

**ST. CLOUD POLICE DEPARTMENT**  
**Law Enforcement**  
**Policies and Procedures**

Subject: Forfeitures	Policy Number: 330
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Approval Authority - Title and Signature: Wm. Blair Anderson, Chief of Police	
Reviewed By: Thomas Gjemse, Sergeant	Review Date: 02-13-13

**PURPOSE**

The St. Cloud Police Department will perform forfeitures in accordance to law.

**POLICY**

It shall be the policy of the St. Cloud 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.

**PROCEDURE**

A. Thresholds for Property Value to be Forfeited:

The St. Cloud Police Department will conduct forfeitures pursuant to the laws governing forfeitures. The intended purpose of forfeiture is to deter and prevent future use of motor vehicles, money, precious metals, precious stones, firearms, or other valuable possessions directly or indirectly in conjunction with criminal activities. The department will not implement minimum values on property or motor vehicles to be seized.

B. Sales of Forfeited Property:

The St. Cloud Police Department will not sell or give property that has been forfeited to any employee of the police department nor to any employees' relative by blood or marriage in accordance with Minnesota Statute 609.5315, Subd. 1, Section (8) (c).

**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, gift card/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, motorcycle, ATV, UTV, 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 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 entity 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.

#### **SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE**

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

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.

All conveyance devices containing controlled substances with a retail value of \$75 or more if possession or sale of the controlled substance would be a felony under chapter 152.

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 chapter 152.

Seizure of property not listed above must be processed in coordination with and approved by the unit supervisor.

#### **PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When any property as described in the above section is seized, the officer making the seizure must prepare the following:

- 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 Minnesota Statute 609.5314 if the retail value of the asset exceeds \$50,000.00.
- A receipt for the item(s) seized.

The notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under Minnesota Statute 609.5314 to follow to obtain it. The form must be dated and signed by the officer conducting the seizure. The individual

from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer 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.

- All property subject to and being processed for forfeiture through this agency must be held in the custody of the St. Cloud Police Department.
- The officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports will be forwarded to the Forfeiture/Seized Property Reviewer within 10 days of seizure via the chain of command.
- The officer conducting the seizure shall inform their supervisor of the estimated retail value of drugs found in proximity to the asset seized.

### **Cash**

The department will not set limits as to the amount of cash seized, but the officer initiating the seizure will need to be able to justify and articulate in their report that it meets the legal threshold pursuant to law. Cash shall be recounted and the amount verified by another employee of the department (refer to department policy for guidelines governing the submission of evidence to the property room).

All forfeitable cash seized will be turned over to the property/evidence room as soon as practicably possible of the seizure but no later than the end of their shift.

Officers shall document the recovery of all buy funds and deposit those funds into the appropriate unit's buy fund account.

Officers 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.

The officer conducting the seizure shall provide a copy of the completed property inventory receipt to the Forfeiture/Seized Property Reviewer.

It is the seizing officer's responsibility to secure the cash consistent with this policy and all other department policies governing seizures, evidence, and property room procedures.

### **Jewelry/Precious Metals/Precious Stones**

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/Seized Property Reviewer via the chain of command.

Officers seizing jewelry, precious metals, and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible, but no later than the end of their shift.

### **Conveyance Device**

Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated

area or to the department's approved impound facility.

An inventory shall be conducted of the conveyance device and its contents in accordance with department procedures.

### **Firearms/Ammunition/Firearm Accessories**

When firearms, ammunition, or firearms accessories are seized, they shall be inventoried and delivered to the property/evidence room as per department policy and procedure.

