

## City of Baxter

# Police Department Manual

ASSET FORFEITURE			
<b>POLICY TYPE:</b>	Mandatory (POST)	<b>POLICY NUMBER:</b>	111
<b>EFFECTIVE DATE:</b>	February 1, 2012	<b>REVIEW DATE:</b>	12/30/2021
		<b>REVISION DATE:</b>	12/31/2021
<b>REFERENCE:</b>	MN SS 609.531, 609.5311, 609.5312, 609.5313, 609.5314 & 169A.63		
<b>PAGE(S):</b>	5	<b>AUTHORIZED BY: Chief James Exsted</b>	

### PURPOSE

To outline the process by which assets may be forfeited by the Baxter Police Department.

### POLICY

It shall be the policy of the Baxter Police Department that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned from an outside law enforcement agency to a task force in which this agency serves as the fiscal agent, shall follow all state and federal laws pertaining to the processing of property seized for forfeiture. Training will be provided by the employing law enforcement agency in consultation with the prosecuting authority to officers who may exercise the use of administrative or judicial forfeiture in the performance of their assigned duties. Such training to be conducted whenever the agency policy is changed or modified based upon administrative directives, legislative statute changes and/or relative court decisions. Training may include but not limited to agency policy, directives, electronic or traditional classroom education.

### DEFINITIONS

**CASH:** Money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.

**CONVEYANCE DEVICE:** A device used for transportation and includes but is not limited to a motor vehicle, trailer, snowmobile, airplane or vessel and any equipment attached to it. The term

“conveyance device” does not include property, which is, in fact, itself stolen or taken in violation of the law.

**FIREARMS/AMMUNITION/FIREARM ACCESSORIES:** A device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, firearm optics, suppression devices, cleaning supplies, etc.

**FISCAL AGENT:** The person designated by the Baxter Police Department to be responsible for securing and maintaining seized assets and distributing any proceeds as a result of any forfeiture proceedings. This includes anytime the Baxter Police Department seizes property for forfeiture or when the Baxter Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**FORFEITURE:** The process by which legal ownership of an asset is transferred to a government or other authority.

**JEWELRY/PRECIOUS METALS/PRECIOUS STONES:** The term “precious metals/precious stones” includes items of jewelry such as rings, necklaces and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium, and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds, and rubies.

**FORFEITURE/SEIZED PROPERTY REVIEWER:** An agency employee responsible for reviewing all forfeiture cases and is the liaison between the agency and the prosecutor’s office. This person will be the Chief of Police or designee.

**PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE:** The following property is subject to administrative forfeiture under Minnesota Law (Minn.Stat. 609.5314):

1. All cash totaling \$1500 or more, precious metals, and precious stones that there is probable cause to believe represent the proceeds of a controlled substance offense, and all cash found in proximity to controlled substances when there is probable cause to believe that the cash was exchanged for the purchase of a controlled substance.
2. All conveyance devices containing controlled substances with a retail value of \$100 or more if there is probable cause to believe that the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale.
3. All firearms, ammunition, and firearm accessories found:
  - a. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance.
  - b. On or in proximity to a person from whom a felony amount of controlled substance is seized.
  - c. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under Minnesota Statutes, Chapter 152.

SEIZURE: The act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities.

## **ASSET SEIZURE**

### **PROPOERTY SUBJECT TO SEIZURE**

- A. The following property is subject to seizure. Seizures are subject to approval by Forfeiture Reviewer:
  - 1. Controlled substances and associated property as described in Minn. Stat. 609.5311
  - 2. Property intended for use to commit or facilitate the commission of a designated offense, as listed in Minn Stat. 169A.63, Subd. 6 and limited by Minn Stat. 169A.63, Subd. 7, and as listed in Minn. Stat. 609.531, Subd. 1(f) and limited by Minn. Stat. 609.5312.
- B. Property subject to administrative forfeiture may be seized without prior supervisor approval if the item has a retail value of \$50,000 or less (Minn. Stat. 609.5314).

