

84.0 PROPERTY AND EVIDENCE CONTROL

84.1 Administration and Operations

84.1.1 Receiving All In-Custody and Evidentiary Property

A. All Property is to be logged

Personnel coming into possession of any evidence, contraband or found/recovered property, which has come under their care, will log the property into agency records as soon as possible and no later than the end of their shift for that day. If found property is received from someone other than the owner, the name, address, and telephone number of the reporting party will be listed in the remarks section. Recovered motor vehicles and mopeds will be documented on a "Towed Vehicle Report" form.

B. Property must be under the Control of the Property and Evidence Control

Evidentiary or found property will be placed under the control of the evidence/property function before the end of the shift by releasing the property to a property officer, depositing it into the Property Room drop box, or by placing it in the secure closet. At no time will any property be returned to the owner without documentation on a Property Record or CDS Analysis form. The release portion of the form will be signed by the owner and releasing deputy.

C. Written Report

All property, (except motor vehicles), taken into possession will be recorded on a Property Record. Issuance of Property Records will be recorded on the "Property Record Issuance Log" form, maintained in the Communications Center along with Property Records. All property will be identified by the Property Record Number and Report Number placed on the evidence sticker or tag. Personnel will detail, in the appropriate Criminal Investigation Report, the circumstances under which the property was obtained, along with a complete description of the property.

D. Guidelines for Packaging and Labeling Property

Refer to Crime Scene Unit Manual for directions for packaging and labeling property.

E. Security and handling of Property and Evidence

All property stored by the department will be within a designated secure area. A storage area for property held, (CDS, evidence, found and recovered property), will, by its nature, be a separate, secured entity, not utilized for storage of departmental property. Secured, refrigerated

storage will be maintained for perishable items. In addition, the Property Room will be configured as follows:

1. CDS shall be stored separately within the property room in a secured container.
2. Extra Security Measures - Other articles to include large amounts of money, precious metals, jewelry, gemstones, weapons, etc., will also be kept in a locked secure area within the property room.

F. Identification and Notification of Owner or Custodian of Property

Personnel coming into possession of personal property will, within three (3) days, attempt to notify the owner, if known, that the property is being held and procedures and times for release. The applicable portion of the "Property Record" form, regarding owner notification and NCIC check will be completed. Property owners will be instructed to contact the Property Control Officer for coordination in retrieving their property prior to coming to the department. Deputies instructing owners that their property may be retrieved will also give that information to the Property Officer as soon as possible.

Deputies will make a reasonable effort to identify the owner of property, if unknown. Such attempts will include, but not be limited to: checking serial numbers, reviewing department records of stolen property, speaking to subjects living in vicinity where the property was recovered.

G. Release of Property

1. Property will be released to authorized persons in accordance with departmental procedures. Final disposition of found, recovered, and evidentiary property will be accomplished within six months after legal requirements have been satisfied. Deputies will advise the evidence/property function when evidentiary property is no longer needed for court. When applicable, this decision should be made after consultation with the State's Attorney's Office indicates the appeals process is complete.
2. Personnel will not convert to their own use any evidence, contraband, or recovered property.
3. When releasing property, personnel must ensure that persons claiming the property are entitled to possession and are either the rightful owner or authorized representative. Each release may necessitate different forms of authorization. Personnel should consider circumstances in each case, and based on information available, establish the right of possession. Methods of establishing the right of possession include, but are not limited to:
 - a. A notarized letter from the owner granting authority for a third party to claim the property.

- b. A court order as in the case of divorced spouses, judgments or other civil decrees.
 - c. Legal documents such as Wills, Powers of Attorney, Bills of Sale, Titles, Deeds, etc.
 - d. The ability of the person to clearly identify the property through specific characteristics; i.e., engravings, identification markings, serial numbers, photographs, other specific markings. This identity may have been established at the time information was gathered for the CIR.
- 4. The department has the responsibility of safeguarding property and should take steps to ensure, to the best of our ability, that the property is released to the rightful party.
 - 5. When multiple items are taken into custody for evidence, and the rightful owner is known, the reporting deputy will contact the State's Attorney's Office as soon as possible to ascertain if a partial release is possible.
 - 6. A release of all items listed on a property record will be documented by completion of the release section found in the lower portion of the property record.
 - 7. A partial release of one or more items will result in the completion of the "Partial Release" columns of the property record. Personnel releasing the property will type or legibly print in the appropriate space, the name of the person to whom article(s) are released and have that individual sign in the same space. Releasing personnel shall sign and date in the space provided for items released. The last item or group of items on a property record will not require the completion of the partial release columns, but will be handled in the same manner as a full release.

