



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 509 – Legal Asset Seizure

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Forms Referenced in Procedure:	SAPD Form #110-VH	Related Procedures:	606, 607

.01 INTRODUCTION

The purpose of this procedure is to establish guidelines for the seizure of property according to law. This procedure guides officers through the steps necessary for the legal seizure of property, from the criteria for seizures to the act of seizing property, custody of seized property, and the disposition of seized property.

.02 LEGAL AUTHORITY

A. The authority for the legal seizure of assets is contained in the following:

1. Texas Code of Criminal Procedure:
 - a. Chapter 18, Section 18;
 - b. Chapter 18, Section 19;
 - c. Chapter 47; and
 - d. Chapter 59;
2. Texas Motor Vehicle Laws, Article 6687-1, Section 49; and
3. Various titles of the United States Code.

B. Any peace officer is authorized to enforce the provisions of the Legal Asset Seizure Laws.

.03 SEIZURE AND CLASSIFICATION OF PROPERTY INVESTIGATED BY THE LEGAL ASSET SEIZURE DETAIL SEIZED UNDER THE AUTHORITY OF THE CODE OF CRIMINAL PROCEDURE CHAPTER 59

A. For purposes of this procedure, property is classified as:

1. Real property;
2. Tangible or intangible personal property, including anything severed from land; or
3. A document, including money that represents or embodies anything of value.

B. Property is seized where:

1. The property is real property, and any improvements, which is used or intended to be used to commit or facilitate the commission of an offense designated by Chapter 59 of the Texas Code of Criminal Procedure;
2. The property is a vehicle, boat, or plane used to facilitate the commission of applicable offenses;
3. The property consists of books, financial records, bank statements, payment records, instructions, and research materials used in violation of any of the applicable offenses; or



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 509 – Legal Asset Seizure

4. The property is personal property, weapons, documents, or money which the officer has determined to be the proceeds of a sale, transaction or trade, property or criminal instrument which is used in any way to commit any of the following applicable offenses listed in Subsection .03 C of this procedure.
- C. Chapter 59 of the Texas Code of Criminal Procedure authorizes the state to seize, based on probable cause, property that is, among other things:
1. Used in the commission of:
 - a. Any first or second degree felony under the Texas Penal Code;
 - b. Any felony under Texas Penal Code Section 15.031(b), 21.11, 38.04 (Evading Arrest), 43.25, or 43.26 or Chapter 29 (Robbery), 30 (Burglary/Criminal Trespass), 31 (Theft), 32 (Fraud), 33 (Computer Crimes), 33A (Telecommunications Crimes), or 35 (Insurance Fraud), of the Texas Penal Code; or
 - c. Any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).
 2. Used or intended to be used in the commission of:
 - a. Any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
 - b. Any felony under Chapter 483, Health and Safety Code;
 - c. A felony under Chapter 153, Finance Code;
 - d. Any felony under Chapter 34, Penal Code (Money Laundering);
 - e. A Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code (Littering), if the defendant has been previously convicted twice of an offense under that subchapter; or
 - f. Any felony under Chapter 152, Finance Code.
 3. The proceeds gained from the commission of a felony listed in Subsection .03 C 1 and 2 of this Procedure or a crime of violence; or
 4. Acquired with proceeds gained from the commission of a felony listed in Subsection .03 C 1 and 2 of this Procedure or a crime of violence.

.04 CRITERIA FOR LEGAL ASSET SEIZURE

- A. Officers observing or detecting the presence of items specified in Section .03 of this procedure seize the property according to law. Seizures of personal property occur in any place that the officer has a right to be.
- B. Seizure of any property subject to forfeiture may occur under the authority of a search warrant issued pursuant to Chapter 18.02 (12) of the Texas Code of Criminal Procedure.
- C. Seizure of any property subject to forfeiture may be made without a warrant if:
 1. The person in charge of the property consents;
 2. The seizure is incident to a search to which the person in charge of the property consents; or
 3. The seizure is incident to a lawful arrest or search.
- D. Officers request supervisory assistance in all cases of legal asset seizure.



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 509 – Legal Asset Seizure

- E. The Legal Asset Seizure Detail is notified through the Communication unit before officers leave the scene in all potential seizure cases with the exception of vehicles being impounded as criminal instruments, and cash money which is placed in the Property Room as designated by GM Procedure 606, *Impounding Property*.

