

PALM BEACH GARDENS POLICE DEPARTMENT		
FORFEITURES		
POLICY AND PROCEDURE 4.2.2.14		
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PURPOSE: To provide guidelines for the seizure, maintenance and forfeiture of assets pursuant to the provisions of the Florida Contraband Forfeiture Act FS 932.701 through 932.706.

SCOPE: This policy and procedure applies to all members.

REVIEW RESPONSIBILITY: Administrative Support Bureau

POLICY: The Florida Contraband Forfeiture Act, Sections 932.701 through 932.706, Florida Statutes; authorizes law enforcement agencies to seize and forfeit real and personal property, including currency, vehicles, aircraft, and other contraband articles that are used in violation of the Act and Chapter 893, Florida Statutes.

1. ADMINISTRATION OF SEIZURES AND FORFEITURES

- a. Seizure and forfeiture of vehicles, vessels, aircraft, money and property shall be under the control of the Administrative Support Bureau and assignment for coordination of such activity will be the responsibility of the Administrative Support Bureau Major or designee.
- b. The Administrative Support Bureau Major or designee shall serve as the police department's liaison with the designated legal and finance authorities to ensure that seized vessels, property and money are handled properly in accordance with the Florida Contraband Forfeiture Act.

2. PROCEDURES

- a. When property (i.e., vehicles, aircraft, contraband articles, etc.) other than currency is seized for forfeiture, the probable cause supporting the seizure shall be promptly reviewed by the appropriate supervisor who is not directly involved in making the seizure. The determination of whether to seize currency must be made by supervisory personnel. The Administrative Support Bureau Major or designee must also notify the city's attorney as soon as possible of all seizures.
- b. The determination of whether this department will file a civil forfeiture action shall be made by the Chief of Police or designee (Administrative Support Bureau Major or designee) if such designee is not directly

- involved in making the seizure. The forfeiture action may be assigned to another supervisor at the discretion of the Chief of Police.
- c. When there is no other legitimate basis for holding seized property, this department will promptly release such property as may be required in accordance with the Forfeiture Act or by department determination. The assigned supervisor shall assert all claims of interest in seized property and promptly review such property for validity.
 - d. The department may not use the seized property for any purpose until the rights to, interest in, and title to the seized property are perfected in accordance with the Act. This does not prohibit the use or operation necessary for reasonable maintenance of seized property. Reasonable efforts shall be made to maintain seized property in such a manner as to minimize loss of value.
 - e. Settlement of any forfeiture action shall be consistent with the mandates of the Act and in compliance with this policy.
 - f. All forfeited property retained by this department shall be maintained and utilized in accordance with the Act, and shall be subject to the same controls with regard to property acquired by this department.
 - g. Monies from forfeiture proceeds, received by this department shall be maintained in a special fund as provided by law, which is subject to nominal accounting controls and financial audits of all deposits and expenditures. Since this department is a municipal agency, the proceeds and interest thereon may not be used to meet normal operating expenses of the department. The department will file any and all reports as required by the Act.
 - h. The department shall periodically review seizures of property, as well as settlements and forfeiture proceedings initiated to determine whether such seizures, settlements and forfeitures comply with the Act and this policy.
 - i. The department shall avoid the appearance of impropriety in the acquisition, sale, retention, or transfer of any forfeited property or proceeds derived from such property.

3. ADMINISTRATIVE CONTROLS OF PROPERTY & CONTRABAND

- a. The Palm Beach Gardens Police Department will pursue forfeitures and seizures for items involved in all felonies and certain misdemeanors committed within the City of Palm Beach Gardens that fall in the following categories:
 - i. Any controlled substance as defined in Chapter 893 or any substance, device, paraphernalia, or currency or other means of exchange, which has been, is being, or is intended to be used in violation of any provision of Chapter 893.
 - ii. Any gambling paraphernalia, lottery tickets, money and currency used or intended to be used in the violation of the gambling laws of the state.
 - iii. Any equipment or liquid or solid materials being used or intended to be used in violation of the beverage or tobacco laws of the state.
 - iv. Any motor fuel upon which the motor fuel tax has not been paid as required by law.
 - v. Any personal property including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, securities, books, records, research, negotiable instruments or currency, which has been or is actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.
 - vi. Any vessel, motor vehicle, aircraft or real property used to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband item.
 - vii. Any real property or any interest in real property which has been or is being employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

