

Chapter 18 HANDLING AND DISPOSITION OF PROPERTY

POLICY **It is the policy of the Cecil County Sheriff's Office to properly handle and make disposition of property.**

Annotated Code of Maryland - Courts and Judicial Proceedings

2-310. Guidelines for disposal of property.

- (a) *Establishment.* – The sheriff of a county may establish and administer reasonable guidelines in accordance with this section for disposing of abandoned, lawfully confiscated, or recovered property that is in the possession of the sheriff's office.
- (b) *Provision.* – The guidelines shall provide that:
 - (1) After property has been in the possession of the sheriff for a period of one year, notice of the sale of the property shall be given by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence;
 - (2) The property may be sold at public after a description of the property and the time, place and terms of the sale have been published in a newspaper of general circulation in the county in each of 2 successive weeks;
 - (3) The amount received from the sale of property in accordance with this section shall be distributed in the following order of priority:
 - (i) To the sheriff, in an amount equal to the expense of the sale and all expenses incurred while the property was in the sheriff's custody;
 - (ii) The lienholders in order of their priority; and
 - (iii) Subject to the provisions of item (4) of this subsection, to the general fund of the county; and
 - (4) At any time within 3 years from the date of the sale of the property, any person submitting satisfactory proof of the person's right to the possession of the property shall be paid, without interest, the amount distributed to the general fund pursuant to item (3) of this subsection, and after the expiration of 3 years from the date of the sale, any claims shall be absolutely barred.

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SECTION I

**PROCEDURES FOR THE ADMINISTRATION OF EVIDENCE,
CONTROLLED DANGEROUS SUBSTANCES,
AND FOUND OR RECOVERED PROPERTY**

GENERAL PROVISIONS:

Responsibilities:

- a. The Director of Law Enforcement will ensure that the procedures outlined in this Section are followed.
- b. All members of the Sheriff's Office will properly process and secure any property which may have been confiscated or which has otherwise come under their care. Proper handling and security will be in conformity with the law and with the established procedure of the Sheriff's Office.
- c. Sheriff's Office personnel are responsible for safeguarding the property of others. Personnel are to exercise discretion when taking property into their car. In the following instances, property may be properly disposed of without Agency Intervention:

1. Except for evidence, contraband, etc. which will be handled according to policy, personal

property of an arrested individual will be separated from the person, packaged, and appropriately identified as to owner. The package should be transported with the arrestee. If it is not possible to transport the property with the arrestee (hospitalized due to unconsciousness, etc.), established procedure for storage will prevail.

2. Property may be secured by the owner or his designated representative.
 3. Personnel should not take property from agencies that have their own procedures for handling property unless that property is part of an investigation or is the product of judicial process, i.e. search warrant, subpoena, etc.
 4. Hazardous materials should be disposed of by authorized personnel having the training and facilities to properly control and sort these items.
- d. The handling and disposition of property is a phase of the Sheriff's Office involving several areas, i.e. storage, bookkeeping, release, etc., and strict compliance with the procedures is necessary to properly administer the program.

PROCEDURE:

- A. All members of the Sheriff's Office coming into possession of any evidence, controlled dangerous substances, and found or recovered property which may have been confiscated or which has otherwise come under their care will, before the end of their current tour of duty, unless otherwise directed by proper authority, submit the property for storage at the Sheriff's Office and complete a Property Record, if required. Whenever abandoned property is received from someone other than the owner of the property, in addition to the name and address fee the individual delivering the property, the telephone number will be noted in the "Remarks" section of the Property Record. Certain property, enumerated in this section, is exempt from being accounted for on a Property Record but will be accounted for as specified in this section.
- B. All property taken into possession and placed in storage will be recorded in the Property Control Book whether accounted for on a Property Record or not. All property will be identified by the Property Record number, if applicable, and/or by the Complaint Control Number on the envelope/pouch or by a Property Held Tag. Property recorded on a Property Record which is released before being stored need not be recorded in the Property Control Book.
- C. The designated property officer, will be required to maintain a single Property Control Book for all property stored at the Sheriff's Office. Property inventories will be recorded in the same book. All entries will be chronological. Errors are to be lined through with a single line and initialed by the individual making the entry and correction. The single book concept does not prohibit the property officer with "unusual" storage problems from utilizing additional methods to categorize, locate, or otherwise facilitate accountability of property as long as the Property Control Book is the primary record for all property stored at the Sheriff's Office.

NOTIFICATION:

- A. Members coming into possession of another's personal property will, within three days, attempt to notify the owner, if an owner can be determined, that his property is being held and the procedures by which it can be released. The results of such notification or its attempt will be recorded in the "Remarks" section of the Property Record, if one is required, or in the investigative report. If the notification has not been recorded on the Property Record, a copy of the investigative report will be forwarded by the investigating deputy to the property officer to be attached to the

appropriate Property Record.

- B. When abandoned property is received from someone other than its owner, the member will obtain the name, address, and telephone number of the person turning in that property in addition to the circumstances surrounding the recovery. The appropriate investigative report will be completed and a Property Record, if required. Notification procedures as specified in this subsection will be followed.
- C. If non-evidentiary property has not been released by the end of the sixth month following the date it was obtained by the Sheriff's Office, and there is a last known owner or, in lieu of an owner, a known party who had delivered the property to the agency, the property officer will initiate a notification of the Sheriff's Office intent to dispose of said property. Notification will be sent, by the property officer, to the last known address of the owner or the person having delivered the property to the Sheriff's Office by certified mail, return receipt requested. The notification shall include:
- (1) date stored
 - (2) Property record number
 - (3) complaint control number
 - (4) last date that the property may be claimed at that location
 - (5) location and times where the property may be claimed
 - (6) required identification and proof of ownership (may vary with types of property).

NOTE: A copy of the notification and evidence of mailing will be attached to the original of the property record or investigative report if no property record is on file.

- D. If the property is not claimed within ten days of the last claim date or the first date it is available to the party other than the owner, it will be disposed of according to policy.

RELEASING PROPERTY:

- A. Property will be released to authorized individuals in accordance with Sheriff's Office procedure.

Members will not convert to their own use or have any claim to any evidence or lost, mislaid, recovered or other property.

Persons authorized to receive property eligible for release are the rightful owner or the properly authorized representative of the identified owner. When abandoned property has remained unclaimed in the care of the Sheriff's Office for a period of six months, the person having delivered such property to the Sheriff's Office, except Sheriff's Office personnel, is entitled to its possession.

When releasing property, members must take steps to ensure that the party claiming the item(s) is entitled to possession. Each release may necessitate different forms of authorization. Members should consider the circumstances of each report and take the steps, based on the information available, to establish the right of possession. Items that may be considered to establish authorization are:

- A. Verbal authorization, under limited circumstances, may be the only form necessary, i.e., when the owner specifically identifies a party to accept. All that would be necessary is proper identification at the time of release.

- B. Third party releases will require substantial documentation. Forms of authorization may be:
- (1) a notarized letter from the owner
 - (2) a court order as in the case of divorced spouses, judgments, incarcerated individuals
 - (3) legal documents as in the case of wills, powers of attorney, writs or replevin
 - (4) the ability to specifically identify property. The right of possession may be established by the claimant's ability to specifically identify the item(s), i.e., engravings, identification markings, serial numbers, insurance photographs, etc. Identification of items should be established with as much specificity as possible prior to the party viewing the items(s).

The Sheriff's Office is charged with the responsibility of safeguarding property and should take steps based on the circumstances of each release to ensure, to the best of its ability, that property held by the Sheriff's Office is released to the rightful party.

RECORDS:

Accountability

The Director of Law Enforcement or his designee, will be responsible for maintaining an inventory of the property record forms issued to the Property Officer. The record number will be recorded in the Property Record Issuance Log.

- A. The following categories of property will be recorded on separate Property Records:
- (1) Controlled Dangerous Substances (CDS), suspected CDS, and paraphernalia which contains CDS
 - (2) Evidence having a resale value and contraband
 - (3) Lost and Found property having a resale value
- B. Separate Property Record forms will be initiated for each known owner. Each item is to be listed separately whenever feasible. This is especially important whenever items of obvious resale value are received and identification or brand names on the item are apparent. Items which generally can be excluded from item-by-item listing are: keys, pencils, old or used clothes, etc.
- C. Certain evidence taken into the possession by the Sheriff's Office can be exempt from being recorded on Property Records, but should always be recorded in the Property Control Book (93-15); for example: blood samples, fingerprint lifts, broken glass, plaster casts, expended ammunition, etc. In addition, other items such as vehicle registration plates, driver licenses, open alcoholic beverage containers, etc. can be exempt from being recorded on Property Records. Only items which by their very nature have no resale value can be included in this exception. Strict commandery control will be exercised to ensure that items such as those mentioned above are excluded from the use of the Property Record. Form MSP 67 (Request for laboratory Analysis) and Form MSP 67A (Request for Laboratory CDS Examination) will be used in the event this type evidence is forwarded for analysis. Applicable Complaint Control Numbers on Property Tags will be used to identify these items.
- D. Whenever there is a greater number of items to be listed on a Property Record than such record will accommodate, additional items will be recorded on a Property Record Continuation Sheet.

Property Record Continuation Sheets will be referenced to the corresponding Property Record by indicating the Property Record number in the space provided. Property Record Continuation Sheets will be distributed with, and in the same manner as the Property Record to which they are referenced.

