

COUNCIL ACTION FORM

SUBJECT: FORFEITURE AGREEMENT WITH STORY COUNTY ATTORNEY'S OFFICE

BACKGROUND:

Chapter 809 of the Iowa Code provides a process for law enforcement and prosecutors to return property seized as evidence or otherwise associated with a criminal case. The law also allows prosecutors to seek forfeiture of property under specific circumstances. This law most commonly applies to cases involving illegal drugs and the profits from the sale of those drugs. Illegal drugs, for instance, cannot generally be returned to someone, so they must be destroyed. Property used in criminal acts, such as vehicles or computers, may be seized as evidence in these cases. Once the criminal case is completed, the prosecutor may return to the courts to request a forfeiture order for these properties. If cash or property is approved for forfeiture by the courts, the resources are distributed to agencies involved in the case according to a written agreement.

Ames has operated for many years under a forfeiture agreement centered around the Central Iowa Drug Task Force (CIDTF). Recent review of that agreement suggests that it may be prudent to have a second intergovernmental agreement specifically addressing forfeitures not involving the CIDTF. This most often occurs when patrol officers encounter contraband or illegal drugs as an extension of a traffic stop or noise complaint.

Iowa law also defines how forfeiture funds may be used by agencies. The City of Ames follows these guidelines closely with all forfeited funds. Funds are accounted for separately, all expenditures are documented, and all expenditures are authorized by the City Manager's Office.

The attached agreement outlines the arrangement between the Story County Attorney's Office and the City of Ames. This includes the required distribution to the State of Iowa.

ALTERNATIVES:

1. Approve the forfeiture agreement as proposed.
2. Approve the forfeiture agreement with modifications.
3. Do not approve the attached forfeiture agreement.

CITY MANAGER’S RECOMMENDED ACTION:

The proposed forfeiture agreement allows the prosecutor to seek forfeiture of property in cases where that property may be associated with criminal activity. Forfeited funds are managed by the City to cover Drug Task Force expenses and occasional purchases of small equipment or training that were not anticipated during the normal budget process. Forfeited funds are kept in special accounts under the supervision of the City’s Finance Department, and all purchases are made in a manner consistent with City purchasing policies.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the attached agreement.

**FORFEITURE FUNDS
AGREEMENT**

In recognition of the fact that both law enforcement and prosecution participate in the seizure and forfeiture of property under Chapter 809 of the Iowa Code, the Story County Attorney's Office and the Ames Police Department, by the undersigned, enter into this agreement concerning the distribution of proceeds from forfeitures in Story County.

Effective with the signing of this Agreement, the proceeds from any forfeited property which is forfeited through the Story County Attorney and the Ames Police Department, and returned to this jurisdiction by the Iowa Department of Justice, shall be apportioned 10% of the gross amount to the Iowa Department of Justice, pursuant to Iowa Code 809A.17, the remaining amount shall be apportioned 20% of the net amount to the Story County Attorney's Office (in addition to fees and costs associated with the action) and the remaining 80% to the Ames Police Department to be used as specified by the Code of Iowa. If the forfeiture was handled in Federal Court, the adopting Federal Agency receives 10% of the gross amount unless other arrangements were made.

This Agreement includes cash and the proceeds from the sale of tangible property, but excludes vehicles and other in kind property, which will be used "as is" by the Iowa Division of Criminal Investigation.

The Ames Police Department shall, upon receipt of forfeited monies or proceeds from the sale of property, immediately issue a check in the amount of 20% of the remaining net amount, made payable to the Story County Attorney's Office Forfeiture Account.

This Agreement shall be in force until renegotiated or terminated upon thirty (30) days' prior written notice by either party. In the event of renegotiation or termination, proceeds of forfeiture for which the procedures have already begun at the time of renegotiation or termination shall be distributed according to the terms of this Agreement.

Date

Story County Attorney

Date

Ames Police Department