

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 Caroline County Sheriff's Office seizes property for forfeiture or when the Caroline 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 agency member assigned by the Sheriff who is responsible for reviewing all forfeiture cases and acting as the liaison between the Agency 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 or vessels, and items or objects used in connection with a crime under the Controlled Dangerous Substances 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) Illegal possession of a handgun (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 the connection of 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 the products (Md. Code TG § 13-835).
- (j) Crimes involving telecommunications and electronics (Md. Code CR § 7-310).
- (k) Property used or intended for use in the course of a violation of the Mortgage Fraud law (Md. Code CP § 13-402).

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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 Caroline 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 Caroline 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.

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 the Criminal Investigations Division Commander 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 controlled dangerous substance violation, human trafficking violation, or handgun violation (Md. Code CP § 12-202; Md. Code CP § 13-504; Md. Code CP § 13-202).
 - 2. The seizure is incident to an inspection under an administrative inspection warrant and the property is forfeitable due to a controlled dangerous substance or human trafficking violation (Md. Code CP § 12-202; Md. Code CP § 13-504).
 - 3. There is probable cause to believe that the property has been used or is intended to be used for a violation of a Controlled Dangerous Substances 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 (Md. Code CR § 3-1102; 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.
 - 2. The circumstances of the arrest.
 - 3. How the vehicle was used.

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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.

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

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

- (a) Complete the applicable seizure forms 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 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 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 shall be taken of seized cash and should be taken of other valuable items (Md. Code CP § 12-202(b)(1); Md. Code CP § 13-103; Md. Code CP § 13-505).

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

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602.5 MAINTAINING SEIZED PROPERTY

The Criminal Investigations Division Commander 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 the person with an ownership interest.
- (d) Property received for forfeiture is not used by the Agency unless the forfeiture action has been completed.
- (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 Agency 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 is seized in violation of Md. Code CR § 4-203 or Md. Code CR § 4-204 (Md. Code CP § 13-204).
- (h) The Agency 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).

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 Criminal Procedure Article Title 12 and Title 13.
- (b) Serving as the liaison between the Agency and the Director of Finance (Md. Code CP § 12-101(j)).
- (c) Serving as the liaison between the Agency 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).

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- (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 agency 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 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 Special Orders. The training should cover this policy and address any relevant statutory changes and court decisions.
- (i) 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. The Sheriff personally reviews and recommends forfeiture of motor vehicles in violation of the Controlled Dangerous Substances 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 forwarded to any supervisor who initiates a forfeiture case.
 - 7. Any cash received is deposited with the fiscal agent.

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8. Assistance with the resolution of ownership claims and the release of property to those entitled is provided (Md. Code CP § 12-203).
 9. Current minimum forfeiture thresholds are communicated appropriately to deputies.
 10. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (j) Ensuring that the Agency disposes of property as provided by law following any forfeiture.
 - (k) Ensuring that the process of selling or adding forfeited property to agency inventory is in accordance with all applicable laws and consistent with the use and disposition of similar property.
 - (l) Upon completion of any forfeiture process, ensuring that no property is retained by the Caroline County Sheriff's Office unless the Sheriff authorizes in writing the retention of the property for official use.
 - (m) Ensuring that an annual report is filed with the Maryland Statistical Analysis Center of the Governor's Office of Crime Prevention and Policy as required by Md. Code CP § 12-602.

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 the manner prescribed by the law and County financial directives.

602.7 DISPOSITION OF FORFEITED PROPERTY

No member of this agency 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 agency member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

If an order of forfeiture is not entered by the court, the Agency shall return to the owner that part of the proceeds and any costs of the forfeiture proceedings paid from the proceeds of the sale (Md. Code CP § 12-503; Md. Code CP § 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 Controlled Dangerous Substances or Human Trafficking laws, the property may be kept for official use, destroyed or otherwise disposed of, or the Agency may 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).

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Whenever property is forfeited under a violation of gun laws, the Agency 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 forfeiture proceeds from a state law enforcement agency under the Controlled Dangerous Substances law shall be deposited in the County general fund (Md. Code CP § 12-403(e)).

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

Proceeds from a violation of the Human Trafficking laws shall be deposited to the County General Fund (Md. Code CP § 13-530).

Eyewitness Identification

604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this agency employ eyewitness identification techniques (Md. Code PS § 3-506).

