

Office of the Sheriff
Somerset County, Maryland

General Order: 01-14-15

Effective date: September 1, 2014

Revised Date: January 1, 2014

Chapter 16
Section 1
Vehicle Towing Procedures

1. Introduction

- A. Disposing of abandoned vehicles, involved in accidents, or otherwise part of the many situations which may be brought to the attention of the Deputy is as a routine function. It must be approached with a great deal of discretion.

2. Inventory of Towed/Stored Vehicles

- A. Except where noted in this chapter, whenever any vehicle is towed by a Somerset County Sheriff's Office dispatched towing service or taken into custody at the direction of a Deputy, a vehicle impoundment and inventory report will be completed.
- B. Whenever a vehicle is taken into custody by a Deputy, the towed vehicle will be taken to the Somerset County Sheriff's Office.
- C. The owner/operator of the vehicle will be advised where the vehicle was stored and the procedures required obtaining its release.
 - 1) The tow service operator will sign the vehicle impoundment and inventory record.
 - 2) The tow service operator will be given a copy of the vehicle impoundment and inventory record.

- D. The primary purpose of towing and storing a vehicle is to protect property from loss or damage. Therefore, after the vehicle is towed to the Somerset County Sheriff's Office, the Deputy will examine the vehicle and prepare an inventory of all property therein.
- E. All property in the vehicle must be inventoried, including items in unlocked baggage or unsealed cartons.
 - 1) 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, glove box, suitcase or other item is not permitted to complete an inventory unless express permission has been granted and the consent to search and seize form has been signed by the owner.
 - 2) 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 form or property record simply as "women's clothing" or "auto mechanic tools."
- F. An inventory may extend to any part of the vehicle where personal property would ordinarily be kept. 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 for investigation and prosecution and used to prosecute. The burden is on the Deputy, however, to show that the inventory was reasonable and pursuant to Sheriff's Office policy.
- G. Promptly after suspected contraband is discovered during an inventory, the inventory should be halted, the property secured, and a search and seizure warrant obtained. Only after execution of the search warrant should the inventory be completed.
- H. Any suspected contraband will be placed on a SCSO property record and placed in the temporary evidence locker.
- I. After completing the inventory, property will not be removed from the vehicle. The property will be locked in the vehicle, preferably in the trunk.

3. Traffic Collisions

- A. If a vehicle is involved in a collision but is operable, and the owner/operator is able to move it, the deputy should instruct the owner/operator should move it from the traveled portion of the roadway and park it in a safe location.
- B. Where a vehicle is rendered inoperable as a result of a collision, but there is no need to have 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 48 hours and may be towed on the authority of the Somerset County Sheriff’s Office.
 - 1) If the owner desires to have the vehicle towed, his choice of the business to do the towing will be respected unless the requested tow vehicle can not respond within a reasonable period of time and prompt removal of the damaged vehicle is necessary.
 - 2) When the vehicle must be removed and such removal cannot be made within a reasonable period of time by the requesting tow service, the investigating Deputy will so inform the owner/operator or other responsible person and either give the owner/operator the opportunity to call a closer towing service or arrange with or without the owner/operator’s consent for the nearest towing service to respond.
- C. 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 for a Somerset County Sheriff’s Office dispatched tow vehicle.
 - 1) The investigating Deputy shall request a tow vehicle through Somerset County Emergency Services. The request will include the reason why it is being made, the location, make and registration of the vehicle.
 - 2) Only that towing vehicle dispatched by the SCSO will be permitted to tow the disabled vehicle unless the owner/operator pays the costs of another dispatched tow vehicle. A Deputy will not request a particular tow vehicle.

4. Obstruction – Unsafe Vehicles

- A. 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 as follows:
 - 1) Where appropriate, the deputy should issue a citation to the owner/operator for the appropriate violation.
 - 2) If the vehicle is parked and obstructing the free flow of traffic or pedestrians, the deputy should direct the owner/operator 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 dispatched tow vehicle.
- B. If the vehicle, because of its condition, may not be legally moved on the highway, it must remain in place unless it impedes other traffic. If the vehicle must be moved, then the owner/operator may 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.

5. Owner/Operator Removed From Custody/Incapacitated

- A. 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:
 - 1) 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.
 - 2) 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 therein.
 - 3) Advise the owner/operator that if the vehicle is left unattended for 48 hours and/or becomes a traffic hazard, it may be disposed of according to established procedure.

- 4) Advise the owner/operator that if he 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 therein, the vehicle shall be removed by a Somerset County Sheriff's Office dispatched tow vehicle.

6. Recovered Stolen/Wanted Vehicles

- A. For a recovered vehicle that was stolen, used without authority of the owner, or used in connection with a criminal offense, the investigating Deputy will:
 - 1) If necessary and feasible, arrange for the vehicle to be processed at the scene for evidence.
 - 2) If there is no reason to hold the vehicle, releases may be made directly to an authorized person. Prior to the release, the Deputy will complete a vehicle report.
 - 3) If the owner of the vehicle is not available, and there is no reason for holding the vehicle, request the nearest approved tow service for removal.
 - 4) If the vehicle must be retained as evidence or further processing, it shall be removed to the Somerset County Sheriff's Office until such time as it is no longer needed as evidence and has been properly claimed.

