

YORK-POQUOSON SHERIFF'S OFFICE	GENERAL ORDERS
SUBJECT: Asset Forfeiture	NUMBER: GO 2-36
EFFECTIVE DATE: March 1, 2021	Review Date: July 6, 2020
AMENDS/SUPERSEDES: GO 2-36, December 13, 2017	APPROVED:  Sheriff
VLEPSC: OPR.03.05	

1 **INDEX WORDS**

- 2
- 3 Asset forfeiture
- 4 Coordinator, asset forfeiture
- 5 Department of Criminal Justice Services
- 6 Seizures
- 7 Federal Asset Seizures

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9 **POLICY**

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11 Virginia Code Section [19.2-386.22](#), Code of Virginia, permits law enforcement agencies to

12 benefit directly from the seizures of assets made in narcotics or drug investigations. The York-

13 Poquoson Sheriff's Office intends to aggressively enforce narcotics and dangerous drugs laws

14 and where our personnel make a substantial seizure of property according to state law, we will

15 begin forfeiture proceedings. Whatever assets we recover through the forfeiture process,

16 whether money or property, will be applied to legitimate law enforcement needs primarily to

17 carry out other drug enforcement strategies. Under no circumstances will personnel select

18 enforcement targets because of the expected financial gain accruing to the Sheriff's Office:

19 enforcement strategies are not dictated by profit.

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21 **PURPOSE**

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23 To outline the York-Poquoson Sheriff's Office's participation in asset forfeitures from drug

24 enforcement cases, and to state responsibilities of the asset forfeiture coordinator.

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26 **DEFINITIONS**

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- 28 • Asset forfeiture coordinator (AFC)
 - 29 ○ The deputy designated by the Sheriff to be conversant in state forfeiture laws.
 - 30 ○ To identify assets in case reports and implement legal process to appropriate these
 - 31 assets for department use.
 - 32 ○ The AFC will also perform as liaison, to other state and federal agencies, and to the
 - 33 courts, as needed.
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 - 35 • For State initiated seizures
 - 36 ○ Electronically complete and submit required DCJS Asset Seizure reporting forms and
 - 37 notify the Commonwealth's Attorney of the initiated asset forfeiture.

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- For Federal Asset forfeitures
 - The AFC shall serve as the Certifying Official for asset forfeitures initiated through the Drug Enforcement Administration or other Federal Law Enforcement Agencies when an employee of the York-Poquoson Sheriff’s is a participating member and initiates a Federal Asset Sharing Request form (DAG71).

- Assets
 - Includes both in-kind property and proceeds.
 - In-kind property consists of whatever an agency can put to immediate use.
 - ❖ Anything of value seized in association with a drug transaction is an asset for purposes of this order.
 - Proceeds refer to whatever money is raised through sale of property of a kind not immediately useful.

PROCEDURES

- Responsibilities of the asset forfeiture coordinator (AFC)
 - The Asset Forfeiture Coordinator (AFC) is the Commander of the Investigations Division.
 - He/she reviews all law enforcement reports to identify property subject to forfeiture.
 - Effectively process all paperwork.
 - Reports to the Sheriff on all matters pertaining to forfeiture proceedings.
 - Manages property seized and stored under asset seizure laws pending forfeiture proceedings.
 - Coordinates with the York County Treasurer for the deposit of all cash seized to be deposited into a non-interest bearing bank account to be held in escrow until forfeiture proceedings are completed.
 - Complies with Court Orders and remits the proceeds from forfeited assets sales according to the order.
 - Ensures compliance with State and Federal guidelines for asset forfeiture.
 - Coordinates, where possible, with other agency representatives, as designated by the Sheriff, for “pre-seizure” planning meetings to evaluate target assets to ascertain ownership and the existence of liens or encumbrances.
 - The AFC will make every reasonable effort to identify innocent lien-holders to avoid inconveniencing them.

 - Coordinate with the Commonwealth’s Attorney the commencement of forfeiture action following the conviction of the owner of seized property for offenses which authorize forfeiture of such property in accordance with Section [19.2-386.1](#), Code of Virginia.
 - Although forfeiture actions may be commenced prior to a conviction, any forfeiture actions shall be stayed by the court until conviction in accordance with Section [19.2-386.1.C](#), Code of Virginia.

- 84 ○ Apply to the Department of Criminal Justice Services (DCJS) for return of in-kind
85 property for legitimate law enforcement use.
- 86 ○ Coordinate with the commonwealth’s attorney, or other officials as necessary to
87 obtain a commercial sale of property in appropriate cases.
- 88 ○ Ensure that money seized is forwarded to DCJS in check form and to coordinate with
89 the county finance officer, as necessary.
- 90 ○ Coordinate the sale, destruction or final disposition of in kind property forfeited but
91 not placed into law enforcement use.
- 92 ▪ Remit funds from sales of forfeited in kind property to DCJS for disbursement in
93 accordance with law.
- 94
- 95 ○ Coordinate for the sale, destruction or final disposition and notification to DCJS of in
96 kind forfeited property that is on longer suitable for law enforcement use.
- 97 ▪ Remit funds from sales of forfeited in kind property to DCJS for disbursement in
98 accordance with law.
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- 100 ○ Coordinate the return of seized to the person who owns the property no later than 21
101 days from the date a stay terminates unless such forfeiture is the result of a lawful
102 plea agreement or the owner of the property has not submitted a written demand for
103 the return of the seized property within 21 days of the date the stay terminates in
104 accordance with Section [19.2-386.1.C.\(ii\).](#), Code of Virginia.
- 105 ○ Requests for adoption of asset forfeiture cases by the Department of Justice shall be
106 completed by the AFC using the U.S. Department of Justice Request for Adoption of
107 State or Local Seizure Form and submitted to the appropriate federal investigative
108 agency within 15 days of the state or local seizure date unless a waiver is requested
109 and granted.
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- 111 ● Forfeited Assets
- 112 ○ The Sheriff or his designee shall be responsible for monitoring the expenditures of
113 State and Federal asset funds to ensure all expenditures comply with State and
114 Federal law, and that such funds are not used to supplant any aspect of the Sheriff’s
115 Office budget.