

ST. FRANCOIS COUNTY PROSECUTING ATTORNEY

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Criminal Activity Forfeiture Act

RSMo 513.607, known as the Criminal Activity Forfeiture Act (CAFA), authorizes law enforcement to seize certain assets that were gained, retained, used for, or otherwise derived from criminal activity. State statute defines this as follows:

*“ ALL PROPERTY OF EVERY KIND, INCLUDING CASH OR OTHER
NEGOTIABLE INSTRUMENTS, USED OR INTENDED FOR USE IN THE COURSE OF, DERIVED
FROM, OR REALIZED THROUGH CRIMINAL ACTIVITY IS
SUBJECT TO CIVIL FORFEITURE. CIVIL FORFEITURE SHALL BE HAD BY A
CIVIL PROCEDURE KNOWN AS A CAFA FORFEITURE PROCEEDING. ”*
[RSMo 513.607.1]

The most common property seized in CAFA cases is United States currency, but in theory any property meeting the above definition can be seized and potentially forfeited, including cars, firearms, etc.

It is worth noting that while there is no hard limit imposed on the value of the property seized, a previous ruling in *Timbs v. Indiana* by the US Supreme Court did apply the 8th Amendment protections against excessive fines to the states, finding that the seized property’s value was disproportionately greater than the penalty for the crime committed. In that case, a \$42,000 vehicle was seized for a crime with a maximum fine of \$10,000. The court found this to be unreasonable but did not provide a hard limit for future cases.

In this document, we will outline the procedures for a CAFA forfeiture in St. Francois County.

CAFA Procedures

1. Making the Seizure

If you are conducting an investigation and have reason to believe the property involved meets the definition set out by the legislature, seize the property and create a detailed property receipt. Include descriptions, serial numbers, unique identifiers, or any other characteristics of the property.

2. Write the Report

An initial report is required to initiate the CAFA seizure. While the CAFA case is separate from the criminal case, any seizure **MUST** have an accompanying criminal charge. In order to begin this process in the courts, we need the full incident report.

3. Complete the CAFA Form

We have completed a one page form for all CAFA seizures. This document will have the necessary information for us to begin the seizure process and includes the date of seizure, property information, reason for seizures, and owner identifiers.

Note: Be detailed and clear when completing this form to indicate how the property was used or is connected to the commission of a criminal offense.

4. Be Timely

State law requires that all civil assets seized by law enforcement for the purposes of forfeitures **MUST** be reported to the Prosecuting Attorney within four calendar days of the initial seizure. If we do not receive proper notice (i.e. the CAFA Seizure Form) within four days, we cannot ask the court to compel the defendant to forfeit the property. [RSMo 513.607.6(2)]

5. Secure the Property

All seized property should be stored in your department's evidence room until a judge enters an order in the CAFA case. Our office will forward such judgments to you when a disposition has been reached on what to do with the property.