



**National Lawyers Guild Report:
The LAPD'S
Illegal Confiscation and Destruction
Of Street Vendor Merchandise and Property**

**Prepared by:
The Los Angeles Chapter of
The National Lawyers Guild**

December 10, 2014

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Charlie Beck, LAPD Chief of Police
LAPD Headquarters
100 W. 1st Street
Los Angeles, CA 90012

Re: National Lawyers Guild Report on Illegal Street Vendor Property Confiscation

Dear Chief Beck:

Thank you for meeting with us on December 3, 2014, regarding street vendor property confiscations. We have added the complaint of Rosa R. to this report.

We have received numerous complaints from street vendors regarding the confiscation and/or destruction of their property and harassment of vendors by various LAPD officers during enforcement of Los Angeles Municipal Code Section 42.00 (b). The problematic conduct by LAPD officers is of great concern to organizations working with the immigrant community. Our mutual goal should be to ensure that the civil rights of street vendors are respected and that they are treated fairly and humanely.

This report documents the illegal confiscation and destruction of property by the LAPD during enforcement of LAMC 42(b). The report also describes numerous incidents of harassment of street vendors. The confiscation of property by LAPD officers is a violation of the Fourteenth Amendment's requirement of due process and an unreasonable seizure in violation of the Fourth Amendment. We are especially concerned about what appears to be illegal conduct by some LAPD officers who seized cash from a vendor but did not provide a receipt or even issue a citation, leaving no evidence of the interaction.

These confiscations are a violation of the Fourth Amendment even assuming these vendors were in violation of LAMC 42(b). In *United States v. Jacobsen*, for example, the U.S. Supreme Court has recognized protected possessory interests even in contraband. Therefore, the seizure of these vendors' property remains subject to the Fourth Amendment's reasonableness requirement. Even when enforcing LAMC 42(b), officers must act reasonably under the Fourth Amendment.

LAPD appears to have no clear policy regarding the treatment of the vendors' property. In 2013, a community legal advocate spoke to Ophelia Labes, the Central Division Property Deposition Coordinator, who stated that she was not really clear on the process for returning property. According to Ms. Labes, at the City Attorney hearings the vendors are "guilty" and the property is to be kept for a year in case they are cited again so that the LAPD has the evidence against them. This is clearly erroneous. More commonly, vendors are not given City Attorney hearings. Instead they are cited for a violation of LAMC 42(b) and required to

pay fines ranging from \$300.00 to \$500.00 after their property is confiscated and/or destroyed.

This destruction of property is unreasonable under the Fourth Amendment. The LAPD often destroys vendors' property on the scene by throwing goods in the trash or on the ground. As detailed below, LAPD officers rarely provide receipts for confiscated property to vendors. Even when such receipts are given, the LAPD's process for returning property is unfair, unclear, and often non-existent. This lack of due process with respect to the property of vendors acts to permanently deprive owners of their property.

In *Lavan v. City of Los Angeles*, under similar circumstances, the Court held that "even if the seizure of the property would have been deemed reasonable had the City held it for return to its owner instead of immediately destroying it, the City's destruction of the property rendered the seizure unreasonable." Similarly in *Jacobsen*, the Court held that "A seizure lawful at its inception can nevertheless violate the Fourth Amendment because its manner of execution unreasonably infringes possessory interests." Here, because the LAPD either immediately destroys or holds property indefinitely with no clear process for return, these seizures unreasonably infringe the possessory interests of the vendors.

The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." According to *Fuentes v. Shevin*, "any significant taking of property is within the purview of the Due Process Clause." According to *Lavan*, "even if the City had seized...possessions in accordance with the Fourth Amendment, which it did not, due process requires law enforcement to take reasonable steps to give notice that the property has been taken so that the owner can pursue available remedies for its return." In *United States v. James Daniel Good Real Prop.*, the Supreme Court re-iterated that "our precedents establish the general rule that individuals must receive notice and an opportunity to be heard *before* the Government deprives them of property."

Such being the case, the immediate destruction of vendors' property, or the confiscation of that property without a receipt or effective means of return, violates both the Fourth and Fourteenth Amendments. It also violates the LAPD's own policy regarding the storage of confiscated property and the provision of a receipt for property that is booked into evidence. It is our sincere hope that these violations of vendors' civil rights will be addressed by you immediately. The following paragraphs are summaries of interviews we have conducted in various legal clinics for street vendors.

- On September 13, 2014, Ms. B and Mr. G were with other vendors on Olympic and Stanford Street in downtown Los Angeles. An African American female officer arrived on the scene. Ms. B and Mr. G packed up their equipment and merchandise. They put their wares in a parking lot near their car. The officer took their property from where it had been stored in the parking lot and placed it into a public health vehicle. The officer did not give them a receipt for the confiscated property. The value of the confiscated property was approximately \$200.00.
- In September 2014, Claudia R was selling hot dogs on the corner of Wilshire and

Alvarado Street when she was approached by a uniformed LAPD officer. She was told she could either receive a ticket and go to court, or give up her hot dog cart and hot dogs in order to avoid paying a fine. Claudia R says the LAPD officers give her this option every time they approach her for vending. Claudia R loses about \$175.00 every time her property is seized. She has never been given a receipt for her seized property. Claudia works to support her children and grandchildren. The seizure of her property places a huge financial burden on her and her family.

