



White Bear Lake Police Department

POST Mandated Policy #100-12

Asset Forfeitures

I. PURPOSE

This General Order is to establish guidelines governing the Asset Forfeiture of property used to facilitate criminal activity. It shall be the policy of the White Bear Lake Police Department that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned from an outside law enforcement agency to a task force in which this agency serves as the fiscal agent, shall follow all state and federal laws pertaining to the processing of property seized for forfeiture.

II. SCOPE

This General Order applies to all sworn personnel engaged in the seizure of assets.

III. DISCUSSION

Minnesota State Statutes provide for the civil forfeiture of tools and other instrumentalities used to facilitate criminal activity, as defined by Minn. Stats. § 169A.63, 609.531, 609.5312, 609.5314, 609.5318. The City of White Bear Lake derives its authority to engage in civil asset forfeiture from these statutes and this general order establishes guidelines as to how, when and the manner in which officers should seize property.

IV. DEFINITIONS

- A. Administrative Forfeiture – The seizure and forfeiture of property without judicial process (in cases of Impaired Operation, Controlled Substances and Drive-By Shootings).
- B. Asset Sharing - the sharing or dividing up of assets seized pursuant to state or federal statute violations between agencies involved in seizure. It shall be the policy of this agency to share assets as agreed upon by a participating agency at the time of seizure.
- C. Cash - money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.

- D. Conveyance Device - a device used for transportation and including, but not limited to, a motor vehicle, trailer, snowmobile, airplane or vessel, and any equipment attached to such device. The term *conveyance device* does not include property which is, in fact, itself stolen or taken in violation of the law.
- E. Firearms/Ammunition/Firearm Accessories - *Firearm* is a device that projects either single or multiple projectiles at high velocity. *Ammunition* is a term meaning the assembly of a projectile and its propellant. *Accessories* include but are not limited to holsters, gun cases, firearm optics, suppression devices, cleaning supplies, etc.
- F. Forfeiture - the process by which legal ownership of an asset is transferred to a government or other authority.
- G. Forfeiture Coordinator - the White Bear Lake Police employee tasked with Forfeiture review and follow-up, acting as liaison to the prosecuting authority and reporting Forfeiture dispositions to the State Auditor.
- H. Forfeiture (Designated Offenses) – Minn. Stat. § 609.5312 establishes the authority for the seizing agency to seize money, real and personal property used to facilitate the commission of a designated offense.
- I. Forfeiture (Impaired Operation) – Minn. Stat. § 169A.63 establishes the authority for the arresting agency to seize a motor vehicle which is used to commit a designed Impaired Operation offense, or used in conduct resulting in a designated license revocation. Vehicles forfeited under this statute may be retained by the City for official use, or sold by the City. The agency shall make reasonable efforts to avail the retained vehicle to officers who participate in the DARE program. Any profits from sold vehicles must be forwarded to the City treasury to be used specifically for DWI enforcement, training and education.
- J. Jewelry/Precious Metals/Precious Stones - The term “precious metals/precious stones” includes items of jewelry – such as rings, necklaces and watches – that reasonably appear to be made of precious metals or precious stones. *Precious Metals* include but are not limited to gold, silver, platinum, iridium, and palladium. *Precious Stones*, often referred to as gemstones, include but are not limited to diamonds, emeralds, and rubies.
- K. Judicial Forfeiture - a civil *in rem* action, independent of any criminal prosecution; a complaint filed by the prosecuting authority.
- L. Seizure - the act of law enforcement officials taking real property used for, connected with or acquired by illegal activities.

V. ADMINISTRATIVE FORFEITURE PROCEDURE (Impaired Operation)

Should an officer seize a vehicle under Minn. Stat. § 169A.63 incident to a lawful arrest, pursuant to the aforementioned statutes, the following steps should be followed:

- A. Officer Responsibilities at the time of arrest ~
 - 1. Complete vehicle inventory. Complete Towed Vehicle Report (tow sheet) and mark 'Forfeiture' on all copies. If feasible, empty the vehicle of all personal property prior to its storage. Seize license plates and destroy them, if applicable, under Minn. Stat. § 169A.60.
 - 2. Have vehicle towed to contract Impound Lot and apprise tow driver of 'Forfeiture' status. Keys remain with the vehicle.
 - 3. In the event of a non-owner Operator, retain pertinent paperwork such as title and insurance records, and submit as Evidence. Interview non-owner Operator regarding motor vehicle use. Complete Forfeiture Details worksheet.
 - 4. Complete 'Notice of Seizure and Intent to Forfeit in Administrative Forfeiture Crimes' form, as well as a Property Receipt describing the seized vehicle, and issue to Operator. If Owner is different, and accessible, make a two-sided photocopy of the signed form and deliver to Owner.
 - 5. Notify Forfeiture Coordinator of seized vehicle.

