

Florida Department of Law Enforcement

**SPECIAL AGENTS' GUIDE TO SEIZURE
AND FORFEITURE OF ASSETS**

DIVISION OF CRIMINAL INVESTIGATION

131365

INDEX

<u>TOPIC</u>	<u>PAGE</u>
Introduction.....	1
Florida Contraband Forfeiture Act.....	2
Property subject to forfeiture.....	2
Proof required for forfeiture.....	2
Procedure for implementing seizure and forfeiture.....	3
Seizure.....	3-4
Forfeiture.....	5-7
Settlement of Forfeiture.....	7
Release of seized property.....	7
Disposition of Forfeited Property.....	8
Substitute Property.....	8
Defenses to Forfeiture.....	9
Innocent owner defense.....	9
Lienholders.....	10
Civil RICO.....	10
Scope and Purpose.....	10
Procedure.....	11
Complaint and Affidavit.....	11
Subpoenas.....	11
Liens.....	12
Lis Pendens.....	12
Remedies available from RICO action.....	12
Disposition of forfeited property.....	13
Federal Asset Sharing.....	13
Procedure.....	13
Reimbursement for Costs of Investigation.....	14
Forfeiture of Unclaimed Evidence.....	15
Taxation of Illegal Drugs.....	15-16

131365

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APPENDIX

- I. FDLE Supplemental First Procedure Manual for Real Property
- II. TBROB Standard Operating Procedure No. 89-23
- III. Forfeiture Cover Sheet
- IV. Real Property Forfeiture Proposal
- V. Affidavit (probable cause)
- VI. Affidavit of Personal Service
- VII. Assignment of Personal Property
- VIII. Hold Harmless Agreement
- IX. DAG-71, Application for Federal Asset Sharing
- X. Form 343, Application for Federal Asset Sharing
- XI. Application for Reimbursement of Investigative Costs

INTRODUCTION

The procedure to be followed by a special agent when seizing assets will depend upon various factors which should be carefully considered prior to seizure of the property. These include:

- 1) Is the asset personal property or real property?
- 2) Was the property actually used to facilitate the commission of a felony?
- 3) Was the property acquired with proceeds obtained from illegal activity?
- 4) Is the asset actually the proceeds of illegal activity such as cash or negotiable instruments?
- 5) Is the property considered contraband because of an unlawful registration or alteration regardless of its use or how it was acquired?
- 6) The location of the property.
- 7) The value of the property.
- 8) Valid liens or mortgages on the property.
- 9) The ownership of the property.
- 10) The cost of maintenance of the property pending forfeiture.
- 11) The participation of local or federal agencies in the investigation leading to the seizure.

Prior to October 1, 1989, state law did not permit the forfeiture of real estate or any property acquired with proceeds obtained from illegal activity under the Florida Contraband Forfeiture Act. The only way for the agency to pursue forfeiture of these assets was to request that the Attorney General's Office file a civil RICO action or allow a federal agency to seek forfeiture and request a share of the proceeds upon distribution. Either way, FDLE's share of the proceeds was diminished by the necessary involvement of other agencies. Under recent amendments to the state forfeiture statute, real estate as well as personal property is subject to forfeiture as is property either acquired by proceeds obtained from illegal activity or property actually used to facilitate a felony. However, there still remain various options available to the special agent for forfeiture of assets. Consideration of the above mentioned factors will dictate which option should be utilized for the most efficient and advantageous method of forfeiture.

The following guide is designed to assist the special agent in selecting the most appropriate method of forfeiture and handling it in an expeditious manner. Specific questions should be directed to the regional legal advisor. This guide is also intended to implement the FIST Procedures Manual and Model Policy for Forfeiture of Assets as well as any other FDLE directives or policies.

FLORIDA CONTRABAND FORFEITURE ACT: F.S. 932.701-704

1) Property subject to forfeiture:

Any real estate or personal property is subject to forfeiture. Examples include:

- Vacant Land
- Residences
- Commercial Property
- Motor Vehicles
- Aircraft
- Vessels
- Mobile Homes
- Recreational Vehicles
- Weapons
- Equipment, Tools, Machinery
- Currency
- Stocks, Bonds, Securities
- Books, Records, Research Material
- Negotiable Instruments

2) Proof required for forfeiture:

There must be proof that the property has been or is actually used as an instrumentality in the commission of or in aiding or abetting in the commission of any felony or that the property is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act. The "acquired by" provision was added to the forfeiture statute effective October 1, 1989.

Other specific statutes authorize forfeiture of property if used or acquired under certain conditions:

- a) F.S. 893.12(2) authorizes forfeiture of any real property including any interest in real property and any improvements on real estate which is used or intended to be used in any manner or part to commit or to facilitate the commission of a violation of F.S. 893.03(1) or (2), or acquired with proceeds obtained in violation of that section. This type of forfeiture is different from the forfeiture described above under F.S. 932.701 which is limited to forfeiture of property which has been or is being used to facilitate the commission of a felony. Under F.S. 893.12(2), real property may be forfeited if it was used or intended to be used in violation of any drug law involving a Schedule I or II drug.
- b) F.S. 329.10 and F.S. 329.11 authorize the forfeiture of any aircraft which have improper registration or tail identification numbers. Such aircraft need not

have been used to facilitate the commission of any crime nor acquired with proceeds from criminal activity.

- c) F.S. 330.40 authorizes forfeiture of any aircraft containing additional fuel tanks or hoses not approved by FAA, also, regardless the use or acquisition of the aircraft.
- d) F.S. 812.16 authorizes forfeiture of any motor vehicles, components, wreckers, tools or machinery used or discovered at the site of a "chop shop" operated for the purpose of concealing, altering or dismantling stolen vehicles.
- e) F.S. 843.18 authorizes forfeiture of a boat used to flee or attempt to elude a law enforcement officer.

3) Procedure for implementing seizure and forfeiture.

All personnel are required to follow the procedures set forth in the FDLE Supplemental Fict Procedure Manual for Real Property Forfeiture which is attached as Appendix I and TBROB Standard Operating Procedure No. 89-23 regarding the TBROB Asset Forfeiture Unit which is attached as Appendix II.

a) Seizure

1. The special agent should seize personal property by physically taking the property into custody. Personal property may be seized for forfeiture without a warrant if it is located in a public area or an area not protected by the Fourth Amendment. If it is necessary to enter private property to seize the item, a warrant is generally necessary. Once a vehicle is seized for forfeiture, its contents may be searched without obtaining a warrant.
2. The property should be maintained in a secure area such as:
 - a) evidence room
 - b) safe deposit box
 - c) departmental impound or storage facility
 - d) with private vendor under contract (marina or aircraft hangar)
 - e) other law enforcement agency
3. The property must be maintained in time of seizure condition. If the property requires special maintenance, such as a vessel, arrangements must be made with a vendor or

property manager for maintenance. Insurance is recommended for aircraft and vessels.