- E. In instances where more than one Property Record is used for the same case, all property record numbers will be cross-referenced in the remarks section.
- F. All Property Held reports regarding handguns which were confiscated or forfeited under the provision of Article 27, Section 36 shall indicate in the "Remarks" section of the form:

"Confiscated or forfeited under provision of Article 27, Section 36".
- G. To facilitate the timely disposal of stored property in cases where an arrest is made and property is held as evidence, the corresponding arrest tracking number(s) will be included in the "Remarks" section of the Property Records. For evidence not recorded on a property record, the arrest tracking number(s) will be recorded on the property tag or label used to identify the item(s)

PROPERTY VALUE:

- A. Each item will be recorded in the column provided. Value will be established in terms of resale value only. The individual completing the report will indicate if an item has a resale value or not. Dollar amounts will be estimated by the Agency Property Officer when/if forwarded for disposal.
- B. Items such as genuine antiques, gems, precious metals, pieces of art, coins of gold, silver, and currency worth more than face value, etc., will be individually listed. Items of this nature, where ownership is unknown, will be forwarded immediately to the Sheriff's Office Property Officer for storage and appraisal (by a certified expert) pending disposition.
- C. Federal, State and local law prohibits the sale of certain property, regardless of its condition. Certain items are **REQUIRED TO BE ON** property records for control purposes. The following items are considered to fall within these guidelines:

Article

- (1) Firearms
- (2) Ammunition
- (3) Commercially manufactured knives
- (4) Law enforcement uniforms & equipment
- (5) Military uniforms and insignia
- (6) Electronic/mechanical gambling machines
- (7) Electronic surveillance devices and related equipment
- (8) Tobacco products (intended for large quantities of contraband)
- (9) Recorded material such as "pirated tapes", computer programs, etc.

- (10) Any vehicle part with altered serial number

(11) Artificial limbs

(NOTE: The above information is to assist in determining if items stored by Sheriff's Office personnel for the purpose of the Property Record have a resale value. This does not affect the procedure for disposal of property. In cases where items which, by policy, may be disposed of but do not have the facilities for proper/safe disposal, the Property Officer will contact the Director of Law Enforcement for assistance.)

MONIES:

Money, insofar as use of the property form is concerned, will be treated as property, but will be handled as indicated below.

- A. Monies that can be identified as to ownership, and not classified as evidence or subject to forfeitures as in (d) below, will be returned to the true owner or authorized representative as soon as possible.
- B. Monies that cannot be identified as to true ownership, and not classified as evidence, will be forwarded to the Treasurer's Office immediately. Original, second and third copies must accompany same for disposition. Cash receipts will be issued by the Treasurer's Office.
- C. Monies classified as evidence, will be forwarded to the Treasurer's Office upon conclusion of the case with authorization of the appropriate prosecuting authority. When directed by the court to otherwise dispose of the monies, the Property Record will be so executed and forwarded to the Treasurer's Office, closing the record.
- D. Monies seized for forfeiture under state law, are seized only if there is probable cause to believe the money is connected with illegal drugs or illegal gambling. Such money will be handled as outlined in (2-5) below.
 - (1) The Sheriff's Office criminal section commander shall review, for completeness, all reports relating to the seizure of money. "Reports" means the Property Record, the Criminal Investigation Report, and, if applicable, a copy of the application and return of any warrant.
 - (2) The Director of Law Enforcement, or designee, will review each request for seizure for completeness and will forward the report copies to the State's Attorney's Office. The State's Attorney will be responsible for initiating and finalizing forfeiture proceedings. The State's Attorney's Office is the final authority on any request for forfeiture of money.
 - (3) When Sheriff's Office members participate in a cooperative investigation of controlled dangerous substances with federal law enforcement agencies, the Sheriff's Office may apply for a percentage of those assets seized and forfeited pursuant to the equitable sharing provision of federal law. This will be coordinated through the Task Force.
 - (4) Fund forfeited and transferred to the agency will be directed to the Treasurer's Office.
- E. Any monies, such as collector's items and coins or currency worth more than face value, will be retained as originally received and no other currency substituted.
- F. Claims to money forwarded to the Treasurer's Office shall be verified by the Director of Law Enforcement. Verification shall be made by memoranda to the Treasurer's Office and shall

include the full name and address and social security number of the claimant and the applicable Property record number.

- G. Except as previously indicated, money coming into the Sheriff's Office possession will be treated as personal property and recorded on the same property held as other items. The items and money will be handled according to procedures for storage, release and/or disposition of personal property as addressed elsewhere in this chapter. If these items should become subject to Sheriff's Office destruction, any monies will be sent to the Treasurer's Office.
- H. When recording money on the property record, the various denominations will be itemized. The words "total amount"

and the exact total will be placed in the lower right corner of the item description section. All amounts shall be counted and signed by two (2) deputies, one being a commander.

DUTY OF THE SEIZING OFFICER:

Money can be seized whenever there is probable cause to believe it has been used or is intended to be used in connection with the possession, distribution, manufacturing or importation of illegal drugs or in connection with illegal gambling. A separate property record shall be completed for each individual from whom money is seized. When money is not seized from the person of any individual, all individuals present are deemed to be in "constructive" possession of the money, unless one or more individuals asserts a claim to the money. Property record(s) shall contain:

- A. The name, address, and social security number of :
 - (1) The individual from whom the money was seized, and/or
 - (2) Any individual who makes a claim to the money, or
 - (3) All individuals present, if the money is in "constructive" possession of individuals and no individual asserts a claim to the money.

NOTE: The remarks section of the property record may be used to record additional information on names, addresses and social security numbers.

- B. By the end of the shift, place a copy of the completed property record and the money in a property envelope and deliver it to the criminal section commander or the Property Officer.
- C. Place a copy of the completed property record and the money in a property envelope and place it in the temporary evidence locker; immediately place the completed property record in the Property Officers Mailbox.

DISTRIBUTION OF PROPERTY RECORDS (INITIAL):

Property Records will be executed in four copies, with distribution as follows:

- A. Give 4th copy to the person from whom property is received or recovered (except CDS)
- B. Forward without delay, 3rd. copy to administrative file
- C. Attach 1st copy to the property
- D. 2nd copy to be retained by Property Officer

DISTRIBUTION OF PROPERTY RECORDS (FINAL):

Property released or disposed of at an installation/division/unit.

- A. Fully complete release portion of first, second, and third copies and have each signed by person receiving the property.
- B. Distribution of these copies is as follows:
 - (1) First Copy - Administrative file/released section
 - (2) Second Copy - Property Officer/released file
 - (3) Third Copy - Removed and destroyed.

WORTHLESS PROPERTY TO BE DESTROYED:

- A. The Director of Law Enforcement will be informed of any worthless property (no resale value) destroyed at the Sheriff's Office. The Director of Law Enforcement and a commander will witness destruction and sign the associated Property Record Form. Opened and unopened alcoholic beverage containers seized as contraband that have no evidentiary value or when the owner is unknown, may be destroyed at the Sheriff's Office. CDS or suspected CDS will not be destroyed at the Sheriff's Office but will be disposed of as specified under the CDS provisions of this section. When any property is removed from storage for destruction, the notation "destroyed" and date entry will be made in the "Property Released" section of the Property Control Book.
- B. The Director of Law Enforcement will inform the Sheriff of any worthless property destroyed locally, citing property record number, names of two witnesses to such destruction and reason for same. This shall be done in memorandum form with a copy going to the administrative files.

PROPERTY RELEASES:

- A. A release of all items listed on a Property Record will be accomplished by completing the release section in the lower portion of the Property Record.
- B. A partial release of one or more items will be accomplished by completing the "Partial Release" columns of the Property Record. The deputy releasing the property will type/print, in the appropriate space, the name of the person to whom each item is being released and have that individual sign in

the same space. The releasing deputy shall sign and date the space provided for each item released. The last item or group of items on a Property Record will not require the completion of the partial release columns, but will be handled in the same manner as a full release.

VOIDING PROPERTY RECORD FORMS:

- A. The Director of Law Enforcement will record on the applicable Property Record form the reason for voiding same and also record any new property record numbers that have been generated as a result of the voided record. Property Records that are voided will be held for one year and then destroyed.

SALE OF PERSONAL PROPERTY:

The following procedures are to be followed for the disposition or sale of personal property, which comes into the possession of the Cecil County Sheriff's Office.

CUSTODY: "Personal Property" defined - Any personal property which comes into the possession of the Cecil County Sheriff's Office shall be held until the Sheriff's Office determines that its custody is no longer necessary in connection with any prosecution. As used in this section, "personal property" does not include personal property purchased or otherwise acquired for use by the Cecil County Sheriff's Office.

RETURN: After expiration of the period referred to in **CUSTODY** personal property shall be delivered to the person who satisfactorily establishes his right to its possession and gives a proper receipt therefor.

SALE: At any time after personal property has been in the possession of the Cecil County Sheriff's Office for a period of one year and its custody is no longer necessary for the purpose referred to in **CUSTODY**, notice of sale of such property may be given by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence. Thereafter, such property may be sold at public auction after a description of such personal property and the time, place, and terms of such sale have been published in a newspaper of general circulation in Cecil County in each of two successive weeks. The terms and manner of sale may be established by the Sheriff. The certificate of the Cecil County Sheriff's Office that personal property has been sold pursuant to this section shall constitute sufficient evidence of title to such property for all purposes, including the right to obtain a certificate of title or registration from an appropriate department or the State.

DISPOSITIONS OF PROCEEDS: The amount received from the sale of personal property in accordance with this section shall be distributed in the following order of priority (1) to the Cecil County Sheriff's Office, in an amount equal to the expense of sale and all expenses incurred while the personal property was in its custody, (2) to lienholders in order of their priority, and (3) subject to the provisions of **CLAIMS TO PROCEEDS** to the general funds of Cecil County.

CLAIMS TO PROCEEDS: At any time within three years from the date of such sale, any person submitting satisfactory proof of his right to the possession of such personal property shall be paid, without interest, the amount distributed to the General Fund of Cecil County pursuant to **DISPOSITION OF PROCEEDS**. After the expiration of three years from the date of such sale, such claims shall be absolutely barred.

APPLICATION OF SECTION: Nothing in this section shall be construed to create or recognize any cause, action or defense or to abridge any immunity now or hereafter held by the Sheriff of Cecil County, the Cecil County Sheriff's Office or any employee.

OFFICIAL USE OF PROPERTY OF KNOWN OWNERSHIP:

- A. Useable items of property which were directly obtained by a member of the Sheriff's Office in the pursuit of his official duties, or which are released to the Sheriff's Office by a court order, may be immediately converted to official use, following the Sheriff's approval of a detailed report requesting such usage. Photographs of the subject property will be attached to the report.
- B. When appropriate, property converted to Sheriff's Office use will be assigned County equipment identification numbers.
- C. Items of this type will be considered Sheriff's Office Property and will be utilized, cared for, and, if appropriate, disposed of according to established procedures.

