



ROCKFORD POLICE DEPARTMENT

GENERAL ORDER

NUMBER: 50.03

TITLE: Drug Asset Seizure and Forfeiture

SERIES NUMBER: 50

SERIES TITLE / SUBJECT: Operations Support

TOPICS/ REFERENCE: Drug Asset Forfeiture, Drug Asset Seizure, Property Forfeiture Property Seizure,

APPENDICIES: None

ORIGINAL / EFFECTIVEISSUE DATE: February, 8, 2005

DATE OF REVISION: May 01, 2013

THIS ORDER REMAINS IN EFFECT UNTIL REVISED OR RESCINDED

CALEA STANDARDS: 1.2.9 – 84.1.8

Policy:

It is the policy of the Rockford Police Department to utilize the forfeiture provisions of the Illinois Drug Asset Forfeiture Procedures Act, the Illinois Cannabis Control Act, and the Illinois Controlled Substance Act, (the Acts), to the fullest extent to deter drug related crime and to deprive criminals of the profits and proceeds of their illegal drug related activities, while at the same time recognizing and respecting the rights of innocent property owners. The potential revenue to be gained must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens. The Department will manage its asset forfeiture program in complete compliance with the Acts, applicable federal statutes, and the National Code of Professional Conduct for Asset Forfeiture. The Department will also apply the provisions of the Acts in the seizure of assets without regard to race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group.

Purpose:

The purpose of this Order is to establish procedures for conducting drug asset forfeitures for members of the Rockford Police Department, which meet the requirements of the Illinois Drug Asset Forfeiture Act, the Illinois Cannabis Control Act, and the Illinois Controlled Substance Act. Following these established procedures will ensure all expenditures from asset forfeiture accounts comply with the U.S. Attorney General's Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies and Illinois State Statute 720 ILCS 570/505. The procedures will also protect the Rockford Police Department and its members from civil or criminal liability caused by misappropriation of funds.

These guidelines are not meant to be all-inclusive, since each incident must be dealt with on an individual basis, but are intended as broad guidelines to assist the employees and supervisors involved.

This General Order is comprised of the following numbered sections:

- I. AUTHORITY
- II. ASSET FORFEITURE ACCOUNTS
- III. RESPONSIBILITIES
- IV. PROCEDURES
- V. SEIZURE OF SUSPECTED DRUG FUNDS
- VI. FEDERAL ASSET SEIZURES
- VII. EFFECTIVE DATE
- VIII. REVIEWS, REVISIONS AND CANCELLATIONS

I. Authority:

- A. Illinois Drug Asset Forfeiture Procedure Act, 725 ILCS 150
- B. Illinois Cannabis Control Act, 720 ILCS 550
- C. Illinois Controlled Substances Act, 720 ILCS 570

II. Asset Forfeiture Accounts:

- A. In order to maintain audit control over seized funds, the Rockford Police Department shall open the following money account with a local financial institution.
 - 1. PDASAD (Police Department Asset Seizure Account (State)), state seizures – Department seizures.

III. Responsibilities:

- A. The Chief of Police shall designate an Asset Forfeiture Officer (AFO) who shall be of the rank of sergeant or above and who shall not be in the same chain of command as the supervisor of the Rockford Narcotics Unit. The AFO shall be responsible for ensuring the Department's compliance with the statutory requirements of the Acts.
- B. The AFO shall be under the supervision of the Commander of the Administrative Services Bureau.
- C. The AFO shall execute forfeiture account functions in accordance with the forfeiture and accounting statutes as follows:
 - 1. Receive and deposit seized funds in a locally held financial institution under contract with the City of Rockford for this purpose,
 - 2. Record and track all assets seized under the Acts from time of seizure to final disposition and keep and maintain a paper file of all records generated,
 - 3. Initiate award letters for the awarding of forfeited property,
 - 4. Dispose of all assets forfeited under the acts,
 - 5. Maintain automated seizure accounting computer systems to track forfeiture activities; provide internal/external reporting; initiate letters for disbursements; provide check writing for seized and forfeited funds.

