

OFFICE OF THE CHIEF OF POLICE

NOTICE

September 6, 2019

1.11

TO: All Department Personnel

FROM: Chief of Police

SUBJECT: PROCEDURES ON THE SEIZURE, BOOKING, AND STORAGE OF
PERSONAL PROPERTY FOLLOWING A CUSTODIAL ARREST

PURPOSE:

The purpose of this Notice is to establish procedures and provide guidance to all Department personnel regarding the seizure and disposition of personal property following a custodial arrest in light of the settlement terms recently approved by a Los Angeles federal court in *Mitchell v. City of Los Angeles*.

The Department is committed to strictly adhering to the Fourth Amendment's prohibition against unreasonable searches and seizures and ensuring that any property seized is safeguarded and returned to its rightful possessor as required by law. This includes non-evidentiary personal property seized as part of a custodial arrest or any property an officer decides to book at the request and consent of the arrestee. The following procedures are designed to comply with the law and ensure that all persons, including those experiencing homelessness, are able to re-acquire their personal property while also maintaining the safety and the security of the community.

PROCEDURE:

An officer may not search or seize personal property without a warrant unless an exception to the warrant requirement applies under specific circumstances. For example, an officer may detain a person and conduct a pat down if the officer has reasonable suspicion that the person is armed. Additionally, an officer may seize evidence in plain view, including contraband, without a warrant where the officer has a lawful right to be in the location and lawful access to the item; and, may conduct a search or seizure of property if provided appropriate consent by a lawful possessor.

Searches Incident to Arrest and Property Seized

When conducting an arrest, an officer is required to conduct a search incident to arrest prior to booking. This type of search does not require probable cause or reasonable suspicion, provided that the arrest is lawful. Items seized during a search incident to arrest must be booked into evidence in accordance with Department policies and procedures (e.g., contraband, evidence, excess personal property, non-evidence).

Community Caretaking Doctrine Seizure

Under the Community Caretaking Doctrine, which is an exception to the Fourth Amendment warrant requirement, an officer may seize personal property that creates a threat to public safety or public health, including where such property blocks lawful access to a public street, sidewalk, building, loading dock, or parking area or otherwise obstructs access required under the Americans with Disabilities Act (ADA).

Examples:

- Where a public safety hazard exists because a person's personal property is on a roadway and likely to cause an accident.
- Where access to a public right-of way is impeded due to personal property blocking the sidewalk with less than 36 inches of clearance to pass.

OFFICERS SHALL NOT SEIZE PROPERTY OF AN ARRESTEE THAT POSES A PUBLIC HEALTH HAZARD. Even if requested by an arrestee, Department personnel shall not seize any arrestee property reasonably believed to be contaminated by hazardous material or vermin. Officers shall document their observations and the facts supporting their belief that the specific item(s) of property requested to be seized was contaminated in the Arrest Report, Form 05.02.00, and notify Los Angeles Public Works' Bureau of Sanitation (LASAN).

Consent for Seizure of Non-Evidentiary Personal Property

If requested by an arrestee or where consent is obtained, the following types of non-evidentiary personal property not seized during a search incident to arrest shall be seized and booked into property, provided an officer has reasonable access to the items:

- (1) Any money, prescription medications, identification, important paperwork, or other items that can be placed inside an arrestee's property bag for booking; or,
- (2) Medical equipment (e.g., a wheelchair, walker, walking cane) that cannot be placed in a property bag.

If requested by an arrestee, officers may, when practicable, seize and book items other than those described above.

When an arrestee requests that non-evidentiary personal property be seized or if an officer obtains consent to seize the property, the interaction with the arrestee (including the arrestee's consent) and seizure of the property shall be recorded through any available video and audio capabilities on Department-approved devices such as body worn video, digital in-car video, or other authorized digital recording devices, and documented in the Arrest Report.

All other personal property that does not meet the standard for seizure under the Community Caretaking Doctrine or other Fourth Amendment exception shall remain at the location of arrest.

When LASAN personnel are present at the location of a custodial arrest, they may assess and remove property posing an immediate threat to public health, as determined by LASAN.

Note: Department personnel shall not destroy or discard any property left at the location of arrest.

Requirement for Booking Personal Property

When any of an arrestee's seized personal property, other than money, prescription medications, identification, and other important paperwork, is too large to fit inside the arrestee's property bag, it shall be packaged separately as Excess Personal Property in accordance with Department Manual Section 4/645.20, *Property Taken from an Arrestee*.

Department personnel booking an arrestee's Excess Personal Property shall:

- Complete the Excess Personal Property Receipt, Form 10.08.00, itemizing the property;
- Provide the advisement notated in bold to the arrestee;
- Write the name and serial number in the "Advising Employee/Serial No." boxes;
- Provide the storage location, which indicates the address, phone number, and hours of operation for the location in which his or her Excess Personal Property will be held;
- Hand deliver the original copy of the Excess Personal Property Receipt to the arrestee and advise the arrestee that the receipt contains a written notice on property storage and procedures for reclaiming their property after release. **DO NOT** place the receipt inside the arrestee's property bag;
- Complete the Personal Property Envelope, Form 10.13.01;
- Gather all Excess Personal Property into a single bundle and ensure it is securely fastened;
- Attach the completed *manila hard copy of the Excess Personal Property Receipt* with the Personal Property Envelope/Tag to the outside of the bundle; and,
- Ensure the Excess Personal Property is booked.

All personal property seized outside of the Mitchell Settlement Zone and stored in Department facilities (e.g., Custody Services Division and Evidence and Property Management Division), will continue to be held for 60 days, and upon a written request by the arrestee, the Department will store his or her personal property an additional 10 months from the date the Department took possession.

Additional Requirements in MITCHELL Settlement Zone

In the geographic area of the City covered by the *Mitchell* Settlement (the area of downtown Los Angeles bordered by: Second Street to the north; Eighth Street to the south; Spring Street to the west; and, Alameda Street to the east), personnel shall make any seized medication, medical equipment, important paperwork, money, tent, sleeping bag, or blankets available to the arrestee within 24-hours of the arrestee's release from custody, and any other personal property seized pursuant to the Community Caretaking Doctrine or other exception to the Fourth Amendment available to the arrestee within 72-hours of the arrestee's release from custody.

Note: Officers assigned to Areas or units with alternative booking locations for Excess Personal Property (e.g., Central Area's Excess Property Warehouse) may continue to use any authorized alternative locations. In such cases, the arresting officer shall ensure the arrestee receives an Excess Personal Property Receipt with the address and phone number of the location where the property will be stored and a notation that the property will be stored for a minimum of 90 calendar days.

Additionally, the arresting officer shall verbally inform the arrestee of his or her right to notify the Department in writing to request to hold their Excess Personal Property for an additional period of time not to exceed 12 months from date of arrest, in the event the arrestee remains in custody.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

Should you have questions regarding this Notice, please contact the Evaluation and Administration Section, Office of Operations, at (213) 486-6050.



MICHEL R. MOORE
Chief of Police

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