



The Maryland Hunting Coalition, Inc.

INFORMATION • ACTION • ADVOCACY

P. O. Box 451 • Sykesville, MD 21784
info@mdhuntingcoalition.org • 410-382-9481

Deer Poaching in Maryland Perspective

December 15, 2015

The Mission of the Maryland Hunting Coalition is to safeguard the heritage and the privilege of recreational hunting in Maryland; to ensure that wildlife management decisions are based on scientific evidence and not on political ambiguities; to advocate for the most beneficial opportunities for hunters and convey those ideals to managers and lawmakers in our State Capitol of Annapolis. The Coalition works in partnership with not only the hunters of Maryland, but also the bi-partisan Maryland Legislative Sportsmen's Caucus within the Maryland General Assembly.

MHC is a 501 (c) (4) non-profit organization.



STATEMENT FROM THE EXECUTIVE DIRECTOR

Ask almost any veteran deer hunter across Maryland about poaching and you will likely hear a troublesome story of a poacher that has stolen a mature deer from a property that they own, lease or have permission to hunt.



You will hear how landowners, after hearing gunshots after dark, go to investigate and watch the jack-lighters speed away while the deer they shot lies dead in a field. You will hear how deer are shot by poachers and left to decompose with only their heads taken and back straps removed. You will hear about congenital poachers whose families have had run-ins with NRP officers for generation after generation. You will hear how poachers and trespassers are reported to the authorities and the response time may be hours or days, long

after the perpetrator is gone. You will hear about retaliation by a landowner that threatens to revoke the leases and privileges of legitimate hunters who have reported poachers only to have the game thief be a friend or associate of the landowner. You will hear about how poachers are bold enough to erect tree stands and ground blinds on remote areas of the private landowner's property or just across the property line on public land. You will hear stories of trail cameras and tree stands being stolen. And, you will hear stories of serial poachers who have been caught time and again yet continue to scoff at law enforcement and the slap-on-the-wrist penalties imposed by the courts.

The sad part of this narrative is that ethical hunters are fearful of retaliation if they tell their stories and their names are made public.

Worse yet, you will hear from landowners who have invested sweat-equity, time and fortune to manage the resident deer population on his property. This management objective is accomplished by selective harvest to bring the herd into proper buck-to-doe ratio; by planting food plots and adding supplemental nutrition to encourage robust health to the herd, evidenced by larger, healthier fawns and bucks with larger than average antlers; by allowing bucks to mature to at least 4 to 5 years of age before harvesting them and monitoring their growth for years via field observation and the investment in trail camera technology. After all these years' of management - to have a trespasser/poacher see one of these mature bucks and resolve to kill with wanton disregard for the landowners investment or his property lines, let alone the restrictions of the deer season dates and bag limits, is heart-wrenching. Even worse, if the poacher is actually caught and convicted; the penalty, under Maryland law, is so paltry that he is only emboldened for the next time.

These are not isolated and rare incidents, rather universal regular occurrences from western to southern to central Maryland and from the length and breadth of Maryland's Eastern Shore. The problem is real and conservation-minded sportsmen and women appeal to State lawmakers to impose a real statutory deterrence as proposed in the attached *Poaching Restitution Act of 2016*.

There is a real fear among landowners and hunters that reporting deer poaching to authorities can result in revenge, reprisal and retribution by the perpetrator

Allan Ellis

Deer Poaching in Maryland Perspective

Poaching and antler deer theft incidents have more than quadrupled in the last 40 years. Comparably, law enforcement budgets have not kept pace with inflation, causing fewer conservation officers in the field every year. The dwindling presence of county, state and federal enforcement in rural areas due to budget cuts has also caused poachers and antler thieves to become more brazen. Our county courts have grown so overburdened with drug and domestic violence prosecutions that major poaching and antler thefts are quickly reduced to misdemeanors via plea bargains. Yes, wildlife fines for poaching trophy-class bucks have increased in some states, but not nearly to a high enough level for deterring hard-core poachers. Regrettably, we seem to have unknowingly elected politicians who have no ambition for legislating even more stringent fines that could ebb poaching.

Is Poaching Becoming Epidemic?
Jacob Edson, Managing Editor
Deer & Deer Hunting Magazine

1. OPENING STATEMENT

Poaching of deer is the art of stealth, often at night because deer are nocturnal. Rarely are the perpetrators captured. Their violation of the public trust means nothing to them. Their concern over losing their license privileges means nothing to them. Their concern over being jailed means nothing to them. What motivate them are the quarry and the thrill of the kill. Some too are motivated by money. A shameful underground market reportedly exists – throughout America, including Maryland – that doles out cash bounties to those participants whose illicit skills prove the most adept among their criminal brethren. Bragging rights is their rallying cry, wanton slaughter is the outcome.

