
MANAGING THE DRUG FUND

Municipal Technical Advisory Service
County Technical Assistance Service

Rex Barton

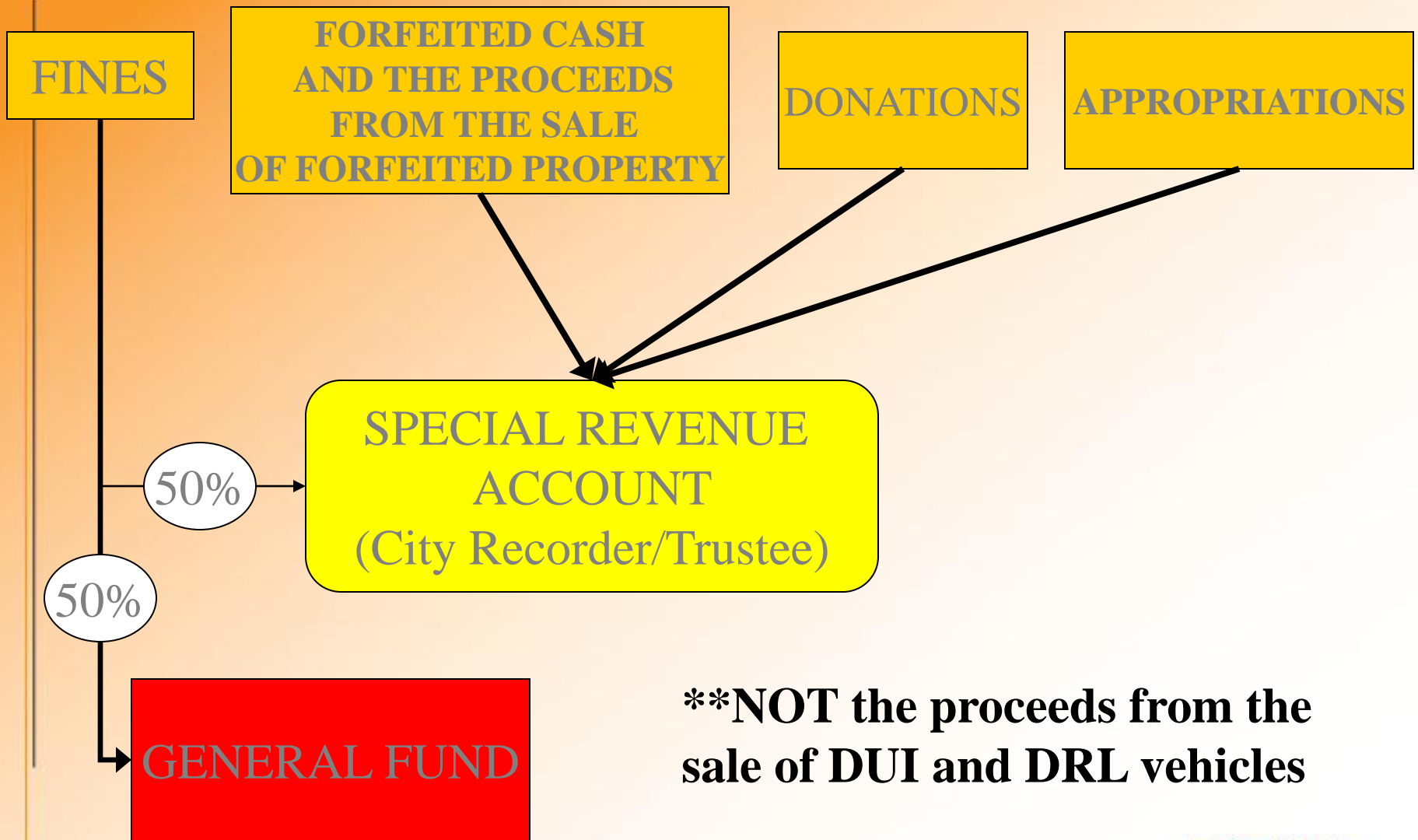
Terry Hazard

The “Drug Fund”

- The “drug fund” is a special revenue account.
 - Similar to solid waste fund account or street aid fund account.
 - ***It is under the control of the city recorder/trustee !!***
- Confidential expenditures are made from a separate account (*confidential account*).

Sources of Revenue

- Fines from drug offenses
 - 50% of the fine goes to the drug fund (special revenue account).
 - 50% of the fine goes to the General Fund.
- Forfeited cash and the proceeds from the sale of forfeited property.
- Donations.
- Appropriations from governing body.



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

LEGITIMATE EXPENDITURES

General Categories

- Local Drug Treatment Programs
 - Drug Court treatment programs
- Drug Education Programs
- Drug Enforcement
 - Operational expenses
 - Confidential expenses
- Non-recurring *General* Law Enforcement Expenditures
- Automated Fingerprint Machines

DRUG ENFORCEMENT

- Operational
 - Automobiles for Drug Investigators
 - Maintenance and Operational Expenditures for drug officers automobile
 - Telephone Charges, including cellular charges
 - Office Supplies and Office Equipment for Drug Investigation Officers
 - Drug Identification Kits For Drug Investigators and Patrol officers

DRUG ENFORCEMENT (cont)

- Operational (cont)
 - Drug Enforcement Training
 - Drug Dogs and Their Maintenance, Including Feed and Veterinary Service
- General Drug Enforcement Expenditures Are Not Confidential
 - Must follow city/county purchasing guidelines

NON-RECURRING GENERAL LAW ENFORCEMENT

- Not Drug Investigation related
- Expenditures:
 - Patrol or administrative vehicles
 - Blue lights, sirens, radios, and radar units
 - Video cameras
 - Handguns, but not ammunition
 - Fax machine or copier

NON-RECURRING GENERAL LAW ENFORCEMENT (cont)

- Expenditures (cont)
 - Patrol Dogs (non-drug dogs), but not feed or veterinary services
 - Treat dual trained dogs as drug dogs
 - Computers
 - Original software purchase, but not maintenance or upgrades

NON-RECURRING GENERAL LAW ENFORCEMENT (cont)

- Body armor
- Shotguns and rifles
- Tasers
- Cell phones, including smart phones
 - But not the monthly bills

AUTOMATED FINGERPRINT MACHINES

- Must set aside 20% of drug fund revenues until machine is purchased or have an agreement with another agency (having a machine)
- After purchase or agreement, may use 20% of revenues to pay for line charges and maintenance

Residual Value

- When items purchased with drug funds are sold, the funds received from the sale must go back to the drug fund

DONATIONS

- Any charitable donation must follow state law
- Cities
 - TCA 6-54-111
- Counties
 - TCA 5-9-109

DONATIONS,

Generally speaking

- Must be a 501(c) (3) (4) or (6) organizations
- Must provide financial reports, including audit, to government
- Funds for other non-profits, other than charitable organizations, may be made once notices have been published in a newspaper of general circulation, specifying amount and purpose
- Must be approved by governing body

