



PERFORMANCE AUDIT REPORT

Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
July 2016**

Legislative Division of Post Audit

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July 27, 2016

To: Members, Legislative Post Audit Committee

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Senator Laura Kelly	Representative Tom Burroughs
Senator Jeff Longbine	Representative Peggy Mast
Senator Julia Lynn	Representative Ed Trimmer

This report contains the findings, conclusions, and recommendations from our completed performance audit, *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported*. The audit was requested by Representative Gail Finney.

In their responses, most agency officials concurred with the report's findings and recommendations. However, the Salina Police Department disagreed with our finding that it lacked important controls for money used for controlled drug buys. Additionally, the Montgomery County Attorney disagreed with our finding on the conflict of interest created by him taking Coffeyville's forfeiture cases as a private attorney. The County Attorney's response does not make it clear whether he intends to implement the recommendation associated with this finding and our attempts to clarify this were unsuccessful. However, given his disagreement with the finding, it seems unlikely he will implement the recommendation. More information on both of these issues can be found in *Appendix D* on page 67.

We would be happy to discuss the findings, recommendations, or any other items presented in this report with any legislative committees, individual legislators, or other state officials.

Sincerely,

Scott Frank
Legislative Post Auditor

This audit was conducted by Kristen Rottinghaus, Brenda Muirhead, Matt Etzel, Meghan Flanders, Leyton Gunn, and Josh Rueschhoff. Justin Stowe was the audit manager. If you need any additional information about the audit's findings, please contact Kristen Rottinghaus at the Division's offices.

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Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported

The Kansas Standard Asset Seizure and Forfeiture Act (K.S.A. 60-4101 et seq.) gives law enforcement agencies in Kansas authority to seize money or property acquired in connection with certain illegal activities. Most seizures result from drug offenses, but the act also applies to crimes such as cattle rustling, money laundering, and illegal gambling.

Whereas a seizure occurs when law enforcement officers take property into their custody, a forfeiture occurs if a judge subsequently awards ownership of the property to the law enforcement agency. Once property is seized for forfeiture, the law enforcement agency must file a forfeiture claim in a Kansas district court. This proceeding is filed in civil court; a criminal conviction is not required to file the forfeiture case. Once property is forfeited under the act, law enforcement agencies may keep, transfer, destroy, or sell the property, depending on the type of property and whether it is still needed as evidence.

State law specifies that moneys generated from the sale of seized property are to be used for special and additional law enforcement purposes and cannot be considered a source of revenue for normal operating expenses. Each year, state and local law enforcement agencies are supposed to report information about these forfeiture proceeds to their respective oversight agencies.

Legislators have expressed an interest in knowing how Kansas compares to other states, and whether Kansas law enforcement agencies are following all requirements related to seized and forfeited property.

This performance audit answers the following questions:

- 1. How does Kansas's property seizure and forfeiture process compare to other states?**
- 2. Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?**

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in *Appendix A*. For reporting purposes, we combined questions one and two on the scope statement into the second question of this report.

To answer question one, we interviewed officials in other states and within the federal government and reviewed state and federal seizure and forfeiture laws. We selected a judgmental sample of four states: Iowa, Missouri, Nebraska, and New Mexico. We selected the first three states because of their proximity to Kansas and New Mexico because it has received national attention for having strong seizure and forfeiture laws. We chose this sample for comparative purposes only, not to determine which state's processes are best. We reviewed the Kansas Standard Asset Seizure and Forfeiture Act and identified major requirements Kansas law enforcement agencies must follow. Finally, we interviewed other state officials and subject-matter experts and reviewed documents and laws related to key characteristics of each state's seizure and forfeiture process and compared them to Kansas's requirements.

To answer question two, we interviewed officials from a sample of Kansas law enforcement agencies, reviewed relevant documents, and toured facilities to evaluate key elements of agencies' seizure and forfeiture processes. First, we selected a judgmental sample of two state and four local law enforcement agencies to review. Next, we identified major statutory controls those agencies should have for handling seized and forfeited property. We also gathered internal control best practices such as guidance from the U.S. Government Accountability Office and the Institute of Internal Auditors. We then evaluated each agency's compliance with the statutory requirements and best practices we identified through interviews with agency officials and a high-level review of their documentation. Finally, we developed additional onsite work to test each agency's internal controls surrounding those parts of the process that appeared to be weak or were most important to our audit objectives.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To put our audit findings in proper context, we need to mention several important limitations to our test work.

- We did not evaluate agencies' processes surrounding the actual seizure itself because such review was not practical. For example, we did not determine if officers reported all seized property to the law enforcement agency or if they had sufficient probable cause to seize the property. We could not do much to evaluate the point of seizure

other than review video of officers' interdictions or investigations. Although possible, that work was not practical given the time required to review enough video footage to reach any sound audit conclusions. As a result, our evaluation focused on agencies' processes beginning with their inventory of the seized property.

- For security reasons, we were not able to fully verify the accuracy of self-reported inventory lists provided by agency officials. We started our evaluation of safeguarding processes with a list of the assets in agencies' inventories. Ideally, we would conduct two tests to evaluate the accuracy of this list. First, we would select a random sample of items on the list and have agencies show them to us to prove the assets exist. Then, we would randomly select items we saw in storage and verify they were included on the list. However, most of the law enforcement agencies we reviewed stored seized property in the same facility as evidence associated with ongoing criminal cases. To avoid the possibility of our auditors unknowingly compromising criminal evidence, we did not conduct the second part of the test. As a result, we cannot be certain the self-reported lists agencies provided were complete.
- We cannot project the results of our test work across all law enforcement agencies. We judgmentally selected and reviewed a small number of seized assets and forfeiture deposits and expenditures for select law enforcement agencies. Additionally, KBI and KHP have multiple locations across the state, but we only evaluated the processes and facilities at their Topeka location. Although our assessment of these agencies' main locations may be indicative of the processes at the other locations, that was not the focus of our work.

Our findings begin on page 9, following an overview of property seizure and forfeiture in Kansas.

Overview of Seizure and Forfeiture in Kansas

The Kansas Standard Asset Seizure and Forfeiture Act Allows Law Enforcement Agencies to Seize Money or Property Used in Certain Crimes

The Kansas Standard Asset Seizure and Forfeiture Act (Forfeiture Act) allows law enforcement agencies to take, or seize, citizens' property during a search, raid, or investigation if it was suspected of being involved in a crime. Agencies can seize both real and personal property such as cash, guns, vehicles, land, and buildings. The Forfeiture Act includes numerous crimes for which property may be seized including:

- possession of illegal drugs
- human trafficking
- gambling
- forgery
- dog fighting
- racketeering

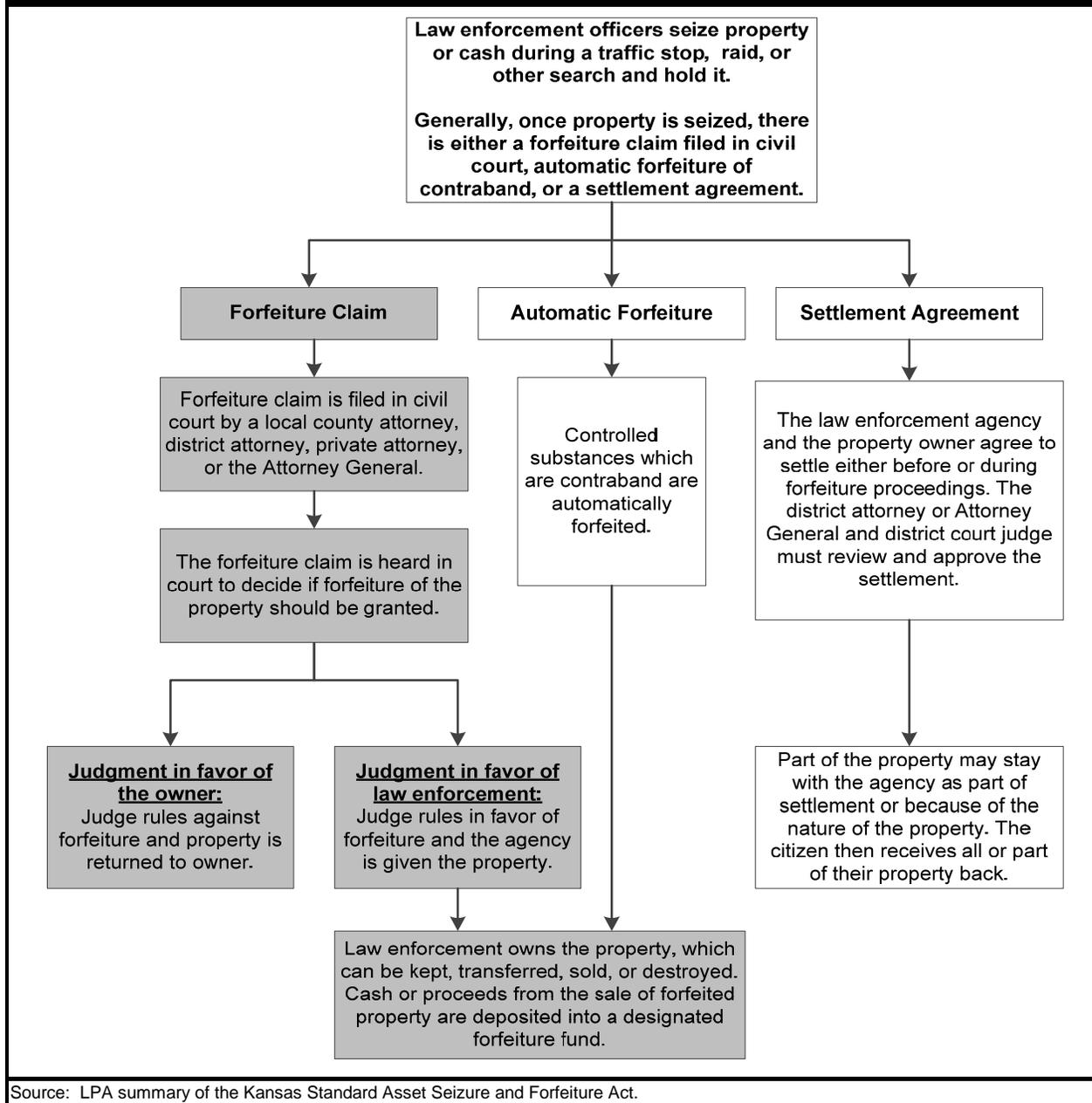
Under the act, law enforcement agencies can seize an individual's property without charging or convicting the person of a crime. Instead, law enforcement agencies must have probable cause that the property was used in an offense. Once a law enforcement agency has seized property, it may then request a court order transferring ownership of the property from its original owner to the law enforcement agency itself. This process is commonly referred to as "civil asset forfeiture" and is described further in the following section.

By Law, All Seized Property That is Forfeited Becomes the Property of the Law Enforcement Agency

Under the Forfeiture Act, a judge determines that ownership of seized property may be transferred to a law enforcement agency through a process known as civil asset forfeiture. *Figure OV-1* on the next page illustrates this process. As the figure shows, after property is seized by a law enforcement agency, the agency may request the local county attorney, district attorney, or the Attorney General to file a forfeiture claim in district court. Agencies can also hire a private attorney to prosecute a forfeiture case with the approval of the local county attorney or district attorney. The court then reviews the evidence connecting the property to a crime and determines whether to award ownership of the property to the law enforcement agency. If a judge grants the claim, the law enforcement agency then owns the forfeited property.

As *Figure OV-1* shows, seized property may follow two other processes that are outside the scope of this audit. The Forfeiture Act allows law enforcement agencies to seize illegal drugs and contraband. However, these items do not require a judge to determine forfeiture because they are illegal for citizens to own. Rather, if seized under the act, this property is automatically surrendered to the agency to be destroyed or used for training. For other types of property (e.g. cash, guns, and vehicles), the agency and property owner may agree to settle the case outside of court.

**Figure OV-1
Overview of Civil Asset Forfeiture in Kansas**



Law enforcement agencies can keep, transfer, destroy, or sell property after a judge has forfeited it to them. The court typically gives the law enforcement agency discretion to determine how to handle forfeited property within the parameters established by the Forfeiture Act. The act allows law enforcement agencies to:

- keep the property for official use.
- transfer the property to another state or local law enforcement agency.

- destroy illegal drugs and contraband or retain the items for investigation or training purposes.
- sell property that is not required to be destroyed and is not harmful to the public. The sale must be public and the agency must deposit the proceeds in the agency's forfeiture fund.

What an agency does with forfeited property depends on the type of property. For example, law enforcement agencies usually destroy drugs, whereas they typically retain cash and sell or retain vehicles.

Law enforcement agencies can use forfeiture proceeds for nearly any law enforcement purpose except normal operating expenses. The Forfeiture Act requires law enforcement agencies to deposit forfeited cash and forfeiture proceeds in a special law enforcement trust fund. (We refer to this fund as the agencies' forfeiture fund throughout the report.) According to the act, agencies must spend money from that fund through its normal city, county, or state appropriation system. It prohibits agencies from using forfeiture proceeds to pay for normal operating expenses and from using future forfeiture proceeds to plan or adopt the agency's budget. The act requires law enforcement agencies to use forfeiture proceeds for special, additional law enforcement purposes as determined by the agency head.

Because the Forfeiture Act does not define the terms "normal operating expense" or "special, additional law enforcement purposes," it gives agencies wide discretion to determine appropriate uses of those funds. Appropriate uses could include expenses that are clearly special and additional such as training conferences and law enforcement equipment (e.g. body cameras). However, appropriate uses could also include expenses that are not as clear such as cell phone bills for a particular unit or rent for a facility used to store seized property.

Law Enforcement Agencies May Also Receive Forfeited Property Under Other Federal or State Laws Outside the Scope of this Audit

In addition to the Forfeiture Act, some law enforcement agencies in Kansas can receive forfeited property through federal law and the state's drug-tax laws. Our review did not include an evaluation of property forfeited under these other laws.

A Kansas law enforcement agency can receive forfeiture proceeds under federal law if there is a joint investigation with a federal agency, or if a federal agency adopts a state or local forfeiture case. According to federal guidelines, participating state and federal law enforcement agencies can share forfeiture proceeds in joint investigations or if a federal agency agrees to take a state agency's forfeiture case. In a joint investigation, the proceeds are

allocated relative to each agency's workload in the case. In a case where a federal agency takes a state or local forfeiture case, the state or local agency generally receives up to 80% of the proceeds.

Additionally, Kansas law enforcement agencies can receive forfeiture proceeds under the state's drug-tax laws (K.S.A. 79-5201 et seq.). Under the state's drug tax laws, dealers who possess or distribute certain amounts of marijuana and other controlled substances are required to pay a tax on those drugs. The Department of Revenue can issue a warrant to seize and sell that person's property to cover the taxes due, typically in conjunction with their arrest for drug possession. When this happens, the Department of Revenue remits 25% of the money collected to the state general fund and distributes the remaining 75% to the law enforcement agencies that helped seize the property.

Our 2000 Audit Found Law Enforcement Complied with Most State Laws, but Did Not Appropriately Handle or Report Forfeiture Proceeds

In 2000, we conducted a similar audit evaluating the state's property seizure and forfeiture process (report number 00-15). In that audit, we also reviewed six law enforcement agencies' processes for handling forfeited property and proceeds. The agencies covered by that audit were the Kansas Highway Patrol, the Kansas Bureau of Investigation, the Osage County Sheriff's Office, the Thomas County Sheriff's Office, the Garden City Police Department, and the Kansas City Police Department.

- **Our 2000 audit found all six agencies disposed of forfeited property and established a fund for forfeiture proceeds as required by state law.** The audit found all six agencies lawfully disposed of forfeited property by retaining it for official use or selling it in accordance with state law. All six agencies established the required forfeiture fund and used forfeiture proceeds for allowable expenses, such as computer equipment and vehicles.
- **However, the audit also found that agencies had issues with depositing and accounting for forfeiture proceeds.** Four agencies comingled state forfeiture money and drug-tax proceeds, one agency improperly deposited forfeiture funds in a local bank account, and one agency distributed seized cash before a court ordered it forfeited. Additionally, two agencies made accounting errors when depositing forfeiture proceeds.
- **Our 2000 audit also found that most local law enforcement agencies did not submit an annual report to their oversight authority as required by state law.** Only 8 of 103 local law enforcement agencies that were surveyed in 2000 appeared to submit a report to their budget authority regarding forfeiture activity, as required by law. Not submitting an annual report appears to be an ongoing problem, as discussed in more detail on page 26.

Question 1: How Does Kansas's Property Seizure and Forfeiture Process Compare to Other States?

We compared the seizure and forfeiture process in Kansas to four states and the federal government (p. 9). We found that Kansas is similar to the other states and the federal government in terms of what property can be seized by law enforcement agencies and under what conditions (p. 9). However, requirements for forfeiting property, spending forfeiture proceeds, and reporting on forfeiture activity varied across all states we reviewed and the federal government (p. 11).

We Compared the Seizure and Forfeiture Process in Kansas to Four States and the Federal Government

We compared law enforcement's process for seizing and forfeiting property in Kansas to those in the federal government and four other states: Iowa, Missouri, Nebraska, and New Mexico. The first three states were selected because of their proximity to Kansas. We selected New Mexico because it has received national attention as having strong seizure and forfeiture laws. To better understand the process in each state and the federal government, we interviewed agency officials, reviewed seizure and forfeiture laws, and conducted other research as necessary.

Kansas is Similar to the Other States and the Federal Government in Terms of What Property Can Be Seized by Law Enforcement Agencies and Under What Conditions

Property seizure refers to the point at which a law enforcement agency takes possession, but not ownership, of property suspected to be involved in criminal activity. For the seizure process, we evaluated what types of crimes can lead to seizure, the burden of proof required (i.e. the level of evidence law enforcement must have that property has been involved in a crime before seizing it), and what types of property can be seized. **Figure 1-1** on the next page provides a summary of our comparison. As the figure shows, Kansas' property seizure process is similar to other states and the federal government.

Kansas, the federal government, and three of the other four states allow property to be seized for numerous types of crimes. As **Figure 1-1** shows, Nebraska is the sole exception in that it allows seizure for only four types of crimes. Across all comparison states and the federal government, crimes commonly related to property seizure include racketeering, gambling, drug violations, and sex offenses.

Although property is sometimes seized in connection with less serious offenses (e.g. traffic violations), these minor offenses cannot be the reason for the seizure. Rather, law enforcement must

have probable cause to suspect the property has been associated with one of the more serious crimes listed in seizure and forfeiture laws. For example, an officer cannot seize a driver's car for running a red light. However, if after stopping the driver for running the red light, the officer then finds probable cause that the car has been involved in drug trafficking, the car can be seized.

**Figure 1-1
Kansas's Property Seizure Process Compared to Those in Four Other States and the Federal Government**

	Kansas	Iowa	Missouri	Nebraska (a)	New Mexico	Federal Government
What crimes can result in property seizure?	More than 10 crimes, including: - human trafficking - forgery - racketeering - gambling - drug violations	More than 10 crimes, including: - robbery - burglary - assault - domestic abuse - drug violations	More than 10 crimes, including: - sexual offenses - robbery - arson - burglary - prostitution - gambling	Four crimes: - illegal drugs - human trafficking - child pornography - illegal gambling	More than 10 crimes, including: - racketeering - illegal gambling - certain drug violations - computer crimes	More than 10 crimes, including: - racketeering - terrorism - drug trafficking
What is the burden of proof required to seize property? (b)	Probable Cause	Probable Cause	Probable Cause	Probable Cause	Probable Cause	Probable Cause
What types of property can be seized? (c)	- Real property (d) - Personal property - Contraband	- Real property - Personal property - Contraband	- Real property - Personal property - Contraband	- Real property - Personal property - Contraband	- Real property - Personal property - Contraband	- Real property - Personal property - Contraband

(a) Nebraska recently enacted legislation that changed certain parts of its property seizure and forfeiture process. That legislation went into effect July 21, 2016. In cases in which it was unclear how the new legislation affected Nebraska's process, we defaulted to the previous laws as we understood them.
 (b) Burden of proof from the least to most stringent are: probable cause, preponderance of the evidence, clear and convincing, and beyond a reasonable doubt.
 (c) In some states, seizure of contraband such as illegal drugs are covered under the state's controlled substance abuse laws, not their seizure and forfeiture laws.
 (d) In Kansas, real property, such as land and buildings, and vehicles can only be seized if law enforcement has probable cause to believe the property was used in a felony offense. No similar restrictions were identified in the other states we reviewed or the federal government.
 Source: LPA summary of interviews with state officials and other subject-matter experts and a review of state and federal laws.

All five states and the federal government allow law enforcement agencies to seize property based on probable cause, as shown in Figure 1-1. Probable cause is a relatively low burden of proof, and requires that law enforcement have sufficient information to believe that a crime has been committed. In general, a warrant is not required for property to be seized.