FILES:

Property Records File

- A. The Sheriff's Office will maintain a "Property Records" file. It will contain the open property records filed consecutively by property record number. As the records are "closed" they will be removed from the open file and placed in the closed file in numerical sequence.
- B. Property Records will remain in the open file until the property indicated on the record has been disposed of in accordance with Cecil County Sheriff's Office procedures or State statutes.

PROPERTY RECORD ISSUANCE LOG:

- A. A Property Records Issuance Log will be maintained to indicate the status of each property record. This log will be maintained in the open file.

STORAGE:

CUSTODIAL OFFICER

The Director of Law Enforcement shall designate the commander of the Criminal Investigation Section to be custodial officer of all evidence and controlled dangerous substances (CDS). Another police employee of his staff may be named responsible for the storage and security of all other property held at that location. The Director of Law Enforcement may delegate responsibility for property held procedures; however, he will retain overall accountability.

STORAGE PROVISIONS

- A. A storage area for property held (CDS, evidence, found and recovered property) must, by its very nature, be a separate entity and not utilized to store Sheriff's Office firearms, ammunition, riot control equipment, auto supplies, records, or any other material not considered property held. Under no circumstances will property coming into the Sheriff's Office possession be stored at any place other than storage area without the express permission of the Director of Law Enforcement.
 - (1) CDS shall be stored separately as outlined in CDS procedures of this Section.
 - (2) All evidence should be separated or physically stored apart from other property held.
 - (3) Authorized Personnel - Only personnel authorized by the Director of Law Enforcement will have access to the property held storage areas. Efforts will be made to keep access of personnel to a minimum. Whenever property comes into the possession of the Sheriff's Office and a custodial officer is not available, the officer in charge will temporarily place such property in a secure location, designated by the custodial officer pending his arrival.
 - (4) Property may be removed from storage areas only for an official purpose and may be retained only for such time as the official need exists and then must be expeditiously returned to storage.

IDENTIFICATION

- A. All stored property shall be properly identified by a Property Record number, if applicable, or the Complaint Control Number if not covered by a Property Record.
 - (1) Property Held Tags shall be attached to all property held or container holding such property, unless an evidence envelope or heat sealed pouch is used.

EVIDENCE TEMPORARILY REMOVED FROM STORAGE:

- A. The Sheriff's Office Property Control Book shall be used whenever any property or evidence is placed into or removed from storage.
- B. LABORATORY EXAMINATIONS:
- (1) Evidence taken from the storage area to be analyzed at a laboratory or ballistics facility will be recorded on MSP 67. The original copy of MSP 67 will be transmitted with the evidence to maintain chain of custody.
 - (2) Upon acceptance of evidence by the Crime Laboratory Division, the receipt section of Request for laboratory Examination MSP 67 will be issued. This receipt will be returned to the Sheriff's Office and filed with the applicable Property Record.
 - (3) After the analysis has been completed and the evidence returned to storage, the original Request for Laboratory Examination MSP 67 and the Examination/Analysis Results will remain with the evidence.
 - (4) After final disposition of the property, the original (MSP 67) showing the chain of custody and the Examination/Analysis Results will be filed with the appropriate Investigative report.
- C. Court Exhibits
- (1) Whenever evidence is taken from the storage area to be used in courts as exhibits and is retained by the court, a completed Court Evidence Receipt will be obtained from the applicable court and filed with the applicable Property Record. Proper entry will be made in the Property Control Book. If the court disposes of any property without returning it to the Sheriff's Office, a representative of the court should sign the release portion of the Property Record. If such representative of the court refuses to sign, this fact will be so noted on the form.
 - (2) Personnel should not automatically consider a Court Evidence Receipt as a final disposition for purposes of property held procedures. Local property control officers shall see that personnel follow up on evidence retained by a court. When the case has been adjudicated and the property has been retained by the court, personnel are to obtain the property and process according to Sheriff's Office policy. If the court refuses to return the property or has disposed of same, the property release should be completed as specified above.

INVENTORIES

Quarterly during the months of March, June, September, and December, the custodial officer will conduct a physical inventory of all property held at the Sheriff's Office. This inventory is to consist of an item-by-item comparison between the stored property and the Property Records and the Sheriff's Office Property Control Book. The term "inventory", the date, individuals conducting the inventory, and the results, will be recorded in the space available. This entry will indicate that all preceding entries have been accounted for as required.

The Director of Law Enforcement will promptly forward to the Sheriff a detailed report describing all discrepancies found during an inventory. They will also initiate an investigation to resolve such discrepancies and all reports concerning this investigation will be forwarded to the Sheriff. Discrepancies concerning property recorded only in the Sheriff's Office Property Control Book will be handled in the

same manner.

If the investigation fails to explain the discrepancies and the property cannot be located, the Director of Law Enforcement will forward the applicable Property Record or copy of the Property Control Book, through channels, to the Sheriff requesting said Property Record or Property Control Book entry be closed administratively.

During the inventory the custodial officer will ensure that proper notification has been made as prescribed in "Notification" of this section. He will also ensure proper disposition of evidence is made once final adjudication of the case has been completed.

The availability of court disposition information via the MILES terminal can assist property officers in the timely disposition of property held as evidence. Using the arrest tracking numbers provided on the property records and identification tags/labels,

the court records may be accessed via MILES indicate if related evidence should continue to be held. Property officers would verify the need to hold property by contacting investigating personnel.

The Director of Law Enforcement will periodically make checks of the Property Records and property storage areas to ensure the integrity of the system.

CONTROLLED DANGEROUS SUBSTANCES PROCEDURES:

- A. The following procedures have been established for the handling of all alleged or known CDS and paraphernalia containing CDS which has been acquired by members of this agency.

GENERAL PROVISIONS

- A. When CDS or suspected CDS is taken into custody, it will be weighed on a Sheriff's Office scale or counted by the seizing deputy in the presence of a commander. The substance will be secured in a Sheriff's Office approved, heat sealed, clear polyester evidence pouch. The package will be identified with the adhesive label provided.
- B. A Property Record will be immediately executed by the seizing deputy for any amount of CDS or suspected CDS taken into possession regardless of how small. CDS or suspected CDS, including paraphernalia containing CDS, seized as evidence or otherwise acquired, will be recorded on a Property Record independent of any other property relating to the same incident. The witnessing commander will verify the count or weight of all seized CDS, suspected CDS, and paraphernalia containing CDS. This verification shall be by legible signature on all copies of the Property Record.
- C. A request for Laboratory CDS Examination (MSP 67A) will be completed for any CDS or suspect CDS evidence requiring analysis. Five copies of Form MSP 67A, along with the first copy of Form Property Record, will be submitted to the Crime Laboratory Division with the CDS evidence. Care should be taken not to tear or mutilate the first copy of the Form, as it will become a part of the Crime Laboratory records.
- D. Paraphernalia (pipes, cigarette papers, empty capsules, spoons, plastic bags, bong, etc.) absent evidence of CDS residue will not be recorded or packaged as prescribed for CDS. Further, it will not be forwarded to the Crime Laboratory Division for destruction. Generally, unless the item contains evidence of CDS, it will be recorded, processed and disposed of according to those procedures established for personal property or evidence.

- E. A Request for Priority Rush Analysis on CDS evidence should be in writing from the office of the State's Attorney. All of the necessary information is contained on the receipt photocopy of the Form (MSP 67A) which is returned to the submitting deputy at the time the CDS evidence is accepted into the Crime Laboratory. The submitting deputy should forward a copy of the receipted Form (MSP 67A) to the local office of the State's Attorney immediately after submitting CDS evidence to the Crime Laboratory.

The written request from the office of the State's Attorney must contain the Crime Laboratory file number, date the CDS evidence was submitted to the Crime Laboratory, defendant/suspect's name, name of submitting agency, case number and/or property record number. A photocopy of the Form (MSP 67A) should be attached to the written Request for Priority Rush Analysis.

- F. The following procedures will be adhered to in obtaining forensic assistance from a Crime Laboratory chemist when circumstances specifically relate to the handling, preservation, transportation or analysis of substances normally associated with the manufacturing and/or trafficking of illicit drugs (i.e. liquid PCP, ether, hydrochloric acid, potassium carbonate, etc.).
- (1) In order to ensure the safe handling and appropriate disposition of these illicit substances which may pose a threat to personal safety, Sheriff's Office members who encounter such substances (either by design or unintentionally during search and seizure, controlled buys, drug interdiction, etc.) shall seek the advice of a Maryland State Police forensic chemist as soon as reasonably possible.
 - (2) Individual requesting consultation with a chemist should contact the Crime Laboratory Division, Maryland State Police, Monday through Friday, 0830 to 1630 hours. At all other times, they should contact the Telecommunications Division duty officer. On a monthly basis, the Director of the Crime Laboratory Division will provide the Commander of the Telecommunications Division with a schedule of on-call forensic chemists. The Maryland State Police Headquarters Duty Officer will call the appropriate chemist and have him contact the member requesting assistance.
 - (3) If it is determined that any substance poses a threat, the following steps should be taken to minimize risk to personal safety:
 - I. The immediate area around the substance will be secured and vacated.
 - II. The shift commander will be contacted and requested to notify:
 - a. the appropriate explosive/bomb specialist from the State Fire Marshal's office when considered extremely volatile, or
(NOTE: The Fire Marshal's Office can be contacted after hours through Emergency Management and Civil Defense. The duty officer must request either a bomb tech or a fire marshal, if during business hours then EMCD calls Glen Burnie Duty Officer who in turn contacts appropriate person to respond)
 - b. The Hazardous Material Unit of the State Fire Marshal's Office for guidance and containment equipment.
 - III. The closest fire department will be requested to stand by with appropriate equipment until the situation is neutralized, when circumstances indicate the necessity.
 - IV. When conditions are safe, a small sample of the substance should be collected for analysis and an order to destroy the remaining substance will be obtained from the State's Attorney.

