



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 43.1

TITLE: ASSET FORFEITURE

EFFECTIVE: 12/17/2017

REVISED: Replaces Policy Procedure 606

PURPOSE

This Chapter describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

POLICY STATEMENT

1. The New Orleans Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime.
2. The potential for revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or any person's due process rights (LAC 22:III.7103(A)).

DEFINITIONS:

Definitions related to this Chapter include:

Asset forfeiture detective/investigator—The commissioned member of the Investigation and Support Bureau – Specialized Investigation Division – Narcotics Section – Asset Forfeiture Unit assigned to be responsible for reviewing forfeiture cases and for acting as the liaison between the Department and the assigned prosecuting attorney.

Forfeiture—The process by which legal ownership of an asset (property) is transferred to a government or another authority.

Property—Anything of value, including movables and immovables, including the whole of any lot or tract of land, and corporeal and incorporeal movable property, including currency, instruments or securities, or any other kind of privilege, claim or right, and includes any interest therein (R.S. 40:2601(4)).

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.

ASSET SEIZURE

3. Property may be seized for forfeiture as provided in this Chapter, State and Federal law.

PROPERTY SUBJECT TO SEIZURE

4. If the conduct or crime gives rise to forfeiture under the law, then the following may be seized upon review and approval of a supervisor and in coordination with the forfeiture investigator (R.S. 40:2603):
 - (a) The property is subject to seizure and forfeiture as contraband, derivative contraband or property related to contraband under the provision of Section 4, Article 1 of the Louisiana Constitution (R.S. 40:2604).
 - (b) The property is seized incident to a lawful arrest, search or inspection when the officer has probable cause to believe the property is subject to forfeiture and will be lost or destroyed if not seized.
5. A large amount of money alone is insufficient to establish the probable cause required to make a seizure.

PROCESSING FOR FORFEITURE PROCEEDINGS

6. When an officer believes that the incident or case he/she is investigating may involve property or cash subject to seizure under this Chapter, the officer making the seizure shall ensure compliance with the following:
 - (a) The investigating officer's immediate supervisor shall be notified and concur in the decision to contact the on-duty NOPD ISB – Special Investigations Division – Narcotics Section – Asset Forfeiture Unit investigator through Communications Services.
 - (b) The Asset Forfeiture Unit investigator shall determine if the seizure will take place and instruct the investigating officer on any actions he/she needs to take while the Asset Forfeiture member handles all aspects of the seizure. Options include:
 - If asset detective makes the scene, he/she may seize the currency and place it on the books at CE&P.
 - The asset detective may seize the currency but instruct the officer to place the currency on the books at CE&P.
 - If decision is NOT to seize, and the items are evidence, they will be processed by the officer as such and placed on the books at CE&P.
 - If decision is NOT to seize and the items are NOT evidence, they will be returned to the owner, possessor or his/her designee.
 - (c) The investigating officer shall complete a police incident report documenting his/her actions taken in the investigation.
 - (d) The officer shall complete an inventory of the property or evidence seized and submit the property or evidence seized to Central Evidence and Property before the end of the shift. All documentation of evidence / property seizure shall be submitted to the officer's supervisor by the end of his/her shift.
 - (e) The officer will book seized items as evidence with a detailed, complete inventory and an estimated value of the property in the comment section of the property form, "Seized Subject to Forfeiture."
 - (f) 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 (R.S. 40:2607(C)).
 - (g) When completed, immediately forward original seizure forms and a copy of the related incident report to the Asset Forfeiture Unit, attention of the member contacted.

- (h) Photographs should be taken of items seized, particularly cash, jewelry and other valuable items if possible.
- (i) 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, or the property is real estate, bank accounts or non-tangible assets) should document the information in an incident report and forward a copy of the approved incident report to the Asset Forfeiture Unit.

ASSET FORFEITURE UNIT

- 7. The responsibilities of the Asset Forfeiture Unit commander include the following:
 - (a) Ensure review of each seizure-related request and determine whether state or federal seizure attempts should be made. Contact federal authorities when pursuing federal seizure, as appropriate.
 - (b) Serve as the liaison between the Department and the District Attorney or Attorney General.
 - (c) Review each asset forfeiture case to ensure the asset seizure guidelines have been followed.
 - (d) Periodically review and update the required asset seizure guidelines, this Chapter and any related policies or procedures to reflect current federal and state statutes and case law (LAC 22:III.7103(E)).

