

HONOLULU POLICE DEPARTMENT

POLICY LAW ENFORCEMENT OPERATIONS

March 24, 2016

Policy Number 4.65

ASSET FORFEITURE: STATE

POLICY

The forfeiture process is used by the Honolulu Police Department to disrupt criminal activity and deprive criminals of the profits and instrumentalities of their crimes. State asset forfeiture cases shall be investigated in accordance with Chapter 712A of the Hawaii Revised Statutes (HRS).

PROCEDURE

I. DEFINITIONS

Asset Forfeiture: A law enforcement-initiated civil procedure used to seize property that has been used in the commission of a crime or that is the profit or proceeds of criminal activity.

Covered Offense: Any crime set forth in Section 712A-4, HRS, or any other offense for which forfeiture is provided by the law relating to a particular offense.

Interest-Holder: A person associated with or who may have a financial interest in or claim to seized property.

Proceeds: Any item of value derived directly or indirectly from or realized through unlawful activity.

Seizure for Forfeiture: The seizure of property or proceeds with the assertion that the property is subject to forfeiture in that it complies with Sections 712A-4 and 712A-5, HRS.

II. GENERAL PROCEDURES

Officers shall be guided by Chapter 712A, HRS, when seizing property for forfeiture proceedings.

- A. An officer investigating a covered offense enumerated in Section 712A-4, HRS, shall determine, with the approval of his or her supervisor, if there is probable cause to seize any property (i.e., vehicle, cash, or other property) that is subject to forfeiture under Section 712A-5, HRS.
- B. Once determined that the assets to be seized qualify for seizure and are for a covered offense, the officer's supervisor shall contact the Communications Division. The Communications Division shall then contact the Narcotics/Vice Division's (NVD) on-call detective. The on-call detective shall advise the supervisor to determine whether the seizure for forfeiture falls under the enumerated offenses and that the item is statutorily subject to seizure.
 1. The on-call detective shall evaluate each item to determine whether to accept or decline the property. The on-call detective shall consider factors such as the value of the items and the cost of towing/storing the item. The detective shall also determine if there are adequate facilities available to safely store the property. The seizing officer shall be responsible for returning any declined items to the owner or owner's designee.
 2. Patrol commanders outside of the Alapai headquarters shall be responsible for keeping an inventory of all forfeited vehicles at their respective facilities. Each month, patrol commanders shall also be required to forward the inventory lists of all seized vehicles to the Forfeiture Detail, NVD, no later than the third Friday of each month.
 3. The NVD shall be responsible for keeping an inventory of all forfeited vehicles at the Alapai headquarters. The NVD shall complete all of the inventory lists and submit a status report to the Chief of Police no later than the last day of each month.

- C. If the seizure for forfeiture is determined to be qualified, the officer shall initiate an Incident Report, HPD-192 form, with "Asset Forfeiture" as the Incident Type. The officer shall include the name of the on-call detective who approved the seizure in the report.
- D. At the scene, the officer shall locate all owners and persons known to have an interest in the property and serve them with a completed Notice of Seizure of Forfeiture, HPD-502 form. Each individual owner shall be served with a separate HPD-502 form. The person(s) served shall sign above his or her printed name to confirm notification.
- E. In the event that the property seized is a vehicle, every effort shall be made by the seizing officer to notify the legal owner listed on the vehicle registration. This includes the operator and passengers of a vehicle if the owner is not present. All efforts to locate the owner(s) shall be noted in the "Asset Forfeiture" incident report.
- F. Items not subject to asset forfeiture shall be returned to the owner or owner's designee by the seizing officer. The officer shall initiate a "Found Property" Incident Report, HPD-192 form, for all items that are unclaimed or whose ownership cannot be determined.
- G. The officer shall forward the following to the Asset Forfeiture Detail of the NVD by the end of their work shift:
 - 1. The completed original HPD-502 form;
 - 2. A copy of the asset forfeiture report;
 - 3. A copy of the Judicial Determination of Probable Cause;
 - 4. A copy of the search warrant; and
 - 5. Copies of other related reports.

Any additional reports shall be forwarded to the Asset Forfeiture Detail, NVD, as soon as practicable.

- H. Property seized for forfeiture shall be submitted to the Evidence Room, Records and Identification Division, labeled with the asset forfeiture report number. A vehicle seized for forfeiture shall be towed in accordance with Policy 6.12, TOWING PROCEDURES; and Policy 8.14, VEHICLES, KEYS, AND PROPERTY IN POLICE CUSTODY. A completed forfeiture sheet shall be taped to the inside of the front windshield of the vehicle (refer to the attachment). The keys for the seized vehicle shall be submitted into evidence under the asset forfeiture report number. The NVD shall be responsible for the disposition of the seized vehicle.
- I. When property is no longer needed as evidence but is subject to asset forfeiture, the officer/investigator shall contact the Asset Forfeiture Detail, NVD.


LOUIS M. KEALOHA
Chief of Police

Attachment

Post on bulletin
board for one week

Policy first issued
as Procedure 9.18
on June 12, 2013