- D. The Supervisor of the Rockford Narcotics Unit shall review all cases involving narcotics violations where property has been seized for the purpose of:
1. Determining if the asset(s) seized meets the probable cause requirements of the Acts. If there is any doubt as to probable cause, the supervisor of the Rockford Narcotics Unit shall contact the reporting officer(s) to determine the circumstances involved in the case. The State's Attorneys Office should be contacted to resolve any questions of probable cause or requirements of the Acts.
 2. Determining if the asset(s) seized meets the minimum monetary thresholds for seizure as stated in this order.
 3. Determining if the asset(s) meet the requirements in subparagraph 1 and 2 as listed above, prepare a "Request for Seizure" form and forward it along with a copy of the applicable police reports to the AFO. If the asset is a motor vehicle, a copy of ownership information shall be forwarded as well.
- E. The AFO, upon receipt of a "Request for Seizure" shall:
1. Open an asset seizure file.
 2. Complete an Illinois State Police "Notice/Inventory of Seized Property" form coded to identify the seizing organization.
 3. Forward the completed form along with a copy of the police report(s) to the State's Attorneys Office.
 4. Retain a copy of the Illinois State Police "Notice/Inventory of Seized Property".
- F. Minimum Monetary Thresholds
1. The following minimum monetary thresholds will be utilized when determining whether to seize assets unless changed by the State's Attorneys Office. Note: Minimum net equities are determined by subtracting the lien amount, pre-forfeiture, management, and disposal expenses from the wholesale value of the asset.
 - a. Currency – minimum amount of \$20 is required.
 - b. Vehicles – forfeited without regard to value if no lien is present. If a lien is present, a minimum net equity of \$2,500 is required.
 - c. Vessels/boats – forfeited without regard to value if no lien is present. If a lien is present, a minimum net equity of \$5,000 is required.
 - d. Aircraft – forfeited without regard to value if not lien is present. If a lien is present, a minimum net equity of \$5,000 is required.
 - e. Firearms – forfeited without regard to value.
 - f. All other personal property not identified above – minimum value of any single item \$50 is required.
 - g. Real property – should have a minimum net equity of \$10,000.

Note: In some circumstances, the overriding law enforcement benefit will require seizure of an asset that does not meet the criteria. In individual cases, these thresholds may be waived where forfeiture will serve a compelling law enforcement interest (e.g., forfeiture of a "crack house"). The Commander of the Investigative Services Bureau must approve any departure from the monetary thresholds for assets.

IV. Procedures:

A. Seizures:

1. Evidentiary requirements must be satisfied prior to processing property under the provisions of this directive. See Department General Order *60.01 - Collection and Handling of Evidence and Found Property*, and Department General Order *40.06 - Impounding or Towing of Motor Vehicles*.
2. Seized property will be the responsibility of the Evidence & Property Unit or the Rockford Narcotics Unit as appropriate until forfeiture proceedings are completed.
3. U.S. Currency:
 - a. All seized currency required to be held as evidence will be collected and packaged in accordance with Department General Order *60.01 - Collection and Handling of Evidence and Found Property*.
 - b. Currency held as evidence resulting from an arrest will be kept for a minimum of 30 days before any action on seizing the currency by the AFO can begin. This will allow the State's Attorneys Office ample time for case review of the incident.
 - c. Currency to be seized shall be signed out by the AFO from evidence storage and digitally scanned.
 1. The currency will be deposited in the appropriate asset seizure account within twenty-four (24) hours.
 2. Proper documentation will be made in the automated seizure accounting computer system maintained by the AFO and in the evidence tracking system maintained by the Evidence and Property Unit of all such transactions.
 3. If a hard copy of the transaction is needed for court, audits, inspections, or other follow up inquiries, the AFO will print the hard copy from the digitally stored file system.
 4. The data base for all above described automated seizure accounting computer system entries and transactions will be set up on the Department's computer network "N" drive to allow nightly back-up and ease of data retrieval by Department Command level personnel in the absence of the AFO.
4. Conveyances:
 - a. For each conveyance, the officer seizing will fill out an Impounded Vehicle Report and comply with the requirements for impounded vehicles as set forth in Rockford Police Department General Order number *40.06 - Impounding or Towing of Motor Vehicles*.
 - b. Inspections:
 1. Rockford Narcotics Unit personnel shall be responsible for inspecting each conveyance seized to verify VIN's and ownership.
 2. In determining the identity of a conveyance, the inspecting personnel shall enlist the aid of other members of the

Department or outside agencies in determining the conveyance's true identity.