604.1.1 DEFINITIONS

Definitions related to this policy include (Md. Code PS § 3-506.1):

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

604.2 POLICY

The Caroline County Sheriff's Office will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Criminal Investigations Division Commander or the authorized designee shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification (Md. Code PS § 3-506.1).
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures, instructions and identification statement.
- (j) A signed statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure (Md. Code PS § 3-506.1).

The process and related forms should be reviewed at least annually and modified when necessary.

ATTACH FORM

604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

604.6 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness. Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup (Md. Code PS § 3-506.1).

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Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

604.6.1 MULTIPLE EYEWITNESSES

When there are multiple eyewitnesses (Md. Code PS § 3-506.1):

- (a) The identification procedure shall be conducted separately for each eyewitness.
 - 1. Instructions shall be provided to each eyewitness outside the presence of other eyewitnesses.
- (b) The suspect shall be placed in a different position for each identification procedure conducted for each eyewitness.
- (c) The eyewitnesses may not be allowed to communicate with each other until all identification procedures have been completed.

604.6.2 MULTIPLE SUSPECTS

If an eyewitness has previously participated in an identification procedure in connection with the identification of another person suspected of involvement in the offense, the fillers in the identification procedure shall be different from the fillers used in any prior identification procedure (Md. Code PS § 3-506.1).

604.6.3 NUMBER OF LINEUP MEMBERS

Lineups shall consist of the following number of members, not including the suspect (Md. Code PS § 3-506.1).

- (a) For a live lineup, at least four persons.
- (b) For a photo lineup, at least five photographs.

604.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identification. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.

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- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of a show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

604.8 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification shall be documented in the case report (Md. Code PS § 3-506.1).

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness shall be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

A written record is not required if a video or audio record of the identification procedure is made that captures all of the information specified in Md. Code PS § 3-506.1.

Brady Information

605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

605.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information - Information known or possessed by the Caroline County Sheriff's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

605.2 POLICY

The Caroline County Sheriff's Office will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Caroline County Sheriff's Office will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Agency will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

605.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Deputies must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If a deputy learns of potentially incriminating or exculpatory information any time after submission of a case, the deputy or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., informant or attorney-client information, attorney work product), the deputy should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If a deputy is unsure, the deputy should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the agency case file.

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605.4 BRADY PROCESS

The Sheriff shall select a member of the Agency to coordinate requests for *Brady* information. This person shall be directly responsible to the Chief Deputy or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

- (a) Working with the appropriate prosecutors' offices and the Attorney General's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.
 1. Updating this list whenever potential *Brady* information concerning any agency member becomes known to the Agency or is placed into a personnel or internal affairs file.

605.5 DISCLOSURE OF REQUESTED INFORMATION

If *Brady* information is located, the following procedure shall apply:

- (a) In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and agency member whose file is related to the motion shall be notified of the potential presence of *Brady* information.
- (b) The prosecuting attorney or Attorney General should be requested to file a motion in order to initiate an in-camera review by the court.
 1. If no motion is filed, the Chief Deputy should work with the appropriate counsel to determine whether the records should be disclosed to the prosecutor.
- (c) The Chief Deputy or the authorized designee shall accompany all relevant personnel files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (d) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 1. Prior to the release of any information pursuant to this process, a protective order should be requested from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.
- (e) If a court has determined that relevant *Brady* information is contained in a member's file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

605.6 INVESTIGATING BRADY ISSUES

If the Agency receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

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605.7 SUBPOENA PROCESSING

The individual processing subpoenas (or the supervisor of the subpoenaed member) shall check the subpoenaed member's name against the current list of those who are known to have *Brady* information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

605.8 TRAINING

Agency personnel should receive periodic training on the requirements of this policy.

Unmanned Aerial System

606.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Digital Multimedia Evidence (DME) - Digital recordings, images, or sounds, and associated data.

Federal Aviation Administration (FAA) - The agency of the United States Department of Transportation responsible for the regulations and oversight of civil aviation within the US as well as the operation and development of the National Airspace System.

Pilot - The person exercising physical control over an unmanned aircraft/unmanned aerial vehicle during flight, also known as a Remote Pilot (RP).

Remote Pilot Certification - Issued by the FAA under 14 CFR Part 107 after passing the approved test.

UAS Program Coordinator/UAS Supervisor - Members appointed by the Sheriff who are responsible for the management of the CCSO UAS program and policies and procedures conform to current laws, regulations, and best practices. The supervisor will assist the coordinator and is responsible for field usage, logs, maintenance of the UAS, and flight logs and training for all pilots.

