



ASHEVILLE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE



SOP 3004 - Asset Seizure & Forfeiture

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[Policy 1004 - Seizure and Forfeiture](#)

[Property & Evidence Manual](#)

[Vehicle Seizure Authorization Form \(A-60\)](#)

[Seized Vehicle Documentation Checklist \(A-61\)](#)

[Seized Vehicle Removal Form \(A-62\)](#)

INTRODUCTION

The purpose of this procedure is to establish departmental guidelines for the seizure and disposition of real or personal property under State and Federal forfeiture laws.

DEFINITIONS

Adoptive Seizure: the federal adoption and forfeiture of property seized exclusively through the efforts of state or local agencies where the conduct giving rise to the seizure is in violation of federal law.

AFC (Asset Forfeiture Coordinator): a department member designated by the Chief of Police as having administrative oversight responsibility for all asset forfeiture cases originated by members of the Asheville Police Department.

Conveyance: any vehicle, vessel, or aircraft.

Fiscal Agent: a department member designated by the Chief of Police as having responsibility for securing and maintaining seized assets and distributing any proceeds realized by any forfeiture proceedings.

Personal Property: includes currency, bank accounts, monetary instruments, jewelry, conveyances, firearms, or any other item of ownership not defined as real property.

Proceeds: money derived from the sale of forfeited property.

Real Property: generally refers to land and any structures or appurtenances erected on property.

State Seizure: a seizure made by local authorities that is administered under North Carolina law and that requires either forfeiture to the local school system or the escheat fund, return to the lawful owner or forfeiture to a permissible law enforcement purpose.

PROCEDURES

3004.1 ADMINISTRATION

- A. The Chief of Police serves as the agency's executive point of contact for Federal and/or State agencies involved in the forfeiture process.
- B. The investigating officer or detective who originates the seizure will serve as the operational point of contact for Federal and/or State agencies involved in the forfeiture process.
- C. The Support Operations Section Commander is designated as the department's Asset Forfeiture Coordinator (AFC) and will have administrative oversight responsibility for processing of potential asset forfeiture cases.
- D. All seizure of property subject to State or Federal forfeiture will be jointly reviewed by the seizing officer, his or her immediate supervisor, and the AFC. The purpose of this review will be to determine if the seizure is in compliance with applicable law and department policies/procedures.
- E. Property or conveyances retained or awarded for law enforcement use will be subject to internal controls consistent with those applicable to city property acquired through the normal purchasing processes of the City. All conveyances will be inspected and evaluated by the City of Asheville Fleet Services to determine operability, safety, and asset to the City.
- F. The City has established separate, designated revenue and expenditure accounts for the deposit and disbursement of proceeds received from state and federal forfeitures,

including any interest income generated by these funds. All proceeds received by department members through the Courts or other legal means must be delivered directly to the Fiscal Agent on the date received or no later than the next business day.

- G. The Chief of Police will determine the purposes for which forfeited property and proceeds are utilized by the agency and must authorize all expenditure of funds. Expenditures will be effected only for permissible law enforcement uses, and then only in accordance with the City's established purchasing procedures and the awarding body's regulations.

3004.2 PROCESSING OF SEIZED PROPERTY

- A. When property or cash subject to this policy is seized, after review and approval from a supervisor, the officer making the seizure should ensure compliance with the following:
 - 1. Complete the applicable seizure forms/property voucher and present the appropriate copy to the person from whom the property is seized.
 - 2. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized.
 - 3. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
 - 4. Complete and submit a report and original seizure forms before the end of the shift in which it was seized.
- B. Forward the original seizure forms and related reports to the AFC along with the submission of forms at the end of the shift.
- C. Except for motor vehicles, the officer will book seized property as evidence (see the [Property & Evidence Manual](#)) with the notation in the comment section of the property voucher of "Seized subject to forfeiture".
- D. Property seized subject to forfeiture should be booked separately from other evidence in the case.
- E. Photographs should be taken of items seized, particularly cash, jewelry, and other valuable items, and placed with the related report.
- F. Officers who suspect property may be subject to seizure, but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is

unknown, or it is real estate, bank accounts, or intangible assets) should document and forward the information in the appropriate report to the department's AFC.

3004.3 AFC RESPONSIBILITIES

A. The AFC is responsible for the following:

1. Must review and approve ALL asset forfeiture requests prior to officers proceeding with a seizure related to a criminal case.
2. Remaining familiar with forfeiture laws and forfeiture policies.
3. Providing technical assistance to all agency personnel in identifying, seizing, and documenting assets subject to forfeiture under state or federal law.
4. Reviewing each seizure-related case and deciding whether the seizure is appropriate, and if so, if it is more appropriately made under state or federal seizure laws.
5. Reviewing each asset forfeiture case, with the seizing officer and his/her immediate supervisor to ensure that:
 - a. The seizure is in compliance with applicable laws and department policy.
 - b. Appropriate written documentation of the seizure and the items seized is in the case file.
 - c. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
 - d. Property is promptly and properly stored or released to those entitled to its return.
6. Maintain a log of all property seized by the Asheville Police Department under federal forfeiture laws, as well as copies of all sharing application forms submitted to federal agencies in forfeiture cases. The log will specify, at a minimum, the following:
 - a. The OCA number.
 - b. Initiating officer or investigator.
 - c. The seizure date and seizure type (joint or adoptive).