7. Retaining Recovered Vehicles as Evidence

- A. Whenever possible, a vehicle to be retained as evidence or for further processing should be removed and taken to the Somerset County Sheriff's Office.
 - 1) The investigating Deputy shall arrange for such removal by a dispatched tow vehicle.
 - 2) The investigating Deputy shall follow the towing vehicle to provide for the proper safeguarding and maintain chain of custody.

8. Unattended Vehicles

- A. If a vehicle has been recorded as unattended for 48 hours, removal and storage will be directed by the road patrol supervisor.
- B. The Deputy storing the vehicle will notify the owner of the procedures required to obtain a release.

9. Storage Fees

- A. Whenever a vehicle is towed to and stored at the Somerset County Sheriff's Office, a storage fee of \$25 per day will be assessed.

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Section 2

Unattended/Abandoned Vehicle Found on Public and Private Property

1. Authority

- A. The disposition of abandoned vehicles is regulated by Maryland Motor Vehicle Law, Title 25, subtitle 2 of the Annotated Code of Maryland. The statute provides the police with authority to take custody and to remove and dispose of abandoned vehicles found on public and private property.

2. Policy

- A. 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 or abandoned.
- B. Abandoned vehicles may be removed by and placed in storage at the Somerset County Sheriff's Office.
- C. Abandoned vehicles and mobile homes found on private property shall not be removed or taken into custody at the direction of the Somerset County Sheriff's Office, except when such vehicle is evidence in a criminal case.
- D. Abandoned vehicles may not be sold at public auction except in those cases in which the Somerset County Sheriff's Office actually takes physical possession of the vehicle and it is held in storage on Sheriff's Office property and meets all the requirements of an abandoned vehicle under the provisions of the law.

3. Unattended/Abandoned Vehicle Found on Public Property

- A. Determine if the vehicle is stolen, wanted, or has been previously reported as unattended. If the vehicle is found to be wanted or stolen, process it under established procedures.
- B. The Deputy reporting the incident will make an effort to contact and advise the owner to remove the vehicle within 48 hours or it will be removed and stored as an abandoned vehicle.
- C. If a vehicle has been left unattended on any portion of a primary or secondary highway, and is in violation of any of the provisions of sub-section 22-408 of the Transportation Article, the Deputy may authorize its removal.
- D. Removing Vehicles from Public Property.
 - 1) The deputy should complete a Vehicle Impoundment and Inventory Record and attached to an Incident Report.
 - 2) Verify the vehicle's VIN number by inspecting the VIN tag on the vehicle.
 - 3) Have tow service operator sign the Vehicle Impoundment and Inventory Record.

4. Abandoned Vehicles and Mobile Homes on Private Property

- A. Upon contact with the complainant, the assigned Deputy will determine if the vehicle in question is stolen or wanted.
- B. The Deputy will assist the complainant in the completion of the Motor Vehicle Administration Form Certificate of Authority: To dispose of an abandoned motor vehicle to an Automotive Dismantler and Recycler or Scrap Processor CS-78. In every case, this form must be signed by the complainant and the vehicle's VIN number verified by the Deputy.

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Section 3

Seized/Forfeited vehicles

1. Authority

The Maryland Annotated Code, Criminal Procedure Article, Title 12, provides for the seizure and forfeiture of conveyances which are used or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of illegal drugs or which are purchased with money earned from narcotics trafficking.

2. Policy

- A. It is the policy of the Somerset County Sheriff's Office that no forfeiture proceedings shall be instituted until the Sheriff or his/her designee is the seizing authority has personally reviewed the facts and circumstances of each seizure, and concluded that forfeiture should be recommended to the State's Attorney for Somerset County, Maryland.
- B. The facts and circumstances of each individual case will determine whether the Somerset County Sheriff's Office will proceed with forfeiture. Consideration will be given to seriousness of the violation, *e.g.*, user or seller, the quantity of narcotics seized, previous narcotics conviction, previous criminal record, innocent third party owners, and the condition and value of the vehicle, matter of payment for the vehicle and how the vehicle was used to violate the law. The seizing authority will consider:

- i. If the family car was being used by a youthful member of the family and controlled dangerous substances were located within the vehicle and 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.
- ii. If an innocent register owner loans/leases 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.

3. Guidelines for Vehicle Seizures

- A. A vehicle may be seized upon consideration of the following factors.
- B. When a vehicle is seized, the Somerset County Sheriff's Office shall retain custody of the vehicle.
- C. The vehicle shall be stored at the Somerset County Sheriff's Office.
- D. The investigating Deputy shall arrange for such removal by a dispatched tow vehicle.
- E. The investigating Deputy shall follow the towing vehicle to provide for the proper safeguarding and maintain chain of custody.
- F. When a vehicle is operable, it may be driven to the Somerset County Sheriff's Office by the seizing Deputy.
- G. The seized vehicle shall be inventoried and inspected by the seizing Deputy. A written inventory and photographs of the vehicle shall be completed.
- H. When the Somerset County Sheriff's Office proceeds with forfeiture, the States Attorney for Somerset County shall be contacted within 48 hours.
 1. There is probable cause to believe that the vehicle was used or intended for use to transport, or in any manner facilitate the transportation, sale, receipt, possession or concealment of illegal drugs; or
 2. There is probable cause to believe that the vehicle was purchased, in whole or in part, with profits from illegal drug trafficking.