- B. Follow-up Investigation by Forfeiture Coordinator ~
 - 1. Review the submitted reports and circumstances surrounding the seizure to ensure compliance with state statute requirements.
 - 2. Run title and lien checks for the vehicle. Notify in writing – with a two-sided copy of the Operator-served Forfeiture form – all entities known to have an ownership or interest in the vehicle. This follow-up service may be in person or by certified mail to address in DVS records. Notify DVS to 'flag' the vehicle's title pending the forfeiture disposition.
 - 3. Complete the proper referral for the Forfeiture and send it, the Forfeiture form and all reports to the prosecuting authority.

4. Photograph the seized vehicle. If it has not yet been emptied, remove all personal property and notify owner to claim said property.

C. Vehicle Disposition

The Forfeiture Coordinator, working with the prosecuting authority and/or Police Administration, may explore remitting or mitigating the forfeiture, in the interest of promoting public safety and the prevention of further economic waste. If an early resolution does not occur, once the disposition of the seizure has been made the Forfeiture Coordinator shall follow these steps:

1. Vehicle Forfeiture Not Upheld

- a. Notify the owner or interested party to retrieve the vehicle and the conditions which must be met (i.e. valid driver, insurance proof, current registration, etc).
- b. Ensure all property is/has been returned to owner, and tow/storage fees have been satisfied.

2. Vehicle Forfeiture Upheld

- a. Notify the Operations Division Captain of the award and determine whether the vehicle is to be retained by the City or publicly sold.
- b. If selling, re-title the vehicle to the City's name ("held for resale") and offer the vehicle for public sale.
- c. Proceeds after City costs are to be split 70/30 with the prosecuting authority.

VI. ADMINISTRATIVE FORFEITURE PROCEDURE (Controlled Substances)

A. Seized Property Subject to Administrative Forfeiture

The following property may be seized and is presumed, under Minn. Stat. § 609.5314, to be subject to administrative forfeiture if the item has a retail value of \$50,000.00 or less:

1. All money, precious metals, and precious stones found in proximity to:
 - Controlled substances;

- Forfeitable drug manufacturing or distributing equipment or devices; or
 - Forfeitable records of manufacture or distribution of controlled substances.
- 2 All conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under Minn. Stats. chapter 152.
- 3 All firearms, ammunition, and firearm accessories found:
- In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
 - On or in proximity to a person from whom a felony amount of controlled substance is seized; or
 - On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under Minn. Stats. chapter 152.

Seizure of property not listed above must be processed in coordination with and approved by the unit supervisor, and a judicial forfeiture sought in coordination with the prosecuting authority.

B. Processing Seized Property for Forfeiture Proceedings

When any property as described in the above section is seized for a Controlled Substance crime, the police officer making the seizure must prepare the following two documents:

- The proper Notice of Seizure and Intent to Forfeit in Administrative Forfeiture Crimes form. This form must be completed to include the following: a list describing each item seized, the name of the individual served with the Notice, and the location and date of seizure. Administrative forfeiture notices are NOT to be given for assets seized under Minn. Stat. § 609.5314 if the retail value of the asset exceeds \$50,000.00.
- A Property Receipt for the item(s) seized.

The Notice form contains information in English and other languages concerning the right to obtain judicial review and the procedure to follow

under Minn. Stat. § 609.5314 to obtain the review. The form must be dated and signed by the police officer conducting the seizure. The White Bear Lake Police Department's Case Number must be included on the form. The individual from whom property is seized must be given an opportunity to sign the seizure notice form to acknowledge receipt. If the person refuses to sign, the police officer conducting the seizure must check the appropriate box indicating the refusal. If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the seizure form must be given to the individual served. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.

The police officer conducting the seizure shall forward within 10 days of the seizure the original and pink copy of the seizure Notice(s), seized property processing worksheets, property receipts and reports to the Records division, who will forward the original Notice and receipt copies to the Forfeiture Coordinator.

The police officer conducting the 'controlled substance' seizure of a conveyance device shall include in the police report the estimated retail value of drugs found in said conveyance device.

1. Cash

Police officers shall not seize cash having an aggregate value less than \$100 (the County Attorney's threshold), unless pre-recorded buy funds are included in the cash seized or there is a significant articulable reason for proceeding. Cash shall be recounted and the amount verified by another employee of the White Bear Lake Police Department. The property bag and/or inventory receipt shall then be co-signed when cash is involved.

All forfeitable cash seized will be entered into Evidence Manager and turned in to the Property/Evidence Room as soon as practicably possible following the seizure. Prior to securing in the Property/Evidence Room, police officers shall examine all cash seized to determine whether it contains any buy funds. Police officers shall document the recovery of all buy funds and immediately notify the Forfeiture Coordinator so the funds can be returned to the appropriate unit's buy fund account. Police officers seizing cash shall also prepare a property inventory receipt. If cash is seized from multiple individuals, a property inventory receipt will be completed for each individual. The property inventory receipt shall specify the total amount of cash seized from each individual. The property inventory receipt shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments. The peace officer conducting the

seizure shall provide a copy of the completed property inventory receipt to the Forfeiture Coordinator, via the Records division.