Unmanned aerial system (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means.

Visual Observer (VO) - A person who maintains line-of-sight and 360-degree hazard awareness around the UAS and assists the pilot in carrying out the duties required for safe operation.

606.2 POLICY

A UAS may be utilized to enhance the agency's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

606.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

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Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

606.4 PROGRAM COORDINATOR

The Sheriff will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for agency operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and agency-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocols for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Sheriff or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocols for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing operational protocols governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.

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- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Sheriff.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

606.5 OPERATIONAL OBJECTIVES

A UAS can be an important asset during exigent situations, large events, and complex investigations, and its use is encouraged. It provides situational awareness and an aerial visual perspective of a scene to assist in understanding the nature, scale, and scope of an incident, and in planning and coordinating an effective and safe response

All deployments of UAS must be authorized as detailed in this policy

CCSO will use the UAS to provide an aerial visual perspective in responding to emergencies and exigent circumstances, and for the following objectives:

- (a) Situational Awareness/Management - Assist in understanding the nature, scale, and scope of an incident, and for planning and coordinating an effective response.
- (b) Support the deployment of deputies and equipment in emergencies, including but not limited to incidents involving hostages and barricades, support for large-scale tactical operations, and other temporary perimeter security situations.
- (c) Search and Rescue - Assist missing person investigations and broadcast alerts, escapee searches, foot pursuit support, evidence searches, and containment of perimeter search areas.
- (d) Scene Documentation - To document a crime scene, collision scene, or other major incident scene (e.g., disaster management, incident response, large-scale forensic scene investigation).
- (e) Training Support - Provide an aerial visual perspective during training scenarios to provide deputies with a unique and different point of view in comprehending law enforcement tactics and effectuating principal officer safety skills.
- (f) Public Awareness - Provide community outreach and assist the PIO as needed.

606.6 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS. Operating members must also possess a current Part 107 Certification and have a CCSO Pilot designation.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

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Those members operating the UAS shall inspect and test UAS equipment prior to each deployment to verify the proper functioning of all equipment and the airworthiness of the system. The UAS equipment is the responsibility of individual members and will be used with reasonable care to ensure proper functioning. The Program Coordinator and UAS Supervisor shall be advised of all equipment malfunctions as soon as practicable so that an appropriate repair can be made or a replacement unit can be procured.

Any maintenance performed on the sUAS outside of routine preflight maintenance shall be performed by the UAS Supervisor according to manufacturer recommendations. Any maintenance performed shall be documented.

The UAS equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment are the sole property of CCSO.

Any deployment of the UAS shall be documented by the Remote Pilot in Command. All entries shall include preflight and post-flight information and shall be reviewed by the Program Coordinator and UAS Supervisor.

Except for those instances where officer safety or an investigation could be jeopardized, a UAS flight crew member will notify Communications of a proposed operation. The PIO should be notified if the operation is likely to attract considerable attention. If there is a reasonable belief the UAS will intrude on the reasonable expectation of privacy, a search warrant should be obtained.

Only CCSO UAS and equipment shall be used. CCSO UAS and equipment may be used to assist other jurisdictions with the approval of the Program Coordinator or UAS Supervisor.

Spontaneous events and field emergencies have priority over pre-planned special events.

606.6.1 SPONTANEOUS EVENTS

When there is an unplanned need for a UAS, the Duty Officer may approve the deployment. If a pilot is not on duty or the on-duty pilot is unavailable, the UAS Supervisor shall be contacted to initiate a call-out.

The Remote Pilot-In-Command has the final authority to deny any request for use when unsafe conditions exist or when requests violate operating procedures.

When the pilot determines the need for additional on-duty UAS flight crew members, the request shall be made through the UAS Supervisor or Coordinator to have one assigned. When the pilot determines the need to call out an additional pilot, the request shall be made through the UAS Supervisor.

606.6.2 PRE-PLANNED EVENTS

Use of the UAS for pre-planned events will be scheduled and coordinated through the UAS Program Coordinator or the authorized designee.

Any unit of the CCSO wishing to use the UAS will make a written request to the UAS Program Coordinator or the authorized designee. If the request is consistent with CCSO objectives and sufficient resources are available, the request will be approved.

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The UAS Program Coordinator or the authorized designee will notify the member requesting the approval and schedule a qualified crew for the event.

