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| <u>Policy Title</u> | Cash & Counterfeit Currency Seizures |
| <u>CCMT Sponsor</u> | ACC Specialist Operations |
| <u>Department/Area</u> | Crime Support |
| <u>Section/Sector</u> | Economic Crime Unit |

1. Rationale

1.1.

Most crime is committed for profit. About 70% of crimes are acquisitive. The pursuit and recovery of the proceeds of crime is essential to crime reduction. If crime does not pay this is potentially a huge disincentive to career criminals.

1.2.

The Proceeds of Crime Act 2002 (POCA) provides increased civil powers to investigate the financial background of criminals and to seize and restrain their assets. The majority of these powers can only be undertaken by Accredited Financial Investigators (AFIs). AFI powers are included in the Economic Crime Unit (ECU) policy.

1.3.

POCA simplifies money laundering offences (in sections 327, 328 and 329), which carry a sentence of fourteen years imprisonment.

1.4.

The Act establishes an Assets Recovery Agency (ARA). The ARA is a civil body that can tax people, or companies, whose assets are suspected to be derived from crime.

1.5.

In addition POCA extends the civil power to seize cash amounts of £5 000 or more to the police and the whole of the United Kingdom (UK). This policy sets out how officers should use this power.

2. Intention

2.1.

The intention of this policy is to ensure that:-

- Staff are aware of their power to seize cash amounts of £1 000 or more

- Staff follow the correct procedures when they search for and seize cash amounts of £1 000 or more
- There is an increase in cash seizures of £1 000 or more
- Cash (£1 000 or more) seized is successfully forfeited at court
- Staff are aware of the correct procedures when they seize less than £1 000 cash or counterfeit currency
- Staff are aware when they should notify the Economic Crime Unit regarding offenders who require financial investigation.

3. General Principles

3.1.

All POCA powers will be executed in accordance with the Proceeds of Crime Act 2002 Codes of Practice.

3.2.

All searching of persons and premises must be carried out in accordance with the control measures in the generic risk assessments on searching.

3.3.

The Economic Crime Unit (ECU) must be notified of the details of any person, charged or reported for an offence, that the officer in the case (OIC) believes has a criminal lifestyle (see Appendix A for definition). This will enable them to investigate the financial background of that person, with a view to making an application to confiscate assets, or to facilitate action by the Asset Recovery Agency.

3.4.

Any referrals to the Asset Recovery Agency will be made through AFIs.

3.5.

All cash (£1 000 or more) seizures will be carried out in accordance with the Proceeds of Crime Act 2002 and the codes of practice under that Act. See Appendix A for civil powers and Appendix B for authorities and records required.

3.6. When to use the POCA power to seize cash

3.6.1.

The POCA civil power to seize cash must be used when cash (amounting to £1 000 or more) is found when exercising another power such as section 1, section 18 or section 32 of the Police and Criminal Evidence Act 1984 (PACE). This ensures the application to detain the cash can continue, even if criminal proceedings are discontinued. It also prevents the requirement to return the money to its owner when it is no longer required as evidence.

3.6.2.

Every available appropriate opportunity to seize cash must be taken to deprive criminals of the proceeds of crime.

3.6.3.

Use of the civil powers to search for cash (over £1 000) on persons or premises could be considered where there is little prospect of apprehending and prosecuting the main perpetrators for drugs or other acquisitive criminal offences. For example, where the only activity in a criminal network that the police can target is the transport of cash, seizure of that cash may be appropriate as a tactic to disrupt activity within the network and generate intelligence as a result. However, since the premises search power does not give power of entry and the search of person does not give a power of arrest, the offence of money laundering should always be considered, as this provides criminal powers under PACE.

3.6.4.

See Appendix H for guidance for officers seizing cash.

3.7. Cash seizures of less than £1 000 or counterfeit currency**3.7.1.**

Cash seizures of less than £1 000 are not covered by POCA (see appendix J).

3.7.2.

Counterfeit cash is not covered by POCA (see Appendix J).

3.8. Economic Crime Unit**3.8.1.**

The Economic Crime Unit (ECU) is a department of Crime Support. They can give advice on the POCA and all other matters in connection with financial investigation.

3.8.2.

The ECU must be consulted if a pre-planned operation to seize cash only is being considered. They can advise on money laundering offences or on the procedures to exercise civil powers of search under POCA.

3.8.3.

The ECU must be notified when £1 000 or more cash is seized as soon as is practicable. Details of who to contact, at any time, can be found on the Crime Support personnel call out screen on Command and Control.

3.8.4.

The ECU/AFI officer will be responsible for:

- Counting the money (by electronic machine)
- Deciding whether the cash should be forensically examined (in conjunction with the officer in the case)
- Applying for the initial and, if applicable, further detention of the cash at Magistrates Court

- Arranging the subsequent forfeiting or return of the cash
- Banking the cash (see section 4 below)
- Registering the case on the Joint Asset Recovery Database.