Maryland is home to world class whitetail and Sika deer, prized throughout North America (http://www.marylandtrophydeer.com/MTDC_TopTen.html). A 2011 survey by the U.S. Fish & Wildlife Service found that deer hunting generated \$221 million annually for the Maryland economy. Deer are wary and not easily taken during normal hunting hours. But come night and during the mating season, their vulnerability is at its zenith. Poachers know this. Their singular mindset is to bag the biggest buck with the largest antlers no matter the legal consequences or landowner's rights. Forget the fair chase doctrine adhered to by law abiding sportsmen and women. They have a callous disregard for the morals of their unlawful acts, crimes against nature.

Two concerns are noteworthy: (1) the District Court of Maryland – where most hunting violations are tried – has no statistics for the number of violations or convictions for specified natural resources violations; and (2) recession-driven budget cuts have decimated the ranks of DNR's Wildlife & Heritage Division and the Natural Resources Police.

On October 1, 2015, the Senate Co-Chair of the bi-partisan Maryland Legislative Sportsmen's Caucus (Senator John C. Astle) submitted a number of questions to the General Assembly's staff agency, the Department of Legislative Services (DLS). Two of these questions related to the above statement. Below is the Senator's question followed by the response.

ASTLE QUESTION: What are the most recent statistics available – either from the Judiciary or DNR – that document (1) the number of individuals convicted of trespassing while deer hunting and were they residents or nonresidents of Maryland; (2) the number of individuals convicted of illegally taking deer and were they residents or nonresidents; (3) the amount of fines collected from such violations and to what Fund or use were these funds credited; and (4) the percent of total penalty dollars paid for the aforementioned deer-related violations via pre-payable means or court-imposed?

DLS RESPONSE: According to the District Court, there are no statistics available for the number of violations or convictions for specific natural resources violations.

According to the District Court of Maryland, there are no statistics available for the number of violations or convictions for specific natural resources violations

ASTLE QUESTION: In what counties of Maryland are there more reported cases of trespassing and poaching pertinent to the illegal taking of deer? Would DNR contend that, in those counties, insufficient budgeted resources hinder enforcement?

DLS RESPONSE: According to DNR, traditionally, Western Maryland counties experience a high amount of illegal deer hunting activity, while the more populated counties (like Anne Arundel County) experience a

high amount of trespassing cases involving hunting. Also, according to DNR, NRP has experienced a decrease in the number of field officers that are needed to provide the expected level of service to support the agency’s mission. In 2013, the department completed the “NRP Level of Service Standards Report,” which served as the foundation for the “NRP Strategic Plan.” Based on the analyses from these two reports, it was demonstrated that by increasing NRP’s staff by 75 law enforcement officers (LEO), 5 civilian employees, and 33 seasonal contractual LEOs (to meet period of peak workload), NRP would be able to provide a level of service to the public and natural resources of Maryland consistent with the breadth of its responsibilities. DNR concluded that sufficient NRP manpower resources would address trespassing and poaching activity related to unlawful deer hunting in the counties that have these problems.

DNR concluded that sufficient NRP manpower resources would address trespassing and poaching activity related to unlawful deer hunting in the counties that have these problems

WHAT TO DO?

The Maryland Hunting Coalition – a representative voice of Maryland’s hunting community – recommends that (1) additional funds should be budgeted to the NRP for strengthened enforcement purposes; and (2) mandatory financial penalties should be imposed upon conviction (“restitution payments”) for those who poach deer, especially world class deer as classified by the Boone & Crockett scoring system.

<http://www.boone-crockett.org/bgRecords/ScoringYourTrophy.asp?area=bgRecords>

Revenues from these penalties would be earmarked to the STATE WILDLIFE MANAGEMENT AND PROTECTION FUND set forth in § 10-209 of the Natural Resources Article. These two recommendations were derived from the 1ST ANNUAL HUNTER’S SUMMIT convened by the Coalition on September 27, 2015 and espoused in the Coalition’s October 1, 2015 NEWS RELEASE (Attachment 1).

One can point to the *Conservation Law Enforcement Act of 2010* and the *Wildlife Poaching Prevention Act of 2012* as well-intended Acts intended to help mitigate the societal wrongs of poaching. It’s time, however, to take these two Acts to the next level because (1) neither Act provides a definition of poaching; (2) the 2010 Act did not provide a funding source to bolster NRP ranks; and (3) the 2012 Act only focused on licensing privileges, not financial penalties. These changes are embodied in a proposed Act for legislative consideration during the 2016 Session of the Maryland General Assembly; namely, the ***Poaching Restitution Act of 2016*** (Attachment 2) which will be subsequently explained herein.

