

## **East Grand Forks Police Department Property Seized for Administrative Forfeiture**

**Directive:** 84.01

**Reference:** RSFLEA 84.1.8, MN State. 609.531, Minnesota Board of Peace Officer Standards and Training Model Policy

**Authorized by:** \_\_\_\_\_  
Michael S. Hedlund, Chief of Police

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**Policy:** It shall be the policy of the East Grand Forks 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.

### **I. Definitions:**

A. 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 certificates or other negotiable financial instruments.

B. 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.

C. 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.

D. Forfeiture: The process by which legal ownership of an asset is transferred to a government or other authority.

E. Jewelry/Precious Metals/Precious Stones: The term “precious metals/precious stones” includes items of jewelry, such as rings, necklaces, and watches, that reasonable 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.

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

G. Seizure: The act of law enforcement officials taking property, including cash, vehicles, etc. that have been used in connection with or acquired by illegal activities.

## **II. Seized Property Subject to Administrative Forfeiture:**

The following property may be seized and is presumed under MSS§ 609.5314 to be subject to administrative forfeiture if the item has a retail value of \$50,000.00 or less:

A. All money, precious metals, and precious stones found in proximity to:

1. Controlled substances;
2. Forfeitable drug manufacturing or distributing equipment or devices; or
3. Forfeitable records of manufacture or distribution of controlled substances.

B. All conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under MSS§ Chapter 152.

C. 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 is 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 MSS§ Chapter 152.

D. Situations in which forfeiture should not be pursued:

1. When the value of the seized item is over \$50,000 a *Judicial forfeiture* must be initiated by the prosecutor's office; the item should still be seized and a receipt provided.
2. When the value of the seized vehicle is less than \$1,000.00. (Unless the vehicle is of significant evidentiary value.)
3. When the vehicle is destroyed, as in a major crash, and seizing it would be a liability to the City.

4. When the vehicle owner is clearly innocent (i.e. a stolen vehicle).
5. Any items falling under the definition of Summary Forfeiture (MSS§ 609.5316). These items should be seized and documented for destruction by the Evidence room manager

E. Seizure of property not listed above must be processed in coordination with and approved by the shift supervisor.

### **III. Processing Seized Property for Forfeiture Proceedings**

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

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 date of seizure. Administrative forfeiture notices are NOT to be given for assets seized under MSS§ 609.5314 if the retail value of the asset exceeds \$50,000.00. In those instances a *Judicial forfeiture* must be initiated by the prosecutor's office; the item should still be seized and a receipt provided. The Notice of Seizure must be PERSONALLY served. If a jailer is asked to serve it, document that it was personally served by them. Notices of seizure to the registered owner or other interested party (not present) may be served via registered mail by the forfeiture/seized property reviewer.
2. A receipt for the items seized.
3. The notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under MSS§ 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.
4. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.
5. 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 ten days of the seizure.
6. The peace officer conducting the seizure shall document the estimated retail value of drugs when seizing any conveyance device.

#### **B. Cash**

1. Peace officers shall not seize cash having an aggregate value less than \$100, 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 money count verification sheet shall then be co-signed when cash is involved.

2. All forfeitable cash seized will be turned over to the Forfeiture/Seized property Reviewer or property/evidence room as soon as practicably possible but no later than twenty-four hours after the seizure.
3. Prior to deposit with the Forfeiture/Seized Property Reviewer, peace officers shall examine all cash seized to determine if it contains and buy funds. Peace Officers shall coordinate the documenting of buy funds with the task force providing the buy funds.
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.
5. The peace officer conducting the seizure shall provide a copy of the completed property inventory receipt to the Forfeiture/Seized Property Reviewer.
6. It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

### **C. Precious Metals/Precious Stones**

1. Peace officers seizing 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 (Evidence Room Manager).
2. Peace officers seizing precious metals, and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible.

### **D. Conveyance Device**

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
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.
3. See the East Grand Forks Police Department Policy on Motor Vehicle Impound Rules and Procedures for additional information.

### **E. Firearms/Ammunition/Firearms Accessories**

When firearms, ammunition, or firearms accessories are seized, they shall be inventoried to the property/evidence room as per agency policy/procedure. Officers must ensure that all seized firearms are unloaded.

## **Case File Status**

The Forfeiture/Seized Property Reviewer (Evidence Room Manager) shall forward all changes to forfeiture status to the supervisor who initiated the case. Forfeiture Files will be maintained in the Investigation Lieutenant's Office.

## **Report Writing**

A. Peace officers seizing property must complete a report. All reports must include a description of the items seized, where the property is turned in / inventoried, 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.

B. All reports dealing with seized property will be completed within twenty-four hours of the seizure when practically possible.