



CDS-RELATED ASSET SEIZURES

INDEX CODE: 1207
EFFECTIVE DATE: 10-30-09

Contents:

- I. Policy
- II. Seizure of Property for Forfeiture
- III. Property Subject to Forfeiture
- IV. Standards for Seizure of Vehicles
- V. Seizure Procedures for Vehicles
- VI. Standards for Seizure of Money, Currency, and Coin
- VII. Procedures for Seized Money, Currency, and Coin
- VIII. Standards for Seizure of Personal Property
- IX. Seizure Procedures for Personal Property
- X. District Facility Property Officer
- XI. Authority of the F.A.S.T. Unit
- XII. Proponent Unit
- XIII. Cancellation

I. POLICY

It is the policy of the Police Department to seize all conveyances including aircraft, vehicles and vessels; all money, coin, currency, and weapons; and other personal property used in violation of the provisions of the Controlled Dangerous Substance Title as set forth in the Criminal Law Article of the Annotated Code of Maryland (CR 5-101 et seq.). Once assets are seized, and it is determined by appropriate investigation that they are subject to forfeiture pursuant to Title 12 of the Criminal Procedure Article of the Annotated Code of Maryland, they then shall fall under the prosecutorial jurisdiction of the Office of the State's Attorney. The Police Department's role is that of property custodian until the assets are either transferred to the Office of Finance, disposed of by a court pursuant to applicable laws or are returned to their owner by appropriate authority.

In accordance with Title 12 of the Criminal Procedure Article, seized vehicles may be recommended to the forfeiting authority for forfeiture only after the Chief of Police has personally reviewed the facts and circumstances of the seizure and has personally determined that forfeiture is warranted. Seized assets may be used as evidence in a court of law upon request of the State's Attorney.

II. SEIZURE OF PROPERTY FOR FORFEITURE (Section 12-202)

Property, as defined in this section, may be seized and held for forfeiture under the following conditions:

- A. Upon a warrant issued by any court having jurisdiction over the property; or
- B. Property seized incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; or
- C. There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
- D. There is probable cause to believe that the property has been used or intended to be used in violation of the CDS Act.

III. PROPERTY SUBJECT TO FORFEITURE

A. Vehicles

Section 12-102 (a)(4) authorizes seizure and subsequent forfeiture of all conveyances including aircraft, vehicles or vessels which are used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, or concealment of:

1. All controlled dangerous substances which have been manufactured, distributed, dispensed, or acquired, in violation of the C.D.S. Act; and
2. All raw materials, products and equipment of any kind which are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled dangerous substances in violation of the CDS Act.

B. Money, Currency, Coin, and Weapons

Section 12-102 (b) and Section 12-102 (a)(6) authorizes seizure and subsequent forfeiture of "All money, currency, coin, or weapons which have been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of controlled dangerous substances or controlled paraphernalia. All money, currency, coin, or weapons found in close proximity to contraband controlled dangerous substances, controlled paraphernalia, or forfeitable records of the importation, manufacture, or distribution of controlled dangerous substances..."

C. Personal Property

Section 12-102 (a)(11) authorizes the seizure of everything of value furnished, or intended to be furnished in exchange for controlled dangerous substances, all proceeds traceable to such an exchange, and all negotiable instruments and securities used, or intended to be used, to facilitate any violation of the CDS Act. Additionally, other subsections of Section 12-102 provide for the seizure of personal property that is used, or intended to be used in violation of the CDS Act.

IV. STANDARDS FOR SEIZURE OF VEHICLES

Motor vehicles will be seized under the following circumstances:

