

	KANSAS CITY MISSOURI POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	PROCEDURAL INSTRUCTION	10/25/2017	10/25/2017	17-14
SUBJECT			AMENDS	
Property Seizure and Forfeiture				
REFERENCE		RESCINDS		
Revised Statute of Missouri 195.140; 513.600, et seq.; 513.607(2) US Code Title 21, Section 881, et seq P.I. Recovered Property Procedure		P.I. 12-5		

I. INTRODUCTION

Federal and state forfeiture laws provide sworn members with authority to initiate proceedings to legally seize property that criminals use for or derive from criminal activity. If a sworn member has probable cause to believe that property is subject to forfeiture, the sworn member may seize the property as more fully described below.

II. TERMINOLOGY

- *A. **Forfeiture** – A civil 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 substances or other specified criminal activity, or anything traceable to such payments or activity. 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, as well as any estate or equitable interest in land, including, but not limited to, any lease or deed of trust upon such real property.
- *D. **Seizure** – A sworn member's act of taking a person's property, real or personal, into lawful custody. If a sworn member believes that property may be subject to a forfeiture judgment as the result of criminal activity, a seizure may be effected by the sworn member prior to the filing of a petition for forfeiture and without a seizure warrant, writ or order only if:
 1. The seizure is incident to a lawful arrest, search or inspection and
 2. The sworn member has probable cause to believe the property is subject to forfeiture and the property will be lost or destroyed if not seized.
 3. A seizure occurs at the point at which any sworn member 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.

4. Seizing agency is defined as the primary employer of the sworn member 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. For purposes of this directive state statutes are defined in Section 513.605(3) RSMo and generally 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.
- F. **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, (i.e., 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 or other livestock, boats, cars, jewelry, electronics, or any other property or service with a value exceeding one hundred dollars.

III. ADMINISTRATIVE GUIDELINES

- *A. The Asset Forfeiture Squad will be contacted for consultation any time uncertainties exist regarding seizures.

- B. Sworn members 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.
- *C. If, incident to a lawful arrest, search or inspection, a sworn member has probable cause to believe that property is subject to forfeiture and will be lost or destroyed if not seized immediately, the sworn member may seize the property. A supervisor or Asset Forfeiture Squad will be notified prior to leaving the scene.
- D. Probable cause must exist to connect an item to a specified criminal activity prior to seizure. Proof beyond a reasonable doubt is not necessary.
- E. Seized property will be inventoried and recorded in accordance with current recovered property procedures.
- F. 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.
- G. The Asset Forfeiture Squad will be responsible for conducting and coordinating the necessary follow-up investigation only as it pertains to property forfeiture proceedings.
- *H. 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 sworn member of this department as outlined in this directive. All other seizures will be referred to the appropriate county prosecutor or Office of the Attorney General by the Asset Forfeiture Squad in accordance with state law.
- I. 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.
- J. 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.
- K. Federal Forfeiture – Federal agency involvement in the investigation or federal prosecution is a prerequisite to federal forfeiture. However, property seized by sworn 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 or the Office of the Attorney General 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.
- L. State Forfeiture – When seizing property in accordance with state law, sworn members 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 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 sworn member 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 sworn member.
 - 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 Notice of Seizure Pursuant to Missouri State Forfeiture Statutes, Form 65, P.D., copies will be as follows:
1. White (original) copy – Scanned and attached to the original offense report, then forwarded to the Records Unit.
 2. Yellow copy – Will be included in a packet containing copies of all related reports, including the 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 sworn member will contact an Asset Forfeiture Squad Detective.
- *E. The sworn member's supplemental reports will be completed, scanned and attached to the owner approved Incident Report before the end of their tour of duty.
- F. Sworn members 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.
- *G. Due to time constraints sworn members are to send an electronic scanned copy of the Notice of Seizure Pursuant to Missouri State Forfeiture Statutes, Form 65, P.D., to the Asset Forfeiture Squad.
- *H. Once a sworn member establishes that a seizure can be done, the Asset Forfeiture Squad has four (4) calendar days after the seizure date to notify the county prosecutor's office to start the seizure process. Any late notification after the fourth day **will not be accepted regardless of the dollar amount.**

Richard C. Smith
Chief of Police

Adopted by the Board of Police Commissioners this _____ day of _____ 2017.

Leland Shurin
Board President

Distribution: All Department Personnel
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