



GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



EFFECTIVE DATE: FEBRUARY 11, 2003	REVISED DATE: JANUARY 27, 2003	NO. PAGES: 1 of 6	NUMBER: 2.2.01
SUBJECT: <b style="text-align: center;">FORFEITURE OF CONTRABAND			
ASSOCIATED MANUAL:		RELATED ORDERS: <b style="text-align: center;">4.1.01, 8.2.01	
CHIEF OF POLICE: <b style="text-align: center;"><i>Edward F. Lohn, Chief</i>			

Substantive revisions are in Italic.

PURPOSE: To establish procedures to forfeit contraband and other property used or intended to be used to further criminal activity or obtained with proceeds from criminal activity.

POLICY: The Cleveland Division of Police shall seek forfeiture of property seized as contraband, or confiscated as a criminal tool. Requests for the forfeit of property shall be processed through the Forfeiture Unit.

DEFINITION:

Contraband is defined in ORC 2901.01 (A)(13), as that property which by its nature is illegal to possess (drugs, drug paraphernalia, dangerous ordnances, etc.), or is used or intended to be used in the furtherance of criminal activity or obtained with the proceeds from criminal activity (criminal tools, money, vehicles, pagers, scales, dice, betting slips, etc.)

PROCEDURES:

I. Reporting Procedures.

- A. All property seized as contraband and/or as a criminal tool shall be listed in a Record Management System (RMS) report.
- B. Seized property shall be identified and described including physical characteristics and serial numbers.
- C. In cases with multiple defendants, the officer seizing the property shall identify from which defendant each listed property was seized.

II. Duties and Responsibilities

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A. *Detectives*

1. *Felonies.*

The assigned detective is responsible to make forfeiture requests in all felony incidents involving seized contraband and/or criminal tools.

2. *Misdemeanors.*

- a. *Detectives shall make forfeiture requests for misdemeanor incidents originally generated by their unit.*
- b. *District Vice Unit detectives are responsible for making forfeiture requests in all applicable misdemeanor incidents in their districts when property is seized as contraband and/or as a criminal tool.*
- c. *Requests shall not be submitted for music equipment confiscated for misdemeanor offenses.*

B. *Statement Unit.*

All statement and grand jury packages shall be held until reviewed by the Forfeiture Unit. Packages not prepared and logged before 0900 hours shall be held until the following business day.

C. *Officer in Charge (OIC)*

The first platoon OIC of each district or unit shall ensure that property seized as contraband and/or as a criminal tool is conveyed to the Property Unit within three working days.

III. *General Forfeiture Procedures.*

A. *Felonies.*

- 1. *The original and one copy of the Request For Forfeiture Proceedings' form (Appendix A), one copy of the RMS report (including the Impound Vehicle Inquiry), supplemental reports, Form-1 reports and search inventory sheets shall be submitted to the Forfeiture Unit prior to or*

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the same day as the statement package is submitted to the Statement Unit.

2. *A third copy of the Request For Forfeiture Proceedings Form shall be attached to the statement package. The Forfeiture Unit will attach the original Request For Forfeiture Proceedings Form to the statement package.*
3. *If a case requires immediate processing, the assigned detective shall also physically convey the package through the Forfeiture Unit to insure that proper and timely forfeiture proceedings are instituted.*
4. *The assigned detective shall provide the Forfeiture Unit with the Journal Entry or Court Order disposing of the forfeiture issue immediately upon the disposition of the underlying criminal proceedings.*

B. Misdemeanors.

The original forfeiture request, one copy of the request and two copies of the RMS report shall be submitted to the Forfeiture Unit within five working days.