4. All property should be inventoried and any contents which are not subject to forfeiture should be released to the owner or otherwise appropriately disposed of.
5. All appropriate documentation of seizure should be completed timely including the Property Evidence Recovery/Seizure (PERS) and Vehicle Seizure and Storage (VSSF) forms.
6. When seizing real property, the special agent should serve a notice or warrant of arrest or other appropriate document prepared by the attorney handling the forfeiture upon the real property and any occupants on the property.
7. In determining whether to seize real property, the ownership of the property and any liens or other encumbrances on the property must be identified. Ownership may be determined at the office of property appraiser or tax collector in the county where the property is located. Liens or mortgages may be determined by searching property and civil records in the office of the clerk of the court in the county where the property is located. An ownership and encumbrance report may also be requested from a title insurance company.
8. The reasonable value and equity in seized property must be determined. For personal property blue book value, loan value, or evidence of similar market price may be used. For specialty items such as jewelry, coins, art or antiques, an expert appraisal may be required. Value of real estate may be determined by the most recent purchase price, existing mortgages, appraisals used for financing, property appraiser records or a real estate appraisal.
9. When motor vehicles, boats or aircraft are seized, a body file should be ordered from the appropriate agency: Division of Motor Vehicles (motor vehicles), Department of Natural Resources (boats) or Federal Aviation Authority (aircraft).

b) Forfeiture

1. The special agent should inform the attorney handling the forfeiture of property which has been seized or is intended to be seized. The special agent should also provide the necessary information concerning a specific description of the property, names and addresses of owners and lien holders and amounts of liens. The Forfeiture Cover Sheet attached as Appendix III should be used to identify personal property and the Real Property Forfeiture Proposal attached as Appendix IV should be completed when requesting forfeiture of real property.
2. The special agent should prepare a probable cause affidavit setting forth the grounds on which forfeiture is sought. The affidavit may contain hearsay but should specifically state how the property was employed in criminal activity or acquired with proceeds from criminal activity. The form attached as Appendix V should be used for this purpose.
3. Forfeitures are civil actions, not criminal. Forfeitures proceed independently of criminal cases and may proceed even though a criminal case is not filed or the criminal case ends in an acquittal. The forfeiture is initiated by filing a petition for forfeiture, with the affidavit attached, in the circuit court of the county where the property was either seized or used.
4. A forfeiture usually requires two hearings. The first hearing must be scheduled at least six weeks after the petition has been filed. At that hearing a request will be made for the judge to issue a Rule to Show Cause. No testimony is required at this hearing. The judge merely determines whether the petition and affidavit are legally sufficient to support a forfeiture. The owner/claimant must be notified by certified/registered mail of this first hearing and notice of the hearing must be published in a local newspaper once a week for two consecutive weeks. The Rule to Show Cause sets the date for final hearing at which time, FDLE will have to present evidence in support of the forfeiture and the owner or lienholder can appear to oppose the forfeiture.

5. When the Rule to Show Cause is issued by the judge the special agent should serve the Rule on the owners or lienholders and return proof of service. The form attached as Appendix VI is recommended for this procedure. The owners or lienholders have 20 days after being served to file a response to the petition. Otherwise, a default will be entered against them.
6. The special agent should provide to the attorney handling the forfeiture the names and addresses of all witnesses who will be required to testify at the forfeiture trial. Such witnesses may include: case agent and assisting agents, lab analysts, evidence custodians, confidential sources and law enforcement officers from other agencies.
7. The special agent should advise the attorney handling the forfeiture what physical evidence is necessary for trial and make arrangements to produce the evidence at trial. Such evidence may include controlled substances, weapons, documents or the seized property.
8. The special agent should assist in serving subpoenas on witnesses for the forfeiture trial and make arrangements to be present at the trial.
9. A forfeiture trial is an evidentiary hearing which requires testimony of witnesses and introduction of evidence. However, the burden of proof is different than that required in a criminal case. The initial burden of proof is on FDLE to show probable cause that the property was employed in criminal activity or acquired with proceeds from criminal activity. Once probable cause has been established, the burden shifts to the owner/claimant to rebut the probable cause and show that the property was not used or acquired in violation of the forfeiture statute or that there is an affirmative defense to the forfeiture. If the claimant/owner meets this burden, FDLE must be prepared to establish by a preponderance of the evidence that the property should be forfeited.
10. The owner/claimant may invoke the Fifth Amendment against self-incrimination and refuse to answer questions which could be used against him in a criminal prosecution. If the criminal case has already been disposed of, through conviction or acquittal, the defendant can no

longer invoke the Fifth Amendment. The owner/claimant may then be called as a witness at the forfeiture trial.

11. Usually, forfeiture hearings are non-jury trials. However, either side may request a jury trial in a forfeiture.
12. A judge may not stay or postpone a forfeiture proceeding until after the outcome of a criminal case.
13. If the criminal case is going to be disposed of by plea negotiations, the special agent should recommend to the prosecutor that the defendant agree to forfeit any seized property as part of a plea bargain.

c) Settlement of Forfeiture

In the event that the owner of seized property agrees to voluntarily relinquish and transfer his ownership in the property to FDLE without the necessity of filing a forfeiture, the special agent should require the owner to sign the appropriate documents. If an individual agrees to transfer personal property to FDLE prior to filing a forfeiture action in court, the special agent should have the owner or his representative sign an Assignment of Personal Property. The form attached as Appendix VII is recommended for this purpose. If an individual agrees to transfer real property to FDLE the owner(s) should sign a quit claim deed. If a person agrees to transfer title to a motor vehicle, the owner should sign the title itself if it is available.

If the owner of seized property agrees to transfer property to FDLE after a forfeiture action has already been filed, the special agent should notify the attorney handling the forfeiture so the appropriate settlement can be prepared and filed with the court.

d) Release of Seized Property

1. In the event of a decision not to file a forfeiture on seized property or in the event of an adverse decision by a court, the special agent should assist in making arrangements to release the property to the lawful owner.
2. Prior to releasing seized property the special agent should obtain a hold harmless agreement

from the lawful owner. The form attached as Appendix VIII is recommended for this procedure.

3. No seized property should be released to a lien holder without the prior written consent of the lawful owner.
4. Seized property not subject to forfeiture should be released to the lawful owner as soon as practical.
5. No administrative fees should be charged upon release of seized property unless they reflect the actual cost of storage and maintenance.
6. No seized property should be released until it has been determined that it is not needed for evidentiary purposes in the prosecution of a criminal case. The special agent should confirm with the prosecutor in the criminal case that the property is not needed as evidence.

e) Disposition of Forfeited Property

1. No seized property should be used for any purpose, other than required and necessary maintenance, prior to final disposition of the forfeiture.
2. The special agent should recommend whether the forfeited property should be kept for use by the agency, sold or transferred to another agency.
3. If property or proceeds from the sale of property are to be transferred to another agency, the special agent should obtain approval for such disposition as soon as possible following the seizure of the property.

f) Substitute Property

If a defendant attempts to conceal or dispose of property intended to be forfeited the court may order the forfeiture of other property owned by the defendant up to the value of the property intended to be forfeited. Such substitution of property may be made when the property sought to be forfeited:

1. Cannot be located;
2. Has been transferred to, sold to, or deposited with a third party;
3. Has been placed beyond the jurisdiction of the court;

4. Has been substantially diminished in value by any act or omission of the defendant; or
5. Has been commingled with any property which cannot be divided without difficulty.

For this reason the special agent should be aware of other assets owned by a defendant which are not themselves subject to forfeiture.

4) Defenses to Forfeiture

1. Innocent owner defense

- a. Property which is jointly titled in the names of a husband and wife by using the terms "and", "and/or", or "or" cannot be forfeited if the co-owner establishes that he/she neither knew, nor should have known after a reasonable inquiry, that the property was employed or was likely to be employed in criminal activity.
- b. Property which is titled in another person's name other than the person who actually used the property in criminal activity cannot be forfeited if the owner of the property establishes that he/she neither knew, nor should have known after a reasonable inquiry, that such property was being employed or likely to be employed in criminal activity. This defense is most often asserted by rental car companies when leased cars are seized. When a leased car is seized and returned to the leasing company, the company should be notified that the person leasing the car has used it for criminal activity. After having been put on notice of such activity, a leasing company cannot claim it is an innocent owner if the same person uses a vehicle for criminal activity in the future.
- c. The innocent owner defense is not available to co-owners who are not spouses. For example, a vehicle jointly owned by a father and son and which is used solely by the son for criminal activity without the knowledge of the father is subject to forfeiture.
- d. The innocent owner defense is an affirmative defense and the burden of proving the defense is on the owner/claimant. It is not enough for a person to simply claim he did not know the property was being used in criminal activity.

