

Minnesota Model Forfeiture Policy

Under Minnesota Law, forfeiture must be liberally construed to carry out the following remedial purposes:

1. to enforce the law;
2. to deter crime;
3. to reduce the economic incentive to engage in criminal enterprise;
4. to increase the pecuniary loss resulting from the detection of criminal activity; and
5. to forfeit property unlawfully used or acquired and divert the property to law enforcement purposes.

1. The removal of unlawfully obtained proceeds of criminal activity and the elimination of the instrumentalities used to commit crimes are the principal goals of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.
2. The U.S. and Minnesota Constitutions, and as State and Federal Statutes prohibit the improper use of personal characteristics such as race, color, national origin, gender, or religion to target individuals for law enforcement action.
3. No prosecutor's or licensed peace officer's employment or salary may be made to depend upon the level of seizures or forfeitures he or she achieves.
4. Where multiple agencies in a geographic region have jurisdiction to pursue forfeiture, every reasonable effort should be made to cooperate to advance the public interest.
5. Every government entity with the authority to seize property shall ensure that its asset forfeiture program provides for: (a) Written documentation of the seizure and items seized; (b) Independent prosecutorial review of the circumstances, and propriety of the seizure; (c) Timely notice of seizure to interest holders of seized property; and (d) Timely resolution of ownership claims and a prompt release of property to those entitled to the return of the property.
6. All seized property shall be held like evidence until forfeiture is finalized or returned to the claimant or person with an ownership interest. Cash may be deposited with the agency's fiscal agent, unless needed as evidence.
7. Entities retaining forfeited property for official law enforcement use shall ensure that the property is subject to internal controls consistent with those applicable to property acquired through the normal appropriations process of that entity.
8. Property should not be used unless the forfeiture action has been completed. Forfeited property not used in an undercover capacity should be sold or added to the regular inventory

of the agency. All property should be used and disposed of in a manner consistent with the use and disposition of similar property by that agency.

9. The retention of property for official use should be approved by the chief law enforcement agency seizing the property or designee.
10. Forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting control with regular reviews or audits of all deposits and expenditures. Records of forfeitures shall be kept for a minimum of 6 years.
11. Every seizing agency shall use reasonable diligence to secure the property and prevent waste to preserve value for successful claimants as well as taxpayers.
12. If reasonably practicable, civil forfeiture actions should be initiated as independent cases which are not controlled or influenced by the criminal prosecution.
13. All attorneys who practice in the area of forfeiture should receive training that includes best practices for timely and fair resolution of forfeiture cases, notice to interest holders, the release of seized property where appropriate, the resolution of claims of innocent ownership, and situations in which forfeiture should not be pursued.
14. In developing policies and procedures, consideration should be given to establishing minimum forfeiture thresholds for conveyances, real property, cash/cash equivalents, and jewels.
15. Prosecuting agencies should periodically review and update their forfeiture policies to reflect current federal and state statutes and case law.

Approved by the MCAA Board of Directors on October 15, 2010