3. Illegal drugs in any quantity being sold or attempted to be sold from the vehicle.
4. The amount of drugs reasonably indicates that a sale of those drugs is contemplated, even though there has been no sale.
5. Corroborated information existing which indicates that the driver, legitimate owner, or other person claiming a possessory interest in the vehicle, or other occupant of the vehicle is or recently was a seller of illegal drugs, or frequently associates with individuals known to sellers of illegal drugs or illegal paraphernalia.
6. The criminal records of the driver, legitimate owner or other person claiming a possessory interest in the vehicle or other occupant of the vehicle.

4. A motor vehicle shall not be seized when:

- A. An insufficient quantity of drugs or paraphernalia was present to suggest a contemplated sale, and
 - 1) No sale was made; and
 - 2) The driver of the motor vehicle was a family member of the legitimate owner; and
 - 3) The legitimate owner did not know that illegal drugs were in the vehicle; and
 - 4) There is no probable cause to believe the vehicle was purchased with drug proceeds; or,
- B. The driver of the vehicle borrowed the vehicle, and
 - 1) The driver who borrowed the vehicle or another person causes illegal drugs or paraphernalia to be brought into the vehicle; and
 - 2) The illegal drugs were brought into the vehicle without the knowledge of the legitimate owner; and
 - 3) There is no probable cause to believe the vehicle was purchased with drug proceeds or;

- C. The motor vehicle is a common carrier or other vehicle for hire (unless the legitimate owner of the vehicle or other person in charge of the vehicle was a consenting party to a drug violation) and there is no probable cause to believe the vehicle was purchased with drug proceeds; or
- D. The vehicle was unlawfully in the possession of a person other than the legitimate owner and there is no probable cause to believe the vehicle was purchased with drug proceeds.

5. Forfeiture of Vehicles

- A. In those cases where it is determined to proceed with forfeiture, the criminal Investigation supervisor will forward a detailed report through channels to the Sheriff within (10) calendar days after seizure. The report will include the following information and attachments:
 - 1) The circumstances under which Title 12, Section 204 was violated. It should identify the witnesses who will testify to the violation of Section 204, 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.
 - 2) The Incident Report
 - 3) Name and address of owner along with a copy of title, application for registration and insurance information, if available.
 - 4) Lien information to include name of lien holder, amount of original lien, amount remaining on lien (or principal only), the original and present value of vehicle, and its condition.
 - 5) Photographs of the vehicle.
- B. When the Sheriff makes a final decision to proceed with forfeiture, the case will be forwarded to the State's Attorney for Somerset County. Upon issuance of the Court Order directing the forfeiture of the vehicle, the Order will be forwarded to the Chief Deputy, who will have the title transferred to the Somerset County Sheriff's Office. Final assignment will be approved by the Sheriff.
- C. In the event forfeiture is not deemed warranted by the Sheriff or States Attorney, the vehicle will be released to the owner in accordance with established procedure.

6. Release of Seized Vehicles

- A. Release of a vehicle in storage to an authorized person requires the completion of the vehicle Impoundment and Inventory Record.
- B. Vehicles may be released to the following person under the following circumstances:
 - 1. To the Registered owner.
 - 2. To an authorized agent of the registered owner with a notarized letter from the owner given such authorization.
 - 3. Upon presentation of a court order.
 - 4. Upon presentation of a notarized form or document indicating that the person or firm named in the form or document indicating that the person or firm named is lawfully entitled to the stored vehicle.
- C. Before a vehicle is released, the releasing Deputy shall ensure that any and all financial obligations against the vehicle have been satisfied. In addition, the Deputy releasing the vehicle shall sign all copies of the Vehicle Impoundment and Inventory Record.
- D. When releasing a vehicle, proof of ownership and driver's license of the person taking possession of the vehicle will be photocopied and attached to the Vehicle Impoundment and Inventory record.

7. Assignment and Disposition of Seized Vehicles

- A. Forfeited vehicles may be used for both criminal and traffic assignments where the use of an identified vehicle would be inconsistent with the successful performance of a task.
- B. The Sheriff or his/her designee will be responsible to the appropriate assignment, maintenance and use of forfeited vehicles.

8. Maintenance of Seized Vehicles

- A. Seized vehicles shall be stored at the Somerset County Sheriff's Office.
 - 1) Until forfeiture proceedings are concluded and the vehicle has been permanently assigned to the Sheriff's Office, or otherwise disposed of.

2) Until the vehicle is forfeited and insured, the vehicle will not be driven.

9. Chapter Revisions

- A. General Order 01-10-21 "Vehicle Towing Procedure" has been revised.
- B. Effective September 1, 2014, General Order 01-14-15 supersedes General Order 01-10-21.

Robert N. Jones

Sheriff

Somerset County