


## Asset Forfeiture

### 602.1 POLICY HEADER

<b>Original Effective Date;</b>	<b>Revised Date:</b>
September 1, 2021	January 4, 2023
<p>Authorization:</p>  <p>Jason Haberman Chief of Police</p>	

### 602.2 PURPOSE AND SCOPE

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

#### 602.2.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Mt. Lebanon Police Department seizes property for forfeiture or when the Mt. Lebanon Police Department 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 department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and acting as the liaison between the Department and the appropriate prosecutor.

**Property subject to forfeiture** - Property that may include, depending on the facts, the following:

- (a) Property used as a container for controlled substances (42 Pa.C.S. § 5802)
- (b) Cars, trucks, boats, and planes used to transport or sell controlled substances (42 Pa.C.S. § 5802)
- (c) Money given or intended to be given in exchange for controlled substances (42 Pa.C.S. § 5802)
- (d) Real property used or intended to be used to facilitate the sale of controlled substances (42 Pa.C.S. § 5802)

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- (e) Firearms used to facilitate a controlled substance offense (42 Pa.C.S. § 5802)
- (f) Assets related to terrorism (18 Pa.C.S. § 2717)
- (g) Property used to facilitate sexual assaults (18 Pa.C.S. § 3141)
- (h) Property used to make counterfeit music/movie recordings, or to manufacture counterfeit trademarked goods (18 Pa.C.S. § 4116; 18 Pa.C.S. § 4119)
- (i) Assets related to gambling (18 Pa.C.S. § 5513; 4 Pa.C.S. § 1518)
- (j) Electronic devices used to violate eavesdropping laws or theft of telecommunications services (18 Pa.C.S. § 5707; 18 Pa.C.S. § 910)
- (k) Vehicles and equipment used for illegal dumping (18 Pa.C.S. § 6501)
- (l) Tools and vehicles used to further a "chop shop" (18 Pa.C.S. § 7707)
- (m) Devices used for illegal fishing (30 Pa.C.S. § 927)
- (n) Assets related to hazing (18 Pa.C.S. § 2807)
- (o) Assets related to human trafficking and involuntary servitude (18 Pa.C.S. § 3021)
- (p) Off-road vehicles in urban municipalities (75 Pa.C.S. § 3721)

**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.

#### **602.3 POLICY**

The Mt. Lebanon Police Department 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 Mt. Lebanon Police Department 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.

#### **602.4 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **602.4.1 PROPERTY SUBJECT TO SEIZURE**

The following property may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer (42 Pa.C.S. § 5803):

- (a) Property that may be seized under the authority of a court order
- (b) Property that can be legally seized incident to an arrest or the service of a search or inspection warrant

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- (c) Property subject to forfeiture when there is probable cause to believe that the property is likely to be destroyed or removed if not seized, and the property can be legally accessed

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method. Real property shall only be seized by court order unless an immediate need to protect the public exists (42 Pa.C.S. § 5803).

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

#### **602.4.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the appropriate prosecutor's current minimum forfeiture thresholds
- (b) Property where the officer suspects the owner was not privy to the violation or did not consent to the violation (i.e., innocent owner) (42 Pa.C.S. § 5805)
- (c) Property that was not significantly related to the criminal activity
- (d) Property where the base offense involved only the possession of a small quantity of marijuana for personal use (42 Pa.C.S. § 5802)

#### **602.5 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

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

- (a) Complete the applicable [seizure form](#) and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so (42 Pa.C.S. § 5803).
- (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 officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere; the whereabouts of the property is unknown; it is real

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estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

#### **602.6 MAINTAINING SEIZED PROPERTY**

The Investigative Services 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 (42 Pa.C.S. § 5803).
- (b) All property received for forfeiture is checked to determine whether 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 the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.
- (e) Forfeitable property is retained until such time as its use as evidence is no longer required.
- (f) Transferring property to the appropriate prosecutor after a forfeiture judgement has been made (42 Pa.C.S. § 5803).

#### **602.7 FORFEITURE REVIEWER**

The Chief of Police will appoint a forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a course approved by the Department on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly the controlled substances forfeiture and terrorism forfeiture laws and the forfeiture policies of the appropriate prosecutor (42 Pa.C.S. § 5803; 42 Pa.C.S. § 5805).
- (b) Serving as the liaison between the Department and the appropriate prosecutor and ensuring prompt legal review of all seizures (42 Pa.C.S. § 5805).
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (e) Ensuring that seized property will not be referred to federal agencies for forfeiture under federal forfeiture laws as prohibited by 42 Pa.C.S. § 5807.1.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant

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guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:

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 (42 Pa.C.S. § 5803).
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or General Orders. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
1. Written documentation of the seizure and the items seized is in the case file.
  2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
  4. Property is promptly released to those entitled to its return.
  5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
  6. Any cash received is deposited with the fiscal agent.
  7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
  8. Current minimum forfeiture thresholds are communicated appropriately to officers.
  9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that a written plan is available that enables the Chief of Police 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.
- (j) Ensuring that the Department disposes of property as provided by law following any forfeiture.

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Forfeiture proceeds should be maintained in a separate location of the evidence room and shall be subject to annual audits by the Operations Deputy Chief of Police.

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

#### **602.8 DISPOSITION OF FORFEITED PROPERTY**

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

Employees may not purchase forfeited property (42 Pa.C.S. § 5803).

## Attachments

**Form 285a - Property Seizure  
- Relinquishment Form.pdf**





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## Property Receipt



CASE #	OFFENSE	DATE	TIME
OFFICER	BADGE #	RECOVERY LOCATION	
RECOVERED FROM (name, address, phone #)			
<input type="checkbox"/> EVIDENCE <input type="checkbox"/> SAFE KEEPING <input type="checkbox"/> FOUND / RECOVERED <input type="checkbox"/> PROCESSING <input type="checkbox"/> OTHER: _____			

ITEM #	QTY.	ARTICLE	BRAND / MODEL #	SERIAL #	RECOVERED BY	LOCATION

For the return of property seized or taken as evidence of a crime, please consult your attorney for the proper procedures for the return of your property.

For the return of property taken for processing or safekeeping or for found property, please contact the Investigative Services Unit at (412) 343-4095 to speak with an Evidence Custodian.

All recovered property and property taken for safekeeping will be disposed of after 90 days unless prior arrangements have been made.

I acknowledge that the items listed above were taken and are now in the possession of the Mt. Lebanon Police Department.

Print Name: \_\_\_\_\_  
PROPERTY OWNER

Signature \_\_\_\_\_  
PROPERTY OWNER

Print Name: \_\_\_\_\_  
OFFICER / INVESTIGATOR

Signature \_\_\_\_\_  
OFFICER / INVESTIGATOR