

**CITY OF FERGUSON
OFFICE OF THE CHIEF OF POLICE****Index as:**

Asset Forfeiture

Forfeiture, Assets

ASSET FORFEITURE**225.00 PURPOSE**

The purpose of this General Order is to establish policy and procedure for Ferguson Police employees when using the asset forfeiture laws in the conduct of police operations.

225.01 POLICY

It is the policy of the Ferguson Police Department to recognize that the efforts to identify and apprehend criminals, both those related to drugs and other crimes, must be complimented and supported by a vigorous effort to seize assets that have been used or acquired in the commission of crimes. The decision to seek asset forfeiture should not be influenced by bias or racial profiling as defined in General Order 401.00.

225.02 DEFINITION

Asset Forfeiture - The taking of monies and/or property by the government which has been illegally used or acquired, without compensating the owner.

225.03 PROCEDURE

The Bureau of Investigations Commander shall be responsible for the collection and maintenance of all seizures of all monies and property under the statutes. It will be the responsibility of the seizing officer to forward a copy of the seizing report to the Commander to initiate the file. The files will be distinguished between drug related violations and those related to the Criminal Activity Forfeiture Act.

225.04 DRUG FORFEITURES - STATE Chapter 195 RSMo.

A. **Property subject to seizure/forfeiture.** Vehicles, aircrafts, boats, currency or property of value furnished or intended to be furnished in exchange for drugs or paraphernalia, illegal controlled substances, OR ITEMS PURCHASED WITH PROCEEDS OF CRIMINAL ACTIVITY.

B. **Guidelines used to determine to be forfeitable.**

1. Item used to transport, carry, or convey controlled substances.

2. Used to facilitate the transportation, possession, purchase, sale, barter, exchange, or giving away of controlled substances.
3. Used to conceal or possess any controlled substance in or upon itself.
4. Purchased with proceeds of criminal activity.

C. Requirements.

1. Arrest or attempted arrest of a defendant.
2. It is required that a felony criminal charge be prosecuted.
3. Presumption of forfeit ability.
 - a. Any money found in close proximity to controlled substances, paraphernalia, or records of transactions is presumed forfeitable as being involved in drug activity.
 - b. Vehicle used to conceal and transport controlled substances are forfeitable.
4. Time restraints. The required documents and approved report shall be presented to the Prosecuting Attorney's Office within ten (10) days of seizure.
5. Required documents. Copy of the approved police report, copy of notice of seizure, copy of evidence log(s) and DOR record on the vehicle if applicable. The Assistant Prosecuting attorney then prepares and files the petition with the Circuit Court. A copy of all the required documents will be given to the Commander, Bureau of Investigations, who will maintain a file of all property seized.
6. Seized property, money, jewelry, etc. will be packaged in accordance with department policy, as evidence and turned over to this Department's Evidence Manager until disposed of pursuant to court order.
7. A conviction is necessary for the completion of the seizure.

225.05 CRIMINAL ACTIVITY FORFEITURE ACT - RSMo 513.600.

A. Applicable Criminal Activity. Applies to all property of every kind used or intended to be used for use in the course of, derived from, or realized through criminal activity. It extends beyond drug cases to virtually all criminal activity. (weapons, robbery, arson, burglary, gambling, stealing, prostitution, etc.)

B. Requirements.

1. No arrest requirement at time of seizure
 - a. Seizure by Writ of Seizure before arrest
 - b. Seizure at time of arrest.
2. Time restrictions. If seized at time of arrest, the officer must file his approved report and notice of seizure (copy attached) with the Prosecuting Attorney within ten (10) days of seizure. If an arrest is not made, the officer should apply for a Writ of Seizure. A copy of all the required documents will be given to the Bureau of Operational Commander, who will maintain a file of all property seized.

C. **Seized property** - Money, jewelry, etc. will be packaged as evidence in accordance with department policy, and turned over to this department's Evidence Manager until disposed of pursuant to court order.

D. **Seizure.** If the property is not seized and if prior notice would cause its loss or destruction, the state will file a Writ of Seizure and attempt to obtain a court order directing seizure of the property. Property may be seized without a Writ of Seizure if:

1. Done incident to a lawful arrest, search or inspection,
2. Probable cause exists to believe that the property is subject to forfeiture.
3. Property will be lost or destroyed if not seized.

225.06 DRUG FORFEITURES - FEDERAL (21 U.S.C. 853).

A. **Property subject to seizure/forfeiture.** Vehicles, aircrafts, boats, currency or property of value furnished or intended to be furnished in exchange for drugs or paraphernalia, illegal controlled substances, or items purchased with proceeds of criminal activity.

B. **Guidelines used to determine to be forfeitable**

1. Item used to transport, carry, or convey controlled substances.
2. Used to facilitate the transportation, possession, purchase, sale, barter, exchange, or giving away of controlled substances.
3. Used to conceal or possess any controlled substance in or upon itself
4. Purchased with proceeds of criminal activity.

C. **Requirements**

GENERAL ORDER 225.00

January 4, 2012

1. All Federal Forfeitures will be handled through the St. Louis County Prosecuting Attorney's Office.
2. Federal Asset/Forfeiture seizures are adopted after the State had initiated the proceeding for forfeiture.
3. If the case meets the guidelines currently set for Federal Forfeitures, then the Assistant United States Attorney (A.U.S.A.) will attempt to adopt the case by filing a "Seizure Notice".

By order of:



Distribution
All Department Personnel

COLONEL THOMAS JACKSON
Chief of Police

MPCCF Reference 39.7