

Section 17 PROPERTY IMPOUND

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1. Remove the highlighted section below from 17.02 Evidence Impound. Insert it as its own section entitled: 17.03 Seizure and Intended Forfeiture and Reporting to State of Washington

Seizure and Intended Forfeiture

The Snohomish County Regional Task Force will be responsible for processing all personal and real property seized by members of the Everett Police Department, under the authority of **RCW 69.50.505(a) and (b)**. To ensure that all legally mandated timelines regarding the seizures are met, the following procedure will be used during the seizure process:

1. At the time it has been decided to seize personal property from a subject pursuant to either the facilitation or proceeds theory, a first line supervisor **will** fill out a **"NOTICE of SEIZURE and INTENDED FORFEITURE"** (SCSO form **SH278 Rev 1/00**) and serve that completed document on the subject.
 - The yellow copy of the notice will be given to the individual the property was seized from.
2. A separate seizure notice **will be** filled out and presented to any other individual who has claim to any property seized.
3. When impounding seized items and/or items of an evidentiary nature, the impounding officer **shall** clearly mark on the Impound Sheet those items intended to be seized. A photocopy of the completed and signed seizure notice will be attached to the original copy of the case impound sheets and left with the property room. Any impounded items that stipulate "seized", but which do not have the corresponding "Notice of Seizure and Intended Forfeiture" attached to the property sheets, will be returned to the claimant.
4. The white copy of the seizure notice **will be** attached to the main incident report and submitted to the Records Room. It **must be** clearly noted on the main incident report that a copy of the report needs to be routed to the Regional Task Force.
5. In the event that officers seize a vehicle for intended forfeiture, a Notice of Intended Forfeiture will be completed and a copy left with the claimant. A standard vehicle impound sheet will also be completed. Both the impound sheet and the seizure notice be submitted to the Records Room with the main Incident report.
6. Records Room personnel will insure that a complete copy of the report, together with a copy of the seizure notice, will be forwarded to the Regional Task Force.

Once the civil case has been resolved, the Regional Task Force will generate a document describing the final status of the seized items: i.e., forfeited, returned, destroyed, etc. A copy of that document will be sent to the Property Room to be attached to the original impound sheets, and a copy will be sent to the Everett Police Department Records Room to be attached the original report.

New language
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Reporting of Non-Drug Forfeited Property to State Treasurer

RCW 69.50.505 requires that any law enforcement agency seizing property file a report of forfeited property with the Washington State Treasurer's Office each calendar quarter. Even if no property is seized in a calendar quarter, it shall be the policy of the Everett Police Department to still file a quarterly report with the State of Washington indicating zero forfeiture's for the preceding quarter.

The following procedure has been established by the Everett Police Department to report all completed forfeitures of property. The Everett Police Department does not seize vehicles of DUI suspects, so other than noting that no forfeitures have taken place on the DUI Vehicle Forfeiture Report, no other reporting is necessary. This procedure does not apply to drug related arrests and investigations conducted by Everett police officers. All drug related forfeitures will be processed and reported to the State of Washington by the Snohomish Regional Drug Task Force (see above). All other property forfeitures will be reported in the following manner:

- Each calendar quarter, the State of Washington's Treasurer's Office will mail a Forfeited Property Status Report to the designated point of contact (Special Investigations Lieutenant).
- Once received, the responsibility for completing the quarterly report will be assigned to the lieutenant of the Special Investigations Unit.
- Upon receipt, the Special Investigations lieutenant will promptly consult with the lieutenant of General Investigations as well as the City of Everett Prosecutor's Office for any completed forfeitures (per RCW) that took place in the preceding calendar quarter (required paperwork completed, all hearings have taken place, and appeal periods expired).
- The Special Investigations lieutenant will document all forfeited property on the State of Washington's Forfeited Property Status Report per the guidelines as established by the State Treasurer's Office *Drug Seizure & Forfeiture Reporting Requirements Guideline Rev 1/2008* (copy attached), or any revised guideline.
- The Everett Police Department does not seize vehicles of DUI suspects, so other than noting that no forfeitures have taken place on the DUI Vehicle Forfeiture Report, no other reporting is necessary.
- Once completed, the Special Investigations lieutenant will submit the report to the Everett Police Budget and Finance Office for review.
- After review and approval, the Budget and Finance Office will retain one copy of each quarterly Forfeited Property Report and mail one copy to the State Treasurer's Office. If funds are owed to the State as a result of a seizure, a copy of the relevant Forfeited Property Form(s) will be forwarded to the City of Everett Clerk's Office for payment to the State Treasurer's Office.

The purpose of this procedure is to ensure the Everett Police Department's compliance with Washington state law as it relates to property seizure and forfeiture.

DRUG SEIZURE & FORFEITURE REPORTING REQUIREMENTS GUIDELINE

Washington State Treasurer's Office

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Rev. 1/2008

1. Drug Seizure & Forfeiture Reporting Requirements (RCW 69.50.505)

- Requires each seizing agency to file a report of forfeited property with the State Treasurer's Office **each calendar quarter**
- If there are **no forfeitures** for the quarter, the seizing agency should **file a report** with State Treasurer **showing zero forfeitures** for the quarter

2. Quarterly Reporting

- Quarterly reports **should include** all forfeited property that has been:
 - Destroyed
 - Retained for Agency Use
 - Sold
 - Stored and Awaiting Sale or Auction
- Quarterly reports **should not include** forfeited property that is being held:
 - For use as evidence during an investigation or prosecution of a case
 - During the appeal of a conviction

3. Distribution of Forfeited Property

- When property is forfeited, the seizing agency may:
 - Retain it for official use
 - Sell it

- Request the Sheriff, Director of Public Safety, or Drug Enforcement Administration to dispose of it
- Store it until the next sale or auction (Seizing agency is required to **sell property in the year forfeited or comply with "6. Moneys Due The State"** below.)
- Destroy illegal property

4. Fair Market Value & Net Proceeds Definitions

- Fair market value is the **value of the property at the time of seizure**, determined, when possible, by a commonly used index such as a NADA (Blue Book) or qualified appraiser
- Net proceeds are the **sale price less the allowable deductions**

5. Allowable Deductions of Forfeited Property

- **Security Interest** to which the property is subject at time of seizure
- **Cost of Sale**
 - Appraisal Fees
 - Reasonable Fees/Commissions paid to Independent Selling Agent
- **Valid landlord's claim** for damages done by a Law Enforcement Officer while acting in his/her official capacity (refer to RCW 69.50.505(n)(o) for certain restrictions)

6. Moneys Due The State

- **Retained Property:** If forfeited property is **retained**:
 - Report and pay 10% of the property's **fair market value at the time of seizure**
- **Sold Property:** If forfeited property is **sold**:
 - Report and pay 10% of the **net proceeds**
- **Property Not Sold In The Year It Was Seized:** If forfeited property is stored awaiting next sale or auction, but **not sold in the year it was seized**:
 - Report and pay 10% of the **fair market value at the time of seizure** in the year during which the property was forfeited

- **Destroyed Property:** If the forfeited property is destroyed:
 - Report and pay \$0

7. **January 31**

- By January 31 of each year, the seizing agency should have submitted to the State Treasurer:
 - Four quarterly reports listing forfeited property of the preceding calendar year
 - An amount equal to 10% of the net proceeds of **any property forfeited** during the preceding calendar year