606.7 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

606.8 MEMBER SELECTION AND SCHEDULING

All members selected must:

- (a) Obtain FAA Part 107 certification.
- (b) Achieve proficiency in the operation of the CCSO UAS.
- (c) Be approved by the Sheriff or the authorized designee.

The UAS flight crew consists of members throughout the agency from different units who have been trained in the operation of the UAS and members who have been appropriately briefed for roles as determined by the UAS Supervisor.

606.9 SUPERVISION AND REPORTING

An Incident Report must be completed prior to the end of shift by the Remote Pilot for all operational deployments of the UAS.

The UAS Program Coordinator or UAS Supervisor shall review all deployment records to ensure compliance with policy.

While participating in a UAS mission, all members of the UAS flight crew shall report to the Remote Pilot-in-Command.

The UAS Supervisor will be responsible for maintaining flight and maintenance documentation.

606.10 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

All DME shall be handled according to all applicable CCSO policies.

Prior to uploading DME to the designated server, CCSO members shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner any UAS DME.

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606.11 TRAINING

The UAS Supervisor shall possess a pilot certificate with a Remote Pilot rating issued by the FAA. This rating must be maintained and re-certified in accordance with FAA guidelines.

The Program Coordinator and UAS Supervisor shall:

- (a) Maintain knowledge of local and federal laws, regulations, policies, and procedures governing the deployment and use of the UAS.
- (b) Ensure all pilots maintain proficiency and currency.

Each pilot shall conduct a minimum of one flight per month. If a pilot does not conduct a flight for three consecutive months, the pilot will be grounded until flights are caught up and approved.

All pilots shall participate in quarterly documented departmental training as deemed relevant by the UAS Supervisor and Coordinator.

Court Ordered Fingerprinting

610.1 PURPOSE AND SCOPE

Court ordered fingerprinting is being utilized more frequently by the Court and the Caroline County Sheriff's Office is being tasked with performing that service. Although the process is simple, certain rules must be followed to comply with the Court's order and the mandates of the Maryland Criminal Justice Information System (CJIS). As with any fingerprinting, care must be taken to assure quality fingerprints are taken from the person fingerprinted. Also, deputies must use caution and follow all safety practices due to the nature of those persons being printed.

610.2 POLICY

Deputies shall fingerprint certain individuals pursuant to a valid order received from the Court.

610.3 PROCEDURE

The following procedures will be instituted upon receipt or delivery of an order by the Court for fingerprinting.

- (a) Deputies shall positively identify the person named in the Order as the same person that is being fingerprinted.
- (b) Upon properly identifying the person, deputies shall have the person sign and date the Court Order in the designated spaces.
- (c) Deputies shall utilize the Live Scan machine for fingerprinting.
- (d) Ensure that the case number from the Order and the Tracking Number are the same.
- (e) Enter the Tracking number from the Order into Live Scan.
- (f) Certify in the "Return" section of the Order that the person was either fingerprinted or that they failed to appear as ordered.
- (g) No Detention Log is to be completed, nor is an Arrest Number to be assigned.
- (h) "Court Ordered Fingerprinting" shall be given on the "Arrest Information" screen under "Reason for Arrest".
- (i) Deputies shall ensure that a Contact Card is completed with "Court Ordered Fingerprinting" listed in the Remarks Section. The name(s) of those printed shall also be listed in the Remarks Section.
- (j) The Contact Card shall be closed with no further report necessary.
- (k) Ensure that the Return is placed in the District Court Return Box located in Records Division.

Interview Room Procedures

612.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for the use of interview rooms in the Caroline County Sheriff's Office Headquarters Building.

612.2 POLICY

The Caroline County Sheriff's Office will ensure the safety of all personnel, witnesses, suspects, and arrestees that enter any of the rooms designated for interviews.

612.3 INTERVIEW ROOMS

There are four rooms within the Caroline County Sheriff's Office Headquarters Building designated as interview rooms. These rooms are utilized to conduct interviews of persons (e.g., victims, witnesses, suspects, arrestees) in criminal investigations by both uniformed and non-uniformed members. All interview rooms are equipped with audio and video recording systems.