Like all four comparison states and the federal government, Kansas allows seizure of real and personal property including cash, guns, vehicles, land, and contraband. As *Figure 1-1* shows, the five states we reviewed and the federal government place very few restrictions on what types of property can be seized under state and federal seizure and forfeiture laws. Unlike other seized property, contraband such as illegal drugs typically become the property of law enforcement agencies immediately upon seizure because they are not legal to own.

Requirements for Forfeiting Property, Spending Forfeiture Proceeds, and Reporting on Forfeiture Activity Varied Across All States We Reviewed and the Federal Government

In addition to property seizures, we also evaluated Kansas' process for property forfeiture. Forfeiture is the point at which a court determines who has legal ownership of the seized property: the original owner or the government. We compared Kansas to our four selected states and the federal government in terms of whether a criminal conviction is necessary for forfeiture, how forfeited property (and proceeds) can be used, and how forfeitures are reported. *Figure 1-2* on the next page provides a summary of our comparison. As the figure shows, state and federal processes differ considerably in how agencies use and report forfeiture proceeds.

State and federal laws vary on whether property can be forfeited without a criminal conviction. As *Figure 1-2* shows, all five states and the federal government leave decisions of property forfeiture to the courts. However, we identified a significant difference in the conditions under which property can be forfeited.

- **Kansas, Iowa, and the federal government do not require an individual to be convicted of a crime before their property can be forfeited in a civil forfeiture case.** Through a civil court process, these forfeiture laws allow a person's property to be forfeited even if they have not been convicted of a crime. Instead, as long as the court is shown by a "preponderance of the evidence" that the person's property was related to a relevant crime, it is subject to forfeiture. Preponderance of the evidence means the court is persuaded the claim is probably more true than not true.
- **By contrast, Missouri, Nebraska, and New Mexico require that an individual be convicted of a crime before their property can be forfeited in a civil forfeiture case.** In these cases, the forfeiture process still takes place in a civil court, but before the civil court can forfeit the seized property, the law enforcement agency must show that the property owner was convicted of a crime.

In addition, both Nebraska and New Mexico require "clear and convincing evidence" to forfeit property, which is a higher burden-of-proof than preponderance of the evidence. Clear and convincing evidence means the court is persuaded that it is highly probable the property was connected to a relevant crime.

**Figure 1-2
Kansas's Property Forfeiture Process Compared to Those in Four Other States and the Federal Government**

	Kansas	Iowa	Missouri	Nebraska (a)	New Mexico	Federal Government
State and Federal Government Forfeiture Processes						
What is the court's role in determining forfeiture?	Grant forfeiture or return property to owner	Grant forfeiture or return property to owner	Grant forfeiture or return property to owner	Grant forfeiture or return property to owner	Grant forfeiture or return property to owner	Grant forfeiture or return property to owner
Is a criminal conviction required for forfeiture?	No	No	Yes	Yes (b)	Yes	No
What is the burden of proof required to forfeit property? (c)	Preponderance of evidence	Preponderance of evidence	Preponderance of evidence	Clear and convincing evidence	Clear and convincing evidence	Preponderance of evidence
How Forfeiture Proceeds are Used						
What percentage of forfeiture proceeds do law enforcement agencies receive (after relevant fees)?	100%	100%	None	None	None	None
Who determines use of the forfeiture proceeds?	Law enforcement agency	Law enforcement agency	School district officials (d)	Special board administers funds	State legislature	U.S. Attorney General and U.S. Secretary of Treasury
What types of activities can forfeiture proceeds be spent on?	Law enforcement activities <i>(cannot be used for normal operating expenses or included in budgets)</i>	Law enforcement activities <i>(cannot replace normally budgeted items)</i>	School district activities	School district and drug enforcement activities	Any activity funded through the state's general fund	Law enforcement activities
How Forfeited Property and Proceeds are Reported						
Are states required to report information about forfeitures?	Yes, including: - Type and value of property (locals only) - Amount of proceeds deposited and spent	Yes, including: - Name, date, and location of seizure Also required to maintain records (though not regularly report) information, such as: - Description and disposition of property - Use of forfeiture proceeds	Yes, including: - Date and location of seizure - Number - Value - Types of items - Disposition of property	Yes, including: - Date and location of seizure - Crime property owner was charged with - Value - Description of property - Disposition of property	Yes, including: - Number - Value - Types of items - Whether crime that resulted in seizure was felony or misdemeanor	Yes, through a consolidated database used to track property from seizure through forfeiture, including: - Types of items - Name of agency with custody of seized property - Disposition of property (d)
Is information about forfeited property centralized?	No	No	Yes	Yes	Yes	Yes
Is an annual report required for forfeiture information?	Yes	Only when requested	Yes	Yes	Yes	Quarterly (d)
Are there penalties for noncompliance with law?	None	Agencies could lose right to receive forfeiture proceeds	Class A misdemeanor and fine up to \$1,000	None	None	Restrictions on fund requests, possible criminal charges (d)

(a) Nebraska recently enacted legislation that changed certain parts of its property seizure and forfeiture process. That legislation went into effect July 21, 2016. In cases in which it was unclear how the new legislation affected Nebraska's process, we defaulted to the previous laws as we understood them.

(b) Nebraska's new legislation requires criminal conviction for forfeitures involving illegal drug, child pornography, and illegal gambling crimes. It was unclear to us whether the new legislation requires criminal conviction for forfeitures involving human trafficking crimes.

(c) Burden of proof from the least to most stringent are: probable cause, preponderance of the evidence, clear and convincing, and beyond a reasonable doubt.

(d) Our summary of state and federal practices in these areas was based on limited information. Consequently, actual practices might differ slightly from the information shown.

Source: LPA summary of interviews with state officials and other subject-matter experts and a review of state and federal laws.

States and the federal government vary in terms of how forfeiture proceeds can be used and who can spend them.

Allowing law enforcement agencies that seize property to also keep and use the proceeds after forfeiture is sometimes viewed as a conflict of interest (despite a court's involvement in making all forfeiture decisions). That is because it could create an incentive for law enforcement to seize property in order to fund their operations. As a result, states and the federal government restrict how these funds can be used. As *Figure 1-2* shows, we found that states and the federal government apply different restrictions on how these funds are used.

- **Kansas and Iowa allow law enforcement agencies to keep most forfeiture proceeds and to decide how to spend them.** Although both states allow law enforcement agencies to keep almost all of the proceeds they receive through forfeitures, state law prohibits the use of that money for normal operating expenditures in Kansas and for normally budgeted items in Iowa.
- **In other states, most forfeiture proceeds are not kept by law enforcement and are used for other purposes.** In New Mexico, law enforcement agencies remit forfeiture proceeds to the state's general fund. In Missouri, the forfeited proceeds are used by school districts. However, in Nebraska, 50% of drug forfeiture proceeds must go to the counties to be used for drug enforcement purposes; the rest go to schools.

Also, in other states, decisions about how forfeited property and proceeds are used are made by non-law enforcement personnel. That includes the state legislature in New Mexico, an advisory board in Nebraska, or school district officials in Missouri.

- **The federal government allows federal law enforcement agencies to use forfeiture proceeds, but does not allow them to decide how to spend them.** Although it designates forfeiture proceeds for federal law enforcement activities, the federal government does not allow these law enforcement agencies to make spending decisions. Instead, those decisions are made by the U.S. Attorney General and the U.S. Secretary of Treasury.

All five states and the federal government report on forfeited property differently. We identified numerous differences in terms of how information is reported, whether that information is centralized, and whether agencies are penalized for non-compliance with reporting requirements. As *Figure 1-2* shows:

- **All states and the federal government require agencies to report on forfeitures, though the reporting method varies.** For example, Kansas, Missouri, Nebraska, and New Mexico require agencies to submit an annual report to an oversight body (or bodies). Iowa, on the other hand, requires agencies to notify the Iowa Attorney General of property that is seized, and to maintain records with certain other information in case of an audit. Finally, the federal government requires agencies to track information about seizures and forfeitures in a consolidated database.

- **Missouri, Nebraska, New Mexico, and the federal government require centralized reporting on forfeited property.** For example, in Missouri, individual state and local agencies must submit information about property seizures and forfeitures to the State Auditor, who compiles the information in an annual report that is posted online. By contrast, Kansas and Iowa do not have centralized reporting mechanisms. For example, in Kansas, state and local law enforcement agencies are required to submit annual reports to their respective oversight agencies, but that information is not centralized or aggregated statewide.
- **Iowa, Missouri, and the federal government have laws that penalize agencies for noncompliance with forfeiture reporting requirements.** For example, in Iowa, agencies that do not adhere to forfeiture reporting requirements could have their ability to receive forfeiture proceeds temporarily suspended or terminated. Similarly, federal agencies not complying with federal reporting requirements could have their funding requests restricted or denied. In Missouri, reporting noncompliance is considered a misdemeanor offense and is subject to a fine up to \$1,000. By contrast, Kansas, Nebraska, and New Mexico do not have such laws.

In 2016, the Legislature considered two bills that would have changed forfeiture requirements in Kansas, but neither bill passed. The two bills would have made broad changes to the way state and local law enforcement agencies handle forfeited property and deposit forfeiture proceeds. Both bills were introduced in the House Committee on Corrections and Juvenile Justice and referred to the House Judiciary Committee, but neither received a hearing.

- **House Bill 2638 would have required criminal conviction for forfeiture and changed where state and local law enforcement agencies deposit forfeiture proceeds.** Specifically, the bill would have required a property owner to be convicted of an applicable crime before their property could be forfeited. It also would have required all forfeiture proceeds to be deposited in the state general fund and would have eliminated law enforcement agencies' individual forfeiture funds.
- **House Bill 2699 also would have changed where local law enforcement agencies deposit forfeiture proceeds.** For example, the local law enforcement agency would have kept half of the proceeds and remitted the remainder to a city and county forfeiture fund maintained by the state. The money in the fund would still have been used for local law enforcement purposes.

Question 2: Are Law Enforcement Agencies Following State Legal Requirements and Best Practices for Property Seizures and Forfeitures?

We evaluated two state and four local law enforcement agencies' processes for property seizures and forfeitures under the state's Forfeiture Act (p. 15). Although there were some exceptions, we found that all six law enforcement agencies adequately safeguarded seized property (p. 17), appropriately liquidated forfeited property (p. 20), and appropriately spent forfeiture proceeds (p. 24). However, the six agencies lacked important controls for tracking forfeiture proceeds (p. 22). Additionally, although state law enforcement agencies complied with reporting requirements in state law, local agencies did not (p. 26).

As a result of this work, we also identified several other findings related to the seizure and forfeiture process. Overall, we found that agencies have broad discretion over how forfeiture proceeds can be used, which creates a risk agencies could begin to depend on them for operating funds (p. 28). Specific to the law enforcement agencies we reviewed, we found that the Coffeyville Police Department's arrangement with the Montgomery County Attorney to handle forfeiture cases creates a conflict of interest (p. 29) and that the Salina Police Department lacked important controls for money used for controlled drug buys (p. 31). Finally, none of the law enforcement agencies we reviewed had complete and written policies and procedures for seized and forfeited property (p. 32).

We Evaluated Two State and Four Local Law Enforcement Agencies' Processes for Property Seizures and Forfeitures Under the State's Forfeiture Act

A large number of agencies have seizure and forfeiture authority in Kansas under the Kansas Standard Asset Seizure and Forfeiture Act (Forfeiture Act). This includes several state agencies and more than 300 local law enforcement agencies. As a result, it was not feasible for us to evaluate all law enforcement agencies in Kansas that seize property for forfeiture. Instead, we selected and evaluated a small sample of agencies based on their crime rates and geographic location. The results of our work cannot be projected across all law enforcement agencies in Kansas because the civil asset seizure and forfeiture process is decentralized and each agency has its own processes to comply with the Forfeiture Act.

In addition, several agencies in Kansas have seizure and forfeiture authority under state laws other than the Forfeiture Act that we did not include in our review. For example, the Department of Revenue can receive forfeited property under the Drug Tax Stamp Act (K.S.A. 79-5201 et seq.) and the Office of Securities Commissioner under the Uniform Securities Act (K.S.A. 17-

12a603). Similarly, the Department of Wildlife, Parks, and Tourism can receive forfeited property under statutes dealing with the unlawful taking or transporting of wildlife (K.S.A. 32-1047).

We reviewed two state and four local law enforcement agencies that received varying amounts of forfeiture proceeds under the state’s Forfeiture Act. Those agencies included the:

- Kansas Bureau of Investigation (KBI)
- Kansas Highway Patrol (KHP)
- Coffeyville Police Department (Coffeyville)
- Iola Police Department (Iola)
- Salina Police Department (Salina)
- Sedgwick County Sheriff’s Office (Sedgwick County)

These agencies received varying amounts of forfeiture proceeds, as illustrated in *Figure 2-1* below. The figure shows the deposits, expenditures, and balances of each agency’s forfeiture fund in 2015. KHP had the largest volume of forfeiture proceeds of the six agencies with about \$842,000 in deposits. The figure also shows that Iola had the smallest volume with only \$4,100 in deposits during the same time period.

Figure 2-1 Summary of Kansas Law Enforcement Agencies' Forfeiture Funds 2015 (a)			
Agency	Deposits (b)	Expenditures	Year End Balance (b)
KHP	\$842,041	\$166,250	\$2,056,787
Sedgwick County	\$76,469	\$22,721	\$427,857
Salina	\$23,072	\$36,870	\$55,472
Coffeyville	\$9,363	\$44,440	\$39,233
KBI	\$6,052	\$29,305	\$7,708
Iola	\$4,104	\$2,603	\$3,230

(a) The reporting period varies slightly by agency. State agency expenditures are for the period Dec. 1 to Nov. 30. Local agency expenditures are for the calendar year period Jan. 1 to Dec. 31.
 (b) Except for the KBI, these amounts also include drug-tax proceeds.
 Source: LPA summary of financial reports from law enforcement agencies (audited).

We evaluated agencies’ processes for five major phases of property seizure and forfeiture. We reviewed the Forfeiture Act and identified major laws related to how state and local law enforcement agencies safeguard seized property, liquidate forfeited property, and track, use, and report on forfeiture proceeds. We also identified major controls that agencies should have according to internal control best practices from organizations like the U.S. Department of Justice, U.S. Government Accountability Office,

and the Institute of Internal Auditors. Finally, we interviewed law enforcement agency staff and tested a small, judgmental sample of items seized and forfeited under the Forfeiture Act to see if agencies' processes complied with the state laws and best practices. The five phases we reviewed are described below.

- Safeguarding refers to the agencies' processes for maintaining the safety and security of seized property before a forfeiture order is granted. The remaining phases refer to agencies' processes after the property has been ordered forfeited by the court.
- Liquidating refers to the agencies' processes for selling or otherwise disposing of forfeited property.
- Tracking refers to the agencies' accounting and reconciling processes for forfeiture proceeds.
- Using refers to the agencies' processes for spending money from their forfeiture fund.
- Reporting refers to the agencies' processes for reporting forfeiture activity to their respective oversight bodies.

The following sections of this report provide a high-level description of our findings and summarize how the six law enforcement agencies performed overall. **Appendix B**, which begins on page 37, contains more detailed information about the findings for each agency. We included references to **Appendix B** through the remainder of the report to help readers find more information about specific findings.

FINDINGS RELATED TO SAFEGUARDING SEIZED PROPERTY

Overall, the Six Law Enforcement Agencies We Reviewed Adequately Safeguarded Property, Though There Were a Few Exceptions

State and local law enforcement agencies can seize property under the Forfeiture Act if they suspect it was used in connection with a crime. After seizing it, they have responsibility to protect it until it is either returned to the owner or ordered forfeited by the court. For the purpose of our audit, we defined this part of the seizure and forfeiture process as the safeguarding phase. It begins after officers have seized the property and includes processes to inventory and store that property. We reviewed four state laws and several control best practices to determine whether the six agencies adequately safeguarded seized property. For example, we assessed whether they notified property owners of the seizure or conducted a written inventory of seized property.

All six agencies generally complied with major state laws and best practices for safeguarding property. We interviewed law enforcement staff, toured law enforcement facilities, and tested documentation associated with a small, judgmental sample of forfeiture cases to determine whether agencies complied with the state laws and control best practices we identified. **Figure 2-2** below summarizes the results of our test work in this area. As the figure shows, the six agencies complied with most of the state laws and control best practices we identified.

Figure 2-2 Summary of Kansas Law Enforcement Agencies' Compliance with State Law and Best Practices Related to <u>Safeguarding Seized Property</u>							
State Law or Best Practice	What Agency <u>Should Be</u> Doing	KBI	KHP	Coffeyville	Iola	Salina	Sedgwick County
KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property. (a)	✓	✓	✓	✓	✓	✓
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure to the property owner. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency. (b)	✓	✓	✗	✗	✓	✓
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✓	✓	✓	✓	✗	✓
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	✓	Did Not Test (c)	Did Not Test (c)	✓	✓	Did Not Test (c)
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	✓	✓	✓	✓	✓
Best Practice	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	Did Not Test (c)	Did Not Test (c)	✗	✗	✓	✓
Best Practice	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to provide reasonable assurance that property will be protected from damage and theft.	✓	✓	✗	✗	✓	✓

(a) Our evaluation of compliance with this statute focused on whether law enforcement properly documented probable cause, not the validity of the probable cause listed.
 (b) Our evaluation of compliance with this statute did not include an evaluation of the timeliness of seizure notices.
 (c) We did not test agencies' compliance with these criteria because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.
 Source: LPA assessment based of interviews with law enforcement staff, tours of law enforcement facilities, and a review of seizure and forfeiture documentation.

However, three agencies were missing some important controls for safeguarding seized property. The Coffeyville and Iola Police departments did not comply with some state laws and best practices related to providing a notice of seizure, inventorying seized property, or storing seized property. In addition, the Salina Police Department did not fully comply with a law regarding its inventory. These are explained in more detail below.

- **Coffeyville and Iola did not issue a notice of seizure as required by state law.** K.S.A. 60-4107(c)-(d) requires law enforcement agencies to send a notice of seizure to individuals when their property has been seized. This notice informs the property owner what property was seized and who to contact should they have any questions. Neither Iola nor Coffeyville sent this notice for the items in the sample we reviewed. Instead, their attorneys sent a notice of pending forfeiture. This is a different type of notice which gives the property owner 30 days to file an exemption from the forfeiture process. Not sending a notice of seizure could limit the amount of time and information an individual has to prepare for a possible court case should the agency decide to pursue forfeiture on the seized property.
- **Coffeyville and Iola did not periodically review their seized property inventory.** Agencies should periodically review their facilities to ensure they have a complete inventory of all seized property. This review reduces the likelihood that an agency is not aware of missing property. Neither Coffeyville nor Iola conducted an inventory review. Our review of Iola's inventory did not reveal any problems, but our review of Coffeyville's inventory uncovered two cases where more than \$600 in seized cash was unaccounted for or misplaced. (see **Appendix B**, pages 47 and 52 for more information)
- **Coffeyville and Iola did not adequately secure their vehicle impound lots.** Agencies should store seized property in facilities that provide adequate protection and limited access. This helps protect the property from theft or damage and ensures it can be returned to the property owner in its original condition if necessary. Both Iola and Coffeyville stored seized vehicles in outdoor lots that did not provide protection from weather damage. In addition, the condition of Coffeyville's impound lot was not sufficient to protect it from vandalism (Coffeyville officials told us they have had cars vandalized in the past). Finally, many people had access to Iola's impound lot. Despite the problems with these controls, our limited work reviewing Coffeyville's facilities did not identify any missing property. Iola did not have any seized vehicles stored at its impound lot at the time of our review. (see **Appendix B**, pages 47 and 52 for more information)
- **Salina's written inventory of seized items was not complete because it did not include vehicles.** K.S.A. 60-4108(d) requires agencies to develop a written inventory of their seized property. In general, Salina inventoried most of its seized property in an evidence management system because Salina treated most seized property (e.g. cash, drugs, electronics, etc.) as evidence. However, Salina officials did not consider seized vehicles to be evidence, so they did not include them in this or any other inventory. Without an inventory,

Salina could potentially lose track of some of the vehicles in its possession. However, our test work did not identify any missing vehicles.

FINDINGS RELATED TO LIQUIDATING FORFEITED PROPERTY

*All Six Law
Enforcement Agencies
Appropriately
Liquidated Forfeited
Property*

Law enforcement agencies can sell, deposit, or destroy the property they have seized after it has been ordered forfeited by the court. For the purpose of this audit, we defined this part of the seizure and forfeiture process as the liquidation phase. The liquidation phase begins when an agency receives a court order for forfeiture and ends when an agency deposits the forfeiture proceeds in their forfeiture fund.

We identified four state laws and one control best practice related to the liquidation phase and used these as our criteria to determine whether the six agencies appropriately liquidated forfeited property. For example, we did work to determine if agencies sold forfeited property through a public auction or the state's surplus property program as required by state law.

In general, the six agencies we reviewed complied with state laws for liquidating forfeited property. We interviewed law enforcement staff and reviewed documentation for a small sample of forfeiture cases to determine whether agencies complied with relevant state laws we identified. *Figure 2-3* on the next page summarizes the results of our test work in this area. As the figure shows, the six agencies complied with nearly all of the state laws we evaluated.