DONATIONS,

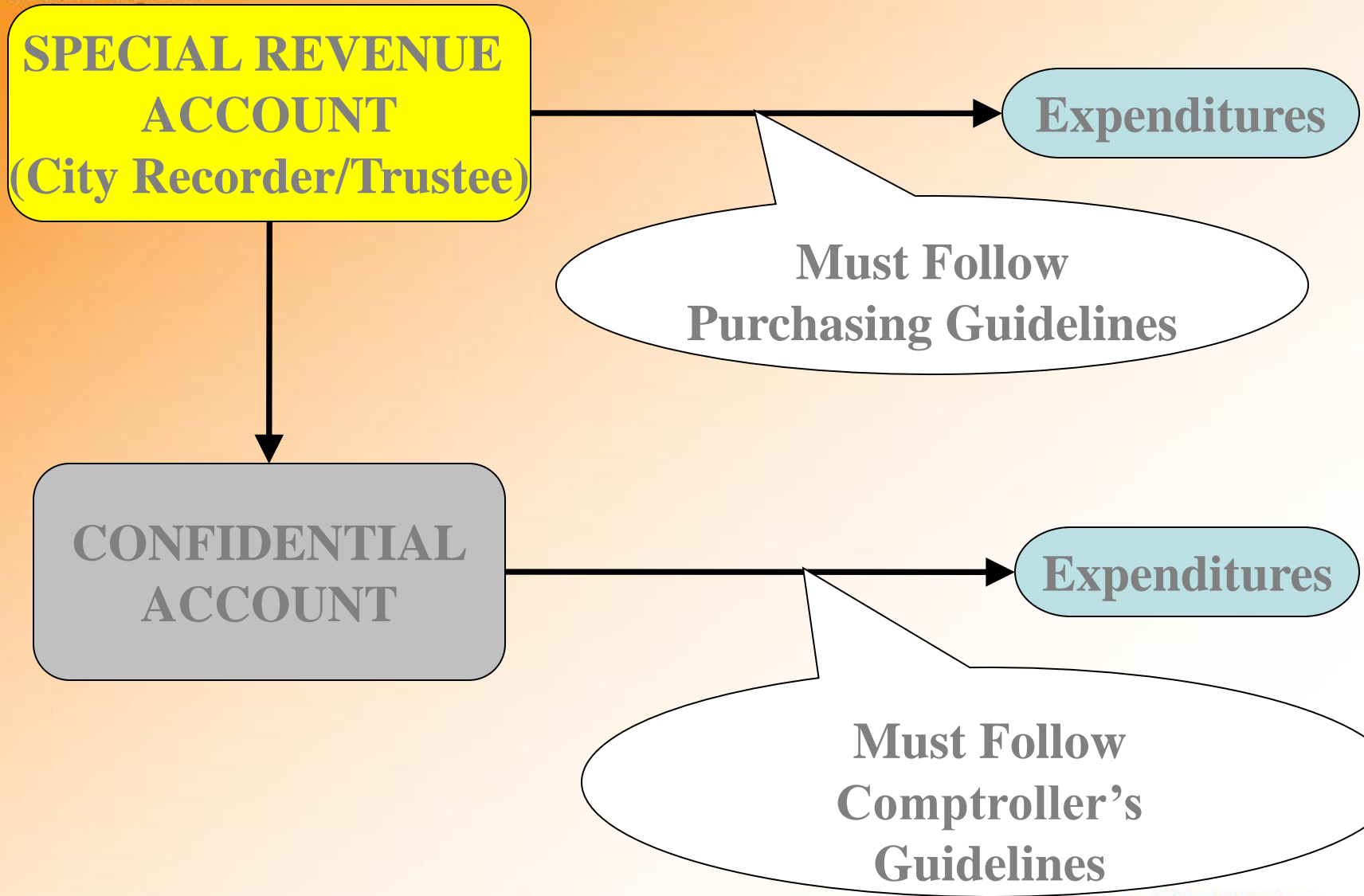
Generally speaking

- Any donation must meet the criteria of one of the qualifying expenditures categories
 - Drug treatment
 - Drug education
 - Drug enforcement
 - Non-recurring general law enforcement expenditures

DONATIONS,

Generally speaking

- Sponsoring a sports team is NOT drug education
 - Putting “Just say no to drugs,” on a jersey does not justify the expenditure
- Ask yourself, “What is the true purpose of the expenditure?”
- If it walks like a duck.....



The municipal “Drug Fund”, by statute, is under the control of the City Recorder whether it has a separate checking account or not.

County Trustee for counties

The “Confidential Checking Account”, authorized by the Comptroller in the *Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs*, is under the control of the Police Chief or Sheriff.

Purchasing Procedures

The Drug Fund, like any other fund of the municipality or county, is required to comply with municipal or county purchasing procedures.

Purchasing Procedures

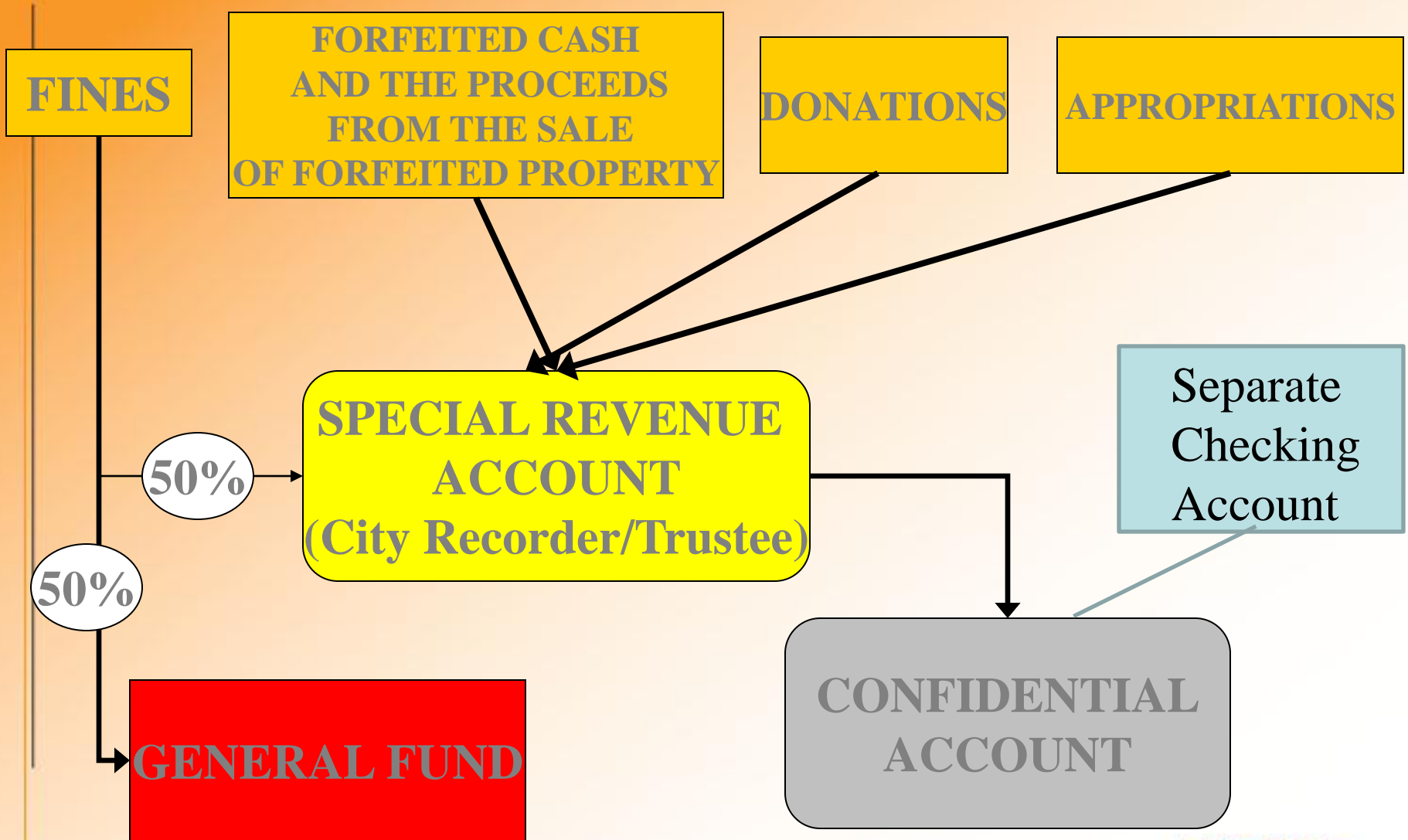
- Purchasing procedures may be found in:
 - Municipal Charter
 - Purchasing Ordinances
- If those are silent on the issue, you fall under the 1983 Municipal Purchasing Law.