3.9.

The ECU are not responsible for the investigation of any offences committed by any person in possession of £1 000 or more in cash. They will not deal with prisoners arrested in possession of such amounts.

4. Banking Cash Seized

4.1.

All sums seized (over £1 000) should be banked as soon as possible and in any event within five working days of the seizure. This must be done in accordance with Corporate Finance's procedures (see the Corporate Finance intranet site for details).

4.2.

This requirement can only be waived in exceptional circumstances by the Head of Corporate Finance, with the specific approval of the Head of Crime Support if they are retained for evidential purposes.

5. Legal Assistance

5.1.

This is a civil procedure and the Crown Prosecution Service will not represent the Thames Valley Police at Magistrates Court.

5.2.

FIU officers will always assess the facts and, if appropriate, will call for legal assistance from the Force Solicitors Department.

4.0 Challenges & Representations

Any person directly affected by this policy may make representations in relation to this document, and/or any decision in consequence of it, to:

Detective Chief Superintendent Crime Support
Thames Valley Police Headquarters
Kidlington
Oxon
OX5 2NX

A complaint against an individual officer's conduct should be progressed through the Complaints against Police Procedures.

The areas covered by this policy are open to scrutiny by H.M. Inspector of Constabulary and the Office of Surveillance Commissioners during official inspections.

5.0 Guidance, Procedures & Tactics

5.1 Powers and Definitions

Power to search for cash on premises

5.1.1

POCA introduces specific powers for police to search for cash amounts of £1 000 or more. S289(1) If a constable, who is lawfully on any premises, has reasonable grounds for suspecting that there is on the premises cash (£1 000 or more) which:

a) is **recoverable property**

or

b) is intended by any person for use in **unlawful conduct**,
he may

- search for cash there.

5.1.2

This power may not be used without the **appropriate approval** unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

5.1.3

Cash is defined as including, notes and coins in any currency, postal orders, cheques of any kind (including travellers' cheques), banker's drafts, bearer bonds and bearer shares.

5.1.4

Recoverable property is defined as property obtained through unlawful conduct.

5.1.5

Unlawful conduct is defined as unlawful conduct under the criminal law within the UK, or, conduct that occurs outside the UK and is unlawful both where it occurs and in the UK. This power may be exercised only with the appropriate approval unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

5.1.6

The appropriate approval means the approval of a magistrate or (if that is not practicable) the approval of an Inspector or above.

5.1.7

There is **no power of entry** to search premises for cash.

5.2 Power to search for cash on persons

5.2.1

S289(2) If a constable has reasonable grounds for suspecting that a person is carrying cash (£1 000 or more):-

- a) which is recoverable property*
or
- b) is intended by any person for use in unlawful conduct*
he may:
 - *search any article (e.g. bag) that person has with him*
 - *search¹ that person*
and
 - *can detain the person as long as is necessary to conduct the search.*

5.2.2

The search can only be to the extent necessary to find the cash.

5.3 Power to seize cash

5.3.1

POCA allows that: S294(1) A constable may seize any cash if he has reasonable grounds for suspecting that it is-

- a) recoverable property* *or*
- b) intended by any person for use in unlawful conduct*

5.4 Application to detain cash

5.4.1

POCA allows a constable to detain the cash and bring it before a Magistrate's Court for an application to further detain it. There is a strict time limit for this. No more than 48 hours can elapse between the point of seizure and the conclusion of the first hearing. If the hearing has not been concluded within 48 hours the cash must be returned unless it is also being detained under section 22 PACE (evidence in criminal proceedings).

¹ The search **cannot** be an intimate or strip search.

5.5 Criminal lifestyle

5.5.1

A defendant has a criminal lifestyle if (and only if) the following condition is satisfied. The condition is that the offence (or any of the offences) concerned satisfies any of these tests:-

- It is an offence specified under schedule 2 of POCA (e.g. money laundering, drug trafficking)
- it constitutes conduct forming part of a course of criminal activity (see section 75 of POCA for full definition)
- it is an offence committed over a period of at least six months and the defendant has benefited from the conduct which constitutes the offence

5.5.2

The benefit from the criminal conduct must not be less than an aggregate

(that is the total from the offences the person has committed) of £1 000.

5.6 Authority and Records Required

Authority to search

5.6.1

If practicable a magistrate's written authority must be obtained before searching a person or premises for cash using the POCA search powers (See Appendix A for the Information form).

5.6.2

If obtaining a magistrate's authority is not practicable, the written authority (see Appendix B for form) of an Inspector or above must be obtained.

5.6.3

If obtaining an Inspector's written authority is not practicable, oral authority can be given, supported by written authorisation as soon as practicable.

5.6.4

If oral authority cannot be obtained, the officer who conducted the search must explain the reason for it to an Inspector as soon as practicable. The Inspector must make a written record of the reasons in his/her pocket note book.