However, agencies were missing important controls for liquidating forfeited property. Although agencies appropriately liquidated forfeited property, we identified a few specific issues related to how KHP and Salina deposit forfeiture proceeds into their forfeiture funds. Additionally, most agencies we reviewed did not have a written policy prohibiting employees from purchasing forfeited property.

- **Salina did not deposit all forfeiture funds directly into its forfeiture fund as required by state law.** K.S.A. 60-4117(d) requires law enforcement agencies to deposit forfeiture proceeds into a designated forfeiture fund. However, since August 2014, Salina officials have placed at least \$18,500 in forfeited cash in a safe located in their office instead of depositing it into their forfeiture fund. Salina used the cash in the safe for controlled drug buys and to pay for other miscellaneous expenses like vehicle repairs and training costs. This process, which violates state law and also creates a heightened risk for forfeiture proceeds to be misplaced or stolen, is discussed more fully on page 31.

- **At the time of our audit, KHP had about \$218,000 in its forfeiture fund that had not yet been ordered forfeited by a court.** For security reasons, KHP converted seized cash into a cashier's check and deposited it in its forfeiture fund soon after the initial seizure. This is a strong control because it reduces the risks associated with having large quantities of cash on site. However, once it was deposited in the forfeiture fund, KHP did not have a way of accounting for those funds separately (those that had been ordered forfeited by the court and those that had not). As a result, KHP's process for liquidating seized cash could result in the agency spending cash that is not legally theirs. (see **Appendix B**, page 43 for more information)
- **Four of the six agencies we reviewed did not have a policy prohibiting their employees from purchasing forfeited property.** K.S.A. 60-4117(a) prohibits an agency from selling forfeited property to its employees. It is a best practice to have a written policy prohibiting employees from purchasing property that has been forfeited to the agency. As **Figure 2-3** shows, KBI and KHP were the only agencies that had such a policy of the six agencies we reviewed. Not having a formal policy creates a risk that staff may not be aware of the restriction and could inadvertently violate state law. However, our test work at several agencies did not identify any cases where this actually occurred.

**Figure 2-3
Summary of Kansas Law Enforcement Agencies' Compliance with State Law and Best Practices
Related to Liquidating Forfeited Property**

State Law or Best Practice	What Agency <u>Should Be</u> Doing	KBI	KHP	Coffeyville	Iola	Salina	Sedgwick County
KSA 60-4116	Agencies must get a court order for forfeiture.	✓	✓	✓	✓	✓	✓
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees.	✓	Did Not Test (a)	Could Not Determine (b)	✓	✓	Could Not Determine (b)
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property program.	✓	✓	Could Not Determine (b)	✓	✓	Could Not Determine (b)
KSA 60-4117 (d)(1)-(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund.	✓	✓	✓	✓	✗	✓
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✓	✓	✗	✗	✗	✗

(a) We did not test KHP's compliance with this criterion because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.

(b) Coffeyville and Sedgwick County did not sell any forfeited property during the time period we reviewed (2013-2015). As a result, we could not determine their compliance with these criteria.

Source: LPA assessment based of interviews with law enforcement staff, tours of law enforcement facilities, and a review of seizure and forfeiture documentation.

FINDINGS RELATED TO TRACKING FORFEITURE PROCEEDS

Overall, the Six Law Enforcement Agencies We Examined Lacked Important Controls for Tracking Forfeiture Proceeds

Law enforcement agencies have certain fiscal responsibilities regarding funds deposited in their forfeiture fund. For the purpose of this audit, we defined this part of the seizure and forfeiture process as the tracking phase. The tracking phase begins when an agency deposits forfeiture proceeds into its forfeiture fund and ends when an agency spends money from that fund. For local agencies, this phase of the process typically involves the city or county treasurer’s office, which is directly responsible for deposits and withdrawals from the fund.

We evaluated agencies’ processes for tracking forfeiture proceeds against three best practices including whether they had an adequate segregation of duties when handling forfeiture proceeds, conducted regular reconciliations of their forfeiture proceeds, and deposited different revenue sources in separate accounts. We did not identify any state laws that fit this phase of our work. *Figure 2-4* below summarizes the results of our test work in this area.

Figure 2-4
Summary of Kansas Law Enforcement Agencies' Compliance with State Law and Best Practices Related to Tracking State Forfeiture Proceeds

State Law or Best Practice	What Agency <u>Should Be</u> Doing	KBI	KHP	Coffeyville	Iola	Salina	Sedgwick County
Best Practice	Responsibilities for collecting, recording, depositing, and reconciling proceeds from forfeited property is assigned to different employees in order to ensure adequate segregation of duties.	✓	✓	✓	✓	✓	✓
Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	✗	✗	✗	✗	✗	✗
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	✓	✗	✗	✗	✗	✗

Source: LPA assessment based on interviews with law enforcement staff, tours of law enforcement facilities, and a review of seizure and forfeiture documentation.

All six agencies described an adequate segregation of duties in which different people collected, deposited, and reconciled forfeiture proceeds. By having different people involved in different parts of the process, an agency can reduce the risk that a theft or loss will occur or go unnoticed. For example, one person might bring forfeited cash from evidence storage to the agency. Someone else at the agency would then verify the amount and take it to their finance department. The finance department would also verify the amount and provide a receipt before depositing the money with the bank. As *Figure 2-4* shows, all six agencies described adequate segregation of duties related to tracking forfeiture proceeds. We did not explicitly test agencies' segregation of duties because officials at each agency described detailed processes that would have been difficult to make up. As a result, we determined that additional testing was not necessary.

However, none of the law enforcement agencies conducted a periodic check to ensure that all expected forfeiture proceeds were deposited or that all deposits were related to a forfeiture case. It is good practice for agencies to periodically check to make sure all of the forfeiture proceeds that should have been deposited were actually deposited, and that all deposits in the forfeiture fund relate back to one of their forfeiture cases. As *Figure 2-4* shows, none of the agencies did this type of reconciliation, which is an important control for ensuring that proceeds are not lost, stolen, or inadvertently deposited in the wrong fund.

As part of our work, we completed this reconciliation for each agency for 2015 and found problems at KBI, Salina, and Sedgwick County. The most common issues were an inability to identify the source of certain deposits and an inability to find forfeiture proceeds that should have been deposited. For example, Salina was unable to account for about \$900 in forfeiture proceeds that should have been deposited in its forfeiture fund. (see *Appendix B*, which begins on page 37 for more information)

Additionally, most law enforcement agencies comingled forfeiture funds with drug-tax proceeds. It is a good accounting practice for agencies to account for revenue sources separately, especially when they have different spending restrictions. Our 2000 performance audit of Kansas's seizure and forfeiture process identified several agencies that violated this accounting practice by depositing forfeiture proceeds and drug-tax proceeds in the same fund as discussed on page 8. As *Figure 2-4* shows, our work on this audit revealed the same problem at five agencies we reviewed. However, the effect of this issue is limited because the restrictions on these proceeds are often similar (though not identical) and in most cases the drug-tax proceeds amounts were relatively small.

Nonetheless, by comingling these revenue sources, agencies may not be able to ensure compliance with the spending restrictions placed on each revenue source. (see *Appendix B*, which begins on page 37 for more information)

FINDINGS RELATED TO USING FORFEITURE PROCEEDS

Agencies Appeared to Have Good Processes for Appropriately Spending Forfeiture Proceeds

After the agency deposits forfeiture proceeds in its forfeiture fund, it can use those funds for allowable expenses. For the purpose of our audit, we defined this part of the seizure and forfeiture process as the using phase. The using phase typically begins with a request to spend money out of the forfeiture fund and continues until payment is actually made for the expenditure.

**Figure 2-5
Summary of Kansas Law Enforcement Agencies' Compliance with State Law and Best Practices Related to Using State Forfeiture Proceeds**

State Law or Best Practice	What Agency Should Be Doing	KBI	KHP	Coffeyville	Iola	Salina	Sedgwick County
KSA 60-4117 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget. (a)	✓	✓ (b)	✓	✓	✓ (b)	✓
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	Could Not Determine (c)	✓	✓	✓	Could Not Determine (c)	✓
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.	✗	✓	✓	✓	✗	✓

(a) We did not evaluate whether agencies used anticipated future proceeds in planning or adopting their budgets.
 (b) Both KHP and Salina appeared to spend forfeiture proceeds on operational expenditures such as staff salary or cell phones, but claimed that in these cases those expenditures were for special and additional law enforcement purposes. This issue is discussed in more detail on page 28.
 (c) KBI and Salina relied, at least in some cases, on verbal approvals from the agency head. As a result, we could not determine their compliance with this criterion.
 Source: LPA assessment based on interviews with law enforcement staff, tours of law enforcement facilities, and a review of seizure and forfeiture documentation.

We reviewed two state laws and one best practice regarding how agencies use forfeiture proceeds. K.S.A. 60-4117(d) dictates how forfeiture proceeds can be spent by a law enforcement agency. It requires that expenditures must be used for “special, additional law enforcement purposes” and not for “normal operating expenses.” It also prohibits agencies from using future forfeiture proceeds to plan an agency’s budget. The same section also requires the

agency head or designee to approve of expenditures from the forfeiture fund. It is a best practice that the approvals be documented. *Figure 2-5* on the previous page summarizes the results of our test work in this area.

The six law enforcement agencies we reviewed spent forfeiture proceeds on a variety of items that appeared allowable under state law. We collected information for all six agencies' forfeiture fund expenditures during the last three years. *Figure 2-6* below shows how each agency spent its proceeds from 2013 to 2015. As the figure shows, these uses varied. For example, KBI spent most of its proceeds on general equipment, whereas Coffeyville spent most of its proceeds on vehicle costs. *Appendix C* includes a yearly breakdown of each agency's expenditures for the three-year period.

Figure 2-6
Summary of Kansas Law Enforcement Agencies' Total Spending from Forfeiture Fund by Category 2013-2015 (a)

Agency	Forfeiture Costs (b)	General Equipment	IT Costs	Meals/ Lodging	Payroll	Training	Vehicle Costs	Other (c)	Total
KHP	\$28,431	\$100,509	\$16,134	\$72,030	\$453,491	\$80,980	\$37,937	\$5,886	\$795,398
Salina (d)	\$112,464	\$99,140	\$2,456	\$1,188	\$0	\$6,888	\$9,708	\$72,202	\$304,047
Coffeyville	\$3,741	\$26,617	\$31,848	\$15,859	\$0	\$2,195	\$74,102	\$21,883	\$176,244
Sedgwick County	\$3,043	\$21,441	\$4,388	\$10,894	\$0	\$10,402	\$9,980	\$36,532	\$96,680
KBI	\$10	\$63,989	\$2,658	\$11,578	\$0	\$11,950	\$600	\$3,908	\$94,693
Iola	\$0	\$1,413	\$0	\$0	\$0	\$1,190	\$0	\$0	\$2,603
Total	\$147,689	\$313,108	\$57,484	\$111,548	\$453,491	\$113,605	\$132,327	\$140,411	\$1,469,664

(a) Reporting period varies by agency. State agency expenditures are for the period Dec. 1 to Nov. 30. Local agency expenditures are for the calendar year period Jan. 1 to Dec. 31.

(b) Includes expenses incurred related to forfeiture such as publication in the new spaper and title fees.

(c) Includes spending on items such as K-9 units, aw ards, memorabilia, and charity.

(d) Salina also deposits forfeiture proceeds in a department safe, w hich are not included here.

Source: LPA analysis of agencies' expenditures of forfeiture funds betw een 2013 and 2015 (audited)

However, state law gives law enforcement agencies broad discretion to determine which expenses are appropriate. For example, we found that KHP used forfeiture proceeds to pay for employee salaries and Salina used them for reoccurring cell phone bills. Although these seem like normal operating expenses, they do not appear to violate state law because in these cases, agency officials determined they were for special, additional law enforcement purposes. The vague language used in state law weakens the prohibition against normal operating expenses and allows law enforcement agencies to interpret the requirements differently, as discussed in more detail on page 28.

Most agencies obtained written approval of expenditures by the agency head, but we were unable to evaluate two agencies that sometimes relied on verbal approvals. We reviewed a small sample of expenditures made by each agency from their forfeiture funds in 2015. We looked to see if the agency head's approval was obtained in writing. We also checked for any other approvals an agency might require as part of its own policies and procedures. As *Figure 2-5* shows, four of the six agencies obtained the required written approvals for all the expenditures we reviewed. However, we were unable to fully evaluate two agencies, KBI and Salina, because they sometimes relied on verbal approval from their agency head. Although it is not a violation of state law, relying on verbal approvals as a substitute for written approvals creates a risk that forfeiture proceeds could be used inappropriately by someone claiming to have received verbal approval of the expense. (see *Appendix B*, pages 41 and 58 for more information)

FINDINGS RELATED TO REPORTING ON FORFEITURE PROCEEDS

State Law Enforcement Agencies Complied With Reporting Requirements in State Law, but Local Agencies Did Not

State statutes require law enforcement agencies to compile and submit an annual report that summarizes financial information about their forfeiture fund. For the purpose of this audit, we defined this part of the seizure and forfeiture process as the reporting phase. *Figure 2-7* on the next page summarizes our results for the reporting phase.

KBI and KHP complied with state reporting requirements the last three years. K.S.A. 60-4117(d)(1) requires state agencies that seize property to submit an annual report to the Legislature by February 1. This report must include the forfeiture fund's balance, deposits, and expenditures for a 12-month period ending December 1. As *Figure 2-7* shows, both KBI and KHP submitted annual reports for the 2013, 2014, and 2015 reporting years. We found these reports included the required information and matched the underlying financial data used to generate them.

None of the four local law enforcement agencies we reviewed prepared an annual report because officials told us either they were not aware of the requirement or thought other information they compiled was sufficient. Similar to state agencies, K.S.A. 60-4117(d)(2) requires local law enforcement agencies to submit an annual report to their local budget authority. In most cases, this is a city or county commission. This report must include the amounts of forfeiture proceeds received, how those proceeds were spent, and the type and approximate value of forfeited property. As *Figure 2-7* shows, none of the four local agencies submitted such a report.

**Figure 2-7
Summary of Kansas Law Enforcement Agencies' Compliance with State Law and Best Practices
Related to Reporting on State Forfeiture Proceeds**

State Law or Best Practice	What Agency <u>Should Be</u> Doing	KBI	KHP	Coffeyville	Iola	Salina	Sedgwick County
Reporting Forfeiture Proceeds							
KSA 60-4117 (d)(1)-(2)	Each state agency must submit an annual forfeiture fund report to the legislature by February 1 that includes their forfeiture fund balance, expenditures made from the fund, and deposits into the fund for the previous 12 months. Local agencies must submit an annual forfeiture fund report to their local budget authority that includes the amounts of forfeiture proceeds received, how those proceeds were spent, and the type and approximate value of forfeited property.	✓	✓	✗	✗	✗	✗

Source: LPA assessment based on interviews with law enforcement staff, tours of law enforcement facilities, and review of seizure and forfeiture documentation.

- Coffeyville, Iola, and Salina officials told us they did not submit an annual report because they were not aware of the reporting requirement.** Although the officials we interviewed were not aware of the reporting requirement, the agency should have legal staff or others who were aware of the requirement given that the agency seizes property under the Forfeiture Act. Additionally, many agencies should be familiar with the reporting requirement because our 2000 performance audit surveyed law enforcement agencies about this reporting requirement. These findings are consistent with that audit, which found most local agencies did not produce the required report.
- Sedgwick County officials told us they did not submit an annual report because most of the information that would go in the report was available to their budget authority at all times.** Sedgwick County officials told us their county commissioners could check on financial information regarding the agency's forfeiture fund through the county's financial system. Officials also told us they could provide a summary document from their accounting system to commissioners upon request. However, that type of reporting did not satisfy the reporting requirement because it was not a regular report and did not include all of the statutorily required information (e.g. type and approximate value of forfeited property).

Although the local law enforcement agencies did not produce the required report, we found that the finance divisions for the local agencies typically made accounting information about deposits, expenditures, and the fund balance available to their budget authority through other reports. However, none of these reports included the type and approximate value of forfeited property which is required by statute.

OTHER FINDINGS

Agencies Have Broad Discretion Over How Forfeiture Proceeds Can be Used, Which Creates a Risk Agencies Could Begin to Depend on Them for Operating Funds

State law allows law enforcement agencies to spend forfeiture proceeds on “special, additional law enforcement purposes,” but not on “normal operating expenses.” Agencies are legally required to deposit forfeiture proceeds in a designated forfeiture fund. K.S.A. 60-4117(d) then establishes parameters for how agencies can spend proceeds from that fund. Specifically, it states that agencies cannot use forfeiture proceeds to pay for normal operating expenses, and also requires them to use the proceeds for special, additional law enforcement purposes that the agency head deems appropriate. Finally, it prohibits agencies from using future forfeiture proceeds to plan or adopt the agency’s budget. These restrictions have been put in place to help ensure law enforcement agencies do not come to rely on forfeitures as an ongoing source of funding or experience pressure to seize assets in the future. We reviewed the six agencies’ expenditures to assess compliance with the first two requirements, but did not do any work to determine whether the agencies included future forfeiture proceeds in their budgets.

Both the KHP and Salina spent forfeiture funds on what appeared to be normal operating expenses in 2015. Although state law establishes parameters as to how agencies can use proceeds, it does not define key terms such as “normal operating expense” or “special, additional law enforcement purposes.” As a result, we defined normal operating expenses as the routine, reoccurring expenses required to operate an agency (e.g. salaries and benefits, rent, utilities, etc.). We first reviewed agencies’ expenditures for these types of expenses, and then evaluated whether they could be considered special and additional. Most agencies in our sample did not spend proceeds on items that fit our definition of an operating expense, but KHP and Salina did.

- **KHP spent a significant amount of forfeiture proceeds on salaries, which is commonly considered a normal operating expense.** Specifically, KHP spent \$412,900 in state forfeiture proceeds on employee salaries from December 1, 2012 through June 30, 2015. KHP also paid for employee salaries in late 2015, but the Legislature approved a budget proviso (effective July 1, 2015) that allowed it to do so.
- **Salina spent forfeiture proceeds on reoccurring cell phone bills, which also appeared to us to be an operating expense.** Salina spent about \$4,350 on cell phone bills in calendar year 2015. Salina paid these monthly expenses for its drug task force, a special unit within the police department that is responsible for drug interdiction activities.

However, in both cases KHP and Salina officials told us these expenditures were for special and additional law enforcement purposes. KHP officials told us they used forfeiture proceeds to pay the salaries (or portion of the salaries) only for individuals involved in the forfeiture process. For example, they used forfeiture funds to pay the person they have designated as their forfeiture coordinator. Salina officials told us they used forfeiture proceeds to pay for the expenses of their special drug task force, part of which included routine expenses such as cell phone bills. Because the drug task force is a special unit within the police department, Salina officials determined those costs to be an appropriate use of forfeiture funds. Without more specific legal definitions, we cannot say whether or not these expenditures were prohibited by law.

Allowing law enforcement agencies to use forfeiture proceeds for routine, reoccurring operating expenses significantly increases the likelihood agencies will become dependent on such proceeds in the future. States adopt these kinds of restrictions to help ensure that property seizures and forfeitures are not used as a means to supplement an agencies standard operating budget. Once an agency uses forfeiture proceeds to pay for ongoing and consistently reoccurring expenses like salaries and cell phones, it creates an ongoing demand for resources to maintain those items or staff. This could create an incentive for law enforcement agencies to increase property seizures and forfeitures to help meet this demand—especially in times when agency budgets are tight.

The Coffeyville Police Department's Arrangement with the Montgomery County Attorney to Handle Forfeiture Cases Creates a Conflict of Interest

Our review of Coffeyville uncovered a potential issue with how the Montgomery County Attorney pursued forfeitures for the department. K.S.A. 60-4116 requires law enforcement agencies to receive a court order for forfeiture in order to legally obtain ownership of seized property. Typically, agencies use a county or district attorney to represent them in these forfeiture proceedings.

Law enforcement agencies may hire a private attorney to handle their forfeiture cases if a county or district attorney declines. K.S.A. 60-4107(g) requires agencies to first ask the district or county attorney to pursue forfeiture on a case. However, state law allows the county or district attorney to decline. In these situations, state law gives agencies the authority to hire a private attorney to proceed with the forfeiture, so long as such arrangement has been approved by the county or district attorney.

The Montgomery County Attorney—who also operates a private law firm—declined to take Coffeyville’s forfeitures in his role as the county attorney, but instead agreed to take them in his alternative role as a private attorney. This appeared to create a conflict of interest because he used his position as a public official to make a decision that resulted in revenue for his private legal firm. The county attorney told us he does this to avoid what he perceives to be a conflict of interest from handling both the criminal and civil aspects of the same case. However, our limited work in this area found that other county attorneys handle these cases, as allowed by state law. Moreover, accepting these cases as a private attorney creates a different and more serious conflict of interest: accepting these cases as a private attorney diverts money from the county attorney’s office to his private firm.