- c. If the decision is made to move for seizure of the conveyance in the custody of the Rockford Narcotics Unit, the unit supervisor shall forward documentation identifying the conveyance along with ownership information to the AFO. If the conveyance has been seized by a unit of the Department other than Rockford Narcotics, the supervisor of the Rockford Narcotics Unit will notify the AFO of the intent to seize. The AFO will obtain the identity and ownership information from the Evidence & Property Unit.
 - d. If the decision is made not to seize the conveyance, the Rockford Narcotics Unit shall forward all information to the Evidence & Property Unit for handling as an impounded vehicle and coordinate transferring the conveyance to an impound vehicle storage facility as necessary.
 - e. The Rockford Narcotics Unit will maintain all conveyances seized to ensure its value does not diminish, e.g., winterize general maintenance, etc.
 - f. The conveyance should be stored at a location where no storage fees will be incurred by the Department whenever possible. Conveyances seized by other units of the Department shall be stored in the Rockford Narcotics storage garage whenever practical.
 - g. If a tow bill is incurred by the Department in reference to a seizure of a conveyance, the tow bill will be attached to the Impounded Vehicle Report and forwarded to Fiscal Services.
5. Weapons shall not be seized unless requested for Department use.
6. Personal Property:
- a. All seized personal property required to be held as evidence will be handled in accordance with Department General Order *60.01 - Collection and Handling of Evidence and Found Property*.
 - b. Personal property will be maintained by the Department to ensure its value does not diminish.
 - c. In cases of collectable items or jewelry, a professional appraisal will be requested through the Evidence & Property Unit and a copy forwarded to the AFO. The cost of the appraisal shall be reimbursed to the City of Rockford from proceeds of the sale.
7. Real Property:
- a. Under no condition will real property be physically seized without a judicial finding of probable cause and prior consultation with and approval of the Chief of Police, Commander of the Investigative Services Bureau and the State's Attorneys Office.
 - b. Immediately upon filing this "lis pendens" (a notice on public record that the title to specific property is in litigation) the AFO will obtain the following documentation for the seizure file:
 - 1. A title report completed by a licensed title company,
 - 2. Documentation concerning current occupants and/or leases, and

3. Photographs of the exterior of the property
 - c. The AFO will take appropriate steps to determine the management and disposal expenses that will determine if the property meets the minimum monetary threshold.
 - d. The AFO will ensure that they are kept informed of all forfeiture proceedings concerning seized real property.
- B. Forfeitures/Final Dispositions:
1. Responsibilities:
 - a. The AFO shall expect to be notified, in writing, of the final disposition of all assets seized under the Acts. This includes receipt of one of the following:
 1. A declaration of forfeiture,
 2. A court order,
 3. A "Property Seizure Notice" form signed as declined by the State's Attorneys Office,
 4. Written documentation from the State's Attorneys Office authorizing release of the asset, or
 5. An order of disposition issued by the court or State's Attorneys Office having jurisdiction over the items seized.
 - b. For all assets physically seized under the Acts where subsequent seizure / forfeiture proceedings are never initiated, ceased, or declined by the State's Attorneys Office, Appellate Prosecutors Office, or Attorney Generals Office, the following procedures will be used in an attempt to return the assets to the person from whom they were seized:
 1. The AFO will determine if any asset seized is required for the prosecution of a criminal case.
 2. If the seized asset(s) can be returned, the procedure for their return shall be as follows:
 - a. If the owner's current address is known:
 1. A return letter shall be sent to the owner within a reasonable time following receipt of notice of declination to seize from the State's Attorneys Office or court order authorizing return, notifying that they must come to the Rockford Police Department, Evidence & Property Unit, to claim their seized asset(s) within 20 days of receipt of the letter. Letters in these cases shall be sent by Certified Mail, (return receipt requested).
 2. A copy of any notice of declination or court order authorizing return shall be attached to the original case fill and a copy of the return letter and proof of mailing shall be placed in the asset seizure file.

shall be sent to the Illinois State Police along with a copy of their demand letter plus any documentation showing any discrepancies in what was demanded and what was in fact forfeited.

3. Requests for Forfeited Assets (Personal Property):
 - a. Requests for awarding of forfeited personal property assets shall be submitted in writing to the Illinois State Police. The award request must state specifically how the asset will be used in the enforcement of the Cannabis Control Act and/or the Controlled Substance Act.
 - b. Upon receipt of approval by the Illinois State Police, the property listed in the award shall be used for by the Department only for the purpose stated in the request letter for a period of one (1) calendar year from the date of approval. After one (1) calendar year, the Department may use or dispose of the property without restriction.
4. Converting of Forfeited Assets (Personal Property / Conveyances):

When items of personal property assets have been awarded to the Department for which the Department has no need and the Department wishes to convert the asset, the Illinois State Police shall be notified. The Illinois State Police will periodically pick up such items for auction, the proceeds of which (minus sale expenses, payoff on liens, and state share) will be returned to the Department through normal disbursement.

