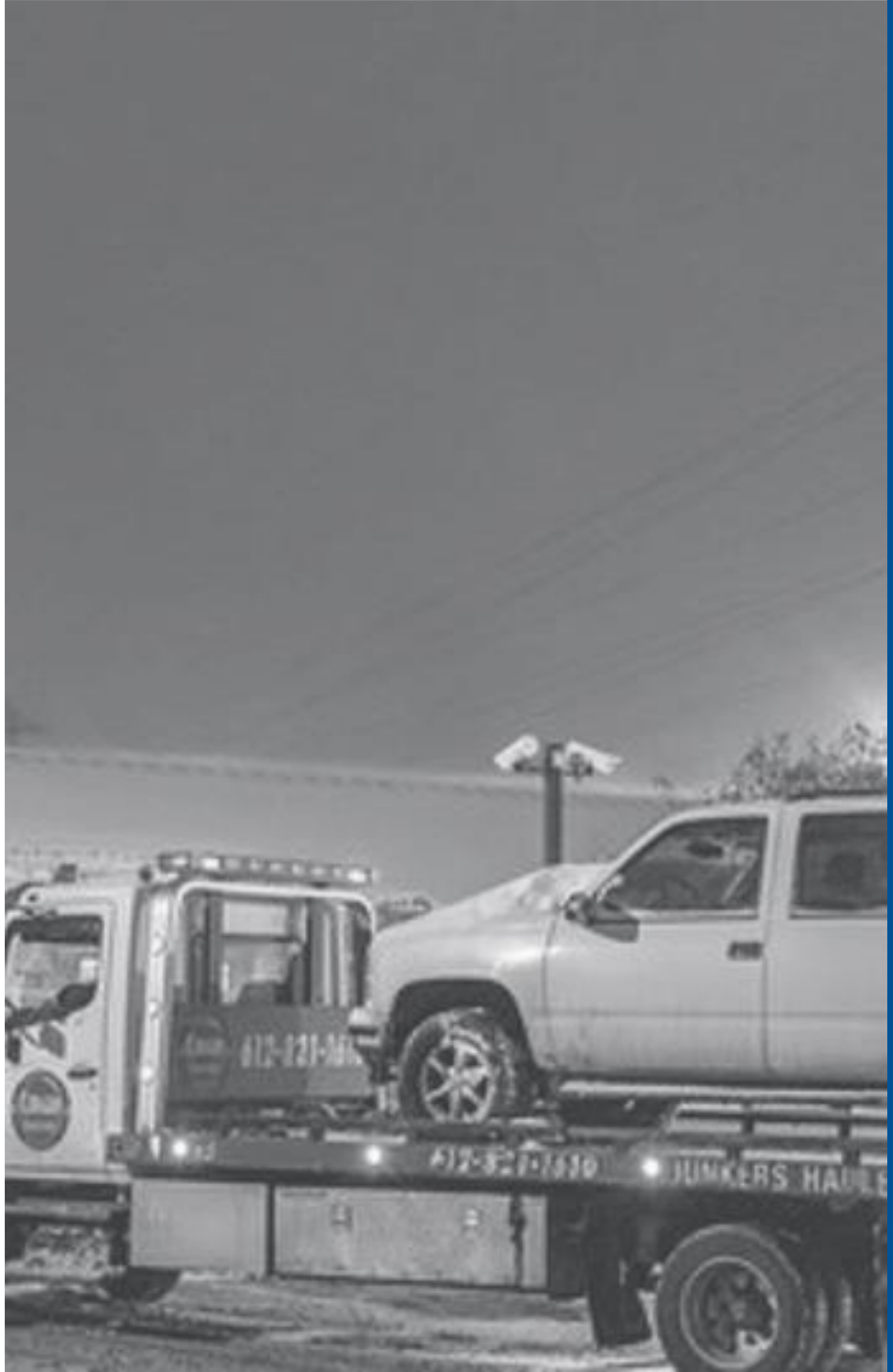
- **Judicial Process (40-33-101)**
  - Sexual offenses
  - Robbery
  - Felony Theft
  - Burglary
- **Must be included in the indictment**
- **Requires Conviction**
- **Judge orders forfeiture**

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***



Other Items

Lost or Abandoned Property

Beer/ Alcohol

Lost or Abandoned Property

Sheriff Office

follow TCA § 8-8-501

Police Departments
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).

