



MYRTLE BEACH POLICE DEPARTMENT

ADMINISTRATIVE REGULATIONS AND OPERATING PROCEDURES

Subject: *Civil Asset Forfeiture/Seizure*

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Rescinds: 508 – Civil Asset Forfeiture/Seizure
508-A – Civil Asset Forfeiture/Seizure

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Approved By:

I. PURPOSE

To establish guidelines for conducting a Civil Forfeiture of a Defendant's property during a criminal investigation.

II. DEFINITIONS

1. **Civil Forfeiture** - Civil forfeiture is a process where a court transfers ownership of property to the federal, state, or local government. It is a civil action the government brings against the property itself, and not against the owner of the property. Forfeiture is independent of any criminal proceedings and is not a form of punishment. While it is generally used for the enforcement of drug laws, civil forfeiture may apply to all types of property, such as real property, vehicles, equipment, and accessories.
2. **Civil Judicial Forfeiture** - Civil judicial forfeiture is a judicial process that does not require a criminal conviction and is a legal tool that allows law enforcement to seize property that is involved in a crime. Referred to as an *in rem* (against the property) action, it is an action filed against the property itself, rather than a person. In civil judicial forfeiture, an individual has the right to contest the seizure through trial proceedings. The government must then prove that the property facilitated criminal activity or represents criminal proceeds.

3. SC Code of Law governing seizures - 44-53-520

III. **PROCEDURES**

A. **Vehicles**

1. The vehicle must be registered to the defendant, and the vehicle preferably should not have a lien against it. A vehicle may potentially be seized with a lien; however, this can only be done based on the value of the vehicle and what is owed on it. This would require approval by the Chief of Police. If a vehicle is registered to a company, an LLC, or something similar, approval from the City Attorney or his/her designee will be sought prior to seizing the vehicle.
2. The minimum weight requirements for illegal drugs per SC Code of Law 44-53-520 must also be met prior to the seizure of a vehicle.
 - a. Marijuana or Hashish: One pound or more
 - b. Heroin: More than 2 grains of heroin or 0.13 grams
 - c. Cocaine/Cocaine Base (Crack): More than 10 grains or 0.65 grams
 - d. Meth: One gram
 - e. Opium: More than 4 grains or 0.26 grams
 - f. MDMA: 15 tablets, capsules, dosage units, or equivalent quantity
 - g. Morphine: More than 4 grains or 0.26 grams
3. Prior to the seizure of a vehicle, the Street Crimes Lieutenant or their designee will be notified by the officer or the officer's supervisor(s) intending to seize the vehicle.
4. Once approval has been given for a vehicle seizure, the vehicle will be inventoried and towed to a designated location identified by the Chief of Police for storage.
5. Within one business day, a member of the Street Crimes Unit will respond to the designated location and take detailed photographs

of the interior and exterior of the vehicle. Personal property from the vehicle will be collected, vouchered, and placed into property and evidence in accordance with MBPD's evidence and collection/packaging/storage regulations. The items may be released to the owner(s) as long as they do not pertain to the case(s).

6. Seizure paperwork will be completed within 10 days and placed in the SCU mailbox near Dispatch. For complete details and assistance on how to complete vehicle and money seizures, please refer to the step-by-step Word document in the Forms and Documents Drive.
7. SCU will respond to the designated location each quarter to ensure that pending and seized vehicles are accounted for. The vehicles may be started to ensure that the vehicles are maintained per SC Code of Law.
8. If a seized vehicle should have to be returned, a member of the Street Crimes Unit may move the vehicle to the closest city parking area to return the vehicle to the registered owner and have him/her sign for the vehicle. If the vehicle is not drivable, then arrangements may be made to have the vehicle towed at the expense of the registered owner.

B. Currency

1. Seized Funds are any monetary funds taken into police custody by any Officer. All personnel assigned to the Street Crimes Unit of the Myrtle Beach Police Department will be responsible for overseeing the following standard operating procedures in reference to seized funds.
2. All currency seized will be done so in accordance with SC Code of Law 44-53-520.
3. All monetary seizures will be made pursuant to Possession with the Intent to Distribute (PWID) or Trafficking charges. Monetary seizures will not be made on possession charges or simple possession of marijuana charges.