- A. When CDS in any quantity is sold or attempted to be sold in violation of the CDS Act from the vehicle; or
- B. Although the violator has not sold or attempted to sell controlled dangerous substances, an amount of such substances or paraphernalia is located which would reasonably indicate that sale is contemplated by the violator (possession with intent to distribute); or
- C. Because of recent Court rulings, the mere possession of CDS transported in a vehicle or other conveyance does NOT justify the seizing of the vehicle or conveyance. In light of the Court rulings, the vehicle MUST play an integral part in the commission of a CDS violation or illegal activity beyond simply transporting CDS for the personal use of the occupants. However, as enumerated in the Annotated Code of Maryland, Section 12-204, the totality of the circumstances of a CDS possession case dictate that seizure and forfeiture of a vehicle are justified when the following factors exist:
 1. The possession of controlled dangerous substances, and;
 2. A previous conviction of the violator for a controlled dangerous substances violation, and/or;
 3. Evidence that the vehicle was acquired by the use of proceeds from a transaction involving a CDS;
 4. Circumstances of the arrest or the way in which the vehicle was used (example: the suspect vehicle is leaving an open-air drug area whereas the vehicle was used to facilitate a drug transaction).

Note: If there is no doubt in a supervisor's and officer's mind that if any of the occupants could be arrested for a felony CDS violation, the vehicle should be seized.

D. If after a CDS possession arrest is made and the vehicle was not seized, and the conditions set forth in the above section (IV.C.) are applicable, the vehicle may be seized in a timely fashion without a Court Order as long as the owner or driver of the vehicle has not physically taken possession of the vehicle (i.e., the vehicle is at a tow yard or parked on the street where the arrest was effected.)

Note: It is not necessary at the time of seizure to distinguish whether or not the owner had actual personal knowledge of the CDS violations within the vehicle. This will be determined by the Police Department Asset Seizure Team. However, supervisors shall apply common sense and prudent judgment when authorizing the seizure of any vehicle.

V. SEIZURE PROCEDURES FOR VEHICLES

A. Notify a supervisor of possible seizure situation. The supervisor should respond to the scene and determine if circumstances justify seizure.

1. Upon a supervisor's decision to seize, the County Shop at Millersville should be contacted (between the hours of 0700 and 2330 hours weekdays) to tow the vehicle. Any other times, on weekends and holidays, or if the county garage is unable to provide a tow truck within thirty (30) minutes, the area tow company may be called. The vehicle will then be towed to one of the impound lots located behind the parking lot at Police Headquarters. With a supervisor's approval, and manpower allowing, the vehicle may be driven to the district station or/and to the impound lot by the seizing officer or other officers assisting with the seizure. Supervisors are to ensure the officer's safety by determining the condition of the seized vehicle and its safe operation prior to authorizing it to be driven.

Exception: Through memorandum, district commanders may establish procedures that allow seized vehicles to be towed and temporarily held at district stations, but in no event shall the vehicle be stored longer than the next business day (0700-1500) by which the County Shop could tow the vehicle to the impound lot. Such procedures may not result in substantial tow expenses or unnecessary casualty risks.

2. The seizing officer will provide the owner or driver of the seized vehicle a copy of the Seized-Vehicle Information Sheet containing pertinent information, contact persons, and telephone numbers regarding the vehicle seizure process.

3. Upon a supervisor's decision not to seize, the supervisor is required to delineate in a supplement to the incident report of a felony CDS arrest situation, the circumstances that led to their decision not to seize a vehicle. In all such cases, the supervisor will refer the report immediately to the Asset Seizure Team, via fax, for their review. If the vehicle is subsequently deemed suitable for seizure and forfeiture, an application for a Vehicle Seizure Order will be made with the Court. Only upon authority of a Court approved Seizure Order will officers follow-up and seize the vehicle.

Note: Supervisors should exhibit a common sense approach when evaluating a vehicle for seizure. Vehicles which have little likelihood of ever operating again (i.e., extensive 10-50 damage) may not be suitable for seizure.

B. Upon arrival at Police Headquarters, the officer will make the required entries into the "Impound Lot Key Log Book", reviewed by a PCO (Police Communication Officer). Once the PCO has signed the "Impound Lot Key Log Book," the impound lot key will be given to the officer signing the log book. Only sworn Anne Arundel County Police Officers may be given the impound lot key. The officer will properly place the vehicle in the impound lot and will complete a SEIZED/FORFEITURE VEHICLE REPORT FORM (PD 568). PD 568 must be completed and then submitted, along with the seized vehicle keys in the drop box located in the Communications Section.

