




City of Manassas Police Department General Duty Manual



Effective Date: 12-06-2004	GENERAL ORDER	Number: 09-06
Subject: Asset Forfeiture		
<input type="checkbox"/> New <input type="checkbox"/> Amends <input checked="" type="checkbox"/> Rescinds <input checked="" type="checkbox"/> Reviewed: 12-06-2014		Reevaluation: <input type="checkbox"/> 1 yr. <input type="checkbox"/> 18 months <input checked="" type="checkbox"/> N/A
General Order # 9-5 Dated: 2-22-2000		
Accreditation Standards: 84.1.8	By Authority Of:  Douglas W. Keen, Chief of Police	Total Pages: 4

PURPOSE:

To outline the department's participation in asset forfeitures from drug enforcement cases, and to state responsibilities of department members seizing property and the asset forfeiture coordinator.

POLICY:

A recent constitutional amendment to state law permits law enforcement agencies to benefit directly from the seizures made in narcotics or drug investigations. Formerly, in order to receive financial assistance through seized assets, law enforcement agencies had to utilize the federal forfeiture process. It is our intention to aggressively enforce narcotics and dangerous drug laws, and where our personnel make a seizure of property according to state law, we will begin forfeiture proceedings. Whatever assets we recover through the forfeiture process, whether money or property, will be applied to legitimate law enforcement needs, primarily to carry out other drug enforcement strategies. Under no circumstances will personnel select enforcement targets because of the expected financial gain for the department: enforcement strategies are not dictated by profit.

DISCUSSION: N/A

DEFINITIONS:

Drug Seizure - §19.2-386.22, Code of Virginia: Seizure of property used in connection with or derived from illegal drug transactions.

- A. Property is subject to seizure by law enforcement if the property is used in substantial connection with the illegal manufacture, sale or distribution of a controlled substance or possession with the intent to distribute a controlled substance, in violation of §18.2-248 or §18.2-248.1.
- B. Items of value furnished, or intended to be furnished, in exchange for a controlled substance.
- C. Monies and property traceable to such exchanges of illegal drugs, and the interest or profits derived from the investments of such monies or property.

Other Forfeitures/ Seizures:

§19.2-386.16 Code of Virginia allows for the forfeiture of motor vehicles used in the commission of certain crimes. Law enforcement officers may seize such vehicles found in violation.

- A. Vehicles knowingly used for the transportation of stolen goods, chattels or other property, valued at 200.00 dollars or more, or any stolen property obtained as the result of a robbery, without regard to the value of the property shall be forfeited to the Commonwealth.
- B. Any vehicle knowingly used by the owner thereof, or used by another with his/her knowledge of, and during the commission of, or in the attempt to commit a second or subsequent offense of:
 1. §18.2-346: Being a prostitute or prostitution.
 2. §18.2-347: Keeping or residing in or frequenting a bawdy place.
 3. §18.2-348: Using a vehicle to promote prostitution or unlawful sex acts.
 4. §18.2-355: Taking, detaining etc., a person for prostitution, or consenting thereto.
 5. §18.2-356: Receiving money for procuring person.
 6. §18.2-357: Receiving money from earnings of a prostitute.

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§4.1-339: Seizure of conveyances or vehicles used in the transportation of alcohol

§46.2-867: Any vehicle owned by a person convicted of a violation of 46.2-865 Drag Racing or the vehicle used to commit the violation of 46.2-865 so long as the owner of the vehicle was present and knowingly consented to the drag racing.

ASSET FORFEITURE COORDINATOR (AFC): The officer designated by the Chief of Police to be conversant in state forfeiture law (*Code of Virginia* Chapter 22.1, Sections §19.2-386.1 through §19.2-386.14), to identify assets in case records and implement legal process to appropriate these assets for department use. The AFC will also perform as liaison to the Forfeiture Asset Dispute Committee, Criminal Justice Research Board, other state and federal agencies, and the courts, as needed.

DESIGNATED SEIZING AGENCY: The agency or office that initiates seizure, or which retains possession of the seized property. The designated seizing agency may be the agency chosen by mutual decision of the participating agencies.

Assets: Includes both in-kind property and proceeds. In-kind property consists of whatever an agency can put to immediate use. Anything of value seized in association with a drug transaction is an asset for the purposes of this order. Proceeds refer to whatever money is raised through sale of property of a kind not immediately useful.

