



MONTGOMERY COUNTY, MARYLAND DEPARTMENT OF POLICE

SEIZURE, STORAGE AND FORFEITURE

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PROPOSER UNIT: Special Investigations Division/Asset Forfeiture Unit and Forensics Services and Evidence Management Division	AUTHORITY:  Marc R. Yamada, Chief of Police

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61).

I. POLICY

The Montgomery County Department of Police (MCPD) will act pursuant to applicable law and court interpretations regarding the seizures of money. Sworn police officers are authorized to seize money as evidence of CDS (controlled dangerous substance), gambling, and human trafficking violations. After the money has been seized and entered into the evidence/property management system, the Special Investigation Division (SID)/Asset Forfeiture Unit will review the case and determine if the money is eligible for forfeiture.

II. PURPOSE

To establish guidelines on how money is seized:

- A. In relation to civil forfeitures that result as part of criminal matters and entered into the evidence/property management system, and;
- B. To establish the steps necessary for the evidence to be considered for forfeiture.

III. DEFINITIONS

For purposes of this directive, the following terms have the meanings indicated.

- A. **Collector Money**: Currency that has value beyond its face value due to age, rarity, historical significance, or special characteristics and is usually kept as part of a personal collection rather than for exchange or spending.
- B. **Currency**: U.S. and foreign coins and paper bills used in exchanges which has an assigned value and is authorized by law.
- C. **Evidence**: Any item seized as part of a criminal investigation.
- D. **Forfeiture**: The government seizure of property connected to illegal activity.
- E. **Money**: Monetary instruments that encompass not only currency but other financial channels (eg. Bank deposits, digital balances, checks, etc).

IV. CDS, HUMAN TRAFFICKING, OR GAMBLING VIOLATIONS

A. CDS Violations

Maryland Criminal Procedure Article §12-102 authorizes, but does not compel, seizure and subsequent forfeiture of **money or other items of value that were furnished, or intended to be furnished, in exchange for controlled dangerous substances (CDS)**. There must be clear and convincing evidence that the proceeds were obtained as a result of the distribution or possession with intent to distribute CDS.

B. Gambling Violations

Maryland Criminal Procedure Article §13-102 authorizes, but does not compel, seizure and subsequent forfeiture of gambling-related money **when it is seized in relation to arrest for unlawfully playing or operating a bookmaking scheme, unlawfully betting on a horse race, athletic event, lottery, or game, or unlawfully using a gaming table or gaming device.**

C. Human Trafficking

Maryland Criminal Procedure Article §13-502 authorizes, but does not compel, seizure and subsequent forfeiture of **money used in connection with a violation of, and conviction under the human trafficking law, or found in close proximity to or at the scene of an arrest for a violation of the human trafficking law, except when excluded under Maryland Criminal Procedure Article §13-503**. It is important to note that the conviction must include a violation of the human trafficking law (MD Crim Law §3-1102) in order to initiate seizure.

D. Restrictions on Money Seized

The policy of the department will be to act pursuant to applicable law and court interpretations regarding the seizure of money. The following guidelines will apply in deciding whether to initiate seizure and forfeiture proceedings as outlined in sections IV.A, B, and C:

1. Seizure of money will be authorized only when the defendant is charged with one of the following:
 - a. Possession of CDS (**with the exception of possession of cannabis**);
 - b. Distribution of CDS;
 - c. Possession with the Intent to Distribute CDS;
 - d. Manufacturing CDS;
 - e. Gambling violations;
 - f. **Violations under §13-1102 of the Maryland Criminal Law Article (Human Trafficking);**
 - g. Conspiracy to commit any of the above.
2. Money in an amount of less than \$100.00 will **only** be seized on a case-by-case basis. Unit supervisors, after conferring with a Drug Enforcement Section (DES) supervisor, (**or, for violations of Human Trafficking, the Vice and Intelligence Supervisor**), may authorize a seizure of less than \$100.00. Except in unusual circumstances, no coins will be seized.

