

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS*

Effective: 05/13/92; Still In Effect 10/01/95

2-37 FORFEITURE OF MONIES AND PROPERTY

POLICY:

Department policy is to actively seek forfeiture of monies and property seized for felony violations of the state or federal Controlled Substances Act or as otherwise provided for by law.

RULES:

2-37-1 FORFEITURES UNDER THE CONTROLLED SUBSTANCES ACT, LIQUOR CONTROL ACT, AND COMPUTER CRIMES ACT

[7]

A. When property, vehicles, or monies are seized pursuant to the Controlled Substances Act, Liquor Control Act, or Computer Crimes Act, the investigating officer shall forward a copy of the initial offense/incident report to the Special Investigations Division (SID) within 48 hours of the initial arrest.

[7]

B. Officers who have seized property, firearms, vehicles, or monies shall initiate the forfeiture procedure by completing a forfeiture worksheet form (PD 1109) and forwarding it with a copy of the completed case to the SID within ten days.

C. Monies seized by officers will be tagged into Evidence.

[N/A]

D. All cases will be forwarded to the legal advisor by SID for review on a case by case basis for possible forfeiture litigation regardless of the amount of money seized or the value of the vehicle.

[N/A]

E. Normally, forfeiture of vehicles with an estimated net value of less than \$2,500 will not be pursued. However, vehicles will be reviewed on a case by case basis, regardless of estimated value.

2-37-2 FORFEITURE OF VEHICLES

[7]

A. Seized vehicles will be towed to the 4th Street Yards. A police department wrecker will be utilized from 0630 to 2230 hours, Monday through Friday. The wrecker of the day will be utilized between 2230 and 0630 hours and on weekends and holidays.

B. A complete inventory of the vehicle contents will be conducted and the inventory will be listed on a property supplement to be added to the original report.

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- C. The vehicle will be secured and the Motor Transport Section shop foreman will be given the keys and advised of the vehicle's location. If the Motor Transport Section shop is closed, contact with the foreman will be made on the next duty day.
- D. A title/lien history must be obtained on seized vehicles by the investigating officer and a certified copy of those documents will be attached to the completed case submitted to the SID.

The investigating officer will ensure that all leasing companies, lien holders, owners, and other interested persons are listed on vehicles submitted.

- E. In an effort to control and manage vehicles that are seized during criminal investigations, and to expedite the forfeiture proceedings, these steps will be followed:
1. Form number PD-1109, titled "Worksheet Request for Forfeiture Proceedings Under Controlled Substance Act" has been revised. This form is to be filled out by the originating officer/detective and forwarded to the Investigations Information Service Unit in Special Investigations Division.
 2. Form number PD-1109(A), titled "Confiscated Car Check Sheet," has been designed and will be attached to PD-1109 when the forfeiture involves a vehicle. This form will be filled out by the investigating officer's/detective's supervisor. The form includes a section which will require the supervisor to prioritize the vehicle in one of three categories:
 - a. Superior - Vehicles that are in excellent condition, are 3 years old or less, and have low mileage (less than 30,000 miles).
 - b. Average - Vehicles which are still valuable, are less than 5 years old and have moderate mileage (less than 50,000 miles), or have a "Blue Book" value of more than five thousand dollars (\$5,000.00).
 - c. Poor - Vehicles that are either in bad condition (regardless of age or mileage) or exceed 5 years in age or 50,000 miles. They will not be used for transportation by the department.
 3. Photographs of at least the dashboard and exterior will be taken of each vehicle upon seizure, and the photographs will be tagged into evidence. The officer/detective seizing the vehicle will be responsible for removing all personal property from the vehicle and returning the items to the rightful owner, or if the owner cannot be determined, the items will be tagged into evidence for safekeeping. If the vehicle's title is present, the officer/detective will tag it into evidence.

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4. Vehicles rated as "Superior" or "Average" will be stored in the impound area at the Gerald E. Cline Memorial Police Substation (SOD/N. Valley Substation). Vehicles rated as "Poor" will be stored at the city impound area as determined by the Motor Transport Section.
5. Exceptional cases will be reviewed by a SID lieutenant, who may upgrade a seized vehicle's status in this system if necessary to meet the needs of the department..

2-37-3 SPECIAL INVESTIGATIONS DIVISION RESPONSIBILITIES

[N/A]

- A. The SID is responsible for monitoring the progress and time limits on all forfeiture or intended forfeiture proceedings.
- B. The SID will be responsible for routing the forfeiture request and completed case to the department Legal Advisor, within twenty days of seizure.

Approval/disapproval will be based on legal considerations, total dollar amount of monies, and condition of the vehicle.

2-37-4
[N/A]

LEGAL ADVISOR RESPONSIBILITIES

- A. The department Legal Advisor is solely responsible for all litigation.
- B. When vehicles are forfeited by court order, the department Legal Advisor will forward copies of the order to the SID and the Property Management Division Commander.
- C. When monies are forfeited by court order, the department Legal Advisor will forward copies of the court order to the SID and the department Fiscal Management Division. The Fiscal Management Division will forward the court order to the Evidence Unit where arrangements will be made to deposit the monies in a special account, designated by city ordinance.

2-37-5
[N/A]

PROPERTY MANAGEMENT RESPONSIBILITIES

- A. The Property Management Division will obtain title to the vehicle, assign it a police department unit number, and incorporate it into the police department vehicle fleet.
- B. The Property Management Division will forward the court order and original title to the City Property Accounting Section.

A copy of the original title will be retained by the Property Management Division and will be annotated with the date that the original title was transmitted to the City Property Accounting Section.

2-37-6 USE AND ACCOUNTABILITY OF SEIZED MONIES

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[N/A] The appropriate Deputy Chief shall authorize withdrawal of seized monies from the special account, as needed, and ensure its accountability and use in accordance with the Controlled Substances Act.

2-37-7 **SEIZURES AND FORFEITURES UNDER FEDERAL LAW**

[N/A]

Seizures and forfeiture applications under federal law will be consistent with 2-37-1 through 2-37-6 except:

- A. The U.S. Attorney's Office will determine legal feasibility of the forfeiture and will oversee the necessary document preparation and court presentation.
- B. The SID will be solely responsible for delivering the forfeiture request and completed case to the appropriate federal agency and will act as liaison between the police department and any federal agencies involved.
- C. The SID will be responsible for providing copies of federal forfeiture court orders to the police department Property Management Division and/or Fiscal Management Division.

2-37-8 **RETURN OF SEIZED VEHICLES**

[N/A]

- A. In the event that a seized vehicle is to be returned to the owner, the Legal Advisor's Office will notify the Property Management Division.
- B. The Property Management Division will have sole responsibility for affecting the release. This will include physically turning the vehicle over to the owner or appropriate representative and ensuring that a release form is completed and signed by the applicable parties.
- C. The original release department form will be forwarded to the Records Section for attachment to the original offense/incident report. Copies of the release form will be forwarded to the department Legal Advisor.