5.7 Prior to search of a person using POCA authority to search²

5.7.1

If an officer suspects that a person has £1 000 or more on his/her person, the officer must:

² If using suspicion of money laundering as grounds to search, PACE applies

- inform the person that he has reasonable grounds to suspect that he or she has cash on their person which is not less than £1 000, is recoverable property or is intended for use by any person in unlawful conduct
- inform the person that he has the power to search them under s289 POCA to find the cash
- produce a document authorising the search (if applicable)
- ask the person to confirm or deny whether they have the cash on their person
and
- allow the person the opportunity to hand over the cash

5.7.2

Before the search starts the officer must take reasonable steps to give the person to be searched the following information:

- the officer's name (unless that may put the officer in danger, then a shoulder number can be given)
- the fact that the search is being carried out under s289 POCA
- an explanation of:
 - the purpose of the search
 - the grounds for reasonable suspicion
and
- that the person has a right to a copy of the record of search.

5.7.3

Plain clothes officers should show their warrant cards.

5.8 Recording of searches

5.8.1

Persons – a record of the search must be made at the time and a copy given to the person searched. If this is wholly impracticable, a record must be made as soon as possible and the person searched must be told how they can obtain a copy.

5.8.2

The officer must ask for the name, address and date of birth of the person searched, but the person does not have to give them and cannot be detained in order to do so.

5.8.3

If a person is detained to perform a search, but then one is not carried out, a record of this must be made.

5.8.4

Premises – Where premises are searched a record (PAC50 specifying full details of the cash found³) shall be made when the officer gets back to his normal place of work and referred to in the search register.

5.9 Receipt required when cash is seized

5.9.1

In all cases when cash over £1 000 is seized a receipt must be completed and served on the person from whom the cash is seized (see Appendix D).

5.10 Guidance for Officers Seizing Cash (£1 000 or more)

Questioning the person in charge of the cash

5.10.1

The person in charge of the cash must be questioned to establish:

- who owns the cash
- whether the cash is recoverable property
- whether the cash is intended for use in unlawful conduct

5.11 Seizing the cash

5.11.1

If the cash (£1 000 or more) is reasonably suspected to be recoverable property⁴ to be intended for use in unlawful conduct⁵ or is evidence⁶ in a criminal investigation it must be seized.

5.11.2

If the person in charge of the cash is not under arrest and the questioning fails to establish a reasonable basis for arrest, the cash can still be seized.

5.11.3

When the cash is seized, if possible, two officers should be present throughout.

5.11.4

The cash should be sealed, uncounted, in a new/unused property bag. This bag should then be sealed in a second new/unused property bag.

5.11.5

The cash should not be counted at the scene of seizure (or within the custody suite) so that it is preserved for possible forensic examination. Large cash

³ Country of issue, denominations, estimate of value, what form (e.g. notes, coins, orders, bankers drafts, bearer bonds etc.)

⁴ Powers s294 POCA and s19 PACE

⁵ Powers s294 POCA and s19 PACE

⁶ Power s19 PACE only

seizures are frequently heavily contaminated with controlled drugs. Evidence of such contamination may be essential to prove that it comes from unlawful conduct.

5.11.6

Also, it is common for mistakes to be made when counting large amounts of cash. Placing the cash uncounted in a bag sealed in the bearer's presence reduces the opportunity for errors and consequent accusations.

5.11.7

The person(s) from whom the cash was seized should be present while it is bagged and invited to sign both bags.

5.12 Pocket note book entry / statement

5.12.1

The officers' notes should include the precise time that the cash was found, any questions asked and answers given in relation to it, and the reason that the officer believes that the amount of cash is more than £1 000.

5.12.2

The time of seizure of the cash will be the time that police first see the money and not when it is 'physically' detained by placing it in a bag.

5.13 Arrests

5.13.1

Where there are reasonable grounds to suspect that the money is the proceeds of unlawful conduct, or intended for such use, the person holding the cash may be arrested on suspicion of money laundering. Other appropriate offences such as theft or handling should also be considered.

5.13.2

If a person in charge of the cash is arrested in connection with it (or is already under arrest for another matter) the cash should be seized. The suspect and the cash should then be conveyed to the nearest police station.

5.14 Police station procedure

5.14.1

Arrested persons will be booked in to custody in accordance with PACE.

5.14.2

The cash will be recorded as uncounted on the custody record and then immediately entered into the Crime Property Book.

5.14.3

If there is no prisoner the cash will be entered in the Crime Property Book.

5.14.4

Where possible the cash will be stored in a safe, if it is too bulky the property store should be used.

5.14.5

When the cash is being moved two officers should be present.

5.15 Retention of the cash

5.15.1

The grounds for retention of cash as evidence under PACE are very limited. The cash may have some evidential value, for example because of:

- serial numbers
- the way it is folded
- contamination by drugs
- contamination by security dye.

Such evidence should be captured for presentation to the court.