V. The collected sample will be transported to the Crime Laboratory by the investigator.

G. Hypodermic Syringes & Needles -

- (1) There are serious health hazards involved when handling hypodermic syringes and needles. Therefore, they should be handled only when necessary and in a most careful manner. All such items should be presumed to be infectious and extreme caution should be exercised to avoid pricking the skin with the needle or allowing any part of the syringe to come into contact with an open cut or scratch. Rubber gloves should be worn anytime a possible infectious item is handled, as well as when making searches of areas where such items may be encountered. Searches should first be made visually, if possible, using a mirror if necessary, to observe difficult areas, i.e., under vehicle seats, unexposed shelves, etc. All such searches should be conducted in a careful, slow and deliberate manner.
- (2) Hypodermic syringes and needles, unless absolutely critical to the prosecution or a major case, will not be routinely analyzed by the Crime Laboratory. It is of paramount importance when determining the significance of such evidence to weigh the inherent dangers involved against the seriousness and probable disposition of the case if the analysis is not performed. In many cases, there are other less hazardous exhibits emanating from the same case which can be introduced into evidence with more substantial results.
- (3) All syringes and needles fall under the categories of infectious waste or hazardous materials and will be disposed of using an "Infectious Waste" Sharps container. The container should be kept in the property/evidence temporary holding area, or similar location accessible by commanders only, and will be conspicuously marked with a "BIOHAZARD" sign. The containers and signs will be supplied by the Crime Laboratory Division of the Maryland State Police.
- (4) The Criminal Section commander, or in his absence, the shift commander, will make an immediate determination of the evidentiary value of the needle or syringe. The criteria employed when making this decision should be the seriousness of the offense versus health hazards involved, coupled with predetermined procedures as established with the local state's attorney. When possible, photographs should be used as second best evidence.
- (5) Upon determining that necessary criteria for analysis has been met, the commander or his designee will sign the Request for Laboratory Examination (MSP 67A) at the bottom of the "List of Articles" block indicating justification exists and the request is properly authorized.
- (6) All syringes, needles and similar sharp hazardous objects which have no probative value or are determined not to be crucial evidence, will be inserted in to the "Infectious Waste" Sharps container. They should be inserted needle point down without bending, cutting snipping off, or in any way tampering with the needle; leaving them capped if recovered capped and uncapped if recovered uncapped.
- (7) When the container is reasonably full, it will be forwarded to the Crime Laboratory for proper disposal, at which time a replacement container will be issued. All syringes and needles, whether for analysis or disposal, will be packaged and transported in accordance with the Crime Laboratory Division guidelines for submitting physical evidence.
- (8) All syringes and needles will be disposed of in this manner. No other disposal devise or

method will be substituted by Sheriff's Office members. Any existing disposal devices will be immediately forwarded to the Crime Laboratory Division for appropriate disposal.

CHAIN OF CUSTODY:

- A. CDS will be recorded in the Sheriff's Office Property Control Book, noting the date(s) when CDS is placed in, removed from, or returned to storage. When CDS is originally stored, the person placing it in storage will note the date and his initials in the "Date Stored and Recovered" section of the Property Control Book.
- B. Laboratory Analysis
- (1) All CDS and suspected CDS evidence requiring a laboratory analysis will be expeditiously transported to the laboratory. When practical, personnel assigned to the Crime Scene Unit will be utilized to transport these items. In unusual circumstances, when the above-mentioned personnel are not available, Crime Scene Commander may designate another deputy to transport the evidence, preferably the seizing deputy.
 - (2) In order to maintain absolute chain of custody, the individual transporting CDS evidence to the Crime Laboratory will place the sealed evidence pouch(es) and the attached documentation into the laboratory evidence vault where it will remain until analysis by a laboratory chemist. All CDS evidence transported to the laboratory must be properly sealed and accurately described on the Request for Laboratory CDS Examination Form (MSP 67A) because it will not be opened for visual inspection and verification until analysis by a chemist. If the original seal of the evidence pouch(es) appears to have been tampered with, the laboratory evidence coordinator will have the individual transporting verify weight and count of evidence, reseal and place it into the laboratory vault. The individual transporting CDS to the laboratory will complete the chain of custody portion on the Form (MDP 67A) indicating receipt of the items and their deposit at the laboratory. The evidence coordinator will verify receipt by date stamping all copies and give the individual transporting the CDS or suspected CDS a copy of the receipted Form (MSP 67A) and a receipt for the Sheriff's Office files.
 - (3) After analysis, the remaining CDS will be verified by weight or count and recorded by the analyst. The CDS will then be resealed in the Maryland State Police Evidence pouch(es). The original Request for laboratory CDS Examination (MSP 67A) and the Examination/Analysis Results will be returned securely attached to the evidence for storage in the Sheriff's Office property facility.
 - (4) When a large quantity of CDS or suspected CDS is seized, it is necessary to submit only a sampling for laboratory examination.

For CDS in capsule or tablet form in quantities of fifty or more identical items, 10 percent of like capsules or tablets would be submitted. When bulk exhibits (greater than one kilogram) of Marijuana, Cocaine or other such substances are seized, submit random samples taken from each bale, kilo, etc. Each sample should be about one gram and no more than ten samples from any one bale, kilo, etc. should be submitted. Only random cuttings of leaves, flowering tips, stems and seed stalks from Marijuana plants larger than one foot should be submitted. Seizures, including large numbers of plants (more than twenty) should follow the 10 percent random sampling guide specified for tablets and capsules. Guidance pertaining to the submission and storage of large quantities of another CDS may be obtained directly from the Crime Laboratory Division. In the above instances, one Property Record will be prepared covering both the samples submitted

and the remainder left in the CDS evidence storage facility.

- (5) CDS or suspected CDS submitted for analysis will be identified in the "Item Description" section of Form (MSP 67A) and clearly marked "Submitted for Analysis" along with the package number containing the material. Amounts of CDS, suspected CDS, and paraphernalia containing CDS remaining in the CDS evidence storage facility will be listed on the Property Record with the notation "Remaining in the CDS Storage Facility" along with any package number(s) containing the material or paraphernalia. For example, one property record is completed with the following entries:

- a) Twenty-five capsules of suspected CDS submitted for analysis - package P-00000 #1 of 5; 975 like capsules remain in CDS storage facility - package P-00000 #2 of 5
- b) Five pipes with suspected CDS residue remain in CDS storage facility - package P-00000 #3 of 5
- c) One package containing two grams of suspected CDS, submitted for analysis in package P-00000 #4 of 5; 998 grams suspected CDS remain in CDS storage facility in package P-00000 #5 of 5

- (6) To assist in the successful prosecution of CDS cases, it may be advisable to photograph all large seizures of CDS prior to submission of CDS for analysis.

C. COURT CUSTODY

- (1) When CDS or suspected CDS is taken into custody by the court, the Court Evidence Receipt will be attached to the Property Record to establish that it is no longer in the possession of the Sheriff's Office. Upon completion of the judicial proceedings, and return of the evidence to this Agency's custody, the completed Court Evidence Receipt will be attached to the Property Record.
- (2) In the event it is necessary to open a sealed CDS evidence pouch for judicial proceeding or any other purpose, the weight or count shall be verified upon return to the Sheriff's Office and whenever a change of custody takes place thereafter.

NOTE: During inventories or upon change of custody or the sealed pouch after laboratory analysis, the recipient or employee conducting the inventory shall inspect the evidence pouch and verify that the seal is intact. Any indication that the seal or pouch has been tampered with or altered in any manner shall be cause to immediately notify the Director of Law Enforcement. The Director of Law Enforcement shall be responsible to initiate appropriate action.

STORAGE

- A. The Director of Law Enforcement will designate the Criminal Section Commander to oversee security and storage of all CDS or suspected CDS and paraphernalia containing CDS.
- B. When practical, the storage location for CDS evidence will be separate from other types of evidence.

Procedures for Forwarding Controlled Dangerous Substances for Destruction:

- A. CDS or suspected CDS and paraphernalia containing CDS which is not needed as evidence will be forwarded quarterly during January, April, July, and October to the Crime Laboratory Division for destruction. Arrangements to accept the material will be made in advance with the Director, Crime Laboratory Division, Maryland State Police, or his designee prior to the submission. In cases where CDS awaiting destruction is creating a storage or security problem, special arrangements may be made with the Director, Crime Laboratory Division for its transfer and immediate destruction. The Property Officer, with the concurrence of the Director of Law Enforcement, will identify which CDS and paraphernalia containing CDS that is in custody and is to be destroyed.
- B. The Property Officer is responsible for coordinating and transporting from their assigned areas to the Crime Laboratory Division facility all CDS, suspected CDS and/or paraphernalia containing CDS, which is available for destruction.

Local Destruction of Marijuana

The destruction of marijuana may be carried out at a local level when long term storage of a large quantity of marijuana seized is impractical. The procedure for destroying marijuana at a local level is as follows:

- A. Obtain written authorization, prior to the destruction of the marijuana, from the state's attorney office prosecuting the case and the Sheriff.
- B. Photograph the marijuana to be destroyed in its entirety.
- C. Retain random samples for prosecutorial purposes, if necessary.
- D. Appoint an agency member at the local level to destroy the marijuana only by incineration at an incineration site identified by the Director of Law Enforcement and approved by the Sheriff.
- E. Appoint two police members, one of whom will be of a Commissioned Rank, to witness the destruction.
- F. Immediately following the destruction, the Director of Law Enforcement will forward to the Sheriff, a report listing the date, time, location and method of destruction, description of the marijuana destroyed, name of the employee who destroyed the marijuana, and names and rank of witnesses to the destruction. Attach to the report photocopies of the closed property records and the state's attorney's written authorization to destroy the marijuana.
- G. The Director of Law Enforcement will maintain reports of marijuana destroyed locally.

CDS for Display, Demonstration and Investigative Purposes

- A. Except for laminated marijuana leaves, all CDS samples contained on display boards or plaques, in kits, or in other educational or public information materials maintained by any employee of this Agency shall be simulated.
- B. The Bureau of Drug Enforcement will be responsible for all controlled dangerous substances utilized by the Sheriff's Office for training and investigative purposes. All controlled dangerous substances used for training or investigative purposes will be obtained through the Bureau of Drug Enforcement. All requests for the use of controlled dangerous substances for training purposes will be submitted in writing to the Chief, Bureau of Drug Enforcement, Maryland State Police, no less than ten working days prior to its intended use. Any inadvertent exposure to controlled

dangerous substances during training will be reported by personnel to the Director of Law Enforcement in writing.