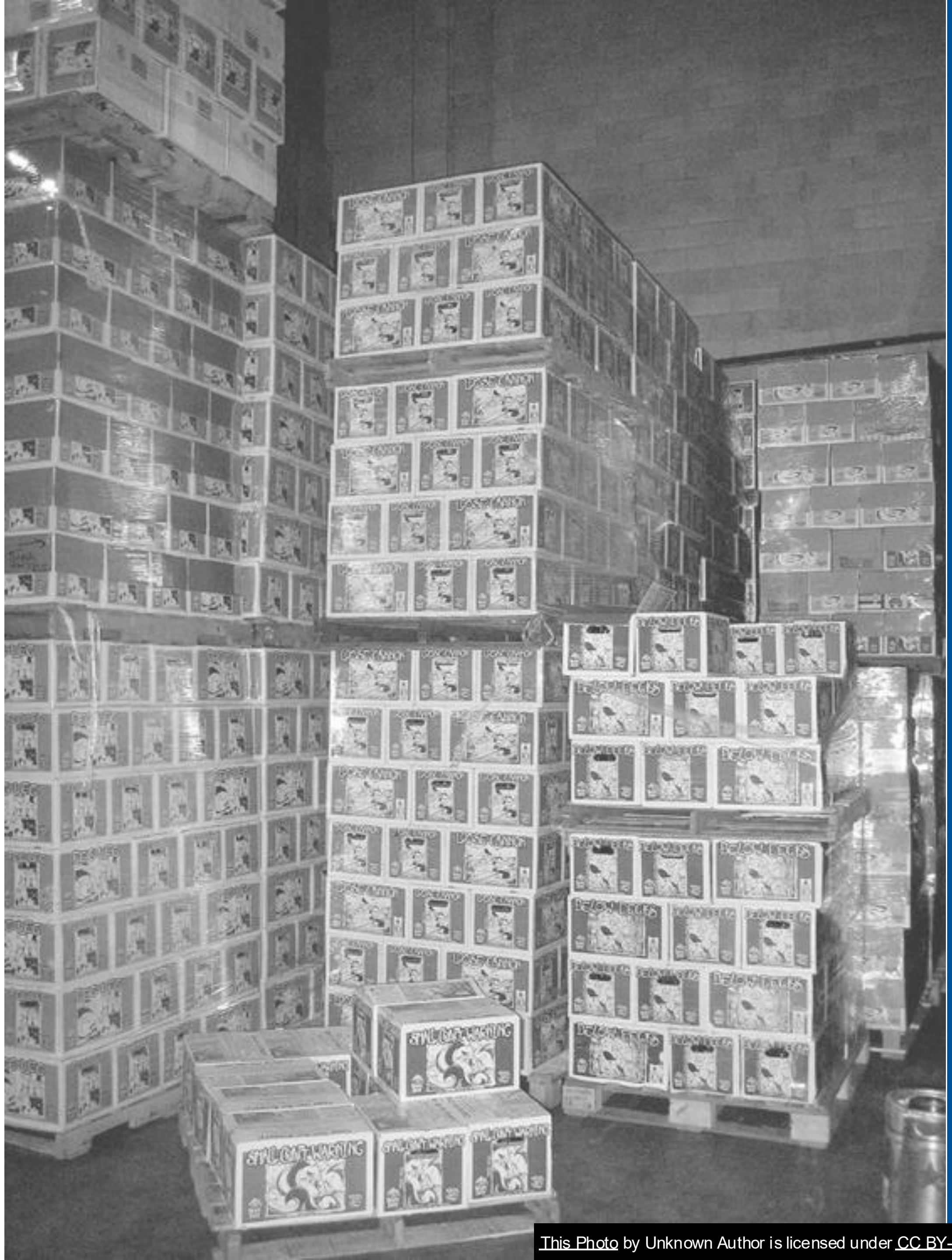
Other Items

Lost or Abandoned Property

Beer/ Alcohol

Beer and Alcohol

- Unopened beer/alcohol to be turned over to the state Alcohol Beverage Commission (*TCA § 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



Evidence

- ❑ **Rules of Evidence, Rule 901**
  - – Chain of custody maintained and documented
- ❑ **All county officials who handle public funds are required to comply with Tennessee Code Annotated § 9-2-102, which requires the adoption and use of the accounting system, books, records, and internal control standards prescribed by the Comptroller of the Treasury, including the Internal Control and Compliance Manual.**
- ❑ **Governmental Accounting, Auditing, and Financial Reporting**
- ❑ **Code of State Regulations** (Secretary of State, effective rules)