IV. Forfeiture Procedures for Drugs only; no other tangible property.

*Forfeiture requests shall not be submitted in cases involving drugs only. Drugs only cases are defined as those cases, which involve **only** drugs and/or paraphernalia with residue, which are submitted to the lab.*

V. Buy money is not contraband to be forfeited.

VI. Forfeiture Procedures for Tangible Property.

- A. *Forfeiture requests shall be submitted for confiscated property **not** submitted to the lab. Examples include but are not limited to; motor vehicles, cash, jewelry, pagers, telephones, computers, etc. including scales or other paraphernalia **not** submitted to the lab.*
- B. *Forfeiture requests for property and the accompanying felony charges shall be filed within 30 days.*

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1. *Ohio Revised Code §2933.43(C), states in part, “Any property seized because of its relationship to an underlying criminal offense or administrative violation shall be returned to its owner if charges are not filed in relation to that underlying offense or violation within 30 days after the seizure...”*
2. *If a forfeiture request and felony charges are not filed within 30 days, the assigned detective shall forward a completed Property Return Form (Appendix B) instead of a forfeiture request and shall notify the owner to pick up the property.*

VII. *Special Consideration for Motor Vehicles and All Titled Property.*

Failure to provide timely notification or failure to file charges within 30 days will result in the release of the seized vehicle and may subject the City of Cleveland, the Division of Police and its members to civil liability.

A. *Motor Vehicle.*

1. *A motor vehicle is subject to forfeiture proceedings only when felony charges are filed within 30 days of the seizure. In addition, the titled owner of a seized motor vehicle shall be notified within 72 hours of the seizure*
2. *Motor vehicles subject to felony forfeiture proceedings must be impounded in Lot Two except in cases that mandate the vehicle shall be impounded elsewhere. For example, a vehicle too large to go to Lot Two.*
3. *Assigned detectives shall insure that the titled owner has been notified of the seizure within 72 hours.*
 - a. *In compliance with the Ohio Revised Code §2933.43(A)(2):*
 - b. *"The notification shall be given to the owner at the owner's last known address within 72 hours after the seizure, and may be given orally by any means, including telephone, or certified mail, return receipt requested.*

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c. *If the officer or the officer's agency is unable to give the notice required by this division despite reasonable, good faith efforts to do so, the exercise of the reasonable, good faith efforts constitutes fulfillment of the notice requirements imposed by this division."*

4. *The notification, or in lieu, the reasonable, good faith efforts to do so shall be documented in a supplemental report and included as part of the forfeiture request.*

5. *In cases where forfeiture requests and felony charges are not filed within 30 days, the assigned detective shall forward a completed Vehicle Return Request (Appendix C) and notify the titled owner to pick up the vehicle.*

B. *The seizure of real estate shall be immediately reported to the Forfeiture Unit OIC.*

VIII. *Forfeiture Procedures for Motor Vehicles and All Titled Property; owner other than defendant.*

A. *Motor vehicles titled to someone other than a defendant shall not be subject to forfeiture proceedings, except in 1 or 2 below:*

1. *Where the detective establishes, by a preponderance of the evidence, that the owner either knew, or should have known after a reasonable inquiry, that the vehicle was, or was likely to be used, in a crime or administrative violation, and the detective is prepared to present such evidence in court. The evidence required above shall be documented in a supplemental report and forwarded to the Forfeiture Unit with the forfeiture request.*

2. *Where the detective can prove that the motor vehicle title with another's name is, in fact, owned by the defendant.*

B. *The evidence required above shall be documented in a supplemental report and forwarded to the Forfeiture Unit with the forfeiture request. Detectives shall notify the Forfeiture Unit within 72 hours of the seizure with their intent to request a forfeiture of a vehicle titled to someone other than the defendant. Failure to notify the Forfeiture Unit shall result in release of the vehicle in accordance with Ohio law.*

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- C. *Detectives shall forward a Vehicle Return Request to the Forfeiture Unit within 72 hours of the seizure when a motor vehicle is located at Lot 2, titled to someone other than a defendant and evidence is not established for the exceptions listed in Section VIII, A, 1.*

IX. Forms.

- A. *The following forms shall be used to request forfeitures and/or the return of property. They are available at the Forfeiture Unit and may be duplicated on a copy machine:*

1. *Request For Forfeiture Proceedings' form.*

- a. *The front of the Request For Forfeiture Proceedings' form shall be completed in its entirety and signed by the detective completing the form.*
- b. *Vehicles shall be listed on the back of the form and identified by year, make, model, license and vehicle identification number.*
- c. *Firearms shall be listed on the back of the form and identified by make, caliber, number of live rounds and serial number.*
- d. *All other property shall be individually listed on the back of the form and identified as completely as possible by make, description, and serial number.*

2. *Vehicle Return Request form.*

3. *Property Return form*