- d. The pertinent federal agency, with statutory/code justification for the seizure.
 - e. Asset or property description.
 - f. Share requested.
 - g. The specific intended law enforcement use, if applicable.
 - h. The final disposition and disposition date.
 - i. The final asset and/or proceeds awarded and date received.
- 7. Maintaining a log of all property seized by the department under North Carolina forfeiture laws. The log will specify, at a minimum, the following:
 - a. The OCA number.
 - b. Initiating officer or investigator.
 - c. The seizure date.
 - d. Statutory authority for the seizure.
 - e. Asset or property description.
 - f. The final disposition and disposition date.
 - g. The final asset and/or proceeds awarded and date received.
- 8. Review all federal sharing applications initiated by agency personnel to ensure proper completion and timely submission in accordance with Federal guidelines.
- 9. Ensuring that all seized property in the custody of the department that is subject to forfeiture is adequately protected and its value preserved.
- 10. Coordinating the provision of training to department personnel on the process of documenting and identifying assets subject to forfeiture.
- 11. Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form, and a checklist that provides relevant guidance to officers. These forms should be available in languages appropriate for the region and should contain spaces for:
 - a. Names and contact information for all relevant persons and law enforcement officers involved (witness signature/name field).

- b. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 - c. A space for the signature of the person from whom cash or property is being seized.
 - d. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure, and a detailed description of the items seized.
12. This directive and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

3004.4 FISCAL AGENT RESPONSIBILITIES

- A. Preparing the Federal Sharing Agreement and Federal Annual Certification Report for review and signature by the Chief of Police and appropriate Finance Director in accordance with Federal guidelines.
- B. Reviewing MUNIS accounts to ensure proper recording of revenues and expenditures.
- C. Preparing required staff reports and budget amendments for revenues and expenditures.
- D. Ensure proper disposal of property in compliance with the governing body's guidelines.
- E. Ensure any funds from sales or auction of disposed awarded assets are recorded in the appropriate forfeiture line.

3004.5 FEDERAL FORFEITURES

- A. Federal law enforcement agencies participating in the federal forfeiture program and who directly adopt state and local seizures currently operate within both the Department of Justice (DOJ) and the Department of the Treasury (DOT).
- B. Application must be made to request a share of the property seized in a joint investigation or in an adoptive case by using Form DAG-71 Equitable Sharing Request Form (DOJ agencies), Form TDF92 (for Treasury Department agencies), or IRS Form 9061 (for Internal Revenue Service). A separate form must be completed for each asset to be shared.
- C. Adoptive seizures may occur if a request is submitted to a federal seizing agency to proceed with a federal forfeiture. If an adoptive seizure is requested, the seizing officer and AFC are jointly responsible for the following:

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1. Evaluating if the value of the seized items meet applicable minimum adoption thresholds for conveyances, real property, and/or currency, bank accounts and monetary instruments.
 2. Determining that the seized items to be transferred to federal authorities are not required for use in any State prosecution.
 3. If the seizure was made under State law, provide written notice to the District Attorney that the property is being transferred to federal authorities, as the property is not required for State prosecution.
 4. Completing all required application forms within established time limits, for review and signature by the Chief of Police and City Attorney and submitting to the Federal agency administering the forfeiture.
 5. Coordinating with the adopting federal agency regarding the transfer of the seized property to Federal custody.
- D. When a seizure is a result of the department's participation in a formal or informal federal task force, any written equitable sharing agreement must be reviewed and followed.
- E. Equitable sharing funds must be used according to established regulations. Equitable sharing funds may not be used to pay the salaries and benefits of sworn or non-sworn law enforcement personnel, except in approved limited situations for task force members or specialized programs.
- F. Equitably shared monies and revenue must not be commingled with funds from any other source.
- G. The Chief of Police must authorize all expenditures from the federal sharing revenue account.
- H. Annually, an Equitable Sharing Agreement and Certification Form must be submitted to the DOJ Asset Forfeiture and Money Laundering Section (AFMLS) via the eShare System. This form must be completed and submitted within sixty (60) days after the end of the fiscal year, regardless of if funds/assets were received or maintained during the fiscal year.
- I. If the department expends more than \$500,000 in federal funds in a fiscal year, an independent financial audit must be completed per federal law.

- J. All documents and records pertaining to participation in the DOJ Equitable Sharing Program must be retained for a period of at least five years.

3004.6 STATE FORFEITURES

- A. All seizures of property or currency that is subject to forfeiture under state law must be reported to the AFC by the end of the next business day following the seizure.
- B. Property seized pursuant to State forfeiture laws will normally be retained in the custody of the department (Property and Evidence Section) pending a judicial disposition (court order).
- C. Seized conveyances will be inventoried prior to storage in accordance with all department directives and properly secured to protect their value. Keys to seized conveyances (if any) will be affixed to a key ring along with the key to any locking device used. These keys will then be submitted to the Property & Evidence Section for safekeeping.
- D. When property awarded to the department for official use is of no further use to the department, the property will be sold at public auction. The proceeds from the sale, excluding any costs for forfeiture, maintenance of custody/storage, advertising, and court costs, must be turned over to the school fund of the county in which the seizure was made and adjudicated.
- E. All forfeited property turned over to the department for official use under State law must be fully documented and tracked by the AFC, who will ensure that the final disposition of such forfeited property is in accordance with prevailing state law.

BY ORDER OF:



Tammy Hooper
Chief of Police