

MERIDIAN TOWNSHIP POLICE DEPARTMENT GENERAL ORDER

Subject: ASSET SEIZURE	General Order: 935
Effective Date: January 10, 2002 Revision: April 3, 2017	Distribution: Sworn Personnel

I. PURPOSE

To establish asset forfeiture procedures for seizures resulting from drug and non-drug seizures.

II. POLICY

Asset seizure and subsequent forfeiture proceedings will be instituted according to state law. Whenever assets are recovered through forfeiture process, whether money or property, they will be applied to legitimate enforcement needs. Under no circumstances will officers select enforcement targets because of the expected financial gain accruing to the Department; enforcement strategies will not be based upon profit.

III. PROCEDURE

A. Drug Related Seizures

1. When an officer determines through an on-scene investigation that assets in possession of a subject are likely the proceeds of violations of the Controlled Substances Act, including, but not limited to:
 - a. Any conveyance used or intended for use to transport or, in any manner facilitate the transportation for the purpose of sale or receipt of a controlled substance or equipment related thereto;
 - b. Anything of value, including but not limited to money, that is furnished or intended to be furnished in exchange for a controlled substance, traceable to an exchange for a controlled substance, or used or intended to be used to facilitate a violation of the Controlled Substance Act;
 - c. Any currency found in close proximity to a controlled substance or other property subject to forfeiture.
2. The officer's investigation must be thorough, particularly in reference to how the subject came to be in possession of the asset(s), or how the asset was used. This should include determining identity information such as employment status, the possibility of possessing the asset legitimately, along with the total circumstances such as time of day, purpose for possession of the asset, etc.

- a. The amount of a controlled substance possessed by a subject does not alone determine whether an asset is subject to seizure/forfeiture.
 - b. Drug paraphernalia such as packaging, scales, drug records and pagers can be contributing factors to justify seizure of an asset(s).
 - c. Vehicles may not be seized for mere possession of a controlled substance, but other indications of drug trafficking must be present. Vehicles may always be seized if they are used to facilitate a drug transaction.
 - d. Officers should complete the controlled substance forfeiture questionnaire (appendix E).
3. The officer shall request permission of their supervisor prior to seizure of such assets. The supervisor may confer with, or direct the officer to confer with the forfeiture supervisor, or the Meridian Township attorney assigned to handle forfeitures.
 - a. Assets will not be forfeited without an arrest being made or court order.
4. The officer will serve a Drug Notice of Seizure of Property and Intent to Forfeit form (appendix A) upon the owner or claimant of the asset(s).
 - a. If there is a question as to the ownership of the property, then a Drug Notice of Seizure of Property and Intent to Forfeit form will be served to all parties claiming ownership of the property.
 - b. The description of the property on the Drug Notice of Seizure of Property and Intent to Forfeit form should be completed as specifically as possible, including the description of any currency, vehicle VINs and other identifiers or serial numbers. When vehicles are seized, the description should include the statement "and all property contained therein" concerning the contents of the vehicle.
 - c. Property receipts and motor vehicle inventory forms should be completed according to relevant Department procedures.
- New 5. Upon being served the Drug Notice of Seizure of Property and Intent to Forfeit, the owner must file a written claim for the seized asset, if they wish to contest the forfeiture, as described on the seizure notice at the Meridian Township Police Department during business hours, within 20 days of the seizure.

B. Non-Drug Seizures

Michigan law allows the seizure/forfeiture of assets used in certain specifically enumerated crimes pursuant to PA 104 of 1988, MCLA §600.4701 (appendix D). In such cases, that determination will usually be made during the follow-up investigation by the Investigative Unit and/or the Meridian Township attorney.

1. Property may be subject to seizure under the following guidelines:
 - a. All personal property that is the proceeds of a crime, the substitute proceeds of a crime, or an instrumentality of a crime.
 - b. All real property that are proceeds of a crime or the substantial proceeds of a crime.
 - c. "Real Property" that is the primary residence of the spouse or children of the owner is not subject to forfeiture, unless, the spouse or children had prior knowledge or consented to the commission of the crime.
 - d. See the list of crimes that property may be under OMNIBUS (appendix D).
 - e. If a vehicle is forfeited under this section follow the guidelines for vehicle forfeiture described in III-C-1 through 5.
2. Assets will not be forfeited without an arrest being made or court order.
3. The officer will serve a Non-Drug Notice of Seizure of Property and Intent to Forfeit form (appendix B) upon the owner or claimant of the asset(s).