5.15.2

The POCA power means that the cash can be retained. However, an application to retain it must be heard at Magistrates Court within 48 hours of its seizure (see section 9 below)

5.16 Interviews

5.16.1

Person not in custody - Where a person who has been the subject of a cash seizure of £1 000 or more is not under arrest, they should be invited to give a voluntary interview. This interview should be tape recorded. This is *not* a PACE interview and the person has no right to free legal advice. There is no power of detention for the purpose of questioning a person solely about the money.

5.16.2

Person in custody - Where a person has been arrested for offences in connection with the cash they must be interviewed under caution about those offences in the normal way, including questioning the suspect about the derivation of the cash seized.

5.16.3

In either case the content of the interview will be brought to the attention of the court when an application is made for the detention of the seized cash.

5.17 Applying to retain the cash

5.17.1

If a decision is taken to apply to retain the cash, Form A (see Appendix E) must be served on the suspect informing him that the cash will be the subject

of a hearing within 48 hours of its detention. Detailed reasons explaining its seizure must be included in the form.

5.18 Referral to court

5.18.1

The appropriate Magistrates Court must be informed of the cash seizure.

5.18.2

A hearing must take place within 48 hours of the initial seizure time⁷.

(1B) In calculating a period of 48 hours in accordance with this subsection, no account shall be taken of-

- (a) any Saturday or Sunday,
- (b) Christmas Day,
- (c) Good Friday,
- (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the cash is seized.

5.18.3

The cash may not be detained for more than 48 hours except by order of a magistrate. A magistrate may only make such an order if satisfied that there are reasonable grounds for the officer's suspicion and that the continued detention is justified for the purposes of :

- investigating its origin or intended use
or
- for the purposes of bringing criminal proceedings.

5.18.4

Where the prisoner is to appear before a Magistrate's court within 48 hours of arrest the cash should be brought before the same court. Where this does not apply the cash will be brought before the most convenient court from the following list:

Milton Keynes
Reading

5.19 First hearing

5.19.1

The application to continue to detain the cash must be made in writing in an information to a magistrate (use Form A, see Appendix E).

⁷ This is the time the cash is first found by officers

5.19.2

If the application is granted for further detention of the cash then the magistrate will sign Form B (see appendix F). A copy of Form B will be given to the person from whom the money is seized. Copies will also be retained by the officer in the case and the court. Form B gives the date and time for the next hearing.

5.19.3

All subsequent applications for further detention will follow the above procedure.

5.19.4

The officer in the case and, if possible, the Financial Investigator should be present at the first hearing.

5.19.5

If the person contests the seizure at the first hearing, the officer present at court should ask for the order to detain the cash to be made and request a short order of adjournment (7 days) in order to get legal representation.

5.19.6

When considering an application for detention the court shall require the matters contained in it to be sworn by the applicant under oath, and may require any statement in response by the person from whom the cash was seized to be made under oath. The magistrate may then grant a continued detention of the seized cash for a period of up to three months.

5.20 Depositing the cash**5.20.1**

The Economic Crime Unit will arrange for the cash to be banked as soon as possible after the initial 48 hours. This must be done in accordance with Corporate Finance's procedures.

5.20.2

When cash is required for evidence in a criminal case the Detective Chief Superintendent Crime Support must authorise that the money is to be retained in force and is not to be deposited in an interest bearing account.

5.20.3

Once forensicated the number of occasions when the cash is required in evidence is likely to be low and so in most cases the cash will be deposited.

5.20.4

Contaminated cash (i.e. with drugs or due to forensic examination) will not normally be accepted by high street banks. Corporate Finance will arrange for contaminated cash to be deposited.

5.21 Enquiries between hearings

5.21.1

It is important that, between hearings, enquiries are carried out by the Economic Crime Unit in relation to the derivation of the cash. This is because the person from whom it was seized can at any time make an application to the Magistrates' Court for its return.

5.22 Further hearings

5.22.1

If the Magistrate orders further detention of the cash, then further hearings will be held in relation to the cash. These may go on for a year or more. The Financial Investigator, acting on the advice of the Force Solicitors' Department, will attend these hearings when necessary.

5.22.2

If, after three months, continued detention of the cash is required, it is necessary to serve another Form A. This procedure will continue every three months, up to a maximum of two years or until the cash is forfeited or returned.

5.23 Forfeiture of the cash

5.23.1

An application may be made in Magistrates' Court for the forfeiture of the cash. Cash forfeiture proceedings are civil proceedings and the civil standard of proof applies. Section 298 POCA enables the Magistrates' Court to order the forfeiture of cash or any part of it, if it is satisfied that it is recoverable property or is intended for use in unlawful conduct. The forfeited money goes to the Consolidated Fund held by the Treasury.

5.24 Restoration of the cash

5.24.1

Section 297 POCA covers two situations in which cash, or any part of the cash, may be released to the person from whom it was seized.

