

## Asset Forfeiture

### 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Administrative Agent** - The person designated by the Chief of Police to be responsible for distributing any proceeds realized from any forfeiture proceedings. This includes anytime the Vancouver Police Department seizes property for forfeiture or when the Vancouver Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Administrative Manager**- The person designated by the Chief of Police responsible for administrative oversight and acting as a liaison between the Department and the assigned City Attorney.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture Counsel** - The City of Vancouver Law Department.

**Hearing Examiner** - The Department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and conducting asset forfeiture hearings.

**Property subject to forfeiture** - Generally includes, but is not limited to:

- (a) Firearms that were carried, possessed or sold illegally (RCW 9.41.098).
- (b) Devices, profits, proceeds, associated equipment and conveyances related to illegal gambling (RCW 9.46.231).
- (c) Interests, proceeds, etc. related to organized crime (RCW 9A.82.060), criminal profiteering (RCW 9A.82.080), human trafficking (RCW 9A.40.100), commercial sexual abuse of a minor (RCW 9.68A.100) or promoting prostitution (RCW 9A.88.070) (RCW 9A.82.100).
- (d) Proceeds traceable to or derived from money laundering (RCW 9A.83.020; RCW 9A.83.030).
- (e) Property acquired or maintained in relation to commercial sexual abuse of a minor (RCW 9.68A.100), promoting commercial sexual abuse of a minor (RCW 9.68A.101) or promoting prostitution in the first degree (RCW 9A.88.070), and conveyances used to facilitate these offenses (RCW 9A.88.150).
- (f) Personal property, money, a vehicle, etc. that was used to commit a felony or was acquired through the commission of a felony not covered under another forfeiture statute (RCW 10.105.010).

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- (g) Personal property, money, a vehicle, etc. that was acquired through the commission of a crime involving theft, trafficking or unlawful possession of commercial metal property, or facilitating such crimes (RCW 19.290.230).
- (h) Conveyances, including aircraft, vehicles or vessels, used for the violation of the Uniform Controlled Substances Act and proceeds from these violations (money, real property, etc.) (RCW 69.50.505).
- (i) Boats, vehicles, gear, etc. used for poaching/wildlife crimes (RCW 77.15.070).

**Seizure** – The act of law enforcement officials taking property, cash, or assets that have been used in connection with or acquired by specified illegal activities. Those items seized will be stored securely in an authorized evidence facility unless the size of the item dictates storage at another secure location.

### 606.2 POLICY

The Vancouver Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Vancouver Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

### 606.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in policy and state law (RCW 10.105.010; 19.290.230; RCW 69.50.505).

#### 606.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor:

1. Real or personal property subject to forfeiture identified in a court order authorizing seizure.
2. Property subject to forfeiture without a court order when the property is lawfully seized incident to an arrest, the service of a search warrant or the service of an administrative inspection warrant.
3. Property subject to forfeiture can also be seized without a court order when:
  - (a) There is probable cause to believe that the property was used or is intended to be used for illegal gambling (RCW 9.46.231).
  - (b) There is probable cause to believe that the property was used or is intended to be used for the commercial sexual abuse of a minor (RCW 9.68A.100; RCW 9.68A.101) or promoting prostitution in the first degree (RCW 9A.88.070) (RCW 9A.88.150).
  - (c) There is probable cause to believe that the property was used or is intended to be used in the commission of any felony (RCW 10.105.010). See also

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separate statutes regarding seizures for felonies involving commercial metal, “bootlegging,” criminal profiteering or money laundering (RCW 19.290.00095; RCW 66.32.020; RCW 9A.82.100; RCW 9A.8030).

- (d) There is probable cause to believe that the property was used or is intended to be used in violation of the Uniform Controlled Substances Act (RCW 69.50.505).
- (e) There is probable cause to believe that the property was used or is intended to be used for poaching/wildlife crimes (RCW 77.1070).

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

### 606.3.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

1. Cash and property that does not meet the supervisors approval based on the circumstances.
2. Property from an “innocent owner,” or a person who had no knowledge of the offense or who did not consent to the property’s use.
3. No vehicle or other conveyance based on a misdemeanor involving marijuana (RCW 69.50.505).
4. Vehicles/conveyances that would be subject to forfeiture if more than 10 days have elapsed since the owner’s arrest and no court order has been issued (RCW 9.46.231; RCW 9A.88.150; RCW 69.50.505).
5. Any item intended to be used solely as evidence or taken so it could be returned to a victim.

### 606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure shall ensure compliance with the following:

1. All property seized for forfeiture is checked to determine if the property has been stolen.
2. Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized or any person with a reasonable claim of ownership. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found if it is reasonable to do so.
3. In cases where the legal owner of the property is determined to be a business, Notice of Seizure shall also be served on the Registered Agent if one exists.
4. Complete and submit a report and original seizure forms within 24 hours of the seizure. If this cannot be accomplished, notification will be made to the supervisor.
5. Forward the original seizure forms and related reports to the administrative agent within two days of seizure.

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The officer will book seized property into the evidence system using the appropriate property type code to designate the item as seized for forfeiture. Each distinct piece of property seized should be entered as a separate item.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

The Notice of Seizure and Intended Forfeiture Form, in triplicate, can be located in each precinct. A copy for review has been attached to this policy.