In order to defeat a forfeiture with this defense the owner/claimant must establish that:

- a.) he was not involved in the criminal activity;
- b.) he was not aware of the criminal activity; and
- c.) he did all that reasonably could be expected to prevent the use of the property in criminal activity.

A person who claims that he/she is an innocent owner has the duty to make a reasonable inquiry regarding the use of his/her property when circumstances arise that would put the ordinary person on notice that the property might be employed in criminal activity. For a more detailed discussion of the innocent owner defense see FDLE Legal Bulletin 88-08.

2. Lienholders

- a.) A valid lien cannot be eliminated in a forfeiture if the lienholder establishes that he neither knew nor should have known after a reasonable inquiry that the property was being used or likely to be used in criminal activity.
- b.) In order to be a valid lien on a motor vehicle, the lien must be recorded upon the title. Otherwise the lien will not be protected in forfeiture proceedings. Most financial institutions and credit corporations usually record their liens on titles of vehicles financed by them. However, this is rarely done by family members when loaning money to a relative to buy a car. Therefore, if a parent claims a lien on a vehicle owned by his/her child by virtue of having loaned the child money to buy the vehicle, the lien does not have to be paid off by FDLE if it was not recorded on the title.
- c.) If a lien is determined to be valid, the property may still be forfeited but the lien must be paid by the agency.

CIVIL RICO: F.S. 895.05

1) Scope and Purpose

A civil RICO case must be prosecuted by either the civil RICO section of the Attorney General's Office or by a

state attorney's office. Any type of property, either real or personal, is subject to forfeiture under the civil RICO statute. The proof required for civil RICO is that the property was used or was intended to be used in violation of the criminal RICO statute or that proceeds were derived from a violation of the criminal RICO statute. There must also be proof that an enterprise engaged in a pattern of racketeering activity. The enterprise may be an individual, sole proprietorship, partnership, corporation, trust or other legal entity. It may also be made up of a group of individuals associated for a common purpose although not a legal entity. An example would be a group associated for the purpose of drug smuggling, gambling, prostitution, etc. The pattern of racketeering must be based upon at least two predicate crimes which are defined in F.S. 895.02. Some of these predicate crimes may be misdemeanors or federal offenses but they must be interrelated by having similar intent, result, accomplices, victims or method of commission. They do not form a pattern if they are isolated incidents.

2) Procedure

a) Complaint and Affidavit:

A civil RICO action is initiated by filing a civil complaint. The special agent should prepare an affidavit setting forth how the property was used, intended to be used or derived from a violation of the criminal RICO statutes. The affidavit should identify the enterprise and describe and define the predicate crimes which constitute the pattern of racketeering activity.

b) Subpoenas:

A special agent may obtain a civil investigative subpoena from the attorney general, state attorney or statewide prosecutor prior to filing a civil RICO complaint for the purpose of investigating a civil RICO violation. The subpoena allows the attorney general, state attorney or statewide prosecutor to subpoena witnesses, take testimony under oath and collect evidence. An order may be obtained directing the subpoenaed person not to disclose the existence of the subpoena to anyone other than his attorney for a period of 90 days. Procedures governing civil RICO subpoena are covered in F.S. 895.06.

c) Liens:

In order to prevent real property from being transferred prior to a final judgement being entered, the attorney general may file a RICO lien against the property. There are two types of RICO liens. F.S. 895.05 provides for a temporary RICO lien. This requires the special agent to prepare a sworn affidavit setting forth probable cause to believe that the property was used in the course of, intended for use in the course of, derived from, or realized through conduct violating the RICO statutes. The affidavit is presented with the motion or petition for a lien to a circuit judge ex parte. No prior notice is given to the owner and no testimony is taken at the hearing. A lien must be served on the owner or posted on the premises if the owner cannot be served. The lien is valid for 90 days and may be extended for an additional 90 days upon a showing of good cause. A temporary RICO lien may be requested prior to filing the RICO complaint. F.S. 895.07 provides for filing a RICO lien notice when the RICO complaint is filed. This notice applies to only one person and a separate lien notice must be filed for each person against whom a lien is sought. This lien notice is valid for six years and may be renewed for six years. The information which is required in a RICO lien notice is contained in F.S. 895.07(2).

d) Lis Pendens:

The attorney general may also file a Lis Pendens which is a notice filed in the property records putting all persons on notice that the property is subject to a RICO civil action. This would notify anyone considering purchasing the property or loaning money in exchange for a mortgage of the pending litigation.

e) Remedies available from a RICO action:

1. Final judgement forfeiting all property.
2. Order requiring defendant to divest himself of his interest in the enterprise or of real property.
3. Order prohibiting defendant from engaging in similar enterprise in future.
4. Order dissolving or reorganizing enterprise.
5. Order revoking business licenses.
6. Order forfeiting corporate charter.

- f) Disposition of forfeited property under RICO:
1. First priority is payment of clerk's fees (court costs).
 2. Payment of valid liens and mortgages.
 3. The remaining funds are divided equally with each of the following agencies receiving 25%:
 - a. Attorney General's Office (or state attorney)
 - b. FDLE or other investigative agency (all law enforcement agencies must split this 25%)
 - c. HRS
 - d. DNR

FEDERAL ASSET SHARING

FDLE may share in the proceeds from federal forfeitures. This may occur when FDLE makes a joint seizure with DEA, Customs or the FBI or when FDLE requests that a federal agency "adopt" its forfeiture. Federal forfeitures include both real and personal property and may be done administratively (without court proceedings) or judicially (by the filing of a complaint) in federal court by the U.S. Attorney's Office.

1) Procedure

- a) A request for federal asset sharing must be made in writing. The request must be filed with the local office of the federal agency within 30 days of the date of seizure.
- b) A request for equitable sharing of proceeds of property forfeited by DEA, FBI or INS should be made by completing Form DAG-71, Application for Transfer of Federally Forfeited Property. See Appendix IX.
- c) A request for equitable sharing of proceeds of property forfeited by Customs should be made by completing Customs Form 343 and submitting it to the local Customs office. See Appendix X.
- d) As a matter of policy a federal agency will not seize property unless the value of the property exceeds the following amounts:
 1. Vehicles: \$ 2,500
 2. Aircraft: \$ 5,000
 3. Vessels: \$ 5,000
 4. Real Property: \$10,000
 5. Other Property: \$ 1,000
- e) Administrative forfeitures may be filed on the following types of property:

1. Personal property valued at \$100,000 or less.
 2. Conveyances used to import, export or otherwise transport or store controlled substances, regardless of value.
- f) Judicial forfeitures will be initiated on the following property:
1. All real property (this is necessary in order to obtain clear title).
 2. Personal property valued at more than \$100,000.
 3. Any property where the forfeiture has been contested.

REIMBURSEMENT FOR COSTS OF INVESTIGATION

- 1) F.S. 939.01 provides that the sentencing judge in every criminal case shall require the defendant to reimburse a law enforcement agency for investigative costs if two conditions are met:
 - a) Such costs are requested by the law enforcement agency.
 - b) The costs are documented.
- 2) The following actual expenses incurred in conducting an investigation may be recovered:
 - a) Employee Salaries
 - b) Vehicles Expenses
 - c) Confidential Source Payments and Expenses
 - d) Witness Protection Expenses
 - e) Vehicle Rental
 - f) Airline Fares
 - g) Other Incidental Expenses
- 3) Procedure:
 - a) When an arrest is made the special agent should request from Case Management an itemized analysis of the costs of investigation.
 - b) The special agent should complete an Application for Reimbursement of Costs of Investigation which is a sworn affidavit. The form attached as Appendix XII is recommended for this purpose.
 - c) The application must be filed with the court prior to sentencing of the defendant and a copy should be sent to the state attorney and defense attorney.
 - d) The special agent should supplement or update the application, if necessary, to reflect costs incurred in depositions and trial if not previously included in the original affidavit.

