



MAINE STATE POLICE GENERAL ORDER

E-110

SUBJECT: MAINE STATE POLICE POLICY REGARDING THE TIMELY NOTIFICATION TO THE MAINE DRUG ENFORCEMENT AGENCY, UNITED STATES DRUG ENFORCEMENT AGENCY, OR OTHER FEDERAL AGENCY OF JURISDICTION AND THE PROCESSING OF SEIZED ASSETS

EFFECTIVE DATE: 08.01.2020

EXPIRATION DATE: 08.01.2027

RECENT HISTORY: AMENDED (08.01.2020); AMENDED (11.28.2019); AMENDED (03.15.2019); AMENDED (02.22.2019); AMENDED (08.13.2015); AMENDED (SUBSTANTIVE & TECHNICAL)(02.04.2014); AMENDED (TECHNICAL AMENDMENTS)(01.15.2014); ATTACHMENT ADDED (03.25.2013); NEW (05.05.2010)

DISTRIBUTION CODE: 2 (MAY BE PUBLICLY DISCLOSED)

APPLICABILITY CODE: S, Z

SIGNATURE OF COLONEL:

A handwritten signature in black ink, appearing to read "L. B. R.", is written over a light blue rectangular background.

I. PURPOSE

1. The purpose of this General Order is to establish the policy of the Maine State Police regarding the processing of seized assets.

II. POLICY

- o The policy of the Maine State Police is to:
 - A. Appropriately process assets seized during any incident, including, but not limited to, incidents involving illegal drugs;

- B. Provide guidance to officers regarding the processing of assets seized during incidents in which officers are involved;
- C. Ensure timely notification and coordination with the Maine Drug Enforcement Agency ("MDEA"), the United State Drug Enforcement Agency, or other Federal agency of jurisdiction in order to ensure cooperation and possible furtherance of the investigation and prosecution of crimes involving illegal drugs; and
- D. Ensure that whenever an officer seizes assets during an incident, the appropriate prosecuting officials are notified in a timely manner.

III. DEFINITIONS

1. For the purposes of this General Order, the terms included in this section are defined as follows, unless otherwise indicated in the order.

1. Asset. "Asset" means:

- A. U.S. or Canadian currency that is the proceeds of the sale of contraband such as, for example, illegal drugs;

- a. NOTE: Currency that is not U.S. or Canadian currency, and that is **less than one thousand dollars (\$1,000)** is to be considered property.

(1) Such currency shall be stored at the Troop Barracks and be disposed of in accordance with law. See [25 MRSA c. 401, DISPOSAL OF UNCLAIMED, LOST OR STOLEN PERSONAL PROPERTY BY LAW ENFORCEMENT AGENCIES.](#)

- b. If custody is taken of currency that is not U.S. or Canadian currency, and that is one thousand dollars (\$1,000) or more in value (in U.S. dollars), the Troop Commander shall contact the Department of Administrative and Financial Services ("DAFS") to inquire about proper exchange and storage procedures.

- B. Any item of property that was acquired using the proceeds of the sale of contraband (including, but not limited to, cars, boats, aircraft, snowmobiles, and all-terrain vehicles, real estate, and jewelry);
- C. Any item of property that was used to conceal or convey contraband; or

- D. Any item of property that was used in the commission of any other crime.

Illegal contraband is specifically not an "asset."

- B. DAFS. "DAFS" means the Department of Administrative & Financial Services.
- C. Incident. "Incident" means an event -- including, but not limited to, a motor vehicle stop -- during which a crime has possibly or actually been committed, or during which evidence that a crime has been committed is discovered by an officer responding to the incident.

IV. PROCEDURE

1. GENERALLY

- A. The Commander of the Troop or Unit to which an officer seizing an asset belongs shall ensure that the provisions of this policy are followed.
- B. Each officer shall adhere to the procedures set forth in this policy when the officer seizes any asset during the course of an incident to which the officer has responded.
- C. Any U.S. or Canadian currency that is not an asset, and is found, recovered as stolen property, or that has been abandoned, must be submitted to and retained by the appropriate accounting unit of the Department of Administrative & Financial Services ("DAFS").
- D. **Currency that is not U.S. or Canadian currency, and that is less than one thousand dollars (\$1,000) is to be considered property and must be disposed of in accordance with law. See 25 MRSA c. 401, DISPOSAL OF UNCLAIMED, LOST OR STOLEN PERSONAL PROPERTY BY LAW ENFORCEMENT AGENCIES.**
- E. **Currency of any amount that contains physical evidence of a crime (such as, as examples only, blood droplets or spatter, or DNA evidence) must be treated as evidence in accordance with [MSP GO E-35, MAINE STATE POLICE POLICY REGARDING THE SEIZURE OF EVIDENCE AND EVIDENCE ROOM MANAGEMENT AND SECURITY](#).**

2. PROCESSING OF ASSETS SEIZED DURING AN INCIDENT

- A. In addition to any other requirements specifically set forth in this order, assets seized during an incident are to be processed as follows.
 - 1. If an officer seizes any asset during an incident, the officer – as soon as possible, but under no circumstances no later

than after forty-eight (48) hours – shall complete a [Maine State Police Asset Seizure Report](#) that accounts for each such asset and forward a copy of the report to:

- a. The officer's Troop or Unit Commander;
- b. The office of the appropriate prosecuting authority;
and
- c. The Maine State Police officer assigned by the Operations Major to oversee the suspense account.

