

Asset Forfeiture

602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture, and liquidation of property associated with designated offenses.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Sheriff to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the St. Mary's County Sheriff's Office seizes property for forfeiture or when the St. Mary's County Sheriff's Office is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The office member assigned by the Sheriff who is responsible for reviewing all forfeiture cases and acting as the liaison between the Office and the forfeiting authority (Md. Code CP § 12-101(f)).

Property subject to forfeiture - Items that may generally be subject to forfeiture include:

- (a) Real property, tangible and intangible personal property, money, weapons, vehicles, aircraft, vessels, and items or objects used in connection with a crime under the controlled dangerous substances (CDS) law (Md. Code CP § 12-102).
 - 1. Motor vehicles must meet required seizure guidelines (Md. Code CP § 12-204).
- (b) A handgun, handgun ammunition, or parts in violation of gun laws (Md. Code CP § 13-201).
- (c) A regulated firearm in violation of the law (Md. Code PS § 5-135).
- (d) A handgun being illegally possessed (Md. Code CR § 4-206).
- (e) Firearms used in specific designated crimes (Md. Code CR § 5-621(e)).
- (f) Money seized in illegal gambling investigations (Md. Code CP § 13-102).
- (g) Vehicles, vessels, or aircraft used in violation of explosives laws (Md. Code CP § 13-301).
- (h) Motor vehicles, money, and real property used in connection with a violation of human trafficking laws (Md. Code CP § 13-502) or personal property that is directly or indirectly dangerous to health and safety (Md. Code CP § 13-504).
- (i) Contraband alcohol, cigarettes, and motor fuel, and conveyances used to transport these products (Md. Code TG § 13-835).
- (j) A recorded article and all equipment used to produce the recorded article in violation of telecommunications and electronics laws (Md. Code CR § 7-310).

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- (k) Property used or intended for use in the course of a violation of the Mortgage Fraud law (Md. Code CP § 13-402).

Seizure - The act of law enforcement officials taking property, cash, or assets that have been used in connection with or acquired by specified illegal activities.

602.2 POLICY

The St. Mary's County Sheriff's Office recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime, and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or any person's due process rights.

It is the policy of the St. Mary's County Sheriff's Office that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeitures. It is the policy of the St. Mary's County Sheriff's Office to work in coordination with the seizing/forfeiting authority for forfeiture cases, specifically the St. Mary's County State's Attorney's Office or federal partners.

602.3 ASSET SEIZURE

The following property may be seized for forfeiture as provided in this policy:

602.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in conjunction with the forfeiture reviewer:

- (a) Property subject to forfeiture may be seized on a warrant or court order.
- (b) Property subject to forfeiture may be seized without a warrant when:
 - 1. The seizure is incident to an arrest or a search under a search warrant and the property is subject to forfeiture due to a CDS, human trafficking, or handgun violation (Md. Code CP § 12-202, Md. Code CP § 13-504, or Md. Code CP § 13-201 respectively).
 - 2. The seizure is incident to an inspection under an administrative inspection warrant and the property is forfeitable due to a CDS or human trafficking violation (Md. Code CP § 12-202, or Md. Code CP § 13-504 respectively).
 - 3. There is probable cause to believe that the property has been used or is intended to be used for a violation of a CDS law (Md. Code CP § 12-202).
- (c) Property subject to forfeiture that may be lawfully seized as evidence of a crime.
- (d) A vehicle, when there is probable cause to believe that it is subject to forfeiture for a violation of human trafficking laws (Md. Code CR § 3-1102 or Md. Code CR § 3-1103) and after considering (Md. Code CP § 13-507):
 - 1. Evidence that the motor vehicle was acquired with proceeds from a transaction involving a violation of Md. Code CR § 3-1102 or Md. Code CR § 3-1103.

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2. The circumstances of the arrest.
3. The way in which the vehicle was used.

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money alone is insufficient to establish the probable cause required to make a seizure.

For procedures related to Asset Seizure, see the Saint Mary's County Sheriff's Office LE Procedures Manual: [Asset Seizure and Forfeiture](#) and [Items Subject to Seizure and Forfeiture](#).

