



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

765 – ASSET FORFEITURE

GENERAL ORDER: 2020-XX
ISSUED: August 17, 2020

EFFECTIVE: August 17, 2020

REVIEWED/APPROVED BY:
Assistant Chief Regina Howard
DATE: July 24, 2020

ACTION: Rescinds and Recreates SOP

WILEAG STANDARD(S): 6.5.1, 11.2.1

765.00 PURPOSE

The purpose of this standard operating procedure is to identify the procedures for confiscating money and other property used or intended to be used to further criminal activity or obtained from proceeds of criminal activity.

765.05 POLICY

Federal and state laws allow law enforcement agencies to seize property, including monies, which are directly or indirectly derived from or realized through the commission of certain crimes. The policy of this department is to initiate asset forfeiture proceedings as allowed under federal code and Wisconsin state statutes.

765.10 DEFINITIONS

A. ASSETS

Almost any type of property could be subject to a forfeiture proceeding, which includes but is not limited to money, vehicles, and property (e.g., real estate, electronics).

B. FORFEITURE

A valid judgment rendered by a court with jurisdiction, which declares the right of ownership is lost as a result of certain specified criminal activity. Federal forfeiture proceedings are conducted through the federal court system or through administrative proceedings in conjunction with a hosting federal agency such as the DEA or FBI, utilizing Title 21 of the U.S. code. Department members shall only initiate forfeiture proceedings under federal asset forfeiture laws.

Note: Department members shall only initiate forfeiture proceedings under federal asset forfeiture laws and shall not initiate any forfeiture

proceedings under state asset forfeiture laws. Department members will not initiate any cases under state asset forfeiture laws and then later have them referred to federal jurisdiction under federal asset forfeiture laws.

C. MONEY SEIZURE REQUIREMENTS

1. Federal Money Seizure Requirements
 - a. \$5,000 and above from one person or from one location with an arrest for a qualifying charge.
 - b. \$5,000 and above from one person with no arrest and reasonable suspicion it is proceeds of drug trafficking. Department members must contact a HIDTA **DIVISION** supervisor prior to seizing monies with no arrest.
2. Department members are prohibited from seizing any money below \$5,000 under federal seizure laws.

D. QUALIFYING CHARGES

1. Arrests made for the following violations qualify for asset forfeiture proceedings:
 - a. Possession of a Controlled Substance with Intent to Deliver
 - b. Delivery of a Controlled Substance
 - c. Conspiracy to Deliver a Controlled Substance
 - d. Conspiracy to Possess a Controlled Substance with Intent to Deliver
 - e. Maintaining a Drug Trafficking Place (Keeper of a Drug House)
 - f. Manufacture of a Controlled Substance
 - g. Delivery of an Imitation Controlled Substance
 - h. Conspiracy to Deliver an Imitation Controlled Substance
2. The above is not an all-inclusive list of all eligible qualifying charges. Members shall contact **the HIDTA DIVISION** (through their shift commander) to determine if members may seize assets they believe are subject to forfeiture under federal code that are related to non-controlled substances crimes (e.g., human trafficking, money laundering, child pornography).

E. HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) PROGRAM

HIDTA is responsible for the strategic long-term investigation of large-scale drug trafficking organizations utilizing a multi-agency, multi-jurisdictional approach through the North Central-High Intensity Drug Trafficking Area (HIDTA) program. The members assigned to the HIDTA PROGRAM work in conjunction with local, state and federal partnering agencies and task forces.

F. HIDTA DIVISION

The Department renamed its Narcotics Division to the HIDTA Division in the spring of 2018.

G. TASK FORCE

TO DO: Define what it means for a member to be assigned to a state or federal task force. Does that mean they are deputized? List the Task Forces that the MPD partners with. A list of members who are currently assigned to a task force and their status, deputized or not, should be made available to the FPC on an ongoing basis.

H. SEIZURE

For the purposes of this SOP, a seizure is asset(s) which are taken into custody as a result of the commission of a crime, which may be subject to forfeiture pursuant to law.

I. TIMELINES

Federal forfeiture proceedings must be initiated within 15 calendar days of the seizure (weekends and holidays count toward these deadlines). Timely submission of reports to the HIDTA PROGRAM is imperative.

765.15 ASSET FORFEITURE PROCEDURES (WILEAG 11.2.1)

A. Members shall notify their shift commander in the following circumstances:

1. When an arrest is made for a qualifying charge and there are assets the arresting officer believes are subject to forfeiture under federal asset forfeiture laws.
2. If money in the amount of \$5,000 or above is found during an investigation.