(1) That assigned officer shall be responsible for filing the documentation with DAFS.

B. When during an incident an officer seizes illegal drugs, he or she shall take following action, to the extent appropriate.

1. Whenever an officer is involved in an incident during which evidence of any felony-level drug crime is seized by the officer, the officer shall notify the local MDEA District Task Force (“MDEA DTF”) or the United States Drug Enforcement Agency (“DEA”), or other Federal agency of jurisdiction for the purpose of determining whether a conflict exists with any on-going MDEA DTF or Federal DEA investigation, as well as to jointly coordinate investigation activities.

- a. Such a determination and joint coordination **must** occur by the officer before he or she conducts further investigation.

2. Regardless of the quantity of illegal drugs seized by an officer during an incident, the officer shall consult with the office of the appropriate prosecuting authority:

- a. If the officer needs legal advice or guidance;
 - b. If the officer intends to seek, or reasonably expects that a search warrant will be sought, in relation to or in “follow-up” of the incident.

C. In addition to the requirement set forth in Part IV(2)(A), above, currency seized during an incident is to be processed as follows.

1. Whenever currency is seized during an incident, the exact amount of currency must be verified by the officer who seized the currency, with a Sergeant or Officer of the Day (“OD”) witnessing that verification process.

- a. The Sergeant or OD who witnesses the verification process then also must verify the amount of currency seized.
 - (1) If the Sergeant or OD's currency count total differs from the currency count total of the officer, the currency **must** be recounted by **each** again until the total amounts of currency counted of both the Sergeant or OD and the officer who seized the property, are the same.
2. Once the currency count total amount has been appropriately verified, the currency must be documented in the officer's report, and a *Maine State Police Asset Seizure Report* (attached) must be completed by the officer.
 - a. All Currency must be photographed.
 - (1) When photographing currency, the currency must be displayed in such a way that the photograph can be taken, and that a person viewing the photograph will be able to determine that the photograph accurately displays the currency seized.
 - (2) All such photographs must be enclosed with the case report.
 - b. If practicable, currency that **totals more than one hundred (100) pieces** shall be run through MDEA's Money Counter Project ("MCP").
 - (1) The list of individual bill serial numbers then must be included in the case report.
 - c. Currency is to be packaged in clear plastic pouches designed to hold currency.
 - d. Currency must be packaged separately from any other asset or contraband seized by the officer.
3. The *Maine State Police Asset Seizure Report* must then be forwarded with the seized the currency to the officer's Troop or Unit Commander within forty-eight (48) hours after the seizure, which in turn must be forwarded to the appropriate accounting personnel at the Maine Department of Public Safety no later than seven (7) days after the date of the seizure.

4. Currency must not be stored at a Troop Barracks, Unit, or other Maine State Police facility for more than seven (7) days after the date the seizure.
 5. The Maine State Police only shall apply for forfeiture proceeds in cases in which the amount of currency seized is one thousand dollars (\$1,000.00) or more.
- D. In addition to the requirement set forth in Part IV(2)(A), above, vehicles seized during an incident are to be processed as follows.
1. An officer who seizes a vehicle during an incident:
 - a. Shall conduct a title inquiry on the vehicle;
 - (1) To conduct a title inquiry, the vehicle's Vehicle Identification Number ("VIN") will be needed.
 - b. Shall attempt to determine ownership of the vehicle; and
 - c. Shall attempt to determine the net value of the vehicle (i.e., the appraised value of the vehicle, less the value of any liens that are on the vehicle) by contacting the "Motor Vehicle Titles" section at the Bureau of Motor Vehicles of the Office of Secretary of State.
 2. While a seized vehicle is held by the Maine State Police, the Troop or Unit Commander, or her or his designee, shall take reasonable steps to try to ensure that the vehicle remains in the condition in which it was seized.
 3. Whenever a motor vehicle is seized during an incident, the officer seizing the vehicle shall conduct an inventory of the vehicle and complete a *Vehicle or Property Inventory Report*.
 4. Seized vehicles must be held at a DPS facility or other secure facility approved by the Maine State Police.
 5. All personal property must be removed from a seized vehicle, and then inventoried and maintained in accordance with law.

E. The use of any seized asset for operational or personal purposes is strictly prohibited.

1. Any asset that is seized by and in the custody and control of the Maine State Police must **NOT** be utilized by any personnel for operational or personal purposes **unless and until** a final disposition has been reached in the case to which the asset relates **and** a forfeiture order has been

issued, to the extent such an order needs to be issued with respect to the asset.

