



KANSAS CITY, MO. POLICE DEPARTMENT

PROCEDURAL INSTRUCTION

DATE OF ISSUE

06-05-12

EFFECTIVE DATE

06-05-12

NO.

12-5

SUBJECT

Property Seizure and Forfeiture

AMENDS

REFERENCE

Revised Statute of Missouri 195.140
Revised Statute of Missouri 513.600, et seq.
US Code Title 21, Section 881, et seq
Procedural Instruction, entitled "Recovered Property Procedure"
Mirranda Warning

RESCINDS

Procedural Instruction 06-06

I. INTRODUCTION

Federal and state forfeiture laws provide officers with authority to initiate proceedings to legally seize property that criminals use for or derive from criminal activity. If an officer has probable cause to believe that property is subject to forfeiture, the officer may seize the property. The Asset Forfeiture Squad will be contacted for consultation any time uncertainties exist regarding seizures.

II. TERMINOLOGY

- A. **Forfeiture** – A valid judgment rendered by a court with jurisdiction, which declares the right of ownership is lost as a result of certain specified criminal activity.
- B. **Proceeds** – Anything received as payment for controlled substance or other specified criminal activity, or anything traceable to such payments. Proceeds are not limited to money. If the direct proceeds of a sale are used to obtain something, then the item obtained is subject to forfeiture.
- *C. **Real Property** – Land and everything that is permanently affixed to it.
- D. **Seizure** – The act performed by an officer in taking a person's property, real or personal, into lawful custody. If an officer believes that property may be subject to forfeiture as the result of criminal activity, a seizure may be effected by a law enforcement officer authorized to enforce state and federal laws prior to the filing of the petition and without a writ of seizure if the seizure is incident to a lawful arrest, search or valid investigatory stop.
 - *1. A seizure occurs at the point at which any law enforcement officer or agent discovers and exercises any control over property to be seized thereby interrupting the possessory interests of the owner of the seized property. This also includes preventing anyone found in possession of property from leaving the scene of the investigation while in possession of the property.
 - 2. Seizing agency is defined as the primary employer of the officer or agent seizing the property.
- E. **Specified Criminal Activity** – Criminal activity resulting in the commission, attempted commission, conspiracy to commit a crime or the solicitation, coercion or intimidation of another person to commit a crime which violates federal and/or state statutes.
 - 1. For purposes of this directive federal statutes include, but are not limited to, those prohibiting drug abuse, gambling, motor vehicle theft, child exploitation, and importing and harboring certain foreign nationals.

2. Available state statutes (as described in RSMo 513.605) include violation of the laws involving violence to persons, property crimes, sexual offenses, drug regulations, prostitution, weapons offenses, registration and licensing of motor vehicles, gambling and pornography.
 3. Specific questions regarding seizure and forfeiture of property should be referred to the Asset Forfeiture Squad at (816)234-5314 or 5315.
- C. **Tangible Property** – Property used in, derived from or intended for use in the commission, attempted commission or conspiracy to commit any crime, or property realized through criminal activity which is chargeable under certain federal or state statutes. This property includes but is not limited to:
1. Money, (e.g., U.S. currency/coin, or foreign currency/coin) stocks, bonds, money orders, checks or any other negotiable instruments found in close proximity to controlled substances or believed to be the proceeds from sales of a controlled substance, or proceeds of other specified criminal activities.
 2. Any vehicle, vessel or aircraft, which has been used, or in any way facilitates the commission of specified criminal activity.
 3. Property (personal or real) that was used, intended for use, derived from, or realized through specified criminal activity, e.g., real estate, horses, jewelry, electronics, etc.

III. ADMINSTRATIVE GUIDELINES

- A. Officers must exercise their best judgment, based on their training, experience and knowledge of department policies, when faced with the possibly unique and difficult situations relating to seizure of tangible property. Supervisor or Asset Forfeiture Squad approval is mandatory prior to seizure of any property believed to be obtained as a result of criminal activity.
- B. If, incident to a lawful arrest, search or inspection, an officer has probable cause to believe that property is subject to forfeiture and will be lost or destroyed if not seized immediately, the officer may seize the property, with supervisor or Asset Forfeiture Squad approval.
- C. Probable cause must exist to connect an item to a specified criminal activity prior to seizure. Proof beyond a reasonable doubt is not necessary.
- D. Seized property will be inventoried and recorded in accordance with current recovered property procedures.
- E. On all incidents of criminal activity where property may be subject to forfeiture, the Asset Forfeiture Squad will receive and review all related reports and make a determination regarding the appropriateness of pursuing forfeiture in accordance with state and federal statutes.
- F. The Asset Forfeiture Squad will be responsible for conducting and coordinating the necessary follow-up investigation only as it pertains to property forfeiture proceedings.