Purchasing Procedures

- Purchasing procedures for counties may be found in:
 - General Law
 - Fiscal Control Act of 1957
 - County Financial Management System of 1981
 - Private Acts approved by the legislature

SPECIAL REVENUE ACCOUNT

- Under the control of the Recorder/Trustee
- Budget for drug fund approved annually
- Except confidential expenditures, **MUST** follow city/county purchasing guidelines
- Confidential Expenditures **MUST** follow Comptroller's guidelines



**SPECIAL REVENUE
ACCOUNT**
(City Recorder/Trustee)

Expenditures

Must Follow
Purchasing Guidelines

**CONFIDENTIAL
ACCOUNT**

Expenditures

Must Follow
Comptroller's
Guidelines

CONFIDENTIAL ACCOUNT

CONFIDENTIAL EXPENDITURES

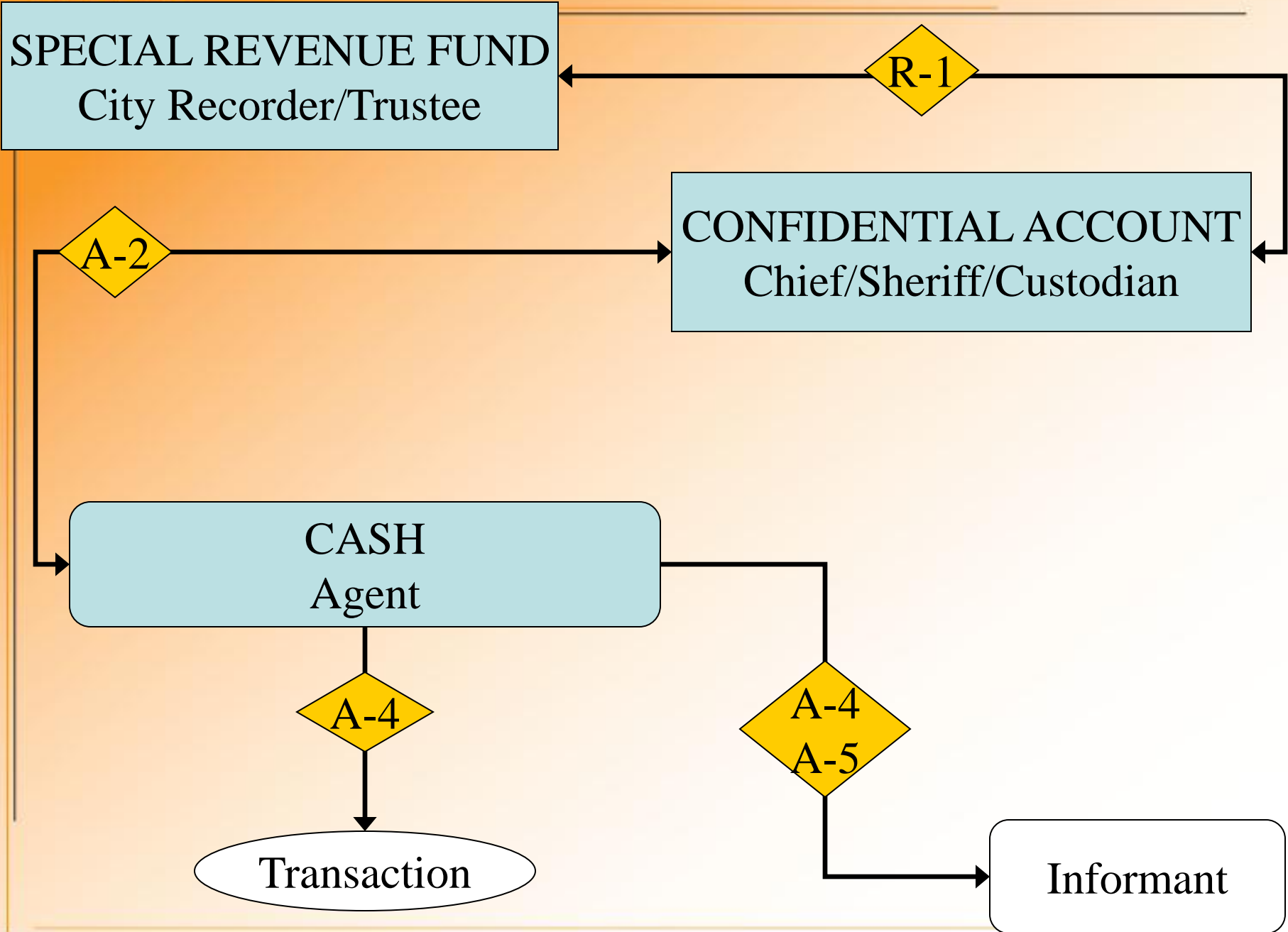
- Confidential Expenditures
 - Payments made to an informant
 - Payments made to an undercover agent
 - Money spent to actually purchase drugs as part of an investigation
 - Gasoline or maintenance for *undercover* vehicle or informant's vehicle
- ***Must follow Comptroller's Guidelines***

