ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE
POLICY 1411.0, SEIZURE OF CRYPTOCURRENCY

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ACCREDITATION STANDARDS:	
CHIEF OF POLICE:	ERIC SMITH

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POLICY:

It is the intent of this policy to provide guidelines to ensure that the search and seizure of cryptocurrencies comply with all applicable legal requirements. This policy describes the authority and procedure for the seizure, forfeiture and liquidation of cryptocurrency subject to seizure as evidence or for forfeiture.

PROCEDURES:

1. DEFINITIONS

Agency Forfeiture Wallet: This is a web-based wallet (hot storage wallet) maintained by the Orlando Police Department to store seized and voluntarily forfeited cryptocurrency as well as cryptocurrency stolen or funded by victims. This seizure wallet acts as the repository in the seizure process upon entry of final judgement or settlement agreement.

Blockchain: A digital ledger in which transactions made in a cryptocurrency are recorded chronologically and publicly.

Cold Storage Wallet: Cold storage is offline cryptocurrency storage. Any cryptocurrency wallet that is not connected to the internet is considered cold storage and is referred to as a cold wallet. The most common type of cold wallet is a hardware wallet, which is typically a small device that connects to a computer. Other examples of cold storage wallets are paper wallets, physical Bitcoin with Bitcoin loaded on to it, and offline computers.

Cryptocurrency: A decentralized medium of exchange, which is based on an online public ledger that operates like a currency in some environments but does not have all the attributes of real currency. Examples of cryptocurrencies include, but are not limited to, Bitcoin, Bitcoin Cash, Dash, LiteCoin, Ripple, ZCash, and Ethereum.

Exchange: An exchange is a digital marketplace where traders can buy and sell cryptocurrencies using different fiat currencies or altcoins (crypto coins other than Bitcoin). For example, a Bitcoin currency exchange is an online platform that acts as an intermediary between buyers and sellers of the cryptocurrency.

Hot Storage Wallet: A cryptocurrency wallet that is online and connected in some way to the Internet.

Private Key: A private key is a secret number that is used in cryptography and cryptocurrency. A private key is a large, randomly generated number with hundreds of digits. For simplicity, they are usually represented as strings of alphanumeric characters. These private keys are case sensitive. A private key is similar to a password. Anyone can deposit crypto coins into a public address, but crypto coins cannot be removed from a public address without the corresponding private key.

Public Key: A cryptographic code or QR code that allows a user to receive cryptocurrencies into his or her account. A public key is similar to a bank account number.

Recovery Phrase or Seed Phrase: The recovery phrase is a group of 12 to 14 nonsensical words to gain access to your cryptocurrency wallet in the event the private key is lost, stolen, seized or forgotten.

Re-Image: Re-install the operating system in such a manner that data files, program files, and metadata from the previous operating system cannot be accessed or recovered.

Seizing Officer: Sworn officers of OPD responsible for the seizure of cryptocurrency. These officers are also responsible for maintaining chain-of-custody. The Seizing Officer will have sufficient knowledge, training, and abilities to perform the seizure in a forensically sound manner and will have advanced training on cryptocurrency.

Seizure Order/Warrant: A court order/warrant signed by a Judge (E.g., Seizure Warrant, Search Warrant, et.)

Seizure Software Wallet: A seizure software wallet is a hot storage wallet created to support seized cryptocurrency coins which are NOT supported by Orlando Police Department's Agency Seizure Wallet (hot wallet). This seizure software wallet shall be made with the consultation of the Legal Advisors and will be utilized at the initial seizure process.

Wallet or Web Wallets: A software program in which one or more private keys are stored, a bearer instrument in which one or more private keys are stored; or a paper hard copy on which one or more private keys are written.

Witnessing Officer: Sworn officer responsible for observing the seizure and storage of seized cryptocurrency. The Witnessing Officer will have sufficient knowledge, training, and abilities to fully understand the seizure process and safeguards being employed.

2. SEIZURE PROCEDURES

Cryptocurrency can be subject to seizure either as evidence or forfeiture or both. When cryptocurrency subject to seizure is in a hot storage wallet, and the Exchange will comply with a seizure warrant issued by judicial authority, such warrant will be served on the Exchange by the officer issuing the seizure warrant. While it is not mandatory, it is suggested that the officer serving the seizure order on the Exchange gain guidance from the Economic Crimes Unit and/or SED while going through this process.

If cryptocurrency is being seized for forfeiture, the legal advisor must be contacted prior to any freeze or transfer of cryptocurrency.

a. After the Exchange has been notified of the seizure, has responded to the officer who served the seizure warrant, and has frozen the seized wallet, the officer shall contact SED who will appoint a seizing officer for the purpose of transferring the cryptocurrency. Upon communicating with Legal Advisors, the pre-approved seizing officer will move the seized hot storage wallet into the Agency Seizure Wallet via communicating with the Exchange. The pre-approved seizing officer will complete this process with a witness and will document the process with a supplemental report. The seizing officer will notify Legal Advisors as soon as this is completed.