C. OWI Vehicle Forfeiture

This OWI section will not be utilized until it is determined Meridian has authority to do so through the local prosecutor.

Michigan law (MCL 257.625n) allows for the forfeiture of a vehicle used in the commission of any of the crimes listed below if the operator of the vehicle is the "owner."

- OWI 2nd Offense
- OWI 3rd Offense
- Operating with the Presence of a Controlled Substance 2nd Offense
- Operating with the Presence of a Controlled Substance 3rd Offense
- OWI with an occupant under 16
- OWI causing Death
- OWI causing Serious Injury

1. Vehicle forfeiture will be sought for any offender who is arrested for the above listed crimes, provided that the arrestee is either the actual owner or the constructive owner of the vehicle.
 - a. For forfeiture purposes the owner of a vehicle is not just the registered owner whose name appears in LEIN. The owner may be any of the following:
 - A person who holds a legal title of the vehicle (registered owner)
 - Any person, firm, association, corporation renting a motor vehicle or having the exclusive use of that vehicle for a period greater than 30 days. (An example would be a woman driving a vehicle that is registered in her husband's name, but that is the car she drives and has for 30 days or more)
 - Any person who has the immediate right of possession of a vehicle under an installment sale contract (purchasing or leasing a vehicle)
2. Prior to seizure, the investigating officer shall determine ownership of the vehicle. If the driver is not the owner:
 - a. Determine the relationship between the driver and owner.
 - b. Determine the frequency of which the driver is allowed to use the vehicle.
 - c. Determine if the owner is aware of the driver's unlawful activity.
3. The officer shall request permission of their supervisor prior to seizure of such assets. The supervisor may confer with, or direct the officer confer with the Forfeiture Supervisor, or the Meridian Township attorney assigned to handle asset forfeiture.
4. The officer will serve a Non-Drug Notice of Seizure of Property and Intent to Forfeit form (appendix B) upon the owner or claimant of the asset(s).
 - a. If there is a question as to the ownership of the property, then a Non-Drug Notice of Seizure of Property and Intent to Forfeit form will be served to all parties claiming ownership of the property.
 - b. The description of the property on the Non-Drug Notice of Seizure of Property and Intent to Forfeit form should be completed as specifically as possible, including the description of any currency, vehicle VINs and other identifiers or serial numbers. When vehicles are seized, the description should include the statement "and all property contained therein" concerning the contents of the vehicle.

- c. Property receipts and motor vehicle inventory forms should be completed according to relevant Department procedures.
5. Seized vehicles shall be stored at the Meridian Township Police impound lot.
 - a. Forfeited vehicles shall be sold at auction, retained for use by the Department, or sold in accordance with III-D of this General Order.

New

D. Contested Seizure

Upon being served the Non-Drug Notice of Seizure of Property and Intent to Forfeit, the owner must file a written claim, if they wish to contest the forfeiture, for the seized asset (as described on the seizure notice) at the Meridian Township Police Department during business hours.

1. Only the claimant/owner may state a claim asserting ownership of the seized asset. Claims must be filed within 20 days of service of Non-Drug Notice of Intent to Forfeit Property.
2. The Meridian Township attorney will oversee the civil forfeiture proceedings and notify the Department when disposition has been completed.

E. Forfeiture Settlements (out of court)

1. The forfeiture supervisor is responsible for determining if the property should be returned to the owner.
 - a. Values may be determined using Kelly Bluebook for vehicles or a similar estimating agency for other items. Forfeiture settlements for vehicles should not exceed 10% of the value of the seized item.
2. A Forfeiture Settlement Agreement form (appendix C) shall be completed and signed as specified. The property owner shall be given a copy. The original shall be maintained in the Forfeiture file by the supervisor in charge of forfeiture and a copy shall be forwarded to the Meridian Township Attorney.