5.24.2

The Magistrates' Court may release it in response to an application by the person from whom the cash was seized on the grounds that it was not the proceeds of unlawful conduct or intended for use in such conduct.

5.24.3

Only the person from whom the money is seized may apply to the court to release it to prevent the Magistrates' Court from becoming involved in a dispute between the person from whom the cash was seized and the rightful owner of the cash. If known, the rightful owner of the cash would be notified of the detention of the cash and would have the opportunity to be joined in any proceedings.

5.24.4

A constable may release cash detained, or any part of it, after notifying the Magistrates' Court; if satisfied that the detention can no longer be justified.

5.24.5

No release of cash can take place once an application has been made for its forfeiture except by order of the court.

5.25 Compensation**5.25.1**

Where no forfeiture is made following the detention of cash, the person from whom it was seized, or the person to whom the cash belongs, may apply to the court for compensation. The court has discretion to pay such compensation where loss has occurred and where the circumstances are exceptional. In most cases, it is thought that the interest resulting from the deposit of the cash into an interest bearing account will suffice.

5.26 Procedures for Dealing with Cash Seizures under £1 000 and Counterfeit CurrencyCash seizures under £1,000**5.26.1**

Cash amounts under £1 000 can only be seized as evidence of an offence and retained for use in court proceedings. When proceedings are completed the cash must be returned to the owner (unless the owner is convicted of an offence and the prosecution requests a confiscation order).

5.26.2

In cases where less than £1 000 is seized, the OIC is responsible for ensuring the cash is banked, or obtaining the approval of the Head of Crime Support and the Head of Corporate Finance to retain it for evidence.

5.27 Counterfeit Currency**5.27.1**

When counterfeit currency (British or foreign) is seized, the following procedures must be followed:-

5.28 Notes**5.28.1**

Seized counterfeit notes must usually be marked with the word "COUNTERFEIT" by a police officer. No other marking must be made on the note. The only reason for not marking the note "COUNTERFEIT" is where such action might interfere with fingerprint (or other forensic) evidence.

5.28.2

The officer marking the note "COUNTERFEIT" must record this in her/his pocket notebook in order that a statement can be made if required for court proceedings.

5.28.3

Counterfeit currency must be treated as an exhibit. Where more than one piece of counterfeit currency is seized at a time, they may be treated as one exhibit (e.g. thirty £10 notes may be one exhibit), if this is appropriate to the investigation of the case.

5.28.4

The officer in the case must then submit the currency to the National Central Office for the Suppression of Counterfeit Currency (NCO) at the National Criminal Intelligence Service (NCIS), using the NCO1 or NCO2 form.

5.28.5

The NCO1 form should be used where the investigating officer can provide details of any person(s) arrested or suspected and other details of the investigation of the counterfeit currency.

5.28.6

The NCO2 form is a continuation sheet or may be used where there is no information to include with the report.

5.28.7

If a person is arrested, charged or cautioned with matters relating to counterfeiting currency, this must be reported to the NCO as soon as possible and in any case within 48 hours. Such reports should contain:

- Force
- Force PNC code
- Station
- Full details of person concerned (including PNC ID, CRO)
- Date and location of the incident
- Full details of the counterfeit currency
- OIC and contact telephone number

5.28.8

The NCO will return counterfeits with a statement of proof to the OIC for use in court proceedings.

5.28.9

The condition of counterfeit currency at the time it is passed is relevant to prove the offence. If fingerprint examination will make it difficult to see the condition of the note it should be submitted to the NCO prior to fingerprint examination. The packaging of counterfeit currency submitted must clearly state that it is going to be submitted for forensic examination (NCO will not forensically examine the currency; they will return it to Force with a statement of proof only).

5.29 Coins

5.29.1

The NCO is not able to provide evidence that a coin is counterfeit. Such evidence can be obtained by submitting the suspect coin to a forensic science laboratory if someone has been charged or reported for a counterfeiting offence. Apart from that (and not marking them "COUNTERFEIT") the procedures as for notes above should be followed.

5.30 Dead Utterings

5.30.1

Where there is no information that would enable a realistic prospect of a successful police investigation into counterfeit United Kingdom sterling currency identified at banks, Post Office outlets and building societies such currency is known as "dead utterings". The bank, Post Office or building society can send such currency direct to the issuing bank. They notify the NCO, but no local police involvement is required.

5.31 Counterfeiting equipment

5.31.1

Any officer seizing printing machinery or other counterfeiting equipment must contact the NCO for advice.

5.31.2

When searching premises where counterfeiting has been undertaken, consideration should be given to seizing any computer(s).

5.32 Destruction of currency

5.32.1

All currency should be returned to the NCO at the conclusion of a prosecution (or investigation where no prosecution occurs) for disposal.

5.33 Media

5.33.1

Statements to the media about counterfeit currency must not be made without consultation with the NCO. This is to avoid damaging confidence in currency in circulation or undermining police operations and initiatives.