2. RESPONSE TO DATE

Let's be clear, no one can claim State lawmakers have not been duly responsive to requests for cracking down on illegal harvesting of wildlife as evidenced by the 2010 and 2012 Acts, respectively, noted herein. However, sufficient funding in the eyes of NRP enforcement remains a dilemma and DNR regulations governing licensing revocation have not been promulgated as of this writing. Moreover, it does not appear that poaching has been substantively curtailed as a result of these Acts as evidenced by the DLS response to Senator Astle's questions.

Below is a brief overview of the *Conservation Law Enforcement Act* (Chapter 367) and the *Wildlife Poaching Prevention Act of 2012* (Chapter 698).

2.1 **Conservation Law Enforcement Act of 2010**

This Act is intended to bolster the ranks of the Natural Resources Police in view of economic recession-drive budget reductions as noted in the Act's Preamble:

WHEREAS, Maryland envisions a 21st century Chesapeake Bay, where indigenous fish and wildlife flourish because of a healthy watershed realized through citizen support; and

WHEREAS, The Public Trust Doctrine recognizes that government has an affirmative duty to protect, manage and conserve fish and wildlife; and

WHEREAS, Prevailing budget constraints resulting from the lingering economic recession have compromised Maryland's ability to, among other things, offset the costs of enforcement of State conservation laws consistent with the State's 21st Century vision and Public Trust Doctrine; and

WHEREAS, The intent of this Act is to recognize Maryland's commitment to the sustainability of its finite natural resources, with due regard to the dictates of fiscal practicality, by making conservation law enforcement more effective and efficient through the provision of additional investigative and funding tools, including strengthened deterrence of natural resources-related violations; now, there,

A diminishing enforcement presence on land and on the waterways correlates to an increasing number of violations of the State's conservation laws [and] the prevalence of violations of the State's conservation laws presents a significant problem that warrants an enhanced investment in conservation law enforcement

Now embodied as § 1-201 of the Natural Resources Article, the Act declared State policy to be, among other things duly noted, as follows:

(6) A diminishing enforcement presence on land and on the waterways correlates to an increasing number of violations of the State conservation laws and an erosion of the protections afforded to citizens by the Public Trust Doctrine, which sets forth the responsibility of the government to administer, protect, manage and conserve fish and wildlife; and

(7) The prevalence of violations of State conservation laws presents a significant problem that warrants an enhanced investment in conservation law enforcement by: (I) increasing the presence of Natural Resources Police Force personnel on land and on the waterways through the use of present and future revenue sources; and (II) ensuring that the Natural Resources Police Force is properly equipped with the equipment, vehicles, and boats necessary to comply with its statutory mandate.

Finally, the Act made clear the General Assembly’s intent that strengthened reliance upon reserve officers be made to help the Natural Resources Police enforce compliance with Maryland’s conservation laws. It read as follows:

SECTION 5. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Governor to increase public awareness of and reliance on the Natural Resources Police reserve officers, who complement conservation law enforcement-related responsibilities under the direction of the Superintendent of the Natural Resources Police Force.

NOTE: This Act did not mandate a specific funding source to help bolster the ranks of the Natural Resources Police which led to the June 15, 2010 letter from the bi-partisan Maryland Legislative Sportsmen’s Caucus to then-Governor Martin O’Malley. The Caucus noted: “On May 4, 2010, you signed into law the *Conservation Law Enforcement Act of 2010* (Chapter 367, Acts of 2010) – an historic Act intended to help promote more “boots on the ground” for the Natural Resources Police in order to enhance enforcement of Maryland’s fisheries and wildlife laws, commonly known as our conservation laws. Conservation law enforcement is critical to our efforts to help promote a healthier and more productive Chesapeake Bay. If we are to spend billions of taxpayer dollars on restoration efforts, to what end is the goal if a seemingly insular few violate our conservation laws through overharvesting?

Indeed, the central tenet of Chapter 367 is the Public Trust Doctrine – dating back to the Magna Carta of 1215 – which recognizes that government has an affirmative duty to protect, manage and conserve fish and wildlife. In short, we respectfully request that you consider allocating additional resources to the Natural Resources Police for purposes of recruitment, retention and enhanced enforcement capabilities. Today’s headlines speak to the criminal activities that continue to plague our coveted fisheries and wildlife resources.