PROCEDURE:

I. Responsibilities of Seizing Officer

- A. Upon making a (drug) seizure, authorized under §18.2-386.22 the seizing officer will:
 1. Attempt to get a statement from the individual, from whom the property was seized, detailing his/her financial background and employment history.
 2. Turn the seized property into the evidence/property section pursuant to G.O. 9-3, marking the evidence card as a “drug seizure”.
 3. Seized vehicles will be towed to the Manassas City Police Department impound lot pursuant to G.O. 9-3 and G.O. 8-11. Be mindful to complete a **Tow Sheet, Property Form and Impound Form**.
 4. Forward a copy of the offense report to the Asset Forfeiture Coordinator.
 - a. The copy of the report should be labeled at the top, “Drug Seizure”.
 - b. For seized motor vehicles, please include a copy of the tow sheet and the motor vehicle storage sheet.
 5. The seizing member will not authorize the release or disposal of any item subject to seizure proceedings, regardless of the criminal proceedings. Only the Asset Forfeiture Coordinator, an Assistant Chief of Police or the Chief of Police may authorize the property subject to forfeiture to be released or disposed of.
- B. Upon making a seizure, authorized under §19.2-386.16, §4.1-339, or 46.2-867, the seizing officer will:
 1. Interview as appropriate the owner/driver/passengers of the vehicle to establish the elements necessary for the seizure of the vehicle, the successful prosecution of the offense and the forfeiture of the vehicle upon conviction.
 2. Turn the seized property into the evidence/property section pursuant to G.O. 9-3, marking the evidence card as a “_____ seizure”.
 3. Seized vehicles will be towed to the Manassas City Police Department impound lot pursuant to G.O. 9-3 and G.O. 8-11. Be mindful to complete a **Tow Sheet, Property Form and Impound Form**.
 4. Forward a copy of the offense report to the Asset Forfeiture Coordinator.
 - a. The copy of the report should be labeled at the top, “_____ Seizure”.
 - b. For seized motor vehicles, please include a copy of the tow sheet and the motor vehicle storage sheet.
 5. The seizing member will not authorize the release or disposal of any item subject to seizure proceedings, regardless of the criminal proceedings. Only the Asset Forfeiture Coordinator, an Assistant Chief of Police or the Chief of Police may authorize the property subject to forfeiture to be released or disposed of.

II. Responsibilities of the Asset Forfeiture Coordinator (AFC)

- A. Review all police reports to identify property subject to forfeiture.
- B. Ensure that all seizures for forfeitures are reported to the Department of Criminal Justice Services (DCJS) as required. The Asset Seizure Reporting form (DCJS-998) will be completed and forwarded to DCJS within twenty-one (21) days of the seizure.

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- C. A copy of the original incident report and a copy of the DCJS-998 form will be forwarded to the Commonwealth's Attorney's Office.
- D. A copy of the DJCS-998 form and a copy of the original report will constitute the beginning of a seizure case file. The file will be maintained in the Investigative Services Division.
- E. Once a Court Order is received from the Commonwealth's Attorney's Office pertaining to a pending seizure, a Seized Property Disposition Sharing Decision form (DCJS-999) will be completed.
- F. Ensure that money seized is forwarded to DCJS in check form.
 - 1. Once an order of forfeiture is prepared by the Commonwealth's Attorney, a certified check made payable to the Treasury of Virginia for the total funds will be attached to a copy of the order and submitted with a DCJS-999 form to DCJS.
- G. A copy of the Court Order and receipt of deposit will be attached to the property card(s) of the seized items.
- H. Copies of the DCJS-999, the certified check and the Court Order will be included in the seizure case file.
- I. Report to the Investigative Services Division (ISD) Commander and the Chief of Police on all matters pertaining to forfeiture proceedings.
 - 1. Choose and coordinate with vendors hired to manage seized property.
 - 2. Coordinate, when possible, with other agency representatives as designated by the Chief of police or his designee, for "pre-seizure" planning meetings to evaluate target assets to ascertain ownership and the existence of liens or encumbrances.
 - 3. The planning effort will make every reasonable effort to identify innocent lien-holders to avoid inconveniencing them.
 - a. Coordinate with the Commonwealth's Attorney to enter a default judgement against persons who fail to respond to the court within 30 days to defend against seizure of their property.
- J. Apply to DCJS for return of in-kind property for legitimate law enforcement use.
- K. Coordinate with the Commonwealth's Attorney, or other officials as necessary, to obtain a commercial sale of property in appropriate cases.
- L. Coordinate with other agencies participating in a regional Drug Enforcement Task Force to agree on which agency will become the designated seizing agency for purposes of forfeiture proceedings.
 - 1. Generally, The Prince William County AFC will file for seizure on all cases investigated in Prince William County. The Manassas City AFC will file for all seizures that occur within the City of Manassas.
- M. Negotiate with the participating law enforcement agencies for a suitable division of assets.
 - 1. Where agencies seize property pursuant to membership in a regional task force, the AFC will forward to DCJS a copy of the interagency agreement or contract that authorizes the task force.
 - 2. The AFC will assist inter-jurisdictional coordination to ensure that localities maintain separate forfeiture accounts and auditing procedures. Similarly, the AFC will track cases in which the department is involved but is not the primary seizing agency.
- N. Ensure that the locality's certification is submitted to DCJS and renewed annually by the City Manager.