- e) The special agent should attend the sentencing to request that the defendant be ordered to pay investigative costs unless the state attorney agrees to make such a request on behalf of FDLE.
- f) The special agent should request that the state attorney require that payment of investigative costs be made a part of any plea negotiations.
- g) In the event that the amount of costs are disputed by the defendant, the special agent shall be prepared to present testimony in support of the request in regards to the expenses incurred during the investigation.

FORFEITURE OF UNCLAIMED EVIDENCE

- 1) F.S. 705.105 provides that unclaimed evidence automatically becomes the property of FDLE if it is not claimed by the owner within 60 days after disposition of a criminal case. This requires that the following conditions be met:
 - a) The property must have been held as evidence in a criminal case. Not all seized property has evidentiary value. Only property which in good faith can be classified as evidence meets this requirement.
 - b) A criminal case in state or federal court must have been filed.
 - c) 60 days must have passed after final disposition of the case without the owner requesting return of the property.
 - d) There must have been a final disposition of the criminal case by way of conviction, guilty plea, acquittal or dismissal.
- 2) Procedure:
 - a) No documents have to be filed in court.
 - b) No probable cause affidavit has to be prepared.
 - c) The special agent should confirm with the prosecutor that the property is no longer needed as evidence in the case or in the case of a co-defendant or fugitive.
 - d) The special agent should complete a Property/Evidence Disposition (PED) Form indicating that the evidence is being forfeited to FDLE as abandoned evidence pursuant to F.S. 705.105.

TAXATION OF ILLEGAL DRUGS

- 1) F.S. 212.0505 imposes a tax on unlawful use, possession or sale of controlled substances.

- 2) What activities are taxed?
 - a) Use or Consumption
 - b) Sale
 - c) Distribution
 - d) Manufacture or Production
 - e) Transportation or Storage
- 3) What drugs are taxed?
 - a) Any controlled substance defined in F.S. 893.03.
 - b) Cannabis as defined in F.S. 893.02.
 - c) Any medicinal drug defined in Chapter 465, Florida Statutes.
- 4) What is the amount of the tax?
 - a) 50% of the estimated retail price of the drug.
 - b) Plus 25% surcharge of the estimated price.
 - c) Penalties and interest for non-payment at the time of the transaction.
- 5) The Florida Department of Revenue imposes and collects the tax. The special agent should notify the DOR Revenue Investigator at the time of arrest of any person for a trafficking offense or other offense meeting the requirements of taxation. A tax notice will then be issued to the defendant and a tax lien will be filed in the county of arrest or any county where the defendant owns real property. Freeze orders can be issued to banks preventing withdrawal of any funds or assets from bank accounts or safe deposit boxes. If done quickly, this can encumber assets which could otherwise be used by the defendant for bail.
- 6) In order to file a tax lien for unpaid taxes, it is not necessary to show that the asset was used in the commission of a crime or acquired with the proceeds of criminal activity.
- 7) The Department of Revenue can remove or withdraw the tax lien in the event FDLE desires to pursue a forfeiture or RICO action on the property.

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
SUPPLEMENTAL FIST PROCEDURE MANUAL
FOR REAL PROPERTY FORFEITURE**

- I. **POLICY:** Effective October 1, 1989, the Florida Department of Law Enforcement is authorized to seize and forfeit real property pursuant to Sections 932.701-.705, Florida Statutes and Section 893.12, Florida Statutes. It is the policy of FDLE to utilize these forfeiture provisions to the fullest extent possible in order to impact upon crime, yet protect innocent owners, while providing the maximum amount of economic benefit available under these provisions.
- II. **PURPOSE AND SCOPE:** The purpose of these guidelines is to supplement the FIST Procedure Manual revised June 1989, with specific provisions relating to the seizure and forfeiture of real property. Each member shall adhere to the procedures as set forth in the FIST Procedure Manual when seizing or forfeiting real property except where they are inconsistent with the procedures set forth herein.
- III. **FACTORS TO BE CONSIDERED IN DETERMINING WHETHER TO SEIZE REAL PROPERTY:**

Prior to seizing any real property, the case agent/SAS in conjunction with the Regional Legal Advisor must determine whether there is probable cause to believe that the real property was used in violation of or acquired with proceeds obtained in violation of Sections 932.701-932.705, Florida Statutes, known as the Florida Contraband Forfeiture Act or Section 893.12, Florida Statutes. Once probable cause has been determined the following factors should be considered prior to any recommendation or final decision to seize real property.

- A. The potential for successful forfeiture action.
- B. The availability of alternate methods of forfeiture such as joint or adoptive forfeitures with a federal agency.
- C. The cost of pre-seizure planning and maintenance of the property pending final disposition.
- D. The impact of forfeiture on targets of a criminal investigation.
- E. The impact of forfeiture on innocent owners, lienholders or other persons not involved in criminal activity.
- F. The impact of forfeiture on the public health, safety and welfare, particularly environmentally sensitive land.

- G. Whether the seizure/forfeiture is cost effective, or if not, serves other law enforcement objectives.

The above factors are solely for internal FDLE consideration. None of these factors are intended to negate the authority or ability of FDLE to forfeit real property or to expand rights, standing or redress authority for potentially affected persons.

IV. RESPONSIBILITY:

A. Special Agent/Case Agent Shall:

1. Provide information to and consult with the Special Agent Supervisor regarding the investigation, seizure and management of real property under consideration for seizure.
2. Determine in conjunction with the Regional Legal Advisor whether probable cause exists to support a real estate forfeiture and assess potential case difficulties.
3. Assess likely impact(s) of successful vs. unsuccessful real estate forfeiture on:
 - Criminal case
 - Subject(s) of investigation
 - Property owner(s)
 - Party(ies) with legal interest in real estate
 - Possible innocent individuals associated with real estate
 - Underlying crime problem
 - Community
 - FDLE
 - Other agencies/organizations
 - Environmentally sensitive or protected lands
4. Determine whether proposed real estate forfeiture is financially feasible based on pre-seizure investigation and consideration of factors such as:
 - Strength of case
 - Property value and equity
 - Percentage of forfeiture proceeds due to FDLE
 - Percentage of forfeiture proceeds due to other agencies
 - Deed status
 - Mortgage(s)
 - Lien(s)
 - Property condition
 - Local real estate market
 - Hazards
 - Property location
 - Necessary repairs
 - Cost of security

- Cost of maintenance
 - Cost of insurance
 - Cost of litigation
 - Cost of property appraisals
 - Cost of business operation, if appropriate,
taking into account whether illicit funds
have been utilized in supporting the
operation
5. Accomplish necessary forfeiture investigation and research regarding the subject real estate or assist in compiling such information if information is developed by other sources.
 6. Complete necessary departmental, court related and other paperwork relative to the forfeiture, including a legal description of the property.
 7. Forward paperwork and recommendation for forfeiture via chain of command to the Division Director and the General Counsel.
 8. Upon recommendation of the Division Director and the General Counsel, the Commissioner or his designee shall make the final decision on whether to proceed with the seizure and forfeiture.
 9. Effect constructive "seizure" of real estate, service of process and other enforcement duties with respect to the subject real estate.
 10. If the realty to be seized is an occupied residence, the case agent/SAS shall make a recommendation as to whether those persons should be evicted or allowed to remain pending the forfeiture action.
 11. Prior to evicting dependent children, medically disabled persons or persons otherwise infirm, the case agent/SAS must notify appropriate social service agencies of the eviction so that said agencies may determine if their assistance is required.
 12. Cooperate with legal staff and other personnel handling aspects of forfeiture.
 13. Assist, as requested, in securing specialized personnel or services relative to the property and in handling any ongoing concerns relating to the subject real estate during the pendency of forfeiture proceedings.

B. Analyst shall:

1. Assist the case agent and appropriate personnel handling the real estate forfeiture by providing requested

background and analytical information relative to the real estate forfeiture investigation.