In his role as a private attorney, the Montgomery County Attorney collected an estimated \$21,000 in legal fees from 2013 to 2015 that otherwise would have gone to the county attorney’s office. Attorneys receive a percentage of forfeiture proceeds as reimbursement for their legal services. Specifically, K.S.A. 60-4117(c) allows a county or district attorney to assess up to a 15% fee for uncontested forfeiture cases, which they are to deposit in a special prosecutor’s trust fund. Money in the fund must be used to support additional law enforcement and prosecutorial needs of the county. However, no such restrictions exist for private attorneys. We reviewed Coffeyville’s forfeitures from 2013 to 2015 and estimated the Montgomery County Attorney collected about \$21,000 for his private firm by acting in this role. Additionally, he charged Coffeyville a 20% fee for uncontested forfeiture cases, which is 5% more than he could charge if he acted as the county attorney. This resulted in Coffeyville paying an estimated \$5,000 more in legal fees from 2013 to 2015.

This arrangement represents a clear conflict of interest, and we think it would likely violate state ethics laws were the Montgomery County Attorney a state employee. State ethics laws (K.S.A. 46-233) do not allow state employees to benefit from contracts they helped develop or award. Because the Montgomery County Attorney is not a state employee, the state’s ethics laws do not apply in this case. Even so, the intent behind the ethics laws is still relevant in evaluating the appropriateness of the situation. That is because the Montgomery County Attorney used his public role to award Coffeyville forfeitures to his private firm, a decision that clearly benefitted him.

In this case, Kansas Governmental Ethics Commission officials told us they do not have jurisdiction to provide an official opinion. The Office of the Disciplinary Administrator (an oversight body for private attorneys) told us they could not determine whether this violated attorneys' ethical code of conduct without further investigation.

Salina Lacked Important Controls for Money Used for Controlled Drug Buys

Our review of Salina's controls regarding property seized for forfeiture included an evaluation of their drug task force's use of money for controlled drug buys. Due to Salina's location along two major interstates (I-70 and I-135), it created a special drug task force responsible for a variety of drug interdiction activities, including controlled drug buys. One aspect of our work was to evaluate Salina's processes for handling that money. Key aspects of a good system would include establishing a set amount of money for controlled drug buys, limiting the amount and length of time cash can be out of the office, and periodically reconciling these funds.

Salina did not follow sound fiscal practices for handling funds deposited in its safe. As mentioned on page 20, Salina deposited some forfeiture proceeds directly in a department safe, which it used for controlled drug buys and other working expenses such as vehicle repairs and training. We found the following problems with Salina's drug-buy funds based on our limited review:

- **Officers were sometimes allowed to check out large amounts of cash, which they kept in potentially unsecure locations.** For example, officers checked out \$1,000 and \$700 for separate drug buys in late 2015 and early 2016. Our review also showed officers sometimes stored these funds in other less secure locations such as their wallet or vehicle.
- **Officers did not routinely return unused money.** Salina assigned each officer a bank bag, which was supposed to be used to store the cash withdrawn from the safe until the time of the controlled drug buy. However, officers were not required to return the remaining funds to the department safe after the buy was complete. Instead, officers were allowed to keep the remaining cash in their bank bag, so they could always have at least some money on hand.
- **Although officials told us they conduct periodic reconciliations of the money officers withdrew, our review of that process revealed some issues.** Salina officials described some good processes for handling drug-buy funds. For example, they told us they require officers to keep an electronic log of how they use funds from the safe and they periodically check a sample of officers' funds against their log balance. However, that reconciliation is not included in a department policy and the results are not documented. Additionally, we checked three officer's bank bags while we were onsite and found that only one officer was able to produce the entire

balance at the time of our request. The other two officers told us the missing amounts (\$20 and \$40) were in their wallet or car, which we did not confirm.

Salina’s weak or missing controls are particularly problematic because of the inherent risks associated with drug-buy money.

Drug-buy funds create numerous financial risks for law enforcement agencies because they can involve a significant amount of cash and because there is no receipt of the drugs purchased. These inherent risks, in combination with Salina’s process of allowing officers to check out and keep large amounts of cash, increases the risk that someone may misuse the funds. Although we performed limited test work in this area, we were unable to determine whether any funds were actually missing as a result of Salina’s process.

None of the Law Enforcement Agencies We Reviewed Had Complete and Written Policies and Procedures for Seized and Forfeited Property

Written policies and procedures are important because they provide clear expectations on how to perform tasks related to civil asset seizure and forfeiture. We interviewed staff and reviewed agencies’ written policies and procedures to determine if the agencies had complete and written policies to help ensure compliance with state law and best practice.

- **No state and local law enforcement agencies had adequate written policies and procedures related to the financial aspects of civil asset seizure and forfeiture.** For example, agencies should have financial policies that describe how staff are supposed to deposit and spend their forfeiture proceeds. All six agencies we reviewed lacked such policies and procedures.
- **Two of the six agencies we reviewed did not have adequate written policies and procedures related to the operational aspects of civil asset seizure and forfeiture.** Agencies should also have operational policies that describe the circumstances under which officers have the authority to seize property as well as how officers are supposed to safeguard and liquidate seized property in their possession. Iola and Salina did not have written operational policies, whereas Coffeyville, Sedgwick County, KBI, and KHP did.

Conclusion

As was the case in 2000, our current review of the state's property seizure and forfeiture process revealed few significant and systemic problems. We found that local law enforcement agencies are still not submitting annual reports to their budget authorities, and several state and local agencies continue to comingle drug-tax forfeiture proceeds with their other property forfeiture funds. Our current audit also found that several law enforcement agencies were not performing reconciliations across their operations and finance functions, which increases the risk that forfeiture proceeds are not fully accounted for. However, beyond these primary issues, most of the problems we identified appeared to be specific to one or two agencies in our sample and not necessarily indicative of a systemic problem statewide.

Despite our lack of significant findings in this audit, we identified two more holistic problems with Kansas' property seizure and forfeiture process. First, Kansas's seizure and forfeiture process remains highly decentralized. Unlike three other states, Kansas currently has no central repository for information about forfeitures on a statewide level. Moreover, each of the individual agencies with seizure and forfeiture authority—more than 300 by our rough estimate—must develop their own policies and procedures to satisfy both statutory requirements and best practice. Second, Kansas law currently gives law enforcement agencies broad discretion in how to spend proceeds from forfeited property. In this audit we found instances where agencies used their forfeiture proceeds for what appear to be normal operating expenses, but which are allowable due to the considerable discretion given under state law. This increases the risk that these monies can be used to help augment agency budgets, and could create an incentive to seize more property in the future.

Recommendations for Executive Action

1. We made numerous recommendations to each of the six agencies in our sample regarding the specific deficiencies we identified. Agency specific recommendations are included in *Appendix B*, which begins on page 37.
2. To avoid any potential conflicts of interest, the Montgomery County Attorney should either handle Coffeyville's forfeiture cases as the county attorney or make alternative arrangements (e.g. have the county counselor or a different private attorney handle Coffeyville's forfeiture cases). (page 29)

***Recommendations for
Legislative
Consideration***

1. To address whether agencies should have the discretion to use forfeiture proceeds for ongoing and reoccurring operating expenses, the House and Senate Judiciary Committees should consider introducing legislation to clarify K.S.A. 60-4117(d)(3). (page 28)
2. To address consistent problems with local law enforcement agencies not complying with the state legal requirement for an annual report, the House and Senate Judiciary Committees should consider introducing legislation to either require and enforce a more centralized reporting structure or consider eliminating the reporting requirement altogether. (page 26)

APPENDIX A Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on April 28, 2015. The audit was requested by Representative Gail Finney.

Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported

The Kansas Standard Asset Seizure and Forfeiture Act (K.S.A. 60-4101 et seq.) gives law enforcement agencies in Kansas authority to seize money or property acquired in connection with certain illegal activities. Most seizures result from drug offenses, but the act also applies to crimes such as cattle rustling, money laundering, and illegal gambling. Property may be seized under the act during drug or gambling raids or other searches, and often occurs during traffic stops, when law enforcement officers observe behaviors or situations that cause them to suspect illegal drugs may be involved.

Whereas a seizure occurs when law enforcement officers take property into their custody, a forfeiture occurs if a judge subsequently awards ownership of the property to the law enforcement agency. Once property is seized for forfeiture, the law enforcement agency must file a forfeiture claim in a Kansas district court. This proceeding is filed in civil court; a criminal conviction isn't required to file the forfeiture case. Once property is forfeited under the act, law enforcement agencies may:

- keep the property for official use or transfer the property to any local, state, or federal agency
- destroy any illegal or controlled substances and contraband or use it for investigative or training purposes (except when needed as evidence)
- sell property which is not required to be destroyed and which is not harmful to the public

State law specifies that moneys generated from the sale of seized property cannot be considered a source of revenue for normal operating expenses. Instead, those moneys are to be used for such special or additional law enforcement purposes as deemed appropriate by the head of law enforcement agencies. Each year, state law enforcement agencies are supposed to report to the Legislature the revenues, expenditures, and current balances in their special asset forfeiture funds. Local law enforcement agencies are required to file the same report with the authority that oversees their budgets.

Legislators have expressed an interest in knowing whether law enforcement agencies are following all requirements related to the sale of seized and forfeited property and how they track, use, and report on money generated from the sales.

A performance audit of this topic would answer the following questions:

- 1. Are law enforcement agencies following state law related to the disposal and sale of seized and forfeited property?** To answer this question, we would review applicable statutes related to the disposal and sale of seized and forfeited property. For a sample of property sales, we would evaluate whether all required documents from the court were obtained and whether required notices of sale were posted or provided to the appropriate parties. We would also evaluate the adequacy of the agencies' policies on the storage and

disposal of illegal substances and whether those policies were being followed. We would perform additional work in this area as necessary.

2. **How is the money generated from property seizures and forfeitures being tracked, used, and reported?** To answer this question, we would review annual reports submitted by state law enforcement agencies to the Legislature and would interview officials at those agencies to determine how those reports were compiled. We would also review records to determine how proceeds from the sale of seized and forfeited property were tracked and how those moneys were used. We would conduct similar testwork for a small sample of local law enforcement agencies. We would perform additional work in this area as necessary.
3. **How does Kansas property seizure and forfeiture process compare to other states?** To answer this question, we would contact officials from a number of states to better understand their laws regarding property seizures and forfeitures. Specifically, we would evaluate what type of property can be seized and under what conditions. We would also determine how the courts are involved in making forfeiture decisions in those states, and whether a criminal conviction is necessary to file a forfeiture case. Finally, we would determine how proceeds from forfeited property can be used by law enforcement agencies. We would perform additional work in this area as necessary.

Estimated Resources: 3 LPA staff

Estimated Time: 5 months (a)

(a) *From the audit start date to our best estimate of when it would be ready for the committee.*

APPENDIX B

Summary of Sampled Agencies Compliance with State Law and Best Practices

This appendix contains the agency-level results of our work to determine whether six law enforcement agencies complied with the state laws and best practices we identified related to asset seizure and forfeiture. The six agencies we evaluated included the:

- Kansas Bureau of Investigation
- Kansas Highway Patrol
- Coffeyville Police Department
- Iola Police Department
- Salina Police Department
- Sedgwick County Sheriff's Office

We took a number of steps to determine if these agencies complied with the state laws and best practices we identified related to civil asset seizure and forfeiture. Specifically, we interviewed officials, reviewed documents, and toured facilities at each agency. We then developed additional work to test each agency's internal controls surrounding the parts of the process that appeared to be weak or were most important to our audit objectives. We designed this work to look at agencies' controls for safeguarding seized property, liquidating forfeited property, and tracking, using, and reporting proceeds from forfeited property. The results of this work are documented, by agency, in the tables located in this appendix.

**Figure B-1
Summary of Kansas Bureau of Investigation's (KBI)
Compliance with the State Laws and Control Best Practices for Civil Asset Seizure and Forfeiture**

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Safeguarding						
KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property.	✓	KBI documented probable cause for seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency.	✓	KBI issued a notice of seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✓	KBI described and showed us an adequate process to inventory seized property. Specifically, KBI officials told us that evidence, including seized property, is inventoried into their evidence and case file management systems. We saw both of these systems while onsite. Additionally, KBI has designated one agent to manage and oversee the department's forfeiture activity. This agent also maintains a separate forfeiture report to track and inventory the department's forfeiture cases.	--	--	--
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	✓	KBI officials told us their asset forfeiture agent estimates the value of seized property in his forfeiture report. We were able to review and verify that this individual documents the estimated value of seized property in his forfeiture report.	--	--	--
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	Generally, KBI had a complete chain of custody for the forfeiture cases we sampled and showed that they put a unique barcode on evidence in their possession. There were two cases where a step or two was missing from KBI's chain of custody.	--	--	--
Best Practice	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	Did Not Test	KBI's policies and procedures required a formal annual review of its evidence inventory. We did not do any test work to confirm this practice because its policy described adequate processes that did not appear to present as many risks as other controls we evaluated.	--	--	--
Best Practice	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	✓	KBI stores seized property in multiple laboratories and with other local law enforcement agencies across the state. We toured the agency's Topeka lab and saw that it was adequately secured, and access appropriately limited, to provide reasonable assurance that seized property was protected from theft or damage. We did not do any work to evaluate the physical security of the agency's other storage locations.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Liquidating						
KSA 60-4116	Agencies must get a court order for forfeiture.	✓	KBI received a court order for forfeiture in each of the cases we sampled.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees.	✓	Although it is possible for KBI to forfeit other property, we only sampled KBI's forfeited vehicles. Our review showed that KBI employees did not purchase any of the vehicles KBI forfeited in 2015.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property program.	✓	KBI used the state's surplus property program to sell the forfeited vehicles we sampled.	--	--	--
KSA 60-4117 (d)(1)(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund.	✓	KBI deposited the proceeds from all the cases we sampled into its forfeiture fund.	--	--	--
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✓	KBI had a written policy prohibiting its employees from purchasing property held or released as evidence by KBI without appropriate authorization.	--	--	--
Tracking						
Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	X	KBI did not do a periodic reconciliation to ensure that all forfeiture proceeds that should have been deposited in the forfeiture fund were deposited, or that all the deposits in the forfeiture fund were associated with an appropriate state forfeiture.	KBI operations and finance staff both have a role in the seizure and forfeiture process. Operations and finance staff we interviewed were aware of and took responsibility for their part of the process. However, the two offices do not appear to have a shared understanding of the forfeiture activity in each other's offices. This shared understanding between the offices is necessary to ensure that all forfeiture proceeds are deposited, and that all deposits in the forfeiture fund are associated with a state forfeiture.	Not doing a regular reconciliation creates a risk that forfeiture proceeds may be lost, stolen, or inadvertently deposited in the wrong fund. Our review of a sample of KBI forfeiture cases found two such instances. A periodic reconciliation may have prevented both of the issues described below. 1. KBI officials did not accept a transfer of \$12,800 in forfeiture proceeds for about three months. The payment was pending KBI's approval during this time. KBI official's told us the individual normally responsible for accepting these transfers had recently left KBI, which caused the payment to not be approved until it was discovered through this audit. 2. KBI could not identify the source of \$4,264 that had accumulated in a forfeiture holding account for several years. KBI officials told us they did not have documentation showing the source of the \$4,264. In 2014, KBI officials deposited this money in the main KBI forfeiture fund. Because the source of these funds is unclear, there is a risk that KBI deposited funds with different spending requirements into its forfeiture fund.	KBI should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice	Responsibilities for collecting, reconciling, depositing, and property is assigned to different employees in order to ensure adequate separation of duties.	✓	KBI described a good process to collect, record, deposit, and reconcile proceeds that included segregation of duties. Specifically, forfeiture proceeds are delivered to KBI's business office by operations staff. This could be in cash or check form and is signed off on by business and operations staff. A second KBI employee documents that the business office received the money in an internal spreadsheet. A third KBI employee records the forfeiture proceeds into SMART and deposits the forfeiture proceeds with the state treasurer's office. A fourth KBI employee reconciles KBI's internal deposit spreadsheet against SMART records to ensure forfeiture proceeds were entered correctly. We did not test the agency's segregation of duties because officials described detailed processes that would have been difficult to make up. As a result, we determined that additional testing was not necessary.	--	--	--
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	✓	Our review of KBI's deposit records showed they had not deposited drug-tax stamp proceeds in their state forfeiture account from 2013 to 2015.	--	--	--
Using						
KSA 60-4117 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget.	✓	Based on our review, KBI used forfeiture funds on special and additional expenditures and not on operating expenses. For example, KBI spent about \$64,000 from its forfeiture fund on general equipment costs from 2013 to 2015. However, we did not determine if agencies used future forfeiture proceeds for planning and adopting their budget.	--	--	--
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	Could Not Determine	KBI officials told us that the associate director is responsible for approving all expenditures from the forfeiture fund. Although our review showed that the associate director approved all expenditures we sampled, we did not see documentation showing that he approved of the forfeiture fund as the source of those expenditures. KBI officials told us this is typically a verbal approval. As a result, we could not determine if KBI complied with this state legal requirement.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.		We reviewed 12 expenditures made from KBI's forfeiture fund in 2015. KBI's associate director signed an initial voucher request in all 12 cases. However, in 10 of the 12 cases the voucher was edited after the associate director's approval. These edits changed the funding source KBI used to pay for its purchase. The associate director did not re-sign the vouchers after these changes were made. Officials told us that the associate director would verbally approve these changes.	KBI's process to approve expenditures from the forfeiture fund is not as strong as it could be. The fact that vouchers consistently need to be edited after the associate director's approval indicates that KBI needs to develop a better process to request and approve these expenditures.	Editing a voucher after the associate director's formal approval creates a risk that payments could be made without the associate director's expressed approval.	KBI should develop a stronger process to request and approve expenditures from the forfeiture fund to limit the number of changes made to the requests after the associate director's approval. KBI should also require the associate director to re-sign any vouchers that require changes after his initial approval.
Reporting KSA 60-4117 (d)(1)	Each state agency must submit an annual forfeiture fund report to the legislature by February 1 that includes their forfeiture fund balance, expenditures made from the fund, and deposits into the fund for the previous 12 months.	✓	KBI submitted a forfeiture report to the Legislature for all three years we reviewed (2013 - 2015). Those reports included all the information required by state law and appeared to be complete and accurate.	--	--	--
Other Best Practice	Agencies should have policies and procedures that provide adequate guidance on all the steps related to the seizure and forfeiture process.	✗	KBI had several policies and procedures related to the operational aspects of the seizure and forfeiture process but lacked policies specific to the financial aspects of the process. For example, KBI lacked policies on how and when to report on forfeiture activity to its oversight body and how forfeiture proceeds may be used.	KBI officials were generally aware that they should have policies and procedures related to the financial aspects of the seizure and forfeiture process but had yet to create them.	Not having clear, documented guidance on the seizure and forfeiture process could result in KBI failing to comply with state law or best practices associated with seized and forfeited property.	KBI should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.