5.33.2

All media inquiries on counterfeit currency should be directed to the Press Liaison Officer at NCIS (0207 238 8431).

5.34 Intelligence

5.34.1

The NCO is responsible for collating intelligence on counterfeit currency. Any officer with information about counterfeiting or investigating counterfeiting offences should liaise directly with the NCO.

Office hours: Tel 0207 238 8601
 Fax 0207 238 8049

Out of hours:
 Tel 0207 238 8610 (NCIS Enquiry Desk)

6.0 Communication

6.1 Links to Police National Legal Database Other

This policy should be linked to the Proceeds of Crime Act 2002 and its Codes of Practice.

6.2 Communications Strategy

All staff involved in searching persons and property, custody staff, and the Inspectors and Superintendents authorising use of POCA powers.

The policy will be publicised as part of a communications strategy, which will include posters, FWO entries and Thames View Articles etc.

7.0 Compliance and Certification

7.1 Human Rights Certification

(i) Legal Basis

The legal basis for this document is derived from:-

- Proceeds of Crime Act 2002
- Police and Criminal Evidence Act 1984

(ii) Human Rights Articles Engaged

It is acknowledged that this policy has the potential to engage the following articles:-

- Article 5 Right to Liberty and Security
- Article 6 Right to a Fair Trial
- Article 8 Right to Respect for Private and Family Life
- First Protocol, Article 1 Protection of Property

In the event that an Article of the Convention is engaged, then the legitimacy for the engagement is usually provided within the text of the Articles.

- Article 5 Right to Liberty and Security. Article 5 (3) (c) provides that this right can be interfered with: “the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing having done so”.
- Article 6 (Right to a Fair Trial) - It applies in its entirety when a person is detained/arrested/charged.
- Article 8 Right to Respect for Private and Family Life. A public authority may interfere with the exercise of this right in accordance with the law and as is necessary in a democratic society in the interests of:-
 - national security
 - public safety or the economic well-being of the country
 - the prevention of disorder or crime
 - the protection of health or morals
 - the protection of rights and freedom of others
- First Protocol, Article 1 Protection of Property. A person can be deprived of his possessions in the public interest and in accordance with law (i.e. PACE or POCA).

Audited by: Jill Simpson

Audited on: 09.05.03

(iii) Prohibition of Discrimination

By engaging any of the aforementioned Articles, there is the potential to engage Article 14 of the Convention. The enjoyment of the Rights and Freedoms set forth in the European Convention of Human Rights shall be secured without discrimination on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Actions taken as a consequence of this policy will be applied fairly and impartially, having due regard to natural justice and human rights.

7.2 Diversity Impact Assessment

A Diversity Impact Assessment will be carried out at the next review.

7.3 Diversity (Human Resources)

In the application of this policy, the Force will not discriminate against any persons regardless of their gender, sexual orientation, race or ethnic origin, religion, age or disability.

7.4 Data Protection

This policy can be made available to the public, it is not protectively marked. Personal data and information obtained in connection with this policy will be processed in accordance with the provisions of the Data Protection Act 1998.

7.5 Freedom of Information Act

This policy is **NOT PROTECTIVELY MARKED** and therefore will be made available to the public and published on the Thames Valley Police Internet site.

7.6 Protective Markings

This policy has been assessed for its correct level of protective marking and is **NOT PROTECTIVELY MARKED**.

7.7 Health & Safety at Work

No Health and Safety implications.

8.0 Monitoring and Review

8.1 Links to PPAF/Priorities/Performance Indicators

Use of POCA was not a recommendation within the best value review of Crime Investigation. However, this is because the legislation was not enacted when the BVR was undertaken. Recommendation 7 within that review is that "Wherever possible ensure the earliest possible arrest of suspects to either eliminate them, charge/caution or disrupt their offending cycle. Use of POCA powers will assist with the latter. When career criminals' cash flow is interrupted they have less available cash to invest in their next offence and this assists with crime reduction.

8.2 Review Process

This policy document will be reviewed every two years.

The review will take into account the following criteria:-

- Changes in legislation
- Human rights challenges in Domestic & Human Rights Courts
- Complaints against officers
- Effectiveness of decision making
- Effectiveness of health and safety arrangements
- Changes to Home Office guidance
- Representations made by individuals

APPENDICES**Appendix A****INFORMATION IN SUPPORT OF AN
APPLICATION BY A POLICE OFFICER****FOR AN AUTHORITY TO SEARCH**

The information of : «**Name**» «**Rank**»

of the Thames Valley Police, «**Address**»

Who upon oath/affirmation states:

1. I apply for an authority to search for the purposes of seizing cash which is recoverable property or is intended by any person for use in unlawful conduct, and the amount of which is not less than the minimum amount in respect of the following persons: «**Suspects_Names**» and/or premises at the following address: «**Suspects_Addresses**»

