

# WEST PALM BEACH POLICE DEPARTMENT

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## IV-10 SEIZURES AND FORFEITURES

EFFECTIVE 01/01/2005

CALEA Standards: N/A

CFA Standards: 38.01, 38.02, 38.03

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**I. POLICY:** The West Palm Beach Police Department has established guidelines for the seizure and forfeiture of vehicles, vessels, aircraft, money, and/or property pursuant to Florida State Statute Chapter 932.701-932.707, Florida Contraband Forfeiture Act. The West Palm Beach Police Department acknowledges that law enforcement is the principal objective of asset forfeiture. The potential for obtaining revenues from forfeitures must not override fundamental considerations such as public safety, the safety of law enforcement officers, investigation and prosecution of criminal activity, and respect for the rights of individuals as provided by law. The employment, salary, promotion, or other compensation of a law enforcement officer or attorney will not depend on obtaining a quota of seizures.

### **II. ADMINISTRATION OF SEIZURES AND FORFEITURE:**

A. Seizure and forfeiture of vehicles, vessels, aircraft, money, and property will be under the control of the Support Operations Bureau, Property and Evidence Section's Forfeiture Unit.

B. The Forfeiture Unit will serve as the Police Department's liaison with the City Attorney to ensure that seized vessels, property and money are handled properly in accordance with the Florida Contraband Forfeiture Act. This office will ensure that forfeiture procedures are properly executed where circumstances dictate forfeiture action be applied. The determination of whether to file a civil forfeiture action will be the sole responsibility of the Chief of Police or a designee.

### **III. CRITERIA FOR SEIZURE:**

A. The West Palm Beach Police Department will pursue forfeitures and seizures for items involved in all felonies and certain misdemeanors committed within the City of West Palm Beach that fall under the Florida Contraband Forfeiture Act.

B. Due to the expenses required to pursue forfeiture proceedings for items, the following values of the described property types should be used as a guideline when considering seizure for forfeiture:

1. Vehicles: \$2,500
2. Aircraft: \$5,000
3. Vessels: \$5,000
4. Real Property: \$10,000
5. Other Items, i.e., cash (\$500.00), jewelry, securities etc.

a. If the seizing officer feels property that does not meet or exceed the above values should be seized, the officer may use their discretion to seize the property provided all of the requirements for seizure have been met. The seizing officer will provide written justification for such seizures. The determination of whether to seize currency must be made by supervisory personnel. The Department's legal counsel must be notified as soon as possible.

### **IV. PROCEDURE:**

A. Any item seized as contraband will be handled as evidence as provided by Department directives concerning property and evidence control and vehicle storage and inventory. All receipts, evidence sheets, Vehicle Storage Receipts (VSR), and inventory forms will be marked "**hold for forfeiture.**"

1. After an item is seized, the officer will complete an Offense Incident Report specifying all acts relevant to

the seizure including:

- a. Names and addresses of all witnesses.
- b. All information concerning ownership, claimed ownership, or custodianship of the item.
- c. Copies of any affidavits and search warrants executed in the case.
- d. Copies of any lab reports and/or test results in the case.
- e. A completed Contraband Forfeiture Request form (Appendix A) with attached copies of any deeds, vessel or vehicle titles and/or registrations, and any property receipts.
- f. If the item seized is a vehicle or vessel, a Vehicle Storage Receipt (VSR), will be attached.

B. Florida State Statutes require that notification of intent to pursue forfeiture proceedings are provided at the time of seizure or by certified mail, return receipt requested, within five (5) working days after the seizure to all interested parties. In any case all reports will be completed and forwarded to the Forfeiture Unit on the same day as the forfeiture as part of a deliberate effort to notify the person entitled to notice of the seizure. If unusual circumstances exist that prevent the officer from complying with this requirement, the Forfeiture Unit will be advised, in writing, of the anticipated forfeiture. The minimum documentation will be forwarded to the forfeiture unit within 72 hours of the seizure, including:

1. An offense report,
2. Evidence or Property Report,
3. VSR, if the item is a vehicle,
4. Probable Cause Affidavit, if an arrest was made,
5. Request for Forfeiture form,
6. Notice of Intent form (Appendix B), if served on the owner or interested parties at time of seizure, and
7. Copies of the currency slip (if applicable).

C. After the report has been completed and reviewed by a supervisor, the report will be submitted to the Forfeiture Unit. The Forfeiture Unit designee will submit the information to the City Attorney for any necessary legal action.

