



ASSET FORFEITURE POLICY

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Definitions

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.

Conveyance Device: a device used for transportation and includes but is not limited to a motor vehicle, trailer, snowmobile, airplane or vessel and any equipment attached to it. The term "conveyance device" does not include property, which is, in fact, itself stolen or taken in violation of the law.

Firearms/ammunition/firearm accessories: 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.

Forfeiture: the process by which legal ownership of an asset is transferred to a government or other authority.

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.

Forfeiture/Seized Property Reviewer: An Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor's office.

Seizure: the act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities

Policy Statement/Objective

The purpose of this policy is to provide guidelines and procedures for the seizure of property and the administrative forfeiture process. Training will be provided by the employing law enforcement agency in consultation with the prosecuting authority to agents who may exercise the use of administrative forfeiture in the performance of their assigned duties. Training should be conducted whenever the agency policy is changed or modified based upon administrative directives, legislative statutes changes and/or relative court decisions. Training may include but not limited to agency policy, directives, and be conducted via electronic or traditional classroom education.

It is the policy of the Commerce Fraud Bureau (CFB) 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 and to follow the requirements set forth in Minn. Stat. § 609.531.

Scope

This policy applies to all CFB personnel.

Procedures

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

Situations in which forfeiture should not be pursued:

1. Seizure of property not listed above must be processed, reviewed and approved by the unit supervisor.

Seizures- Minnesota Statute § 609.531, subd. 4

1. Property subject to forfeiture under sections 609.531 to 609.5318 may be seized by the appropriate agency upon process issued by any court having jurisdiction over the property. Property may be seized without process if:
 - a. the seizure is incident to a lawful arrest or a lawful search.

- b. the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter; or
 - c. the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that:
 - i. the property was used or is intended to be used in commission of a felony; or
 - ii. the property is dangerous to health or safety.
2. If property is seized without process under item (i), the prosecuting authority must institute a forfeiture action under section 609.5313 as soon as is reasonably possible.
3. (b) When property is seized, the agent must provide a receipt to the person found in possession of the property; or in the absence of any person, the agent must leave a receipt in the place where the property was found, if reasonably possible.

Processing Seized Property for Forfeiture Proceedings

1. When any property as described in the above section is seized, the agent making the seizure must prepare the following:
 - a. The proper Notice of Seizure and Intent to Forfeit Property 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, location, and the date of seizure. Administrative forfeiture notices are NOT to be given for assets seized under MN STAT 609.5314 if the retail value of the asset exceeds \$50,000.00.
 - b. A receipt for the item(s) seized.
2. The Notice form also contains information concerning the right to obtain judicial review and the procedure under MN STAT 609.5314 to follow to obtain it. The form must be dated and signed by the agent conducting the seizure. An agency 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. If the person refuses, the agent conducting the seizure must check the appropriate box indicating the refusal to sign. 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.
3. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.
4. The agent conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports to the Forfeiture/Seized Property Reviewer within 10 days of seizure.

5. The agent conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset(s) seized.

Currency

1. It is the responsibility of the seizing Agent or evidence technician to secure and count cash consistent with this policy. All cash shall be counted in the presence of another agent or evidence technician and the envelope initialed by both individuals.
2. All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer or property/evidence room as soon as practicably possible.
3. Prior to deposit with the Forfeiture/Seized Property Reviewer, agents shall examine all cash seized to determine whether it contains any buy funds. Agents shall document the recovery of all buy funds and deposit those funds with the Forfeiture/Seized Property Reviewer to be returned to the appropriate unit's buy fund account.
4. Agents seizing cash shall also prepare a property inventory. 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 agency property inventory shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments.
5. The agent conducting the seizure shall provide a copy of the completed property inventory receipt to the Forfeiture/Seized Property Reviewer.
6. It is the seizing agent's responsibility to secure the cash consistent with this agency's policy and procedure.

Jewelry/Precious Metals/Precious Stones

1. Agents or evidence technicians seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property inventory receipt and take photographs of the items whenever possible. 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/Seized Property Reviewer.
2. Agents or evidence technicians seizing jewelry, precious metals and/or precious stones shall log those items according to current property and evidence procedures as soon as practicable.

Conveyance Device(s)

1. Any conveyance device seized for forfeiture shall be taken to a secure designated area or to a Bureau approved impound facility as soon as practicable.

2. Agents shall inventory the conveyance device and its contents. Agents shall also complete applicable report forms and distribute them appropriately. A copy of the applicable report form shall be included with the seizure documentation that is submitted to the Forfeiture/Seized Property Reviewer.

Firearms/Ammunition/Firearm Accessories

1. When firearms, ammunition or firearms accessories are seized, they shall be inventoried and delivered to the Evidence Room in accordance with the current evidence procedures and the Property Evidence Policy.
2. The Evidence Room shall retain stolen or abandoned firearms that have been seized for 90 days and make an effort to return them to the lawful owner pursuant to Minnesota Statute § 609.5315 Subd. 7.

Report Writing

Peace officers seizing property must complete a report. All reports must include a description of the items seized, where the property is turned-in/inventoried, the name of the individual served, the date the seizure form was served, the name of the serving peace officer and whether or not the individual signed the Notice of Seizure and Intent to Forfeit Property form.

All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible.

Disposition of Forfeited Property

Disposition of forfeited property shall comply with Minn. Stat. § 609.5315.