- (a) Interview No. 1: Lobby Area (can be used for complainants, victims, witnesses, and suspects)
- (b) Interview No. 2 & 3: Criminal Investigations Division (can be used for victims, witnesses, and suspects)
- (c) Interview No. 4: Booking/Processing Area (can be used for detainees, arrestees)

612.4 WEAPONS CONTROL

Firearms and knives are prohibited in the interview rooms and shall be secured in a firearm lockbox when interviewing suspects, detainees, or arrestees. All persons under arrest shall be thoroughly searched before being placed in an interview room.

Persons not under arrest shall be screened/asked if they have any contraband or weapons before being allowed entry in any secured area of the building. Any person refusing to be screened/ searched (including refusing to screening with a handheld metal detector) will be denied entry into the building. Once a person has cleared the screening process, he/she shall be allowed entry into the secured area of the building.

612.5 SECURITY, OBSERVATION, AND CONTROL OF INTERVIEW ROOMS

Persons being interviewed shall be escorted at all times while in Sheriff's Office facilities. All interviews shall be monitored by another member remotely from outside the interview room via Watch Commander (on the Matrix). Persons under arrest or being detained may be secured with handcuffs and will only be interviewed in Interview Room No. 4 unless permission is granted by a member of the Command Staff or an authorized designee to utilize a CID Interview Room.

Interview Rooms shall be thoroughly searched for weapons and contraband before and after each interview by the interviewing member.

Interview Room Procedures

612.6 USE OF VIDEO AND AUDIO RECORDING EQUIPMENT

Under Maryland law, a law enforcement agency that regularly utilizes one or more interview rooms capable of creating audiovisual recordings of custodial interrogations shall make reasonable efforts to create an audiovisual recording of custodial interrogations of criminal suspects in connection with cases involving murder, rape, or sexual offenses in the first or second degree. Additionally, a law enforcement agency that does not regularly utilize one or more interview rooms capable of creating audiovisual recordings or custodial interrogations shall make reasonable efforts to create an audio recording of a custodial interrogation of a criminal suspect in connection with a case involving murder, rape, or sexual offense in the first or second degree whenever possible (Md. Code CP § 2-402).

An audio or audiovisual recording made by a law enforcement agency of a custodial interrogation of a criminal suspect is exempt from the Maryland Wiretapping and Electronic Surveillance Act (Md. Code CP § 2-403).

- (a) Conspicuous notices shall be posted in all interview rooms that have audio and/or visual recording capabilities.
- (b) Interview rooms equipped with audiovisual monitoring and recording capabilities will be used for custodial interrogations of criminal suspects in connection with cases involving murder, rape, or sexual offenses in the first or second degree when available. These rooms may also be used for custodial and non-custodial interviews and interrogations of suspects, witnesses, and victims in connection with other criminal investigations.
- (c) If an interview room equipped with audiovisual monitoring and recording equipment is not available, a portable audio recorder shall be used for custodial interrogations in connection with cases involving murder, rape, or sexual offenses in the first or second degree when available. Portable recorders may also be used for custodial and non-custodial interviews and interrogations of suspects, witnesses, and victims in connection with other criminal investigations.
- (d) If an interview or interrogation occurs at a location without recording notices/ advisements conspicuously posted, consent to record non-custodial interviews must be obtained from all parties unless the crime being investigated is enumerated in Md. Code CJ § 10-402. The investigator must be a party to the conversation. If consent is obtained, the consent should be verbally documented as part of the audio recording.
- (e) Forensic interviews of child victims of sexual abuse should be conducted at the Department of Social Services Child Advocacy Center in a designated room and both audio and visually recorded.
- (f) Privileged communication between an attorney and their client will not be audio or audiovisually recorded.
- (g) Only agency-approved equipment shall be used to make audio or audiovisual recordings.
- (h) Only those persons who have been properly trained will operate or use audio or audiovisual recording equipment.

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- (i) All audio and audiovisual recording equipment will be checked before and after use to ensure that the equipment is in proper working order. Any malfunction of the equipment that occurs during an interview must be documented in the investigator's report.
- (j) When using interview rooms equipped with audiovisual recording capabilities, the recording should start as soon as the subject of the interview enters the interview room and should not be stopped until the subject of the interview leaves the interview room and is not expected to return. The exception is if the subject of the interview or interrogation is having privileged/private communication with their attorney in which case the recording will be stopped and the conversation shall not be monitored or recorded. The recording shall resume when the privileged/private communication ends. The investigator should make a note of what time the recording stopped and what time it resumed, along with the reason for the break in the recording.
- (k) A logbook shall be maintained in the CID observation room that documents the use of the audiovisual monitoring and recording equipment and a participating investigator shall document the recording/interview in the logbook. The logbook shall capture the interview room number, date, times, case number, offense type, and Deputy/Detective name and ID number.
- (l) It is the primary responsibility of the interviewer to email the Records Supervisor if a copy of the recorded interview needs to be included in a criminal investigation report case file. A copy of the email should also be sent to the CID Commander or the authorized designee and shall include the following:
 - 1. Date of the interview
 - 2. Time of the interview
 - 3. Case number
 - 4. Interview Room used
- (m) The Records Supervisor or a member of CID in his/her absence will export the recorded interview from the Watch Commander database and upload/attach it electronically to the case report.