84.1.2 All Evidence and Property shall be stored in the evidence and property room

- A. All Evidence and Property should be stored inside the evidence / property rooms when the property officer is available.
 - 1. Only personnel authorized will have access to the property held storage areas. Personnel designated as Property Control Deputies will be kept to a minimum. Personnel authorized access to the property room will be designated by the Patrol Commander.

84.1.3 Storage of Evidence and Property when the property room is closed

- A. When property comes into custody of a deputy, and custodial personnel are not available, the property will be placed in the property room drop slot if size allows. If the article is too large for the drop box, it may be

placed in Closet #23. The key to Closet #23 can be found in the key box, (Duty Officer's Office). Duty Officers have keys to the box that will be kept locked at all times. After the evidence is deposited in the closet and locked, the closet key will be returned to the key box. Property records will be placed in the evidence room drop box with the "Released to" caption being "Property Closet".

84.1.4 Procedures to Ensure Security and Accountability for K-9 Training Aids

- A. K9 Training Aids shall be secured in the steel security box, in the trunk of K-9 vehicle, when not being used for K-9 training.
- B. The K-9 supervisor is responsible for monitoring the security of the Training Aids.
- C. The Captain of Investigative Services or designee shall twice a year inspect and inventory the trainings aids used by the K-9 unit.
- D. The Captain of Investigative Services or designee shall note the date and time of this inspection in his personal activity log.

84.1.5 Records System - Status of all Property held by the Sheriff's Office

- A. The supervisor of the Criminal Investigation Unit shall be designated as the Property Control Officer. The Property Control Officer will be directly responsible for the storage, security, and accountability of property.
- B. Record System shall include:
 - 1. Location of Property
 - 2. Date and Time the Property was Received
 - 3. Date and Time the Property was Released
 - 4. Type of Property Held
 - 5. Amount of Property Held
 - 6. Chain of Custody (from property storage to destruction or other final disposition)

84.1.6 Evidence and Property Room Inspections and Reports

- A. The Criminal Investigations Unit Supervisor will make a routine inspection of all Evidence/Property Storage Areas on a semi-annual basis to ensure that all locking devices are in good repair, the storage areas are maintained in a clean and orderly manner, that all Ledgers, Files, and records are up to date and accurate, and all office procedures and policies

are being followed. These inspections will be documented in a memo to the Patrol Division Commander.

- B. Whenever there is a change in the positions of Patrol Commander or Property Control Officer, all held property will be inventoried by departing personnel, and their replacement and a designee of the Sheriff. Records will be checked to ensure that this directive is being followed, that accountability procedures are being followed, and property no longer needed for evidence or which has been abandoned is being disposed of promptly and in accordance with policy.
- C. Annually, commencing the month of January, the Property Control Officer and a supervisor not routinely or directly connected with control of the property room will conduct an audit of the Property Room. The annual audit should be a significant sampling of property, shall be an item by item comparison between stored property, and active property records, but need not be a complete inventory. CDS in sealed containers that have obviously not been tampered with do not need to be opened. Inventories will be reviewed/approved by the Patrol Commander.
 - 1. Within two weeks after the end of the inventory month, the Property Control Officer will submit a report to the Patrol Commander documenting the audit and discrepancies found, if any. The Patrol Commander will advise the Chief Deputy of any discrepancies found in the inventory.
 - 2. The Patrol Commander will initiate an investigation to reconcile any discrepancies in the inventory.
- D. The Sheriff has directed the Patrol Commander to conduct one unannounced inspections of the property control system. During these inspections random property (5-10) sheets will be chosen to compare with property on hand.

84.1.7 Disposal of Abandoned, Lawfully Confiscated, or Recovered Property

The Sheriff's Office will dispose of abandoned, lawfully confiscated, or recovered property in accordance with the following policy and Maryland State Law (Courts and Judicial Proceedings, 2-311).

A. Definitions

- 1. Abandoned Property - Property in custody of the Sheriff's Office for which an owner is known but does not respond to claim the property after being notified to do so in accordance with this policy, or after reasonable attempts have been made to contact the owner without success.