2.1   When you have the Private Key and the cryptocurrency is subject to seizure and either 1) an Exchange will not comply with a seizure order issued by judicial authority, 2) when the Agency Seizure Wallet does not support the cryptocurrency coins being seized, or 3) when exigency exists such that it is not feasible to serve a seizure order on the Exchange, the following will occur:

    a. The officer will contact the Legal Advisor Office for approval of the seizure and to discuss any exigencies.

    b. The officer seizing the cryptocurrency will contact SED who will appoint a pre-approved seizing officer. The initial officer seizing the cryptocurrency will become a witnessing officer and the pre-approved seizing officer will become the seizing officer. The seizing officer will utilize a computer owned by OPD to create a seizure software storage wallet which will support the seized cryptocurrency coins. This process will be observed at all times by the witnessing officer.

    c. The seizing officer will take a screen capture, photograph, or otherwise document the amount of cryptocurrency subject to seizure. This process will be observed at all times by the witnessing officer.

    d. The seizing officer will use the private key for the cryptocurrency subject to seizure to transfer a nominal quantity (equivalent to $3 USD) to the seizure software wallet controlled by OPD and will take a screen capture, photograph, or otherwise document the exchange. This process will be observed at all times by the witnessing officer.

    e. The seizing officer will use the private key for the cryptocurrency subject to seizure to transfer the remaining balance of cryptocurrency to the seizure software wallet controlled by OPD and will take a screen capture, photograph, or otherwise document the exchange. This process will be observed at all times by the witnessing officer.

    f. In instances in which more than one private key exists in the same wallet subject to seizure, the same seizure software wallet controlled by OPD can be utilized. A new seizure software wallet controlled by OPD will be created for each new wallet subject to seizure (e.g., if the same subject has hot storage accounts with different exchanges, a new seizure software wallet controlled by the agency will be created and used for each wallet subject to seizure).

    g. When possible, the seizing officer will use the blockchain to confirm that the exchange was successfully accomplished from the wallet subject to seizure to the seizure software wallet controlled by OPD. The seizing officer will take a screen capture, photograph, or otherwise document the blockchain ledger exchange. This process will be observed at all times by the witnessing officer.

    h. The seizing officer will notify the Legal Advisor once the process is complete.

2.2   When the cryptocurrency subject to seizure is stored in a cold storage wallet, the seizing officer will attempt to obtain the Public Key, Private Key and/or Recovery (Seed) Phrase.

    a. If the public and private keys are known, or the public key and recovery (seed) phrase are known, the seizing officer shall determine if the seized cryptocurrency coin is supported by the Agency Seizure Wallet or if a Seizure Software Wallet shall be created.

        1. If the seized cryptocurrency coins are supported by the Agency Seizure Wallet, the officer serving the seizure warrant shall refer to steps laid out in all of Section 2 (above).

2. If the seized cryptocurrency coins are not supported by the Agency Seizure Wallet, the officer serving the seizure warrant shall refer to steps laid out in all of Section 2.1 (above).

3. Once the seized cryptocurrency is transferred to an Orlando Police Department controlled wallet, the seized cold storage wallet shall be stored in OPD property and evidence with the keys and/or seed words written down.

b. If the public and/or private key and/or recovery (seed) phrase are unknown, the seizing officer must notify the Legal Advisors via an email of this seizure and submission into property and evidence. It should be noted in this email if the public key, private key, and/or seeds words were submitted with the cold storage wallet or if they were not obtained.

2.3 All seized cryptocurrencies will not be converted to United States Currency until a final judgement order for the seizure is issued. This is consistent with existing policy and practice when seizing other items that can fluctuate in value (e.g., precious metals, houses, negotiable instruments, vehicles, works of art, and foreign currencies).

3. FORFEITURE WALLET

When Cryptocurrency is being seized for forfeiture, OPD P&P 1106 Contraband, Seizure and Forfeiture shall be adhered to.

3.1 A pre-approved seizing officer shall have access to the Orlando Police Department's Agency Forfeiture Wallet to facilitate easy cryptocurrency wallet seizures in a timely manner. This pre-approved seizing officer shall also maintain the computer utilized to create seizure software wallets controlled by OPD. This pre-approved seizing officer will act as an agent at the direction of Orlando Police Department's Legal Advisors and will communicate with the Legal Advisors at all steps of the seizure process.

3.2 Orlando Police Department Legal Advisors shall have access to the Agency Forfeiture Wallet.

4. LIQUIDATION

Due to the inherently volatile nature of the cryptocurrency market, it shall be the Orlando Police Department's policy to view cryptocurrency in the form of property. For example, if a wallet is seized with .5 Bitcoins, it shall be viewed as .5 Bitcoins and not the current monetary value of .5 Bitcoin at the time of seizure. If beyond the reasonable doubt threshold is not established and the Bitcoin shall be returned, it shall be returned as .5 Bitcoin. If a settlement is reached, the settled upon portion of the Bitcoin shall be transferred to a hot or cold storage wallet as designated by the owner. For example, if the Orlando Police Department settles to return .25 Bitcoin to the owner and receives .25 Bitcoin in forfeiture per a settlement agreement, .25 Bitcoin will be returned to the owner and .25 Bitcoin belonging to the Orlando Police Department shall be converted to U.S. Currency as soon as reasonable possible.