

**REDWOOD FALLS POLICE DEPARTMENT
POLICY AND PROCEDURES**

SUBJECT: #5 FORFEITURE PROCEDURES

REVISION DATE: 05/05/2020

I. POLICY

The Redwood Falls Police Department shall follow all state and federal laws pertaining to the processing of property seized for forfeiture.

II. PROCEDURE

A. Definitions

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.
2. 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.
3. 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, fire arm optics, suppression devices, cleaning supplies, etc.
4. Forfeiture: the process by which legal ownership of an asset is transferred to a government or other authority.
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.
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.
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.

B. Seized Property Subject to Administrative Forfeiture

The following property may be seized and is presumed under Minnesota State 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:

1. Controlled substances;
2. Forfeitable drug manufacturing or distributing equipment of controlled substances.

All conveyance devices containing controlled substances with a retail value of \$100.00 or more if possession or sale of the controlled substance would be a felony under chapter 152.

All firearms, ammunition, and firearm accessories found:

1. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
2. On or in proximity to a person from whom a felony amount of controlled substance is seized; or
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.

Seizure of property not listed above must be coordinated with and approved by the Chief of Police.

C. Processing Seized Property for Forfeiture Proceedings

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

1. If reasonably practicable, the peace officer shall, in the presence of another peace officer, document and inventory all seized property.
2. Complete the proper Notice of Seizure and Intent to Forfeit Property form which includes 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 State Statute 609.5314 if the retail value of the asset exceeds \$50,000.00.
3. 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 procedures under Minnesota Statutes, section 609.5314 to follow to obtain review. 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.

All property subject to, and being processed for, forfeiture through the Redwood Falls Police Department shall be held in the custody of the agency, or, in the case of seized vehicles, in the custody of the tow company.

The peace officer conducting the seizure shall forward the original seizure notices and seized property receipts to the Administrative Secretary the next business day.

The peace officer conducting the seizure shall inform the Administrative Secretary of the estimated retail value of drugs found in proximity to the asset seized.

D. Processing Seized Currency for Forfeiture

Peace officers shall not seize cash having an aggregate value of less than \$100.00 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 evidence bag shall then be co-signed when cash is involved.

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 place those funds in the property/evidence room to be returned to the appropriate entity's buy fund account.

Peace officers seizing cash shall also prepare a property inventory receipt. 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 property inventory shall also contain a detailed description of all checks, money orders, and/or traveler's checks or other financial instruments.

The peace officer conducting the seizure shall provide a copy of the completed property inventory receipt to the Administrative Secretary.

All forfeitable cash seized will be turned over to the property/evidence room as soon as possible within 24 hours of the seizure.

It is the responsibility of the officer seizing cash to process and secure it with this procedures. All forfeitable cash that has been seized shall be turned over the property/evidence room as soon as practical, and in all cases within 24 hours of seizure.

E. Processing Jewelry / Precious Metals / Precious Stones

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 placing the items in the property/evidence room. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be given to the Administrative Secretary.

Peace officers seizing jewelry, precious metals and/or precious stones shall deliver those items to the property/evidence room as soon as practically practical.

F. Conveyance Device

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

Peace officers shall inventory the conveyance device and its contents and document the results of the inventory on an Evidence and Property form. Peace officers shall also complete applicable report forms and distribute them appropriately.

Minnesota Statute, section 169A.63 provides for the forfeiture of motor vehicles operated by certain DWI offenders. A vehicle may be seized if the driver is arrested for a violation of 169A.20 and one or more of the following circumstances exist:

1. 1st Degree Felony DWI or test refusal.
2. 2nd Degree Felony DWI or test refusal
3. DWI or test refusal with a cancelled IPS status; or,
4. DWI or test refusal with a "B" card license restriction.

The officer handling the case will be responsible for forfeiture actions under this section. If a DWI suspect is believed to fall under one of the conditions set forth for forfeiture, the suspect's vehicle will be towed to the impound lot and a police hold will be placed on the vehicle. A forfeiture notice will be served upon the driver/owner of the motor vehicle.

If the vehicle is eligible for forfeiture the Administrative Secretary will determine: 1. Ownership of the vehicle; 2. the amount of any liens on the vehicle; 3. The amount of any loans on the vehicle.

G. 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 agency policy/procedure. Firearms shall be unloaded prior to storage.

H. Reports

Peace officers seizing property for forfeiture must complete a narrative report. All reports must include a description of the items seized, where the property is turned in/stored, the name of the individuals 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.

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

I. Disposition of Forfeited Property Relative to Minnesota Statute, section 609.531

Disposition of forfeited property will be the responsibility of the Chief of Police and/or Administrative Secretary. All forfeited property will be disposed of in compliance with Minnesota Statute, section 609.5315 and other applicable laws. The proceeds of the disposition of forfeited property will be distributed in accordance with Minnesota Statute, section 609.5315, Subd. 5.

As forfeitable property becomes disposed of the Administrative Secretary will complete an audit report to be sent to the State of Minnesota, reporting all contraband, monies, vehicles, or weapons that have been disbursed as a result of forfeiture actions in accordance with M.S. 609.5315 subd. 6.

If the prosecuting authority has made an agreement with the secured party of the vehicle to be released, the prosecuting authority will complete the Forfeited Vehicle Release Agreement forms with all applicable parties signing such agreement. A copy will be maintained by the Redwood Falls Police Departments.