- b. When any item described in Section 1, i – vii, is being used under the conditions outlined, it will be seized as contraband and placed at the appropriate location (i.e., property and evidence, vehicle compound, or any other location deemed as necessary).
 - i. Any item seized as contraband pursuant to the order will be handled as evidence as provided by department directives concerning property and evidence control and vehicle storage and inventory. All receipts and inventory forms will be marked "hold for forfeiture".
 - ii. After an item is seized, the officer will complete a regular offense report, specifying all acts relevant to the seizure including:
 - 1. Names and addresses of all witnesses.
 - 2. All information concerning ownership or claimed ownership of the item seized.
 - 3. Copies of any affidavits and search warrants executed in the case.
 - 4. Copies of any lab reports and/or test results in the case.
 - 5. A completed Contraband Forfeiture Request Form with attached copies of any vehicle titles and registrations and property receipts.
 - iii. All forfeiture documents will be forwarded to the Administrative Support Bureau Major or designee.
 - iv. The shift supervisor will inspect all vehicles to determine:
 - 1. If the item meets the criteria for seizure.
 - 2. If the item's value outweighs the cost of the forfeiture proceedings.
 - 3. Seized vehicle forfeiture documents along with the VSR, will be forwarded to the Administrative Support Bureau Major or designee.
 - v. All reports will be completed and forwarded to the appropriate party in a timely fashion.
 - vi. After an initial review of the reports has been completed, all such reports will be submitted to the city attorney for any necessary legal action.
 - vii. Storage of vehicles, aircraft and vessels;
 - 1. All vehicles seized for forfeiture will be towed directly to the Police Department's designated storage facility.
 - 2. Dispatch will enter the impounded vehicle's information in a log located in the dispatch center.
 - 3. If the impounded vehicle is damaged, causing the interior to be exposed to be elements, every attempt will be made to protect the vehicle's interior from the weather.
 - 4. If a vehicle is processed for seizure, towing arrangements should be made as soon as practical
 - 5. If vessels or aircrafts are seized, it will be the responsibility of the seizing officer's supervisor to insure that the conveyance is adequately secured and protected until arrangements can be made for storage during the forfeiture proceedings.
 - viii. Procedures for Securing Seized Vehicles:
 - 1. When a vehicle is seized for forfeiture, the city's contracted wrecker service will be requested for tow services to the designated impound lot.
 - 2. The inventory section of the vehicle storage report shall be completed and all personal property shall be removed. If the vehicle is to be processed and it is determined the vehicle would be contaminated by removing any personal property, the seizing officer may wait until the processing is completed. The seizing officer is to be responsible for insuring the personal property is removed.
 - 3. Personal property not being held for evidence or seizure shall be returned to the owner. If the owner is unknown, has been arrested or is otherwise unavailable to take possession of the property, it shall be placed in the property unit to be returned to the owner at a later date, or handled pursuant to the provisions of sections 705.104 and 705.1 Florida Statutes. The property receipt shall be completed, including the authorization for release.
 - 4. Any property seized as evidence shall be packaged and entered into evidence separately from any personal property.

5. When vehicles are seized for forfeiture, the officer handling the paperwork must ensure the vehicle identification number is obtained from the vehicle itself rather than from a registration check.

4. SEIZURE OF REAL PROPERTY

- a. When real property is to be seized for forfeiture, a Warrant of Seizure or Warrant of Arrest in Rem, shall be prepared for initial presentation to the city attorney.
- b. Upon review and approval of the warrant, the warrant shall be presented to the judge of any Circuit Court of this state or County Court Judge, or committing magistrate having jurisdiction where the real property is located.
- c. Whenever practical, a copy of the Warrant of Seizure shall be provided to the property owner upon execution of the warrant or soon thereafter, for the provision of notice that the property is subject to forfeiture.
- d. If an occupant, whether the property owner or tenant will be allowed to remain on the real property, the Warrant of Seizure shall also include an Occupant Agreement Indemnity Form.
 - i. Such agreement must be executed by the occupant, after the Warrant of Seizure has been served on the subject property, if the occupant is to remain on the property.
 - ii. If the occupant refuses to execute the Occupant Agreement and Indemnity Form, eviction proceedings shall commence for the removal of the occupant.
- e. To ensure that real property is not transferred prior to the institution of a forfeiture action, contact shall be made with the department's attorney for following:
 - i. Notice to the property owner that the property is subject to forfeiture;
 - ii. Filing a Notice of Lis Pendens with the Clerk of Court on the subject property;
 - iii. A complete title search on the subject property to determine ownership and equity interests;
 - iv. An appraisal of the real property; and
 - v. Security and maintenance of the property with a property management company.