.05 ACT OF LEGAL ASSET SEIZURE

- A. Officers document probable cause for determining the status of property before the actual seizure of property.
- B. Officers issue receipts to the person(s) previously in control of the property for any property seized under this procedure.
- C. Seized property is protected and safeguarded by the seizing officer while under the officer's control.
- D. Seized property, to include vehicles, is impounded as evidence, and transported to a facility for storage as designated by GM Procedures 606, *Impounding Property* or 607, *Impounding Vehicles*.
 - 1. Officers place a hold on the towing service record (invoice) for Legal Asset Seizure Detail in the case of vehicle seizures.
 - 2. After evaluation of a case involving a vehicle, the Legal Asset Seizure Detail:
 - a. Prepares SAPD Form #110 - VH, *Vehicle Detainer For Physical Evidence*, for long-term impoundment pending litigation and coordinates with Vehicle Storage Unit personnel for the transfer of the vehicle from their control area to a separate designated area for this purpose: or
 - b. Releases the hold on the vehicle.
 - 3. After evaluation of a case involving property other than vehicles, the Legal Asset Seizure Detail:
 - a. Transfers the property seized to a designated storage facility assigned to the Detail;
 - b. Weapons are stored in the Property Room with a hold placed for the proper follow up unit; or
 - c. Removes the hold for seizure from the property.
- E. Officers direct copies of all reports pertaining to an asset seizure made under Chapter 59 of the Code of Criminal Procedure to the Legal Asset Seizure Detail in order that immediate steps may be taken to secure the property from being reclaimed by the owner.
- F. Officers attempt to determine ownership of property at the time of seizure and include this information in reports submitted.
- G. The ignition and trunk keys to seized vehicles are also seized and placed into the Property Room as evidence. All personal property must be removed from vehicles by the seizing officer as designated by GM Procedure 607, *Impounding Vehicles*.

.06 CUSTODY OF SEIZED PROPERTY

- A. The Legal Asset Seizure Detail Supervisor maintains possession of all seized money and other personal property while subject to the courts' jurisdiction.
 - 1. Seized personal property, including money, is placed in the Property Room as evidence with a hold for the Legal Asset Seizure Detail; and



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 509 – Legal Asset Seizure

2. Seized personal property, including money, remains in the San Antonio Police Department Property Room until it is released to the Legal Asset Seizure Detail pending litigation or is released by the Legal Asset Seizure Detail.
 3. Property seized and released to the Legal Asset Seizure Detail pending litigation is stored and maintained in a designated and secured storage area for that purpose (except money).
 4. Seized money, pending litigation and release to the Legal Asset Seizure Detail, is deposited into an interest bearing account designated for that purpose by the Bexar County District Attorney's Office.
- B. A separate designated storage area for seized vehicles is utilized until disposition is determined by the court. Vehicles are maintained as evidence apart from other impounded vehicles, and not released without the authorization of the Legal Asset Seizure Detail; and
1. Court orders commanding the release or other disposition of seized motor vehicles are first routed through the Legal Asset Seizure Detail.
 2. The Legal Asset Seizure Detail notifies Vehicle Storage Unit personnel of any legitimate court orders or case status change involving the release of vehicles in order that these particular vehicles are returned to the control of the Vehicle Storage Unit personnel for release purposes.
- C. Real property seized through the efforts of members of the Police Department remains in the custody of the Legal Asset Seizure Detail while subject to the courts' jurisdiction.
- D. Members of the Legal Asset Seizure Detail prepare the necessary seizure affidavits in order to secure judgment and forfeiture of seized property under Chapter 59 of the Texas Code of Criminal Procedure.
- E. Officers ensure that the completed and signed affidavit is notarized and returned to the Legal Asset Seizure Detail without delay.

.07 DISPOSITION OF FORFEITED PROPERTY

- A. A judicial ruling on the disposition of seized assets determines whether or not an actual forfeiture of the property takes place.
- B. Should the title to personal or real property be granted to the Department as the result of adjudication, the Legal Asset Seizure Detail is given notification in order that the disposition of property is properly coordinated.
- C. The Legal Asset Seizure Detail prepares enabling documentation to allow the City of San Antonio to obtain titles to vehicles distributed under this procedure.
- D. The Chief of Police determines whether property awarded under this procedure is:
 1. Sold at public auction;
 2. Converted for use by the Department for a law enforcement purpose; or
 3. Destroyed.
- E. In the case of property disposed of at public auction, the property is sold in a manner consistent with existing administrative policies of the Finance Department and the Purchasing and General Services Department of the City of San Antonio.
- F. The law enforcement use of property awarded under this procedure is designated by the Chief of Police.
- G. Property previously seized and forfeited to the City of San Antonio, which is no longer serviceable and considered surplus by the Department, is disposed of according to administrative policy of the Finance Department and the Purchasing and General Services Department of the City of San Antonio and within the guidelines for disposition of forfeited property as outlined in Chapter 59 of the Texas Code of Criminal Procedure.