### **PROPERTY NOT SUBJECT TO FORFEITURE**

- A. The following property should not be seized for forfeiture:
  - 1. Cash and property that does not meet the prosecuting agency's current minimum forfeiture thresholds.
  - 2. Cash totaling less than \$1,500, unless prerecorded buy funds are included in the cash seized.

### **SEIZURE OF PROPERTY TO BE FORFEITED**

- A. An officer may seize property subject to forfeiture based on a court order. An officer may also seize property without a court order under any of the following conditions (Minn Stat. 609.531, Subd. 4; Minn. Stat. 169A.63, Subd. 2):
  - 1. The seizure is incident to a lawful arrest or a lawful search.
  - 2. The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.
  - 3. The officer has probable cause to believe that a delay to obtain a warrant or other process would result in the removal or destruction of the property and that either of the following apply:
    - a. The property was used or is intended to be used in commission of a felony.
    - b. The property is dangerous to health or safety.

## **PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

- A. When any property as described in the above section is seized, the peace officer making the seizure must prepare the following:

1. The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following:
  - a. A list describing each item seized;
  - b. The name of the individual served with the Notice;
  - c. Location;
  - d. Date of seizure.

Administrative forfeiture notices are NOT to be given for assets seized under MN SS 609.5314 if the retail value of the asset exceeds \$50,000.00.

2. A receipt for the item(s) seized.
  3. Department Report: All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible.
- B. The Notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under MN SS 609.5314 to follow to obtain it. The form must be dated and signed by the peace officer conducting the seizure. An agency case number must be included on the form. The individual from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer conducting the seizure must check the appropriate box indicating the refusal to sign. If property is seized from multiple individuals, a separate seizure form will be completed for everyone. A copy of the seizure form must be given to the individual served.
- C. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.
- D. The peace officer conducting the seizure shall forward the original seizure notices, property receipts, and reports to the Forfeiture/Seized Property Reviewer within 10 days of seizure.
- E. The peace officer conducting the seizure shall indicate in a detailed report of the estimated retail value of drugs found in proximity to the asset seized.

## **CASH**

- A. All forfeitable cash seized will be processed into the evidence room as soon as practicably possible.
- B. Peace officers seizing cash shall also prepare a property receipt of the cash within the records management system. If cash is seized from multiple individuals, a property receipt will be completed for everyone. This record shall show the exact amount seized from everyone.
- D. The officer shall complete all paperwork and provide a copy to the Chief of Police.

## **JEWELRY/PRECIOUS METALS/PRECIOUS STONES**

- A. Peace officers seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property receipt prior to inventorying the items.

A copy of the property receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the evidence room and properly inventoried. These items shall be delivered to the evidence room as soon as practicably possible.

- B. The Chief of Police shall be notified of any such seizures of jewelry, precious metals or precious stones.

### **CONVEYANCE DEVICE**

- A. Upon seizure for forfeiture, all conveyance devices shall immediately be taken to the secure Baxter Police Department impound lot.
- B. Baxter officers shall inventory the conveyance device and its contents. Proper notification for the release of the property shall be documented and completed. The conveyance device shall be logged as evidence in accordance with the Baxter Police Department Evidence Manual. All paperwork shall be completed for processing by the records division.
- C. The Chief of Police shall be notified of all conveyance devices seized for forfeiture.

### **FIREARMS/AMMUNITION/FIREARM ACCESSORIES**

- A. When firearms, ammunition or firearms accessories are seized, they shall be inventoried and delivered to the property and evidence room immediately and secured in accordance with the Baxter Police Department Evidence Manual.
- B. The Chief of Police shall be notified of all conveyance devices seized for forfeiture.

### **CASE FILE STATUS**

The Chief of Police shall monitor the status of all forfeiture procedures and report accordingly to the MN State Auditor's Office.