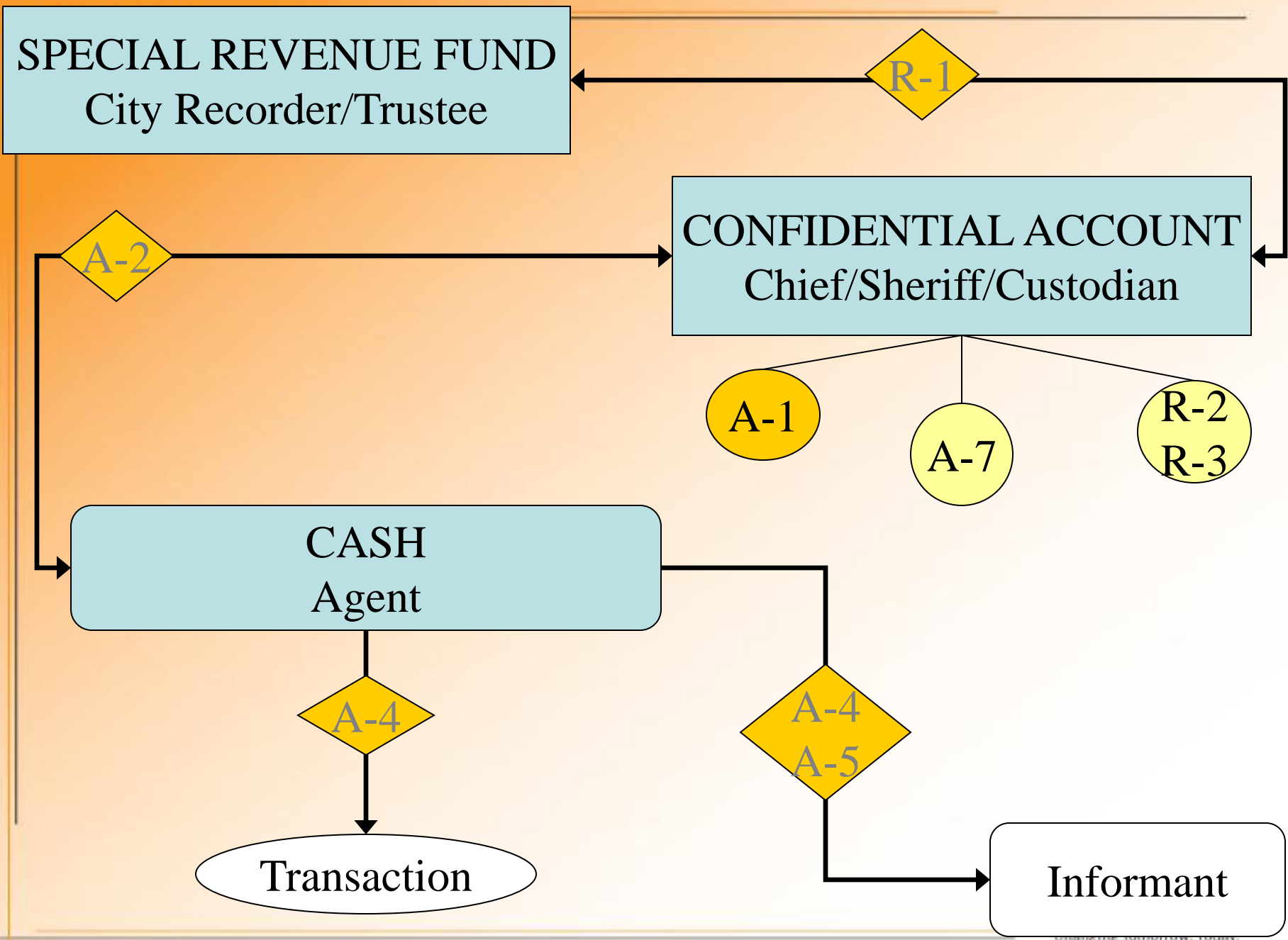
DOCUMENTATION

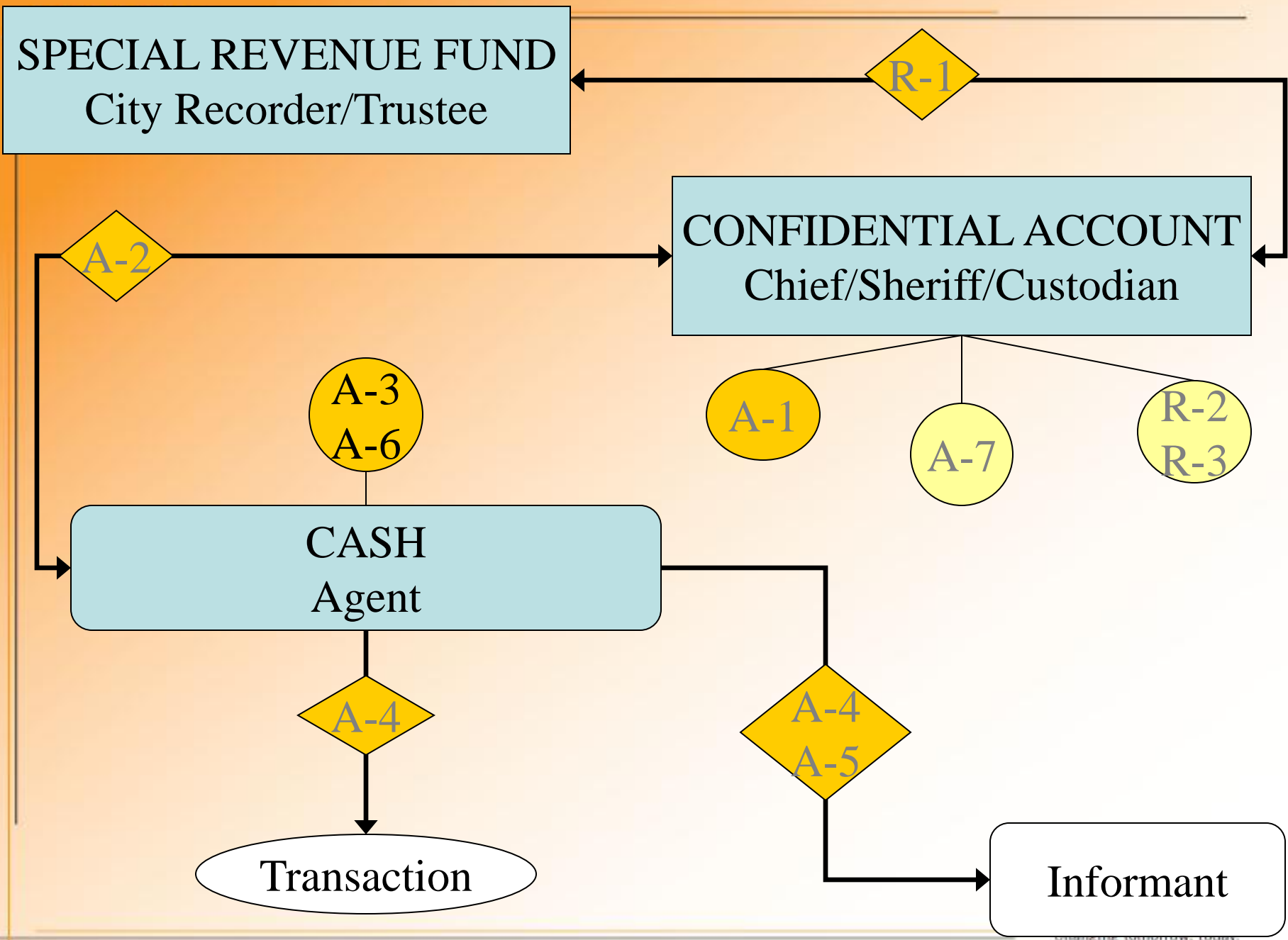
- Documentation for **every** exchange of funds
- Custodian:
 - Exchanges from or to Recorder/Trustee
 - Exchanges to or from agents
- Agents:
 - Every exchange of funds, and
 - Receipt from informant, witnessed

Audit Logs (Balance Ledger)

- Custodian:
 - “Custodian’s Activity Log for Confidential Transactions” Balance sheet
- Agent:
 - “Agent’s Activity Log for all Confidential Funds” Balance Sheet
 - “Summary Informant Log”, for each informant