F. Forfeiture Supervisor

1. Ensure that all procedures for administrative forfeiture are followed.
2. Ensure that all seizures for feature are reported to the Meridian Township Attorney and that a copy of the incident report pertaining to the seizure is forwarded to the Meridian Township attorney within three (3)

business days.

3. Ensure that all seizures and forfeitures are reported to the State of Michigan Office of Drug Control Policy in a timely manner.
 - a. Report to the Chief of Police on all matters pertaining to forfeiture proceedings.
 - b. Prepare and maintain records on all property accruing to the agency through drug, non-drug and OMNIBUS forfeitures and retain these records for a minimum of three years.
 - c. Annually conduct an audit of all property seized, subjected to forfeiture proceedings, forfeited, or disposed of, ensuring that such property is disposed of pursuant to MCLA §333.7524.

G. Distribution of Proceeds Received from the Forfeiture of Assets

Proceeds will be deposited, with the Township Treasurer, in a designated revenue account according to their narcotic or non-narcotic origination, as prescribed by law. This balance and account activity shall be reported annually to the State of Michigan Office of Drug Control Policy.

H. Evidentiary Requirements

All seized property will be handled as evidence according to existing procedures for submitting evidence.

1. The Property Receipt Form should be marked to indicate that an Initial Notice of Seizure of Property and Intent to Forfeit Form has been served.

IV. CANCELLATIONS

None

Authorized by:



David Hall, Chief of Police

Index as: Asset Seizure
 Drug Seizure/Forfeiture
 Forfeitures
 Seizures
 OMNIBUS

Appendix A
MERIDIAN TOWNSHIP POLICE DEPARTMENT
Drug Notice of Seizure and Intention to Forfeit Property

Seizing Law Enforcement Agency
Meridian Township Police Department
5151 Marsh Rd., Okemos, MI 48864
(517) 853-4800

Complaint #: _____
Date Seized: _____
Address of Seizure: _____
Seizure City: _____ State: _____ Zip: _____

The following described property has been seized pursuant to MCL 333.7522:

[INSERT PROPERTY LIST]

Since the total value of the seized property does not exceed \$50,000, it is the intent of the seizing agency to forfeit and dispose of the above described property according to the provisions of MCL 333.7521, et seq. If you or any person claiming an interest in the above described property wish to challenge the seizure and forfeiture of the property or wish to claim an interest in the property, you must file a written claim with the seizing agency at the above address within 20 days after receipt of this notice (or of the date of the first publication of this notice in the newspaper. Upon receipt of a proper written claim, a court action will be filed to decide the issue of the forfeiture in accordance with MCL 333.7523.

WARNING - FAILURE TO FILE A WRITTEN CLAIM OF INTEREST AND BOND WITH THE SURETIES DESCRIBED ABOVE WITHIN THE 20 DAYS SHALL CAUSE THE LISTED PROPERTY TO BE DECLARED FORFEITED AND BE DISPOSED OF ACCORDING TO MICHIGAN LAW.

Proof of Service

Person Served Upon: _____ Date Served: _____

Method of Service: _____

Service Address: _____ City: _____ State: _____ Zip: _____

Name of Server: _____ Work Unit: _____

Signature of Person Served: _____ Date: _____

Appendix B
MERIDIAN TOWNSHIP POLICE DEPARTMENT
Non-Drug Notice of Seizure and Intention to Forfeit Property

Seizing Law Enforcement Agency
Meridian Township Police Department
5151 Marsh Rd., Okemos, MI 48864
(517) 853-4800

Complaint #: _____
Date Seized: _____
Address of Seizure: _____
Seizure City: _____ State: _____ Zip: _____

The following described property has been seized pursuant to MCL 600.4701, et seq:

[INSERT PROPERTY LIST]

It is the intent of the seizing agency to forfeit and dispose of the above described property according to the provisions of MCL 600.4701, et seq. If you or any person claiming an interest in the above described property wish to challenge the seizure and forfeiture of the property or wish to claim an interest in the property, you must file a written claim with the seizing agency at the above address within 21 days after receiving a Notice of Intent to Commence Proceedings (or within 21 days of publication). No bond is required.