602.3.2 PROPERTY NOT SUBJECT TO SEIZURE

Property that should not be seized for forfeiture includes:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds (Md. Code CP § 12-102).
- (b) Any personal property or vehicle if the deputy reasonably knows the owner did not have knowledge of the offense or did not consent to the property's use ("innocent owner").
- (c) Real property without a court order.

602.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

Before property subject to forfeiture is seized by an employee of the Sheriff's Office, a supervisor assigned to the Vice/Narcotics Unit (VNU) for the Criminal Investigations Division will be contacted and provided with a synopsis of the events preceding the seizure. At that time, the VNU supervisor will determine if the property is subject to forfeiture and if there is a sufficient factual basis to proceed with asset forfeiture procedures.

When property or cash subject to this policy is seized, the deputy making the seizure should ensure compliance with the following:

- (a) Complete the Notification of Seized Property Subject to Forfeiture (SMCSO Form #366) and present the appropriate copy to the person from whom the property was seized. If cash or property is seized from more than one person, a separate form specifying the items seized must be completed and provided to each person. When property is seized and no one claims an interest in the property, the deputy must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The deputy will identify seized property as subject to forfeiture by utilizing the evidence code "Seized" while inputting evidence via the Evidence Quick Entry subsection of the Evidence section

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in the Property Room module of the Tyler records management system (RMS). The forfeiture reviewer will add the evidence code "Forfeiture" upon completion of the forfeiture process for any seized property.

Photographs shall be taken of seized cash and other valuable items (Md. Code CP § 12-202(b) (1); Md. Code CP § 13-103; Md. Code CP § 13-505). The photographs will be taken by utilizing the Axon Capture mobile application on an agency-issued cellphone and then uploaded to Evidence.com. In the event a member's cellphone is inoperable and Axon Capture is not utilized, photographs will be taken with an agency-issued camera and uploaded directly to Evidence.com via the "Import Evidence " link on the home screen.

Deputies who suspect property may be subject to seizure but are unable to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, or the property is real estate, bank accounts, or non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

602.5 MAINTAINING SEIZED PROPERTY

The Property Unit supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition (Md. Code CP § 12-203).
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or person with an ownership interest.
- (d) Property received for forfeiture is not used by the Office unless the forfeiture action has been completed. The disposition of unclaimed money, which was seized pursuant to violations of the CDS laws, will be governed by Maryland Criminal Procedure §12-304(d)(1)(2)(3). For additional information, see St. Mary's County Sheriff's Office LE Procedures Manual: [Processing Locally Seized Funds \(not yet forfeited\)](#)
- (e) All money is deposited into the appropriate financial account (Md. Code CP § 12-202; Md. Code CP § 13-103; Md. Code CP § 13-505).
- (f) Pending final disposition, money seized for illegal gambling shall be properly accounted for and deposited in an interest-bearing bank account or invested in accordance with Title 17 of the Local Government Article (Md. Code CP § 13-104).
- (g) On receipt of an application, the Office shall hold an informal review to determine whether the owner knew or should have known of the use or intended use of a handgun that was seized in violation of Md. Code CR § 4-203 or Md. Code CR § 4-204 (Md. Code CP § 13-204).
- (h) The Office shall surrender a motor vehicle to the owner upon request if the motor vehicle falls within the purview of a forfeiture exception or the required legal standards are not met (Md. Code CP § 12-207; Md. Code CP § 13-509).

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602.6 FORFEITURE REVIEWER

The Sheriff will appoint a forfeiture reviewer as allowed by law.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Title 12 and Title 13 of the Maryland Criminal Procedure Article.
- (b) Serving as the liaison between the Office and the County Treasurer or Director of Finance (Md. Code CP § 12-101(j)).
- (c) Serving as the liaison between the Office and the forfeiting authority and ensuring prompt legal review and filing of all seizures (Md. Code CP § 12-304; Md. Code CP § 13-517).
- (d) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.
- (e) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate (Md. Code CP § 12-212).
- (f) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (g) Ensuring that seizure forms are available and appropriate for office use. These should include notice forms, a receipt form, and a checklist that provides relevant guidance to deputies. The forms should be available in languages appropriate for the region and should contain spaces for (Md. Code CP § 12-104):
 - 1. Names and contact information for all relevant persons and law enforcement officers involved.
 - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 - 3. A space for the signature of the person from whom cash or property is being seized.
 - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure, and a detailed description of the items seized.
 - 5. A case or other reference number associated with the seized property.
 - 6. The notice provisions required by Md. Code CP § 12-104.
 - 7. Any other information required by Md. Code CP § 12-104.
- (h) Ensuring that members who may be involved in asset forfeiture receive training in the proper use of the seizure forms and forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, or Daily Training Bulletins (DTBs). The training should cover this policy and address any relevant statutory changes and court decisions.