### **INTERNAL PROCEDURES**

1. Officers will notify a supervisor that they are intending to initiate a forfeiture and obtain permission to do so. Officers intending to conduct a forfeiture will be required to articulate in their reports that they have met the elements and threshold as stated in the laws governing forfeitures.
2. Notification of Forfeiture paperwork and a receipt will need to be served to the owner and any other person(s) in control or claiming ownership of the property to be seized. Officers will need to serve the correct Notification of Forfeiture form for the designated offense as soon as possible (usually at the time when the property is seized).
3. If the forfeiture notice has not been served in three (3) days, the seizing officer will notify their supervisor who will monitor the progress of the forfeiture. If the notification has not been served in seven (7) days complete the Letter of Transmittal Forfeiture form, attach all of the necessary paperwork identifying who needs to be served and the seizing officer will turn over the packet to their supervisor. The supervisor will review and confirm that all of the required paperwork has been completed and then sign the Transmittal form. The Transmittal form will then be routed to the Assistant Chief of Police in charge of the Support Services Division or his/her designee to complete the notification process.
4. **Violent Offender Task Force**  
If the forfeiture originates in the Violent Offender Task Force, the Violent Offender Task Force supervisor will make copies of all the forms prior to forwarding the packet to the Assistant Chief of Police or his/her designee. These copies will be stored in the Violent Offender Task Force's filing area and will be monitored through their completion. Up-to-date "copies" will be stored electronically and in paper format so that they are present in the unit when audits are conducted. All document originals will be kept in the main filing area of the department's Records room.

### **Patrol/CIU**

Patrol and CIU will forward all original forfeiture documents to the Forfeiture Coordinator and do not need to retain copies.

### **REPORT WRITING**

Officers seizing property must complete a report. All reports must include a description of the items seized, where the property was turned into/stored, the name of the individual served, the date that the seizure form was served, the name of the serving 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 as soon as practicably possible.

### **SUPPORT SERVICES RESPONSIBILITIES**

The forfeiture process is a civil process and is separate from the criminal case file. The following will be completed by a designee (Forfeiture Coordinator) of the Assistant Chief in charge of the Support Services Division.

- When the Support Services Division receives the forfeiture file, there shall be a St. Cloud Police Department Letter of Transmittal Forfeiture form attached as a cover sheet.
- Check to see that the correct boxes are marked and the document is signed by the supervisor of the Violent Offender Task Force or a patrol lieutenant.
- Ensure that there are no liens on the property, and if there are, serve all parties listed if that has not already been completed by the investigating officer. Service can be done by certified mail if necessary.
- Upon completion of the review of the forfeiture file and the appropriate date and signature is obtained, the original file shall be placed in the forfeiture file in Records via the Forfeiture Coordinator.
- Review the report and forward a complete copy of the report to the appropriate attorney's office listed on the front of the transmittal form. The original Notification of Forfeiture form shall be sent to the prosecuting attorney.
- The report shall be entered into the forfeiture database tracking system.
- Once the prosecutor completes the forfeiture process, he/she will send an Administrative Forfeiture Certificate or a court order. This Administrative Forfeiture Certificate or court order is an original document stating that the police department is authorized to dispose of said property in accordance to law. There will be times when the prosecutor will make the decision that the property will not be forfeited upon, so the property will need to be returned to the rightful owner(s).
- Once the Administrative Forfeiture Certificate or court order is obtained from the prosecutor, place a copy of the Administrative Forfeiture Certificate or court order in the forfeiture file and make the appropriate entry into the forfeiture database tracking system.
- The police department will dispose of property in accordance to law. If the property is sold at auction, the police department's Accounting Clerk is responsible for disbursing the funding into the appropriate accounts. This is dependent upon the type forfeiture (narcotics, abandoned property, DWI, etc...) and the funds will be dispersed into the appropriate accounts, where the distribution of the funds is governed by statute.
- At no time is property to be converted or disposed of without the proper authorization from the prosecuting attorney's office.

#### **VEHICLE FORFEITURES**

- Vehicles may be forfeited in accordance with Minnesota statute.
- The keys for the vehicle will then be entered into the Property Evidence Room.
- Personal items not connected to the forfeiture will be turned over to the rightful owner.
- Do not release the location of the vehicle, our storage sites are confidential information.
- When vehicles are forfeited upon, nothing attached to the vehicle will be removed (i.e. electronic devices, wheel/rims, etc...).

- A copy of the forfeiture form should be kept in the vehicle to assist with tracking.
- Copies of all documents should be kept in the forfeiture file under the listed ICR, and if the vehicle is retained by the department for use, a copy shall also be kept in the fleet file.
- Once the title is received, notify the Accounting Clerk and make the appropriate entries into the forfeiture tracking database system and fleet tracking system.
- If allowed by statute, the vehicle can be used as a department fleet vehicle or sold at auction and the funds derived from the auction shall be distributed in the appropriate forfeiture account.
- Once the property disposition is complete, the accounting Clerk will complete the appropriate reporting to the State of Minnesota.