SPECIAL REVENUE FUND
City Recorder/Trustee

R-1

CONFIDENTIAL ACCOUNT
Chief/Sheriff/Custodian

A-1

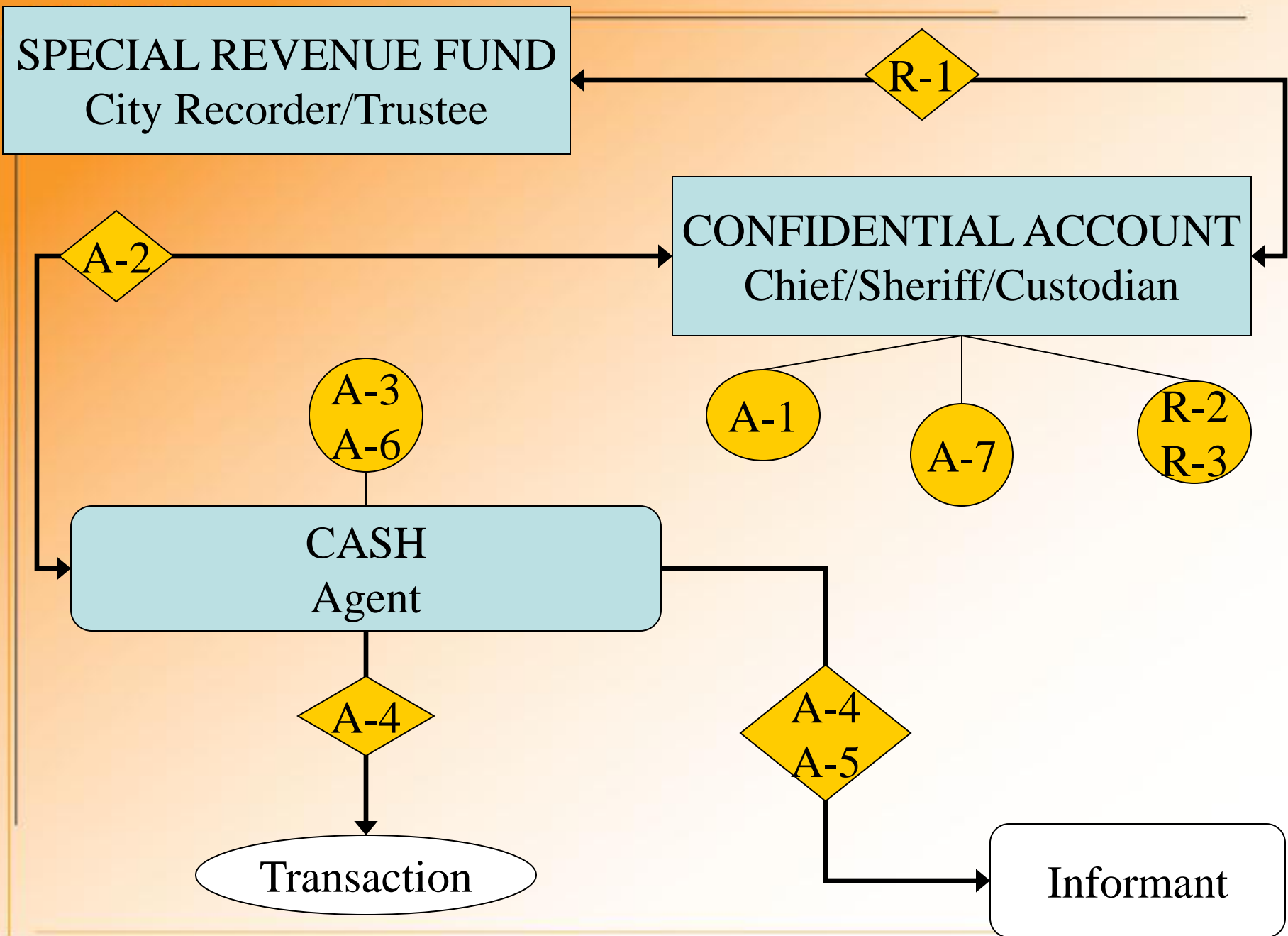
A-7

R-2
R-3

Custodian's Activity
Log for Confidential
Funds

Confidential Fund Monthly
Reconciliation Report

Quarterly Report



Managing informants?

Best Practices

Managing Informants

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

Informant Information

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

Proper Disposal of Property and Evidence

Authority

- State law authorizes the comptroller's office to promulgate rules for municipal and county processes
- Maintain the public's confidence
- The law requires counties and municipalities to meet compliance standards.
- Not restricted to financial matters, *includes processes*

Property and Evidence

- Secure property and evidence storage facility
- Procedures for property and evidence:
Institutional Control
 - Evidence that you follow the procedures
 - Officers store stuff in personal locker?
- Annual inventory

Priority Items

- Cash
- Firearms
- Drugs
- Vehicles

Cash

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

Cash

- All funds received by cities and counties must be deposited in the bank within 3 days
 - TCA 6-56-111(a) cities
 - TCA 5-8-207 counties
- When cash is needed as evidence officers should consult with appropriate prosecuting authorities

Interest Bearing Account?

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

Firearms

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

Sale of Firearms

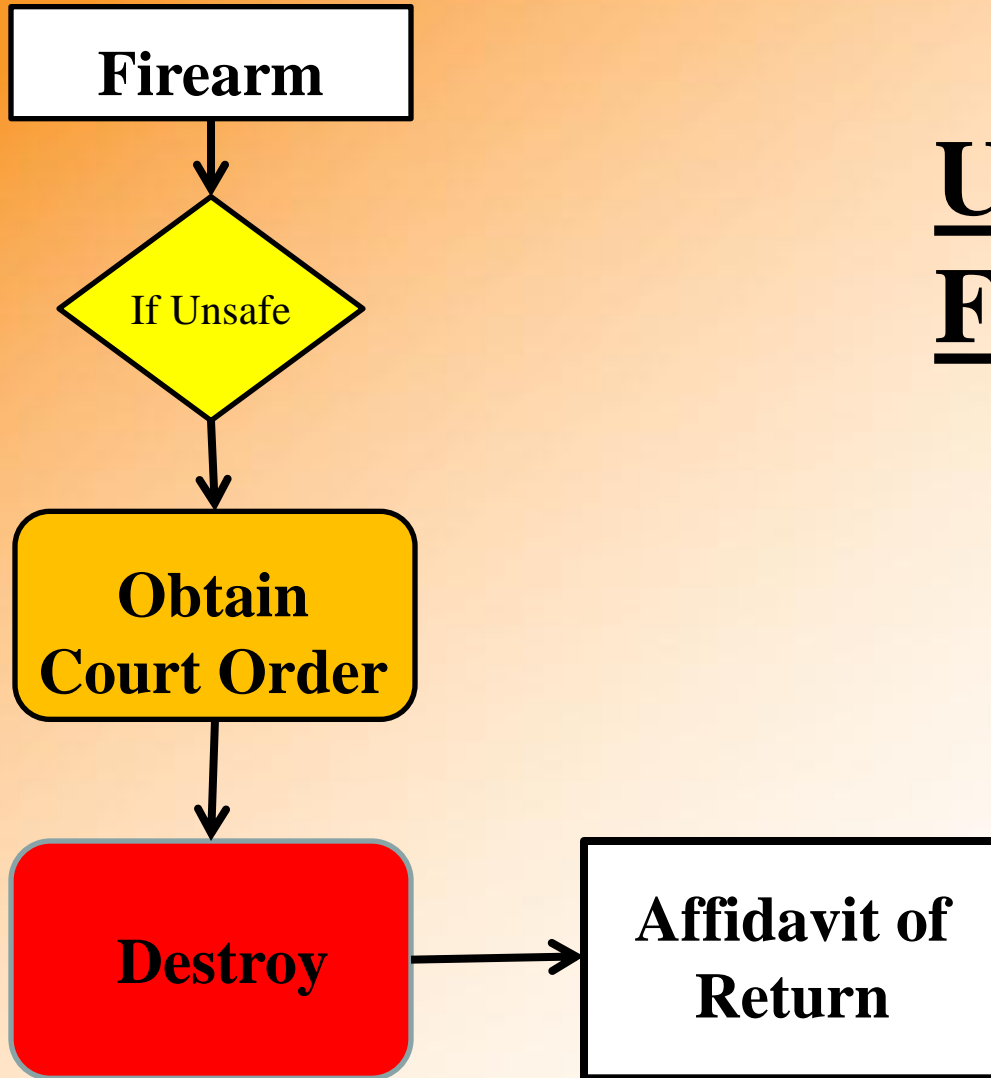
- Public Auction within six months of the court order
- Advertised in local newspaper for at least three editions and not less than 30 days before the sale
- Proceeds to the general fund to be used solely for law enforcement purposes