FIREARMS:

Determining Ownership

- A. Sheriff's Office members who seize or otherwise receive a firearm shall attempt to identify ownership by searching the Maryland State Police firearms registration file or the Baltimore City Police Department's firearm registration file (if the owner is believed to be a Baltimore City resident). The deputy requesting the trace should personally examine the weapon to determine the manufacturer, the type of weapon, model designation, caliber or gauge, magazine or cylinder capacity, barrel length, finish, serial number, identifying marks, and any other information that would aid in tracing ownership. The reason for the trace should accompany every such request.
- B. A request for a trace of the MSP Firearms Service Section's files will be assigned a priority. A priority of either "Urgent" or "Routine" will be assigned based on the need for the information in the case under investigation. Routine traces are usually completed within seven working days. Urgent request are processed as rapidly as possible and are assigned when the firearm was used in a crime and the trace information is essential to the detention or apprehension of a subject.
- C. Whenever any handgun comes into the possession of the Sheriff's Office, or whenever an individual is found to be in possession of a handgun, either with or without a handgun permit, the following procedures will be followed:
 - (1) The upper portion of Form (MSP 97) will be completed and forwarded to the Licensing Division, Handgun Permit Unit. The employee completing the form will indicate whether the form is being utilized as a "Stop and Frisk Report," "Firearms incidental to Arrest Report," "Trace Report," or as any combination of the three. The Handgun Permit Unit will complete the lower portion of the form, indicating ownership history of the handgun, whether the weapon or the owner has been the subject of other inquiries, any handgun permit violation which may be involved, any other pertinent information, and return the form to the employee initiating the report.
 - (2) Information on handguns may be requested by MILES, telephone, or in person if circumstances require an immediate response. However, in all instances, such inquiries must be followed with a completed Form (MSP 97).

HANDGUNS:

A. Authority

The disposition of seized handguns in Maryland is regulated by Article 27, Section 36C (c), Annotated Code of Maryland. The following procedures shall be used in the handling and disposition of handguns that come into the possession of employees of the Cecil County Sheriff's Office.

B. Disposition

- (1) When a handgun is confiscated pursuant to Article 27, Section 36B, or has otherwise come into the possession of an employee the Criminal Section Commander will make disposition of the handgun. Such disposition may include:

- (a) A return of the weapon to the owner after review of the case has indicated it is not needed as evidence and that the owner did not use the weapon or knowingly permit it to be used in violation of Article 27, Section 36B.
 - (b) Retention of the weapon for use as evidence in a criminal case or criminal investigation. If the weapon is used as evidence, it will be disposed of by the Court at the conclusion of the case.
 - (c) Retention of the weapon if evidence indicates it was used in violation of Article 27, Section 36B.
- (2) The owner shall be properly notified on Form ., "Firearms/Handgun Disposition, " by certified mail, "Return Receipt Requested," by the Criminal Section Commander concerning the disposition of all firearms.
 - (3) When it has been determined that a non-resident owner is entitled to his handgun, the Criminal Section Commander shall notify a law enforcement agency within the jurisdiction where the owner resides and forward the handgun by a reputable package service to that agency for disposition.

C. Appeal

- (1) When the Criminal Section Commander has determined that the handgun should be forfeited to the State, the owner shall be notified as previously provided for and may apply within thirty days to the Maryland State Police for a review to determine whether he knew or should have known that the handgun was worn, carried, transported, or used in violation of Article 27, Section 36B and whether he is qualified to possess it. Qualification for possession is the same as for sale or transfer under Article 27, Section 442. Knowingly giving false information or making a material misstatement in the application for review or any investigation pursuant thereto subjects the appellant to the penalties set forth in Article 27, Section 448, Annotated Code of Maryland.
- (2) Upon timely receipt of an application, the Criminal Section Commander shall hold an informal review, not subject to the Administrative Procedures Act, concerned with whether the owner knew or should have known of the use or intended use of the handgun in violation of Article 27, Section 36B. If the Criminal Section Commander rules in favor of the owner, the handgun shall be released to the owner, if he is qualified to possess it, unless it is needed as evidence in a criminal case or investigation. In the latter case, it shall be disposed of by the court at the conclusion of the litigation.
- (3) The review will be conducted at the Sheriff's Office and the review proceeding shall be recorded on a tape recorder. Tapes shall be retained for one year from the date of the review or until all such cases related to the seizure are finally adjudicated. If the decision of the Criminal Section Commander is to release the weapon to the owner, standard Agency procedures regarding the release of seized property will be followed.
- (4) If the reviewing officer determines that the handgun should be forfeited to the State, the owner shall be so notified at his last known address by "Certified Mail, Return Receipt Requested," and may, within thirty days thereafter, petition the appropriate District Court to release the handgun to him. The Criminal Section Commander shall be responsible to coordinate with the State's Attorney in presenting the State's position to the District Court, a copy of the papers filed by the individual and a copy of the investigation will be

forwarded to the State's Attorney's Office. He will review the matter and assist in coordinating this Agency's position.

- (5) In a proceeding in a criminal case involving a seized handgun, a Court may order forfeiture or release of the seized handgun in accordance with the criteria established for release in Article 27, Section 36C. Persons who have made written claim of ownership of a handgun to the Sheriff's Office or to the State's Attorney shall be notified of the judicial proceedings and of the claimant's right to present his claim at those proceedings, except that a claimant who has completed the review procedure provided by the seizing agency shall not have the right to a review before the Court.
- (6) If no timely application for a review by the Sheriff's Office or the District Court is effected, or order for the release of the handgun by the Criminal Court is issued, it shall be forfeited to the State without further proceedings and destroyed by the seizing authority.

Disposition of Confiscated Firearms

A. Policy

- (1) All confiscated firearms which are no longer of evidentiary value and are in the possession of the Sheriff's Office and have remained unclaimed for at least six months shall be disposed of.

B. Ownership Claims

- (1) Any person claiming title to a firearm which was held by the Sheriff's Office for a minimum of six months, and which was subsequently destroyed, may file a claim for reimbursement with the Agency. Every such claim must be accompanied by proof of ownership. Reimbursement may not exceed the sale price of the weapon, or the fair market value of the firearm at the time it was destroyed less all expenses incurred by the Sheriff's Office in the storage, sale, or disposal of the firearm.

Handling of Confiscated Firearms

- A. When the Crime Scene Unit personnel are requested at a crime scene, firearms associated with a crime scene, when possible, will be kept in the actual condition and location in which they are found with the exception of firearms that are cocked. All firearms found cocked at a crime scene will be uncocked as soon as safe conditions so permit. Crime Scene Unit personnel will handle and transport confiscated firearms in accordance with established evidential procedures.
- B. Confiscated firearms not requiring the attention of the Crime Scene Unit will be made safe, unloaded, as soon as safe conditions so permit.
- C. As a general rule, confiscated firearms will be placed in the trunk when being transported in agency vehicles.
- D. As a general rule, confiscated firearms will be made safe, unloaded, prior to being brought into any building or facility for storage in an agency property room.
- E. Confiscated firearms that cannot be unloaded because of unfamiliarity with a weapon or a weapon malfunction, will be so tagged and stored in a Sheriff's Office property room. As soon as possible, a Sheriff's Office firearms instructor will be requested to make such weapons safe. Notes will be made on the conditions under which such weapons are confiscated and made available to the armorer or firearms instructor.
- F. Unloading weapons at an installation will be done in a safe location. If an unloading box is not available, firearms will be unloaded outside with the muzzles pointed in a safe direction.

HAZARDOUS MATERIAL:

With the ever changing technology, the likelihood of Sheriff's Office members having to deal with hazardous material is greatly increased. Not only are these materials being legally transported and used throughout the State, but they are finding their way into the criminal atmosphere, i.e. hazardous waste dumping, CDS laboratories, explosives, etc. The following guidelines are established to assist members when confronted with such material in its safe and proper disposition.

Shift Commanders are to ensure the handling, security, transportation and release of hazardous materials is performed in strict compliance with the following procedures.

When it becomes apparent that the Sheriff's Office must deal with the storage of a hazardous material as in the case of evidence in a criminal investigation or property storage situations, personnel will immediately notify their Shift Commander or his designee, supplying information as to the nature of the incident and the details of the hazardous material in question. Members will not handle, transport or store any hazardous materials without authorization from the Shift Commander or his designee. Shift Commanders will ensure that every attempt is made to provide for a safe disposition. Assistance may be obtained from:

- A. The Hazardous Waste Division, Waste Management Administration, Office of Environment Programs, Department of Health and Mental Hygiene; or
- B. The Maryland State Fire Marshal's Office; or
- C. The distributor of the material in question.

Every attempt will be made to release such materials to authorized personnel at the scene for storage and/or disposition.

Should the hazardous material be evidence necessary to a criminal prosecution, the following procedures will apply:

- A. Photograph the items to include proper identification, labels, placards, etc.
- B. See that the material is properly disposed of by authorized personnel
- C. Complete a Property Record Report and have the release signed by the representative of the authorized agency removing the material.

NOTE: Should laboratory analysis and storage be necessary, members of the Maryland Hazardous Waste Laboratory, Spill Response Team can supply information and assistance. Due to substantial cost and potential hazards, Shift Commanders should utilize all "expert" resources available when dealing with hazardous materials.

Members discovering violations of the hazardous waste laws, i.e. illegal dumping, storage, transportation, etc., will contact the Office of the Attorney General, Environmental Crimes Section. This unit has the responsibility for all investigation and prosecution dealing with hazardous waste materials.

If the hazardous material(s) are not required as evidence, a Property Record shall be completed and the release portion completed and signed by the person taking custody of the material.

The Property Records will follow the distribution as specified elsewhere in the chapter. In criminal proceedings, the Property Records and photographs, along with other documents, should prevail under the "Next Best Evidence" rule.

VEHICLE TOWING PROCEDURES

INTRODUCTION:

- A. Disposing of vehicles abandoned, involved in accidents, or otherwise part of the many situations which may be brought to the attention of a deputy is recognized as a routine function. It is, nevertheless, one which must be approached with a great deal of discretion for the result of misguided authority may be civil liability, or in the case of an investigation, inadmissible evidence and the resultant embarrassment of an acquittal. The inability to respond before the fact to all of the occasions where operating guidelines may be desirable is readily recognized; consequently, it is the purpose of this Section to offer direction, in a general way, to the deputy so that he may operate on a sound, legal basis when disposing of vehicles that must be towed and stored. It must be understood that these guidelines, where they are not governed by statute, are intended to be flexible and allow for wide discretion by the deputy in those situations where a clear-cut procedure is not prescribed.