612.7 PERSONNEL PERMITTED IN INTERVIEW ROOM

The maximum number of persons permitted in the interview room is two in addition to the subject being interviewed. The two persons can be law enforcement officers, or one law enforcement officer and a civilian from an outside agency (e.g., Department of Juvenile Services, Department of Social Services).

This does not preclude other individuals from entering the room to provide additional information, take photographs, or provide for the collection of evidence. This requirement can only be superseded by a member of Command Staff or an authorized designee.

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612.8 SUMMONING ASSISTANCE

Deputies shall not conduct interviews without notifying another employee within the facility. The interviewing deputy shall have a form of emergency communication with him/her in the interview room (e.g., cell phone, portable radio).

612.9 EQUIPMENT/ITEMS TO BE KEPT IN INTERVIEW ROOM

Generally, an interview room contains only a desk and chairs. Additional equipment such as pens/pencils, note pads, and audio recording equipment will need to be brought in by the Deputy/Detective on an as needed basis.

612.10 ACCESS TO RESTROOMS, WATER, OR COMFORT BREAKS

Persons being interviewed will be provided the opportunity to use the restroom. They shall also be provided drinking water and other personal needs should be met as may be required.

Facial Recognition Technology Use

617.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the use of facial recognition technology (FRT) by a deputy to assist in the development of investigative leads (MD Code CP § 2-501 et seq.). This policy also provides guidance for FRT data access, use, and retention.

This policy does not apply to the use of FRT in user identification applications for personal electronic devices, access control systems, or automated video redaction software that does not generate or result in the retention of any biometric data or surveillance information (MD Code CP § 2-501; MD Code CP § 2-507).

617.1.1 DEFINITIONS

Definitions related to this policy include:

Facial recognition technology (FRT) - A software application, electronic system, or a third-party service that uses biometric algorithms to compare facial features of a probe image with the features of images contained within an image database.

Probe image - A search image submitted to FRT for comparison with images contained within an image database.

617.2 POLICY

It is the policy of the Caroline County Sheriff's Office to limit FRT use to developing investigative leads for legitimate law enforcement purposes while recognizing and protecting established constitutional and privacy rights (MD Code CP § 2-503).

617.3 SHERIFF RESPONSIBILITIES

The Sheriff or the authorized designee shall approve any FRT system or service prior to its implementation and use by the Agency. Any FRT system or service approved for use must comply with the requirements of state law (MD Code CP § 2-506).

617.4 FRT COORDINATOR

The Sheriff or the authorized designee shall appoint an FRT coordinator (MD Code CP § 2-505). The responsibilities of the FRT coordinator include:

- (a) Establishing procedures for agency FRT use that conform to applicable laws, regulations, and best practices (MD Code CP § 2-505). Procedures should include:
 - 1. A process for submitting and assessing deputy requests to use FRT.
 - 2. Requirements related to processing and reviewing results generated from the use of FRT.
- (b) Establishing procedures for collecting, processing, and storing FRT data.