Firearms

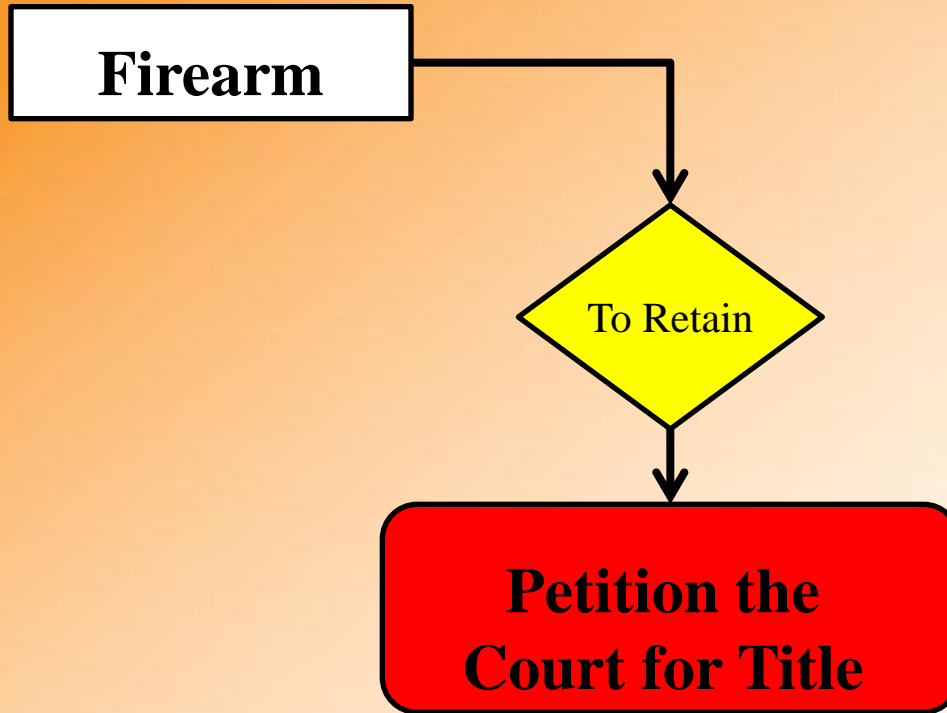
- Sell
 - Should contract with a licensed firearms dealer
- Retain
- You can exchange for ammo, firearms or body armor

