
	Operational General Order	16.02 Asset Forfeiture	PAGE 1 OF 4
	SUBJECT		EFFECTIVE DATE
	<b>Virginia Beach Police Department General Order</b> <b>Chapter 16 - Warrant and Legal Process</b>		<b>11/01/2016</b>
			ORIGINATOR/REVIEW
DISTRIBUTION		CALEA: 84.1.8	Investigative Division
ALL			
BY THE AUTHORITY OF THE CHIEF OF POLICE:			

## Purpose

To establish guidelines for the handling of property/assets seized as a result of investigations relating to narcotics, vice and property crime violations. The Virginia Beach Police Department is committed to the enforcement of the law in furtherance of the safety of our community. In accordance with the provisions of current Federal and State law, this includes the seizure of assets resulting from criminal activities. Currently, asset forfeiture provisions are included in narcotics, vice, property, alcohol violations. As a result of these investigations, property/assets may be identified as being obtained, utilized, or maintained during these illegal activities. Under no circumstances will individuals be targeted for investigation based solely on the expected gains of asset forfeiture. Enforcement strategies are not to be dictated by expected profits that may be realized as a result of an investigation.

## Definitions

**Assets** - Anything of value seized in accordance with applicable state or federal law is an asset for purposes of this order.

**In-kind Property** - Property/assets that can put to immediate law enforcement use, i.e., motor vehicles, computers, etc.

**Proceeds** - Monies derived from the liquidation/sale of an asset/property that will not be used by this department.

**Substantial Connection** - The activity or action that identifies how an asset was utilized, obtained or maintained in the facilitation of a drug, vice, money laundering, alcohol, or stolen property crime.

## Policy

The Virginia Beach Police Department will seize property/ assets in accordance with state and/or federal laws and administrative guidelines. The Commanding Officer of Special Investigations shall be responsible for the administration of the department's asset forfeiture program. Officers conducting a seizure shall adhere to the National Code of Professional Conduct for Asset Forfeitures.

The Asset Forfeiture Coordinator (AFC) is a civilian position that reports directly to the Commanding Officer of Special Investigations. The AFC will be conversant in the state asset forfeiture laws involving violations of the narcotics codes, money laundering, gambling, and stolen property crimes. The AFC will assist in the preparation of documents for use in the civil forfeiture proceedings and prepare documents to appropriate assets for departmental use. Regardless of the type of property, employees' of the department will utilize no assets until a final order of forfeiture has been granted.

## **Civil Seizures**

All civil seizures that result from department investigations shall be handled by the Commonwealth's Attorney's Office and the Department of Criminal Justice Services (DCJS). DCJS will only handle narcotic seizure cases. In other cases, Special Investigations will coordinate with the Commonwealth Attorney's Office during the seizure process. The only exceptions are assets, which cannot be properly maintained by the Commonwealth and/or DCJS, for example, real estate property, and seizures determined by the Commanding Officer of Special Investigations to be processed by federal authorities.

Special Investigations personnel and the Asset Forfeiture Coordinator shall coordinate and process all police department asset forfeiture investigations. If asset forfeiture is anticipated, the officer or detective handling the case should notify a supervisor from Special Investigations to coordinate the forfeiture process.

All assets identified for forfeiture through the federal court system will be investigated by a member of Special Investigations.

- Assets processed as a federal forfeiture requires different paperwork and filing requirements. The Commanding Officer of Special Investigations will make the determination that an asset shall be handled as a federal seizure.
- A federal agency must adopt the forfeiture prior to proceeding.
- Final determination shall be made under the federal procedures and guidelines and will be handled by the Department of Justice and the United States Attorney's Office.

## **Procedure**

All seizures must be based on probable cause and the ability to show a substantial connection between the illegal activity and the asset. All property seized for possible forfeiture will be processed according to police department general orders regarding the handling of evidence and property.

All forfeiture investigations shall be reviewed by the officer/detectives first line supervisor to ensure that probable cause exists to support the forfeiture. The supervisor shall also ensure that there is a substantial connection made between the asset and the criminal violation.

## **Collection of Seized Property**

All assets seized should be photographed to show the condition of the asset at the time of the seizure.

All claimants, lien holders, or persons holding an interest in the property shall be identified, interviewed (if possible), and properly documented in the forfeiture case file. Claimants, lien holders, and persons holding an interest in the property shall be advised of the process for contesting the forfeiture of the seized assets.