DNR is encouraged to augment the deer management efforts of these landowners (who embrace the principles of quality deer management) by vigorously enforcing the wildlife laws against poachers who violate the public trust, thus helping ensure that the citizens of Maryland who recognize the value of sustainable native wildlife populations will be able to enjoy these resources now and in the future

2.2 Wildlife Poaching Prevention Act of 2012

The *Wildlife Poaching Prevention Act of 2012* (Chapter 698 of the Acts of 2012) is intended to deter poaching of wildlife through strengthened licensing-related penalties imposed upon conviction. In short, the Acts authorizes the Department of Natural Resources to suspend and/or revoke hunting licenses for those individuals found

guilty of violating Maryland’s wildlife laws up to 5 years. Prior to this Act, only the courts could suspend/revoke hunting licenses based upon conviction. The argument advanced by proponents of the Act was the courts were “soft” on imposing harsh penalties for repeat offenders; i.e. repealing licensing privileges to hunt. The 2012 General Assembly agreed. Notably, however, this historic Act was silent on financial penalties as a conjunctive deterrent to poaching.

The Act also contained an uncodified section that spoke to need for increased enforcement per those privately-owned properties most vulnerable to deer poaching because of the unique manner in which they were managed:

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to recognize and commend the Maryland landowners and managers who provide and support native wildlife habitat, especially the landowners who embrace the principles of quality deer management and manage their land accordingly. The Department of Natural Resources is encouraged to augment the deer management efforts of these landowners by vigorously enforcing the wildlife laws against poachers who violate the public trust, thus helping ensure that the citizens of Maryland who recognize the value of sustainable native wildlife populations will be able to enjoy these resources now and in the future.

NOTE: As reported to Senator Astle on November 5, 2015 by DLS: “DNR is currently working on draft regulations to establish the criteria for suspending of hunting licenses and privileges. Since regulations establishing these criteria have not been adopted, no hunting licenses have been suspended under the authority of Chapter 698. Similarly, Section 2 of the Act has yet to affect the enforcement of wildlife laws.”

2.3 2012 Joint Chairmen’s Report

The 2012 General Assembly – via the State’s fiscal year 2013 operating budget – expressed legislative intent that emulated the intent of the *Conservation Law Enforcement Act of 2012* as follows:

Committee Narrative

NATURAL RESOURCES POLICE

K00A07.04 Field Operations

Natural Resources Police Level of Service Standards: The committees are concerned that the Natural Resources Police do not have standards by which the efficacy of its work can be measured. This is of concern given the amount of scrutiny that poaching in the rockfish and oyster fishery has risen and the general discussions about staffing shortfalls in the Natural Resources Police. Therefore, the committees request that the Department of Natural Resources (DNR) submit a report on the Natural Resources Police level of services standards. It is requested that the report include a workload analysis, response time metrics, staffing levels for authorized and filled law enforcement officer positions, evaluation of law enforcement officer work for civilianization, and pertinent crime rates. The report due date is December 31, 2012.

2.4 Level of Service Standards Report

When the 2013 General Assembly convened, the Department of Legislative Services – as part of the DNR operating budget analysis – informed the General Assembly about DNR’s compliance with the 2012 legislative directive. Two key excerpts of the DLS analysis are exceptionally noteworthy:

First, DNR’s overall level of services report conclusion is that there are insufficient numbers of law enforcement officers. In addition, there appears to be a concern that more time needs to be spent in the field on officer-initiated patrols to identify and deter natural resources violations. But getting out of the office is not enough, because the Natural Resources Police is also spending considerable time patrolling public lands, a responsibility that was taken on after the merger with the Park Rangers in 2005 as recommended in the *Report of the Commission on the Structure and Efficiency of State Government*. In fact, DNR is concerned that it has been forced into a reactive stance of answering calls for service rather than a proactive approach to patrol and prevention.

Based upon the analyses from these two reports, it was demonstrated that by increasing NRP’s staff by 75 law enforcement officers (LEO), 5 civilian employees and 33 seasonal contractual LEO’s, NRP would be able to provide a level of service to the public and natural resources of Maryland consistent with the breadth of its responsibilities.

Second, in terms of the appropriate level of staffing, the level of services report mentions that the International Association of Chiefs of Police believes a *per capita* measure is an inappropriate basis for staffing decisions. Therefore, DNR used the data from the patrol workload hour’s analysis and derived an optimal average year-round monthly workload of 23,212 officer patrol hours and a peak workload during the summer months of 27,226 patrol hours per month. Therefore, based on estimates that officers spend 30% of their time on administrative duties and that newer officers have less leave accrued and thus have more time on the job, DNR estimates that it would need 70 new year-round permanent officers to handle the base 23,207 patrol hours plus an additional 28 seasonal officers for the summer peak season.

