

2. THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE APPEARS AND TESTIFIES AT THE PROCEEDING.

(j) If the forfeiting authority determines independent of the decision of the police department, bureau, or force that seized the motor vehicle that the motor vehicle falls within the purview of subsection (i)(2) of this section or that the standards to be utilized pursuant to subsection (i)(1) of this section were not met, the forfeiting authority shall surrender the vehicle upon request to the owner.

(k) (1) IN ANY PROCEEDING UNDER THIS SECTION, THE COURT MAY DETERMINE IF, BASED ON THE FACTORS PROVIDED IN SUBSECTION (I)(1) OF THIS SECTION, THE SEIZING AGENCY OR FORFEITING AUTHORITY ABUSED ITS DISCRETION OR WAS CLEARLY ERRONEOUS IN MAKING A RECOMMENDATION OF FORFEITURE OF A MOTOR VEHICLE OR NOT SURRENDERING ON REQUEST A MOTOR VEHICLE TO AN OWNER.

(2) If, after a full hearing, the court determines that the property should not be forfeited, the court shall order that the property be released.

[(2)](3) (i) Except as provided in subparagraph (v) of this paragraph, if the court determines that the property should be forfeited, the court shall order that the property be forfeited to the appropriate governing body.

(ii) If, however, the court determines that the forfeited property is subject to a valid lien created without actual knowledge that the property was being, or was to be, used in violation of this subheading, the court shall order that the property be released within 5 days to the first priority lienholder.

(iii) The lienholder shall sell the property in a commercially reasonable manner.

(iv) The proceeds of the sale shall be applied as follows:

1. To the court costs of the forfeiture proceeding;
2. To the balance due the lienholder including all reasonable costs incident to the sale;
3. To payment of all other expenses of the proceedings for forfeiture, including expenses of seizure, or maintenance of custody; and
4. Except as provided in subparagraph (v) of this paragraph, to the general funds of the State or the political subdivision that seized the property.

(v) If the property was seized by State law enforcement agencies:

1. The court under subparagraph (i) of this paragraph shall order the property to be forfeited to the State law enforcement agencies; or