



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

765 – ASSET FORFEITURE

GENERAL ORDER: 2016-47
ISSUED: July 14, 2016

EFFECTIVE: July 14, 2016

REVIEWED/APPROVED BY:
Captain Mark Stanmeyer
DATE: July 5, 2016

ACTION: Amends General Order 2015-41 (August 24, 2015)

WILEAG STANDARD(S): 6.5.1, 11.2.1

765.00 PURPOSE

The purpose of this standard operating procedure is to identify the procedures for confiscating money and other property used or intended to be used to further criminal activity or obtained from proceeds of criminal activity.

765.05 POLICY

Federal and state laws allow law enforcement agencies to seize property, including monies, which are directly or indirectly derived from or realized through the commission of certain narcotics related crimes. The policy of this department is to initiate asset forfeiture proceedings as allowed under federal code and Wisconsin state statutes.

765.10 DEFINITIONS

A. STATE FORFEITURE PROCEEDINGS

Are conducted by the Milwaukee County Corporation Counsel, which covers all property types listed under Wis. Stat. § 961.55 with the exclusion of real estate.

B. FEDERAL FORFEITURE PROCEEDINGS

Are conducted through the federal court system or through administrative proceedings in conjunction with a hosting federal agency such as the DEA or FBI, utilizing Title 21 of the U.S. code.

C. ASSETS

Almost any type of property could be subject to a forfeiture proceeding, but the most common types of property subject to seizure are monies and vehicles.

D. QUALIFYING CHARGES

Arrests made for the following violations qualify for asset forfeiture proceedings:

1. Possession of a Controlled Substance with Intent to Deliver
2. Delivery of a Controlled Substance
3. Conspiracy to Deliver a Controlled Substance

4. Conspiracy to Possess a Controlled Substance with Intent to Deliver
5. Maintaining a Drug Trafficking Place (Keeper of a Drug House)
6. Manufacture of a Controlled Substance
7. Delivery of an Imitation Controlled Substance
8. Conspiracy to Deliver an Imitation Controlled Substance

E. FEDERAL MONEY SEIZURE REQUIREMENTS

1. \$5,000 and above from one person or from one location with an arrest for a qualifying charge.
2. \$5,000 and above from one person with no arrest and reasonable suspicion it is proceeds of drug trafficking. Department members must contact a Narcotics Division supervisor prior to seizing monies with no arrest.

F. STATE MONEY SEIZURE REQUIREMENTS

\$1,000 and above from one person or from one location with an arrest for a qualifying charge. Department members are prohibited from seizing any money below \$1,000 under federal or state seizure laws.

Note: The mere possession of money in and of itself does not constitute a crime and the mixing of funds from more than one person or from more than one location is strictly prohibited.

G. TIME LINES

Federal forfeiture proceedings must be initiated within 10 days of the seizure. State forfeiture proceedings must be initiated within 30 days of the arrest. Weekends and holidays count toward these deadlines. Timely submission of reports to the Narcotics Division is imperative.

765.15 ASSET FORFEITURE PROCEDURES (WILEAG 11.2.1)

- A. When an arrest is made for a qualifying charge and there are assets the arresting officer believes are subject to forfeiture under state statute he/she shall contact his/her shift commander for guidance and advice to ensure that the asset(s) in question are eligible for seizure. If the shift commander needs advice, or believes that a Narcotics Division response is warranted due to unusual circumstances, the shift commander shall contact a Narcotics Division supervisor who shall determine the appropriate action and/or response. REDACTED
- B. If money is found during an investigation and/or arrest, and if no one claims ownership of the money, the shift commander of the investigating member shall contact a Narcotics Division supervisor for advice and guidance prior to the member(s) leaving the scene with said money.
- C. The money shall not be inventoried or taken to any police facility and the person

arrested or in possession of said money shall not be conveyed from the scene of the seizure unless prior authorization is obtained from the member(s) shift commander, or when appropriate a supervisor from the Narcotics Division (notification to and from the Narcotics Division shall be conducted through the shift commander). REDACTED

- D. If it is determined that the investigating officers are to inventory the money, the person arrested and in possession of the money shall be listed as the "claimant" on the *Inventory Report* (form PP-32), unless he/she expressly denies ownership. In such cases, this information shall be documented in the "Circumstances" field of the WinAce-Officer Drop inventory.
- E. When money is subject to be seized (\$1,000 and above), the investigating member shall:
1. Ensure a supervisor responds to the scene to supervise the counting of the monies.
 2. The final count of the money shall be documented in all reports and memorandum books of the supervisor on scene and the seizing officer.
 3. Inventory the money as evidence.
 4. Complete all necessary reports related to the arrest.
 5. Make an effort to determine where the monies came from. This shall be documented in the narrative of the incident report.
 6. Send a notification REDACTED containing the following information:
 - a. Incident number;
 - b. Suspect name;
 - c. Property to be seized;
 - d. Arresting officers contact information.
 7. Make an extra copy of all reports, including a copy of the signed search warrant if applicable.
 8. Forward copies of all reports to the Narcotics Division by the next day.
- F. The Narcotics Division shall prepare all necessary reports needed to commence any federal or state asset forfeiture process if applicable.
- G. When a vehicle is seized for a qualifying charge, the investigating member shall:

1. Follow all procedures as out lined in SOP 610.20E(7) – Towing of Vehicles as it relates to evidence tows to permanently seize a vehicle; to include filing the *Evidence Vehicle Seizure Report* (form PV-6).
 2. Complete all necessary reports related to the arrest.
 3. Send a notification [REDACTED] containing the following information:
 - a. Incident number;
 - b. Suspect name;
 - c. Property to be seized;
 - d. Arresting officers contact information.
 4. Make an extra copy of all reports, including a copy of the signed search warrant if applicable.
 5. Deliver copies of all reports to the Narcotics Division on the next business day.
- H. If a member believes that property other than money or a vehicle could also be eligible for seizure under either state or federal asset forfeiture laws, the member must contact his/her shift commander. The shift commander shall contact a Narcotics Division supervisor for guidance.
- I. Members are encouraged to contact the Narcotics Division with questions related to asset forfeiture procedures. Normal business hours are Monday through Friday 8:00 am to 4:00 pm, [REDACTED]

765.20 CORPORATION COUNSEL AND PROOF OF SERVICE

- A. The Narcotics Division shall present all forfeiture requests to the corporation counsel.
- B. All reports and inquiries regarding forfeiture proceedings shall be routed through the Narcotics Division unless otherwise directed by a supervisor assigned to the Narcotics Division.
- C. The Narcotics Division shall forward all legal notices of forfeiture proceedings to the requesting member's work location for personal service. The requesting member's work location shall return proof of service to the Narcotics Division (note proof of service must be completed within 90 days of the seizure).
- D. All forfeiture affidavits shall be signed by a law enforcement officer who was present during the seizure or by the supervisor who ordered the seizure and subsequently received reports from the officer seizing the property. The seizing officer or authorizing supervisor will be contacted by the Narcotics Division and/or Milwaukee County Office of Corporation Counsel to sign the forfeiture affidavit.

765.25 EXCEPTIONS

Department members assigned to state or federal task forces are not subject to the process enumerated in this SOP provided that the asset forfeiture procedures utilized by the task force are in compliance with all state laws and federal codes governing the seizure of property.



EDWARD A. FLYNN
CHIEF OF POLICE

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