

UW Whitewater Police



Forfeitures

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Special Instructions:

Approved By:
Chief Kiederlen

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I. Purpose

It is the purpose of this policy to provide guidelines for the seizures of motor vehicles and/or money.

II. Definitions

Forfeiture Action Deadline: The 30th day after the seizure of property or, if the property was seized as a result of a criminal conviction, the 30th day after the date of the conviction

Victim: The owner.

Prosecutor: The district attorney or assistant district attorney.

Affiant: Seizing officer.

III. Policy

Detectives and Officers are often faced with opportunities to seize vehicles and/or cash pursuant to WI State Statue 973.075 and 961.555. Detectives and officers will follow Wisconsin State Statutes on the process for seizing, securing, and disposing of these seized items.

IV. Procedure

A. Forfeitures: The following are subject to forfeiture as outlined in WI State Statutes 961.55:

1. All controlled substances or controlled substance analogs which have been manufactured, delivered, distributed, dispensed, or acquired in violation of chapter 961.
2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, distributing, importing or exporting any controlled substance or controlled substance analog in violation of chapter 961.
3. All property which is used, or intended for use, as a container for property described in pars. (1) and (2).
4. All vehicles which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described

UW Whitewater Police

in pars (1) and (2) or for the purpose of the transporting any property or weapon used or to be used or received in the commission of any felony under chapter 961.

- B. Location of Seizure: Detective/Officer must seize (take possession of) the vehicle in the county affiant intends on completing seizure. (Does not have to be location of crime).
- C. Inventory of Impounded Vehicles
 - 1. Whenever a motor vehicle is impounded, the personal property contained in that vehicle should be inventoried. The Supreme Court has specifically ruled that, where conducted purely for the administrative reasons, and not for any investigative purpose, an inventory of a lawfully seized vehicle's contents does not violate the fourth amendment.
 - 2. Forfeiture of a vehicle may or may not entail forfeiture of personal property located within the vehicle. Detective/Officer will release the property within the vehicle to the rightful owner in a timely manner if it is not being seized.
- D. Storage of Impounded/Seized Vehicles
 - 1. If vehicle is valued at more than \$5,000.00, vehicle must be stored in an indoor secure facility.
 - 2. If vehicle is valued under \$5,000.00 vehicle must be kept in secure storage.
 - 3. If vehicle is being seized federally >\$5,000.00 vehicle must be kept indoors in secured storage, vehicle must be serviced once a month, all fluids must be topped off, and vehicle must be started and run at least once a month.
- E. Affidavit of Service, Summons and Complaint
 - 1. Within 30 days of seizure, affiant must file summons with the appropriate county's circuit court.
 - 2. Serve summons, complaint and affidavit of seizing officer within 90 days of date of filing to each defendant (registered owner and/or operator).
 - 3. Defendant(s) have 20 days to file in writing with appropriate counties circuit court.
 - 4. After serving affidavit of service return original copies of affidavit of service to clerk of courts and retain copies for originating agency and district attorney's office.
 - 5. Affidavit must attend any civil court proceedings as required by the courts.
 - 6. Once vehicle and/or currency is awarded affiant must contact department of transportation (alternative vehicle registration) and have new title issued.
- F. Use of Property
 - 1. When property is forfeited under chapter 961.55, the agency whose officer or employee seized the property shall do one of the following:
 - a. Retain it for official use. If vehicle is being kept for department use, contact the Wisconsin Department of Transportation and register the vehicle using the "alternate registration procedure".
 - b. Sell that which is not required to be destroyed by law and which is not harmful to the public. The agency may use 50 percent of the amount received for payment of forfeiture expenses. The remainder shall be deposited in the school fund as proceeds of the forfeiture. In this paragraph, "forfeiture expenses" include all proper expenses of the proceedings for

UW Whitewater Police

forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs and the costs of investigation and prosecution reasonably incurred.

2. If the property forfeited is money, retain the sum of all of the following for payment of forfeiture expenses, as defined in pay (B) and deposit the remainder in the school fund:
 - a. If the amount of money does not exceed \$2,000, 70 percent of that amount.
 - b. Fifty percent of any amount seized in excess of \$2,000.
3. If during the investigation a total of \$300.00, or less, is seized, UWWPD will not normally go through the seizure procedure and will return the money when it is no longer needed as evidence in an investigation.