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I. Purpose

This Directive establishes procedures relating to the seizure of conveyances including aircraft, vehicles or vessels, in connection with violations of the Controlled Dangerous Substance Act of the Annotated Code of Maryland, Criminal Procedures, Controlled Dangerous Substance Violations, hereinafter referred to as the C.D.S. Act.

II. Policy

Pursuant to the guidelines set forth in this directive, it is the policy of this Division that officers may seize and initiate forfeiture proceedings on conveyances used to violate the provisions of the C.D.S. Act.

III. Definitions

- A. Forfeiting authority - For the purposes of these procedures, the forfeiting authority is the Office of the State's Attorney for Montgomery County.
- B. Owner - A person having legitimate legal, equitable, or possessory interest in any property (for the purposes of this directive, any conveyance as defined below), including a co-owner.

IV. Criteria for Conveyance Seizure

A. Legal Authority:

The C.D.S. Act, authorizes the 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, receipt, possession or concealment of ...

- 1. "All controlled dangerous substances which have been manufactured, distributed, dispensed, acquired or possessed in violation of this (act);
- 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 substance in violation of the provisions of this (act).
- 3. "All property which is used or intended for use as a container for property described in paragraphs 1 and 2 (above)".

4. Exceptions

- a. "No conveyance used by any person as a common carrier or vehicle for hire in the transaction of business as a common carrier or vehicle for hire will be seized or forfeited under this (act) unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this (act); and
- b. "No conveyance will be forfeited under the provisions of this (act) by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state."

B. Standards for Motor Vehicle Seizure (The C.D.S. Act)

In exercising their authority to seize motor vehicles pursuant to this section, officers will utilize the following standards:

1. "A motor vehicle used in violation of this section will be seized and forfeiture recommended to the forfeiting authority when:
  - a. Controlled dangerous substances in any quantity are sold or attempted to be sold in violation of this (act);
  - b. Although the violator has not sold or attempted to sell controlled dangerous substances in violation of this (act), an amount of such substances or paraphernalia is located which would reasonably indicate that sale is contemplated by the violator; or
  - c. The total circumstances of the case (not typically any one criteria) dictate that seizure and forfeiture is justified; these circumstances would include such factors as the following:
    1. The possession of controlled dangerous substances;
    2. An extensive criminal record of the violator;
    3. A previous conviction of the violator for a controlled dangerous substance violation;
    4. Corroborated information is developed indicating that the violator is or was recently a seller, or frequently associates with individuals known to be distributors of illegal controlled dangerous substances or paraphernalia;
    5. Circumstances of the arrest; or
    6. The manner in which the vehicle was being used."

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2. A motor vehicle used in violation of the C.D.S. Act will NOT be forfeited when:
    - a. "The motor vehicle is being used by a member of the family other than the registered owner and controlled dangerous substances or paraphernalia are located therein in a quantity insufficient to suggest that a sale is contemplated, and where no sale was made or attempted, and the registered owner did not know that such material was in the motor vehicle;
    - b. "An innocent registered owner lends his motor vehicle to another and the latter or someone invited into the motor vehicle by such person causes controlled dangerous substances or paraphernalia to be brought into the vehicle without the knowledge of the owner; or
    - c. The motor vehicle falls within the provisions of this Directive which quotes Maryland law on exceptions.

#### V. Procedures

- A. All officers will follow the below procedures whenever seizing any conveyances.
  1. All seizures of conveyances will be approved by a supervisor prior to being initiated.
  2. Seize the conveyance at the time of the arrest, pursuant to the above guidelines, and impound it, completing the required reports and Property Record/Vehicle Impound form. The original copy of the Property Record/Vehicle Impound form will be forwarded to the Investigative Services Commander and the pink copy will be forwarded to Records Section with the report.
  3. Whenever possible, seized conveyances will be towed to Headquarters. In all cases an officer will remain with the conveyance until it arrives at Headquarters, to maintain proper chain of custody. In those cases where towing of the conveyance is not possible or appropriate, or an alternate location is more appropriate, the on-duty Watch Commander or Shift Supervisor will determine the method of impoundment and location of storage.
  4. Once the conveyance arrives at Headquarters, conduct a detailed inventory of the vehicle pursuant to Division Directives. The officer will ensure, and a supervisor verify, that the vehicle's windows are up and doors locked.
  5. Notify the owner/operator of the seizure and intention of the Division to file a "Motion to Forfeit" against the conveyance.
  6. Complete the "Notice of Conveyance Seizure" form, giving the owner/operator the pink copy. The yellow copy will be forwarded to the Records Section with the report. The original will be forwarded to the Investigative Services Commander.