E. When an investigating officer determines that the seizure and forfeiture of such money is authorized, the officer will:

1. Seize the money and complete an **MCP Form 599 (Notice of Money Seizure) and MCP Form 597 (Property Seizure Receipt)**.
 - a. **Ensure the owner of the seized property is advised of their right to request the property be returned and provided with the SID/Asset Forfeiture Unit email address: pol.sidafu@montgomerycountymd.gov**
 - i. **Provide the owner with a copy of the MCP Form 597 and/or**
 - ii. **Read the owner the “Important Notice” at the bottom of the MCP Form 597.**
2. Include in the event Complete an incident report and include the following in the narrative:
 - a. The exact location(s) where the money was seized, **and how it was found in relation to evidence of the crime.**
 - b. The respective amount(s) of money seized from each location.
 - c. The **suspected** types and approximate quantities of CDS seized.

- d. The name of the officer who seized the money.
- e. **The names of the police personnel who verified the amount of money.**

3. **If available, document the seized bills using department money counter. Should the money counter be unavailable/offline, photocopy or photograph the bills for use in court and record the serial numbers (photocopy at 66% or 77%, photograph at less than 100%). Ensure the photographed bill serial numbers are legible.**

4. Separate the **bills** by denomination and place **them** into a sealable plastic **evidence** bag. The amount of money should be verified by two **police personnel**. Only US currency **or** coins that were seized in unusual circumstances (refer to IV.D) will be placed in the **evidence** bag. Foreign currency, wallets, purses, etc. will be handled as **general** evidence. The evidence bag will be sealed and the seizing officer will **date and initial it** along the seal. The money will then be entered into the evidence/property management system and an electronic copy of the MCP Form 722 (Seized/Recovered Money Memo) will be generated. The sealed evidence money will then be placed in the district or unit's temporary evidence storage location or locker. This will be completed prior to the end of the officer's tour of duty.

5. **Attach and forward copies of the following documents listed below to the SID/Asset Forfeiture Unit: pol.sidafu@montgomerycountymd.gov**

- a. **Incident** report;
- b. **MCP Form** 599;
- c. The defendant's criminal history record;
- d. The search warrant and return inventory, if applicable;
- e. **MCP Form** 722;
- f. **MCP Form 597; and**
- g. **The original MCP Form 599 shall be sent via interoffice mail to the SID/Asset Forfeiture Unit.**

6. If the seized currency is contaminated with body fluids (blood, semen, etc.), the submitting officer must:

- a. Separate the contaminated currency.
- b. Place the **contaminated** currency in a white envelope with a clear cellophane display window.

c. **Complete and attach an MCP Form 724 and biohazard label to the envelope.**

d. **Enter into the evidence/property management system.**

F. Court Disposition

Within ten (10) days of any court disposition, the investigating officer will notify the **SID/Asset Forfeiture Unit**, by **e-mail**, with the following:

1. Defendant's full name;
2. Amount of money subject to forfeiture;
3. Date of sentencing, and;
4. District or Circuit Court case number under which the defendant will be sentenced.

G. Special Investigations Division's Responsibility

1. Upon receipt of the notification of currency seizure, the Director, SID, will review the facts of the case and determine whether forfeiture proceedings should be initiated.
2. In the event forfeiture proceedings are in order, the Director, SID, will:
 - a. Within ninety (90) days from the date of the defendant's sentencing for the CDS, **human trafficking**, or gambling violation, submit a memorandum to the **Office of the County Attorney (OCA)** requesting that forfeiture proceedings be initiated.
 - b. Prepare an affidavit for the seizing officer to sign attesting to the seizure of the money. This affidavit is required in all money forfeiture proceedings.
 - c. Maintain a case file on all monies or currency seized under the authority of this directive.