B. The mere possession of money in and of itself does not constitute a crime and the mixing of funds from more than one person or from more than one location is strictly prohibited. If members come across \$5,000 or above (even if not involved in a drug investigation), the investigating member shall contact the HIDTA PROGRAM Investigative Support Center (ISC) Watch Center at REDACTED or the Fusion Division Watch Desk at REDACTED. The member shall provide any

applicable names, addresses, phone numbers, and license plates related to their investigation to the HIDTA PROGRAM ISC or Fusion Division Watch Desk for de-confliction purposes.

C. SHIFT COMMANDER RESPONSIBILITIES

1. If the shift commander needs advice, or believes that a HIDTA DIVISION response is warranted due to unusual circumstances related to a money seizure, the shift commander shall contact a HIDTA DIVISION supervisor who shall determine the appropriate action and/or response. The on duty HIDTA DIVISION supervisor is available by calling REDACTED.

2. The shift commander shall contact the on duty HIDTA DIVISION supervisor:

- a. If the shift commander believes that non-monetary property assets could be eligible for seizure under federal asset forfeiture laws; or.
- b. If money in the amount of \$5,000 or above is found during an investigation and/or arrest, and if no one claims ownership of the money. The investigating member shall not leave the scene with said money prior to obtaining permission from the on duty HIDTA DIVISION supervisor.

D. The money shall not be inventoried or taken to any police facility and the person arrested or in possession of said money shall not be conveyed from the scene of the seizure unless prior authorization is obtained from the member's shift commander, or when appropriate a supervisor from the HIDTA DIVISION (notification to and from the HIDTA DIVISION shall be conducted through the shift commander).

E. Non-monetary property, including vehicles, shall not be seized without the approval of an on duty HIDTA DIVISION supervisor. The on duty HIDTA DIVISION supervisor shall determine the appropriate action and/or response related to the non-monetary property seizure.

F. When non-monetary assets and/or money (\$5,000 and above) is subject to be seized the investigating member shall:

1. Make an effort to determine where the monies came from. This shall be documented in the narrative of the incident report.
2. Ensure a supervisor responds to the scene to supervise the counting of the monies.
3. The final count of the money shall be documented in all reports and memorandum books of the supervisor on scene and the seizing officer.
4. Inventory the money and/or any applicable non-monetary asset(s) as evidence. If it is determined that the investigating officers are to inventory the money and/or nonmonetary asset(s), the person arrested and in possession of the money and/or non-

monetary asset(s) shall be listed as the “claimant” on the WinAce-Officer Drop inventory, unless he/she expressly denies ownership. In such cases, this information shall be documented in the “Circumstances” field of the WinAce-Officer Drop inventory.

5. If **the HIDTA DIVISION** advises the investigating member to seize a vehicle for a qualifying charge, the investigating member shall follow all procedures as outlined in SOP 610.20E(7) – Towing of Vehicles as it relates to evidence tows to permanently seize a vehicle; to include filing the *Evidence Vehicle Seizure Report* (form PV-6).
 6. Complete all necessary reports related to the arrest.
 7. Send a notification by e-mail to: **REDACTED** containing the following information:
 - a. Case number;
 - b. Suspect name;
 - c. Property to be seized;
 - d. Arresting officers contact information.
 8. Make an extra copy of all reports, including a copy of the signed search warrant if applicable.
 9. Forward copies of all reports to the HIDTA **PROGRAM** within 72 hours of the seizure. Timely submission of reports to the HIDTA **PROGRAM** is imperative to ensure **the HIDTA PROGRAM** is able to initiate forfeiture proceedings within federal deadlines.
- G. Members are encouraged to contact the HIDTA **PROGRAM** with questions related to asset forfeiture procedures. Normal business hours are Monday through Friday 8:00 am to 4:00 pm, phone **REDACTED** or 24 hours a day at **REDACTED**.
- H. The department shall only utilize asset forfeiture proceeds in accordance with United States Department of Justice asset forfeiture guidelines. The Milwaukee Police Department is committed to engaging with the community when allocating its use of shared funds. The Department shall dedicate a share of its funds to improve community policing, police-community relations and de-escalation.

765.20 AUDITING AND REPORTING

- A. **The Department shall produce an annual report of the federal asset forfeiture proceedings it has participated in including: the type of proceeding (criminal, civil, judicial, administrative);**

the jurisdiction; the felony(s) charged; the disposition; the value of the assets forfeited or returned; the duration the property was seized; and the sex, age, race and ethnicity of the defendant(s).

765.25 EXCEPTIONS (removed references to the Specialized Investigations Division)

Department members assigned to state or federal task forces are not subject to the process enumerated in this SOP provided that the asset forfeiture procedures utilized by the task force are in compliance with state laws and federal codes governing the seizure of property.



ALFONSO MORALES
CHIEF OF POLICE

AM:mfk

