
	<b>MESQUITE POLICE DEPARTMENT</b>
	<b>225.00 FORFEITURE OF CONTRABAND</b>
	<b>Effective Date: August, 2011</b>
	<b>Approved:</b> _____  <b>Chief of Police</b>

**Purpose:**

The purpose of this order is to establish procedures for the seizing of property subject to forfeiture under Chapter 59 of the Texas Code of Criminal Procedure titled FORFEITURE OF CONTRABAND.

**Policy:**

- A. It is the policy of the Mesquite Police Department to seize property which is subject to forfeiture under Chapter 59 of the Code of Criminal Procedure.
- B. The seizing of contraband property provides the criminal justice system, particularly law enforcement, with intense power and authority. The contraband seizure law is intended to be remedial in nature and not a form of punishment. While a portion of the proceeds gained from these seizures may support and assist the law enforcement effort, good judgment and discretion must be exercised.
- C. Each contraband seizure that is initiated will require a departmental review. The impending legal proceeding will result in expenses being incurred by the department. Court and legal costs, storage fees, appraisals, liens, and other related expenses could result in a liability to the department. Careful consideration should be given regarding any decision to seize property.

**I. Special Provisions**

- A. Currency
  - 1. One Thousand Dollar (\$1,000) minimum.  
A smaller amount of cash may be seized in instances where other property or vehicles are seized also.
  - 2. Seized money should be counted by the seizing officer and one other employee, and sealed in an envelope. The money will be logged and deposited into the cash seizure drop box. Excessively large amounts of money may warrant immediate notification of the designated contraband seizure officer.
  - 3. The contraband seizure officer will deposit the seized money in the designated bank account without delay.
- B. Vehicles
  - 1. No seizure should be attempted on any vehicle ten (10) years old or older, unless the conveyance has a minimum value of \$2,500. Case by case exceptions may be made based upon severity of the offense or involvement of the actor.
  - 2. Vehicles that are to be seized should be taken to the police Seizure Lot. Vehicles that have been determined to be safe to drive may be driven to the Seizure Lot by a police officer. An impound sheet will be filled out on each vehicle, whether towed or driven. The vehicle hold section will be completed on the impound and a 72 hour hold will be placed on the vehicle on the impound system; this hold can be extended with the approval of a Bureau Commander.
- C. Personal Property
  - 1. Personal property seizures are limited to a \$1,000 minimum value.
  - 2. Seized personal property (other than currency) should be transported and stored as per current policy regarding evidence and impounded property.
- D. Real Property
  - 1. No real property should be seized until the District Attorney's office has reviewed the evidence against the property and a title policy has been issued. The value of

- the property should be twice that of any mortgage, lien, or encumbrance.
2. A real property seizure will not be initiated until a thorough departmental review is conducted.

## II. General Provisions

- A. The officer initiating a seizure is responsible for forwarding seizure information to the supervisor of the Narcotics Section. The seizing officer will complete the following paperwork:
  1. Report of Seizure Form – This form will contain a schedule of the property seized, estimated value of the property, lien information, list of reasons for the seizure, and other related information.
  2. Personal Knowledge Affidavit – must include:
    - a) a notarized statement that the officer has seized the property,
    - b) a list of the officer's reasons for the seizure relating the property to a specific felony,
    - c) an attached schedule of seized property.
- B. The affidavit should establish a logical nexus between the property seized and the felony offense. Though the actions of the defendant are important, the true defendant in a forfeiture case is the property. Forfeiture actions are against property, not individuals.
- C. All affidavits for seizure contain common elements.
  1. The introduction is that of a personal knowledge affidavit. This language is standard and will be on all affidavits regardless of scenario. The affidavit must be made by a person with personal knowledge of the facts. This affidavit will be used in pretrial proceedings.
  2. Paragraph identifying affiant, employer, and perhaps stating affiant's experience.
  3. Body of affidavit which is a brief narrative of offense, which includes time and place of occurrence and how the property relates to the felony act.
  4. Brief paragraphs acknowledging the seizure of property, citing the schedule (A, B, C, etc.) which describes or lists the property, and stating affiant's contention relating the property to the felony charged. Property is subject to forfeiture if it:
    - a) Was used in the commission of: offense and degree. (non drug felonies)
    - b) Was used or intended to be used in the commission of: offense and degree. (controlled substance or dangerous drug offenses)
    - c) Is proceeds gained from the commission of: offense and degree. (proceeds of a or b above)
    - d) Was acquired with proceeds gained from the commission of: offense and degree. (proceeds of a or b above)
  5. Schedule of property seized – Types of property seized should be separated and listed on separate sheets labeled A, B, C, etc. For instance, if money is seized it must be broken down into denominations and the total listed. This document will be labeled Schedule "A". If in the same case two cars are seized, make a Schedule "B" and list both vehicles indicating vehicle year and make, state and license number, and the vehicle identification number. If in the same case other items were seized, make a Schedule "C" and list the items of assorted property seized.
- D. A well-prepared affidavit will allow the D.A. to file a Motion for Summary Judgment when circumstances allow. This situation can reduce the number of court appearances or conferences with the D.A.
- E. The Report of Seizure Form will be reviewed and approved by the Chief of Police prior to the filing of the seizure case.
- F. Within ten (10) days of the seizure, the supervisor of the Narcotics Section will prepare a "Dallas County D. A. Report of Seizure" to be filed with the Dallas County District Attorney's Office.

G. The contraband seizure officer will file the notice of seizure and intended forfeiture with the Dallas County District Attorney's Office, within thirty (30) days of the seizure.  
EFFECTIVE: September, 1990; FORMERLY: 226.00; AMENDED: May, 2002; REVISED: August, 2011