FIREARMS

Unsafe Firearms



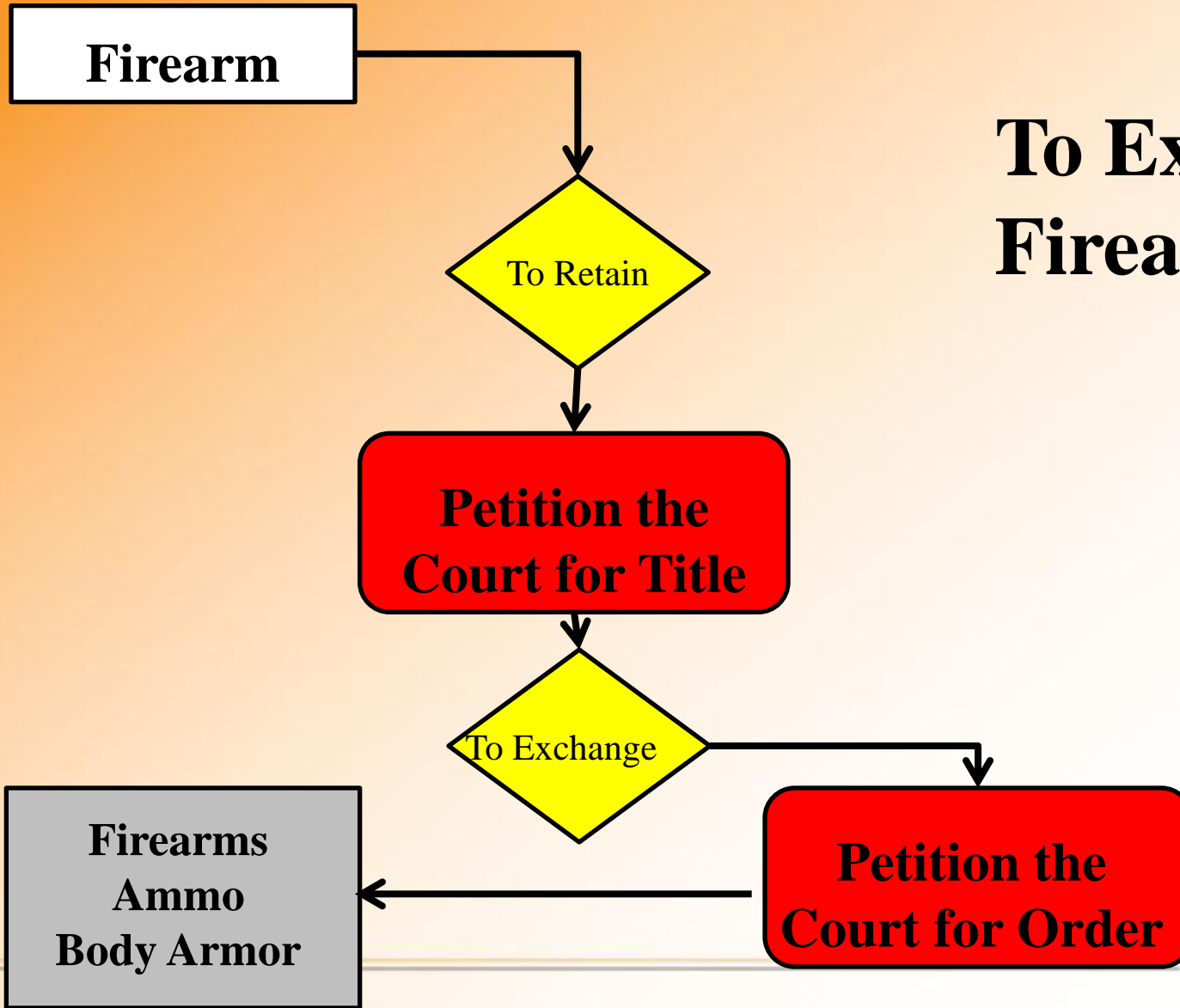
FIREARMS



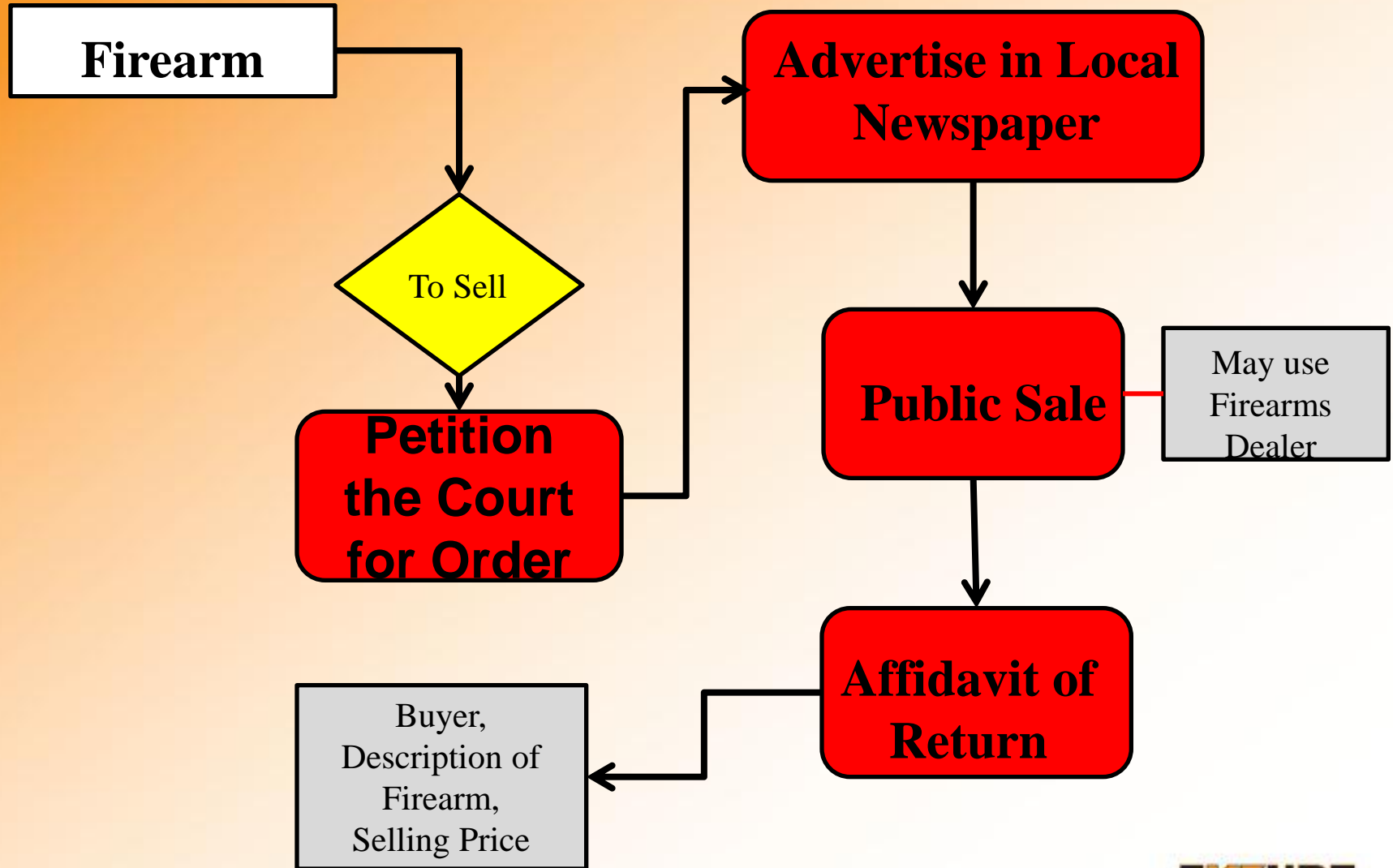
**To Retain
Firearms**

FIREARMS

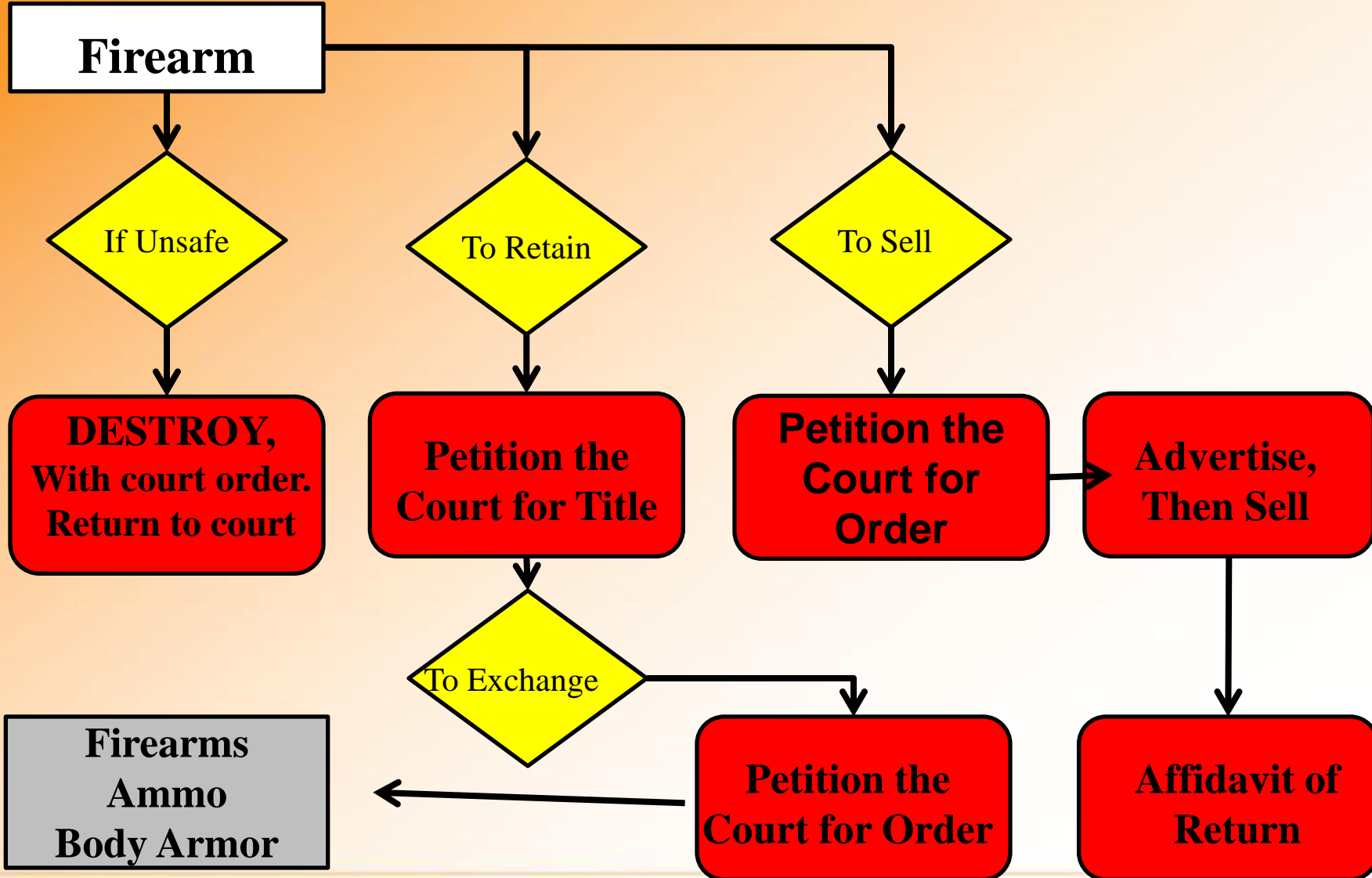
To Exchange Firearms



FIREARMS



FIREARMS



DRUGS

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

Drugs

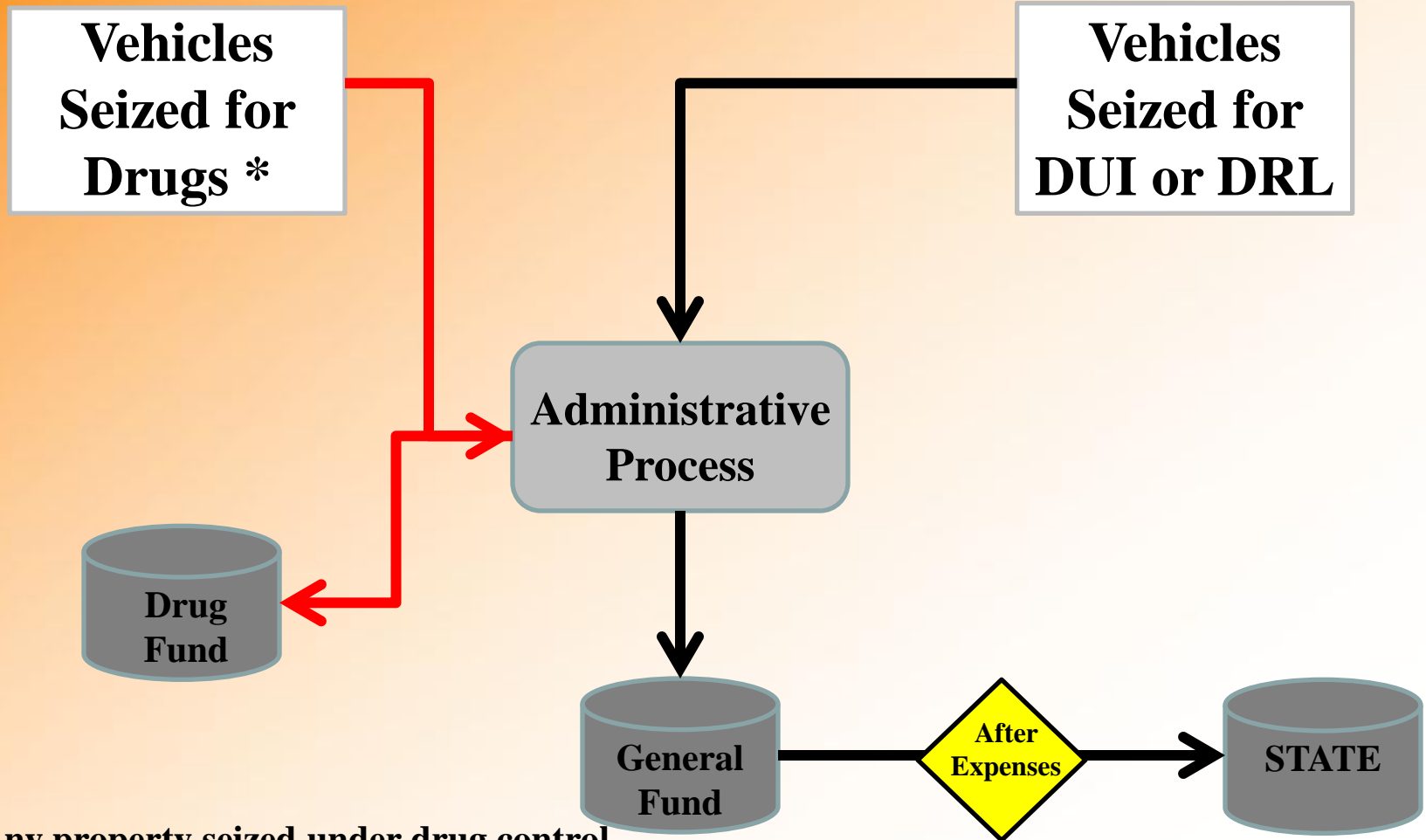
- Drugs are contraband and are to be destroyed *after adjudication*
- Never keep more than one year beyond adjudication

