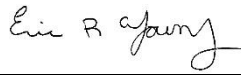


# OGDEN CITY POLICE

## Office of the Chief

### Policy No: 71

Subject Asset Forfeiture	Effective Date January 9, 2023
Department Police	Replaces Policy Dated
Division All Police Personnel	Review Date January 2025
Authorized Signature 	

**NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.**

#### I. PURPOSE

The purpose of this policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with specified designated offenses.

#### II. POLICY

The Ogden Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights. It is the policy of the Ogden Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

#### III. DEFINITIONS

Definitions related to this policy include:

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

**Property subject to forfeiture** - see Utah Code 24-4-102.

**Seizure** -The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

#### IV. ASSET SEIZURE

Property may be seized for forfeiture upon review and approval of a supervisor when allowed by Utah Code 24-2-102.

Whenever practicable, obtaining a court order for seizure prior to making a seizure is preferred.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

#### V. INITIATING FORFEITURE PROCEEDINGS

1. In accordance with UCA 24-4-103, if the department seeks to forfeit property seized, notice of intent to seek forfeiture shall be served to any known claimant within 30 days after the day on which the property is seized and shall adhere to notice of intent requirements as listed within state statute.

#### VI. PROCESSING SEIZED PROPERTY FOR FORFEITURE

When property or cash subject to this policy is seized, the officer making the seizure should comply with the following (Utah Code 24-2-103):

- a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- c) Book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

d) Photographs should be taken of items seized, particularly cash, jewelry, and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document the information in the appropriate report.

## VII. MAINTAINING SEIZED PROPERTY

The Property and Evidence Custodian is responsible for ensuring compliance with the following:

- a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- b) All property received for forfeiture is checked to determine if the property has been stolen.
- c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- d) Property received for forfeiture is not used by the Department unless the forfeiture action has been completed.
- e) Associated documentation complies with Utah Code 24-2-103 including keeping

a copy of the property receipt in the case file and providing the receipt along with the property if the property is transferred to another agency.

- f) Ensuring that the Department disposes of property as provided by law following any forfeiture.

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting controls, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives. Utah Code 24-4-118 should be referenced for reporting federal seizures to the Utah Commission on Criminal and Juvenile Justice.

## VIII. DISPOSITION OF FORFEITED PROPERTY

No property seized shall be transferred, sold, or auctioned by the department to an employee of this department (Utah Code 24-2-104).

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

Any property, money or other items of value received by this department pursuant to a federal forfeiture shall be used in compliance with federal laws. Such property may be used to fund crime prevention and law enforcement activities described in Utah Code 24-4-117. State law prohibits the use of property or money received to be used for such things as salaries, benefits, any expenses not related to law enforcement and other purposes specified in Utah Code 24-4-117(11).

Money received as a result of a federal forfeiture may only be used as approved by the City council.

## IX. LIMITATION ON FEES FOR HOLDING SEIZED PROPERTY

The Department will not charge a person contesting a forfeiture any fee or cost for holding seized property as the result of any civil or criminal forfeiture in which a judgment is entered in favor of the person, or where a forfeiture proceeding is voluntarily dismissed by the prosecuting attorney (Utah Code 24-4-112).