



**OFFICE OF THE DIRECTOR OF POLICE
THE UNIVERSITY OF TEXAS SYSTEM
POLICY AND PROCEDURE MANUAL**



Subject Forfeiture of Contraband			Policy Number 1205
Effective Date September 1, 2013	Revision Date May 16, 2019	Reevaluation Date Annually	Number of Pages 7
Reference Standards TPCA: 7.06, 7.07 and 12.01 CALEA: 1.2.4 and 84.1.8 IACLEA: 2.2.4 and 2.2.5 CCP: Article 59.01 – 59.14		Rescinds or Amends Policy Number	

I. PURPOSE

The purpose of this written directive is to define the responsibilities of the officers of the University of Texas System Police (UTSP) as they relate to Chapter 59 of the Code of Criminal Procedure (C.C.P.) regarding the forfeiture of contraband. These are general guidelines as to how to proceed. In the execution of this policy each institution’s Chief of Police should consult with the institution general counsel and the appropriate office of the district or county attorney.

II. DEFINITIONS

- A. **"Contraband"** - property of any nature, including real, personal, tangible, or intangible, that is:
 - 1. used in the commission of any felony cited in Article 59.01(2)(A) C.C.P. or
 - 2. the proceeds gained from, or acquired with proceeds gained from the commission of a felony listed in Section III., A., 1., a., above.

- B. **Forfeiture Coordinator** - Forfeiture case coordination is the responsibility of the Forfeiture Coordinator, a person designated by each Institution Chief of Police. The Forfeiture Coordinator will be responsible for collecting and preparing all required documentation for the filing of forfeiture cases with the appropriate District or County Attorney. The Forfeiture Coordinator will keep the University Attorney or the Office of General Counsel updated on each forfeiture process and shall file the appropriate reports (annual or otherwise) for audit or other purposes with the Texas Attorney General.

1. The Forfeiture Coordinator, with the guidance and assistance of the Institution's Attorney or the Office of General Counsel will act as a liaison with all parties external to the University of Texas System Police with regard to seizures of contraband and the subsequent forfeiture cases which are filed, and will be the contact person for all requests, questions, court orders, etc., for replevied property as defined in Chapter 59 CCP.
 2. The Forfeiture Coordinator shall be responsible for the filing of any reports required for annual audit or other purposes with the Texas Attorney General in a timely manner.
 3. All other UTSP personnel are instructed to refer contacts or questions regarding these issues to the appropriate Forfeiture Coordinator to avoid conflicting instructions or confusion.
- C. **Seizure Fund: Disposition of Forfeited Property** - Each Institution Chief of Police is to insure that awarded property/funds are handled in strict adherence with the guidelines described in Chapter 59.06 CCP.
- D. **Third Party Property** – Forfeiture of property belonging to a party who was not involved in the commission of the criminal offense requires that the property owner knew or should have known of its use in commission of an offense.
- E. **Time Limits** – Property seized for forfeiture under CCP Chapter 59 must be placed under seal or in a designated storage location within 72 hours of the seizure.
- F. **Affidavit** – Within a limited number of days (as determined by the district/county attorney policy) of seizure for forfeiture under Chapter 59, CCP, the seizing officer must file with the District or County Attorney's Office an affidavit that lists the property, acknowledges the seizure and lists reasons for the seizure. Affidavit forms are available from that local District or County Attorney's Office. (Each District or County Attorney's Office may have time limit guidelines on when a seizure may be filed; verify with the local District or County Attorney's Civil Section.)
- G. **Records Unit**- person(s) at each Institution Police Department designated by the Chief of Police as responsible for maintaining departmental records.
- H. **Evidence/Property Custodians**- person(s) designated by the Chief of Police as responsible for maintaining the chain of custody of evidence/property and the secure storage of evidence/property for that Department.

III. POLICY

It is the policy of the University of Texas System Police to seize property intended for forfeiture only from those who can be shown to have a clear association with the criminal act related to the seizure and to do so only after careful consideration for those who will be impacted by the seizure of such property. Mindful of the legislative intent of the statute regarding the forfeiture of assets of criminal activity we are bound, not only by law outlined in the Code of Criminal Procedure and this policy, but by an ethical obligation to be vigilant of the purpose for which this statute was designed.

The criminal case from which these contraband seizures arise are separate proceedings from the civil proceedings to dispose of the seized property. Disposition of contraband will never be utilized as a mitigating factor in criminal prosecutions. Recommendations for settlement of seizure cases will be viewed separately and will be based solely on the merits of the case.