It is the seizing police officer's responsibility to secure the cash consistent with the White Bear Lake Police policy or procedure.

2. Jewelry/Precious Metals/Precious Stones

Police officers seizing jewelry, precious metals, and/or precious stones will write a detailed description of each item on the property inventory receipt prior to inventorying the items. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the Forfeiture Coordinator, via the Records division.

Police officers seizing jewelry, precious metals, and/or precious stones shall secure those items in the Property/Evidence Room as soon as practicably possible.

3. Conveyance Device

Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency-approved impound facility. Police officers shall inventory the conveyance device and its contents in accordance with agency policy. Police officers shall also complete applicable Towed Vehicle Report forms and distribute them appropriately.

4. Firearms/Ammunition/Firearm Accessories

When firearms, ammunition, or firearms accessories are seized, they shall be inventoried and secured in the Property/Evidence Room as per agency policy/procedure.

C. Property Disposition

The Forfeiture Coordinator, working with the prosecuting authority and/or Police Administration, may explore remitting or mitigating the forfeiture, in the interest of promoting public safety and the prevention of further economic waste. If an early resolution does not occur, once the disposition of the seizure has been made the Forfeiture Coordinator shall follow these steps:

1. Forfeiture Not Upheld

- a. Notify the owner or interested party to claim the property and the conditions which must be met (i.e. a vehicle release: valid driver, insurance

proof, current registration, etc).

b. Ensure all property is/has been returned to owner, and tow/storage fees have been satisfied.

2 Forfeiture Upheld

a. Notify the Operations Division Captain of the award and determine the disposition of the property.

b. If a forfeited vehicle is to be sold, re-title the vehicle to the City's name ("held for resale") and offer the vehicle for public sale.

c. Proceeds of the forfeiture (after City costs) are to be split 70/20/10 with the prosecuting authority, and the State of Minnesota.

VII. **ADMINISTRATIVE FORFEITURE PROCEDURE (Drive-By Shooting)**

Should an officer seize a vehicle under Minn. Stat. § 609.5318, incident to a lawful arrest for a violation of Minn. Stat. § 609.66 (subd. 1e), pursuant to the aforementioned statutes, the following steps should be followed:

A. Officer Responsibilities at the time of arrest ~

1. Complete vehicle inventory. Complete Towed Vehicle Report (tow sheet) and mark 'Forfeiture' on all copies. Have vehicle towed to contract Impound Lot and apprise tow driver of 'Forfeiture' status. Keys remain with the vehicle.
2. Complete 'Notice of Seizure of Motor Vehicle Used In Driveby Shooting' form and issue to Registered Owner within 7 days. This service may be in person or by certified mail to address in DVS records.
3. Notify Forfeiture Coordinator of seized vehicle.

VIII. **JUDICIAL FORFEITURE PROCEDURE (Designated Offenses)**

An officer may seek a judicial forfeiture for any of the above situations, or specifically vehicle seizures for violations of Minn. Stat. § 609.487 ('Fleeing Peace Officer; Motor Vehicle') and Minn. Stat. § 609.324 ('Patrons; Prostitutes'). In addition, real property forfeitures may be sought for a felony violation of, or a felony-level attempt or conspiracy to violate, a multitude of crimes enumerated in Minn. Stat. 609.531.

In each of these cases, all reports must accompany a referral to the prosecuting authority for review of the proposed forfeiture. Notify Forfeiture Coordinator of the proceeding. In Fleeing- and Prostitution-related vehicle seizures, the Registered Owner must be notified of the seizure (served) within 48 hours, and a hearing on the seizure must be set within 96 hours (time calculated pursuant to Minn. Stat. § 645.15).

In each of these cases, proceeds of the successful forfeiture (after City costs) are to be split 70/20/10 with the prosecuting authority, and the State of Minnesota.

IX. CASE FILE STATUS

The Forfeiture Coordinator shall forward all updates or changes in forfeiture status to a Supervisor or Investigator who requests case status.

X. REPORT WRITING

Police officers seizing property must complete a report. All reports must include a description of the items seized, where the property is stored/secured, the name of the individual served with the 'Notice of Seizure and Intent to Forfeit' form, the date that the seizure form was served, the name of the serving police officer, and whether or not the individual signed the 'Notice of Seizure and Intent to Forfeit' form. All reports dealing with seized property will be completed as soon as practically possible.

The Forfeiture Coordinator shall complete 'Case Closed' reports when each forfeiture case is resolved, and shall make the mandated report of this disposition to the State Auditor.

Julie Swanson

**Julie Swanson
Chief of Police**

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