

CAMBRIDGE POLICE DEPARTMENT

Title: *SEIZURE & ASSET FORFEITURE* **Procedure: 1.501**

Date Issued:

Revised:

PURPOSE:

To establish guidelines for the seizure and forfeiture of assets.

POLICY:

It is the policy of the Police Department to utilize to the fullest extent the forfeiture provisions available in state and federal drug laws. This effort is intended to have a direct impact on the individuals dealing with narcotics arrested by the Police Department, while providing the Cambridge Police Department with the maximum amount of economic benefits provided for in various laws.

DEFINITIONS:

Asset seizure is the confiscation by the government of tainted property or assets used to commit a crime or gained as a result. Forfeiture is the legal process by which the title to the seized property is turned over to the government.

Asset forfeiture drug cases can be accomplished through either civil or criminal proceedings. Federal criminal forfeiture is pursued under two laws, the Racketeer Influenced and Corrupt Organization (RICO) Act (18 U.S. 1962) or the Federal Drug Abuse Prevention and Control Act (21 U.S.C. 881)

Civil forfeiture proceedings are brought against property, not a person. Possession of the property may not be illegal, but the property may be subject to seizure and forfeiture because of the way it was used.

Criminal forfeiture proceedings do not necessarily depend on the outcome of the criminal case against the owner of the property. The defendant does not have to be

convicted of the crime for the department to be successful in the forfeiture proceeding.

PROCEDURE:

1. Each supervisor is responsible for reviewing offense reports and arrests by members of their units to determine whether the possibility exists for the seizure and forfeiture of property.

2. If a supervisor feels that the property seizure and forfeiture is warranted he will effect the seizure and initiate forfeiture proceedings. A copy of all case reports and other relevant documentation will be forwarded to the Criminal Investigation Division for review.

3. The Criminal Investigation Division supervisor will review the case and discuss the circumstances involved with the Prosecutors Office. If the legal requirements are met, and considerations have been given to the type, condition, and approximate value of the property, a recommendation will be made by the Criminal Investigation Division supervisor through the chain of command to the Chief of Police. The Chief of Police must authorize all cases involving forfeiture of property.

4. If approved by the Chief of Police, the Criminal Investigation Division supervisor will begin forfeiture proceedings. The Criminal Investigation Supervisor is responsible for the follow-up of forfeiture proceedings. ,."

5. All requests for information regarding property in forfeiture proceedings will be directed to the Criminal Investigation Division.

6. Currency seized will be placed in the custody of the Criminal Investigation Supervisor who will then transfer the currency to the City Treasurers Office. The currency will be placed in the Confiscated Currency Account with the City Treasurers Office pending forfeiture.

7. The Criminal Investigation Division supervisor is responsible for the security, maintenance, accountability and recording of the funds seized through asset forfeiture. Only the Criminal Investigation Division supervisor and the Chief of Police are authorized to access these funds.

8. Money received and placed into the forfeiture account will be recorded. The Criminal Investigation Division supervisor will log the following:

- case report number;
- defendants name;
- date of deposit;
- name of person making the deposit;
- amount of deposit; and
- date of transfer to permanent department account or returned to defendant.

9. The Criminal Investigation Division supervisor is responsible for fiscal and procedural management of these funds, including:

- authorization of only one person as responsible for these funds,

- including acceptance of money into the fund account;

- maintaining a record if funds are appropriated among organizational components;

- maintaining the funds in a secure location;

- maintaining a ledger that identifies the date, amount and purpose of transactions including case number;

- quarterly audit of funds; and

- annual audit and report of deposits and transfers.

10. Money awarded to the Department will be transferred to a separate account. These funds will only be used as provided for by the applicable state or federal statute.

11. The Chief of Police must approve all requests for expenditures/transfers from the forfeiture account.

12. Periodic audits, both announced and unannounced, may be conducted as directed by the Chief of Police. The forfeiture account will be audited annually as part of the annual City audit. The accounting firm will provide the City with a financial statement for this fund. The Criminal Investigation supervisor will make available all records necessary to conduct these audits.

13. Access to the forfeiture account will be limited to the Chief of Police and Criminal Investigation Division supervisor.

14. Whenever the Department is involved in a case where several jurisdictions are involved, the appropriate authority will determine the percentage of assets to be distributed, based upon those agency's involvement in the case.