IV. PROCEDURES

A. Methods of Seizure and other Seizure Protocols:

1. Without Warrant

- a) Items for forfeiture may be seized upon lawful consent of the owner.
- b) Items for forfeiture may be seized if found during a search to which the owner of the property has given lawful consent. Officers should use Consent to Search forms whenever possible.
- c) Items for forfeiture may be seized if found in a search incident to a lawful arrest or during any otherwise lawful search.

2. With Search Warrant for Items for Forfeiture

- a) It is imperative that police personnel understand that the use of a search warrant to seize property gained from or purchased with proceeds from the commission of a specified felony differ from a traditional/conventional search warrant.
- b) The seizure is not for evidentiary purposes but to take custody of the assets or proceeds derived from the commission of a felony.
- c) When a search warrant is obtained for seizing items for forfeiture, the warrant must establish cause to identify the property as contraband. The search warrant must be issued by a District Court.

3. No seizure should be made outside of the counties where UT System police have primary jurisdiction as established in ODOP Policy 105, unless the seizing officer has specific knowledge that a local agreement between the District or County Attorney of that County and the University of Texas System Police has been reached regarding disposition of forfeited property. Any question regarding the existence of an agreement should be referred to the University Attorney or Office of General Counsel.

4. Seizures of real estate will only be made after approval of the Institution's Chief of Police and/or Director of Police and these seizures will be coordinated in advance, through the applicable District or County Attorney.

5. Forfeiture cases must be filed in the County of the seizure, regardless of the jurisdiction of the precipitating criminal offense, and should be filed within so many days of the seizure, as designated by the specific District or County Attorney's Office, to give their office time to commence proceedings within the 30 days of the seizure as required in Chapter 59.04, CCP.

- a) A Report of Seizure will be filed with the District or County Attorney of the County in which the seizure was made. Each Police Department should coordinate with their local District or County Attorney to obtain their particular forms and guidelines.
 - b) The Report should include property schedules, title and lien information, and copies of Forfeiture Affidavit, the Offense/ Incident Report, the Search and Arrest Warrant, the Affidavit for Search and Arrest Warrant, and the Custody Report Narrative.
6. The Forfeiture Coordinator and the assigned Attorney will be the contact persons for all negotiations and recommendations for settlement of these cases.
 7. All settlements must be approved by the Institution Chief of Police.
 8. Prosecution reports will be prepared by the investigating officer, where arrests have been made in connection with the forfeiture seizure.
- B. Processing of Contraband and Related Paperwork
1. Seized contraband must have a hold placed on it for forfeiture, in addition to investigative holds.
 2. A Forfeiture Affidavit of personal knowledge, including a property schedule supporting the filing of the civil case to have the property forfeited, must be prepared along with a Report of Seizure, and a Report of Seizure - Vehicle Supplement, if applicable, and submitted by the seizing Officer. This is in addition to any affidavit filed in support of the issuance of a search warrant.
 3. If an Offense/Incident Report has not been generated regarding the incident, one should be completed by the seizing Officer referring to the attached Forfeiture Affidavit and property schedules for detailed information and including additional information as necessary. Property, which has not been seized, but otherwise meets the criteria for forfeiture, will also be documented on an Offense/Incident Report that will be forwarded to the Institution's Attorney.
 4. The Forfeiture Affidavit, the Search and Arrest Warrant if any, and Custody Report Narrative, will be forwarded to the Records Unit.
 5. The Records Unit will process the Forfeiture Affidavit, the Offense/Incident Report, the Search and Arrest Warrant, Affidavit for Search and Arrest Warrant, and Custody Report Narrative, and will make distribution of these items to the Forfeiture Coordinator with the original Forfeiture Affidavit and property schedule forms for filing with the District or County Attorney's office; the Chief of Police and Director of Police shall be notified.
 6. The Records Unit will maintain all reports related to forfeiture cases (and the Forfeiture Coordinator will retain a copy of all related reports. The Forfeiture Coordinator's file copy may be purged one year after the forfeiture case is resolved.
 7. Prosecution reports will be prepared by the investigating officer, where arrests have been made in connection with the forfeiture seizure.

C. Responsibilities of Police Officers, University Attorney or Office of General Counsel and Evidence/Property Custodians

1. Police Officers

- a) Officers should not seize items for forfeiture, unless the minimum estimated value fits within the guidelines established by the local District or County Attorney's Office.
- b) No Officer will seize real property, such as homes, townhouses, condominiums, offices or other real estate, or restrict otherwise lawful access to such property without first having the seizure authorized by the University Attorney or Office of General Counsel. This section should not be construed as to prevent lawful controlled access to structures in the normal course of police duties or a criminal investigation.