C. Before the vehicle is locked in the impound lot, a complete and thorough inventory will be made detailing the vehicle's contents. A detailed inventory list of all personal property removed from the vehicle will be included with the investigating officer's report. No personal property shall be left in the seized vehicle.

D. Process and secure all recovered property in accordance with the procedures found in Chapter 12, "Property Management." If the vehicle seizure takes place at times other than the normal operating hours of the Property Management Section, the seizing officer will be responsible for transporting the items to the district station to be secured. No items are to be left in the vehicle or impound lot. Seizing officers may make arrangements with the

property owner at the time of seizure to have the property picked up by a relative or friend. This should occur within a reasonable time of the vehicle seizure and with the approval of the seizing officer's supervisor.

E. The officer will complete a tow report for the seized vehicles noting the vehicle condition and damage and any special accessories.

F. The arresting/seizing officer will prepare an incident report containing facts to substantiate the seizure of the vehicle, and along with the inventory report, forward a copy via fax to the Special Enforcement Section Asset Seizure Team as soon as the report has been reviewed and approved by a supervisor (under normal circumstances, this should occur within 24 hours of the seizure). The fax number is 410-222-6751.

G. Asset Seizure Team Responsibilities

1. Immediately following the seizure and during normal business hours, a member of the Asset Seizure Team will retrieve Form PD 568 and the seized vehicle keys from the Communications Section drop box. The reviewing investigator will examine the Impound Log Book to ensure that entries have been made correctly and completely. They will also ensure that the log book reflects the contents of the drop box. Once verified, the investigator will sign the log and take possession of the keys along with the corresponding Seizure Forms (Form PD 568). If contraband and/or property is found in the vehicle, the Asset Seizure Team investigator will contact the seizing officer and the contraband and/or property will be removed from the vehicle in accordance with departmental procedures.

2. A member of the Asset Seizure Team will then assign a Lot Number, mark, photograph and catalog the seized vehicle. A seized vehicle case file will be established to contain all pertinent information relative to the vehicle seized and of its potential forfeiture, and ultimately, its final disposition.

3. After determining the probable cause for seizure, ownership and secured interests for the vehicle, the Asset Seizure Team will make a recommendation to the Chief of Police whether or not to request forfeiture of the vehicle. The criteria for proposed forfeiture is set forth in the Annotated Code of Maryland, Criminal Procedure Article, Section 12-204.

4. If forfeiture is warranted, the Asset Seizure Team will present the seized vehicle case file to the Chief of Police, along with an Affidavit by the Chief of Police requesting forfeiture action by the Office of the State's Attorney for Anne Arundel County.

5. If forfeiture is not warranted, then the Asset Seizure Team will facilitate the release of the vehicle to the registered owners or secured parties upon authorization of the Special Enforcement Section Commander or his/her designee. With proper authorization, the vehicle shall be released upon completion of agreement and stipulation, and receipt.

VI. STANDARDS FOR SEIZURE OF MONEY, CURRENCY, AND COIN

Money, currency and coin will be seized and held for forfeiture under the following circumstances:

A. A defendant is arrested and charged with possession of CDS, distribution of CDS, possession with intent to distribute CDS, manufacturing CDS, or conspiracy to commit any of the aforementioned crimes; or,

B. The money was used or intended for use in connection with the illegal manufacture, distribution, dispensing, or possession of CDS or controlled paraphernalia; or

C. The money was found in close proximity to CDS, controlled paraphernalia, or forfeitable records of the importation, exportation, manufacture, or distribution of CDS (criminal charges are not necessary.)

VII. PROCEDURES FOR SEIZED MONEY, CURRENCY, AND COIN

The following procedures apply to the seizure of money pending forfeiture proceedings.

A. Upon the seizure of contraband, coin, and currency, pursuant to the Annotated Code of Maryland, Criminal Procedure Article, Section 12-202, the seizing officer will immediately photograph and make a record of the serial number of each seized item. The photographs may be substituted for the coin and currency as evidence in a criminal

case. A copying machine copy of the currency will meet these legal requirements. (Make sure the serial number of each bill, on the "face side," is copied.)