3. EQUITABLE SHARING OF SEIZED ASSETS, OR THE PROCEEDS FROM THE LAWFUL DISPOSITION THEREOF

- A. In accordance with applicable State law, and subject to the approval of the court of jurisdiction, the Department of the Attorney General, and the controlling State, county, or municipal authority, assets, or the proceeds from the lawful disposition thereof, may be equitably shared amongst any criminal justice agencies that have "made a substantial contribution to the investigation or prosecution of a related criminal case," through the asset forfeiture process.
- B. Upon receiving the [Maine State Police Asset Seizure Report](#) contemplated in Part IV(2)(A), above, the Lieutenant Colonel shall review the equitable sharing recommendations made in the report with the appropriate Troop or Unit Commander in order to determine and finalize the Maine State Police's equitable sharing recommendations with regard to the incident to which the report relates.
 - 1. The Troop or Unit Commander shall ensure that, to the extent necessary and appropriate, all follow-up documentation and correspondence with the office of the appropriate prosecuting authority reflects the equitable sharing recommendations.
 - 2. Once completed, the Troop or Unit Commander shall forward all related documentation to the Maine State Police officer assigned by the Operations Major to oversee the suspense account.
 - 3. That assigned officer then shall file the documentation with DAFS.
- C. Each forfeiture of an asset is supposed to be processed in the same court as the companion criminal case.
 - 1. When a criminal case is prosecuted in State court, any seized asset relating to the case that is to be subject to forfeiture is supposed to appear on the indictment or criminal complaint issued in the case.
 - 2. When a Federal agency assumes jurisdiction over a case, the Federal agency also shall assume jurisdiction over any assets that were seized during the course of the case.
 - a. Such assets are to be transferred to the Federal agency assuming jurisdiction.

3. With the prior approval of the Operations Major, a Troop or Unit Commander may request that a Federal agency assume jurisdiction over an asset for the purpose of initiating and conducting administrative forfeiture proceedings with respect to the asset, under the following, limited circumstances:
 - a. There is no defendant to be prosecuted by the State;
 - b. Prosecution of a defendant has been declined by the State;
 - c. A criminal case that involved two thousand five hundred dollars (\$2,500.00) or more worth of currency has been completed, and the State prosecuting authority unintentionally did not – and is later unable to – address and resolve the matter of how the currency is to be disposed of through forfeiture processes; or
 - d. Where only one or more Federal crimes have been committed and are being prosecuted by a Federal prosecuting authority.

Note: Paragraphs "c" and "d" only apply to circumstances involving currency that has been seized during a traffic stop.

4. Troop Commanders shall track the following information about each asset that is seized by an officer within their respective Troops and Units:
 - a. From what person or entity the asset was seized;
 - b. The authority of law pursuant to which the asset was seized;
 - c. If applicable, to whom the asset was delivered;
 - d. If applicable, the date and manner of destruction or disposition of the asset; and
 - e. If applicable, the exact kinds, quantities, and forms of the asset.

(1) As examples only, such information might include, if applicable, serial numbers, VINs, make and model numbers, colors, year of manufacture.

4. ASSETS ORDERED TO BE FORFEITED TO THE MAINE STATE POLICE

- A. Whenever an asset seized and held by the Maine State Police is ordered by a Court to be forfeited to the agency, a copy of the Court

Order authorizing such forfeiture must be promptly forwarded to the Maine State Police Staff Attorney by email, fax, or postal mail.

5. ASSETS ORDERED TO BE FORFEITED OR DISTRIBUTED IN WHOLE OR PART BY THE MAINE STATE POLICE TO ONE OR MORE OTHER GOVERNMENTAL ENTITIES

- A. Whenever a Court Order authorizes or requires the Maine State Police to transfer in whole or part an asset that was seized or held by – and, if applicable, forfeited to – the Maine State Police to any other governmental entity, a copy of that Court Order must be promptly forwarded to the Maine State Police Staff Attorney by email, fax, or postal mail.

6. EQUITY CONSIDERATIONS

- A. Because there may be instances in which the costs associated with the transport, storage, maintenance, and lawful disposition (through forfeiture) of an asset will likely or in fact outweigh the value or utility of the asset itself, the Troop Commander of jurisdiction shall determine the reasonableness of the Maine State Police continuing to store and maintain the asset.
- B. In any instance in which a Troop Commander determines that it is not worthwhile for the Maine State Police to continue to store and maintain an asset that was seized during an incident, he or she shall notify his or her Division Major regarding that determination.
 - 1. The subsequent disposition of such an asset must be made in accordance with applicable law.

7. REFERENCE

- A. Officers should be generally familiar with the following provisions of law:
 - 1. [15 MRSA c. 517, Asset Forfeiture](#)

ATTACHMENTS

[Maine State Police Asset Seizure Report](#)
[Maine State Police Form 111](#)
[Asset Disbursement Memorandum](#)

NOTICE

THIS GENERAL ORDER IS FOR USE OF THE MAINE STATE POLICE AND NOT FOR ANY OTHER AGENCY. THE GENERAL ORDER IS NOT

INTENDED TO BE RELIED UPON BY ANY OTHER INDIVIDUAL OR PRIVATE OR PUBLIC AGENCY. THE GENERAL ORDER EXPRESSLY DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, A HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS ORDER ONLY MAY FORM THE BASIS FOR ADMINISTRATIVE SANCTIONS BY THE MAINE STATE POLICE.