2. I make this application because I have reasonable grounds for suspecting that on the identified premises and/or persons there is cash which is recoverable property or is intended by any person for use in unlawful conduct, and the amount of which is not less than the minimum amount. These grounds are as follows:

Signature:

Name: «**Name**»

Rank: «**Rank**»

Date: «**Date**»

Appendix B

Inspector's Authority to Search

**POLICE INSPECTOR'S AUTHORITY FOR SEARCH UNDER SECTION 289**

1. This is an authority for search made by

[name of

Police Inspector]

on the application by *[name of*

_____ on *[date]*

officer] _____
The Inspector heard the applicant and was satisfied that there are reasonable grounds to

suspect

that there is on *[name of premises and/or*

person(s)]

_____ cash which is recoverable property or is intended by any person for use in unlawful conduct and the amount of which is not less than the minimum amount.

2. The Inspector has authorised *[name of*

_____ to search

officer]

[name and address of premises and/or

person(s)]

_____ and to seize and retain any cash found there which is reasonably suspected to be recoverable

property or is intended by any person for use in unlawful conduct and the amount of which is

Not less than the minimum amount (i.e. £1,000).

Exception to the authority

3. This authority does not provide the authority to enter private premises. It does not require a person to submit to an intimate search or a strip search

Signature of

Date:

Inspector:

Name of Inspector:

Record of Searches of Persons for Cash

(see Note 1)

1. Details of person searched (if provided) (see Note 2)

Name (or description if name not given): _____

Address: _____

Date of birth: _____ Self defined ethnic background(see Note 3) _____

2. Whether prior approval for search sought : Magistrate or Senior officer*

Reasons for not seeking approval: Immediacy of circumstances and it was not practicable to obtain authority.

Other reason (if applicable): _____

3. Grounds for making/not making* search (see Note 4):

4. Stop and search details (see Note 5):

Date _____ Start time: _____ End Time _____
Place: _____

Search made of articles carried (Yes/no*)

5. Results of search (including details of any injury to persons or damage to property)(see Note 6)

6. If cash was found: (Give full description including country of issue, denomination, estimated amount in sterling and in what form e.g. notes, coins, orders, bankers drafts, bearer bonds etc.)

Was it seized/returned*?
If returned, what were the reasons?

7. Search officer

Name _____ Rank _____ Station/Unit _____

8. Other officer present

Name _____ Rank _____ Station/Unit _____

9. Supervising Officer

Name _____ Rank _____ Station/Unit _____

Record of Searches of Persons for Cash*(Notes for officers on completing the form)***1.**

This form is to be used for searches for cash made under the Proceeds of Crime Act (POCA) section 289(3) and covers:

- searches of persons as described in paragraphs 33 and 34 of the Code of Practice for Constables relating to powers to search for cash under POCA; and
- searches of any articles with such persons.

A separate form is required to be completed for each person searched.

Where a person is intercepted with a view to performing a POCA search, but no such search is carried out, this form is still required to be completed to the extent that it is applicable.

2.

The officer must ask the person searched for his name, address and date of birth, but there is no obligation for that person to provide these details.

3.

The officer should ask the person to select one of the following descriptions:

- | | |
|-----------------------------------|-----------------------------------|
| • White – British (W1) | • Asian – Pakistani (A2) |
| • White- Irish (W2) | • Asian – Bangladeshi (A3) |
| • Any other white background (W9) | • Any other Asian background (A9) |
| • White and black Caribbean (M1) | • Black Caribbean (B1) |
| • White and black African (M2) | • Black African (B2) |
| • White and Asian (M3) | • Any other black background (B3) |
| • Any other mixed background (M9) | • Chinese (O1) |
| • Asian – Indian (A1) | • Any other (O9) |

The officer should enter whichever description the person selects, even if it appears to the officers that the selection is incorrect. If the person refuses to make a selection, the officer should enter “Not stated” (NS).

If the person expresses concerns about providing this information, the officer should explain that it is required to help improve ethnic monitoring and ensure that our use of the powers is not discriminatory.

4.

The grounds for search should include a reference to the officer having reasonable suspicion that the person is carrying cash which is recoverable property or is intended for use in unlawful conduct. Most likely grounds for not making a search are elimination of suspicion as a result of questioning or approval for search by magistrate/sheriff or senior officer being refused.

5.

Enter the start time as the time that the person is intercepted, and the end time as the time that he/she is allowed to proceed whether or not any search is carried out during the intervening period.

6.

If cash is found during the search, it will suffice to enter “Cash found” in the results of search, as details of the find are to be entered under item 8 (If cash was found). A note should be made of any other items of Police interest found during the search with a cross reference to any other form(s) or records on which action taken in respect of these items is fully detailed.

Receipt for Seized Cash

To: _____
 Address: _____

If the cash described below is not yours, please pass this form to the person who owns it.