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- (i) Reviewing each asset forfeiture case to ensure that:
 - 1. Written documentation of the seizure and the items seized is included in the case file.
 - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
 - 3. The Sheriff personally reviews and recommends forfeiture of motor vehicles in violation of the CDS or human trafficking laws (Md. Code CP § 12-206; Md. Code CP § 13-508).
 - 4. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Md. Code CP § 12-104; Md. Code CP § 12-209).
 - 5. Property is promptly released to those entitled to its return.
 - 6. All changes to forfeiture status are relayed to a VNU supervisor.
 - 7. Assistance with the resolution of ownership claims and release of property to those entitled is provided (Md. Code CP § 12-203).
 - 8. Current minimum forfeiture thresholds are communicated appropriately to deputies.
 - 9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (j) Ensuring that a written plan is available that enables the Sheriff to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement personnel and attorneys who may assist in these matters is available during any extended absence of the forfeiture reviewer.
- (k) Ensuring that the office disposes of property as provided by law following a forfeiture.
- (l) Ensuring that the process of selling or adding forfeited property to Office inventory is in accordance with all applicable laws and consistent with the use and disposition of similar property.
- (m) Ensuring that no property is retained by the St. Mary's County Sheriff's Office upon completion of the forfeiture process unless the Sheriff authorizes in writing the retention of the property for official use.
- (n) Ensuring that an annual report is filed with the Maryland Statistical Analysis Center (MSAC) of the Governor's Office of Crime Prevention, Youth, and Victim Services as required by Md. Code CP § 12-602 (a).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in a manner prescribed by the law and county financial directives.

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602.7 DISPOSITION OF FORFEITED PROPERTY

No member of this office may use property that has been seized for forfeiture until the forfeiture action has been completed and the Sheriff has given written authorization to retain the property for official use. No office member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

Any proceeds obtained from a sale of property that has been seized pursuant to a violation of the CDS or human trafficking laws will be governed by Maryland Criminal Procedure §12-503 and Criminal Procedure § 13-534.

After a full court hearing, if the court determines that the property should not be forfeited, the property shall be promptly returned to the legal owner (Md. Code CP § 12-402; Md. Code CP § 13-534).

Whenever property is forfeited by the court under the CDS or human trafficking laws, the property may be kept for official use, destroyed or otherwise disposed of. The Office may also sell the property if the law does not require the property to be destroyed and the property is not harmful to the public (Md. Code CP § 12-403; Md. Code CP § 13-529).

Whenever property is forfeited under a violation of gun laws, the Office may only retain the property for official use, destroy the forfeited property, or sell, exchange, or transfer the forfeited property to another law enforcement agency for official use by that agency (Md. Code CP § 13-206(a)).

Shared proceeds from a state law enforcement agency forfeited under the CDS laws shall be deposited in the County general fund (Md. Code CP § 12-403(e)).

Proceeds forfeited under the Maryland Mortgage Fraud Protection Act shall be deposited in the state's general fund (Md. Code CP § 13-407(c)(4)).

Proceeds forfeited from a violation of the human trafficking laws shall be deposited in the County general fund (Md. Code CP § 13-530).

For procedures related to Disposition of Forfeited Property, see the Saint Mary's County Sheriff's Office LE Procedures Manual: [Processing Locally Seized Funds \(not yet forfeited\)](#), [Locally Seized Funds - Transfer to Forfeiture](#), [Process for Expending Forfeited Funds \(Local or Federal\)](#), and [Disposition of Forfeited Property](#).