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- (c) Establishing procedures for access and security controls for agency FRT systems, services, and data.
 - 1. Access levels should be no higher than necessary to accomplish organizational tasks, missions, or functions.
- (d) Establishing a procedure for submitting images to the image database. The procedure should include:
 - 1. A requirement that deputies submit images.
 - 2. Restrictions related to the use of images voluntarily provided to the Agency by members of the public (e.g., driver's license, state identification, passport, any other official identification that includes a photograph).
 - 3. Restrictions related to the types of image databases against which probe images may be compared (e.g., driver's license and identification photos, mugshots) (MD Code CP § 2-503).
- (e) Administering data quality assurance measures (e.g., probe image suitability, quality, integrity).
- (f) Conducting periodic audits of agency FRT use.
 - 1. The audit should include a review of FRT use, documentation of those uses, and confirmation of data purging, where appropriate.
 - 2. At least annually, an audit shall include a review of the agency's FRT use for compliance with applicable state and local laws, regulations, and policies (MD Code CP § 2-505).
- (g) Confirming that authorized users have completed agency-approved FRT and forensic image comparison training prior to using FRT.
- (h) Coordinating with the Training Officer to develop, identify, and update FRT training for deputies who utilize the FRT system (MD Code CP § 2-503; MD Code CP § 2-505).
- (i) Establishing and implementing a schedule for routine maintenance, upgrades, enhancements, testing, and refreshes of FRT for proper performance purposes.
- (j) Establishing procedures for reporting errors, malfunctions, or deficiencies of FRT systems, services, or data.
- (k) Coordinating with the information systems technology supervisor, agency counsel, and appropriate administrators to develop information-sharing procedures with outside agencies in accordance with state and federal law.
- (l) Establishing and implementing any other procedures necessary to comply with state law (MD Code CP § 2-501 et seq.).

617.5 AUTHORIZED USES OF FRT

FRT may be used as a tool to develop investigative leads for legitimate law enforcement purposes to assist in the identification of the following:

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- (a) Unknown suspects where attempts at identification through other means have been exhausted or ineffective
- (b) Potential victims, as appropriate (e.g., human trafficking, child sexual abuse material)
- (c) Deceased individuals (MD Code CP § 2-507)
- (d) Individuals who are incapacitated or do not know their identities (MD Code CP § 2-507)
- (e) Individuals who are lawfully detained and whose identities are in question (e.g., no identification or false identification provided)
- (f) Suspects in unsolved crimes
- (g) Missing or endangered persons (MD Code CP § 2-507)
- (h) Unknown individuals pursuant to any other legitimate law enforcement purpose

617.5.1 ADDITIONAL USES UNDER STATE LAW

FRT may also be used for (MD Code CP § 2-507):

- (a) The forensic analysis of electronic media seized by the Agency in relation to a specific investigation if the person identified in the electronic media is not the subject of criminal charges resulting from the forensic analysis.
- (b) Conducting other legitimate law enforcement activity unrelated to criminal investigations.

Only approved image databases may be used for comparison purposes. All results of FRT in criminal investigations shall be independently verified by an approved deputy (MD Code CP § 2-503).

617.6 ACCESS TO FRT

Only deputies authorized by the Agency may use FRT.

Prior to using FRT, a deputy seeking authorization shall submit a request to the appropriate supervisor consistent with agency procedures.

The request should, at a minimum, include the following:

- (a) The nature of the investigation
- (b) The reason a deputy believes that FRT use is necessary
- (c) An explanation of how FRT may assist with the development of investigative leads
- (d) A case identification number

617.7 FRT SEARCHES

A deputy may submit a probe image for comparison with images available within the agency FRT image database consistent with agency procedures.

FRT searches shall only be conducted using lawfully obtained probe images.

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Before proceeding with official law enforcement action based on FRT results, the results should be thoroughly reviewed by a deputy trained in FRT.

617.7.1 USES AND LIMITATIONS OF FRT SEARCH RESULTS

Information resulting from an FRT search shall be considered an investigative lead only and not a positive identification of any person or utilized solely as the basis for engaging in any law enforcement action. Image comparisons generated from FRT use do not represent definitive confirmation of an identity match or non-match. Any positive identification and connection of a person to an investigation shall be determined through additional investigative means and resources.

617.7.2 FRT SEARCH DOCUMENTATION

The investigating deputy shall document all FRT searches in the appropriate agency report, including any arrest report where FRT was used as an investigative tool. Documentation shall include:

- (a) The requesting deputy's name and position.
- (b) Confirmation that the search was pre-approved pursuant to agency procedures.
- (c) The purpose of the search.
- (d) The search parameters, if any.
- (e) The date and time of the search.
- (f) A list of any image databases searched.
- (g) The results of the search, including the number of investigative leads produced and, where applicable, the matching score of each.
- (h) The additional means used to identify any person (e.g., visual comparison of images by a trained investigator, other subsequent investigation).

617.8 PRIVACY CONSIDERATIONS

The Agency shall adhere to all applicable federal and state laws regarding privacy concerns related to FRT use (MD Code CP § 2-503). Absent a warrant or exigent circumstances, the deputy shall not record or capture images where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure, mass surveillance of public places or quasi-public places). Deputies shall take reasonable precautions to avoid inadvertently recording or capturing images where there is a reasonable expectation of privacy.