 - a. The AFO shall determine the approximate value of all property to be transferred to the State.
 - b. A Property Release(s) for the property being released will be completed by the AFO and signed by the representative of the Illinois State Police at the time of release.
 - c. For conveyances, the representative of the Illinois State Police, in addition to signing a Property Release, will be provided with ownership information and documentation showing ownership and liens.
 - d. A copy of the Property Release(s) shall attached to the original case file and filed in the Seizure Case file(s).
5. Converting of Real Property:
 - a. When an award of forfeited real property is received, the AFO shall notify the Illinois State Police.
 - b. The Illinois State Police will then be responsible for auctioning or otherwise disposing of the real property with the proceeds (minus payoff of any mortgage or liens, sale expenses and state share) returned to the Department through normal disbursement.

C. Expenditures of State Forfeited Funds:

1. All expenditures of state drug forfeiture funds by the Department must be utilized for the enforcement of the Cannabis Control Act and the Controlled Substances Act and will conform to applicable state laws, rules, regulations, and orders governing the use of public funds.
2. All requests for state drug forfeiture funds shall be made in writing to the Commander of the Administrative Services Bureau. These requests shall

include a description of the items requested, an approximate cost, and justification for the items requested.

3. All requests should be consistent with the goals of the Department.

V. Seizure Of Suspected Drug Funds:

A. The following provisions will be followed relative to the seizure of money from individuals suspected as being involved with drug trafficking.

1. In all cases, arrest or non-arrest, the below listed factors should be considered:

- a. Did the suspect make admissions the money is a result of drug sales, or is to be used to purchase drugs?
- b. Was the money located near drugs or drug paraphernalia?
- c. Does the suspect have prior drug arrests and convictions?
- d. Did the suspect provide false or multiple identities?
- e. Did the suspect provide false answers to questions concerning ownership of the money?
- f. Is the suspect in the company of known drug dealers or users?
- g. Does the suspect have a legitimate source of income for the money?

B. Arrest:

1. When a suspect is arrested, whether charged with a drug offense or a non-drug offense, and is in possession of money believed to be related to drug trafficking, a supervisor must authorize the seizure.

- a. The money should be tagged following normal procedures described in General Order *60.01 - Collection and Handling of Evidence and Found Property*.

C. Non-Arrest:

1. Suspects should not be transported to the PSB for purposes of seizure of funds unless under arrest or they consent.

2. If a suspect is in possession of a large sum of money (over \$1,000) and the funds are suspected of being related to drug trafficking, the following steps should be followed.

- a. A supervisor must be consulted and ensure that the factors in section A-1, above have been reviewed. If so, the supervisor may authorize the seizure of the money based on the totality of the circumstances.
- b. If seized, the suspect should be given a receipt for the money.
- c. The money should be tagged following normal procedures described in General Order *60.01 - Collection and Handling of Evidence and Found Property*.
- d. A General Case Report will be written detailing the seizure and noting which supervisor authorized the seizure.

D. Exceptions to the non-arrest procedures are as follows:

1. Members of the Rockford Narcotic Unit engaged in a drug investigation under the supervision of a Rockford Narcotic or detective supervisor.
2. Money that is evidence of a non-drug related crime (Armed Robbery, Burglary, Theft, etc.) should be tagged as evidence following normal investigative procedures.

- E. K-9 money lineups of suspected drug trafficking money will not be utilized unless a specific request to do so is made by the Winnebago County State's Attorneys Office. (This does not prevent a K-9 sniff of a vehicle during a traffic stop.)
- VI. Federal Asset Seizures:
 - A. Requests for seizure:
 - 1. If the federal law enforcement agency involved in a joint investigation requests any asset in the custody of the Rockford Police Department seized as part of that investigation for seizure under federal law, the Department shall release such property according to the procedures set forth for the release of property or property to another agency.
 - B. Requests for Federal Forfeited Funds:
 - 1. All expenditures of federal forfeited funds by the Department must be utilized for those purposes as set forth in the Department of Justice Publication, "A Guide for Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies".
 - 2. All requests for federal forfeited funds shall be made in writing to the
 - 3. Commander of the Administrative Services Bureau. These requests shall include a description of the items requested, an approximate cost, and justification for the items requested.
 - 4. All requests should be consistent with the goals of the Department.
- VII. Effective Date:
 - A. The Department's policy on Drug Asset Seizure became effective on February 8, 2005.
- VIII. Reviews, Revisions And Cancellations:
 - A. This General Order will be reviewed annually by the Supervisor of Rockford Narcotics Unit and, when necessary, revised or cancelled in accordance with the procedures for reviewing written directives established in General Order *10.01 – Written Directives*.
 - B. Any employee with suggestions for revisions and/or improvements to this order are encouraged to submit their ideas to the Commander of the Investigative Services Bureau.

BY ORDER OF

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Chet Epperson
Chief of Police