

POLICY AND PROCEDURES MANUAL

Fergus Falls Police Department

Policy Title	Policy Statement on Asset Forfeiture
Policy Number	306 (Formerly 62.01)
References	Title 18 U.S. Code, Sections 981-982 and 1956-1957 Title 21 U.S. Code, Section 881 Minnesota State Statutes, 169A.63, 609.531 – 609.5318
Effective Date	December 1, 2009
Distribution	All Personnel
Rescinds	July 1991 and September 1996

PURPOSE

Law enforcement is the principal objective of forfeiture. Both United States and Minnesota law provide that certain assets and property may be forfeited under specific circumstances, and that those assets may and sometimes must be utilized for equipment, training, or operations of law enforcement agencies.

POLICY

The Fergus Falls Police Department, while operating under the statutory grounds for forfeiture, seeks to cause the forfeiture of assets used in or resulting from the commission of criminal acts.

PROCEDURE

- I. Fergus Falls police officers are reminded that all personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense. All money and other property that becomes proceeds of designated offenses are likewise subject to forfeiture. To accomplish this forfeiture, the Fergus Falls Police Department will request that the Otter Tail County Attorney's Office file a complaint requesting forfeiture by Judicial Action.
- II. Fergus Falls police officers investigating controlled substance crimes shall take administrative forfeiture action concerning all money, precious metals or stones, firearms, ammunition and firearm accessories, and vehicles used to convey a controlled substance. This is accomplished by seizing and inventorying the asset and thereafter, as soon as possible, providing notice by completing the **Notice of Seizure and Intent to Forfeit Property** form and providing the potential claimant(s) with the yellow colored copy of the form.
- III. Fergus Falls police officers shall seize any vehicle in which the operator has fled from a Fergus Falls police officer. Officers shall again serve a **Notice of Seizure and Intent to Forfeit a Motor Vehicle for Fleeing a Police Officer**, (Minnesota County Association Form) to the owner of the fleeing vehicle.
- IV. Designated Driving While Impaired offenses also present a situation where the vehicle being operated is subject to seizure and forfeiture. Officers encountering these situations shall serve claimant to the vehicle the **Impaired Operation Notice of Seizure and Intent to Forfeit Vehicle** form.

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- V. Contraband in the form of weapons, controlled substances, telephone cloning paraphernalia, and bullet resistance vests worn during the attempted or actual commission of a crime are all subject to Summary Forfeiture without a conviction.
- VI. Cash forfeited or resulting as proceeds from the sale of forfeited property will be deposited into the forfeiture revenue accounts of the City of Fergus Falls. These accounts are designated for Fergus Falls Police Department use and are subject to annual audits.
- VII. The Fergus Falls Police Department Administrative Coordinator is responsible for ensuring that the Fergus Falls Police Department's obligation as established by Minnesota State Statutes to report forfeitures to the Office of the Minnesota State Auditor is accomplished on a monthly basis.
- VIII. In an effort to ensure that the Fergus Falls Police Department shares in the revenue resulting from its participation in the prosecution of United States cases, the Fergus Falls Police Department Administrative Coordinator will, on a triennial basis, complete and submit a **Federal Equitable Sharing Agreement**.
 - A. If the Fergus Falls Police Department receives equitable sharing, it will also be the responsibility of the Administrative Coordinator to then submit a Federal Annual Certification Report at the end of the fiscal year in which funds were received.
- IX. The process of securing forfeitures takes a multi-person effort and close communication by all of the members of the department involved. The Captain of Police has the responsibility of tracking individual forfeiture proceedings and is charge with communicating closely the progress of proceeding with the Department's Administrative Coordinator. Any asset or property which the Fergus Falls Police Department obtains by forfeiture will be accurately accounted for, whether it is destroyed, converted to City of Fergus Falls ownership, or sold.