INVENTORY OF VEHICLES:

Except where specifically noted otherwise in this Chapter, whenever any vehicle is towed by a Sheriff's Office dispatched towing service or taken into custody at the direction of a deputy, a Vehicle Report will be initiated and the operator of the tow truck shall sign his name in the narrative section of the report as an agent of the towing business. Whenever a vehicle is stored, the storing deputy will affix, in a conspicuous location, on the inside of one of the vehicle's windows, a Sheriff's Office Storage Sticker.

Since the primary purpose of having the vehicle towed to a place of storage is to protect property from loss or damage, the deputy will examine the vehicle prior to its removal by the tow truck and prepare an inventory of all property therein. All property included in the inventory will be recorded on a Supplemental Report which will be attached to the Vehicle Report. The same case number will be used for both reports. The tow truck operator will sign the Supplemental Report Containing the inventory list as an acknowledgement of the items remaining with the vehicle.

All property in the vehicle must be inventoried, including items in unlocked baggage, unsealed cartons, etc. Items in the trunk and glove compartment should be inventoried as should items in locked suitcases or containers, but only if a key is available. Forced entry to a trunk, glovebox, suitcase or other item is not permitted to complete an inventory unless express permission has been granted and the Consent to Search and Seized Form has

been signed by the owner. Items such as clothing in a suitcase or tools in a tool kit need not be individually itemized, but can, for example, be described on the inventory and the Property Record simply as "women's clothing" or "auto mechanic tools".

Certain limitations are imposed on the scope of an inventory and each inventory must be justified by its own circumstances. An inventory may extend to any part of the vehicle where personal property would ordinarily be kept; looking elsewhere will call into question the deputy's motives. Unlocked packages may be opened for the mutual protection of the deputy and the owner. Evidence or contraband discovered in the conduct of a bona fide inventory may be seized and used to prosecute. The burden is on the deputy, however, to show that the inventory was reasonable and pursuant to Agency policy.

Promptly after evidence is discovered during an inventory, the inventory should be halted, the property secured, and a search warrant obtained. Only after execution of the search warrant should the inventory be completed.

Except for evidence, only items with a marketable value of those with an obvious attraction which may result in its disappearance, should be removed and placed on a Property Record. Members shall consider each item in the vehicle in connection with the circumstances necessitating the inventory, as well as their obligation to safeguard property when deciding what will be stored. An obviously broken CB set has little appeal and/or resale value as compared to a leather brief case which is empty; or a soldering gun, as compared to a hammer. When deciding to store property, personnel are encouraged to use good judgment in light of the circumstances involved, Sheriff's Office policy and legal requirements as addressed elsewhere. Vehicle equipment listed on the Vehicle Report, e.g. spare tire, will not be listed on the inventory nor removed from the vehicle. Items not removed will be locked in the vehicle, preferably in the trunk. Those items listed on a Property Record will also be listed on the inventory and identified with the symbol "PH". Permitting personal containers to be secured at an installation when the contents are not known may be subjecting personnel and County property to an unreasonable and significant liability; therefore, luggage or other containers that are locked will not be removed or described on a Property Record but only on the inventory. Even if the apparent value of the locked luggage or container seems significant, they will not be removed, but will remain locked in the vehicle, preferably in the trunk.

TRAFFIC ACCIDENTS:

In those instances when the vehicle has been involved in an accident but is operable, and the owner/operator is able to move

it, he should move it from the traveled portion of the roadway and park it in a safe location.

Where a vehicle is rendered inoperative as the result of an accident, but there is no necessity for having the vehicle removed immediately, the owner/operator or some other responsible person designated by the owner/operator must be given the option of making disposition of the vehicle. However, the owner/operator should be advised that the vehicle will be classified as an "abandoned vehicle" if allowed to remain on

public property more than forty-eight hours and may be towed on the authority of the Sheriff's Office.

- A. If the owner desires to have the vehicle towed, his choice of the business to do the towing will be respected subject to local and state statutes, ordinances, and regulations or unless the requested tow vehicle cannot respond within a reasonable period of time and prompt removal of the damaged vehicle is necessary.
- B. When the vehicle must be removed and such removal cannot be effected within a reasonable period of time by the requested tow service, the investigating deputy will so inform the owner/operator or other responsible person and either give him the opportunity to call a closer towing service or arrange through the Sheriff's Office (with or without the owner's/operator's consent) for the nearest, approved towing service to respond.

When the vehicle is inoperable and/or the person responsible for it cannot make immediate disposition, and it is impeding the free flow of traffic or creating a traffic hazard, the vehicle must be removed. In these instances the deputy will arrange through the Sheriff's Office for a tow vehicle.

- A. The investigating deputy shall request a tow vehicle through the Sheriff's Office duty officer. The request will include the reason why it is being made, the location of the vehicle, the make and registration of the vehicle, and the need for special equipment, i.e., a dolly for a vehicle without wheels, a heavy tow vehicle for a tractor-trailer, etc.
- B. Only that towing vehicle dispatched by the duty officer will be permitted to tow the disabled vehicle unless the owner/operator pays the costs incurred by the Sheriff's Office dispatched tow vehicle. An officer will not request services of a particular tow vehicle; all requests will be made through the duty officer. The only exception will be in a crucial situation where a tow vehicle is readily available.

OBSTRUCTION - UNSAFE VEHICLES:

A vehicle that is illegally parked where it unreasonably obstructs or impedes the free flow of traffic or the movement of pedestrians, or where a vehicle is being operated on the highway in an obviously unsafe condition or is for any other reason being operated contrary to law, such a vehicle shall be removed in the manner hereafter prescribed:

- A. Where appropriate, the owner/operator shall be issued a citation for appropriate violation
- B. If the vehicle is parked and obstructing the free flow of traffic or pedestrians, the owner/operator shall be required to move the vehicle. If the owner/operator is unwilling or unable to move the

vehicle, then the deputy shall arrange for the vehicle to be removed by a Sheriff's Office dispatched tow vehicle and placed in the custody of the tower.

If the vehicle, because of its condition, may not be legally moved on the highway, it must remain where it was stopped unless the location where it is to be left restricts parking in some manner. If the vehicle must be moved, then the owner/operator shall be allowed to make suitable disposition, but in lieu of arrangements for removal by the owner/operator, the deputy may have the vehicle removed in the manner previously described.

OWNER/OPERATOR REMOVED FROM CUSTODY/INCAPACITATED:

Where the owner/operator in possession of a vehicle is arrested for a traffic violation or for some other offense or is physically unable to continue operating his vehicle, and the vehicle is not required as evidence or need not be impounded for any other reason, the investigating deputy will adhere to the following procedures:

- A. Advise the owner/operator that he may, if he so desires, release the vehicle to a licensed driver who is willing to assume full responsibility for the vehicle and all property contained therein.
- B. Advise the owner/operator that he may, if he desires, secure the vehicle and allow it to remain at the scene, providing it will be parked in an unrestricted parking area, and the owner/operator agrees to assume full responsibility for the vehicle and all property left therein.
 - (1) The owner/operator should also be advised that if the vehicle is left unattended for forty-eight hours and/or becomes a traffic hazard, it may be disposed of according to established procedure.
- C. If the owner/operator chooses not to release the vehicle to a third party, or is not competent or is otherwise unable to make disposition of his vehicle, or will not agree to secure and assume full responsibility for the vehicle and property left therein, the vehicle shall be removed by a Sheriff's Office dispatched tow vehicle and personal property shall be secured and inventoried in the manner prescribed by Sheriff's Office policy.

RECOVERED STOLEN/WANTED VEHICLES:

If a stolen vehicle, a vehicle used without the authority of the owner, or a vehicle used in connection with a criminal offense is recovered, the investigating deputy will:

- A. If necessary and feasible, arrange for the vehicle to be processed at the scene for evidence.
- B. If there is no reason for holding the vehicle, release may be made directly to an authorized person. Prior to the release, the deputy will complete a Vehicle Report and a Car Release Authorization Certificate..
- C. If the owner of the vehicle is not available, and there is not reason for holding the vehicle, request the nearest approved tow service for removal and storage
- D. If the vehicle must be retained as evidence or for further processing, it should be removed to the Sheriff's Office and kept there in a secure location until such time as it is no longer needed as evidence and has been properly claimed. In every case, prior approval for such removal will be obtained from the Sheriff's Office duty officer.

- (1) Whenever possible, a vehicle to be retained as evidence or for further processing should be driven from its place of recovery to the Sheriff's Office by the investigating deputy to provide for the proper safeguarding and chain of custody of evidence.
- (2) When it is not possible to drive the vehicle from its place of recovery to the Sheriff's Office, the investigating deputy shall arrange for such removal by a Sheriff's Office dispatched tow vehicle. The deputy should secure the vehicle prior to towing and follow the vehicle as it is being towed to its destination to provide for the proper safeguarding and chain of custody of evidence.
- (3) When a vehicle is being towed to the Sheriff's Office to be retained as evidence or for further processing, the investigating deputy will remain in constructive custody of the vehicle. In this instance, it will not

be necessary for the tow truck operator to sign receipt for the vehicle on Form. In addition, the tow truck operator should be advised that the Sheriff's Office will assume the towing cost upon submission of an invoice, to the Director of Law Enforcement and forward such invoices for payment in accordance with established procedure

SECTION III

UNATTENDED/ABANDONED VEHICLES

AUTHORITY:

The disposition of abandoned vehicles in Maryland is regulated by the Maryland Vehicle Laws, Title 25, Subtitle 2 of the Annotated Code of Maryland. This statute provided the police with authority to take custody and to remove and dispose of abandoned vehicles found on public property and on private property.

POLICY:

Prior to removing an abandoned vehicle as provided in this Section, every reasonable attempt will be made to have the vehicle removed by the owner or the person responsible for leaving the vehicle unattended/abandoned.