**Figure B-2
Summary of the Kansas Highway Patrol's (KHP)
Compliance with the State Laws and Control Best Practices for Civil Asset Seizure and Forfeiture**

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Safeguarding						
KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property.	✓	KHP documented probable cause for seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency.	✓	KHP issued a notice of seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✓	KHP described and showed us an adequate process to inventory seized property. Specifically, KHP's policies require each troop headquarter in the state to designate a Troop Evidence Property Officer (TEPO). It is the TEPO's responsibility to inventory all evidence, including seized property, on a paper log. We saw a copy of this log for the Topeka area troop headquarters. Additionally, KHP has designated a trooper to monitor and track the status of all property seized for forfeiture. This trooper maintains a separate spreadsheet to inventory and track the status of seized vehicles and cash. We were also able to review this document.	--	--	--
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	Did Not Test	KHP officials told us they typically estimate the value of seized property within a few days of the seizure. We did not do any test work to confirm this practice because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.	--	--	--
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	Generally, KHP had a complete chain of custody for the forfeiture cases we sampled and showed that evidence was tagged with a unique identifier. There was one case where a step or two was missing from KHP's chain of custody.	--	--	--
Best Practice	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	Did Not Test	KHP's policies require staff to review the evidence inventory at least once annually. However, we did not do test work to determine whether this review occurred as required because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.	--	--	--
Best Practice	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	✓	KHP stores seized property at multiple troop headquarters across the state. We toured KHP's storage facility at their Topeka troop headquarters and saw that it was adequately secured, and access appropriately limited, to provide reasonable assurance that seized property was protected from theft or damage. We did not do any work to evaluate the physical security of the agency's other storage locations.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Liquidating						
KSA 60-4116	Agencies must get a court order for forfeiture.	✓	KHP received a court order for forfeiture in each of the cases we sampled.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees.	Did Not Test	KHP had a policy prohibiting its employees from purchasing forfeited property seized by KHP. However, we did not do any test work in this area because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property program.	✓	KHP used Purplewave, an online auction site, to sell the forfeited vehicles we sampled. Purplewave satisfies the state's requirement to sell forfeited property through a public sale.	--	--	--
KSA 60-4117 (d)(1)-(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund.	✓	KHP deposited the proceeds from all the cases we sampled into their forfeiture fund.	--	--	--
Best Practice	Agencies should obtain a court order for forfeiture before spending seized cash that they deposit in their forfeiture fund.	x	At the time of our review, KHP had about \$218,000 deposited in its forfeiture fund that had not yet been ordered forfeited by the court. KHP officials told us they converted all seized cash into a cashiers check and deposited those checks into their forfeiture fund for safekeeping. This is normally done soon after the initial seizure, before the court orders the money forfeited to KHP. This is a strong control because it reduces the risks associated with having large quantities of cash on site.	Once it was deposited in the forfeiture fund, KHP did not have a way of accounting for those funds separately (those that had been forfeited by the court and those that had not).	KHP may spend forfeiture proceeds that have not been legally forfeited to the agency. This is because there is no way for KHP to track which funds have been forfeited and which are still awaiting a court order. There is also a risk that KHP may be ordered to return seized cash to the property owner and not have the funds to do so. This would require KHP's forfeiture fund to decrease significantly, but it is still a possible risk.	KHP should work with Department of Administration officials to determine how best to track money not yet forfeited to the agency separately from money that has been legally forfeited to the agency.
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✓	KHP had a policy prohibiting its employees from purchasing property seized for forfeiture by KHP.	--	--	--
Tracking						
Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	x	KHP did not do a periodic reconciliation to ensure that all forfeiture proceeds that should have been deposited in the forfeiture fund were deposited, or that all the deposits in the forfeiture fund were associated with an appropriate state forfeiture.	KHP operations and finance staff both have a role in the seizure and forfeiture process. Operations and finance staff we interviewed were aware of and took responsibility for their part of the process. However, the two offices do not appear to have a shared understanding of the forfeiture activity in each other's offices. This shared understanding between the offices is necessary to ensure that all forfeiture proceeds are deposited, and that all deposits in the forfeiture fund are associated with a state forfeiture.	Not doing a regular reconciliation creates a risk that forfeiture proceeds may be lost, stolen, or inadvertently deposited in the wrong fund. Our review showed that all proceeds from the forfeiture cases we sampled were deposited in KHP's forfeiture fund, and that all deposits we sampled were associated with a forfeiture. This work was based on seizures in which KHP was the lead agency only. We did not do any work to determine if KHP received the correct percentage of proceeds in cases that involved multiple law enforcement agencies.	KHP should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice	Responsibilities for collecting, recording, depositing, and reconciling proceeds from forfeited property is assigned to different employees in order to ensure adequate separation of duties.	✓	KHP described a good process to collect, record, deposit, and reconcile proceeds that included segregation of duties. Specifically, a trooper typically delivers forfeiture proceeds to KHP's business officer. All proceeds are in check form because of KHP's practice to convert all seized cash to a cashier's check soon after seizure. A KHP employee signs a log showing that KHP received the forfeiture proceeds. KHP officials told us that Capital Police pick up the proceeds and take them to be deposited with the Kansas State Treasurer. A different KHP employee records the deposit into SMART. Finally, KHP officials said the State Treasurer and KHP are both responsible for verifying that the correct amount was actually deposited into the forfeiture fund.			
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	✗	We did not test the agency's segregation of duties because officials described detailed processes that would have been difficult to make up. As a result, we determined that additional testing was not necessary. From 2013 to 2015, KHP deposited about \$44,600 in drug-tax stamp proceeds into its forfeiture fund. About \$40,100 of this was deposited in 2014.	KHP views drug-tax stamp proceeds as a similar activity to state forfeitures so they have not seen a reason to account for those monies separately.	Although there are specific restrictions for how forfeiture funds can be used, there are no restrictions on how drug-tax stamp proceeds can be used for state agencies. Comingling these revenue sources creates a risk that KHP may use forfeiture funds for things not allowed by state law.	KHP should deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.
Using KSA 60-417 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget.	✓	Based on our review, KHP spent forfeiture proceeds on special and additional expenditures. However, KHP also spent \$412,900 in state forfeiture proceeds on employee salaries from December 1, 2012 through June 30, 2015, which we would consider to be normal operating expenses. KHP officials told us they used these forfeiture proceeds to pay the salaries (or portion of salaries) of individuals involved in the forfeiture process, which they considered a special and additional law enforcement purpose. For example, they used forfeiture proceeds to pay the salary of their designated forfeiture coordinator. Without more specific legal definitions, we concluded that this explanation seemed reasonable. Additionally, the 2015 Legislature passed a budget proviso allowing KHP to use forfeiture funds for salaries and wages beginning in fiscal year 2016 and ending in fiscal year 2018. We did not determine if agencies used future forfeiture proceeds for planning and adopting their budget.			

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	✓	KHP received appropriate approval for all the expenditures we reviewed. Specifically, KHP policies require all purchases be approved by a Captain, purchases greater than \$500 must also be approved by a Major, and any purchases greater than \$2,000 must also be approved by a Lieutenant Colonel. Finally, any purchases greater than \$5,000 must also be approved by the Department of Administration. Our review showed that KHP received the appropriate level of approval given the expenditure amount.	--	--	--
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.	✓	KHP showed documentation of approval for all the expenditures we reviewed.	--	--	--
Reporting						
KSA 60-4117 (d)(1)	Each state agency must submit an annual forfeiture fund report to the legislature by February 1 that includes their forfeiture fund balance, expenditures made from the fund, and deposits into the fund for the previous 12 months.	✓	KHP submitted a forfeiture report to the Legislature for all three years we reviewed (2013 - 2015). Those reports included the all the information required by state law and appeared to be complete and accurate.	--	--	--
Other						
Best Practice	Agencies should have policies and procedures that provide adequate guidance on all the steps related to the seizure and forfeiture process.	x	KHP had several policies and procedures related to the operational aspects of the seizure and forfeiture process but lacked policies specific to the financial aspects of the process. For example, KHP lacked policies on how and when to report on forfeiture activity to its oversight body and how forfeiture proceeds may be used.	KHP officials told us their accounting office adheres to the Department of Administration's cash management and accounting procedures for all funds, so they did not think it was necessary to implement policies specific to the state forfeiture program. Although the Department of Administration's guidance describes how agencies should process financial transactions, it does not address how forfeiture proceeds may be used or how they should be approved.	Not having clear, documented guidance on the seizure and forfeiture process could result in KHP failing to comply with state law or control best practices associated with seized and forfeited property.	KHP should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.

**Figure B-3
Summary of the Coffeyville Police Department's (CPD)
Compliance with the State Laws and Control Best Practices for Civil Asset Seizure and Forfeiture**

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Safeguarding KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property.	✓	CPD documented probable cause for seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency.	✗	CPD did not issue a notice of seizure. Instead, CPD's attorney sent a notice of pending forfeiture in each of the cases we reviewed.	According to CPD officials, the department's legal counsel told them that the notice of pending forfeiture fulfilled the department's obligation to provide a notice of seizure under state law. Although they contain much of the same information, our review found that the two documents serve two different purposes.	Among other things, the notice of seizure appears to inform an individual that their property has been seized and that the seizing agency may pursue forfeiture on that property. Conversely, the notice of pending forfeiture informs an individual that the court proceedings to forfeit the seized property has begun. If no notice of seizure is given, an individual may not know that their property could be forfeited until the legal process has started. At that point the individual only has 30 days to file a claim with the court or their property may be forfeited to the law enforcement agency.	CPD should send a notice of seizure as required by state law.
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✓	CPD described and showed us an adequate process to inventory seized property. Specifically, CPD officials told us that seized property is treated as evidence and is inventoried into their evidence management systems. Separate from their evidence management system, CPD officials also inventory seized vehicles using a whiteboard system. Finally, CPD has an asset forfeiture manager who tracks the status of seized and forfeited property in a separate database.	--	--	--
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	Did Not Test	CPD officials told us they estimate the value of seized property and we saw where CPD is supposed to document that value on the contract with their attorney. However, we did not do any test work to verify that CPD documented the estimated value of its seized property because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.	--	--	--
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	CPD had a complete chain of custody for the forfeiture cases we sampled and showed that evidence was tagged with a unique identifier.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	x	CPD does not periodically review its inventory of seized property. CPD officials told us they have not done an inventory review since 2013.	It appears the inventory review CPD conducted in 2013 was to achieve accreditation. CPD officials told us that after 2013 the department moved into a temporary location while their new police station was being built. It appeared to us that CPD stopped conducting inventory reviews because their temporary location would not pass accreditation standards.	<p>Not doing a periodic inventory review creates a risk that seized property could be lost, stolen, or misplaced. We found two such instances at CPD. A periodic review of their evidence inventory likely would have alerted CPD to both issues described below.</p> <p>1. CPD lost track of \$595 in seized cash for about seven years. CPD officials told us they seized \$595 in cash in 2007, which they put in their evidence room. CPD officials told us the cash fell behind an evidence bin and was unaccounted for until it was found in 2014 when CPD moved to its temporary location. Losing track of this money nearly caused CPD to miss the limited timeframe for pursuing forfeiture.</p> <p>2. Additionally, CPD had misplaced \$40 in seized money that should have been in their evidence room. CPD officials seized \$648 as part of a single seizure case. Officials were able to show us that \$608 was located in their evidence room with other seized cash, but \$40 was missing. CPD officials told us the remaining \$40 was mistakenly put in a separate building. Although CPD officials offered to take us to the building to confirm it was in their possession, we declined. That is because CPD officials would have had to find us a ladder tall enough to reach the loft where the money was being stored.</p>	CPD should conduct a periodic review of its inventory to ensure it can account for all the seized property that should be in its possession.
Best Practice Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	x	<p>CPD stored seized vehicles in an outdoor lot that was not protected from weather events such as rain, hail, and snow. Although it was surrounded by a chain-link fence with barbed wire around the top, it did not appear to be sufficient to keep unauthorized people out.</p> <p>CPD stored some high-risk property such as guns in an outdoor storage unit that was locked and covered. Those measures did not appear to be sufficient safeguards given the type of property inside.</p>	<p>CPD officials told us they used the outdoor impound lot because there were no other locations nearby to store seized vehicles.</p> <p>CPD officials told us they used the outdoor storage units to store some high-risk items because they were in a temporary location while their new location was being constructed. Officials said the temporary location required them to store some seized property in locations they would not ordinarily use. CPD officials estimate it could be up to two more years before their new station is finished.</p>	<p>Storing seized property in these locations increases the risk of damage and theft. In fact, CPD officials told us that some individuals broke into the impound lot and vandalized a couple of cars in the past.</p>	CPD should increase the security around their storage locations or try to find more suitable locations to store seized property.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Liquidating KSA 60-4116	Agencies must get a court order for forfeiture.	✓	CPD received a court order for forfeiture in each of the cases we sampled.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees.	Could Not Determine	CPD did not sell any forfeited property during the time period we reviewed. As a result, we were unable to determine whether CPD sold forfeited property to its employees.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property program.	Could Not Determine	CPD officials told us they utilized a local sheriff's auction in the past to sell forfeited property. However, CPD had not sold the two forfeited vehicles we sampled at the time of our review, so we were unable to determine CPD's compliance with this criterion. CPD officials told us they were looking into using Purplewave to sell forfeited property in the future.	--	--	--
KSA 60-4117 (d)(1)-(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund	✓	CPD deposited the proceeds from all the cases we sampled into their forfeiture fund.	--	--	--
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✗	CPD did not have a written policy prohibiting their employees from purchasing property seized for forfeiture by CPD.	CPD officials were aware they could not sell forfeited property to their employees but acknowledged they did not have a policy addressing the restriction. CPD officials told us they are present at the auctions and would know if a CPD employee tried to purchase property forfeited to the department.	Without a policy, agency staff may purchase forfeited property of the agency because they were not aware of the legal restriction prohibiting such purchases.	CPD should develop a written policy prohibiting employees from purchasing forfeited property.
Tracking Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	✗	CPD did not perform a periodic reconciliation to ensure that all proceeds that should have been deposited in the forfeiture fund were deposited, or that all the deposits in the forfeiture fund were associated with an appropriate state forfeiture.	CPD officials we interviewed were aware of and take responsibility for their part of the seizure and forfeiture process. However, we found that officials typically view their responsibility over the forfeiture process as ending once forfeiture proceeds are delivered to the Clerk's Office for deposit.	Not doing a regular reconciliation creates a risk that forfeiture proceeds may become lost, stolen, or inadvertently deposited in the wrong fund. Our review showed that all proceeds from the forfeiture cases we sampled were deposited and that all deposits we sampled were associated with a forfeiture. This work was based on seizures in which CPD was the lead agency only. We did not do any work to determine if CPD received the correct percentage of proceeds in cases that involved multiple law enforcement agencies.	CPD should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice	Responsibilities for collecting, recording, depositing, and reconciling proceeds from forfeited property is assigned to different employees in order to ensure adequate separation of duties.	✓	CPD and county officials described a good process to collect, record, deposit, and reconcile proceeds that included segregation of duties. Specifically, forfeiture proceeds are delivered to the County Treasurer's Office. The County Treasurer takes the forfeiture proceeds to the treasurer's customer service desk where staff enter the deposit into the county's general ledger. The County Treasurer is responsible for depositing all funds collected by the service desk. The City Finance Director then compares monthly bank statements against the treasurer's daily reports to ensure that all proceeds collected were deposited. We did not test the agency's segregation of duties because officials described detailed processes that would have been difficult to make up. As a result, we determined that additional testing was not necessary.	--	--	--
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	✗	In 2014, CPD deposited about \$287 in drug-tax stamp proceeds into its forfeiture fund. We also looked at 2013 and 2015 deposits but did not find drug-tax stamp proceeds in those years.	CPD views drug-tax stamp proceeds as a similar activity to state forfeitures so they have not seen a reason to account for those monies separately.	The effect of this issue is limited because the restrictions around using drug-tax stamp and forfeiture proceeds are often similar (though not identical). Additionally, drug-tax proceeds are typically only a small amount compared to forfeiture proceeds. Nonetheless, commingling these revenue sources creates a risk that CPD may not be able to ensure compliance with the spending restrictions placed on each revenue source.	CPD should deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.
Using						
KSA 60-4117 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget.	✓	Based on our review, CPD used forfeiture funds on special and additional expenditures and not on operating expenses. For example, CPD spent about \$74,000 from its forfeiture fund on vehicle costs from 2013 to 2015. We did not determine if agencies used future forfeiture proceeds for planning and adopting their budget.	--	--	--
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	✓	City officials told us that ultimately, the Chief of Police must sign each of the department's invoices for an expenditure from the forfeiture fund. We found that CPD received appropriate approval for all the expenditures we reviewed.	--	--	--
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.	✓	CPD showed documentation of approval for all the expenditures we reviewed.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency <u>is</u> Doing	<u>Why</u> Agency is Not Doing What It Should Be	Effect	Recommendation
Reporting KSA 60-4117 (d)(1)	Local agencies must submit an annual forfeiture fund report to their local budget authority that includes the amounts of forfeiture proceeds received, how those proceeds were spent, and the type and approximate value of forfeited property.	X	CPD did not submit an annual report to its county commission. CPD's finance division did make budget information about forfeiture deposits, expenditures, and the fund balance available to the city commission annually. However, those reports did not include the type and approximate value of forfeited property. Additionally, these reports were part of a much larger budget process, fulfilling a separate purpose from providing oversight over CPD's forfeiture activity.	It does not appear that officials with the City of Coffeyville's finance office were aware of this state legal requirements.	By not submitting an annual report, CPD's budget authority may not be aware of the kind or extent of forfeiture activities CPD has engaged in.	CPD should submit an annual report to their budget authority with the information required by state law.
Other Best Practice	Agencies should have policies and procedures that provide adequate guidance on all steps related to the seizure and forfeiture process.	X	CPD had several policies and procedures related to the operational aspects of the seizure and forfeiture process but lacked policies specific to the financial aspects of the process. For example, CPD lacked policies on how and when to report on forfeiture activity to its oversight body and how forfeiture proceeds may be used.	CPD officials were generally aware that they should have policies and procedures related to the financial aspects of the seizure and forfeiture process but had yet to create them.	Not having clear, documented guidance on the seizure and forfeiture process could result in CPD failing to comply with state law or control best practices associated with seized and forfeited property.	CPD should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.

**Figure B-4
Summary of the Iowa Police Department's (IPD)
Compliance with the State Laws and Control Best Practices for Civil Asset Seizure and Forfeiture**

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Safeguarding KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property.	✓	IPD documented probable cause for seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency.	✗	IPD did not issue a notice of seizure as part of its seizure and forfeiture process.	IPD officials told us they were not aware of the requirement to send a notice of seizure. The county attorney's office sent a notice of pending forfeiture in each of the cases we reviewed. Although they contain much of the same information, our review found that the two documents serve two different purposes.	Among other things, the notice of seizure appears to inform an individual that their property has been seized and that the seizing agency may pursue forfeiture on that property. Conversely, the notice of pending forfeiture informs an individual that the court proceedings to forfeit the seized property has begun. If no notice of seizure is given, an individual may not know that their property could be forfeited until the legal process has started. At that point the individual only has 30 days to file a claim with the court or their property is forfeit.	IPD should send a notice of seizure as required by state law.
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✓	IPD described and showed us an adequate process to inventory seized property. IPD inventoried all seized property, except vehicles, in an electronic records management system. We were able to review this system while onsite. IPD maintained a unique form for each vehicle it seized, allowing the department to know how many seized vehicles it had in its possession.	--	--	--
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	✓	IPD officials told us they document the estimated value of seized property on their request for forfeiture form. While onsite we reviewed an example of a request for forfeiture form. The form included an estimated value of the seized property.	--	--	--
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	IPD had a complete chain of custody for the forfeiture cases we sampled and showed that evidence was tagged with a unique identifier. In one case, IPD's chain of custody did not accurately document the date of seizure.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	✘	IPD did not periodically review its inventory of seized property.	IPD officials told us their evidence room was not organized in a way that allowed them to easily complete an inventory review. We saw that the evidence room was cluttered, but that it was possible for IPD staff to locate the seized property we sampled. IPD officials told us they plan to start doing a review once their evidence room is finished being remodeled. IPD officials hope to have the remodel complete in 2016.	Not doing a periodic inventory review creates a risk that seized property could be lost, stolen, or misplaced. That being said, IPD was able to show that the seized property we sampled was located in their evidence room, possession.	IPD should conduct a periodic review of its inventory to ensure it can account for all the seized property that should be in its possession.
Best Practice	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	✘	IPD did not have any forfeited vehicles in its possession at the time of our audit. However, we toured the impound lot IPD uses to store those vehicles when they have them. We found IPD's vehicle impound lot was not sufficiently secure to protect against the risk of theft or damage to seized vehicles. Specifically, vehicles are stored in an uncovered lot. The lot has a perimeter fence but the fence is left open during the day. Even when the fence is closed, several officers and city employees know the code to enter the lot.	IPD officials told us there are no other locations nearby to store seized vehicles. Additionally, given how few vehicles IPD seizes (only two in the last three years), finding a more suitable alternative does not appear to be a high priority for the department.	Storing seized vehicles in an open, partially unsecured lot, could result in vehicles being vandalized, damaged, or stolen.	IPD should increase the security around this lot or try to find a more suitable location to store its seized vehicles.
Liquidating						
KSA 60-4116	Agencies must get a court order for forfeiture.	✔	IPD received a court order for forfeiture in each of the cases we sampled.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees.	✔	Although it is possible for IPD to forfeit other property, we only sampled IPD's forfeited vehicles. Our review showed that IPD employees did not purchase either of vehicles the department forfeited since 2013.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property system.	✔	IPD sold the forfeited vehicles we sampled at a city auction. We did not determine if the sale was to the highest bidder.	--	--	--
KSA 60-4117 (d)(1)-(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund.	✔	IPD deposited the proceeds from all the cases we sampled into their forfeiture fund.	--	--	--
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✘	IPD did not have a written policy prohibiting their employees from purchasing property seized for forfeiture by IPD.	IPD officials were aware they could not sell forfeited property to their employees but acknowledged they did not have a policy addressing the restriction. IPD officials told us they are present at the auctions and would know if an IPD employee tried to purchase property forfeited to the department.	Without a policy, agency staff may purchase forfeited property of the agency because they were not aware of the legal restriction prohibiting such purchases.	IPD should develop a written policy prohibiting employees from purchasing forfeited property.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What A Agency is Doing	Why Agency is Not Doing What it Should Be	Effect	Recommendation
Tracking Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	✘	IPD did not do a periodic reconciliation to ensure that all forfeiture proceeds that should have been deposited in the forfeiture fund were deposited, or that all the deposits in the forfeiture fund were associated with an appropriate state forfeiture.	IPD officials we interviewed were aware of and take responsibility for their part of the seizure and forfeiture process. However, we found that officials typically view their responsibility over the forfeiture process as ending once forfeiture proceeds are delivered to the Clerk's Office for deposit.	Not doing a regular reconciliation creates a risk that forfeiture proceeds may be lost, stolen, or inadvertently deposited in the wrong fund. Our review showed that all proceeds from the forfeiture cases we sampled were deposited and that all deposits we sampled were associated with a forfeiture. This work was based on seizures in which IPD was the lead agency only. We did not do any work to determine if IPD received the correct percentage of proceeds in cases that involved multiple law enforcement agencies.	IPD should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.
Best Practice	Responsibilities for collecting, recording, depositing, and reconciling proceeds from forfeited property is assigned to different employees in order to ensure adequate separation of duties.	✔	IPD and city officials described a good process to collect, record, deposit, and reconcile proceeds that included segregation of duties. Specifically, city officials told us that forfeiture proceeds are delivered to the city clerk's office. If cash was seized, the city clerk will count the cash with the Iowa Chief of Police to ensure the count is accurate. A cashier then records the deposit in the city's general ledger. The cashier gives the chief a receipt showing when and how much was recorded on the ledger. All funds are taken to a bank for deposit at the end of the day. The Deputy Clerk reconciles the general ledger against collection reports for each cashier drawer.			
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	✘	In 2015, IPD deposited about \$270 in drug-tax stamp proceeds into its state forfeiture fund. We also looked at 2013 and 2014 deposits but did not find drug-tax stamp proceeds in those years.	Officials from the Iowa City Clerk's Office view drug-tax stamp proceeds as a similar activity to state forfeitures so they have not seen a reason to account for those monies separately.	The effect of this issue is limited because the restrictions around using drug-tax stamp and forfeiture proceeds are often similar (though not identical). Additionally, drug-tax proceeds are typically only a small amount compared to forfeiture proceeds. Nonetheless, commingling these revenue sources creates a risk that IPD may not be able to ensure compliance with the spending restrictions placed on each revenue source.	IPD should deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Using						
KSA 60-4117 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget.	✓	Based on our review, IPD used forfeiture funds on special and additional expenditures and not on operating expenses. For example, IPD spent about \$1,400 from its forfeiture fund on general equipment costs from 2013 to 2015. We did not determine if agencies used future forfeiture proceeds for planning and adopting their budget.	--	--	--
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	✓	IPD officials told us that ultimately, the Chief of Police must sign each of the department's purchase orders or invoices. Depending on the size of the purchase, other city officials may also need to approve the expenditure. We found that IPD received appropriate approval for all the expenditures we reviewed.	--	--	--
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.	✓	IPD showed documentation of approval for all the expenditures we reviewed.	--	--	--
Reporting						
KSA 60-4117 (d)(2)	Local agencies must submit an annual forfeiture fund report to their local budget authority that includes the amounts of forfeiture proceeds received, how those proceeds were spent, and the type and approximate value of forfeited property.	✗	IPD did not send an annual forfeiture report to its budgetary authority during the time period we reviewed (2013 - 2015). However, as a result of our audit, IPD officials sent a summary report to its budget authority covering those three years. The reports appeared to contain all the required information.	IPD officials told us they were not aware of this reporting requirement.	By not submitting an annual report, the Iola City Commission may not be aware of the kind or extent of forfeiture activities IPD has engaged in.	IPD should submit an annual report to their budget authority with the information required by state law.
Other						
Best Practice	Agencies should have policies and procedures that provide adequate guidance on all steps related to the seizure and forfeiture process.	✗	IPD did not have any policies and procedures specific to the seizure and forfeiture process.	IPD was aware that it should have policies and procedures related to the seizure and forfeiture process but had yet to create them.	Not having clear, documented guidance on the seizure and forfeiture process could result in IPD failing to comply with state law or control best practices associated with seized and forfeited property.	IPD should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.
Best Practice	Agencies should have two people present when seized cash is counted to ensure the count is accurate.	✗	IPD does not require two officers to be present when seized cash is counted. IPD officials told us that officers wear body cameras that could record them while they count seized cash.	IPD officials did not think it was necessary to have more than one officer count seized cash because they could review body camera footage if necessary.	Although body camera footage may help resolve issues with incorrect cash counts, having two people present during the count could help prevent miscounts from happening in the first place.	IPD should have two people present when seized cash is counted to ensure the count is accurate.