D. Storage of vehicles, aircraft and vessels:

1. When a vehicle is seized for forfeiture, the vehicle will be driven to the police storage facility by city employees, if possible. A contract wrecker service will be summoned to tow the vehicle to the storage facility if it cannot be driven due to mechanical trouble or no employees are available to drive it.
  - a. Every effort should be made to obtain ignition keys for vehicles. The keys will be forwarded to the Forfeiture Unit by the seizing officer.
  - b. If the seized vehicle is to be processed, processing will be done at the scene or at another location at the discretion of the Crime Scene Investigator.
2. If a vessel or aircraft is seized, it will be the responsibility of the seizing officer's supervisor to insure it is adequately secured and protected until arrangements can be made for storage during the forfeiture proceedings.
3. A V.S.R. will be completed for any vehicle, vessel, or aircraft seized. The inventory section of the V.S.R. will be completed and all portable personal property will be removed. The seizing officer will be responsible

for completing an Evidence/Property Form and submitting the property to the Property and Evidence Section as soon as practical.

4. Personal property not being held for evidence or seizure shall be immediately returned to the owner or other person entitled by law to possession of the property. If personal property is authorized for release, a specific identity of the rightful owner or lawful possessor must be provided, in writing, to the Property and Evidence Section. If the owner or lawful possessor is unknown, has been arrested, or is otherwise unavailable to take possession of the property, it will be placed in the Property and Evidence Section to be returned to the owner or lawful possessor at a later date or handled pursuant to the provisions in Florida State Statutes, Chapter 705. The Evidence/Property Form will include the authorization for release.

5. Any property seized as evidence will be packaged and entered into evidence separate from any personal property.

6. When vehicles are seized for forfeiture, the officer handling the seizure paperwork must ensure the vehicle identification number is obtained from the vehicle itself and verified against the registration or registration printout from DHSMV.

a. The officer handling the seizure will notify the Auto Theft Unit of the seizure so they can check the V.I.N.

7. A title and lien check will be completed on any vehicle impounded by the Forfeiture Unit. The printout will be included with the V.S.R.

8. All VSR's will be submitted with the vehicle keys to the Property and Evidence Section by way of the drop slot or in person.

#### **V. SEIZURE OF REAL PROPERTY:**

A. Real property may not be seized or restrained, other than by Lis pendens, subsequent to a violation of the Florida Contraband Forfeiture Act until the persons entitled to notice are afforded the opportunity attend a pre-service adversarial preliminary hearing which shall be held within ten (10) days of the filing of the Lis pendens or as soon as practical thereafter. The Department will promptly notify the City Attorney's office of any intent to seize real property so the City Attorney may comply with those procedures described in this paragraph.

B. To ensure that real property is not transferred to the Police Department prior to the institution of a forfeiture action, contact will be made with the Police Department's attorney for the following:

1. Notice to the property owner that the property is subject to forfeiture;
2. Filing a Notice of Lis pendens with the Clerk of Court on the subject property;
3. A complete title search on the subject property to determine ownership and equity interests;
4. An appraisal of the real property; and
5. Security and maintenance of the property with a property management company.

#### **VI. MANAGEMENT OF FORFEITURE ACTIONS:**

A. The City Attorney handling the forfeiture action will:

1. Promptly review all copies of reports related to the procedure and make an evaluation of the Department's probable cause determination.
2. As soon as practical, determine whether to proceed with the forfeiture or to release the seized property to the lawful owner or possessor.
3. Upon determination to proceed with the forfeiture, promptly proceed against the seized property by filing a

forfeiture action or entering into a settlement agreement.

4. Upon the determination not to proceed with a forfeiture action, the City Attorney will notify the Forfeiture Unit of the Property and Evidence Section. Seized property, absent evidentiary value to a pending criminal case and absent any settlement to the contrary, shall be released to the lawful owner or possessor or his or her designee by the seizing officer or the evidence custodian upon proper notification.

B. If any additional investigative follow-up is needed, the original investigating officer will be contacted by the Forfeiture Unit. The investigation will remain the responsibility of the appropriate division(s) or unit(s) within the Department.

## **VII. RELEASE OF SEIZED PROPERTY:**

A. If at the conclusion of forfeiture proceedings the claimant is awarded the seized property, the seized property will be immediately released to the person entitled to possession of the property as ordered by the court with jurisdiction over the matter and upon presentation of the court's Order. Under these circumstances, the claimant will not be assessed any towing charges, storage fees, or administrative costs.

B. In all other instances, if a seized vessel, vehicle, aircraft, or real property is to be released to the lawful owner, the owner will be assessed towing, storage, administrative, and maintenance costs of the seized property.

## **VIII. USE OF FORFEITED ITEMS:**

A. Items forfeited may be converted to Department use, sold with revenues realized, retained for Department use under certain conditions, or transferred to another public or nonprofit organization as governed by Florida Statute. No seized item or vehicle will be used or assigned until forfeiture proceedings are complete in the Circuit Court, except to ensure the item or vehicle is maintained in good working order. The Department will make a reasonable effort to maintain seized property by the least restrictive means and in such a manner as to minimize loss of value. Departmental use of any forfeited vehicle must be approved by the Chief of Police before the vehicle is placed in service. Once placed into service, the property will be subject to the same controls as property obtained through the Department's normal acquisition process.