4. Money may be seized via consent or civil seizure. All seizure forms are located in the Form and Documents folder under "Seizure Protocol".
5. Upon making a monetary seizure, the officer will notify the Street Crimes seizure liaison and the Street Crimes chain of command via email.
6. The Officer making the seizure has 10 days to complete the seizure packet and turn it into the Street Crimes seizure liaison.
7. Minimum amounts for money seizures are \$300.00 for consent and \$800 for civil seizure.
8. If seized via civil seizure, the following documents must be completed: Seizure/Consent Order Checklist, Seizure Warrant, Notice of Seizure, and Affidavit of Seizure. The seizure affidavit must identify the type of drugs, weight, and method for determining type (i.e., field test, training and experience, etc.)
9. Seized funds shall be counted and verified by at least two (2) police officers while in the presence of the person from whom the funds are being seized, if possible. The funds will then be placed in a tamper-proof envelope with the total amount written on the outside. Both officers and the offender will place their initials on the outside of the envelope. The seizing officer will create a voucher and deliver the envelope to the Property & Evidence Unit. Seized money is a separate voucher when dropping evidence. The quantity is to be listed as "1" with the money amount listed as the amount seized. In the description, signify "U.S. Currency".
10. Upon making a monetary seizure, the officer will notify the Street Crimes seizure liaison and the Street Crimes chain of command via email.
11. Within ten (10) days from the seizure of the funds, the Street Crimes Unit Supervisor or his/her designee will determine whether the funds seized are to be kept intact as evidence in a criminal case or deposited into an interest-bearing account, as prescribed in Section 44-53-520 of the S.C. Code of Laws. The Street Crimes Supervisor will be responsible for either maintaining the funds in the Property & Evidence Section or having the funds deposited in the Narcotics Trust Fund.

12. If funds are to be deposited in the bank account, the Property & Evidence Clerk will deliver the seized funds to the Finance Department. The Accounting Manager will verify the funds and sign the Chain of Evidence report. The Accounting Manager in the Financial Management and Reporting Department shall deposit the funds in the bank and send a monthly report to the Street Crimes Section Supervisor.
13. Copies of the other documentation pertaining to the disposition of the funds will be maintained by the following:
 - a. Administrative Assistant to the Chief of Police
 - b. Street Crimes Unit Supervisor
 - c. Officer responsible for the Case File

C. Other Assets

1. Other real properties can potentially be seized pursuant to SC Code of Law 44-53-520. The following is mentioned in 44-43-520 regarding real property and other assets: "All property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange."
2. For the general purpose and intent of this policy (seizing vehicles, money, or other assets), any other property intended to be seized in connection with narcotics will need the approval of the Street Crimes Sergeant or their designee.
3. Real property that is seized will be stored in a secure location, preferably Property and Evidence, and the real property will not be utilized, converted, or disposed of until awarded by the court and with proper approval from the Chief of Police or his/her designee.
4. Any seizure of 'real estate' will require the consultation and approval of the City Attorney.

IV. DISPOSAL OF SEIZED ITEMS

- A. All property acquired through the civil process function is accounted for in agency records and is disposed of by the Department pursuant to legal authority.
- B. All seized property will be disposed of as state law and/or court order dictates.
- C. Final Disposition of Property
 - 1. Release to Rightful Owner
 - a. Any property that is to be returned by court order must be returned to the rightful owner within a reasonable time.
 - b. Return of the item will be documented on the property voucher.
 - c. The officer who seized the property is responsible for notifying P&E that an item is being returned to the owner.
 - d. P&E will attempt to contact the rightful owner to return the property.
 - e. If no contact is made, a certified letter, return receipt requested, will be sent to the last known address of the owner.
 - f. If the owner does not respond within 60 days of the last reasonable attempt, the property will be considered unclaimed and abandoned.
 - 2. Destruction of Property
 - a. Miscellaneous forfeited property of little or no value, or forfeited property that is missing parts, damaged, defective, or inoperable, may be destroyed. Prior to any destruction, the P&E clerk will:
 - i. Notify the Investigative Captain of property to be destroyed; and
 - ii. Inventory all property to be destroyed.

- b. A record of destroyed items will be kept in the original Civil Seizure File.
- c. The destruction will be documented on the property voucher, indicating the date and method of destruction.

3. Public Sale by Auction

- a. The Department may dispose of forfeited property by sale through an approved auction method or facility.
- b. The sale will be documented on the property voucher.

4. Converted for Agency Use

- a. Upon approval of the Chief of Police, the property may be converted and utilized by department personnel in their law enforcement capacities. The Chief's written approval will be maintained in the Civil Seizure File. Only property from drug seizures may be converted.
- b. The conversion will be documented on the property voucher, indicating a description of the converted asset, the location where it will be held, and the personnel receiving or accepting responsibility of the asset.
- c. Changes or transfers with the personnel responsible for the converted asset will require an update on the property voucher.