2. Make necessary contacts with other agencies and sources of information to gain material which will assist in the determination of the financial feasibility of pursuing the real estate forfeiture.

C. Special Agent Supervisor shall:

1. Make the preliminary recommendation to pursue real estate forfeiture investigation, after consultation with the case agent and Regional Legal Advisor.
2. Closely monitor the pre-seizure real estate forfeiture investigation.
3. Make recommendation, in conjunction with the Regional Legal Advisor, to the regional Special Agent-in-Charge regarding the advisability of pursuing the particular real estate forfeiture and update such recommendation during the pendency of the investigation, as appropriate.
4. Supervise formal "seizure" of real estate and attendant investigation and case concerns once "seizure" approval is secured.

D. Regional Legal Advisor shall:

1. Consult with and advise case agent, Special Agent Supervisor and bureau Special Agent-in-Charge, as necessary, on legal issues pertaining to real estate pre-filing investigation, real estate "seizure" and approved forfeiture proceedings.
2. Represent FDLE in real property forfeiture proceedings filed and handled solely by FDLE.
3. Assist in coordination of real property forfeiture proceedings with the Attorney General's Office on cases filed by the Attorney General's Office on behalf of FDLE.

E. Regional Special Agent-in-Charge shall:

1. Make a recommendation to the Director of DCI authorizing or denying "seizure" of real property based on input from Special Agent Supervisor and Regional Legal Advisor.
2. Insure that all policies, procedures and applicable state laws are adhered to.

F. General Counsel shall:

1. Review the legal description of the property to be seized and determine with the assistance and cooperation of the Department of Natural Resources whether the property to be seized is environmentally sensitive or endangered lands, as defined in Section 259.03(2) or Section 253.023(3)(b), Florida Statutes (1988).
2. Maintain continuing oversight of real estate forfeitures in order to advise FDLE command personnel of legal progress, likelihood of case success, propriety of settlements and similar concerns.

G. Division Director shall:

1. Make a recommendation to the Commissioner or his designee as to whether to seize real property and proceed with the real property forfeiture after consultation with the General Counsel and Regional Special Agent-in-Charge.
2. Authorize expenditures for the maintenance and management of real property pending final disposition.
3. Approve a plan for the management of real property pending final disposition.
4. Approve or reject any proposed settlement agreements after consultation with the General Counsel and regional Special Agent in Charge.
5. With the Commissioner's approval, the Director may waive any of the provisions of these guidelines upon a showing of good cause.

V. PRE-SEIZURE PLANNING:

1. Prior to seizing any real property, the Special Agent shall be responsible for determining the ownership of any real property under consideration for forfeiture.
2. Prior to seizing any real property, the Special Agent shall be responsible for determining the value of the real property and the equity in the property. The estimated value may be based upon an appraisal or recent market price of the property or of market values of comparable property. It should also include any contents of the property which are subject to forfeiture and the amount of income generated by any business located on the property.
3. Prior to seizing any real property, the Special Agent shall attempt to obtain either a letter of commitment to provide title insurance from a title insurance company or an ownership and encumbrance report.

4. Prior to seizing any real property, the Special Agent shall determine the amount of any prior existing mortgages, liens and taxes. These amounts shall include both the existing balance and any monthly or periodic payments, if any.
5. If the property is occupied, a decision shall be made as to whether the occupants will be permitted to occupy the premises pending the final disposition of the forfeiture. If occupancy is to be permitted, an occupancy agreement shall be prepared by the Regional Legal Advisor or contracted Department of Legal Affairs attorney and shall be signed by the Division Director and the occupants of the property. If occupancy will not be permitted, notification of the appropriate social service agency shall be made regarding dependent children, etc.
6. The property administrator and the analyst shall assist the Special Agent in determining the estimated expenses involved in maintaining and managing real property pending final disposition.
7. The Special Agent shall compile a proposal for the management of real property which shall be submitted with the recommendation for seizure and forfeiture via the chain of command to the Division Director. The Real Property Forfeiture Proposal shall be used for this purpose in addition to other documentation.

VI. BUDGETARY CONSIDERATIONS:

1. No real property shall be seized for forfeiture unless funds are available from existing appropriations for the maintenance and management of the property pending final disposition of the forfeiture. The condition and contents of seized property shall be documented by photograph and/or video at the time of seizure.
2. The Regional Property Administrator shall keep a detailed record of all expenditures made for the maintenance and management of real property.

VII. MANAGEMENT OF REAL PROPERTY:

1. Upon seizure, or as soon as practical thereafter, an inventory of the contents of any seized real property shall be conducted by the Special Agent and Property Administrator.
2. The Regional Property Administrator shall coordinate the maintenance and management of real property pending final disposition. Contract for special services shall be prepared by FSSB staff. Any necessary repairs that are not part of the regular maintenance service shall be

brought to the attention of the Special Agent Supervisor, and, where appropriate, to the Regional Special Agent in Charge and the Regional Legal Advisor by the Field Property Administrator. If repairs appear to be excessively costly, approval of the Bureau Chief, FSSB, shall be required.

VIII. COORDINATION WITH THE DEPARTMENT OF LEGAL AFFAIRS:

1. The Regional Legal Advisor shall review and assist in the preparation of the probable cause affidavit which shall be prepared by the Special Agent and forwarded to the Department of Legal Affairs, with copies forwarded to the General Counsel.
2. The Special Agent via Chain-of-Command shall be responsible for furnishing all necessary documents and information to the Attorney General's Office concerning any real property to be forfeited including information regarding ownership, liens and mortgages.
3. The Regional Legal Advisor shall review monthly status reports prepared and provided by the Attorney General's Office to the General Counsel and make appropriate recommendations to the bureau Special Agent in Charge and the General Counsel.
4. All offers of settlement shall be reviewed by the General Counsel who shall make a recommendation to the Division Director as to settlement.

IX. DISPOSITION OF REAL PROPERTY:

1. If at the conclusion of the judicial process the Department prevails and a judgment of forfeiture is issued, the Department's ownership interest in the property should not be considered fully perfected until the time for an appeal by the claimant(s) has passed. If appeal is filed, the appeal should be resolved before the Department's ownership interest in the property is considered fully perfected.
2. Once a final judgment of forfeiture has been obtained by the Department and the time for appeals has passed or appeals have been resolved in favor of the Department, title to real estate shall be received in the name, Florida Department of Law Enforcement.
3. Real estate forfeited to the Department under the F.C.F.A. shall be retained, utilized, transferred, donated or sold in a manner as authorized by and consistent with the provisions of the F.C.F.A. and other relevant statutory provisions.

4. From the proceeds of the sale of any forfeited real property, the following costs shall be paid or funds from which payments have been previously made shall be reimbursed:
 - a. Costs of litigation.
 - b. Costs of maintenance and management.
 - c. Fees to the Department of Legal Affairs.

Upon payment or reimbursement of the above, remaining proceeds shall be retained by the Department or may be shared with other agencies as appropriate in particular cases.

X. DISPOSITION OF ENVIRONMENTALLY SENSITIVE OR ENDANGERED LANDS.

1. Lands qualified as environmentally endangered lands pursuant to Section 259.03(2), Florida Statutes (1988), or lands qualified as environmentally sensitive pursuant to Section 253.023(3)(b), Florida Statutes, (1988), will not be disposed of as described in Section IX above, until the Board of Trustees of the Internal Improvement Trust Fund approves of said disposition.

XI. USE OF PROCEEDS DERIVED FROM CIVIL R.I.C.O. ACTIONS:

Although not generated by reason of an action under F.C.F.A., proceeds to be distributed to the Department by reason of successful civil R.I.C.O. actions authorized under Chapter 895, Florida Statutes, will be deposited into the Department's F.C.F.A. forfeiture trust fund (the F.I.S.T. fund). The formula of distribution of proceeds under civil R.I.C.O. actions allows 25% of proceeds remaining after prioritized claims have been paid to be paid to the investigative agency. By reason of language in Chapter 895, such proceeds may be expended only for all costs directly associated with investigating, prosecuting, or maintaining criminal and civil R.I.C.O. actions, including base salaries and overtime associated with such efforts.