All property/assets seized shall be properly documented on a property voucher at the time of the seizure, and a receipt provided to the defendant or person from whom the property was seized.

When seizing currency from a defendant, a witness officer shall be present throughout the process, and the following procedure shall be followed:

- The seized currency shall be counted in the presence of the person from whom the currency is seized if possible. In situations involving large sums of currency, arrangements shall be made by a

supervisor to provide a secure place to accurately count the currency. These arrangements may include:

- Packaging and sealing the currency in the presence of the defendant
  - Transporting the currency and the defendant to a police precinct
  - Counting the currency in the presence of the defendant at the precinct
- Seized currency shall be documented at the time of the count on a property voucher, sealed in a secure package, and initialed by the seizing and witnessing officer.
  - The defendant shall be provided with a receipt (copy of the Property Voucher) for the seized currency.
  - Currency shall be securely stored or transferred immediately to the Property and Evidence Unit in accordance with the provisions of the Evidence Collection and Handling Field Guide.
  - Currency shall be delivered to the Property and Evidence Unit by two officers

### **Case Screening**

Forfeiture investigations shall be screened by the case officer or detective within 24 hours of the seizure or upon the officer/detectives next workday, with the Commonwealth's Attorney's civil forfeiture attorney.

- If the forfeiture is approved, the seizing officer shall initiate and complete a seizure file as outlined below.
- If the Commonwealth Attorney's Office declines the seizure, the asset shall be promptly returned to the owner/custodian of the asset, using one of the following forms.
  - Quick Release form
  - Property Voucher

### **Seizure Files**

The case file will be completed using an Asset Forfeiture Case File Cover Sheet (PD-191) as a guide. A probable cause affidavit (PD-190) shall be completed and notarized, outlining the probable cause and substantial connection to the offense for the identified asset. The probable cause statement shall contain the following information:

- Date of offense
- Criminal offense
- Date of arrest
- Date of seizure
- Physical location of the seizure
- Defendant's name or from whom the property was seized
- The probable cause for the seizure, including the circumstances surrounding the seizure; the defendant's statements, if any, witness statements, claimant statements, etc.

All potential lien holders or interest holders shall be identified in the case file. This ensures that all potential claimants are properly notified of the seizure as well as the process for contesting the forfeiture.

A forfeiture file shall be initiated and completed, within seven (7) days and forwarded to the officer's supervisor. Two (2) separate files will be prepared; one for the Commonwealth Attorney's Office and one Special Investigations. The files shall be forwarded to the Asset Forfeiture Coordinator of Special Investigations within 21 days of seizure, who shall review and log the files. One file will then be forwarded to the Commonwealth Attorney's office and the other maintained on file.

The Asset Forfeiture Coordinator will be responsible for completing the DCJS forms, if applicable and maintaining all seizure files.

### **Seizure Value Guidelines**

Special Investigations and the Commonwealth Attorney's Office have developed minimum asset seizure value guidelines. Since each case is different the guidelines are flexible. If the case facts merit going outside the guidelines, the screening attorney can determine if the forfeiture is feasible. The guidelines are as follows:

United States Currency	\$300.00
Automobiles	\$2,500.00 minimum value
Jewelry	\$1,000.00 per piece
Conveyances (Boats/Planes/RV's)	\$2,500.00 minimum value
All other property	\$350.00 per item

### **Final Judgment and Disposition of Property (CALEA 84.1.8)**

A forfeiture case is a civil in nature and the matter will be heard in Circuit Court. If the owner/claimant refuses to show up or respond to the correspondence regarding the forfeiture, the Court can rule, after hearing a summary of the evidence, that the asset is in "**default**" and rule that the asset be forwarded to the Commonwealth.

If the owner/claimant contests the forfeiture, the court will hear evidence and make a final determination based on the preponderance of the evidence. If the court rules that there was not sufficient evidence, the asset shall be returned to the owner/lien holder.

If the asset is awarded to the Commonwealth, a copy of the Order of Forfeiture is sent to the Commanding Officer of Special Investigations. The Asset Forfeiture Coordinator will then complete the necessary paperwork to complete the forfeiture proceedings.

Once the asset is turned over to the police department, the Chief of Police will make the final determination concerning the use of the asset within the department.