

ASHEVILLE POLICE DEPARTMENT POLICY MANUAL

Chapter: 10 – Vice and Organized Crime

Policy: 1004 – Seizure and Forfeiture

Previously: 1300 – Seizure & Forfeiture

Original Issue: 6/1/1994

Last Revision: 4/17/2017



CONTENTS

INTRODUCTION

POLICY STATEMENT

DEFINITIONS

RULES AND PROCEDURES

1004.1 ASSET SEIZURE

1004.2 MAINTAINING SEIZED PROPERTY

1004.3 ADMINISTRATIVE RESPONSIBILITIES

1004.4 DISPOSITION OF FORFEITED PROPERTY

ASSOCIATED DIRECTIVES

[SOP 3004 – Asset Seizure & Forfeiture](#)

INTRODUCTION

This policy establishes guidelines and procedures for the seizure of assets exclusively for forfeiture; to provide for the management, control, and processing of seized assets which are pending civil forfeiture proceedings; and to provide procedures regarding the disposition of seized assets.

POLICY STATEMENT

It is the policy of the Asheville Police Department (APD) to maintain, control, and store in an approved manner, all seized motor vehicles and assets awaiting forfeiture proceedings and ensure accurate records and civil process documents are completed and maintained.

DEFINITIONS

Fiscal Agent: the person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized by any forfeiture proceedings.

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

Asset Forfeiture Coordinator (AFC): the department member, assigned by the Chief of Police, who is responsible for reviewing all forfeiture cases and acting as the liaison between the department and other governmental agencies and appropriate courts.

Property Subject to Forfeiture: includes items subject to forfeiture as identified by statute which may include property, cash, or assets.

Seizure: the act of law enforcement officials taking property, cash, or assets that have been used in connection with or acquired by specified illegal activities.

RULES AND PROCEDURES

1004.1 ASSET SEIZURE

- A. When applicable, property subject to forfeiture may be seized by any law enforcement officer in the following circumstances:
 - 1. Upon process issued by any district or superior court having jurisdiction over the property; or
 - 2. When the seizure is incident to an arrest or a search under a search warrant; or
 - 3. When the property subject to seizure has been the subject of a prior judgement in favor of the State in a criminal injunction or forfeiture proceeding.
- B. Major North Carolina statutes enforced by the department in which property or currency is subject to seizure and forfeiture include, but are not limited to:
 - 1. Controlled substances, money, raw material, products, equipment, property used as a container and all conveyances related to illegal substances ([N.C. Gen. Stat. § 90-112](#));
 - 2. All conveyances used to unlawfully conceal, convey, or transport property in violation of specified theft crimes ([N.C. Gen. Stat. § 14-86.1](#));
 - 3. A motor vehicle driven by an impaired driver with a revoked license or driving without a valid license and no insurance ([N.C. Gen. Stat. § 20-28.3\(a\)](#));
 - 4. A motor vehicle driven by an impaired driver if the driver is a habitual violator ([N.C. Gen. Stat. § 20-138.5\(e\)](#));
 - 5. A motor vehicle involved with a felony speeding to elude charge ([N.C. Gen. Stat. § 20-28.3\(a1\)](#));
 - 6. A motor vehicle involved with a pre-arranged speed competition charge ([N.C. Gen. Stat. § 20-141.3](#));
 - 7. All conveyances, containers, equipment or ingredients used in violation of Alcoholic Beverage Control (ABC) laws. ([N.C. Gen. Stat. § 18B-504\(a\)](#))

- C. Federal seizures and forfeitures will be conducted in accordance with procedures provided in [SOP 3004 – Asset Seizure & Forfeiture](#).
- D. Seizures may be made only upon review and approval of a supervisor and in coordination with the department's Asset Forfeiture Coordinator (AFC).
- E. All seizures of property or currency that are subject to forfeiture under state or federal law will be reported to the AFC by the end of the next business day following the seizure.
- F. Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method.
- G. No conveyance should be seized which is in an obvious state of disrepair or appears to be worth less than fair market value; or which has a significant lien or other security interest by an innocent party. A determination will be made by the AFC in cases where there is a question as to the suitability of a conveyance for forfeiture proceedings.
- H. Seized vehicles will be towed to an appropriate storage facility and the keys stored and turned into Property & Evidence in accordance with department policy.

1004.2 MAINTAINING SEIZED PROPERTY

- A. The AFC and Evidence Manager are responsible for ensuring compliance with the following:
 - 1. All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
 - 2. All property received for forfeiture is checked to determine whether the property has been stolen.
 - 3. All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
 - 4. Property received for forfeiture is not used unless the forfeiture action has been completed.
 - 5. Forfeitable property is retained until such time as its use as evidence is no longer required.

1004.3 ADMINISTRATIVE RESPONSIBILITIES

- A. Generally, the responsibilities of the AFC include (see [SOP 3004 – Asset Seizure & Forfeiture](#)):

1. Serving as the liaison between the department and other governmental agencies, courts, and legal counsel ensuring prompt legal review of all seizures;
 2. Maintaining records and tracking of all department seizures and forfeitures;
 3. Ensuring compliance with applicable state and federal regulations relating to seizures and forfeitures;
 4. Working with officers and supervisors to maintain overall accountability, tracking, reporting, and management of seized property;
 5. Remaining familiar with current regulations and processes related to both State and Federal forfeitures, and being available as a resource to department members for these processes.
- B. The Fiscal Agent is responsible for the monitoring, accounting, and management of department equitable sharing and seizure fund accounts in compliance with all applicable State and Federal regulations. This includes, but is not limited to:
1. Ensuring separation and appropriate accounting of federal equitable sharing funds;
 2. Monitoring the authorization and use of forfeiture funds in compliance with State and Federal regulations;
 3. Arranging required external account audits when required by federal law;
 4. Organizing and maintaining forfeiture proceed accounting records according to applicable records retention requirements.

1004.4 DISPOSITION OF FORFEITED PROPERTY

- A. No department employee may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use.
- B. No department employee involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

BY ORDER OF:



Tammy Hooper
Chief of Police