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7. Prepare a "Request For Conveyance Forfeiture" memorandum to the Investigative Services Commander detailing the following:
    - a. Name and address of the defendant.
    - b. Name and address of the owner.
    - c. Description of the seized conveyance (make, model, color, serial/VIN number, registration information, odometer mileage).
    - d. Brief statement of the facts surrounding the seizure including the location of the violation and the type and quantity of the controlled substance involved.
  8. Ensure that the package of seizure documents to be forwarded to the Investigations Services Commander contains the following:
    - a. Copy of Arrest Report
    - b. Copy of Statement of Charges
    - c. "Request For Vehicle Forfeiture" memorandum.
    - d. "Notice of Conveyance Seizure" form, original copy.
    - e. Vehicle Impound Form - Original copy.
    - f. Complete and detailed inventory of the seized vehicle.
    - g. Vehicle registration card or other proof of ownership.
    - h. Vehicle keys only.
    - i. A copy of the original report.
    - j. Tow bill, if private tow service used.
- B. The Investigative Services Commander, or designee, will take the following actions with regard to all conveyance seizures.
1. Ensure that the "seizure package" received from the seizing officer is complete.
  2. Request a certified copy of the seized vehicle's registration from the state in which the vehicle is registered, or, if unregistered, from the most recent state of registration.
  3. Forward the keys to the conveyance (tagged with the defendant's name, the DCN and the type of case) and a copy of the impound form to the Property Specialist within twenty-four (24) hours of receiving the seizure package.
  4. Upon receipt of the "Request For Vehicle Forfeiture" memorandum and accompanying attachments, determine based on the facts of the case and the provisions of this Directive whether the forfeiture process should be initiated.
  5. Forward a written recommendation regarding the forfeiture to the Division Chief for approval.
  6. In the event forfeiture proceedings are approved by the Division Chief,
    - a. Notify the seizing officer in writing of the decision to initiate forfeiture proceedings.

- b. Prepare a memorandum, for the Division Chief's signature, to the State's Attorney's Office explaining the circumstances of the seizure, and request the initiation of formal forfeiture proceedings.
    - c. Prepare the Petition for Motor Vehicle Forfeiture to accompany the memorandum to the State's Attorney's Office.
    - d. If a lienholder exists, request by certified mail a statement of all interest in the conveyance held by the lienholder.
  7. In the event forfeiture proceedings are disapproved by the Division Chief, notify the investigating officer in writing of the decision and provide the Property Specialist with; a photocopy of this notification, authorizing him/her to release the conveyance to the owner, the original tow bill and the white copy of the Property Record/Vehicle Impound form.
  8. If, subsequent to the initiation of forfeiture proceedings, a decision is made to terminate such proceedings, the Investigative Services Commander will notify the investigating officer in writing of the decision, notify the Property Specialist authorizing the release of the conveyance to the owner and provide the documents listed above.
  9. Maintain a case file on all conveyances seized under the authority of this Directive regardless of whether or not forfeiture proceedings are begun.
  10. Once a decision is made as to the disposition of the seized conveyance, notify the Property Specialist of the decision.
  11. Ensure that all seizure/ forfeiture requests are forwarded to the State's Attorney's Office within 45 days from the date of the initial seizure of the conveyance.
- C. The Property Specialist will take the following actions with regard to all conveyance seizures.
  1. Ensure that all seized conveyances remain stored at Headquarters or at another appropriate storage facility until a final case disposition has been reached.
  2. Release seized conveyances to the owner when authorized by the Investigative Services Commander pursuant to the provisions of Division Directive, Towing Motor Vehicles/Marine Vessels.
  3. Establish a separate file for the vehicle impound packages of those vehicles seized pursuant to the provisions of this directive.
  4. Visually inspect the vehicle, verifying it's condition as noted on the impound form and ensure that the vehicle is secured. All seized vehicles will be inspected weekly. The Property Specialist will ensure that all seized vehicles are maintained in the same condition as when they are received.

- D. The Chief, Park Police Division will take the following actions with regard to all conveyance seizures.
1. Review all documentation involving the seizure and forfeiture of the conveyance and approve or disapprove the initiation of forfeiture proceedings. All completed paperwork will be returned to the Investigative Services Commander.
  2. Give final approval/ disapproval for the initiation of forfeiture proceedings. He/she will review all documentation regarding the seizure and forfeiture of conveyances prior to submission to the State's Attorney's Office. All approved forfeiture requests will be forwarded to the State's Attorney's Office under his/her signature.

**Approved Park Police Document  
Signed Original on File**

**End of Directive**