5. MANAGEMENT OF FORFEITURE ACTIONS

- a. The city attorney handling the forfeiture action shall:
 - i. Review all copies of reports related to the procedure and make an evaluation of the department's probable cause determination.
 - ii. Determine as soon as practical, whether to proceed with the forfeiture or to release the seized property to the lawful owner.
 - iii. Upon determination to proceed with the forfeiture, promptly proceed against the seized property by filing a forfeiture action or entering into a settlement agreement.
 - iv. Upon the determination not to proceed with a forfeiture action, the Administrative Support Bureau Major or designee should be informed so that the city attorney may be notified. Seized property, absent evidentiary value to a pending criminal case, and absent to any settlement to the contrary may then be released to the lawful owner or his/her designee.
 - v. If at the conclusion of forfeiture proceedings the claimant is awarded the seized property, the seized property shall be released to the lawful owner upon the presentation of the court's order. Under these circumstances, the claimant will not be assessed any towing charges, storage fees, or administrative costs.
 - vi. In all other instances, if a seized vessel, vehicle, aircraft, or real property is to be released to the lawful owner, the owner shall be assessed towing, storage, administrative and maintenance cost of the seized property.
- b. If any additional investigative follow-up is needed the Administrative Support Bureau Major or designee shall be contacted via the original investigative officer. The investigation will remain the responsibility of the appropriate division(s) or unit(s) within the department.

6. USE OF FORFEITED ITEMS

- a. Items forfeited under this order may be converted to department use or sold with revenues realized, or retained for department use under certain conditions according to Chapter 932.7055, Florida Statutes. No forfeited item will be used or assigned until forfeiture proceedings are complete in the Circuit Court, except to ensure that the vehicle is maintained in good working order. Departmental use of any forfeited vehicle must be approved by the Chief of Police before the vehicle is placed in service.
- b. Requests for expenditures of funds realized through forfeiture or sale will be made to the Chief of Police via the chain of command.

7. TRAINING REQUIREMENTS

- a. Department personnel involved in the seizure of property for forfeiture shall receive periodic training.
- b. The department shall ensure that its officers involved in seizing property for forfeiture under the Act receive basic training and continuing education as required by the Act.

8. EQUITABLE SHARING OF FEDERALLY FORFEITED PROPERTY

- a. The Palm Beach Gardens Police Department participates in the Department of Justice Forfeiture Program when involved in joint investigations with federal agencies where property and/or cash are seized.
 - i. The investigating officer/agent completes the "Application For Transfer of Federally Forfeited Property Form" (DAG-71).
 - ii. The Administrative Support Bureau Major or designee reviews the form and forwards it up the chain of command to the Chief of Police, who reviews it before forwarding it to the City Attorney.
 - iii. The City Attorney reviews and signs the form; returns original to the Chief of Police.
 - iv. The signed original is returned to the Police Fiscal Coordinator who sends it to the appropriate federal agency, keeping a copy on file and forwarding a copy to the Administrative Support Bureau Major or designee.
- b. The Police Fiscal Coordinator 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 and subject to all Federal guidelines and established internal accounting controls of the City.
- e. The Police Fiscal Coordinator will complete the "Equitable Sharing Agreement and Certification" showing a list of approved expenditures.
- 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 and Department of Treasury).
- g. The Police Fiscal Coordinator shall maintain a file of these Equitable Sharing forms and reports for the Agency. Purging of these forms and reports is accomplished as described in the Florida General Records Schedule.

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APPROVED:



Stephen J. Stepp
Chief of Police

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Date