



**Las Cruces Police Department
GENERAL ORDERS
FIELD OPERATIONS VOLUME 2
GO-281 ASSET SEIZURE & FORFEITURE
Revised 7/19/2013**

281 ASSET SEIZURE & FORFEITURE

PURPOSE

The purpose of this General Order is to establish guidelines and procedures for the seizure of U.S. currency, vehicles and/or property under the NM Forfeiture Act.

POLICY

It is the policy of the Las Cruces Police Department (LCPD) to seize for forfeiture U.S. currency, vehicles and/or property when lawfully able to do so in furtherance of public safety goals.

APPLICABILITY

This General Order applies to all commissioned employees. This General Order supersedes all previous versions.

REFERENCES

- NMML OPR.03.06
- Department of Justice Asset Forfeiture Program, Comprehensive Crime Act, 1984
- NMSA 30-3-8.1 Seizure and forfeiture of motor vehicles (when used in the commission of the offense of shooting at or from a motor vehicle pursuant to subsection B of Section 30-3-8, NMSA 1978)
- NMSA 31-27-1 thru 31-27-8, 1978 (NM Forfeiture Act)
- NMSA 30-30-1 thru 30-31.41, 1978 (NM Controlled Substances Act)
- NMSA 30-31-33 Forfeitures; property subject, 1978
- NMSA 30-51-1 thru 30-51-5 Money Laundering Act, 1978

281.01 SEIZURE OF CURRENCY FOR FORFEITURE

A. The LCPD may seize U.S. currency for forfeiture when a person is in violation of the NM Substance Control Act (1978) and/or Money Laundering Act (1978). The Las Cruces/Dona Ana Metro Narcotics Agency (Metro) is the primary agency to investigate all felony narcotic violations in Dona Ana County. Metro is responsible for determining if currency is eligible for forfeiture under the NM Forfeiture Act and shall follow their internal protocols for handling forfeiture cases. Assets cannot be seized for misdemeanor violations.



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- B. Supervisors may authorize an officer/detective from LCPD to seize currency under the NM Forfeiture Act. Authorized officers/detectives shall follow the guidelines below:
1. Ensure there is a felony violation of trafficking, distribution of a controlled substance, and/or money laundering as described in NM state statutes.
 2. Enter currency and/or property into evidence using the money seized (category 47) of PRIORS property block to flag the evidence for evidence technicians. When a vehicle is seized, impound the vehicle and store temporarily at the police department.
 3. Contact their immediate supervisor and report the amount of currency, the type of property or vehicle involved, and the facts and circumstances of the case. The supervisor shall inform the appropriate deputy chief and the Budget Unit of the pending forfeiture.
 4. File appropriate paperwork with the Dona Ana 3rd Judicial District Attorney's Office (DA) within ten (10) days of seizure.
 5. Once the Order of Forfeiture request has been approved by District Court, the currency shall be removed from evidence by both the seizing officer and his/her supervisor and taken to the District Court to be placed into the District Court interest bearing account.
 6. After the charges have been adjudicated upholding the seizure, the officer/detective shall receive the findings and contact his/her immediate supervisor. The supervisor and officer/detective shall contact the District Court Clerk for a check to the City of Las Cruces for the amount of the currency seized.
 7. The check shall be turned over to the City's finance office for deposit.
- C. All actions and finding pertaining to currency seizure must be documented in a police report.

281.02 SEIZURE OF VEHICLES AND/OR PROPERTY FOR FORFEITURE

- A. Seizure of vehicles under the City of Las Cruces DWI Vehicle Seizure program is **not** included as part of the NM Forfeiture Act and is covered under General Order 280.



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- B. The Las Cruces/Dona Ana Metro Narcotics Agency (Metro) is the primary agency to investigate all felony narcotic violations in Dona Ana County. Metro is responsible for determining if vehicles and/or property is eligible for forfeiture under the NM Forfeiture Act and shall follow their internal protocols for handling forfeiture cases.
- C. Supervisors may authorize an officer/detective from LCPD to seize vehicles and/or property under the NM Forfeiture Act. Authorized officers/detectives shall follow the guidelines below:
1. Ensure that vehicles/property subject for forfeiture under the NM Forfeiture Act, subsection 30-31-34 are materials, products, and equipment of any kind, including firearms, which are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance or controlled substance analog in violation of the NM Controlled Substances Act.
 2. All conveyances including aircraft, vehicles or vessels which are used or intended for use to transport or in any manner to facilitate the transportation for the purpose of sale of controlled substances.
 3. Research vehicles and/or property for liens, lien holders, or innocent party co-owners, and determine if the value of the vehicle and/or property is sufficient to pay off any lien if seized. The officer/detective shall also determine the condition of the vehicle/property to determine whether or not there is sufficient value to justify the seizure. In all cases photographs shall be taken on the date of seizure of the vehicle/property.
 4. A supervisor shall be contacted for permission to move forward with the seizure prior to filing with the DA's office. The supervisor shall inform the appropriate deputy chief and the Budget Unit of the pending forfeiture.
- D. Once the Order of Forfeiture request has been approved by District Court, the vehicle/property shall be transferred to a secure LCPD lot or storage facility until the Order of Forfeiture has been upheld. The DWI seizure lot may be used to temporarily store seized vehicles.

281.03 SEIZURE OF MOTOR VEHICLE INVOLVED IN THE COMMISSION OF SHOOTING AT OR FROM A MOTOR VEHICLE

Vehicles used or intended for the use in the commission of shooting at or from a motor vehicle may be seized. The same procedures outlined in section 281.03 of this General Order shall be followed.



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281.04 SEIZED ASSET AND FORFEITURE FUND

The City of Las Cruces Finance Department is responsible for depositing all monies into the seized asset fund after adjudication for LCPD. The LCPD Budget Unit tracks all expenditures and provides an annual report to the Finance Department addressing all expenditures.

281.05 SEIZED VEHICLES/PROPERTY

A. Once an Order of Forfeiture has been upheld:

1. Vehicles seized by the department shall be entered into the City's fleet management system until sent to auction.
2. Property seized by the department shall be entered into the department's inventory and tracked by the Evidence Unit through the inventory control system or placed with the City Facilities Department to be auctioned.