2. Forfeiture Coordinator

- a) Upon receipt of the Forfeiture Affidavit, Report of Seizure and Report of Seizure - Vehicle Supplement, if necessary, the Forfeiture Coordinator will verify that the seizure meets the requirements of Chapter 59, C.C.P. and the policy of the District or County Attorney in the County in which it was made.
- b) The Forfeiture Coordinator will identify the owner of and locate any lien against the contraband. After a consideration of filing fees, liens, and/or other interest holders, the Forfeiture Coordinator will insure that the value of the contraband is sufficient to proceed with forfeiture.
- c) If part of the property must be eliminated from a forfeiture case, the Forfeiture Coordinator will route the Forfeiture Affidavit and schedule to the supervisor of the seizing Officer, who will insure that a revised Affidavit is prepared reflecting the needed changes and that it is expediently returned to the Forfeiture Coordinator in time to meet the guidelines set by the District or County Attorney's Office.
- d) The Forfeiture Coordinator will receive all notifications of civil filing fees, court costs, legal expenses and/or awards related to forfeiture cases. Other departmental personnel receiving this information will forward it to the Forfeiture Coordinator for distribution.
- e) The Forfeiture Coordinator will forward expenditures to the Forfeiture Fund Supervisor/ Fiscal Affairs Coordinator to pay related expenses from the special fund.
- f) A copy of notifications of awards will be forwarded to the initiating Commanding Officer, the Chief of Police and the Director of Police by the Forfeiture Coordinator.
- g) The Forfeiture Coordinator will notify the Chief of Police of any seized property that will require maintenance while the civil case is pending.

h) Upon receipt of a final judgment in regard to forfeiture, the Forfeiture Coordinator will notify the Chief of Police and the Director of Police.

3. Evidence/Property Custodian

- a) The Evidence/Property Custodian will be responsible for storage and maintenance of seized property, including seized vehicles.
- b) Outsized property may be securely stored off site until court proceedings conclude.

D. Deposit of Seized Funds

- 1. The police department must establish a separate departmental account in accordance with Chapter 59 to deposit seized money.
- 2. The Institution Chief of Police or Director of Police has sole discretion of the use of seized funds in compliance with Chapter 59, Code of Criminal Procedure.
- 3. Seized funds may only be utilized as outlined in Chapter 59, Code of Criminal Procedure.
- 4. Each Institution police department must complete an annual audit as initiated by the Texas Attorney General's Office.


E. Disposition of Real Property

Police departments may also file for seizure proceedings to seize property, vehicles, or other equipment that was used or obtained through criminal episodes.

- 1. Real property or vehicles may be used by the Institution Police Department if practical and lawful.
- 2. Seized property and/or vehicles and equipment may be auctioned per University procedures, however all auction funds from seized property shall be deposited into the Institution Police Department's seizure account.

F. Training

Ongoing in-service training on the legal aspects of asset seizure and contraband forfeiture will be incorporated into each Department's Training Calendar.



Michael J. Heidingsfield
Director of Police

Changes/Amendments since last publication:

Addition of language to Paragraph II.B. to clarify role of the Forfeiture Coordinator in filing appropriate reports. December 1, 2019