- G. Federal forfeiture laws and guidelines may be used when there is a joint investigation with a federal agency, and the property is seized by a member of a federal agency and not a member of this department as outlined in this directive. All other seizures will be referred to the appropriate county prosecutor by the Asset Forfeiture Squad in accordance with state law.
- H. Unless otherwise directed by court order, the Executive Services Bureau commander will be responsible for the disposition of all property seized in accordance with property forfeiture proceedings.
- I. Real property will not be seized unless a court has issued a writ of seizure. Seizures of real property will be undertaken only at the direction/initiation of the Asset Forfeiture Squad.
- J. Federal Forfeiture – Federal agency involvement in the investigation or federal prosecution is a prerequisite to federal forfeiture. However, property seized by department members (as outlined in this directive) will not be transferred to any federal agency (regardless of federal agency involvement in the investigation) without meeting the following criteria:
 - 1. The forfeiture must result from a felony violation under Missouri law or federal law.
 - 2. The seizure must be reviewed and approved by the prosecuting attorney and the circuit judge of the county in which the property was seized prior to being transferred to a federal agency. Listed below are the current minimum acceptable values regarding federal seizures as established by federal guidelines:
 - a. Cash - \$2,000
 - b. Conveyances, clear equity (wholesale) - \$5,000
 - c. Real property - \$20,000
 - d. Other property - \$5,000
 - 3. The Asset Forfeiture Squad will be solely responsible for processing any request to transfer seized property to a federal agency.
- K. State Forfeiture – When seizing property in accordance with state law, officers are required to complete a Notice of Seizure Pursuant to Missouri State Forfeiture Statutes, Form 65 P.D. The criteria listed below are minimum suggested guidelines to use in evaluating state seizures.
 - 1. The forfeiture must result from a felony violation under Missouri law or federal law.
 - 2. The seizure must be reviewed and approved by the prosecuting attorney and the circuit judge of the county in which the property was seized. Listed below are the current minimum acceptable values regarding seizures:
 - a. Cash - \$1,000 (Lesser amounts may be seized upon authorization by a field supervisor or Asset Forfeiture Squad in cases involving repeat offenders, large quantities of drugs, weapons or other aggravating circumstances.)

- b. Conveyances, clear equity (wholesale) - \$2,500
- c. Real property - Determined by county prosecutor and Asset Forfeiture Squad
- d. Other property - Determined by county prosecutor and Asset Forfeiture Squad

IV. PROCEDURE

- A. The recovering officer will bring the incident to the immediate attention of the Asset Forfeiture Squad by:
 - *1. Completing an Incident Report entitled, "Miscellaneous Investigation, Property Seizure." When applicable, the report may be taken as a supplementary report to an original Incident Report.
 - 2. Include the following information in the report:
 - *a. The name, serial number and assignment of the seizing officer.
 - *b. The circumstances of the seizure, showing how the property was used, intended for use, derived from, or realized from criminal activity. The information must contain the necessary facts to establish probable cause for the seizure, including probable cause for any arrests. Include any relevant statements made by suspect(s) or other persons.
 - c. Date, address and county where the property was seized.
 - d. Full description of property that clearly distinguishes it from other similar property e.g., VIN or property serial number.
 - *e. The suspects name and as many identifiers as possible.
- B. Seized property will be carefully collected, packaged and preserved, and its custody will be carefully recorded from the time of recovery until completion of forfeiture proceedings in accordance with current recovered property procedures.
- C. Distribution of the copies of the Seizure Packet will be made as follows:
 - 1. White (original) copy – Scanned and attached to the original offense report in the Tiburon system as an Intellinetics document, then forwarded to the Records Unit.
 - 2. Yellow copy – Will be included in a packet containing copies of all related reports, including the Supervisor approved Miscellaneous Investigation, Property Seizure report. The packet will then be forwarded to the Asset Forfeiture Squad.
 - 3. Pink copy – given to the owner, operator, or person in control of the property.

- D. If the amount of seized currency is \$10,000 or more, the reporting officer will contact an Asset Forfeiture Squad Detective to determine whether a detective needs to respond to the scene. Asset Forfeiture detectives may be contacted between 8:00 am-5:00 pm, Mon-Fri. by phone at (816)234-5314 or 5315. After hours, contact the Communications Unit.
- *E. All supplemental reports not taken in the Tiburon system including the Physical Evidence/Property Inventory, Form 236 P.D., and Tow-In Report, Form 36 P.D., if applicable, will be scanned and attached to the owner approved Incident Report before the end of an officer's tour of duty.
- *F. Officers will phone the Asset Forfeiture Squad office so that all seizures may be logged. It may be necessary to leave the information on the telephone voice mail.

Darryl Fortè
Chief of Police

Adopted by the Board of Police Commissioners this _____ day of _____ 2012.

Lisa Pelofsky
Board President

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