T B R O B
TAMPA BAY REGIONAL
OPERATIONS BUREAU

STANDARD OPERATING
PROCEDURE NO. 89-23

PAGE 1 OF 3

DATE:

TBROB ASSET FORFEITURE UNIT

STANDARD:

UNIT RESPONSIBILITY

- A) Maintain a tracking data base for all forfeitures, anticipated or pending, and maintain forfeiture files.
- B) Conduct research on all anticipated real property seizures.
- C) Coordinate federal asset sharing arrangements.
- D) Maintain all seized property.
- E) Conduct asset assessments on major cases when requested by case agent.
- F) Coordinate all activities with Attorney General's Civil RICO unit.
- G) Conduct follow-up investigation on status of all property seized.

CASE AGENT

- A) Notify Unit SAS via chain of command in writing of any assets that have a potential of being seized.
- B) Draft affidavits concerning probable cause to substantiate seizures at the request of the Forfeiture Unit.
- C) Supply Unit with appropriate IR's concerning assets and probable cause for forfeiture.
- E) Notify Unit of anticipated federal forfeitures on FDLE cases and supply information needed to complete Federal Asset Sharing form.
- F) Inform Unit of the status of any criminal proceedings that may effect the forfeiture case. i.e. plea agreement; asset sharing agreements; acquittals.
- G) Complete all seizure forms mandated by the FDLE FIST Manual and Report Writing Manual.

- | | |
|-------------------------------|--|
| FIST PROPERTY ADMINISTRATOR | A) Maintain all property according to FDLE FIST Procedure Manual. |
| DUTY OFFICER | A) Forward a copy of all arrest confiscation reports to CIA, Forfeiture Unit. |
| CRIMINAL INTELLIGENCE ANALYST | A) Maintain a record of the status of each pending forfeiture by property. |
| | B) Maintain civil investigative files for the Unit with information consistent with the FDLE FIST Manual and the TBROB Special Agents Guide to Forfeiture. |
| | C) Provide a weekly report to Regional Legal Advisor and ASAC's consistent with the Files Review dates. |
| | D) Provide a monthly report on the status of all pending cases to the SAC for compliance with Division FIST policy. |
| | E) Conduct research into the background of owners of property. |
| FIST ADMINISTRATIVE SECRETARY | A) Type all legal documents for Regional Legal Advisor. |
| | B) Assist CIA in compiling forfeiture records. |
| | C) Type IR's for Unit. |
| | D) Maintain a separate legal file on each forfeiture handled by the Regional Legal Advisor. |
| | E) Maintain records on FIST Revolving Legal Account. |
| FORFEITURE AGENTS | A) Conduct investigations as required by the FIST Manual and the Special Agent's Guide to Forfeiture. |
| | B) Ensure that legal research is completed on each property. |
| | C) Maintain liaison with other agencies involved with FDLE forfeitures. |
| | D) Insure compliance with Federal Asset Sharing guidelines. |
| | E) Follow-up on leads requests from the Attorney General's Civil RICO section and Regional Legal Advisor. |
| | F) Act as primary liaison with Attorney General's Civil RICO office. |

- G) Conduct financial investigations concerning the assets of all targets in the Region's major investigations.

REGIONAL LEGAL ADVISOR

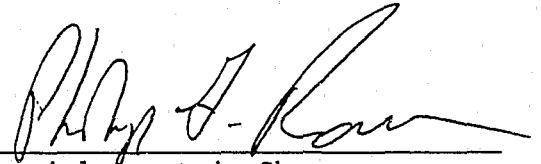
- A) Review all pending cases on a current basis for completeness and legal sufficiency.
- B) Ensure compliance with all legal requirements of FDLE FIST Manual.
- C) Ensure timely reporting to SAC concerning any issue involving forfeitures.

SPECIAL AGENT SUPERVISOR

- A) Provide overall supervision to Unit.
- B) Coordinate unit activities with other squads within the region.

11-21-89

Effective Date



Special Agent in Charge

Revised Date

FORFEITURE COVER SHEET

I. DESCRIPTION OF PROPERTY:

VEHICLE: _____
MODEL: _____
YEAR: _____
VIN #: _____

AIRCRAFT: _____
REGISTRATION #: _____
AIRCRAFT SERIAL #: _____

VESSEL: _____
MAKE/MODEL: _____
LENGTH: _____
REGISTRATION: _____
MOTOR: MODEL: _____
HP: _____
SERIAL#: _____

OTHER PROPERTY: _____
DESCRIPTION: _____

SERIAL #: _____

II. OWNERSHIP:

OWNER: _____
ADDRESS: _____

CORPORATION: _____
PRESIDENT: _____
VICE-PRESIDENT: _____
REG. AGENT: _____

CO-OWNER: _____
ADDRESS: _____

LIEN HOLDER: _____
ADDRESS: _____
AMT. OF LIEN: _____

III. SEIZED PROPERTY:

VALUE _____
HOW DETERMINED: _____
DATE OF SEIZURE: _____
LOCATION OF SEIZ. _____

PRESENT LOCATION: _____

IV. CRIMINAL CASE: _____
OFFENSES: _____
DATE OF ARREST: _____
PROSEC. ATTY. _____
PX: _____

STATUS OF CRIMINAL CASE: _____

V. CONTROLLED SUBSTANCES:

DRUGS: _____

AMOUNT: _____
LAB ANALYST: _____

VI. CASE AGENT: _____

VII. FDLE CASE #: _____

VIII. WITNESS LIST:

NAME

ADDRESS:

REAL PROPERTY FORFEITURE PROPOSAL

FDLE CASE NO: _____

CASE AGENT: _____

I. DESCRIPTION OF REAL PROPERTY:

A. Street Address: _____

B. Legal Description: _____

C. Type of Property:

_____ Residential

_____ Condominium

_____ Duplex

_____ Vacant Land

_____ Rental Units

_____ Commercial

If commercial, describe nature of business:

D. Description of Buildings:

II. Owner:

Co-owner:

Name: _____

Name: _____

Address: _____

Address: _____

Are co-owners spouses? _____

III. LEINHOLDERS:

A. First Mortgage:

Name of Mortgagee: _____

Address: _____

Date Mortgage Recorded: _____

Original Amount: _____

Balance: _____

Monthly or Periodic Payments: _____

B. Second Mortgage:

Name of Mortgagee: _____

Address: _____

Date Mortgage Recorded: _____

Original Amount: _____

Balance: _____

Monthly or Periodic Payments: _____

C. Other Liens:

Name of Leinholder: _____

Address: _____

Nature of Lien: _____

Date Lien Recorded: _____

Original Amount: _____

Balance: _____

Monthly or Periodic Payments: _____

IV. VALUE OF PROPERTY:

- A. Estimated Market Value: _____
- B. Estimated Value Based On:
- _____ Appraisal
 - _____ Recent Purchase Price
 - _____ Tax Assessment
 - _____ Comparable Properties
 - _____ Other: Specify: _____
- C. Equity: _____

V. OCCUPANTS OR TENANTS:

Name	Address (if different from property)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

- VI. REASON FOR FORFEITURE: Give summary of facts giving rise to probable cause to support forfeiture; include whether property was used or intended to be used in violation of criminal statutes or whether property was acquired with proceeds of criminal activity. If this is a derivative property case, show how funds can be traced from source of criminal activity to property: (Use additional sheet if necessary.)