2.5 Natural Resources Police – Strategic Plan (Fiscal Year 2015-2019)

In 2013, DNR completed the legislative directed NRP Level of Service Standards Report, which served as the foundation for the NRP Strategic Plan (Fiscal Year 2015-2019).

Of particular concern duly noted therein is the **Workload Analysis** section which reads as follows: “The NRP recently completed a data collection and analysis effort that identified challenges and recommended opportunities to ensure it can accomplish its mission now and in the future. This strategic plan focuses on those opportunities over the next five years. The following information is a summary of the data collected and analyzed in the NRP Level of Service Standards Report:

THERE ARE NO UNIVERSALLY ACCEPTED STANDARDS FOR ASSESSING THE ADEQUACY OF NATURAL RESOURCES POLICING;

PATROL STAFFING AND DEPLOYMENT REQUIREMENTS ARE BEST ESTABLISHED BY CAREFUL ANALYSIS OF ALL AVAILABLE DATA;
STATEWIDE PATROL HOURS FOR BOATING SAFETY HAVE DECREASED BY 20% SINCE 2004;

CONSERVATION PATROLS HAVE DECREASED BY 16% IN THE EASTERN REGION, WHERE THE LARGEST AMOUNT OF COMMERCIAL FISHING AND CRABBING TAKES PLACE;

NOT INCLUDING PUBLIC LANDS, TOTAL ANNUAL NRP PATROL HOURS HAVE DECREASED STATEWIDE BY 6.5% SINCE 2004;

MAINTAINING A PATROL PRESENCE IN THE MARYLAND PARK SYSTEM, WITH 66 PARKS HANDLING MORE THAN 10 MILLION VISITORS ANNUALLY, PRESENTS SIGNIFICANT LAW ENFORCEMENT DEMANDS SINCE THE 2005 MERGER;

LAW ENFORCEMENT DEMANDS ON PUBLIC LANDS AND PUBLIC WATERWAYS ARE SEASONAL, PEAKING IN THE JUNE TO SEPTEMBER TIME FRAME;

It is evident that the reduction in staffing has tilted NRP more toward responding to calls for service, than increasing proactive patrols to help prevent illegal activity. It is also evident that more hours of officer-initiated patrols are needed to identify and deter natural resource violations

CALLS FOR SERVICE FROM THE PUBLIC AND OTHER POLICE AGENCIES HAVE INCREASED OVER THE PAST THREE YEARS (FROM 6,800 IN 2009 TO 7,800 IN 2011); AND

THE MEDIAN TIME FOR RESPONDING TO URGENT CALLS FOR SERVICE FOR A PRIORITY 1 CALL – THE TIME TO ARRIVE ON THE SCENE – IS 20 MINUTES; FOR PRIORITY 2 CALLS, THE MEDIAN TIME IS 28 MINUTES.”

NOTE: For purposes of this Report, the most telling concern about enforcement within this Plan states: “It is evident that the reduction in staffing has tilted NRP more toward responding to calls for service, than increasing proactive patrols to help prevent illegal activity. It is also evident that more hours of officer-initiated patrols are needed to identify and deter natural resource violations.”

Here again, it’s important to note the DLS response: “Based on the these two reports – *NRP Level of Service Standards Report* and the *NRP Strategic Plan* -- it was demonstrated that by increasing NRP’s staff by 75 law enforcement officers (LEO), 5 civilian employees, and 33 seasonal contractual LEOs (to meet periods of peak workload), NRP would need be able to provide a level of service to the public and natural resources of Maryland consistent with the breadth of its responsibilities. DNR concluded that sufficient NRP manpower resources would address trespassing and poaching activity related to unlawful deer hunting in the counties that have these problems.” Maryland’s hunting community advocates for increased NRP personnel; but, if so authorized, recommends that there be a more even-balanced enforcement effort between inland and marine patrolling because the latter seemingly ranks above the former in terms of priority.

3. EXISTING MARYLAND LAW – FINANCIAL PENALTIES FOR WILDLIFE VIOLATIONS

To reiterate, the Maryland Hunting Coalition believes that Maryland’s existing fine structure for deer poaching violations is not a measurable behavioral deterrent. These laws are noted below.

