

Department of Justice

§ 8.10

claim is not made within the time period, the FBI Property Management Officer shall declare the property forfeited.

[Order No. 1128-86, 51 FR 8818, Mar. 14, 1986, as amended by Order No. 1197-87, 52 FR 24448, July 1, 1987; Order No. 1476-91, 56 FR 8687, Mar. 1, 1991]

§ 8.9 Disposition of forfeited property.

(a) If the laws of a state in which an article of forfeited property is located prohibit the sale of such property or if the U.S. Marshals Service is of the opinion that it would be more advantageous to sell the forfeited property in another district, the property may be moved to and sold in such other district as the U.S. Marshals Service may direct.

(b) If, after the administrative forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale or the proceeds will be insignificant in relation to the expenses involved in the forfeiture, the U.S. Marshals Service may order the destruction of the property. Similarly, property forfeited under a decree of a court may be destroyed in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611). Also, if the sale or use of any article is prohibited under any law of the United States or the state where it is stored, the U.S. Marshals Service may order it destroyed or cause alteration of the property into an article that is not prohibited.

(c) If arms and munitions are forfeited pursuant to 22 U.S.C. 401(c), the Secretary of Defense should be contacted to determine if he desires this property.

§ 8.10 Remission or mitigation of forfeiture.

(a) Any person claiming a legal or equitable interest in any property which has been forfeited pursuant to statutes identified in § 8.1, may file, in accordance with the provisions of 28 CFR part 9, a petition for remission or mitigation of the forfeiture or a petition for restoration of the proceeds of sale or for value of the property placed in official use. If the forfeiture proceedings are administrative, the petition shall be addressed to the Director of the FBI

and shall be filed in triplicate with the Special Agent in Charge of the FBI field office that seized the property. It must be executed and sworn to by the person alleging interest in the property. If the forfeiture proceedings are judicial, the petition shall be addressed to the Attorney General of the United States and filed in triplicate with the Special Agent in Charge of the FBI field office that seized the property. The petition for a judicial forfeiture shall be sworn to by the petitioner, or by his or her counsel upon information and belief.

(b) The petition shall include the following:

(1) A complete description of the property, including model and serial numbers, if any, and the date and place of seizure;

(2) The petitioner's interest in the property, which shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and,

(3) The facts and circumstances, established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation of the forfeiture. For further information regarding the content of a petition, see 28 CFR 9.5.

(c) Where the petition is for restoration of the proceeds of sale, or for value of the property placed in official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration of forfeiture and was in such circumstances as prevented petitioner from knowing of the same.

(d) A petition for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the notice of seizure. Once forfeited property is disposed of, a petition for remission or mitigation of forfeiture will no longer be accepted. A petition for restoration of proceeds of sale or for value of the property placed in official use must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

(e) Upon receipt of a petition, an appropriate investigation shall be conducted by the FBI. No hearing shall be held. For administrative forfeitures,