SAMPLE FORM – OBTAIN CORRECT FORM FOR YOUR COUNTY

**COUNTY DISTRICT ATTORNEY
REPORT OF SEIZURE
[CHAP. 59--CODE OF CRIMINAL PROCEDURE, FORFEITURE OF CONTRABAND]**

SEIZING AGENCY:	SEIZURE DATE:	JOINT AGENCY:
SEIZURE OF: <input type="checkbox"/> CURRENCY <input type="checkbox"/> VEHICLE <input type="checkbox"/> REAL PROPERTY <input type="checkbox"/> OTHER		
CASE/SERVICE NUMBER:	CRIMINAL CASE FILED WITH DA? <input type="checkbox"/> YES <input type="checkbox"/> NO FELONY CHARGE AND DEGREE	
ARREST LOCATION:	SEIZURE LOCATION (be specific):	
DEFENDANTS:	ADDRESS: (check best address for constable)	
A. PRIMARY DEFENDANT: (last name, first name, middle initial) (race/sex/dob)	<input type="checkbox"/> HOME <input type="checkbox"/> BUSINESS	
B. CODEPENDANT: (last name, first name, middle initial) (race/sex/dob)	<input type="checkbox"/> HOME <input type="checkbox"/> BUSINESS	
C. CODEPENDANT: (last name, first name, middle initial) (race/sex/dob)	<input type="checkbox"/> HOME <input type="checkbox"/> BUSINESS	
<p>The checklist below will help you organize the documentation which is essential to the civil case. If you need help to prepare a case, contact an attorney or investigator in the D.A.'s Civil Section. Sample forms and instructions are available upon request.</p> <p>ATTACHMENT CHECKLIST:</p> <ul style="list-style-type: none"> <input type="checkbox"/> SWORN STATEMENT (Affidavit - Necessary for civil case which must include: < An acknowledgement that the officer has seized the property < List of Officer's reasons for the seizure < Schedule of property seized) <input type="checkbox"/> TITLE/LIEN INFORMATION (MVD printout on vehicle or real property) <input type="checkbox"/> VEHICLE SUPPLEMENT - when there is a lien or clouded ownership <input type="checkbox"/> SEARCH/SEIZURE WARRANT COPY pertinent to this case <input type="checkbox"/> ARREST/PROSECUTION (CASE) REPORT (copy) <input type="checkbox"/> MISCELLANEOUS DOCUMENTATION that will enhance this civil case 		
HSC CASES/LAB PERFORMING DRUG ANALYSIS: <input type="checkbox"/> SWIFS <input type="checkbox"/> DPS <input type="checkbox"/> DEA OTHER + PH #: _____		
SEIZING OFFICER(S) & I.D. NUMBERS:		
OFFICER FILING FORFEITURE CASE (INCLUDE WORK PHONE/PAGER NUMBER):		

PLEASE SUBMIT THIS REPORT TO D.A. WITHIN 10 DAYS OF SEIZURE

AFFIDAVIT

CAME UNTO me this day, _____ a person known to me and upon oath swears as follows:

"My name is _____ I am over the age of 18, have personal knowledge of the facts asserted below and am competent to testify to those facts. I swear that they are true and correct.

Affiant, _____ is employed as _____ by the City of _____ Texas, Department of Police, and is personally assigned to the _____ Division of said Department.

1. Affiant seized the _____ that is described in SCHEDULE _____ attached hereto. Affiant contends that said property is contraband and that said property is/was [proceeds gained from] [acquired with the proceeds gained from] [used or intended to be used in] the commission of _____ a _____ Degree Felony.

2. Affiant seized the _____ that is described in SCHEDULE _____ attached hereto. Affiant contends that said property is contraband and that said property is/was [proceeds gained from] [acquired with the proceeds gained from] [used or intended to be used in] the commission of _____ a _____ Degree Felony.

Affiant

SWORN TO AND SUBSCRIBED before me on the ___ day of _____ 20__

Notary Public-State of Texas

My commission expires _____

SAMPLE FORM – OBTAIN CORRECT FORM FOR YOUR COUNTY

_____ COUNTY DISTRICT ATTORNEY
 REPORT OF SEIZURE
 [CHAPTER 59 - CODE OF CRIMINAL PROCEDURE, FORFEITURE OF CONTRABAND]
 VEHICLE SUPPLEMENT

VEHICLE INFORMATION (Also attach copy of MVD printout)				
YEAR	MAKE/MODEL	LIC #	STATE	VIN #
REGISTERED OWNER:		ADDRESS		
OWNER'S HOME PHONE:		WORK:		
<p>OWNER'S STATUS:</p> <p><input type="checkbox"/> STILL OWNS (Relate any facts that link the reg owner to the offense and offender if owner was not the party in possession when seized.)</p> <p><input type="checkbox"/> SOLD (Statements made regarding buyer, when sold, how much paid, etc.)</p> <p><input type="checkbox"/> UNABLE TO CONTACT REG OWNER (List actions taken to I.D. and locate reg owner.)</p>				
LIEN INFORMATION				
LIENHOLDER:		LIENHOLDER ADDRESS:		
WHO CONTACTED:		DATE CONTACTED:	PHONE:	
DATE OF LIEN:			LIEN STATUS:	
			<input type="checkbox"/> PAID <input type="checkbox"/> EXISTING	
PAYOFF: \$			<input type="checkbox"/> SEIZING AGENCY AUTHORIZED TO PAY EXISTING LIEN?	
REMARKS:				
OFFICER PREPARING SUPPLEMENT:			PHONE:	

*** PLEASE ATTACH COPIES OF ANY INFORMATION LOCATED DURING SEARCH ***