Vehicles

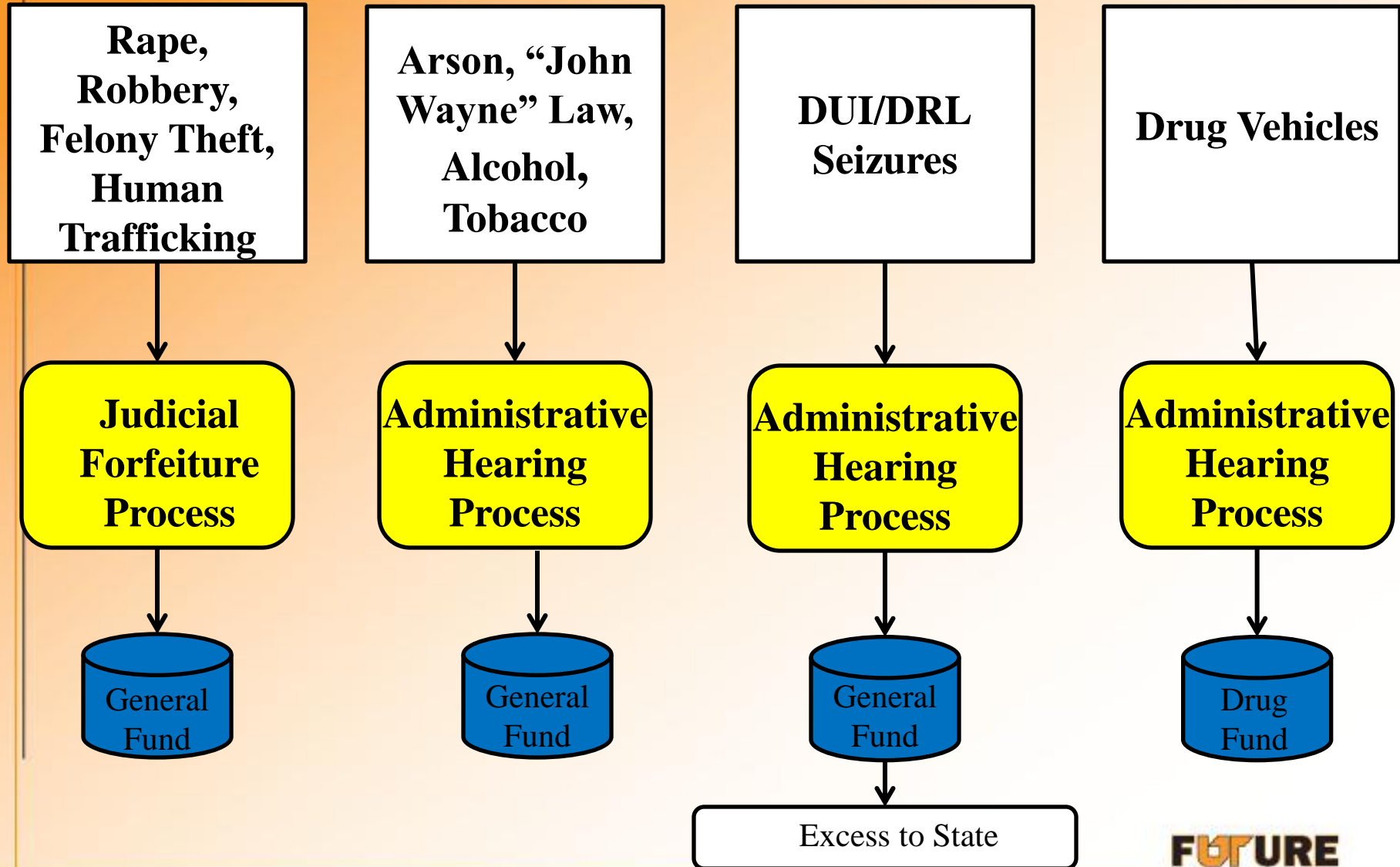
- Keep secure
 - In-house security
 - Vendor lot
- Maintain adequate inventory records
- Ensure that proceeds go where they are supposed to
- Do you have a daily storage fee for your lot?

DUI/DRL VEHICLES

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



* Any property seized under drug control act



Conveyance Seizures

- Judicial Process (40-33-101)
 - Sexual offenses
 - Robbery
 - Felony Theft
 - Human Trafficking
- Requires Conviction
- Judge orders forfeiture
- Administrative Process
 - Drugs
 - Proceeds to Drug Fund
 - DUI/DRL
 - Arson
 - “John Wayne” law
 - Bootleg Moonshine
 - Proceeds split with ABC
 - Untaxed tobacco

Can You Use the Cars?

- Vehicles seized for drug violations **OR** for DUI?DRL and forfeited to the city/county may be used for **DRUG ENFORCEMENT** purposes
- Must be sold after five years.

Lost or Abandoned Property

- Different for Police departments than sheriff's departments
- Sheriff's departments follow TCA 8-8-501
- Police Departments are subject to Uniform Disposition of Unclaimed Property Act

Uniform Disposition of Unclaimed Property Act

- All lost or abandoned property technically belongs to the state of Tennessee.
- They don't want most of it (particularly bicycles).
- Inventory and send a letter to the state treasurers office. They will generally respond with a letter giving you the property.

TCA 8-8-501 (Sheriffs)

- Dispose of all abandoned, stolen and/or recovered or worthless property which remain unclaimed
- By confiscation, abandonment or by being stolen and recovered
- Due diligence to return to rightful owner
- Wait six months from date of acquisition.

Beer and Whiskey

- Unopened beer and whiskey to be turned over to the state Alcohol Beverage Commission 57-9-115
- The state is to return a percentage of the proceeds from the public auction of the beverages to the local government.
- After adjudication, dispose of open containers
- Class C misdemeanor

Evidence

- Rules of Evidence, Rule 901
 - Chain of custody maintained and documented
- Aside from general rules of evidence we expect as police officers:
 - TCA 9-2-102 requires cities and counties to follow rules of the Comptroller's office
 - *Internal Control and Compliance Manual*
 - *Governmental Accounting, Auditing, and Financial Reporting*

RESOURCES

Municipal Technical Advisory Service

www.mtas.tennessee.edu

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RESOURCES

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