- In March 2014, Jose V was selling memory cards, headphones and chargers on the corner of Wilshire and Alvarado Street when an LAPD patrol vehicle pulled up alongside him. The officers did not give Jose V a citation for street vending. However, they did seize all his property which was worth about \$300.00. While confiscating his property the officers also took his prescription for heart medication. The officers gave Jose V a receipt for the seized property. However, when he went to the LAPD Central Division to claim the property items, he was informed that his property was in another location where property is stored. He went to the property storage location but was told his property was not there but was located at Central Division. Jose V went back to Central Division and was informed his property was not there. Jose V was ultimately unable to recover his property. Jose V depends on the income he earns from street vending. The seizure of Jose V's property left him unable to pay his rent and buy food. With a limited ability to support himself, Jose V was forced to borrow money to get by.
- On March 31, 2014, Rosa E was leaving a store on Alvarado Street between Wilshire and 7th Street when she was approached by LAPD Officer Sgt. Chavez who pressed a ticket into her hand and told her she was being cited for Illegal Vending/Street Sales [LAMC Section 42.00 (b)]. Rosa E was not vending and was in fact shopping for personal items (but she may be known to the LAPD for vending in the area.
- On April 22, 2014, Rosa E was selling used clothing near the intersection of Wilshire and Alvarado. LAPD Officer Torrance (Serial No. 35713) approached her and asked for ID. He then stated that she had an outstanding warrant for a prior arrest for Illegal Vending/Street Sales [LAMC Section 42.00 (b)]. The LAPD officer confiscated all her goods and did not provide her with a receipt for her confiscated property. Rosa E was taken into custody and incarcerated for two days until she was brought before a judge who released her for "time served." However, upon receiving her personal effects she noticed there was another ticket for Illegal Vending/Street Sales [LAMC Section 42.00 (b)] among her belongings which she must now pay. These fines and her incarceration have left her unable to pay her rent of \$750 a month and take care of her disabled adult son who she supports financially. Rosa E suffers from diabetes, high blood pressure and depression. Her health is deteriorating as she struggles to support herself and her son.

- Luis sells fresh orange juice from a cart on Alvarado Street between Wilshire and 7th Street. During the past two years he has had his property confiscated numerous times by uniformed LAPD officers who are assisted by Health Department officials. Luis is not given a receipt for his confiscated property which consists of his cart, his oranges, and his juicer. He is cited for Illegal Vending/Street Sales [LAMC Section 42.00 (b)] and fined between three hundred and five hundred dollars. The value of the items seized often exceeds \$200.00.
- Guadalupe A sells clothes on Alvarado Street between Wilshire and 7th Street. She has been cited on numerous occasions for Illegal Vending/Street Sales [LAMC Section 42.00 (b)]. Her property has been confiscated and she has not been given a receipt for her confiscated property. As a result of receiving these citations Guadalupe A has been given 111 hours of community service. Guadalupe A suffers from ovarian cancer and sells on the street to support herself and pay for medical treatment. She has no extra money to pay the fines and has opted for community service in lieu of paying the fines. However, as her cancer progresses she is unable to perform the community service hours she has been given. When she appeared in court to explain her situation, she was only given an extension to complete her service hours. On November 14, 2014, Guadalupe A was vending on Alvarado Street between Wilshire and 7th Street when a uniformed LAPD officer approached her and gave her a \$360.00 ticket. The officer then seized the clothes she was selling and did not give her a receipt. Her inability to pay the fine and perform her community service hours is causing her great stress.
- On October 22, 2014, LAPD Officers Andreas (Badge # 36074) and Albarenga cited Jose U near the Westlake/MacArthur Park Metro Station for Illegal Vending/Street Sales [LAMC Section 42.00 (b)]. Jose U was given a citation for \$480.00 and verbally harassed. While he was being cited one of the officers repeatedly referred to him as “trash.” The officers did not seize his property. As a result of the citation Jose U has had difficulty paying rent and has had to borrow money to make ends meet.
- In October 2014, Jose O was selling two radios on the corner of Wilshire and Alvarado Street. An LAPD patrol car pulled alongside him and a bald white male uniformed LAPD officer exited the vehicle. The officer gave Jose O a \$560.00 citation for Illegal Vending/Street Sales [LAMC Section 42.00 (b)] and seized the two radios. Jose O is 76 years old and has very little income to support himself. He is not sure whether he will be able to pay the fine, and due to his age he is unable to perform community service.
- On June 21, 2014, Mrs. L was selling hot dogs outside of a nightclub at Hollywood and Orange. LAPD officer Engeman (Serial No. 40765) arrived and told her to turn off the propane stove and throw her hot dogs and sodas away. Mrs. L asked the officer to give her a chance because it was the first time she has ever been cited for vending. The officer replied that she would not do so. Ms. L