Abandoned vehicles may be removed at the direction of the Sheriff's Office and placed in storage in any facility used for the purpose of vehicular storage pursuant to Section 25-203 of the Maryland Vehicle Law. Such vehicles shall be construed to be in the possessive custody of that facility.

Abandoned vehicles and mobile home (Title 8, Subtitle 14, Section 8A-1401) found on private property shall not be removed or taken into custody at the direction of or by the Sheriff's Office, except when such vehicle is evidence in a criminal case.

The Transportation Article - Maryland Vehicle Laws, Section 25, 202 prohibits anyone from abandoning a vehicle on public property or abandoning a vehicle on private property without the consent of the property owner or leasee. Appropriate enforcement action will be taken whenever a violation is determined and the person responsible is known.

Abandoned vehicles are not to be sold at public auction except in those cases where the vehicle is taken into "police custody" whereby the Sheriff's Office actually take physical possession of the vehicle and it is held in storage on County property and meets all of the requirements of an abandoned vehicle under the provisions of the law. In such event, the Director of Law Enforcement shall coordinate with the Purchasing

Department when making arrangements for disposition of the vehicle.

Nothing in this Section is intended to prevent any person, firm, or corporation who possesses an abandoned vehicle from disposing of that vehicle under laws applicable to the situation, provided the methods of disposal do not interfere with the responsibilities charged to the police under the Maryland Vehicle Law, Title 25, Subtitle 2.

UNATTENDED/ABANDONED VEHICLE ON PUBLIC PROPERTY:

Where vehicles are found unattended/abandoned on public property, the following procedures will be adhered to:

- A. Determine if the vehicle is stolen, wanted, or has been previously reported as unattended. If the vehicle is found to be stolen or wanted, it should be processed as per established procedures.
- B. A Complaint Control Card is the only report required when the vehicle is not stolen or wanted and not previously reported.
- C. The Deputy reporting the incident will make a reasonable effort to contact the owner and advise him to remove the vehicle within 48 hours (24 Hours for controlled access highways) or it will be removed and stored as an abandoned vehicle. Reasonable effort will be telephone contact or personal contact. Notification, or date and time of attempts to notify, will be recorded.
- D. Where a vehicle has been previously recorded as an unattended vehicle and less than 48 hours (24 hours for controlled access highways) have elapsed since the entry was made, periodic checks will be made on the vehicle and its subsequent removal reported to the Sheriff's Office so that the entry on the daily log may be closed out. It will be the duty officer's responsibility to periodically audit the daily log and verify the open entries.
- E. If a vehicle has been recorded as unattended for 48 hours (24 hours for controlled access highways), removal and storage may be directed by the duty officer. The duty officer will verify that reasonable effort has been made to contact the owner prior to storage.
- F. If a vehicle has been left unattended on any portion of a primary or secondary highway or controlled access highway, and is in violation of any of the provisions of subsection 22-408 of the Transportation Article, the duty officer may authorize its removal and storage as an abandoned vehicle. The duty officer will insure that reasonable effort has been made to contact the owner prior to storage.
- G. The actual removal of a vehicle abandoned on public property will be covered as a separate incident under a separate Complaint Control Number. The deputy will complete and submit Form ., Vehicle Report, indicating that the vehicle is abandoned on public property and has been stored. The vehicle's VIN number will be physically verified. The operator of the towing vehicle shall sign his name in the narrative section of the report as an indication and

acknowledgement that the vehicle was released to the custody of that business.

ABANDONED VEHICLE ON PRIVATE PROPERTY:

In response to complaints of vehicles and mobile homes (Title 8, Subtitle 14, Section 8A-1401) abandoned on private property, the following procedures will be adhered to:

- A. The Sheriff's Office will initiate a Complaint Control Card covering the abandoned vehicle incident.
- B. Upon contact with the complainant, the assigned deputy will determine if the vehicle in question is stolen or wanted. If so, it will be processed as per established procedures.
- C. The deputy will assist the complainant in the completion of MVA Form #CS-77, Application to Dispose of an Abandoned Vehicle. In every case, this form must be signed by the complainant and the vehicle's VIN number verified by the Deputy.
- D. In addition to the above form, the deputy will complete ., Vehicle Report, noting the facts pertaining to the abandonment of the vehicle and the notification procedures that have been taken.
- E. Upon completion of the initial incident investigation, . will be submitted with the completed MVA Form #CS-77 attached.

ABANDONED VEHICLES IN GARAGES:

In response to complaints of vehicles abandoned in a garage used for parking, towing, storing, servicing, repair or maintenance of vehicles, certain procedures will be adhered to.

- A. The installation will initiate a Complaint Control Card covering the abandoned vehicle incident, except that in the case of a vehicle stored at the facility by direction of the Sheriff's Office, the incident will be handled as a follow-up to the original storage incident.
- B. Upon contact with the complaint, the assigned deputy will determine if the vehicle in question is currently listed as stolen or wanted and, if so, it will be processed as per established procedures.
- C. If the vehicle is not stolen or wanted, ascertain if:
 - (1) the vehicle has been at the garage in excess of ten days following a notice by registered mail, return receipt requested by the addresses, to the owner to
pick up the vehicle.
 - (2) the vehicle has been at the garage in excess of ten days after the period when, pursuant to contract, the vehicle was to remain on the premises
 - (3) the vehicle has been at the garage in excess of ten days after it was left by someone other than the registered owner or by a person authorized to have possession of the vehicle under a contract or use, service, storage, or repair.
- D. If any of the above conditions have been met and after the deputy obtains copies of any documents verifying that they have been met, the complainant will be assisted in completing MVA Form #CS-77, Application to Dispose of an Abandoned Vehicle. In every case, the form must be signed by the complainant and the vehicle's VIN number verified by the deputy.
- E. In addition to the above from, the deputy will complete ., Vehicle Report, noting the facts pertaining to the abandonment of the vehicle and the notification procedures that have been taken. In the case of a vehicle that was placed in the garage by direction of the Sheriff's Office, a Supplement Report will be used as a follow-up to the original Vehicle Report that was submitted.

- F. Upon completion of the initial incident investigation, the appropriate report will be submitted with the completed MVA Form #CS-77 and other verifying documents attached.

ADMINISTRATIVE PROCEDURES:

The Director of Law Enforcement shall establish within Cecil County an abandoned vehicle program designed to implement the provisions of the Abandoned Vehicle Laws and this Section. A commander shall be appointed to take charge of this program.

In addition to the procedures specified hereunder, the appointed Commander will be responsible for the maintenance of the Abandoned Vehicle Files.

The notification procedures required by law and as outlined in this Section will not be necessary when the abandoned vehicle is over eight years old and has no engine or is otherwise totally inoperable, and these facts have been verified by an on-site physical inspection of the vehicle by the abandoned vehicle commander.

When completed Vehicle or Supplement Reports dealing with an abandoned vehicle are received, one copy with attachments, when required, will be turned over to the abandoned vehicle commander.

Upon receipt of reports, the abandoned vehicle commander will initiate a MILES inquiry to the State Motor Vehicle Administration to determine the owners and lienholders associated with the abandoned vehicle. The MILES printout received will be retained with other documentation pertaining to the abandoned vehicle.

If the abandoned vehicle investigation indicated that the vehicle may be titled or registered in another jurisdiction, that jurisdiction should be contacted and reasonable attempts should be made to establish ownership.

If the owner and/or lienholder can be established, the abandoned vehicle commander will as soon as reasonably possible and in any event within seven days, prepare and mail a Notice of Intention to Dispose of an Abandoned Vehicle (MVA Form #CS-88). This notice shall be sent to the last registered owner and lienholder by certified letter, return receipt requested, signed by the addressee.

- A. In all cases, one copy of the Form #CS-88 will be retained for the Abandoned Vehicles Files.
- B. in the case of an abandoned vehicle removed at the direction of the Sheriff's Office, one copy of Form #CS-88 will be forwarded to the licensed auto wrecker having custody of the vehicle.

If the registered owner and lienholder is unknown and cannot be reasonably determined, the abandoned vehicle commander will prepare a notice for publication to appear in one newspaper of general circulation in the area where the vehicle was abandoned. The notice shall appear within fifteen days from the date of removal of the abandoned vehicle from public property or from the date application for disposal was made, except that in the case where the registered or certified mail is returned as undeliverable, the notice shall be published within seven days of such return. One copy of the publication will be retained for the Abandoned Vehicles File.

Suggested guide - Newspaper notice

(Date) _____

The Editor
(Name of Newspaper)
(Address of Newspaper)

Please have the following public notice published in your newspaper on (Date). Only one publication will be necessary. The bill for this service may be mailed to Cecil County Sheriff's Office in care of the Director of Law Enforcement, 500 Landing Lane, Elkton, Maryland, 21921.

**NOTICE OF INTENT TO DISPOSE OF
ABANDONED AND STORED VEHICLE(S)**

The motor vehicle(s) described below have been found abandoned. The owner(s) and lienholder(s) are hereby informed of their right to reclaim the vehicle(s) upon payment of all charges and costs resulting from the towing, preservation and storage of the vehicle(s).

The failure of the owner(s) or lienholder(s) to reclaim the vehicle(s) within three weeks of the date of this notice shall be deemed a waiver by the owner(s) or lienholder(s) of all rights, title and interest and thereby consent to the sale of the vehicle(s) at public auction or to have it otherwise disposed of in a manner provided by law.

For information, contact the Cecil County Sheriff's Office

(DIRECTOR) Phone: _____

| Make: | Model: | Year: | Serial No.: | Stored at: | (Case No.) |
|-------|-------------|-------|-------------|--|------------|
| Ford | 2 dr. Sedan | 1949 | 48B-67582 | <u>Name of Garage</u> <u>Address</u> <u>City, State, Zip</u> | (00047) |

If the abandoned vehicle is not reclaimed within three weeks from the date notification was mailed or within three weeks of the date publication appeared in the newspaper, the following disposition will be made:

- A. If the abandoned vehicle was removed from public property at the direction of the Sheriff's Office, the abandoned vehicle commander will prepare, Stored Vehicle Release Authorization Certificate, and forward same to the licensed wrecker or scrap processor having custody of the vehicle. This form will contain a comment to the effect that notification procedures required by law have been complied with and the licensed wrecker or scrap processor is free to dispose of the vehicle through procedures provided in the law. A copy of the release form will be retained by the abandoned vehicle commander and it will serve to close the active file on that particular vehicle.
- B. If the vehicle was abandoned on private property or in a garage, the complainant will be granted authority to dispose of the vehicle to a licensed auto wrecker or scrap processor by issuing MVA Form #CS-78, Certificate of Authority to Dispose of an Abandoned Vehicle. A copy of this Form will be forwarded to MVA and an additional copy will be retained by the abandoned vehicle commander. In the case of vehicles abandoned on private property and vehicles placed in a

garage by someone other than the Sheriff's Office, . will be completed and will be forwarded to the garage along with MVA Form #CS-78. In this case, copies of the Release Certificate and MVA Form #CS-78 will serve to close the active file on the abandoned vehicle.