§ 16-402 OF THE CRIMINAL LAW ARTICLE prohibits a person from entering or trespassing on property that is posted conspicuously against trespass. A person who violates this section is subject to (1) for a first offense, imprisonment not exceeding 90 days or a fine not exceeding \$500 or both; (2) for a second violation occurring within two years of the first violation, imprisonment not exceeding six months or a fine not exceeding \$1,000 or both; and (3) for each subsequent violation within two years after the preceding violation, imprisonment not exceeding one year or a fine not exceeding \$2,500 or both.

§ 10-411 OF THE NATURAL RESOURCES ARTICLE prohibits a person from hunting on the land of another without the written permission of the owner or the owner’s agent. § 10-1101 of the Natural Resources Article govern the penalties for trespassing or the unlawful taking of wildlife (poaching). Under this section, a wildlife violation for a first offense is subject to a fine not exceeding \$1,500 while a second or subsequent offense occurring within two years of any prior violation is subject to imprisonment not exceeding one year or a fine not exceeding \$4,000 or both. § 10-1107 of the Natural Resources Article authorizes the District Court to order a person convicted of a hunting or wildlife violation that results in the injury or death of wildlife to pay restitution to the State for the resource value of the wildlife. The Court is required to determine the appropriate restitution after considering the Department of Natural Resources (DNR) regulations (COMAR 08.03.10.11) that establish the resource values for individual species (<http://www.courts.state.md.us/district/dctcivforms.html>).

NOTE: The Natural Resources Fine Schedule identifies a broad spectrum of pre-payable fine amounts + maximum penalties for specific “prohibited methods of deer hunting”; but, the only reference/penalty affiliated with poaching is the “hunting on private lands without permission” which imposes as \$450 pre-payable fine with a first offense maximum penalty of \$1,500 and a second or subsequent offense maximum penalty of \$4,000.

ASTLE QUESTION: What is the number of fisheries and wildlife citations issued by Maryland’s Natural Resources Police (NRP) during the last three years? Further, identify the most egregious of these fisheries and wildlife violations in the view of DNR.

DLS RESPONSE: Exhibit 1 shows the annual violations for calendar 2013, 2014 and part of 2015.

EXHIBIT 1
Wildlife and Fisheries Violation Citations

Year	Wildlife Violation Citations	Fisheries Violation Citations
2013	257	1,342
2014	646	2,384
2015	633	2,451

According to DNR, the most egregious wildlife violations are carrying a loaded gun in a vehicle and hunting deer at night from a vehicle with the aid of light (“jack lighting”)

According to DNR, the most egregious fisheries violations are harvesting oysters in an oyster sanctuary, and the most egregious wildlife violations are carrying a loaded weapon in a vehicle and hunting deer at night from a vehicle with the aid of light (jack lighting).

NOTE: The NRP patrols more than 470,000 acres of public lands, the Maryland portion of the Chesapeake Bay and its tributaries, coastal bays off Ocean City and Assateague, three miles off the Atlantic coast, and more than 9,000 miles of freshwater streams. In 2012, Maryland had 126,267 licensed hunters,

387,653 licensed sport fishermen, 6,010 licensed watermen, and 190,175 registered vessels. EXHIBIT 1 clearly shows the principal focus of NRP's enforcement efforts are fishery-compliance related. Not sure why, but important to keep in mind that it may be the public simply does not report instances of poaching as is the case with DNR's "Catch a Poacher 24-Hour Hotline" (CAP) which reported only eleven calls in 2013; six in 2014; and two in 2015.

ASTLE QUESTION: What section of existing law – and accompanying COMAR regulation, if any, speaks to the authorization of law enforcement to confiscate and dispose of personal property used in the commission of a wildlife offense when convicted of that offense? What recent statistics are available that document the types of confiscated property, the total dollar amount collected and what fund or purpose were these dollars allocated (i.e. credited to the State's general fund or credited to DNR)?

DNR does not maintain a database that tracks the illegal gear that gets forfeited to the State, as forfeiture usually is decided by the District Court. The District Court may or may not have that information readily available from the databases that they use to document and track cases. The Department of Legislative Services intends to continue to look into how the proceeds of seized property are distributed

DLS RESPONSE: § 10-1106 of the Natural Resources Article authorizes a law enforcement officer to seize "any device, equipment, conveyance, or property" alleged to have been unlawfully used in a hunting violation. If the person accused of the hunting violation is convicted, the court may declare the seized property forfeited. Forfeited property becomes the property of DNR for disposition at its discretion. Seized property often includes motor vehicles, weapons, and other related hunting gear.

