

La Plata Police Department – General Order

	Title: CDS Related Asset Seizures	Order #: 678		
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1. **POLICY:** It is the policy of the La Plata 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 La Plata 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 Charles County State's Attorney.

2. **SEIZURE OF PROPERTY FOR FORFEITURE** (Section 12-202) Property, as defined in this section, may be:
- 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.

3. PROPERTY SUBJECT TO FORFEITURE:

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- a. 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:
 - i. All controlled dangerous substances which have been manufactured, distributed, dispensed, or acquired, in violation of the C.D.S. Act; and,
 - ii. 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 (a)(6) authorizes seizure and subsequent forfeiture of "All money of more than \$300 or weapons which have been used or intended for use in connection with the unlawful manufacture, distribution, dispensing or possession of controlled dangerous substances or controlled paraphernalia. Currency in the amount of less than \$300 will not be seized.
 - 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.
4. **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;
 - b. When an amount of CDS is found that reasonably shows the violator intended to sell the controlled dangerous substance in violation of the Controlled Dangerous Substance law;
 - c. Because of 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

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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 circumstances are present:

- i. When there is a conspiracy to sell or attempt to sell CDS, or a conspiracy to possess with intent to sell CDS, in violation of the Controlled Dangerous Substance law;
 - ii. Regardless of the quantity of CDS found, when the vehicle has been previously seized for violations of the Controlled Dangerous Substance law or the owner has had a vehicle previously 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.A, B or 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.)

5. SEIZURE PROCEDURES FOR VEHICLES:

- a. Notify a supervisor of possible seizure situation. The supervisor must respond to the scene and determine if circumstances justify seizure. Note: Supervisors should **exhibit a common sense approach** when evaluating a vehicle for seizure. Vehicles in poor condition (i.e., age, extensive mechanical or body / interior damage, very high mileage, rental car) may not be suitable for seizure.
- b. The seizing officer will complete a detailed incident report and immediately forward all the information to the CIU detective.
- c. Vehicles seized as an asset seizure will be towed to the “Asset Seizure Lot” during normal business hours. The CIU Detective will be notified to meet the seizing officer as soon as reasonable. Martin’s Towing will be contacted to tow the vehicle. If towed, the officer will complete a tow report for the seized vehicles noting the vehicle condition and damage and any special accessories.
- d. Vehicles seized as an asset seizure may temporarily be stored at the secured Dorchester lot. A steering wheel locking device must be applied to the vehicle during this time. The vehicle keys, and the steering wheel locking device key will be placed into a temporary storage property locker.
- e. Before a vehicle is placed into the Dorchester lot, a complete and thorough inventory will be made detailing the vehicle's contents. A detailed inventory list

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of all personal property removed from the vehicle will be included on Impound form. No personal property shall be left in the seized vehicle. 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. If the property is not turned over to someone, the recovered property must be processed and secured in accordance with the Department's Custodial Property procedures.

- f. The arresting/seizing officer will immediately prepare an incident report containing facts to substantiate the seizure of the vehicle along with the Impound Form. These reports will be submitted prior to the end of the officer's tour of duty.
- g. A supervisor will ensure that the report contains facts to substantiate the seizure and will be responsible for reviewing and approving the report. Incident reports will be routed to the CIU Detective and the Criminal Investigations Commander.
- h. The CIU Detective will 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.
- i. The CIU detective will be responsible for mailing, via first class mail, a copy of the "Notification of Seized Property Subject to Forfeiture" to the owner of the vehicle, if known, within 30 days of the seizure.
- j. After determining the probable cause for seizure, ownership and secured interests for the vehicle, the CIU detective 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.
- k. If forfeiture is warranted, the CIU detective 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 Charles County.
- l. If forfeiture is not warranted, then the CIU detective will facilitate the release of the vehicle to the registered owners or secured parties upon authorization of the Criminal Investigations Commander or his/her designee. With proper authorization, the vehicle shall be released upon completion of agreement and stipulation, and receipt.

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6. **STANDARDS FOR SEIZURE OF MONEY, CURRENCY, AND COIN:** Money, currency and coin (over \$300) 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 (over \$300) 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 (over \$300) 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.).

7. **PROCEDURES FOR SEIZED MONEY, CURRENCY & 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 complete a detailed incident report. 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). Photographs of currency seized will be submitted with the incident report and a separate copy will be submitted into the temporary evidence locker with the actual currency. In cases of an unusually large amount of U.S. currency bills, the Criminal Investigations Commander will acquire a high volume currency counter/copier and can be contacted for assistance.
 - b. A supervisor will ensure that a detailed incident report is prepared, containing facts to substantiate the seizure and will be responsible for reviewing and approving the report.
 - c. Cash and currency seized will be placed in an envelope marked "Asset Seizure" and placed in a temporary secure property storage facility located at the station.
 - d. The property custodian will make arrangements to turn the seized money over to the Office of Finance. The property custodian will inventory, confirm the amount, and prepare a receipt for the funds. The following procedures will be followed:

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- i. Seized/confiscated funds will be logged in and are to remain separate from all other funds.
- ii. The property custodian will turn over seized/confiscated funds to the Office of Finance at least once per week. The depositor will always obtain a receipt.
- iii. 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.
- iv. Take the funds to the Office of Finance. Keep and retain the receipt that the cashier generates in the section/unit records.
- v. The CIU detective will be responsible for forwarding all pertinent reports to the Office of the State's Attorney. The CIU detective will also be responsible for mailing, via first class mail, a copy of the "Notification of Seized Property Subject to Forfeiture" to the owner of the seized money, if known, within 30 days of the seizure.

8. VIII. STANDARDS FOR SEIZURE OF PERSONAL PROPERTY:

- a. Personal property includes both tangible and intangible property such as:
 - i. Any item or object such as tools, equipment, containers, raw materials, substances, devices, drug paraphernalia or weapons;
 - ii. Books, records, research, formulas, microfilm, tapes and other data;
 - iii. Securities, negotiable and non-negotiable instruments, privileges, interests, claims and rights; and
 - iv. Any property of value including jewelry, electronics equipment, furnishings, etc.
- b. Personal property will be seized and held for forfeiture under the following circumstances:
 - i. When the property is used or intended for use in connection with the Controlled Dangerous Substances;

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- ii. When the property is furnished or intended to be furnished in exchange for a Controlled Dangerous Substance;
- iii. 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.

9. SEIZURE PROCEDURES FOR PERSONAL PROPERTY:

- a. Notify the shift supervisor, who will determine if the circumstances justify the seizure.
- b. Upon the seizure of personal property pursuant to the Annotated Code of Maryland, Criminal Procedure Article, Section 12-202, the seizing officer will complete a detailed incident report. . All personal property will be photographed and a record made of any identifying serial number or characteristics. Photographs of property seized for forfeiture will be submitted with the incident report.
- c. The authorizing supervisor will ensure that a report containing the facts substantiating the seizure is prepared and will be responsible for reviewing and approving the report. Incident reports will be routed to the CIU detective.
- d. The personal property will be handled as all other property taken into custody as required.
- e. The property will be processed in accordance with the established procedures for the type and nature of the property.
- f. The CIU detective will be responsible for forwarding all pertinent reports to the Office of the State’s Attorney. The CIU detective will also be responsible for mailing, via first class mail, a copy of the “Notification of Seized Property Subject to Forfeiture” to the owner of the seized property, if known, within 30 days of the seizure.

10. **AUTHORITY OF THE STATE’S ATTORNEY:** The Office of the State's Attorney for Charles County is designated the "forfeiting authority" as defined in Section 12-102 (f)(1). As such, the state’s attorney 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.