Upon receipt of a proper written claim, a court action will be filed to decide the issue of the forfeiture in accordance with MCL 600.4701, et seq.

WARNING - FAILURE TO FILE A WRITTEN CLAIM OF INTEREST DESCRIBED ABOVE WITHIN THE 21 DAYS SHALL CAUSE THE LISTED PROPERTY TO BE DECLARED FORFEITED AND BE DISPOSED OF ACCORDING TO MICHIGAN LAW.

Proof of Service

Person Served Upon: _____ Date Served: _____

Method of Service: _____

Service Address: _____ City: _____ State: _____ Zip: _____

Name of Server: _____ Work Unit: _____

Signature of Person Served: _____ Date: _____

Appendix C
MERIDIAN TOWNSHIP POLICE DEPARTMENT
Settlement and Release of Liability

On the ____ day of _____, _____, the below listed property was seized from _____ by the Meridian Township Police Department. Meridian Township and Claimant, by mutual understanding and acknowledgement, agree to release the seized property in exchange for payment of ____ to Meridian Township. In further consideration for the above referenced payment, Meridian Township agrees to waive any right to commence forfeiture proceedings relating to the seized property listed herein.

Property Seized:

In consideration of the payment, release of property and waiver referred to above, Claimants release and discharge Meridian Township, the Meridian Township Police Department, and the Meridian Township Prosecuting Attorney, their heirs, executors, administrators, insurers, successors, assigns, agents, employees, officers, and directors, past and present, from all liability, claims, demands, controversies, debts, wages, damages, rights, liens, charges, lawsuits, and causes of action and any and all other losses and damages of every kind and nature caused by or resulted or hereafter resulting to the undersigned, from the seizure of property which occurred on or about _____ in Meridian Charter Township, County of Ingham, State of Michigan, at _____, and from any and all liability, claims, judgments, demands, controversies, agreements, damages, actions, and causes of action whatsoever, either in law or equity, against any other persons, firms, or corporations which the Claimants, their heirs, executors, administrators, successors, and assigns, can, shall, or may have by reason of or in any way incident to or resulting from the seizure hereinbefore mentioned.

Each party represents, warrants, and agrees that it has not until this time assigned or transferred, to any person or entity any claim, demand, or cause of action based on, arising out of, or in connection with the transactions and events, which are the subject of this agreement.

This agreement is binding on the parties and their successors, heirs, representatives, assigns, agents, officers, employees, and personal representatives.

Parties herein acknowledge they have read and understand this Settlement and Release and fully comprehend the terms of agreement and voluntarily agree to be bound by the terms herein.