GENERAL INFORMATION

- 8. The items which most often give rise to forfeiture are U.S. currency and property. Property includes real property, jewelry, and conveyances (i.e., automobiles, water-craft, airplanes, motorcycles, etc.). In order for conveyances to be acceptable for forfeiture, they must meet the following criteria:
 - (a) Generally be in good condition.
 - (b) Be approved for seizure by the Commander of the ISB – SID – Narcotics Section or his/her designee.
 - (c) Not susceptible to a substantial lien which renders the asset unsuitable for seizure.

INSTRUCTIONS AND RESPONSIBILITIES - UNITS OTHER THAN ASSET FORFEITURE

- 9. Any officer investigating any narcotics related incident whereby currency or property is located and deemed potentially suitable for confiscation, with a value in excess of \$1,000.00, shall immediately notify his/her supervisor and advise the supervisor of the facts surrounding the potential seizure.
- 10. If the supervisor agrees upon the suitability for potential seizure of the currency or property, the supervisor or his/her designee shall contact the Asset Forfeiture Unit on-duty / callout member through Communications Services.
- 11. An Asset Forfeiture member shall contact the investigating case officer and provide assistance to the investigating case officer with processing the seizure portion of the investigator's case. At his/her discretion, the Asset Forfeiture Investigator may elect to meet the investigating case officer on the scene to assist with the on-site interview of subjects, determine assets suitable for seizure, etc.
- 12. The investigating case officer remains responsible for all aspects of the seizure portion of the case, unless specifically relieved of handling the seizure by the consulting Asset Forfeiture member.

13. The investigating case officer is responsible for maintaining the separation of assets directly connected to individuals under investigation from other property. Assets not directly connected to individuals are also to be kept separated. Under no circumstances are assets from differing individuals or differing sources to be mixed together.
14. Any assets not specifically connected to an individual should be left in place, pending the arrival of the Asset Forfeiture member. These assets should not be moved, unless exigent circumstances force the investigating case officer to do so. If moved, assets should retain their identification integrity.
15. In those cases where the Asset Forfeiture member elects not to meet the investigating case officer on the scene, it shall be the responsibility of the investigating case officer to interview suspects, witnesses, and other non-law enforcement personnel on the scene. These interviews should achieve the following goals:
 - (a) Determine ownership of the property considered for confiscation.
 - (b) Determine suitability for confiscation under L.R.S. 40:2601 et. seq. This determination should be made in consultation with the Asset Forfeiture member.
 - (c) Process all property to be confiscated under the guidelines outlined in this policy.
16. The investigating officer must notify the Asset Forfeiture member consulted of the completion of the investigation by departmental email within 24 hours of the initial incident so he/she may proceed with the seizure portion of the investigation, maintaining awareness of the time restrictions placed on seizures under L.R.S. 40:2601 et. seq. This includes, but is not limited to, obtaining a Seizure Warrant (if applicable) within 72 hours of constructive seizure and notification of the District Attorney's office within ten (10) days of the seizure by delivery of the completed incident report.
17. The Asset Forfeiture member must complete Asset Forfeiture Checklist.

INSTRUCTIONS AND RESPONSIBILITIES - ASSET FORFEITURE SECTION

18. The Asset Forfeiture Unit will be responsible for handling all non-arrest seizure incidents, reported as a Signal 21-S (Seizure). On Asset Seizure (Signal 21-S) cases, all assets are to be listed as "evidence" on the property receipt form, with the notation "Hold for Asset Forfeiture" boldly written on the slip.
19. In all cases involving an arrest, the investigating case officer is responsible for the arrest portion of the investigation. However, the Asset Forfeiture Section will be responsible for handling the seizure portion of all arrest & seizure incidents.
20. The Asset Forfeiture Unit shall assist and facilitate training requests through the Education & Training Division for District Investigative Units and any other unit upon request. This training shall be designed to facilitate investigating case officers in the handling of the seizure portion of their investigations.
21. The Asset Forfeiture Unit shall assume responsibility in all cases where the complexity of a case goes beyond a normal seizure investigation. Determination for adoption of a case under these guidelines to be determined by the investigating case officer, the Asset Forfeiture Unit investigator assigned to assist on the case, and the Commander of the Asset Forfeiture Unit.