V. OTHER CRIMINAL INVESTIGATIONS

- A. Officers will package and store the money as described in sections **IV.E3** and **4**. As an alternative, once serial numbers have been recorded and the money has been photocopied or photographed, officers may return the money to the victim **pursuant to section VIII.B**.
- B. Occasionally, money having evidentiary value will be seized and must be saved for use in court. **Batch reports, photocopies and/or photographs are considered equivalent to the actual bills for evidentiary purposes in court. As such, money should only be seized as evidence when there are particulars about the money that make the individual bill evidentiary.** Examples include money containing forensic evidence, rare or valuable coins or currency, and foreign money. In those cases, officers will indicate **in the evidence/property management system** that the money will be retained in the **Evidence Unit's long-term storage safe** for use as evidence.

Forensic evidence should be collected prior to submitting the money for storage. Follow procedures outlined in FC 0731, (Crime Laboratory Section), to request a forensic examination of money.

- C. **Officers will submit a request to the Evidence Unit at least two (2) working days before the date the money is needed (excluding weekends and holidays)** to request the temporary release of money stored in the **Evidence Unit's long-term storage safe** for use in court, officers will submit **a request to the Evidence Unit**. Officers will receive **notification from the Evidence Unit once the money is ready for pick-up**. Upon completion of the court hearing, the money will be immediately returned to the **Evidence Unit or designated evidence storage site location**.
- D. When funds are no longer needed as evidence, the officer will return the money to the owner pursuant to section **VIII.B**. If the owner is unknown, the officer will **approve the item for disposition in the evidence/property management system** requesting the money be transferred into the county's escrow account.

VI. STORAGE OF SEIZED/RECOVERED MONEY/CURRENCY

A. Evidence Property Custodian (EPC) Responsibilities:

Upon acceptance of the currency evidence submission at the district station or designated evidence storage location, the EPC will transport the currency to the Evidence Unit.

B. Submitting Officer Responsibilities

If the money was seized in connection with a CDS, **human trafficking**, or gambling violation as outlined in section IV, the **submitting officer** will **electronically forward a copy of the MCP Form 722 to the SID/Asset Forfeiture Unit**.

C. Evidence Unit Central Supply Section, Responsibilities

The Evidence Unit will accept and review the money for proper packaging and an electronic copy of the MCP Form 722 will be retained in the evidence/property management system. Upon the deposit of money, Evidence Unit personnel will submit all reconciliation documentation to the Budget and Capital Management Division.

VII. RELEASE OF SEIZED/RECOVERED MONEY/CURRENCY

- A. Money seized in connection with CDS, **human trafficking**, or gambling violations will only be released by the authority of the **Office of the County Attorney**. The Director, SID, will be responsible for processing these requests for disbursement.
- B. Officers requesting the release of money in all other cases will prepare **an electronic memorandum via their bureau chain of command, the department's legal advisor, the Chief of Police and verified by the fiduciary (Evidence Property Manager)**. The **electronic memorandum** will include the total amount to be released, the recipient's name and current address, and all pertinent details surrounding the recovery and subsequent reasons for its release. A copy of all related reports will be **electronically attached to the memorandum**. The

Evidence **Property Manager** will update the evidence/property management system and forward the request to the **Budget and Capital Management Division**, Financial Management Section. The **Budget and Capital Management Division** will be responsible for processing disbursement requests that have been approved by the Chief of Police, or designee **to the County Finance Division**.

C. Foreign Money, Collector Money and Contaminated Money

For foreign, collector and contaminated money, officers requesting the release of money will prepare an electronic memorandum as outlined above. In the justification section of the electronic memorandum, it should be noted that the items will be returned in the condition that they were received. The MCP Form 525 will be retained in the department's evidence management system.

VIII. RECORD OF TRANSACTIONS

A. The Evidence Unit will maintain electronic evidence management system records of all money stored in the long-term safe. The Budget and Capital Management Division will maintain records of all funds withdrawn from or deposited to the escrow account.