

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL
KARL A. RACINE**

December 29, 2021

Ms. Nyasha Smith
Secretary to the Council of the District of Columbia
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Email: Nsmith@dccouncil.us

Dear Secretary Smith:

Pursuant to D.C. Code §41-312, attached please find a report from the Office of the Attorney General for the District of Columbia regarding its civil asset forfeiture efforts in fiscal year 2021.

Sincerely,

Karl A. Racine by V.S.

Karl A. Racine
Attorney General for the District of Columbia

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



THE OFFICE OF THE ATTORNEY GENERAL FOR THE DISTRICT OF COLUMBIA
FISCAL YEAR 2021 CIVIL ASSET FORFEITURE REPORT

INTRODUCTION

Under D.C. Code §41-312, the Office of the Attorney General for the District of Columbia (OAG) must annually file with the Council of the District of Columbia and publish on its website information regarding its civil asset forfeiture efforts. This report satisfies that requirement.

CIVIL FORFEITURE OVERVIEW

In 2015, the Civil Asset Forfeiture Amendment Act of 2014 (Act) was signed into law. The Act outlines the process the District of Columbia must follow to execute civil forfeitures against seized property and the process for citizens to contest forfeitures of their property. Under the Act, property subject to forfeiture may be seized by the District by judicial order or upon the District's determination that there is probable cause to believe that the property is subject to forfeiture. D.C. Code §§41-303(a)(1)- (2). The District must provide an owner whose property has been seized notice of its intent to commence forfeiture against the property. D.C. Code §41-304(a)(1)(A). A property owner may contest civil forfeiture by filing a claim with the District. D.C. Code §41-305(a). When filing a claim, the owner can also request an interim release of their property. *Id.* After receiving the owner's request for interim release, if the District seeks to retain possession of the property pending the outcome of the civil forfeiture trial, the District must file a request for a hearing in the Superior Court for the District of Columbia within five days of receiving the owner's request or within five days of the property being released by the prosecutor's office, whichever is later. D.C. Code §41-306(c)(3)(A). At the interim release hearing, if the court finds that the District provided the owner with the requisite notice, and that it met its burden in establishing the property is subject to forfeiture, the Act requires the court to consider whether any reasonable considerations exist, other than the retention of the owner's property, that would protect the District's interest in the property pending the outcome of the forfeiture trial. D.C. Code §41-306(f)(3)(A). If the court cannot identify any such considerations, the property remains with the District pending the civil forfeiture trial. D.C. Code §41-306(f)(3)(B). If the court determines that the District failed to meet its burden, it must order the release of the property to the owner, without conditions, pending the outcome of the civil forfeiture trial. D.C. Code §41- 306(f)(2).

If the matter proceeds to a civil forfeiture trial, the District again has the burden of establishing that the property is forfeitable. At the trial, the District must prove that the property is subject to forfeiture by a preponderance of the evidence standard. D.C. Code §41-308(d)(1)(B). However, if the property is a motor vehicle or real property, the District's burden of proof is elevated to

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the clear and convincing evidence standard. *Id.* Also, if the property is cash totaling one thousand dollars or less, the property is presumed not forfeitable; however, the District may rebut this presumption with clear and convincing evidence that the property is forfeitable. D.C. Code §41-308(d)(1)(C). Further, if the property is the primary residence of the owner, the Act requires that the District prove the owner was convicted of the crime giving rise to the forfeiture. D.C. Code §41-308(d)(4). If the District is successful in meeting its burden, the seized property is deemed forfeited and may be sold, with the proceeds of the sale deposited into the District’s General Fund. D.C. Code §41-310(a). If the District fails to meet its burden, the District’s interest in the property is terminated, and the property is returned to the owner. D.C. Code §41-308(h).

FISCAL YEAR 2021 CIVIL FORFEITURE DATA

1. The number of seizures and the number of forfeitures by type of property seized:

The type of property forfeited in FY 2021 is shown in the table below. Please refer to the FY 2021 Metropolitan Police Department Civil Asset Forfeiture Report (2021 MPD Report) for the number and type of seizures.¹

Property Type Forfeited	Number
Money (U.S. Currency)	39
Total	39

2. The total quantity of each type of property seized and each type of property forfeited:

The table below lists the dollar value of each type of property forfeited in FY 2021. Please refer to the 2021 MPD Report for the quantity of property seized.

Property Type Forfeited	Amount
Money (U.S. Currency)	\$70,725.70
Total	\$70,725.70

3. The number of seizures and forfeitures by type of asserted violation of District law that gave rise to the seizure or forfeiture:

The table below lists the number of civil forfeitures by the District in FY 2021 by violation of District law. Please refer to the 2021 MPD Report for the number of seizures applicable to this request.

Forfeiture Offenses	Number
Drug Offenses (D.C. Code §48-905.02)	37
Prostitution (D.C. Code §22-2723)	2

¹ OAG’s report addresses civil forfeitures for FY 2021, and the 2021 MPD Report addresses seizures for FY 2021. The civil forfeitures for FY 2021 include matters that commenced in FY 2020 but resolved in FY 2021.

Total	39
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4. The number of libels of information that were filed under D.C. Code §41-307:

In FY 2021, the District filed five libels of information under D.C. Code §41-307. Of these, two remain pending and three settled.

5. The number of times the District exercised its authority pursuant to D.C. Code §41-305(c) and determined the property to be forfeitable and the number of times the District determined the property was not forfeitable:

Please see the 2021 MPD Report for the determination of property to be forfeited.

6. The number of seizures where the District either did not file a libel of information pursuant to §41-307 or withdrew a libel of information, excluding seizures where the District had the authority to determine forfeitures pursuant to D.C. Code §41-305(c):

In FY 2021, OAG received 47 civil forfeiture referrals from MPD after property claims were filed. Of the 47 civil forfeiture referrals received, the District did not file a libel of information for 42 referrals. The District also did not withdraw any libels of information.

7. The number of settlements reached between the District and an owner, pursuant to D.C. Code §41-306(d):

In FY 2021, the District did not enter into any settlements with property owners under D.C. Code §41-306(d).

8. Amount of currency received from forfeiture listed separately according to the provision of the District of Columbia law that gave rise to the forfeiture:

The table below lists the amount of currency recovered by the District from civil forfeiture in FY 2021.

Code Provision Authorizing Forfeiture	Currency Received
Drug Offenses (D.C. Code §48-905.02)	\$68,889.70
Prostitution (D.C. Code §22-2723)	\$1,836.00
Total	\$70,725.70

9. Gross and net proceeds received from forfeiture, listed separately according to the provision of District law giving rise to the forfeiture:

The table below lists the proceeds recovered by the District from civil forfeiture in FY 2021, which includes matters that commenced in FY 2020 and resolved in FY 2021.

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Code Provision Authorizing Forfeiture	Currency Received
Drug Offenses (D.C. Code §48-905.02)	\$68,889.70
Prostitution (D.C. Code §22-2723)	\$1,836.00
Total	\$70,725.70

10. By type of property, the number of seized items determined to be returnable for which the District does not have on file a receipt of return as required by D.C. Code §41-309(b):

Please see the 2021 MPD Report for this information.

11. The total quantity of each type of property seized for forfeiture that the District treated as abandoned under D.C. Code §§5-119.01 through 5-119.10 and §§5-119.12 through 5-119.19 and §5-119.11:

Please see the 2021 MPD Report for this information.