According to DNR, NRP does confiscate property as a result of wildlife conservation offenses, including poaching. For game violations, this may include confiscation of a suspect's vehicle, guns, knives, other related hunting gear, and illegally taken wildlife. DNR does not maintain a database that tracks the illegal gear that gets forfeited to the State, as

forfeiture usually is decided by the District Court. The District Court may or may not have that information readily available from the databases that they use to document and track cases. DLS intends to continue to look into how the proceeds of seized property are distributed.

4. OTHER STATES

Courts in a growing number of states are using the Boone and Crockett scoring system to calculate restitution values of illegally taken or possessed deer. According to Boone & Crockett officials, "Game animals with large antlers and horns aren't just trophies, but valuable conservation resources that warrant harsher penalties for abuse." The Coalition agrees.

NOTE: The Boone & Crockett Club is the oldest conservation in North America – founding in 1887 by Theodore Roosevelt and George Bird Grinnel). The Boone & Crockett scoring system originated in the 20th Century as a means of recording details on big game species that were thought to be disappearing. Conservation efforts led and funded by hunters took those species from vanishing to flourishing. Today, the Club's records books remains a valuable tool for measuring the success of management programs.

"I can't think of a better use for Boone & Crockett's scoring system than assessing trophy-class fines for poaching trophy-animals. All wildlife violations are setbacks for conservation, of course, but we're especially pleased to see stiffer penalties for illegally taking an animal that is larger, has lived longer, is worth more as a benchmark of good management – and would have been a rare and cherished prize for a legal, ethical, license-buying hunter" Lowell Baier. Boone & Crockett Club.

http://www.boone-crockett.org/about/about_overview.asp?area=about).

The following states have amended their laws to use the Boone & Crockett scoring system to calculate restitution values of illegally taken or possessed deer: Iowa, Ohio, West Virginia; Idaho and Montana. A couple of media excerpts are noted below that speak to the impact of their respective laws afield.

Iowa

http://www.idahostatejournal.com/members/men-sentenced-after-several-deer-poached-in-idaho/article_2dc27aee-b0f1-11e4-9289-bf47f2a513c3.html

Ohio

<http://www.news-herald.com/article/HR/20150918/NEWS/150919427>

West Virginia

<http://www.wvgazette.com/article/20111103/GZ01/311039919>

Idaho

<https://fishandgame.idaho.gov/public/enforce/?getPage=142>

Montana

http://billingsgazette.com/news/state-and-regional/montana/pay-fines-restitution-on-deer-poaching-charges/article_c19cad90-3867-55db-b0e2-9e0877d9dda9.html

5. FINAL ANALYSIS

We know that deer poaching occurs and rarely does anyone ever get tried and convicted. Why would such a violation of the public trust and an affront to landowner's rights be tolerated? No one can know for sure; but, the statistics seem to bear this out: recent fishery citations issued far exceed wildlife citations and reported cases of poaching to Maryland's hotline are too few to mention as shown in Exhibit 1. One might argue that Maryland has too many deer and who cares if they are poached, as long as the numbers decrease in order to mitigate crop damage and vehicle collisions. This line of thinking might partially explain DNR's reasoning for issuing harvesting permits to landowners. Curiously, does this system itself contribute to deer poaching on adjacent lands?

Could it be that Maryland's existing penalty system – licensing suspension/revocation coupled with fines – fails to serve as an actual deterrent to poaching? We know the *Maryland Wildlife Poaching Prevention Act of 2012* (Chapter 698) was intended to help deter poaching by allowing DNR, in addition to the courts, to suspend/revoke hunting privileges for egregious hunting violations upon conviction. As noted by DLS's November 5, 2015 response to Senator Astle, "no hunting licenses have been suspended under the authority of Chapter 698 because regulations establishing the criteria have not been adopted." No doubt this will soon happen; but, do these hard core criminals really care one way or the other if their licenses are revoked? Given their insular propensity for committing crimes against wildlife, they likely do not even possess a legal license to hunt in Maryland. And what of the lure of non-residents to take a world class deer in Maryland?

We know that Maryland's Natural Resources Police Force has been decimated by recession-driven budget cuts. Accordingly, "by increasing NRP's staff by 75 law enforcement officers (LEO's), 5 civilian employees and 33 seasonal contractual LEO's (to meet periods of peak workload), NRP would be able to provide a level of service to the public and natural resources of Maryland consistent with its breadth of its responsibilities [and that with] sufficient NRP manpower resources would address trespassing and poaching activity related to unlawful deer hunting in the counties that have these problems." How can the hunting community – as formally requested by the bi-partisan Maryland Legislative Sportsmen's Caucus within the General Assembly – convince the Governor to budget additional funds consistent with the NRP's expressed need? Not sure, but the Maryland Hunting Coalition – in cooperation with the Caucus -- will continue trying.

