

# WINONA POLICE DEPARTMENT

NUMBER: 104-06 PAGES: 6

EFFECTIVE DATE: November 21, 2012

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SUBJECT: PROCESSION OF PROPERTY SEIZED FOR ADMINISTRATIVE FORFEITURE (MN STAT 609.531)

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## 1.0 PURPOSE:

It is the purpose of this general order to establish policy and procedures for process of forfeitures by members of the Winona Police Department.

## 2.0 POLICY:

It shall be the policy of the Winona 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. Training will be provided by the employing law enforcement agency in consultation with the prosecuting authority to officers who may exercise the use of administrative forfeiture in the performance of their assigned duties. Such training to 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, electronic or traditional classroom education.

## 3.0 DEFINITIONS:

**3.1 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.

**3.2 Conveyance Device:** a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and 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.

**3.3 Firearms/ammunition/firearm accessories:** a device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the

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assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, firearm optics, suppression devices, cleaning supplies, etc.

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

**3.5 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.

**3.6 Forfeiture/Seized Property Reviewer:** an Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor’s office.

**3.7 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.

**4.0 SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE**

**4.1** 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:

**4.2** All money, precious metals, and precious stones found in proximity to:

**4.2.1** Controlled substances;

**4.2.2** Forfeitable drug manufacturing or distributing equipment or devices; or

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**4.2.3** Forfeitable records of manufacture or distribution of controlled substances.

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

**4.4** All firearms, ammunition, and firearm accessories found:

**4.4.1** In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

**4.4.2** On or in proximity to a person from whom a felony amount of controlled substance is seized; or

**4.4.3** 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.

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

**5.0 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS:**

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

**5.1.1** 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 Statutes §609.5314 if the retail value of the asset exceeds \$50,000.00.

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**5.1.2** A receipt for the item(s) seized.

**5.2** 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 peace officer 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 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.

**5.3** All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.

**5.4** The peace 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.

**5.5** The peace officer conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

**6.0**      **CASH**

**6.1** Peace officers shall not seize cash having an aggregate value less than \$20, unless pre-recorded buy funds are included in the cash seized. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.

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**6.2** All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer or property/evidence room as soon as practicably possible from the time of the seizure.

**6.3** Prior to deposit with the Forfeiture/Seized Property Reviewer, peace officers shall examine all cash seized to determine whether it contains any buy funds. Peace officers 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.

**6.4** Peace 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.

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

**6.6** It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

**7.0 JEWELRY/PRECIOUS METALS/PRECIOUS STONES**

**7.1** Peace 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.

**7.2** Peace officers seizing jewelry, precious metals, and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible.

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**8.0 CONVEYANCE DEVICE**

**8.1** Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved impound facility.

**8.2** Peace officers shall inventory the conveyance device and its contents in accordance with agency policy. Peace officers shall also complete applicable report forms and distribute them appropriately.

**9.0 FIREARMS/ AMMUNITION/FIREARM ACCESSORIES**

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

**10.0 CASE FILE STATUS**

**10.1** The Forfeiture/Seized Property Reviewer shall forward all changes to forfeiture status to the supervisor who initiated the case.

**11.0 REPORT WRITING**

**11.1** Peace officers seizing property must complete a report. All reports must include a description of the items seized, where the property is turned in/stored, the name of the individual served, the date that 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.

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