**Figure B-5
Summary of the Salina Police Department's (SPD)
Compliance with the State Laws and Control Best Practices for Civil Asset Seizure and Forfeiture**

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Safeguarding						
KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property.	✓	SPD documented probable cause for seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency.	✓	SPD issued a notice of seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✗	SPD conducted a written inventory of most property it seized (e.g. cash, drugs, and electronics), but did not maintain an inventory of seized vehicles. In response to our audit, SPD officials compiled a written list of vehicles in their possession, which they told us they plan to maintain in the future.	SPD maintained a written inventory of all evidence, but did not consider vehicles seized for forfeiture to be evidence. Therefore, they did not think it necessary to maintain a vehicle inventory.	Without a vehicle inventory there is a chance a vehicle may go missing without SPD noticing. This is especially true given the number of vehicles SPD has seized (a little more than 20 since 2013). We did a limited review of the vehicles in SPD's possession and found that SPD was able to account for the vehicles we selected.	SPD should incorporate vehicles seized for forfeiture into its existing evidence inventory system or create a separate mechanism to inventory these vehicles.
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	✓	SPD officials told us they document the estimated value of seized property on their request for forfeiture form. While on-site we reviewed an example of a request for forfeiture form. The form included an estimated value of the seized property.	--	--	--
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	SPD had a complete chain of custody for the forfeiture cases we sampled and showed that evidence was tagged with a unique identifier.	--	--	--
Best Practice	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	✓	SPD officials told us they conduct a periodic review of their evidence inventory. We reviewed a copy of one of these reviews.	--	--	--
Best Practice	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	✓	SPD storage facilities were adequately secured, and access appropriately limited, to provide reasonable assurance that seized property was protected from theft or damage.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency <u>is</u> Doing	<u>Why</u> Agency is Not Doing What It Should Be	Effect	Recommendation
Liquidating						
KSA 60-4116	Agencies must get a court order for forfeiture.	✓	SPD received a court order for forfeiture in each of the cases we sampled.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees.	✓	Although it is possible for SPD to forfeit other property, we only sampled SPD's forfeited vehicles. Our review showed that SPD employees did not purchase either of the forfeited vehicles we sampled from 2013 and 2014.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property system.	✓	SPD used Purplewave, an online auction site, to sell the forfeited vehicles we sampled. Purplewave satisfies the state's requirement to sell forfeited property through a public sale.	--	--	--
KSA 60-4117 (d)(1)-(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund.	✗	Since August 2014, SPD deposited at least \$18,500 in forfeited cash directly into a safe in its office rather than in its forfeiture fund. SPD uses the money in the safe for controlled drug buys (called "buy funds") and for things like vehicle repairs and training expenses.	Before 2014, SPD deposited all forfeiture proceeds into its forfeiture fund. Then in 2014 the department started to deposit some forfeited cash in its department safe rather than its forfeiture fund. It appears this was done because it made it easier and faster for SPD to make certain department purchases (e.g. vehicle repairs, training expenses, controlled drug buys, etc.) that would otherwise have to go through a more rigorous approval process if it were withdrawn from the forfeiture fund.	Keeping some forfeited cash in a safe circumvents state law to deposit all forfeiture proceeds into an appropriate forfeiture fund. Having this much cash on hand creates a heightened risk for fraud, abuse, or for forfeiture proceeds to go missing.	SPD should deposit all forfeiture proceeds into its forfeiture fund. SPD should then go through its normal approval process to withdraw money for its drug-buy funds and working funds (e.g. vehicle repairs, training, and other expenses). SPD should not keep its working funds in a department safe. See more recommendations regarding drug-buy funds in the last row of this table.
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✗	SPD did not have a written policy prohibiting their employees from purchasing property seized for forfeiture by SPD.	SPD officials were aware they could not sell forfeited property to their employees but acknowledged they did not have a policy addressing the restriction.	Without a policy, agency staff may purchase forfeited property of the agency because they were not aware of the legal restriction prohibiting such purchases.	SPD should develop a written policy prohibiting employees from purchasing forfeited property.

State Law or Best Practice	What Agency <u>Should Be</u> Doing	LPA Assessment	What Agency <u>is</u> Doing	<u>Why Agency is Not Doing What It Should Be</u>	Effect	Recommendation
Tracking Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	x	SPD did not do a systematic reconciliation to ensure that all forfeiture proceeds that should have been deposited in the forfeiture fund were deposited, or that all the deposits in the forfeiture fund were associated with an appropriate state forfeiture.	SPD officials we interviewed were aware of and take responsibility for their part of the seizure and forfeiture process. However, we found that officials typically view their responsibility over the forfeiture process as ending once forfeiture proceeds are delivered to the Treasurer's Office for deposit.	Not doing a regular reconciliation creates a risk that forfeiture proceeds may become lost, stolen, or inadvertently deposited in the wrong fund. Our reconciliation of a sample of SPD forfeiture cases and deposits revealed two such instances. A periodic reconciliation may have prevented both of the issues described below. 1. SPD could not account for \$915 in forfeited cash that should have been deposited in its forfeiture fund in June 2013. SPD documentation shows the cash was checked out of evidence after it was forfeited. However, no documentation exists to show where or whether the cash was deposited. 2. SPD could not identify the source of a \$2,657 deposit in its forfeiture fund in 2015. As a result, there is risk that SPD deposited funds with different spending requirements into its forfeiture fund.	SPD should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.
Best Practice	Responsibilities for collecting, recording, depositing, and reconciling proceeds from forfeited property is assigned to different employees in order to ensure adequate separation of duties.	✓	SPD and county officials described a good process to collect, record, deposit, and reconcile proceeds that included segregation of duties. Specifically, county officials told us that forfeiture proceeds are delivered to the county treasurer's office. Treasury staff then record the proceeds into the county's general accounting system. A sheriff's deputy then takes the forfeiture proceeds to the bank for deposit. We did not test the agency's segregation of duties because officials described detailed processes that would have been difficult to make up. As a result, we determined that additional testing was not necessary.		--	--
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	x	In 2015, SPD deposited about \$14,500 in drug-tax stamp proceeds into its forfeiture fund.	SPD views drug-tax stamp proceeds as a similar activity to state forfeitures so they have not seen a reason to account for those monies separately.	The effect of this issue is limited because the restrictions around using drug-tax stamp and forfeiture proceeds are often similar (but not identical). Nonetheless, comingling these revenue sources creates a risk that SPD may not be able to ensure compliance with the spending restrictions placed on each revenue source.	SPD should deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Using						
KSA 60-4117 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget.	✓	Based on our review, SPD spent forfeiture proceeds on special and additional expenditures but did spend about \$4,350 on reoccurring cell phone bills in 2015, which we would consider normal operating expenses. However, these cell phones were for SPD's special drug task force. SPD officials determined those costs to be an appropriate use of forfeiture funds because SPD considers expenditures for that unit to be for a special and additional law enforcement purpose. Without more specific legal definitions, we concluded this explanation seemed reasonable. We did not determine if agencies used future forfeiture proceeds for planning and adopting their budget.	--	--	--
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	Could Not Determine	SPD required the chief of police or sheriff to approve all expenditures from their forfeiture fund. SPD officials told us the chief or sheriff will either initial invoices or verbally approve requests. We were unable to determine whether SPD received approval for all the expenditures we reviewed because some approvals may have been verbal.	--	--	--
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.	✗	We reviewed nine expenditures made from SPD's forfeiture fund in 2015. SPD could only produce documentation showing the chief's or sheriff's approval in four of the nine cases we reviewed. SPD officials told us verbal approval was obtained for the remaining five purchases.	The convenience of a verbal approval appears to outweigh the risks associated with not documenting the chief or sheriff's approval.	SPD may make an expenditure without the chief or sheriff's approval, which creates a risk that forfeiture proceeds are used inappropriately.	SPD should require the chief or sheriff to document their approval of all expenditures made with forfeiture funds.
Reporting						
KSA 60-4117 (d)(2)	Local agencies must submit an annual forfeiture fund report to their local budget authority that includes the amounts of forfeiture proceeds received, how those proceeds were spent, and the type and approximate value of forfeited property.	✗	SPD did not submit an annual report to their county commission. SPD's finance division did make budget information about forfeiture deposits, expenditures, and the fund balance available to the county commission weekly. However, those reports did not include the type and approximate value of forfeited property. Additionally, these reports were part of a much larger budget and expenditure process, fulfilling a separate purpose from providing oversight over SPD's forfeiture activity.	SPD officials told us they were not aware of this reporting requirement.	By not submitting an annual report, SPD's budget authority may not be aware of the kind or extent of forfeiture activities SPD has engaged in.	SPD should submit an annual report to their budget authority with the information required by state law.
Other						
Best Practice	Agencies should have policies and procedures that provide adequate guidance on all steps related to the seizure and forfeiture process.	✗	SPD does not have any policies and procedures specific to the seizure and forfeiture process.	SPD was aware that it should have complete policies and procedures related to the seizure and forfeiture process but had not yet created them.	Not having clear, documented guidance on the seizure and forfeiture process could result in SPD failing to comply with state law or control best practices associated with seized and forfeited property.	SPD should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.
Best Practice	Agencies should have strong controls surrounding their use of drug-buy money (i.e. money used for the controlled purchase of illegal drugs and other contraband).	✗	SPD conducted controlled drug buys as part of its drug interdiction responsibilities. SPD used the forfeited cash in its safe to make these buys and for purchases like vehicle repairs and training. Rather than checking money out when there was a need for a controlled drug buy, SPD provided officers with cash in case of a controlled drug buy. Each officer was assigned a bank bag where they were supposed to store the cash. Although officers kept cash in their bank bag, our review showed they sometimes also kept it in other locations such as their vehicle or wallet.	Allowing officers to maintain cash on hand made it easier and faster for SPD to conduct a controlled buy. It appeared to be more convenient than getting approval to transfer cash out of the forfeiture fund for each buy as necessary.	Allowing officers to maintain a cash balance significantly increases the risk that cash could be lost, stolen, or used inappropriately. This is especially true given that our review showed some officers stored cash in their vehicle, wallet, and locations other than their bank bag.	SPD should strengthen its controls surrounding its use of drug-buy money. For example, SPD should: -withdraw money for drug buys from its forfeiture fund (which may still involve keeping this cash in a department safe), -set a limit on the amount that is allowed to be checked out to an officer, and -require officers to return unused money within a short timeframe.

**Figure B-6
Summary of the Sedgwick County Sheriff's Office (SCSO)
Compliance with the State Laws and Control Best Practices for Civil Asset Seizure and Forfeiture**

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Safeguarding						
KSA 60-4107 (a)-(b)	Agencies must have a seizure warrant or probable cause in order to seize property.	✓	SCSO documented probable cause for seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4107 (c)-(d)	Agencies must provide a notice of seizure. The notice of seizure must include a description of the seized property, the date and place of seizure, and the name and contact information of the seizing agency.	✓	SCSO issued a notice of seizure in each of the forfeiture cases we sampled.	--	--	--
KSA 60-4108 (d)	Agencies must conduct a written inventory of seized property.	✓	SCSO described and showed us an adequate process to inventory seized property. SCSO officials told us that all evidence, including seized property, is inventoried into their electronic evidence management system. We were able to review this system while on-site.	--	--	--
KSA 60-4108 (d)	Agencies must estimate the value of seized property.	Did Not Test	SCSO officials told us they estimate the value of seized property and we saw where SCSO was supposed to document that value on their application for forfeiture. However, we did not do any test work to determine if SCSO documented the estimated value of seized property because officials described adequate processes that did not appear to present as many risks as other controls we evaluated.	--	--	--
Best Practice	Agencies should document a complete chain of custody and tag all seized property with a unique identifier.	✓	SCSO had a complete chain of custody for the forfeiture cases we sampled and showed that evidence was tagged with a unique identifier.	--	--	--
Best Practice	Agencies should periodically review their evidence inventory to ensure they can account for all the seized property that should be in their possession.	✓	SCSO officials told us they conduct a semi-annual review of their evidence inventory. We saw a copy of one of these reviews during our onsite test work.	--	--	--
Best Practice	Agencies should store seized property somewhere that is sufficient to protect it from theft or damage. Access to that location should be limited and controlled to also provide reasonable assurance that property will be protected from damage and theft.	✓	SCSOs storage facilities were adequately secured, and access appropriately limited, to provide reasonable assurance that seized property was protected from theft or damage.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Liquidating						
KSA 60-4116	Agencies must get a court order for forfeiture	✓	SCSO received a court order for forfeiture in each of the cases we sampled.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies cannot sell forfeited property to their employees	Could Not Determine	SCSO did not sell any forfeited property during the time period we reviewed (2013 - 2015). As a result, we could not determine whether SCSO complied with this state law.	--	--	--
KSA 60-4117 (a)(3)(C)	Agencies must sell forfeited property through a public sale to the highest bidder or through the state's surplus property program.	Could Not Determine	SCSO officials told us they used Purplewave, an online auction site, to sell forfeited vehicles. Using Purplewave would satisfy the state's requirement to sell forfeited property through a public sale. However, SCSO did not sell any forfeited vehicles during the time period we reviewed (2013 - 2015). As a result, we could not determine whether SCSO complied with this state law.	--	--	--
KSA 60-4117 (d)(1)-(2)	After court and other fees are removed, agencies must place all remaining forfeiture proceeds in an appropriate forfeiture fund	✓	SCSO deposited the proceeds from all the cases we sampled into their forfeiture fund.	--	--	--
Best Practice	Agencies should have a policy that restricts employees from purchasing property forfeited to the agency.	✗	SCSO did not have a written policy prohibiting its employees from purchasing property seized for forfeiture by SCSO.	SCSO officials told us they previously had a policy prohibiting employees from purchasing SCSO's forfeited property. However, this policy was recently removed. SCSO officials told us that after bringing this to their attention they are in the process of re-implementing this policy.	Without a policy, agency staff may purchase forfeited property of the agency because they were not aware of the legal restriction prohibiting such purchases.	SCSO should re-implement their written policy prohibiting employees from purchasing forfeited property.
Tracking						
Best Practice	Agencies should determine if all of the forfeiture proceeds that should have been deposited in their forfeiture fund were deposited, and that all of the deposits in the forfeiture fund can be tied back to a state forfeiture.	✗	SCSO did not do a periodic reconciliation to ensure that all forfeiture proceeds that should have been deposited in the forfeiture fund were deposited, or that all the deposits in the forfeiture fund were associated with an appropriate state forfeiture.	SCSO officials we interviewed were aware of and take responsibility for their part of the seizure and forfeiture process. However, we found that officials typically view their responsibility over the forfeiture process as ending once forfeiture proceeds are delivered to the Treasurer's Office for deposit.	Not doing a regular reconciliation creates a risk that forfeiture proceeds may become lost, stolen, or inadvertently deposited in the wrong fund. Our review of a sample of SCSO forfeiture cases found one such instance. Specifically, SCSO incorrectly deposited \$109 in their forfeiture fund in 2015 that should have been deposited in its federal forfeiture fund. A periodic reconciliation could have detected and corrected this error.	SCSO should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency is Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Best Practice	Responsibilities for collecting, recording, depositing, and reconciling proceeds from forfeited property is assigned to different employees in order to ensure adequate separation of duties.	✓	SCSO and county officials described a good process to collect, record, deposit, and reconcile proceeds that included segregation of duties. Specifically, county officials told us that the sheriff's office delivers forfeiture proceeds to the county treasurer's office. Treasury staff enter the proceeds into the county's tax accounting and finance systems. At this point, a receipt is printed and given to the sheriff's office. County officials told us that cash is picked up by an armored vehicle at the end of the day to be deposited. They told us that checks are digitally scanned for deposit. County officials told us they compare online banking documents to the county finance system to ensure all proceeds were properly deposited.	--	--	--
Best Practice	Agencies should account for different revenue sources separately from each other. This is because different revenue sources often have different restrictions on how they can be spent.	✗	We did not test the agency's segregation of duties because officials described detailed processes that would have been difficult to make up. As a result, we determined that additional testing was not necessary. From 2013 to 2015, SCSO deposited about \$106,000 in drug-tax stamp proceeds into its forfeiture fund.	SCSO views drug-tax stamp proceeds as a similar activity to state forfeitures so they have not seen a reason to account for those monies separately.	The effect of this issue is limited because the restrictions around using drug-tax stamp and forfeiture proceeds are often similar (but not identical). Nonetheless, commingling these revenue sources creates a risk that SCSO may not be able to ensure compliance with the spending restrictions placed on each revenue source.	SCSO should deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.
Using						
KSA 60-4117 (d)(3)	Expenses must be for "special, additional law enforcement purposes" and not be used for normal operations. Future forfeiture proceeds should not be used to plan and adopt an agency's budget.	✓	Based on our review, SCSO used forfeiture funds on special and additional expenditures and not on operating expenses. For example, SCSO spent about \$21,500 from its forfeiture fund on general equipment costs from 2013 to 2015. We did not determine if agencies used future forfeiture proceeds for planning and adopting their budget.	--	--	--
KSA 60-4117 (d)(1)	Expenditures must be approved by the agency head or their designee.	✓	SCSO officials described a process where ultimately the Colonel that oversees the forfeiture process must approve expenditures made from the forfeiture fund. SCSO received this approval for all the expenditures we reviewed.	--	--	--
Best Practice	Approvals for expenditures from the forfeiture fund should be documented.	✓	SCSO showed documentation of approval for all the expenditures we reviewed.	--	--	--

State Law or Best Practice	What Agency Should Be Doing	LPA Assessment	What Agency <u>is</u> Doing	Why Agency is Not Doing What It Should Be	Effect	Recommendation
Reporting						
KSA 60-4117 (d)(1)	Local agencies must submit an annual forfeiture fund report to their local budget authority that includes the amounts of forfeiture proceeds received, how those proceeds were spent, and the type and approximate value of forfeited property.	✘	SCSO did not send annual reports to its budgetary authority. Officials told us the information that would go in the report is always available to the county commissioners through the county's financial system. However, the information provided to the county commissioners did not include data on the type and approximate value of forfeited property.	SCSO officials told us they thought they were in compliance with this legal requirement by providing current forfeiture data to their county commission on an ongoing basis.	By not submitting an annual report, the Sedgwick County Commissioners may not be aware of the kind or extent of forfeiture activities SCSO has engaged in.	SCSO should submit an annual report to their budget authority with the information required by state law.
Other						
Best Practice	Agencies should have policies and procedures that provide adequate guidance on all steps related to the seizure and forfeiture process.	✘	SCSO had several policies and procedures related to the operational aspects of the seizure and forfeiture process but lacked some policies specific to the financial aspects of the process. For example, SCSO lacked policies on how and when to report on forfeiture activity to its oversight body and how forfeiture proceeds may be used.	SCSO officials were generally aware that they should have policies and procedures related to all aspects of the seizure and forfeiture process but had yet to create them.	Not having clear, documented guidance on the seizure and forfeiture process could result in SCSO failing to comply with state law or control best practices associated with seized and forfeited property.	SCSO should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.