III. Seized Motor Vehicles

- A. Upon notification from the courts that an order of forfeiture for motor vehicles or other property has been issued, the AFC will complete the Seized Property Sharing Disposition form (DCJS-999). The Department may petition DCJS for the return of any forfeited motor vehicle, boat, aircraft or other tangible personal property within ten (10) days of the courts finding.
 - 1. The petition for return of in-kind property will be on Department letterhead and shall contain the name, address, telephone number and name of the department's AFC.
 - 2. The petitioner must state that the return of the in-kind property will be used for law enforcement purposes only.
 - 3. Petitions must be filed with the:

**Department of Criminal Justice Services
202 North Ninth St. 10th Floor
Richmond, VA 23219**

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- B. Upon authorization from DCJS for the return of motor vehicles, the AFC shall:
1. Apply to the DMV for title of ownership,
 2. Make a determination through the Division Commander whether to make the vehicle part of the Department fleet or sold.
 3. City policy shall be followed in making such requests to include the vehicle in the City fleet.
 - a. DCJS is notified of all sales.
 - b. A cashier's check for monies derived from the sale of the vehicle, minus the cost of selling the vehicle, must be sent to DCJS for distribution.
 - c. All monies derived from the sale of any motor vehicle must be accounted for in the asset seizure fund and will be will be accounted for in the same manner as section B of this policy.
 4. Upon authorization from DCJS for the return of in-kind property other than motor vehicles, the AFC shall make the determination through the Division Commander whether or not to incorporate the forfeited property into the Department inventory or to sell the property in compliance with Department and City policy.
 - a. If the property is sold outright within one (1) year, of the seizure date, and the proceeds from the sale exceed 250.00 dollars, the sale must be reported to DCJS. A cashier's check for monies derived from the sale of the property, minus the cost of such sale, must be sent to DCJS for distribution.
 - b. All monies derived from the sale of in-kind property must be accounted for in the asset seizure fund and such funds will be accounted for as outlined in section B of this policy.

IV. Retention and Maintenance of High Risk Items for Department Use

1. Certain high risk items are retained by the department after forfeiture proceedings are completed for training and/or investigative purposes. These may include, but are not limited to: weapons, controlled substances, explosives, and items of fraudulent identification.
2. Department members must request approval from the Commander of Administrative Services or the Patrol Services Commander to use these items for training and/or investigative purposes on a temporary or permanent basis depending on the item. The request for approval of the item must go through the Patrol Services Commander or the Commander of Administrative Services in memorandum form. The items are tracked through the department's property inventory or through the armory records if firearm related. The request for approval of the item must go through the Patrol Services Commander or the Commander of Administrative Services in memorandum form and must contain the following information.
 - a. Reason for request
 - b. Venue where items are to be used
 - c. Proposed method of use, e.g. display, K-9 training, other training
 - d. Proposed duration for use of these items
3. Approved members use normal property retrieval and return procedures for each time limited use of these items.

Attachments: "A" DCJS-998
"B" DCJS-999
"C" Legal References

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References: "C" Legal References