We know that fines for poaching and trespassing across the country have not kept pace with the cost of enforcement and conservation. Poaching and enforcement are inexorably linked - more enforcement means less poaching. True, we need additional general funds to be budgeted to the NRP. To complement those funds-in-waiting and to recognize the general consensus that higher fines do reduce illegal trespassing and poaching activity,

the Maryland Hunting Coalition – per input received from Maryland’s hunting community -- recommends Legislative/Executive consideration of legislation to impose mandatory penalties and restitution payments for deer poaching convictions with resultant revenues credited for enhanced NRP enforcement. Attached is the proposed *Poaching Restitution Act of 2016*, modeled after Iowa’s 2008 law which is reported to have been proven a real deterrent to poaching there, that seeks to impose stricter penalty fines based upon the nationally accepted Boone & Crockett scoring, the intent being to pinpoint major poaching areas – areas managed and known for breeding big bucks – and comply with the SECTION 2 of Chapter 698, noted in SECTION 3.2 herein.

<http://www.boone-crockett.org/bgRecords/ScoringYourTrophy.asp?area=bgRecords>

NOTE: Alternatively, an idea suggested by the managing editor of the Deer & Deer Hunting Magazine “to help slow this growing plague” is a “three-strikes and you’re out” wildlife law that applies to deer poaching offenses. **FIRST OFFENSE:** The offender is given three days in jail, a stiff fine, and revocation of hunting rights for one year and mandatory monthly classes with a qualified conservation officer for one year. **SECOND OFFENSE:** A repeat offender receives a month in jail, confiscation and sale of any weapon, equipment, or vehicle used during the crime, an even stiffer fine, and revocation of a hunting license for five years, and additional classes with a warden. **THIRD OFFENSE:** The offender is considered “hard-core” and receives three years behind bars with no chance of parole. They would also have to compensate the state wildlife agency for the wildlife loss.

On the matter of there being a perception of too many deer in Maryland, the 2014-2015 MARYLAND ANNUAL DEER REPORT issued by DNR notes that “Maryland’s deer population prior to 2014-2015 hunting season was estimated at 199,000 deer, down 12% from the 2013-2014 estimate of 227,000...liberal antlerless deer regulations have slowed or halted deer population growth in many areas outside the Washington D.C. to Baltimore suburban corridor. In some rural counties, the deer population has begun to decline.” Not mentioned in DNR’s Report is the measurable impact that deer poaching may have on these declining numbers. Just because Maryland has a healthy deer population today, doesn’t mean conservation-minded individuals should ignore biological warning signs and turn a blind eye to the potential decimation of this finite public resource.

“In my opinion, the civil damages that are assessed have helped to deter the illegal harvest of deer here in Iowa, however, there are those out there that never be deterred.”
Mark Sedlmayr
Bureau Chief
Iowa DNR

History has shown us time and again that any natural resource can be obliterated if not for the timely intervention of conservation-minded individuals. Did not the canvasback duck once darken the skies in the hundreds of thousands over the Susquehanna Flats in the 19th Century?

History has shown us time and again that any natural resource can be obliterated if not for the timely intervention of conservation-minded individuals. Did not the canvasback duck once darken the skies in the hundreds of thousands over the Susquehanna Flats in the mid-19th Century?

IT’S TIME TO DECLARE WAR ON THE HEINOUS ACT POACHING OF DEER IN MARYLAND NOT UNLIKE OTHER STATES HOME TO WORLD CLASS DEER. WITH INCREASED LAW ENFORCEMENT COUPLED WITH STRICTER MANDATORY FINES AND LOSS OF HUNTING PRIVILEGES, WE CAN BETTER DETER THESE UNSPEAKABLE CRIMES AGAINST NATURE AND PROCLAIM MARYLAND’S ZERO TOLERANCE TO POACHING. IT IS THE

HUNTERS OF MARYLAND WHO SEEK THIS STATUTORY CHANGE IN THE SPIRIT OF OUR BRETHREN OF YESTERDAY WHO LED THE CHARGE TO ENACT AMERICA’S MOST REVERED WILDLIFE CONSERVATION LAWS; AND, NOT UNLIKE THE HUNTERS OF MARYLAND WHO LED THE EFFORTS TO SECURE ENACTMENT OF THE **MARYLAND HUNTING HERITAGE PROTECTION ACT OF 2005; CONSERVATION LAW ENFORCEMENT ACT OF 2012** AND **WILDLIFE POACHING PREVENTION ACT OF 2012**.