CONFISCATED CURRENCY AND/OR PROPERTY

22. Whenever currency is confiscated by an investigating case officer or Asset Forfeiture member, the currency shall be counted by the investigating case officer and the Asset

- Forfeiture Unit investigator in a secure location.
23. In cases where no Asset Forfeiture Unit investigator is on the scene, the investigating case officer and a supervisor will count the currency in a secure location.
 24. The investigating case officer, Asset Forfeiture Unit investigator and/or supervisor shall use an alternate location if the scene cannot be secured for counting. Every effort shall be made to count the seized or confiscated currency in the presence of the possessing party.
 25. The Asset Forfeiture Unit investigator or seizing officer shall determine the amount of currency, complete a receipt for the currency, and note the amount on the receipt in the following manner - "Currency counted as \$xx.xx amount." The Asset Forfeiture Unit investigator seizing shall sign the receipt, acknowledging the amount of confiscated currency. (Receipt Books can be obtained from the Supply Shop at Police HQ.)
 26. If circumstances permit, the possessing party shall also be asked to sign the receipt. If the possessing party refuses to sign the receipt, the Asset Forfeiture Unit investigator seizing shall note on the receipt "Refused to Sign".
 27. A copy of the completed receipt should be included in the report. The possessing party, whether or not he/she claims ownership of the property, should receive a copy of the receipt.
 28. An Asset Forfeiture Unit - Confiscated Property Questionnaire should be completed by:
 - (a) The investigating officer for seizures under \$10,000.00.
 - (b) The Asset Forfeiture Unit investigator for seizures over \$10,000.00.
 29. This form assists in the identification of the owner if on-scene ownership is denied. It also precludes later claims of ownership. It simplifies notifications of impending forfeiture which need to be made to anyone having an interest in the property involved. This questionnaire should be made a part of the incident report.
 30. In cases where property is confiscated, the Asset Forfeiture Unit investigator seizing shall complete a receipt for the property, including a description. The Asset Forfeiture Unit seizing officer shall sign the receipt, acknowledging the confiscated property.
 31. If circumstances permit, the possessing party shall also be asked to sign the receipt. If the possessing party refuses to sign the receipt, the Asset Forfeiture Unit investigator seizing shall note on the receipt "Refused to Sign."
 32. A copy of the completed receipt should be included in every report. If the possessing party claims ownership of the property, the possessing party shall also be supplied with a copy of the receipt.

CONFISCATED / IMPOUND OF VEHICLES FOR SEIZURE

33. The confiscation of vehicles, motorcycles or other conveyances to be seized for possible forfeiture are to be considered on a case by case basis. Under no circumstance is a vehicle or conveyance to be confiscated, impounded, or otherwise seized without prior contact with an Asset Forfeiture Unit investigator and his/her approval. Suitability for seizure must be established prior to constructive seizure. **This policy does not supersede an officers ability to impounding a vehicle for evidentiary/search warrant purposes.**

34. Once determination to seize has been approved, the Asset Forfeiture Unit investigator will advise the investigating case officer where to have the vehicle brought. At a determined meeting location the Asset Forfeiture Unit investigator will take possession of the vehicle for safekeeping. Seized vehicles will be kept in a secured location, inaccessible to unauthorized personnel.
35. Any property not to be seized and inventoried should be cleared from the seized vehicle prior to departing the seizure scene. For any vehicle to be impounded, it shall be the responsibility of the investigating case officer to inventory the vehicle and ensure all inventoried property is conveyed to Central Evidence & Property in accordance with Departmental policy.
36. Any vehicle, motorcycle, or conveyance to be seized for possible forfeiture and relocated to any location without prior authorization from the Asset Forfeiture Unit investigator assigned to assist with the case shall nullify the seizure of the vehicle, motorcycle, or conveyance under L.R.S. 40:2601 et. seq. The impoundment of the vehicle will be considered an evidentiary impound only.
37. Under no circumstance shall a vehicle being seized for possible forfeiture be towed to any City of New Orleans impound location. Vehicles to be seized are not to be impounded in one of the secured Central Evidence & Property / Crime Lab vehicle stalls without prior authorization from a C.E & P. Supervisor.