**See attachment: [Notice of seizure and intended forfeiture.pdf](#)**

### 606.4.1 EVIDENCE PROCEDURES FOR SEIZED PROPERTY

The Evidence Coordinator is responsible for ensuring compliance with the following:

1. All property received for forfeiture is secured and property stored to prevent waste and preserve its condition.
2. All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
3. Property received for forfeiture is not used unless the forfeiture action and a conversion authorization have been completed.

### 606.5 PROCESSING SEIZED VEHICLE FOR FORFEITURE PROCEEDINGS

When an officer develops probable cause to seize a vehicle for forfeiture, the officer will observe the following procedures to impound the vehicle:

1. Contents of the vehicle with any apparent value should be removed and left with the owner if possible.
2. All vehicles seized for forfeiture will be towed to the VPD Evidence lot unless covered storage is required.
3. An officer will accompany the tow truck with the impounded vehicle to the Evidence building. Upon arrival at the Evidence building, the officer will ensure the vehicle is parked in the fenced lot and submit documentation including the following:
4. Originally signed Notice of Seizure and Intended Forfeiture Form and a copy of the WACIC vehicle registration information are forwarded to the administrative agent.
5. Special instructions for the vehicle (ex. X-ray the vehicle, check with drug dog) will be included in the RMS police report. Evidence will not perform any special operations which require a search warrant or officer to perform.
6. Contents remaining with the vehicle that have no evidentiary or minimal monetary value may be left in the vehicle. All other property must be removed and submitted into evidence for safekeeping.

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7. Lock the vehicle doors and roll up the windows or wrap in plastic to secure the vehicle if it cannot be secured otherwise.
8. Keys to the vehicle and a copy of the Notice of Seizure and Intended Forfeiture form will be placed in an envelope and submitted to evidence personnel for storage. These items are not to be booked into the evidence system.
9. Evidence personnel should be notified via e-mail that a vehicle has been submitted to the Evidence lot.
10. A RMS police report will be completed including vehicle information, condition (e.g., interior/ exterior damage, unsecured doors, and broken windows), legal and registered owners, and reason for seizure. Photographs of all four sides and interior will be submitted with the RMS police report.

### 606.5.1 EVIDENCE PROCEDURES FOR SEIZED VEHICLES

When a vehicle has been seized for forfeiture, Evidence personnel will perform the following procedures:

1. Evidence will collect all keys and forms left by the seizing officer. Keys to seized vehicles will be securely maintained in the Evidence facility.
2. Prior to the forfeiture hearing, calls made to Evidence from owners requesting release of their vehicle will be referred to the Administrative Agent. Calls made to Evidence from owners requesting release of property from within the vehicle will be referred to the officer.
3. If the vehicle is forfeited to the Department, the Administrative Agent will notify the Material Control Administrator and Evidence personnel. The Material Control Administrator will coordinate with Evidence personnel to dispose of the vehicle.
4. If the vehicle is not forfeited, the vehicle will be released according to the instructions of the Hearing Examiner.
5. Evidence personnel will arrange for the release of non-forfeited vehicle and obtain a signed receipt at the time of release. A copy of this receipt will be forwarded to the Administrative Agent.

Unclaimed vehicles will be treated as unclaimed property and be disposed according to Department policy.

The Materials Control Administrator will ensure that forfeited vehicles are prepared for auction or Departmental use.

### **606.6 HEARINGS EXAMINER**

The Chief of Police will appoint a forfeiture hearings examiner. Prior to assuming duties, or as soon as practicable thereafter, the Hearings Examiner should attend a course approved by the Department on asset forfeiture.

The responsibilities of the Hearings Examiner include, but may be delegated to another Department member or the Forfeiture Counsel, are:

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- (a) Remaining familiar with forfeiture laws, particularly those cited in this policy and the forfeiture policies of the Forfeiture Counsel.
- (b) Serving as the liaison between the Department and the Forfeiture Counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The Hearings Examiner, or designee, should contact federal authorities when appropriate.
- (e) Ensuring that responsibilities, including the designation of an Administrative Agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for Department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
  - 1. Names and contact information for all relevant persons and law enforcement officers involved.
  - 2. A space for the signature of the person from whom cash or property is being seized.
  - 3. A copy should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or General Orders. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
  - 1. Written documentation of the seizure and the items seized is in the case file.
  - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
    - (a) Generally, 15 days' notice. (Gambling RCW 9.46.231; Money laundering RCW 9A.83.030; Child prostitution RCW 9A.88.150; Felonies RCW 10.105.010; Commercial metal RCW 19.290.230; Controlled substances RCW 69.50.505; Fish and wildlife enforcement RCW 77.15.070).

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- (b) Generally, 15 days' notice for conveyances. (Gambling RCW 9.46.231; Child prostitution RCW 9A.88.150; Controlled substances RCW 69.50.505).
- 4. Property is promptly released to those entitled to its return.
- 5. Any cash received is deposited with the City of Vancouver.
- 6. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
- 7. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that the process of selling or adding forfeited property to the Department's regular inventory is in accordance with all applicable laws and consistent with the Department's use and disposition of similar property.
- (j) Upon completion of any forfeiture process, ensuring that no property is retained by the Vancouver Police Department unless the Chief of Police authorizes in writing the retention of the property for official use.
- (k) Addressing any landlord claims for reimbursement through forfeited assets or damage to property (RCW 9.46.231; RCW 69.50.505).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives.

### **606.7 DISPOSITION OF PROPERTY**

No member of this Department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No Department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.