VII. EXPENSES FOR MANAGEMENT OF PROPERTY: (Calculate expenses on monthly basis unless otherwise indicated.)

Combined Monthly Mortgage Payments:

Insurance:

Utilities:

Taxes (not included in mortgage payment):

Property Manager Fee:

Other: Specify

Total Monthly Expenses:

VIII. INCOME FROM PROPERTY: (Calculate income on monthly basis unless otherwise indicated.)

Rental Payments From Tenants:

Income From Business:

Other: Specify:

Total Income:

IX. ASSET SHARING: List other agencies entitled to share in proceeds from property and the amount the agency will receive:

Agency	Percentage

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, Special Agent with the Florida Department of Law Enforcement, who after having been sworn, deposes and says:

Affiant, in the capacity of a Special Agent with the Florida Department of Law Enforcement, began investigating on _____ (date) violations of Chapter _____ (Fla. Statute), Florida Statutes, in regards to _____ (felony). During the course of the investigation, affiant either personally observed or was advised of the following facts.

Recite the following facts:

1. Facts giving rise to probable cause to believe the property was used in violation of Florida Contraband Forfeiture Act. State either how the property was used to facilitate the commission of a felony or how it was acquired with proceeds derived from criminal activity.

2. Specific description of property, including serial number or legal description if applicable.

3. Ownership of property.

Special Agent, Florida Department
of Law Enforcement

SWORN and SUBSCRIBED to me
this _____ day of _____, 198__.

Notary Public

IN THE CIRCUIT COURT FOR THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

IN RE: FORFEITURE OF

CASE NO.: _____

FDLE CASE: _____

AFFIDAVIT OF PERSONAL SERVICE

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME, the undersigned person authorized to administer oaths, personally appeared _____, who after being first duly sworn says:

1. He/She is duly authorized by law to effect service of process within the State of Florida.

2. That on _____, 198__, he/she did deliver a copy of the RULE TO SHOW CAUSE issued in the above-captioned case and signed by the court on _____ (date), to _____ (name of person served) served at, _____ (location where served), Florida.

Affiant

SWORN and SUBSCRIBED to me

this _____ day of _____, 1988.

Notary Public

My Commission Expires:

ASSIGNMENT OF PERSONAL PROPERTY

For value received, _____ (name) _____, hereby assigns and transfers all his right, title and interest in the following described personal property to the Florida Department of Law Enforcement. Said property was seized by the Florida Department of Law Enforcement and is currently in the custody of the Florida Department of Law Enforcement in Case No. _____. The property is described as follows:

_____ (name) _____ represents that he is the sole and lawful owner of the above-described property and that he has the right to make this assignment. He further warrants that he has made no prior assignments of the property. He further agrees to execute any further documents of the title which may be necessary to complete the assignment of his interest in said property.

_____ (name) _____ represents that he has had the opportunity to consult with an attorney prior to signing this Assignment and that this Assignment is made freely and voluntarily.

Executed this _____ day of _____, 198__.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

HOLD HARMLESS AGREEMENT

THIS AGREEMENT made between _____ (name) _____, _____ (address) _____
_____ and the Florida Department of Law
Enforcement for the release of _____ (description of property) _____
_____, registered to or owned by _____ (name) _____
_____, which was seized by the Florida
Department of Law Enforcement during the course of a civil or
criminal investigation. In consideration for the release of the
above described property _____ (name) _____, as owner or
agent of the owner, hereby agrees to unconditionally release and
hold harmless the Florida Department of Law Enforcement, its
officers, employees and agents from any and all claims, demands,
damages, causes of actions or suits or any kind or any loss
whatsoever that now exist or hereafter exist by reason of the
seizure or release of the above described property.

Executed this _____ day of _____, 198__.

FDLE Case Number

Owner or Agent of Owner

Special Agent
Florida Department of
Law Enforcement

The head of the requesting state or local law enforcement agency or a designee should complete this form. Your agency may use this application to request more than one piece of property or a combination of property and proceeds of sales arising from the same seizure in this investigation. This application should be submitted to the federal investigative bureau field office with whom you cooperated within thirty days following the seizure for forfeiture in order to insure that it will be considered. If this investigation results in additional seizures at a later date, you may submit another application. The application requests the following information (if this is a joint application, each participating should complete a separate DAG-71, and submit them under a single cover letter).

Enter the date, your agency's name, case name, and case number, if known, in upper right-hand corner of each page.

1. Requesting Agency: Enter agency name, address, contact person, and telephone number.
2. Description of Requested Property: List and describe the property requested arising from this seizure. Include serial number or Vehicle Identification Number (VIN), if known. If you are requesting forfeited cash, proceeds of sale of forfeited property, or tangible property, indicate the percentage, e.g., "20% of proceeds of sale of real property at 47 Owens Street," "75% of \$10,000 US currency," and/or "one Ford Bronco."
3. Intended Law Enforcement Use: All transferred property, including cash or proceeds, must be used for law enforcement purposes. Indicate how your agency will use the requested property. Please be specific. If the requested property will be transferred by you to another organization for law enforcement purposes, please indicate the name of that organization and how it intends to use the property.
4. Identification of All State or Local Law Enforcement Agencies that Participated in this Investigation: List all participating state or local law enforcement agencies, if known. If this is a joint application, specify how the property or proceeds should be distributed among the requesting agencies.
5. Description of Assets Seized for State Forfeiture in this Investigation, if any: List all assets seized for state forfeiture in this investigation. Include the appraised value for each piece of property listed.
6. a Narrative Description: Describe, in narrative form, your agency's role in the overall investigation. The overall investigation includes the efforts of federal, state, and local agencies.
b Specific Factors: In addition, please answer numbers 1 through 6 concerning this investigation. Number 4 refers to items other than regular overhead such as buy money, overtime, and rental of vehicles.
7. Fiscal Officer to Whom Disbursement of Money Should be Made: Enter name, address, and telephone number of the designated fiscal officer for your agency.
8. Official to Whom Transfer Documents Should be Delivered: If you are requesting a specific piece of property, furnish name, address, and telephone number of the official for your agency who is legally authorized to take title to the property.
9. Official to Whom Property Should be Delivered: Enter name, address, and telephone number of the official for your agency who will take custody of the property.
10. Certifications:
 - a. The head of your agency or a designee must certify that the information recorded in numbers 1-9 above is true and correct.
 - b. Your agency must obtain legal counsel's certification that the appropriate individuals are identified in items 8-9. Counsel must also certify that he or she knows of no prohibition to the transfer of property under state or local law.

Date:
Requesting Agency:
Case Name:
Case Number:
SYSID Number:

U.S. Department of Justice

Application for Transfer of Federally Forfeited Property

To Be Completed by Requesting Agency Within 30 Days Following Seizure

1. Requesting Agency or Agencies:

Agency Name:

Agency Address:

Contact Person/Title:

Telephone Number: ()

2. Description of Requested Property:

List and describe the property requested (include VIN or serial number, if known). If you are requesting forfeited cash or proceeds of sale of forfeited property, indicate a percentage.

3. Intended Law Enforcement Use:

Please be specific.

4. Identification of All State or Local Law Enforcement Agencies That Participated in this Investigation:

5. Description of Assets Seized for State Forfeiture in this Investigation, if any:

Property

Appraised Value

Date:
Requesting Agency:
Case Name:
Case Number:
SYSID Number:

6.a. Narrative Description:

6.b. Specific Factors:

1. Which agency initiated the investigation?
2. Which agency identified the assets?

Your contribution:

3. Percentage participation in the overall investigation
4. Extraordinary costs incurred (*be specific as to purpose*)
Purpose: _____
5. Number of manhours
6. For what total period of time did you participate in the investigation?