Description of cash seized:

Currency (e.g. sterling, US dollars, Euros): _____
 Estimated amount in sterling: _____
 Form (e.g. notes, coins, cheques, bearer bonds): _____
 Seal No. (Inner): _____ Outer: _____

This cash was seized from (name) _____

At (place) _____

On (date) _____ At (time) _____

Case reference number _____

The cash may have to be forfeited under the Proceeds of Crime Act 2002. For seizures made in England, Wales or Northern Ireland, Police will apply to a magistrate within 48 hours from the time of seizure for an order to detain the cash for up to 3 months.

You may attend the relevant hearings, and may wish to consult a solicitor for advice on your rights.

At any time while the cash is detained, you may claim that it is not liable to detention or forfeiture.

Name of Police Officer: _____
 Address: _____

Telephone Number: _____

I confirm that I have been issued with a receipt for the cash described above

Signature: _____ Date: _____
 Name (please use block letters) _____

Appendix E



FORM A

First/Further** Application for Continued Detention of Seized Cash

Section 295(4) Proceeds of Crime Act 2002 MC (Detention and Forfeiture of Cash) Rules 2002 rr 4(1), 5(1)

Case Ref. No.

«Court» Magistrates' Court

Continued Detention. Application No.

«Code» Court Code

Date: «Date_of_application»

Name of person from whom cash seized:
and last address:

«Name_of_person_from_whom_cash_seized»

«and_last_address»

Names and addresses of any other persons likely to be affected by an order for detention of the cash (if known):

«Names_and_addresses_of_any_other_persons»

Amount seized (estimated): «Amount_seized_estimated»

Date of seizure:

«Date_of_seizure»

Time of seizure:

«Time_of_seizure»

Place of seizure:

«Place_of_seizure»

Date of latest order for continued detention of seized cash (if any):

«Date_of_latest_order_for_continued_deten»

Amount detained under latest order for continued detention (if any):

«Amount_detained_under_latest_order_for_c»

Amounts released since the latest order for continued detention (if any):

«Amount_released_since_the_latest_order_f»

I, «Name_of_officer»

of «Official_Address»

Tel. No: «Tel_No»

(official address and position of applicant)

a Constable, apply for an order under section 295(2) of the Proceeds of Crime Act 2002 authorising the continued detention of cash in the sum of and will state upon oath that one of the two grounds below is satisfied:

There are reasonable grounds for suspecting that the cash is either recoverable property or is intended by any person for use in unlawful conduct-

- (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(State grounds)

Signed:.....

To: The Justices' Chief Executive
«Court» Magistrates' Court

Notes to the Applicant

First Application – You must give a copy of this application and notification of the hearing of it to the person from whom the cash was seized.

Further Application – This application must wherever possible be submitted to the Justices' Chief Executive at least seven days before the expiry of the last period of detention that was ordered by the court. You must send a copy of this application to the person from whom the cash was seized and any other person specified in any order made under section 295(2) of the Proceeds of Crime Act 2002.

**In the case of a means of unattended dispatch such as a letter, parcel, container, the copy application and if applicable, notification of hearing should be given to the sender and intended recipient (if known).*

Appendix F



First/Further Order for Continued Detention of Seized Cash**

Section 295 (2) of the Proceeds of Crime Act 2002; MC (Detention and Forfeiture of Cash) Rules 2002 rr 4(7), 5(4)

Case Ref. No.

«Court» Magistrates' Court

Continued Detention. Application No.

«Code» Court Code

Date: «Date_of_application»

Name of person from whom cash seized: and last address:

«Name_of_person_from_whom_cash_seized»

«and_last_address»

Names and addresses of any other persons likely to be affected by an order for detention of the cash (if known):

«Names_and_addresses_of_any_other_persons»

Amount seized (estimated):

«Amount_seized_estimated»

Estimated amount to which reasonable grounds for suspicion applies, (*First application only*) where it is not reasonably practicable to detain only that part.

Amount to which reasonable grounds for suspicion applies.

Date of seizure:

«Date_of_seizure»

Time of seizure:

«Time_of_seizure»

Place of seizure:

«Place_of_seizure»

Date of latest order for continued detention of seized cash (if any):

«Date_of_latest_order_for_continued_deten»

Amount detained under latest order for continued detention (if any):

«Amount_detained_under_latest_order_for_c»

Amount released since the latest order for continued detention (if any):

«Amount_released_since_the_latest_order_f»

On the application of: **«Name_of_officer»**

after hearing oral evidence

from:

and representations

from:

It is ordered that the sum

of:

be further detained for a period

of:

(State a period up to a maximum of three months from the date of this order and not beyond the end of a period of two years from the date of the first order, or until its release may be otherwise ordered, whichever is the earlier.)

Notice of this order shall be given without delay to the person from whom the cash was seized and to any other person affected by it. Such notice shall be in Form C and shall be accompanied by a copy of this order.

Time of signing:

Justice of the Peace

**In the case of a letter, parcel, container or other means of unattended dispatch, insert names and addresses, if known, of sender and intended recipient.*