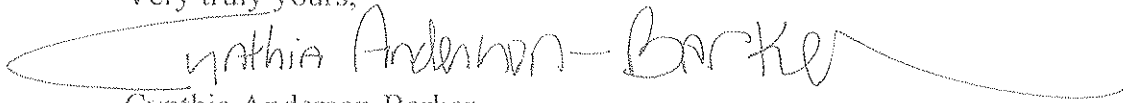
complied with the officer's request and threw 25 uncooked hot dogs and 20 unopened cans of soda away. The officers confiscated her cart and did not give her a receipt. The officer then wrote Ms. L a ticket. The value of the food items was approximately \$100.00. Without the ability to sell food Mrs. L has trouble paying rent and buying food. She has diabetes and it is hard to take care of her medical condition without the funds to do so.

- In 2013, Anonymous was selling clothing near the Westlake/MacArthur Park Metro Station when he was approached by Officer Andreas (Badge Number 36074) and several other officers. One of the officers (not Officer Andreas) noticed a bulge in the vendor's pocket and searched him, revealing \$248.00 in cash. The officer then seized the money stating that it was evidence. The officer gave the money to another uniformed officer, who in turn gave it to another officer. The vendor never received a ticket for his infraction, nor did he ever receive a receipt for the money that was seized and confiscated.
- On July 18, 2012, Ms. D was on the standing on the corner of Santee and Olympic when she was approached by LAPD officer Padilla. She told Officer Padilla that she was leaving the area. Officer Padilla told her she could not leave and asked her what she was selling. Ms. D was selling water and Gatorade. Officer Padilla then proceeded to search Ms. D in front of many people that were watching. Officer Padilla took \$57.00 in cash from Ms. D and threw away \$200 worth of drinks, but did not give her a paper ticket. Ms. D was then handcuffed, arrested, and taken to jail for not having identification on her. She was in jail for 5 days. Ms. D went to court on July 20, 2012, her sentence was suspended and an order of release was made. However, there was immigration hold put on her case so she was at risk of deportation. After numerous calls to the jail and emails to Sheriff Baca the ICE hold was lifted and she was released.
- In April of 2012, Mr. A was selling cell phone cases when he was approached by Officer Owens. While aggressively telling Mr. A to leave the area, Officer Owens pushed Mr. A into his cart. Mr. A has also heard officers use racial slurs in the past when dealing with street vendors.
- In April of 2012, Mr. P and Ms. D were selling fruit when they were approached by Officer Vasquez. Officer Vasquez told the two that she would arrest them the next time she caught them vending and warned them that she might also call Immigration (ICE). Mr. P and Ms. D have invested \$10,000 in their business for carts and permits. They have received a permit from the Los Angeles County Department of Public Health and have written permission from the business that allows them to sell fruit in front of their store. Ms. D has two children that she is trying to put through college and recently has had trouble just paying for food.
- On December 14, 2011, Rosa R was selling Christmas decorations in the area of

5th St. and Los Angeles St. in the downtown area of Los Angeles. Officer Padilla (Badge No. 37200) cited her for a violation of LAMC 42.00 (b) -- sidewalk sales. Her goods, valued at approximately \$100 were confiscated and thrown in a garbage truck. Officer Padilla also confiscated a pair of prescription glasses in her cart. During the incident Rosa R was told to empty her pockets. The officer then confiscated the \$1,022 in her wallet and gave her a citation and property receipt for her money. Her court date was January 9, 2012. She attended court and was told no charges were filed. Her citation was stamped showing that she had appeared and she would be notified by mail if there was a filing. The next day Rosa R went to Central Division LAPD to inquire about how to get her money back. She was told to return in one month. Rosa R returned *10 times* to ask for her money back, and each time she was told to wait one month. The last time she went to inquire about her money was May 20, 2012. She was again told to return in one month. Ms. R is 77 years old. She has valid photo identification which includes a Senior Citizen Identification Card issued by the State of California. She is very poor. She does not receive any government assistance, nor does she have any family in the United States. As a result of this seizure of property, she was distraught and had difficulty paying rent. Once an attorney intervened on Rosa R's behalf, the LAPD acknowledged its wrongful conduct by having two LAPD officers drive to the lawyer's office to personally return Rosa's money.

It is our sincere hope that these violations of the vendors' civil rights will be addressed immediately. We recommend that the LAPD cease confiscating vendor property. Please contact Cynthia Anderson-Barker at (213) 381-3246 if you have additional questions after our meeting today.

Very truly yours,

A handwritten signature in black ink that reads "Cynthia Anderson-Barker". The signature is written in a cursive style and is enclosed within a large, hand-drawn oval.

Cynthia Anderson-Barker
Carol Sobel
Jim Lafferty
National Lawyers Guild