\$ _____

(Use additional sheets of paper if necessary)

INSTRUCTIONS FOR COMPLETING CUSTOMS FORM 343, APPLICATION FOR TRANSFER OF FEDERALLY FORFEITED PROPERTY/DISCONTINUANCE

- (1) *Date of Request*: Must be no later than 30 days after seizure.
- (2) *Date of Seizure*: Must be completed.
- (3) *USCS Seizure #*: Must be completed; call local Customs office if unsure.
- (4) *Type of Request*: Sharing or Discontinuance, check appropriate box.
- (5) *Requests over \$25,000*: If asset is over \$25,000, should be marked YES for faster USCS internal tracking.
- (6) *Requesting Agency*: Full agency name, address, contact person, telephone number.
- (7) *Property Requested*: Full description of property requested.
- (8) *Intended Use of Property*: Indicate how requested property will be used. All transferred property, including cash or proceeds, must be used for law enforcement purposes.
- (9) *Description of Previous Assets Seized*: List all assets seized for state forfeiture, if any, in this investigation. Include the appraised value for each piece of property listed.
- (10) *Agency Role*: Describe agency's role in the overall investigation. Estimate the value or significance of the contribution to the overall investigative effort in percentage terms. Indicate, for example, if agency initiated the investigation or identified any of the seized assets. Where pertinent, include the amount of money and manpower expended by your agency.
- (11) *Agency Participants*: In cases of multiple agency participation, provide names of other agencies.
- (12) *Payment of Fees to Effect Transfer*: Please indicate YES or NO. Agency must pay all liens or mortgages associated with a specific piece of property and may be required to pay some expenses. Agency will, however, be advised of all mortgages, liens, or expenses before a commitment to accept the property is required.
- (13) *State or Local Forfeiture Laws*: If a request for Discontinuance, list and describe state or local laws which provide for forfeiture.
- (14) *Agency Fiscal Officer*: Enter name, title, address, and telephone number of the designated fiscal officer of your agency who will take custody of monetary disbursements.
- (15) *Agency Document Official*: Enter name, title, address, and telephone number of the designated agency official to whom transfer documents should be delivered.
- (16) *Agency Property Official*: Enter name, title, address, and telephone number of the designated agency official to whom property should be delivered.
- (17a) *Agency Requester*: Original signature and date required, must be agency head or designee.
- (17b) *Legal Counsel Review*: Must be completed by agency legal counsel. Enter name, title, address, and telephone number.

CUSTOMS USE ONLY

Note: All requests for under \$25,000 are to go to ARC(E), and all requests over \$25,000 are to go to Headquarters via ARC(E).

- (18) *SAC Recommendation*: Complete in either Participation or Discontinuance section. Evaluate agency application and make recommendation.
- (19) *Region ARC(E) Recommendation*: Complete in either Participation or Discontinuance. Evaluate application and make recommendation.
- (20) *If Box 5 is YES*: Regional Commissioner Memo for disposition is required.
- (21) *FP&F*: Enter CPTS code.

Date:
Requesting Agency:
Case Name:
Case Number:
SYSID Number:

7. Fiscal Officer to Whom Disbursement of Money Should be Made:

Name/Title:

Address:

Telephone Number: ()

8. Official to Whom Transfer Documents Should be Delivered:

Name/Title:

Address:

Telephone Number: ()

9. Official to Whom Property Should be Delivered:

Name/Title:

Address:

Telephone Number: ()

10. Certifications:

- a. The requester agrees to report on the actual use of equitably transferred property upon request. The requester agrees to pay fees and expenses necessary to effect transfer of title not later than the time of transfer. The requester certifies that the above information is true and accurate.

Signature/Title

Date

- b. As legal counsel for _____ I have reviewed this Application
(Requester)

for Transfer of Federally Forfeited Property and I certify that _____
(Name)

has the authority to accept the forfeited property and is the official to whom transfer documents should be delivered. It is my opinion that _____ is the proper fiscal officer to whom disbursement of money is
(Name)

to be made. I know of no state or local law prohibiting the transfer of this property to _____
(Requester)

Signature/Title

Date

Address:

Telephone Number: ()



DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

APPLICATION FOR TRANSFER
OF FEDERALLY SEIZED/FORFEITED PROPERTY
TO STATE OR LOCAL LAW ENFORCEMENT AGENCY
(Treasury Decision 86-51)

(1) Date of request: _____

(2) Date of seizure: _____

(3) U.S.C.S. seizure #: _____

This form must be submitted to U.S. Customs within 30 days following seizure. Attach additional pages if necessary.

(4) Type of request: (Check one)

☐ State or Local
☐ **SHARING REQUEST**

☐ **DISCONTINUANCE** of federal forfeiture in favor of state forfeiture

(5) Requested asset over \$25,000 in value?

☐ YES

☐ NO

(6) Requesting agency(ies):

Agency name:

Agency address:

Contact person/Title:

Telephone number: ()

(7) Description of requested property:

List and describe the property requested (include VIN or serial number(s) if known).

(8) What is the intended use for the property?

(9) Describe assets (including value) already seized for state forfeiture in this case, if any.

- (10) Description of requesting agency's participation in law enforcement activity leading to seizure or forfeiture.
Provide your agency's estimate of resources expended. Attach additional pages if necessary.

- (11) Identify all other federal/state/local law enforcement agencies that participated in this seizure.

- (12) Requestor agrees to pay fees and expenses necessary to effect transfer of title not later than the time of transfer.

Yes: _____ No: _____

ITEM 13 TO BE COMPLETED FOR DISCONTINUANCE REQUESTS ONLY

- (13) * What state or local laws provide for forfeiture of the subject property?

(14) Fiscal officer to whom disbursement of money should be made:

Name/Title:

Address:

Telephone number: ()

(15) Official to whom transfer documents should be delivered:

Name/Title:

Address:

Telephone number: ()

(16) Official to whom property should be delivered:

Name/Title:

Address:

Telephone number: ()

(17a) The requestor certifies that the above information is true and correct:

(Signature/Title)

(Date)

(17b) As legal counsel for _____
(Requestor)

I have reviewed this application for transfer of federally seized or forfeited property, and I certify:

(1) that _____
(Name)
is the official to whom transfer documents should be delivered,

(2) that _____
(Name)
is the proper fiscal officer to whom disbursement of money is to be made, and

(3) that there is no known state or local law prohibiting the transfer/forfeiture discontinuance of this property to:

(Requestor)

Signature/Title

Date

Address:

Telephone number: ()

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO.: _____

vs.

FDLE CASE NO.: _____

APPLICATION FOR REIMBURSEMENT OF INVESTIGATIVE COSTS

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME the undersigned authority, personally appeared
_____, Special Agent for the Florida Department
of Law Enforcement, who after first being duly sworn, deposes and
says:

1. He/She is the case agent in charge of the
investigation by the Florida Department of Law Enforcement of the
above-named defendant which resulted in the arrest and
prosecution of the defendant for the criminal offenses charged in
this cause.

2. The Florida Department of Law Enforcement requests,
pursuant to F.S. 939.01, that the Defendant be ordered to
reimburse the Florida Department of Law Enforcement for costs
incurred in the investigation and prosecution of this cause.

3. The Florida Department of Law Enforcement has incurred the following actual expenses during said investigation and prosecution:

<u>EXPENDITURE</u>	<u>AMOUNT</u>
Employee Wages	_____
Vehicle Mileage Expenses	_____
Confidential Source Payments	_____
Confidential Source Expenses	_____
Witness Protection Expenses	_____
Employee Per Diem Expenses	_____
Vehicle Rental Expense	_____
Airline Fares Expense	_____
Other Incidental Expenses	_____
TOTAL	_____

4. The total amount of investigative costs expended by Florida Department of Law Enforcement in this cause is _____.

5. A true and correct copy of this Application has been furnished to the State Attorney _____ (name) _____, _____ (address) _____, and the attorney for the Defendant, _____ (name) _____, _____ (address) _____, by U.S. Mail this _____ day of _____, 198__.

Special Agent, Florida Department
of Law Enforcement

SWORN and SUBSCRIBED to me
this _____ day of _____, 198__.

Notary Public