APPENDIX C

Sample Law Enforcement Agencies' State Forfeiture Expenditures for 2013-2015

This appendix contains information about how each of the six agencies we reviewed spent their state forfeiture proceeds from 2013 to 2015. Each agency provided a detailed list of its expenditures, which we placed into one of the following eight categories:

- Forfeiture costs include things like the costs of advertising a sale related to seizure or forfeiture or the cost of transferring a vehicle title.
- General equipment costs include law enforcement equipment like vehicles or body cameras and general office equipment such as chairs or desks.
- Information technology costs include items like computers, printers, and software licenses.
- Meals and lodging costs include hotel or food costs related to investigations or conferences.
- Payroll costs include payments for staff salaries.
- Training costs include attendance and registration for conferences or special training.
- Vehicle costs include things like the purchase of vehicles for investigation, oil changes, and other maintenance costs.
- Other costs include items that could not be easily categorized like a dog leash for a K-9 unit or association membership dues.

**Figure C-1
Kansas Highway Patrol State Forfeiture Expenditures
2013-2015 (a)**

Category	2013	2014	2015	Total	% of Total (b)
Forfeiture Costs	\$3,626	\$6,303	\$18,502	\$28,431	4%
General Equipment	\$71,560	\$23,516	\$5,433	\$100,509	13%
Information Technology Costs	\$12,554	\$1,788	\$1,792	\$16,134	2%
Meals and Lodging	\$30,117	\$22,462	\$19,451	\$72,030	9%
Payroll	\$194,371	\$148,970	\$110,150	\$453,491	57%
Training	\$73,695	\$6,039	\$1,246	\$80,980	10%
Vehicle Costs	\$17,998	\$11,907	\$8,032	\$37,937	5%
Other	\$3,118	\$1,125	\$1,643	\$5,886	1%
Total	\$407,039	\$222,109	\$166,250	\$795,398	100%

(a) Includes expenditures for 12-month period beginning December 1 and ending November 30.

(b) Total does not add to 100% because of rounding.

Source: LPA analysis of agency's forfeiture expenditures for 2013-2015.

**Figure C-2
Salina Police Department State Forfeiture Expenditures (a)
CY 2013-2015**

Category	2013	2014	2015	Total	% of Total
Forfeiture Costs	\$12,600	\$95,818	\$4,045	\$112,464	37%
General Equipment	\$21,656	\$59,613	\$17,871	\$99,140	33%
Information Technology Costs	\$0	\$961	\$1,495	\$2,456	1%
Meals and Lodging	\$44	\$1,144	\$0	\$1,188	0%
Payroll	\$0	\$0	\$0	\$0	0%
Training	\$1,846	\$3,800	\$1,242	\$6,888	2%
Vehicle Costs	\$3,474	\$2,628	\$3,606	\$9,708	3%
Other	\$24,438	\$39,153	\$8,611	\$72,202	24%
Total	\$64,060	\$203,118	\$36,870	\$304,047	100%

(a) SPD also deposits forfeiture proceeds in a department safe. These amounts do not include expenditures from the safe.

Source: LPA analysis of agency's forfeiture expenditures for 2013-2015.

**Figure C-3
Coffeyville Police Department State Forfeiture Expenditures
CY 2013-2015**

Category	2013	2014	2015	Total	% of Total (a)
Forfeiture Costs	\$2,160	\$1,581	\$0	\$3,741	2%
General Equipment	\$13,906	\$4,091	\$8,620	\$26,617	15%
Information Technology Costs	\$12,834	\$4,787	\$14,226	\$31,848	18%
Meals and Lodging	\$12,655	\$0	\$3,204	\$15,859	9%
Payroll	\$0	\$0	\$0	\$0	0%
Training	\$1,770	\$425	\$0	\$2,195	1%
Vehicle Costs	\$60,737	\$4,216	\$9,149	\$74,102	42%
Other	\$11,373	\$1,270	\$9,240	\$21,883	12%
Total	\$115,435	\$16,369	\$44,440	\$176,244	100%

(a) Total does not add to 100% because of rounding.

Source: LPA analysis of agency's forfeiture expenditures for 2013-2015.

**Figure C-4
Sedgwick County Sheriff's Office State Forfeiture Expenditures
CY 2013-2015**

Category	2013	2014	2015	Total	% of Total
Forfeiture Costs	\$0	\$117	\$2,926	\$3,043	3%
General Equipment	\$11,322	\$0	\$10,119	\$21,441	22%
Information Technology Costs	\$450	\$3,938	\$0	\$4,388	5%
Meals/Lodging	\$4,002	\$6,439	\$453	\$10,894	11%
Payroll	\$0	\$0	\$0	\$0	0%
Training	\$6,187	\$3,448	\$767	\$10,402	11%
Vehicle Costs	\$0	\$9,980	\$0	\$9,980	10%
Other	\$2,595	\$12,090	\$2,416	\$17,101	18%
Charity/Community Program (a)	\$9,621	\$3,770	\$6,040	\$19,431	20%
Total	\$34,177	\$39,782	\$22,721	\$96,680	100%

(a) This category was added for the Sedgwick County Sheriff's Office because charitable giving represented a substantial part of the agency's use of state forfeiture funds.
Source: LPA analysis of agency's forfeiture expenditures for 2013-2015.

**Figure C-5
Kansas Bureau of Investigation State Forfeiture Expenditures
2013-2015 (a)**

Category	2013	2014	2015	Total	% of Total (b)
Forfeiture Costs	\$0	\$10	\$0	\$10	0%
General Equipment	\$0	\$53,545	\$10,444	\$63,989	68%
Information Technology Costs	\$0	\$0	\$2,658	\$2,658	3%
Meals and Lodging	\$0	\$0	\$11,578	\$11,578	12%
Payroll	\$0	\$0	\$0	\$0	0%
Training	\$0	\$10,500	\$1,450	\$11,950	13%
Vehicle Costs	\$600	\$0	\$0	\$600	1%
Other	\$0	\$733	\$3,175	\$3,908	4%
Total	\$600	\$64,788	\$29,305	\$94,693	100%

(a) Includes expenditures for 12-month period beginning December 1 and ending November 30.
(b) Total does not add to 100% because of rounding.
Source: LPA analysis of agency's forfeiture expenditures for 2013-2015.

**Figure C-6
Iola Police Department State Forfeiture Expenditures
CY 2013-2015**

Category	2013	2014	2015	Total	% of Total
Forfeiture Costs	\$0	\$0	\$0	\$0	0%
General Equipment	\$0	\$0	\$1,413	\$1,413	54%
Information Technology Costs	\$0	\$0	\$0	\$0	0%
Meals and Lodging	\$0	\$0	\$0	\$0	0%
Payroll	\$0	\$0	\$0	\$0	0%
Training	\$0	\$0	\$1,190	\$1,190	46%
Vehicle Costs	\$0	\$0	\$0	\$0	0%
Other	\$0	\$0	\$0	\$0	0%
Total	\$0	\$0	\$2,603	\$2,603	100%

Source: LPA analysis of agency's forfeiture expenditures for 2013-2015.

APPENDIX D Agency Response

On June 24, 2016 we provided copies of the draft audit report to the Kansas Bureau of Investigation, the Kansas Highway Patrol, the Coffeyville, Iola, and Salina Police Departments, and the Sedgwick County Sheriff's Office. We also provided the relevant section of the draft report to the Montgomery County Attorney. Their responses are included in this appendix. Following each agency's written response is a table listing the department's specific implementation plan for each of our recommendations. Although we made a few minor changes and clarifications to the report based on their feedback, most agency officials concurred with our audit findings and conclusions and agreed to implement our recommendations.

The Salina Police Department and the Montgomery County Attorney both disagreed with some of the report's findings, but we did not change our findings, conclusions, or recommendations as a result of those concerns as described below.

- **Salina officials disagreed with our finding that it lacked important controls for money used for controlled drug buys.** In its response, Salina officials said we incorrectly reported that they did not document the expenditures they used for controlled drug buys. Officials provided us with examples of expenditures reports they use to document drug buys, which we reviewed. These reports contained information on the amount of money checked out for a drug buy, but were completed before the buy occurred. We would expect to see this report completed after a drug buy occurred in order to document what was actually purchased and how much was spent on that purchase. We did not modify our report because the additional information officials provided did not resolve the control weaknesses we identified.

- **The Montgomery County Attorney disagreed with our finding on the conflict of interest created by him taking Coffeyville's forfeiture cases as a private attorney.** In his response, the Montgomery County Attorney raised a concern that our audit did not assess K.S.A. 19-247 (c) and (f). The County Attorney said this statute clearly states that a county counselor should handle all civil matters, including civil forfeitures. He further explained that the Montgomery County Counselor agreed he should be the first to handle all civil matters for the county. We agree that K.S.A. 19-247 allows a county counselor to handle civil matters for a county. However, nothing in state statute prevents the County Attorney from taking these cases. Additionally, our audit found that neither the County Attorney nor the county counselor handled the Coffeyville Police Department's forfeiture cases. Instead, the County Attorney acted as a private attorney when pursuing forfeitures for the police department. As stated in the report, this arrangement represents a clear conflict of interest and we think would likely violate state ethics laws were the Montgomery County Attorney a state employee. We agree that having the county counselor handle these cases would be one solution to eliminate the conflict of interest, as reflected in our recommendation. We did not modify our report because the information the County Attorney cited did not resolve the conflict we identified.

Further, the County Attorney's response did not make it clear whether he intends to implement the recommendation associated with this finding and our attempts to clarify this were unsuccessful. However, given his disagreement with the finding, it seems unlikely he will implement the recommendation.



Kansas Bureau of Investigation

Kirk D. Thompson
Director

Derek Schmidt
Attorney General

July 8, 2016

Scott Frank
Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

Mr. Frank,

We have reviewed the draft copy of the completed performance audit, *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds are Tracked, Used, and Reported*.

We appreciate your team's efforts and applaud their careful review of our policies, processes and practices. As an agency we regularly seek to improve how we conduct business. This external audit will be a valuable tool for reinforcing what we are doing well and will be an extremely useful guide for improvement in the areas noted in the report.

After a thorough review of this report, we concur with your findings as they relate to the KBI. While we believe we have a strong operational policy that has been well tested over the years, we recognize the need to update certain sections of that policy to bring us into alignment with recognized best practice. We also recognize the need and will create specific fiscal policies and procedures that address all aspects of handling forfeiture funds. Our work to improve those processes and implement an action plan has begun (see attached – *Itemized Response to LPA Recommendations*).

Thank you for your work and the professionalism demonstrated by your staff during this engagement.

Respectfully,

A handwritten signature in blue ink, appearing to read "K. Thompson", is written over a horizontal line.

Kirk Thompson, Director

cc: Kristen Rottinghaus

1620 S.W. Tyler / Topeka, Kansas 66612-1837 / (785) 296-8200 FAX (785) 296-0915

Itemized Response to LPA Recommendations

Audit Title: *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported*

Agency: **Kansas Bureau of Investigation (KBI)**

LPA Recommendation	Agency Action Plan
Question 2: Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?	
<p>1. To address the problem with its tracking controls, KBI should develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.</p>	<p>Effective July 1, 2016, all forfeiture fund deposit information, including information from the state accounting system (SMART), will be shared with the Forfeiture Program Manager (FPM), who oversees the operational side of the of the process. This information will be shared after each deposit is made by the Fiscal Office. The FPM will review and reconcile all investigative and deposit records at the time of each transaction and in conjunction with the Fiscal Office, on at least two other occasions throughout the year.</p>
<p>2. To address the problem with its expenditure approval process, KBI should develop a stronger process to request and approve expenditures from the forfeiture fund to limit the number of changes made to the requests after the associate director's approval.</p> <p>KBI should also require the associate director to re-sign any vouchers that require changes after his initial approval.</p>	<p>Effective July 1, 2016 all transactions related to asset forfeiture funds, including journal voucher adjustments or deposit adjustments must be approved or re-approved, in writing, by either the Director, or his designee, the Associate Director of the KBI. A stronger review process will be developed and every effort will be made to limit voucher adjustments once a funding source determination has been made.</p>
<p>3. To address the problem with its financial policies and procedures, KBI should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.</p>	<p>The KBI will create specific fiscal policy and procedures for handling, depositing and expending forfeiture funds. The directives will address all aspects of the process to include items #1 and #2 above. This guidance is expected to be completed in the first quarter of FY2017.</p>

July 7, 2016

Scott Frank, Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson St., Suite 1200
Topeka, KS 66612-2212

Re: Performance Audit - *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported.*

Dear Mr. Frank:

I have had the opportunity to review the performance audit report regarding seized and forfeited property in Kansas, dated June 24, 2016, and offer the following response to the audit recommendations.

Question 1: How Does Kansas's Property Seizure and Forfeiture Process Compare to Other States?

The audit team compared the seizure and forfeiture process in Kansas to Iowa, Missouri, Nebraska, New Mexico and the federal government. The team found that Kansas is similar to other states and the federal government in terms of what property can be seized by law enforcement agencies and under what conditions. However, the forfeiture process varied across all 4 states and the federal government.

Several of the areas tested included the procedures and policies used to seize property, maintenance of inventory, and storage and safeguarding seized property. The report indicates the Kansas Highway Patrol (KHP) is compliant with Kansas statutes and best practices in all of the areas tested.

Question 2: Are Law Enforcement Agencies Following State Legal Requirements and Best Practices for Property Seizure and Forfeitures?

The report includes four Legislative Post Audit (LPA) recommendations to improve processes for liquidating and tracking state forfeited property. The first is a recommendation for the KHP to contact the Department of Administration officials to determine how best to track money not yet forfeited to the agency separately from money that has been legally forfeited to the agency. Currently, cash is converted to a cashier's check soon after the seizure to reduce the risks associated with having large quantities of cash on site and to adhere to K.S.A. 75-4215, which requires agencies to deposit all moneys to the state treasurer daily. The seized cash is deposited to the same fund as the forfeited cash, but it is tracked and monitored in a KHP database to ensure the seized cash is not spent before it is forfeited. While the audit report acknowledges the KHP has a strong control because it quickly converts and deposits the seized cash to reduce the risks, it does recommend accounting for the seized cash separately from the forfeited cash.

A new budget unit, "Pending State Forfeiture," will be established in FY 2017 to track seized cash. A transfer will be processed from the new budget unit to the existing budget unit once the case is closed and the seized cash becomes forfeited. Effective FY 2018, the KHP will establish a trust fund where seized state forfeiture funds will be deposited until forfeited. The funds would then be transferred to the existing State Forfeiture Fund. The Department of Administration has approved the accounting process to track these funds separately.

Scott Frank, Legislative Post Auditor
July 7, 2016
Page 2

The report lists a recommendation to develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture case. As part of the work of the audit team, a reconciliation was completed of the KHP state forfeiture fund and no problems were noted.

Beginning in FY 2016, the Accounting Director provides a quarterly transaction listing of all deposits in the state forfeiture fund to the Lieutenant overseeing the state forfeiture program. The Lieutenant and Asset Forfeiture Coordinator track all pending and completed state forfeiture cases in a KHP database, which is used to reconcile and compare to the listing of deposits from Accounting. This reconciliation process will ensure all forfeiture proceeds are deposited, and that all deposits in the forfeiture fund are associated with a state forfeiture case.

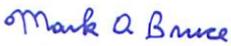
The third LPA recommendation listed in the report notes drug-tax stamp proceeds should be deposited in a different fund or assign a unique account number to the deposits so the funds can be tracked separately from state forfeiture proceeds.

The current practice of the KHP is to assign a unique project and activity (i.e. DRUG_TAX) to each drug-tax stamp deposit in the state forfeiture fund. The designation of "DRUG_TAX" allows these transactions to be identified and tracked separately in the state forfeiture fund. Per the recommendation of the LPA staff, when the drug-tax stamp proceeds are expended, the same designation will be assigned to the transaction.

Finally, there is a recommendation listed to create policies and procedures that clearly address all aspects of the seizure and forfeiture process. The KHP Fiscal Office adheres to the Department of Administration's cash management and accounting procedures for all funds, including the state forfeiture fund. The KHP Fiscal Office will develop a desk manual that includes instructions on how to deposit state forfeiture funds to satisfy this recommendation.

I appreciate the opportunity to respond to the performance audit report and would like to thank Kristen Rottinghaus and your staff for their efforts in compiling the report.

Sincerely,


MARK A. BRUCE, Colonel
Superintendent

Itemized Response to LPA Recommendations

Audit Title: *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported*

Agency: Kansas Highway Patrol (KHP)

LPA Recommendation	Agency Action Plan
Question 2: Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?	
1. To address the problem with its liquidation controls, KHP should work with Department of Administration officials to determine how best to track money not yet forfeited to the agency separately from money that has been legally forfeited to the agency.	A new budget unit, "Pending State Forfeiture," will be established in FY 2017. Seized cash will be deposited to the new budget unit, then transferred to the existing budget unit when the funds are forfeited. In FY 2018, a trust fund will be established to deposit the seized cash to until the funds are forfeited. Again, the funds will then be transferred to the existing state forfeiture fund once forfeited. The Department of Administration has approved both of these accounting methods for tracking the funds separately.
2. To address the problems with its tracking controls, KHP should:	
a. Develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.	The pending and completed state forfeiture cases are tracked in a KHP database and managed by the Troop N Lieutenant and Asset Forfeiture Coordinator. Beginning in FY 2016, the Accounting Director provides a quarterly transaction listing of all deposits to the state forfeiture fund to the Troop N Lieutenant. The Troop N Lieutenant reconciles deposits from the transaction listing with case data in the KHP database to ensure all deposits are associated with a state forfeiture.
b. Deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.	Currently, each drug-tax stamp deposit is designated with a unique project and activity (i.e. DRUG_TAX) in SMART when deposited to the state forfeiture fund. The unique designation allows us to easily identify the drug-tax stamp deposits. Per the recommendation of the LPA staff, when the drug-tax stamp proceeds are expended, the same unique project and activity will be used to account for these transactions.
3. To address the problem with its financial policies and procedures, KHP should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.	The KHP adheres to the Department of Administration's cash management and accounting procedures for all funds, including the state forfeiture fund. The Fiscal Dept. will develop desk procedures to provide instructions on how to deposit state forfeiture funds.



Coffeyville Police Department

7th/Walnut • P.O. Box 1629 • Coffeyville, KS 67337
Kwin Bromley, Chief of Police • 620-252-6160

July 8, 2016

Scott Frank
Legislative Post Auditor
800 Southwest Jackson St. Suite 1200
Topeka, KS 66612-2212

Mr. Frank,

Thank you for the opportunity to take part in the Legislative Post Audit process. I wanted to let you know that the Legislative Post Audit staff team members were very professional and helpful during the entire audit process.

I have reviewed the audit of the Coffeyville Police Department's asset forfeiture process, and have begun taking the findings and recommendations of the audit team and making the necessary policy and procedural changes necessary to be in compliance with state statute.

However, due to budgetary constraints and the lack of appropriate facilities locally, it is unlikely that we will be able to store the seized vehicles inside a building as recommended under "best practices". I would like to point out that we are currently in the process of installing several surveillance cameras and additional exterior lighting to the impound facility. This in addition to our 8' heavy gage chain link fence, barbed wire, mesh privacy screen, security alarm system, outdoor lighting, and security patrols should deter possible future security threats to the facility.