B. A supervisor will ensure that a report is prepared, containing facts to substantiate the seizure, and a copy of the incident report is faxed to the F.A.S.T. Unit of the Office of the State's Attorney, as soon as it is reviewed and approved by a supervisor. The fax number is available from the Communications Section.

In the event that currency is seized in the amount of \$5000.00 or more, a supervisor from the Special Enforcement Section must be notified. The Special Enforcement Section supervisor will make the determination to have the money seized through the federal asset forfeiture program.

C. Cash and currency seized will be placed in an envelope marked "F.A.S.T. Seizure" and placed in a temporary secure property storage facility located in the police facility; it may be locked in an evidence (not CDS) drop box, or locked in a secure storage locker. The storage facility logbook entry must be marked "F.A.S.T. seizure."

D. The facility property officer, as designated by the district captain, will make arrangements to turn the seized money over to the Office of Finance. The facility property officer will inventory, confirm the amount, and prepare a receipt for the funds. The following procedures will be followed:

1. Seized/confiscated funds will be logged in and are to remain separate from all other funds.
2. The facility property officer will turn over seized/confiscated funds to the Office of Finance at least once per week. The depositor will always obtain a receipt.
3. Generate a cover memo for the Office of Finance that includes the case number(s), case date(s), amounts of money, officer's or detective's names, and defendant's names.
4. Take the funds to the main cashier's office located in the Office of Finance. Keep and retain the receipt that the cashier generates in the section/unit records.
5. Ensure that the Grant Account Office in Finance reviews the submitted paperwork before leaving the Office of Finance.
6. Ensure a copy of all pertinent reports were forwarded to the Office of the State's Attorney's F.A.S.T. Unit.

VIII. STANDARDS FOR SEIZURE OF PERSONAL PROPERTY

A. Personal property includes both tangible and intangible property such as:

1. Any item or object such as tools, equipment, containers, raw materials, substances, devices, drug paraphernalia or weapons;
2. Books, records, research, formulas, microfilm, tapes and other data;
3. Securities, negotiable and non-negotiable instruments, privileges, interests, claims and rights; and
4. Any property of value including jewelry, electronics equipment, furnishings, etc.

B. Personal property will be seized and held for forfeiture under the following circumstances:

1. When the property is used or intended for use in connection with the Controlled Dangerous Substances;
2. When the property is furnished or intended to be furnished in exchange for a Controlled Dangerous Substance;
3. When the property is of such value that the total circumstances suggest it to be profit or proceed from involvement with Controlled Dangerous Substances, whether derived directly or indirectly in connection with or as a result of that involvement with Controlled Dangerous Substances.

IX. SEIZURE PROCEDURES FOR PERSONAL PROPERTY

- A. Notify a field supervisor, who will determine if the circumstances justify the seizure and if assistance from the Special Enforcement Section is necessary.
- B. All personal property will be photographed and a record made of any identifying serial number or characteristics.
- C. The authorizing supervisor will ensure that a report containing the facts substantiating the seizure is prepared and faxed to the F.A.S.T. Unit of the Office of the State's Attorney as soon as it is reviewed and approved by the supervisor. The fax number is available from Communications.
- D. The personal property will be handled as all other property taken into custody as required in Index Code 1201.1. The property slips and storage facility log book will be marked "F.A.S.T. Seizure."
- E. The property will be taken to Property Management in accordance with the established procedures for the type and nature of the property.

X. DISTRICT FACILITY PROPERTY OFFICER

Each district facility property officer shall be the clearinghouse for that district's asset seizure data. All asset seizures made by any officer in that district should be reviewed by and filed by the facility property officer. This data will later be released to the Special Enforcement Section for required periodic reporting purposes.

XI. AUTHORITY OF THE F.A.S.T. UNIT

The Office of the State's Attorney for Anne Arundel County is designated the "forfeiting authority" as defined in Section 12-102 (f)(1). As such, the F.A.S.T. Unit attorney of that office is responsible for filing all court proceedings relevant to forfeitures, and is responsible for coordinating the disposition of all such assets pursuant to court order and applicable law.

XII. PROPONENT UNIT: Special Enforcement Section.

XIII. CANCELLATION: This directive cancels Index Code 1207 dated 09-24-07.