617.9 PROHIBITED USES

FRT shall not be used in a manner that targets individuals or groups solely based on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, or any other classification or status protected by law.

In addition, FRT shall not be used:

- (a) For the arrest of individuals based solely on FRT results (MD Code CP § 2-502).

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- (b) For any purpose that violates the U.S. Constitution or laws of the United States, including the protections of the First, Fourth, and 14th Amendments.
- (c) For any non-law enforcement purpose.
- (d) As the sole basis for identification to establish probable cause in a criminal investigation (MD Code CP § 2-502).
- (e) To harass or intimidate any individual or group.
- (f) In any other manner that would violate applicable law, regulation, or policy.

No deputy shall request that a third-party use FRT to obtain results that would not be permitted under this policy.

617.9.1 ADDITIONAL STATE RESTRICTIONS

FRT may not be used in a criminal investigation to (MD Code CP § 2-503):

- (a) Investigate a crime other than those specifically authorized by law (e.g., a crime of violence, human trafficking, a hate crime, certain weapons crimes).
- (b) Analyze an image/recording of an individual engaged in activity protected under law without reasonable suspicion they are involved in a crime.
- (c) Analyze a sketch or manually produced image.
- (d) Disclose to a witness, prior to their participation in a live/photo lineup, that FRT identified a suspect.
- (e) Provide live or real-time identification of an image/recording.
- (f) Identify an individual based solely on:
 - 1. A member's personal interest unrelated to legitimate law enforcement duties/objectives.
 - 2. The individual's race, color, religious beliefs, sexual orientation, gender, disability, national origin, homeless status, political/social beliefs/activities, participation in lawful activities, or any other characteristic/activity prohibited by law.

617.10 RELEASE OF FRT DATA

Unless disclosure is required by law or court order, FRT data should only be released to the public in accordance with federal and state public record laws. Requests for the release of FRT data shall be processed in accordance with the Records Maintenance and Release Policy.

Required audit data shall be released to the Attorney General, public defender, State's Attorney, United States Attorney, or their designee as required by law (MD Code CP § 2-505).

617.11 RETENTION OF FRT DATA

FRT data shall be retained in accordance with the established records retention schedule.

Unmatched probe images shall be purged in accordance with the established records retention schedule.

Facial Recognition Technology Use

Required audit data shall be retained for at least three years after completion of the required audit (MD Code CP § 2-505).

617.12 DOCUMENTATION

The FRT coordinator should coordinate with the Brady coordinator to establish processes for disclosing information in the agency's possession concerning FRT to the relevant prosecuting attorney so they can comply with their FRT disclosure obligations (MD Code CP § 2-504). See the Brady Information Policy.

617.13 REPORTING REQUIREMENTS

The FRT coordinator shall prepare and publish an annual report disclosing all information required by law and provide a copy of that report to the Governor's Office of Crime Prevention, Youth, and Victim Services (MD Code CP § 2-510).

The FRT coordinator shall post a copy of this policy on the agency's website, along with any disclosures required by law (e.g., the names and databases of any nongovernment FRT systems used) (MD Code CP § 2-508).

617.14 TRAINING

Deputies whose duties may require the use of FRT should receive initial training and periodic refresher training on this policy and related procedures and should demonstrate their knowledge and understanding. Training should include but is not limited to the following:

- (a) Capabilities and limitations of FRT
- (b) FRT system functions and interpretation of results
- (c) Data security and privacy concerns
- (d) Documentation and reporting requirements (e.g., FRT results, general statistics, collection of FRT data, FRT requests)
- (e) Digital media handling and protections
- (f) Common terminology (e.g., human face recognition, automated face recognition, holistic face processing, unfamiliar face matching)
- (g) Principles of comparison
- (h) Cognitive bias, confirmation bias, implicit bias, and automation bias
- (i) Applicable policy, procedure, and federal and state law requirements

A deputy who uses mobile facial recognition shall receive additional training appropriate to that application of the technology.

The FRT coordinator shall maintain a record of each authorized deputy's training and acknowledgement of this policy.

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617.14.1 ADDITIONAL TRAINING REQUIREMENTS

Deputies authorized to use FRT shall complete any state-mandated training as required (e.g., annual training administered by the DPSCS) (MD Code CP § 2-505).