JOPLIN POLICE DEPARTMENT	6-12 STANDARD OPERATING GUIDELINE
SUBJECT: Asset Forfeiture	**REVIEW DATE: Annually - June**
EFFECTIVE DATE: June 1st, 2007	**ACTION DATE:**
AMENDS/SUPERSEDES: 2-27, November 14, 2003	**AMEND DATE:**
ACCREDITATION INDEX: 84.1.8	**APPROVED:** Richard A. Pearson **Chief of Police**

I. POLICY

It is the policy of the Joplin Police Department to recognize that the efforts to identify and apprehend criminals, both those related to drugs and other crimes, must be complimented and supported by a vigorous effort to seize assets that have been used or acquired in the commission of crimes.

II. PURPOSE

To establish a policy regarding the seizure of property for forfeiture pursuant to State and Federal law.

III. DEFINITIONS

A. Asset Forfeiture

The taking of property by the government, which has been illegally used or acquired, without compensating the owner.

B. Writ of Seizure

An order from the court of jurisdiction to seize property when the court believes that the property is subject to forfeiture and believes that prior notice to the possessor of the property would cause loss or destruction to the property.

IV. PROCEDURES

The concerned Bureau Commander shall be responsible for the administration, initiation, and seizures of all property under the statutes. The procedures will be broken down to drug related violations and those related to the Criminal Activity Forfeiture Act.

A. Drug Forfeitures - State. Chapter 195 RSMo.

1. Property subject to seizure/forfeiture: Vehicles, aircrafts, boats, currency or any property of value furnished or intended to be furnished in exchange for drugs, paraphernalia or illegal controlled substances (195.140 RSMo).

2. Guidelines used to determine forfeitability (195.025 RSMo).

   a. Item used to transport, carry, or convey controlled substances.

   b. Used to facilitate the transportation, possession, purchase, sale, barter, exchange, or giving away of controlled substances.

c. Used to conceal or possess any controlled substance in or upon itself.

3. Requirements.

a. Arrest or attempted arrest of a defendant.

b. It is required that a felony criminal charge be prosecuted.

c. Presumption of forfeitability.

i. Any money found near controlled substances, paraphernalia, or records of transactions is presumed forfeitable as being involved in drug activity (195.140 RSMo).

ii. Vehicles used to conceal and transport controlled substances are forfeitable.

d. Time restraints. The required documents shall be presented to the Prosecuting Attorney's Office within three (3) days of seizure.

e. Required documents: (84.1.8)

i. Copy of the police report

ii. Notice of seizure (see attached)

iii. DOR record on the vehicle (when applicable).

The Prosecuting Attorney then prepares and files the petition with the Circuit Court.

f. The required documents will be forwarded by the seizing officer to an Investigation Bureau supervisor who will file them with the Prosecutor's office within 3 days of the seizure and will make copies for the Investigations Bureau Commander, who will maintain a file of all property seized.

g. Seized property, money, jewelry, etc. will be packaged in accordance with department policy, as evidence and turned over to this Department's Evidence Clerk until disposed of pursuant to court order. (84.1.8)

B. Criminal Activity Forfeiture Act - RSMo 513.600.

1. Applicable Criminal Activity: Applies to all property of every kind used or intended to be used for use in the course of, derived from or realized through criminal activity. It extends beyond drug cases to virtually all criminal activity. (weapons offenses, robbery, arson, burglary, gambling, stealing, prostitution, etc.) RSMo 513.607

2. Requirements

a. There is no arrest requirement at time of seizure.

i. Seizure by Writ of Seizure before arrest.

ii. Seizure at time of arrest.

b. Time restrictions

i. If seized at time of arrest, the officer must file his report and notice of seizure with the Prosecuting Attorney within three (3) days of seizure.

ii. If an arrest is not made, the officer should apply for a Writ of Seizure.

c. A copy of all the required documents will be given to the Investigations Bureau Commander, who will maintain a file of all property seized.

d. Seized property - Money, jewelry, etc. will be packaged as evidence in accordance with department policy, and turned over to this department's Evidence Clerk until disposed of pursuant to court order. (84.1.8)

3. Seizure: If the property is not seized and if prior notice would cause its loss or destruction, the state may file a Writ of Seizure and attempt to obtain a court order directing seizure of the property. Property may be seized without a Writ of Seizure if:

a. Done incident to a lawful arrest, search, or inspection; and

b. Probable cause exists to believe:

i. The property is subject to forfeiture.

ii. The property will be lost or destroyed if not seized.

C. Drug Forfeitures - Federal (21 U.S.C. 853).

1. Property subject to seizure/forfeiture: Vehicles, aircrafts, boats, currency or property of value furnished or intended to be furnished in exchange for drugs, paraphernalia, or illegal controlled substances.

2. Guidelines used to determine forfeitablilty.

a. Item used to transport, carry, or convey controlled substances.

b. Used to facilitate the transportation, possession, purchase, sale, barter, exchange, or giving away of controlled substances.

c. Used to conceal or possess any controlled substance in or upon itself.

3. Requirements.

a. Excess of $ 5,000.00 in cash

b. Excess of $10,000.00 value for other property (vehicles, etc.)

c. Time restrictions: File within thirty (30) days of seizure to appropriate federal law enforcement agency.

d. Required Documents (84.1.8)

i. Copy of police report

ii. Court order signed by the appropriate Circuit Court Judge authorizing Federal adoption of the seized property.

iii. Form DAG-71 (this form must be signed by the Chief of Police and the City Attorney) then forwarded to the appropriate federal law enforcement agency. A copy of the form shall be forwarded to the Finance Department.

e. A copy of all the required documents will be given to the Investigations Bureau Commander, who will ensure that a file of all property seized is maintained.

f. Seized property (84.1.8)

i. Jewelry, etc. will be packaged as evidence in accordance with department policy and turned over to this department's Evidence Clerk until disposed of pursuant to court order.

ii. Money will be packaged as evidence in accordance with department policy and turned over to this department's Evidence Clerk and handled in accordance with federal guidelines or disposed of pursuant to court order.

V. COMPLIANCE

Violations of this policy, or portions thereof, may result in disciplinary action as described in the City of Joplin's Personnel Rules or the Joplin Police Department's Rules and Regulations and General Orders. Members of the Joplin Police Department, while assigned to or assisting other agencies shall comply with this policy.

VI. APPLICATION

This document constitutes department policy, is for internal use only, and does not enlarge an employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense, with respect to third party claims insofar as the employee's legal duty as imposed by law. Violations of this policy, if proven, can only form a basis of a complaint by this department, and then only in a non-judicial administrative setting.

NOTICE OF SEIZURE

Pursuant to Missouri Revised Statutes, Chapters 195 and/or 513, the following described property is hereby seized in accordance with the cited statutes.

Description of Property: _____

_____

_____

_____

Reason for Seizure: _____

_____

_____

_____

Location of Seizure: _____

_____

Date of Seizure _____**20**_____**Time** _____ **Case Number** _____

Department _____

Officer (s) Making Seizure: _____

_____

Owner of Property		**Person in Custody of Property at Time of Seizure**	
Name	_____	**Name**	_____
Address	_____	**Address**	_____
City/State	_____	**City/State**	_____
Telephone	_____	**Telephone**	_____
D.O.B.	_____	**D.O.B.**	_____
SSN	_____	**SSN**	_____

Copies (1) Person Property Seized From
(2) County or Federal Prosecutor
(3) Police Records
(4) Assigned Investigator

Note: If Vehicle, attach lien information if applicable and title Information.