B. Any forfeiture proceeds will be maintained in a special fund as required by Florida Statute. These monies will be subject to the normal accounting controls and financial audits of all deposits and expenditures. These proceeds will not be used to meet the normal operating requirements of the Department as required by statute.

C. Requests for expenditures of funds realized through forfeiture or sale will be made to the Chief of Police via the chain of command.

## **IX. EQUITABLE SHARING OF FEDERALLY FORFEITED PROPERTY:**

A. The West Palm Beach Police Department participates in the Department of Justice Forfeiture Program when involved in joint investigations with federal agencies where property and/or cash is seized.

1. The investigating agent completes the "Application For Transfer Federally Forfeited Form" (DAG-71).
2. The Narcotics Division Commander reviews and signs the form and forwards it to the City Attorney.
3. The City Attorney reviews and signs the form.
4. The signed original is returned to the Narcotics Division Commander who sends it to the appropriate federal agency.

B. The Narcotics Division Commander is responsible for tracking the request until a check is received from the Federal Government.

C. The check will be deposited into the appropriate account.

D. All expenditures of funds received will be at the direction of the Chief of Police by resolution of the City

Commission and subject to all Federal guidelines and established internal accounting controls of the City.

E. The "Federal Annual Certification Report" is completed showing a list of approved resolutions.

F. When the report is completed, it is signed by the Law Enforcement Agency head or Representative and the Governing Body Head or Representative and returned to the Federal Government (Department of Justice, Department of Treasury and United States Attorney).

**X. REFERENCE:**

- F.S.S. 932.701-707, Florida Contraband Forfeiture Act.
- SOP # IV-11 Property and Evidence Management.

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**Delsa R. Bush, Chief of Police**

Original issue: 10/29/89  
Revised: 01/01/2005  
I.D. # 1337

History: SOP # changed to IV-10 on 01/01/2005, SOP #changed to 38.01 on 03/01/99, SOP # 6.100.011 SOP # Changed on 01/15/99  
Old SOP # 6.100.011 SOP # Changed on 01/15/99  
Revision Dates: 11/19/92, 03/01/99, 01/01/2005

Job Title Task Files: Supervisor, Crime Scene Investigator

**Appendix A**

CITY OF  
WEST PALM BEACH  
POLICE DEPARTMENT

To: Office of City Attorney

From: Forfeiture Unit

Subject: Request for Contraband Forfeiture

Date: Name/Division:

Agency Case No.: Court Case Number:

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ATTACH ALL REPORTS AND INVESTIGATIVE DOCUMENTS TO THIS FORM  
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Description of property: (Include any I.D. numbers)  
Item:

Defendant's Name and Address:  
Name:  
Address:

Person(s) found in custody:  
Name:  
Address:

Owner of property:  
Name:  
Address:  
Date of seizure:  
Place of seizure:  
Property used in violation of FSS:  
Circumstances of seizure: (or attach copy of probable cause)

FORFEITURE UNIT USE ONLY

Item:	Location:	Seizure #:
Item:	Location:	Seizure #:
Item:	Location:	Seizure #:

Lien holder of property:  
Name:  
Address:  
Approximate amount of lien: \$

Appendix B

CITY OF  
WEST PALM BEACH  
POLICE DEPARTMENT

NOTICE OF INTENT TO PRCEED WITH FORFEITURE

Agency Case No.: \_\_\_\_\_

Date: \_\_\_\_\_

To: (Name) \_\_\_\_\_

(Address) \_\_\_\_\_

\_\_\_\_\_

Re: (Property Description) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

You ARE HEREBY notified that the WEST PALM BEACH POLICE DEPARTMENT has seized the above-described property pursuant to the Florida Contraband Forfeiture Act, ss. 932.701-932.707, Florida State Statute. You have the right to request an adversarial preliminary hearing before a Circuit Court Judge who shall determine if probable cause exists to proceed with the forfeiture of the above-described property. Such request should be made in writing, by certified mail return receipt requested, within fifteen (15) days of receiving this Notice to City of West Palm Beach, City Attorneys Office, 200 Second Street, Suite 400, Law Department, West Palm Beach, Florida 33401.

Hand Delivered DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

Delivered To: (Print) \_\_\_\_\_

Delivered To: (Signature) \_\_\_\_\_

Relationship To Property: [ ] Owner [ ] Custodian [ ] Lien Holder

Officer's Signature: \_\_\_\_\_ ID# \_\_\_\_\_

Witness' Signature: \_\_\_\_\_ ID# \_\_\_\_\_

NOTICE provided by certified mail, return receipt requested, this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_.

cc: City Attorney's Office

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SUPERVISOR'S APPROVAL