The Coffeyville Police Department is committed to providing the citizens of Coffeyville with quality police services and look forward to any future follow-up review of our forfeiture process you might have.

Respectfully,

Kwin Bromley

Itemized Response to LPA Recommendations

Audit Title: *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported*

Agency: Coffeyville Police Department

LPA Recommendation	Agency Action Plan
Question 2: Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?	
1. To address the problems with its safeguarding controls, Coffeyville should:	
a. Send a notice of seizure as required by state law.	The notice of seizure has been incorporated into the police department's policy manual. Chapter 1300, Directive 1304, Section 4.
b. Conduct a periodic review of its inventory to ensure it can account for all the seized property that should be in its possession.	Periodic reviews of seized property inventory is incorporated into the police department policy manual. Chapter 1300, Directive 1303, Section 6.
c. Increase the security around their storage locations or try to find more suitable locations to store seized property.	Security cameras have been requested. Additional lighting is currently being examined.
2. To address the problem with its liquidating controls, Coffeyville should develop a written policy prohibiting employees from purchasing forfeited property.	The liquidating controls; prohibiting employees from purchasing forfeited property has been incorporated into the police department's policy manual. Chapter 1300, Directive 1304, Section 4, Sub-section 4.6.
3. To address the problems with its tracking controls, Coffeyville should:	
a. Develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.	City of Coffeyville Finance will submit a quarterly report to the police department to ensure that all deposits made into the forfeiture account are associated with a state forfeiture. The above process has been incorporated into the police department's policy manual. Chapter 1300, Directive 1304, Section 4, Sub-section 4.8. Asset forfeiture training has been incorporated into the police department's policy manual. Chapter 1300, Directive 1304, Section 7, Sub-section 7.1.
b. Deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.	City of Coffeyville Finance will create a separate line item for Kansas Drug-Tax Stamp proceeds.
4. To address the problem with its annual reports, Coffeyville should submit an annual report to their budget authority with the information required by state law.	The City Finance Director submits an annual report to the governing body (City Commission) annually. The City Commission has the opportunity to review the asset forfeiture revenue and expenditures during the budgeting session and at any time throughout the year. The revenue and expenditures report contains detailed information pertaining to the amount forfeited and from whom the property was forfeited from.
5. To address the problem with its financial policies and procedures, Coffeyville should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.	A financial policy and procedure is currently being drafted to clearly address all aspects of seizure and forfeiture process.



IOLA POLICE DEPARTMENT

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Email: lolapd@iolaks.com

JARED WARNER

Chief of Police

Scott Frank
Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66612-2212

06 July 2016

Dear Mr. Frank,

I would first like to commend your staff for their courteous and professional disposition during the audit process.

I have reviewed the draft audit report and responded in detail to each LPA recommendation on the supplied Itemized Response Form. All state legal requirements and best practices cited in the audit will be corrected and/or implemented by the department. The department has drafted an Asset Forfeiture policy and procedure that should have approval by end of July. Officers will be trained on Kansas State Statue and Iola Police Departments Asset Forfeiture policy/procedure; additionally training will be documented in the departments training files. Construction of the new secure vehicle storage/impound lot in a new location should be completed by the end of August 2016, to replace the existing impound lot.

Thank you for this opportunity to respond. Please let me know if you have any questions or need additional information.


Jared A. Warner
Chief of Police
City of Iola

Itemized Response to LPA Recommendations

Audit Title: *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported*

Agency: *Iola Police Department*

LPA Recommendation	Agency Action Plan
Question 2: Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?	
1. To address the problems with its safeguarding controls, Iola should:	
a. Send a notice of seizure as required by state law.	Department developed a Notice of Seizure Form that it is currently being utilized by staff as of 6/22/2016.
b. Conduct a periodic review of its inventory to ensure it can account for all the seized property that should be in its possession.	Department will inventory seized property on a quarterly basis. First inventory will be in September for the 3rd quarter of 2016. Included in new policy.
c. Increase the security around its vehicle storage lot or try to find a more suitable location to store its seized vehicles.	Department will build a new storage facility for vehicles in a different location. Should be completed by the end of August 2016.
2. To address the problem with its liquidating controls, Iola should develop a written policy prohibiting employees from purchasing forfeited property.	New policy has been developed that prohibits Iola Police Department employees from purchasing seized property.
3. To address the problems with its tracking controls, Iola should:	
a. Develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.	Policy has been developed, officers will be trained on new policy. Case number and fund line item number will be included on all deposit slips from the city clerks office.
b. Deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.	Different line items have been created by the city clerks office to separate state forfeiture, drug tax and federal forfeiture.
4. To address the problem with its annual reports, Iola should submit an annual report to their budget authority with the information required by state law.	Department will submit annual reports in accordance with state law to our budget authority.
5. To address the problem with its policies and procedures, Iola should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.	Department has developed a policy and procedure that covers the seizure and forfeiture process.
6. To address the problem with how it counts seized cash, Iola should have two people present when seized cash is counted to ensure the count is accurate.	Department's new policy requires two officers to verify seized cash count.

LARRY MARKLE
Attorney at Law
300 East Main
Independence, KS 67301
(620) 330-1020

July 7, 2016

Scott Frank
Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-221

Re: Forfeitures

Dear Mr. Frank:

This is my response to your letter dated June 24, 2106 and the attached draft report. Your analysis is faulty and your conclusions in error.

1. Your report ignores K.S.A. 19-247(c) and (f) which clearly states that the County Counselor should handle all civil matters.
2. The County Counselor, Paul Kritz, agrees that forfeitures should be handled first by the County Counselor.

These Statutes and the language referenced were pointed out to the investigators. However you chose to intentionally omit this information from your report.

Sincerely,

LARRY MARKLE



SEDGWICK COUNTY, KANSAS

SHERIFF'S OFFICE
Jeff Easter
Sheriff

141 WEST ELM * WICHITA, KANSAS 67203 * TELEPHONE: (316) 660-3900 * FAX: (316) 660-3248

June 30, 2016

Scott Frank, Legislative Post Auditor
Legislative Division of Post Audit
800 Southwest Jackson St., Suite 1200
Topeka, KS. 66612-2212

Mr. Frank,

After reviewing the draft copy of the recent performance audit performed by your office, we offer the following comments and details of any actions taken or to be taken in the future by our agency to address recommendations and critiques by your LPA staff.

As defined by statute, the Sedgwick County Sheriff's Office is aware of the requirement to provide an annual forfeiture fund report to the local budget authority (Board of County Commissioners) detailing funds received, expended and the type and value of forfeited properties. Through our internal accounting county software, any county official can self-generate a "real time" report of the required financial information which details individual forfeiture fund expenditures and a listing of forfeiture revenue funds received. It has historically been the opinion of the Sheriff's Office that this easily accessible "real time" accounting report was sufficient to provide the required information while meeting statutory guidelines. As reviewed by your staff during the audit process, we were advised the local accounting report did not meet all of the specific criteria as defined by statute and the Sheriff's Office should create a separate, detailed report to provide to the budgetary authority. That separate report has now been created and will be delivered to the Board of County Commissioners on an annual basis as recommended.

Currently, the Sedgwick County Sheriff's Office does not have specific written policy governing the utilization of state asset forfeiture funds and what expenditures are allowable. Internally, we have made a conscious decision to follow federal asset forfeiture guidelines when spending state asset forfeiture funds. With thorough review of the Kansas statutory guidelines defining how state forfeiture funds can and cannot be used versus the federal guidelines which define proper use of federal forfeiture funds in greater detail; we have found the federal guidelines to be much more structured and definitive for our purposes. Even though procedures are internally in place within the Sheriff's Office, we have no written policy stipulating such. At our next quarterly policy review meeting in August, we will be submitting such a policy for consideration to clearly articulate what are permissible uses for forfeiture funds (state and federal) and the processes to facilitate such purchases as defined in both Sheriff's Office policy and county purchasing guidelines.

Within the Sedgwick County finance and budget structure, there are many different cost centers assigned to the varied county departments and elected offices for specific funds allocated by functional areas, services provided, or special account needs. Historically the Sedgwick County Sheriff's Office has had one defined cost center for all incoming state asset forfeiture and drug tax stamp revenue funds. While the funds were indeed mixed together, they were tracked independently with regards to actual funds received and expended. As recommended by the LPA auditors, we have now separated the two revenue streams (state asset forfeiture and drug tax stamp) into two independent cost centers with no mixing of funds and separate accounting for actual expenditures.

Looking ahead to our upcoming quarterly policy review meeting in August, the Sedgwick County Sheriff's Office will be reinstating a policy that restricts any Sheriff's Office employee from purchasing any court ordered forfeited property at public auction or sale. The Sedgwick County Sheriff's Office previously had such a policy in place but it was rescinded in the recent past due to the anonymous property identification and buyer identification methodology used by the current contract vendor that sells such property at public auction on behalf of Sedgwick County and/or the Sheriff's Office. With no case numbers or other identifiable law enforcement information tied to the individual property items being sold, we felt such a policy was no longer needed.

A final recommendation by the LPA auditors pertained to the tracking of deposits made by the Sedgwick County Sheriff's Office to the Sedgwick County Treasurer's Office. It has been the opinion of the Sheriff's Office that once funds are literally handed over to officials within the Sedgwick County Treasurer's Office and a treasurer's receipt is provided to Sheriff's personnel detailing the transaction, the Treasurer's Office has a statutory obligation to deposit the funds in the proper Sheriff's Office account. Operating as an independent elected official, the Sheriff's Office has no authority to give direction or have access to any accounting procedures occurring within the Treasurer's Office. Not having access to the revenue side of the county's accounting program, tracking of such deposits has always occurred between the Treasurer's Office and county finance. The finance department reconciles bank deposits from the Treasurer's Office on a daily basis and has the ability to see electronic images of every deposit made. While we understand the need for the Sheriff's Office to be more directly involved in the tracking of such state asset forfeiture deposits, we are limited by virtue of the large size of the county structure, the number of other stakeholders in the process and the access each player has in their particular part of the equation. While there currently is not a solution to address the recommendation, the three primary stakeholders are working one. Looking back from a historical view, the Sedgwick County Sheriff's Office cannot identify at any time where there has been an issue of missing or lost funds deposited through the Treasurer's Office.

In closing, we found the Legislative Post Audit process to be very interesting. Providing all of the requested documentation, on site inventory audits, interviews of selected personnel and outside stakeholders along with the barrage of questions and answers from both sides, the Sedgwick County Sheriff's Office had an opportunity to take a close and critical internal look at itself. The Sheriff's Office places significant value in the many policies and practices we have in place to ensure compliancy and accuracy on all levels. Overall, the audit has shown us that we have a well-defined system which supports that premise.

Best regards,


Jeff Easter, Sheriff
Sedgwick County, Kansas

Itemized Response to LPA Recommendations

Audit Title: *Seized and Forfeited Property: Evaluating Compliance with State Law and How*
Agency: *Sedgwick County Sheriff's Office*

LPA Recommendation	Agency Action Plan
Question 2: Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?	
1. To address the problem with its liquidation controls, Sedgwick County should re-implement their written policy prohibiting employees from purchasing forfeited property.	The Sedgwick County Sheriff's Office will reinstate an internal policy which will restrict any Sedgwick County Sheriff's Office employee from purchasing any court ordered forfeited property at any public auction or sale. This will occur once presented and reviewed at our next scheduled policy review meeting in August , 2016
2. To address the problems with its tracking controls, Sedgwick County should:	
a. Develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.	Currently we do not have a viable solution for this LPA recommendation. Personnel of the Sedgwick County Sheriff's Office make regular deposits of asset forfeiture funds through the Sedgwick County Treasurer's Office, an independent elected office with it's own policies, procedures and internal accounting software of which the Sheriff's Office does not have access to. The Sheriff's Office receives a detailed transaction receipt of the deposit and the Treasurers Office then makes a bank deposit accordingly. Deposit information is transmitted to the finance department, which is then reconciled the same day and records the revenue within the appropriate Sheriff's Office fund center. All three stakeholders are reviewing the individual roles involved and working towards a comprehensive solution that will allow the sharing of data. There currently is no defined schedule or time frame available for this project as it is a county level matter and beyond the control of the Sheriff's Office.
b. Deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.	This recommendation has been addressed and the drug tax stamp revenue funds and expenditures have been separated from the state asset forfeiture funds. They are each assigned newly created individual cost centers that are not mixed.
3. To address the problem with its annual reports, Sedgwick County should submit an annual report to their budget authority with the information required by state law.	As recommended by the LPA auditors, a separate annual report have been created for the budgetary authority. We will no longer use the internal "real time" accounting report as our reporting method.
4. To address the problem with its financial policies and procedures, Sedgwick County should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.	To document our current internal practices of adhering to federal asset forfeiture guidelines for all (state and federal) expenditures, the Sedgwick County Sheriff's Office will present a new policy for review in August that will clearly define acceptable uses and the procedures required to facilitate all purchase as defined in Sheriff's Office policy and county purchasing guidelines while doing such within the well defined federal asset forfeiture guidelines that offer more detail and greater structure than those statutory requirements associated with state asset forfeiture.



CITY OF SALINA

DEPARTMENT OF

POLICE

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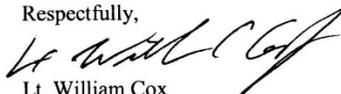
June 29, 2016

Mr. Frank,

Being the first local agency to go through the post audit review, I feel it was a learning experience for me, my staff and the audit committee members. Through the review process, we learned we had some minor deficiencies that need to be addressed. Most of the deficiencies can be fixed by simple procedural changes or by adapting or generating department policies. In the past few years the Salina Police Department has had several supervisory changes which can bring up changes that need to be made in standard operating procedures. The Salina Police Department is a CALEA accredited department and is required to meet numerous standards to obtain and maintain this status. These standards change periodically and the department is required to change to meet these new standards. The Salina Police Department will work to make any necessary changes to be in compliance with the State of Kansas civil forfeiture laws.

In working with the audit committee, I felt there were times that the communication between us may have caused some issues or caused some documents to not be presented. Working with auditors who see the financial workings as very rigid, versus law enforcement who see the financial workings as fluid but with a system of checks and balances, causes some differences. In some instances the auditors did not make it clear as to the documents they needed in order to answer their question. After the committee left Salina, I had several telephone conversations with different auditors to answer questions or to send documents that would answer the questions they had. Some areas of this report do not reflect this communication, and as a result some of the statements in the document are not true. Some of this confusion may be due to this being the first audit done in 15 years and the lack of any statewide training on how the State of Kansas wants or requires some records to be kept and how the reporting is to be conducted. I asked the audit committee members about possible training and was told no training will be conducted. I would ask that the State put together some training on civil forfeiture proceedings to ensure all agencies in the State of Kansas are on the same page. Given clear guidelines on how the State would like these processes to be completed would make any future audit reviews easier for all agencies involved.

Respectfully,


Lt. William Cox
Salina Police Department
I-135/I-70 Drug Task Force Commander

A Nationally Accredited Law Enforcement Agency

Rebuttal statements to deficiencies in Performance Audit Report

Safeguarding Phase:

The Salina Police Department and the I-135/ I-70 Drug Task Force keep files on all items that are seized for forfeiture. The active case files are kept separate from settled case files. The Audit Committee advised they wanted the records back to 2013 so a list was compiled from these files. This process was completed in a short time period. This list included all items seized to include vehicles. The seized vehicles are stored in a secured location with limited access by the Task Force Members.

Liquidating Phase:

The I-135/ I-70 Drug Task Force deposits the majority of the court ordered forfeiture money into the DTF General Fund Account, which is maintained by the Saline County Treasurer's Office. A practice of placing some of the court ordered forfeiture money into an office safe for daily operating funds has been in place for years. This money is recorded into a ledger and any and all expenditures or deposits require receipts and are reported. Each expenditure requires a receipt, a secondary officer signature and/or a signature of the person receiving the funds. Monthly reports are made and maintained. From this date forward all court ordered forfeiture money will be deposited into the DTF General Fund Account.

The Salina Police Department does have a policy stating it's employees will not violate state law. A specific policy will be created which will address the issue in K.S.A. 60-4117(a).

Tracking Phase:

As stated above, all court ordered forfeiture funds will be placed into the DTF General Fund. Steps will be taken to separate forfeiture funds from any other funds in this account.

The example given in the report was from a 2013 case not a 2015 case. The supervisor in charge of the DTF at that time has since retired from the police department and documents tracking this deposit could not be located. Again, depositing forfeiture funds into the DTF General Fund should eliminate any tracking errors.

Using Phase:

Forfeiture money is used to pay the operating expenses of the I-135/ I-70 Drug Task which includes cellular telephone bills. The cellular telephones are used by the DTF agents to keep in contact with confidential informants and conduct business related transactions. If the task force unit was not in place the cellular telephones would not be needed thus they are not a normal operating expense.

Any major purchase of equipment for the drug task force is conducted through a purchase order process which includes approval of the board members. Verbal and/or written approval has been obtained in the past. The DTF Commander will ensure written approval from the DTF Board is obtained from this point forward.

Reporting Phase:

The I-135/ I-70 Drug Task Force reports to it's board of directors which includes the City of Salina Police Chief, the Saline County Sheriff, and the Saline County Attorney quarterly at a board meeting. This board is aware of any major transactions and of the items seized for forfeiture and the items that are forfeited to the task force. In the future an annual report will be prepared and presented to both the city and county commissioners.

Other issues:

The Salina Police Department does have a policy that specifically covers Task Force Funds. The policy does dictate that the accounts will be audited. In the examples given, it was reported one officer was off by \$20.00, this officer paid for a meal while out of town on training from his personal money and had not paid himself out of the working fund. The second officer was reportedly off by \$40.00. The committee member was told the money was in his vehicle and the officer offered to retrieve the money but the committee member denied the needed at that time. The agents left to conduct a drug buy and then officer reconciled the account with the committee member upon returning. The issue was also presented about money being left unsecured in the office. The DTF Office is a restricted access area and there is a Salina Police Department Policy and a CALEA Standard that addresses this due to criminal intelligence also being kept in the office. If no one is in the office the office door is closed and locked per policy.

On June 21, 2016, a telephone conference call was conducted and it was learned through this call that the committee was unaware that the DTF Unit does complete expenditure reports on all drug buys. Lt. Cox later spoke with an auditor and examples of these documents were sent to the committee. In the report, it states these documents do not exist. This is not a factual statement.

A policy will be implemented pertaining to the operational aspects of civil asset seizure and forfeiture as set forth by Kansas laws.

Itemized Response to LPA Recommendations

Audit Title: *Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported*
Agency: **Salina Police Department**

LPA Recommendation	Agency Action Plan
Question 2: Are law enforcement agencies following state legal requirements and best practices for property seizures and forfeitures?	
1. To address the problem with its safeguarding controls, Salina should incorporate vehicles seized for forfeiture into its existing evidence inventory system or create a separate mechanism to inventory these vehicles.	Any seized vehicles will be handled as evidence and documented as such. The Salina Police Department has policies in place for audits of the evidence controlled by the Salina Police Department Section.
2. To address the problems with its liquidating controls, Salina should:	
a. Deposit all forfeiture proceeds into its forfeiture fund. Salina should then go through its normal approval process to withdraw money for its drug-buy funds and working funds (e.g. vehicle repairs, training, and other expenses). Salina should not keep its working funds in a department safe.	All forfeiture proceedings will be placed into a fund that will be separated from any other funds. The Salina Police Department already had policies in place in regards to working funds and how they are kept.
b. Develop a written policy prohibiting employees from purchasing forfeited property.	This will be completed.
3. To address the problems with its tracking controls, Salina should:	
a. Develop a process, policy, and training to periodically reconcile the agency's inventory of forfeited property to the agency's forfeiture fund and to ensure that all deposits in the forfeiture fund are associated with a state forfeiture.	This will be completed.
b. Deposit drug-tax stamp proceeds in a different fund or assign them a unique account number so they can be tracked separately from state forfeiture proceeds.	This will be completed.
4. To address the problem with its expenditure approval process, Salina should require the chief or sheriff to document their approval of all expenditures made with forfeiture funds.	This has already been changed.
5. To address the problem with its annual reports, Salina should submit an annual report to their budget authority with the information required by state law.	This will be completed.
6. To address the problem with its policies and procedures, Salina should create policies and procedures that clearly address all aspects of the seizure and forfeiture process.	This will be completed.
7. To strengthen its controls surrounding its use of drug-buy money, Salina should:	
a. Withdraw money for drug buys from its forfeiture fund (which may still involve keeping this cash in a department safe).	The Salina Police Department has policies in place on drug buys and will add details to the policies to ensure buy monies are returned.
b. Set a limit on the amount that is allowed to be checked out to an officer.	This will be completed.
c. Require officers to return unused money within a short timeframe.	The Salina Police Department had policies in place in regards to working funds. Monthly and periodical checks will be conducted and recorded to ensure accuracy.