This Settlement and Release Agreement has been entered into on
Date _____

Signed _____
Claimant

Signed _____
Meridian Township

Meridian Township Prosecutor

Appendix D

MERIDIAN TOWNSHIP POLICE DEPARTMENT

Omnibus Offenses

Animal Fighting	49	Counterfeit Mark	263
Arson of insured prop	75	Possession Counterfeit Mark	264
Bank Bills	94	Securities Fraud	271
Spurious Bank Notes	95	Fraudulent Stock	272
Bank Property	96	Fraudulently Obtain Signature	273
Bank Insolvency	100	Note Fraud	274
Vessel Destruction	04	Insurance Fraud - Animals	300
False Cargo Invoice	105	Larceny - Property	356
False Protest - Ship	106	Larceny - Person	357
Breaking and Entering	750.110	Larceny - Livestock	357a
Burglary w/ explosives	112	Larceny - Vacant Dwelling	359
Bribery - Public Officer	117	Larceny in a Building	360
Bribe Acceptance - Public Ofc	118	Armed Robbery	529
Appraiser Corruption	119	Robbery- Unarmed	530
Bribing Juror	120	Bank/Safe Robbery	531
Bribing Officers - Pub Inst	121	Receive / Conceal Stolen Prop	535
Bribery - Athlete	124	Telecom Fraud	540c
Child Sexually Abusive Actv	145c	Diverting Telecom	540g
Use of Internet - Sex Material	145d	Forced Labor, Sex Abuse	462a-j
Sale of Financial Trans Dev	157q	Terrorism	543a-z
Forgery Financial Trans Dev	157r	Sex Material to Minors	722.675
Embezzlement – Agent	174	Sex Material to Minors	722.677
Embezzlement - Pub Ofc	175	Computer Crimes	752.791
Embezzlement - Administrator	176	Reckless Drv Causing Ing/Dth	257.626
Embezzlement - Bank	180	OWI 2nd/3rd	257.625
Embezzlement – Person	181	OWI Causing Death	257.625
Embezzlement - Warehouse	182	OWI Causing Serious Impair	257.625
Threats to Extort	213	OWI w/ Person under 16	257.625
Extortion by Pub Ofc.	214	DWLS Causing Death	257.904
False Pretenses	218	DWLS Causing Serious Imp.	257.904
Stealing Telecom	219a	1st degree Home Inv	750.110a2
Weapons Possession	224	2 nd degree Home Inv	750.110a3
Forgery	248	3rd degree Home Inv	750.110a4
Uttering and Publishing	249	1 st degree CSC	750.520b
Forgery of Notes	250	2nd degree CSC	750.520c
Forgery of Bank Bills	251	3 rd degree CSC	750.520d
Possession Counterfeit Note	252	Assault w/Intent CSC	750.520g
Utter Counterfeit Bank Note	253	Human Trafficking	750.462a-j
Possession Counter Bank Note	254		
Counterfeit Tools	255		

Appendix E
MERIDIAN TOWNSHIP POLICE DEPARTMENT
Asset Forfeiture Questionnaire

1. Name: _____ DOB: _____ Race: _____ Sex: _____
Address: _____ City: _____ State: _____
Zip: _____ Phone: (Home) _____ (Cell) _____

2. Do you have a spouse, companion, house mate? Y / N

Name: _____ DOB: _____ Race: _____ Sex: _____
Address: _____ City: _____ State: _____
Zip: _____ Phone: (Home) _____ (Cell) _____

3. Are you employed? Yes () No ()

If yes:

- Current Employer:

- Employer's address:

- Employer's phone number:

- Date of Hire:

- Position: _____

- Wage Per Hour: _____

- Weekly Take Home Pay: _____

- Bonus/Incentives: _____

4. Do you have any other sources of income?

- Self-employment or odd jobs? Y / N Income Amount_____
- Rental properties? Y / N Income Amount_____
- Pension or Retirement? Y / N Income Amount_____
- Gifts or Inheritance? Y / N Income Amount_____
- Lottery, Casino, or Gambling? Y / N Income Amount_____
- Disability, SSI, Welfare, Food stamps? Y / N Income Amount_____

If the answer to any part of question #4 was "Yes", describe in detail all money so received and the date on which you received it?

5. Did you file Federal, State, and/or Local income tax returns? Y / N

If so, what State and/or City did you file in?

6. Did you claim an earned income tax credit when you filed? Y / N

7. What years did you file for? _____
What was the last year you filed? _____

8. Do you have any banking accounts? Includes banks, credit unions, savings and loans, safe deposit boxes, etc.

- Name of Bank:_____
- Address/City/Branch:_____
- Type of account:_____
- Account number:_____
- Balance in account:_____

- Name of Bank:_____
- Address/City/Branch:_____
- Type of account:_____
- Account number:_____
- Balance in account:_____

9. Do you have assets in any of the following forms?

Cash: _____

Certificates of deposit:

Stocks, bonds, money orders:

10. Do you own any real estate, homes, property, vacation homes? Y / N

11. If the answer to question #10 was "Yes", identify all such property, its location, and its value:

12. Do you own any cars, boats, motorcycles, or other recreational vehicles?

1. Year _____ Make _____ Model _____
Cost _____ When purchased _____
Mileage _____ Balance owed _____

2. Year _____ Make _____ Model _____
Cost _____ When purchased _____
Mileage _____ Balance owed _____

3. Year _____ Make _____ Model _____
Cost _____ When purchased _____
Mileage _____ Balance owed _____