COST:

The procedure for payment of costs associated with publishing, in newspapers, notices of intent to dispose of abandoned and stored vehicles will be handled through normal billing procedures established by the Sheriff's Office.

SECTION IV

VEHICLE STORAGE/RELEASE

GENERAL:

The purpose of these procedures is to provide administrative control over the storage and release of vehicles.

The commander appointed by the Director of Law Enforcement to take charge of the local abandoned vehicle program will be assigned the additional responsibility of supervising the provisions of this section.

When authorizing the release of stored vehicles, deputies shall not be concerned with any financial matters resulting from said storage.

In every instance when a vehicle is stored at the direction of the Sheriff's Office, every reasonable attempt will be made to immediately notify and advise the owner of the involved vehicle concerning the storage of the vehicle and the procedures for obtaining its release.

When vehicle removal and/or storage is requested by Agency personnel, the duty officer will be contacted and informed of the circumstances, including a need for specialized equipment, i.e. dollies, crane, flatbed, heavy loads, customized motorcycles, etc. The duty officer will authorize the removal/storage and contact an authorized towing facility, indicating any special requirements, to ensure a prompt disposition.

MOTOR VEHICLE INVENTORY LOG:

The Sheriff's Office shall maintain a Motor Vehicle Inventory Log ..

- A. Individual log forms will be accumulated in a binder.
- B. The binder will be maintained in a location that is readily accessible to the Sheriff's Office duty officer.
- C. Each entry will be assigned a motor vehicle inventory number. The first two digits will indicate the year of the entry to be followed by the sequential number of that entry, i.e., 93-001, 93-002, etc. The number will be cut off annually; the last entry indicating the number of vehicles stored for that year. The number will be recorded on the Vehicle Report in the space provided. The number is intended as a cross reference for the abandoned vehicle commander and duty officer to insure proper closure of all entries.

It will be the responsibility of the Sheriff's Office duty officer to enter initial information concerning a stored

vehicle onto the MVI log, the Vehicle Report will be processed and filed as per established procedures.

The Sheriff's Office duty officer will also be responsible for completing and closing MVI log entries upon receipt of a Stored Vehicle Release Authorization Certificate ..

RELEASE OF STORED VEHICLES:

Release of vehicles in storage to an authorized person shall require the completion of a Stored Vehicle Release Authorization Certificate by a police employee.

Vehicles may be released to the following persons or under the following circumstances:

- A. To the owner
- B. To an authorized agent of the owner with a notarized form from the owner giving such authorization
- C. Upon presentation of a court order
- D. Upon presentation of a notarized form or document indicating that the person or firm named in the form or document is lawfully entitled to the stored vehicle.

Form . will be completed in its entirety, including the original Complaint Control Number that was assigned to the Vehicle Report covering the storage and the signature of the person authorized to receive the vehicle.

A copy of Form . will be given to the person authorized to take possession of the vehicle. This person, upon presentation of the certificate to the garage agent involved, will be entitled to possession of the vehicle. The involved garage agent may discard the certificate after he has released the vehicle.

GARAGE INVENTORY:

During the months of April and October of each year, an on-site inventory of vehicles stored at the direction of the Sheriff's Office will be conducted.

In conducting these inventories, the following procedures will be followed:

- A. The commander given the responsibility for supervising the provisions of this section will cause a review of the appropriate files to be made to identify those vehicles for

which there has been no Stored Vehicle Release Authorization Certificate issued.
- B. To verify the records, the commander will assign deputies to conduct an on-site inventory of those garages having custody of the vehicles identified above.
- C. Information resulting from the inventory confirming records or noting discrepancies will be reported to the commander
- D. The commander will assure that appropriate remarks are entered on the applicable vehicle reports in spaces provided on the rear of the form. Noted discrepancies will be resolved after consultation with the Director of Law Enforcement. The MVI log will be adjusted as necessary.

SECTION V

SEIZED FORFEITED VEHICLES

AUTHORITY:

Article 27, Section 297, Annotated Code of Maryland, 1971 Replacement Volume, provides for the forfeiture and seizure of certain conveyances used or intended for use to transport controlled dangerous substances in violation of this Act. Property taken or detained under this Act shall be deemed in the custody of the person who seized it, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Based on this the Sheriff's Office may:

- A. retain the property for official use
- B. sell any forfeited property which is not required to be destroyed

Annotations to Article 27, Section 297 include the following guidelines:

- A. The forfeiture proceeding must be instituted promptly
- B. A criminal conviction is not required for the forfeiture of a vehicle
- C. Due process requirements apply and a hearing following notice is necessary for forfeiture
- D. The lienholder's interest is protected by Article 27, Section 297.

POLICY:

It is the policy of the Sheriff's Office that no forfeiture proceedings shall be instituted until the Sheriff has personally reviewed the facts and circumstances of each seizure and concluded that forfeiture is warranted.

The facts and circumstances of each individual case will determine whether the Sheriff's Office will proceed with seizure and forfeiture. Consideration will be given to the seriousness of the violation, e.g. user or seller, the quantity of narcotics seized, previous narcotic conviction, previous criminal record, innocent third party owners, and the condition and value of the vehicle.

SEIZURES OF VEHICLES:

In cases where a vehicle is seized, and pending a decision by the Sheriff to initiate forfeiture proceedings, the vehicle will be stored under existing Sheriff's Office procedures. However,

this Agency will retain physical custody of the vehicle and it will be held in storage on Agency property. Removal of a seized vehicle to the Sheriff's Office will be in accordance with established procedures.

The Director of Law Enforcement will make the initial determination as to whether the vehicle should be released to the owner or to proceed with forfeiture proceedings.

Seizure shall be made and forfeiture recommended when:

- A. CDS in any quantity is sold or attempted to be sold.
- B. Although the violator has not sold or attempted to sell CDS, an amount of such substances or

paraphernalia is located which would reasonably indicate that sale is contemplated by the violator.

- C. The total circumstances of the case dictate that seizure and forfeiture is justified. These circumstances would include such factors as the following:
- (1) the possession of CDS
 - (2) an extensive criminal record of the violator
 - (3) a previous conviction of the violator for a CDS violation
 - (4) corroborated information is developed indicating that the violator is or was recently a seller, or frequently associated with individuals known to be distributors of illegal CDS or paraphernalia
 - (5) circumstances of the arrest
 - (6) the manner in which The vehicle was being used.

It is not contemplated that seizure will be made and forfeiture recommended when:

- A. The "family car" is being used by a youthful member of the family and controlled dangerous substances are located therein in a quantity insufficient to suggest that a sale is contemplated, and where no sale was made or attempted and the parents did not know and by the exercise of reasonable diligence could not have known that such material was in the vehicle.
- B. When an innocent registered owner loans his vehicle to another and the latter or someone invited into the vehicle by such person causes controlled dangerous substances to be brought into the vehicle without the knowledge of the owner.

FORFEITURE OF VEHICLES:

In those cases where it is determined to proceed with forfeiture, the routing of all required reports will be forwarded through channels from the Sheriff's Office to the State's Attorney's Office within fifteen calendar days after the seizure. After review for legal sufficiency, the report will then be forwarded to the Sheriff for final approval. The report will include the following information and attachments.

- A. The circumstances under which Article 27, Section 297 was involved. It should identify the witnesses who will testify to the violation of Section 297, and include all background information necessary to permit the Sheriff to make a determination as to whether the appropriate legal authority should be requested to file a petition for forfeiture.
- B. The appropriate report of investigation setting forth full facts of the case.
- C. Name and address of owner together with a copy of the title, application for registration and insurance information.
- D. Lien information to include name of lienholder, amount of original lien, amount of remaining lien (principal only), the original and present value of the vehicle, and its condition.
- E. Two photographs of the vehicle. Photographs may be of the Polaroid type.

When the Sheriff makes a final decision to proceed with forfeiture, the case will be forwarded to the State's Attorney's Office for the filing of a petition of forfeiture. Upon issuance of the court order directing the forfeiture of the vehicle, the order will be forwarded to the Sheriff's Office, who will have title transferred to County Commissioners. The final assignment of the vehicle for official use will be approved by the Sheriff.

In the event forfeiture is not deemed warranted by the Sheriff or the appropriate legal authority, the vehicle will be released to the owner in accordance with established procedures.

ASSIGNMENT OF FORFEITED VEHICLES:

Will be made by the Director of Law Enforcement with the approval of the Sheriff.

CARE AND MAINTENANCE OF SEIZED VEHICLES:

Seized vehicles will be stored at the Sheriff's Office or County Garage and will become the responsibility of the fleet manager.

The seizing officer will make an initial inventory and inspection of the vehicle with the County Motor Vehicle Commander. A Motor Vehicle Inspection Report will be completed following the inspection. One copy will be placed in the case file. County Motor Vehicle personnel should do an evaluation of the vehicle to determine its overall condition and make a recommendation as to its value to the Agency.

Until forfeiture proceedings are concluded and the vehicle has been permanently assigned to the Sheriff's Office, or otherwise disposed of, the County Motor Vehicle Commander will be responsible for the vehicle's maintenance. His responsibilities include the following:

- A. completing a maintenance log indicating all maintenance performed.
- B. removing and storing within the vehicle the CB radio antennae, wheel covers, and other loose items.
- C. driving the vehicle for approximately one-half hour per month.
- D. checking the battery, tires, and oil once a month.
- E. winterizing, by October 1st, all vehicles presently in storage and all of those confiscated thereafter during the winter months.