2. Lawfully Confiscated Property – Property in custody of the Sheriff's Office that has been confiscated for use as evidence, safekeeping, etc.
 3. Recovered Property (found) - Property in custody of the Sheriff's Office for which no owner can be identified.
- B. Abandoned, lawfully confiscated, or recovered property may be disposed of by:
1. Conversion of non-monetary/negotiable property for use in departmental operations.
 2. Sold at public auction.
- C. Lawfully confiscated property that has been in the possession of the Sheriff's Office for more than one year may be disposed of by the Sheriff's Office, provided notice of the sale of the property is given by registered or certified mail to the person(s) entitled to its possession and to any lien-holders whose names/addresses can be ascertained by the exercise of reasonable diligence.
- D. If property has evidentiary value and is seized in accordance with law. Property held as evidence will be returned to the rightful owner as soon as possible. In many instances, with the approval of the State's Attorney's Office, evidence may be photographed and then returned to the owner.
- E. Abandoned or recovered property that has been in the possession of the Sheriff's Office for more than ninety days may be disposed of by the Sheriff's Office, provided notice of the sale of the property is given by registered or certified mail to the person(s) entitled to its possession and to any lien-holders whose names/addresses can be ascertained by the exercise of reasonable diligence.
- F. The property may be sold at public auction after a description of the property and the date/time and place of the sale have been published in a newspaper of general circulation in Washington County in each of two successive weeks.
1. Proceeds of the sale of abandoned, lawfully confiscated, or recovered property will be distributed in the following order of priority;
 2. To the Sheriff's Office, in an amount equal to the expense of the sale and all expenses incurred while the property was in the possession of the Sheriff's Office, and
 3. To lien-holders in order of their priority, and
 4. To the General Fund of Washington County.

- a. At any time within three years from the date of the sale of the property, any person submitting satisfactory proof of the person's right to the possession of the property, shall be paid, without interest, the amount distributed to the General Fund of Washington County.
 - b. Upon expiration of the three years from the date of the sale, no person may file a claim for reimbursement.
- G. Reasonable attempts shall be made to locate or notify the owner of found / abandoned property before disposal. Attempts and notifications will be documented as supplements to the original report. If attempts to notify a known owner have failed, a certified letter will be sent to the last known address instructing them to retrieve their property, advising that failure to do so will result in disposal by the department. Owners will be given 60 calendar days from notification to retrieve their property before it is subject to disposal, (certified notification applicable to property with a value of over \$50).
- H. Found or Abandoned money will be held for a period of one (1) year. If after one (1) year the money hasn't been claimed by the rightful owner, the finder of said money will have the right of possession of twenty- five (25) percent of the total amount of the money. The remaining seventy-five (75) percent of the money will become the property of the Sheriff's Office.
 1. The Sheriff will have the final decision as to the release of any Found or Abandoned money to the owner/finder of said money.
 2. Any release of Found or Abandoned money will be by written permission of the Sheriff.
 3. This paragraph applies to citizens only. Employees of the Washington County Sheriff's Office are not eligible to receive any percentage of unclaimed Found or Abandoned money.

84.1.8 Asset and Handgun Forfeiture

- A. Procedure for Asset Seizures
 1. Assets may be seized by deputies, if they are found to be used in criminal activities or are found to have been purchased with monies obtained from criminal activities.
 2. All seized assets shall be placed on a property record.
 3. Forfeiture proceedings shall be initiated for the seized assets as required by law, with the assistance of CIU or NTF.

4. All seizures and forfeitures will be reported to the Sheriff through the chain of command.

B. Handgun Forfeiture

1. A handgun may be subject to forfeiture when it is seized pursuant to 4-206 of the Criminal Law Article.
2. When a handgun is seized, the Property Control Officer, or his designate, will attempt to ascertain and locate its owner. The handgun may be released to the owner if it is determined the owner did not know nor could have known that the weapon was being used in violation of 4-203, if it is not needed for evidence, and if the owner is qualified to own it under Article 27, Section 442.
3. If the owner is not local and cannot respond because of legitimate reasons to retrieve the weapon, it may be forwarded to a local police agency for release to the owner. In this instance, prior coordination would be necessary with the other agency. In addition, the white copy of the property record would be forwarded with the weapon to maintain chain of custody and release documentation, with a request that it be returned to this department after release.
4. If the department opts for forfeiture proceedings pursuant to the Criminal Procedure Article, 13-206, the Property Control Officer will promptly notify the owner, in writing, that he may apply within 30 days to the department for a review to determine whether the owner knew, or should have known that the handgun was worn, carried, transported, or used in violation of 4-203, and whether the owner is qualified to possess it. A copy of 13-206 will be forwarded to the owner.
5. Upon timely receipt of an application, the Patrol Commander will hold an informal review, not subject to the Administrative Procedure Act, on the matter of whether the owner knew or should have known of the use or intended use of the weapon. If after review, determination is favorable to the owner, the handgun shall be released to the owner if he is qualified to possess it, unless the handgun is needed as evidence in which event the handgun shall be promptly returned upon the final conclusion of the case or investigation.
6. If the Patrol Commander determines after review that the handgun should be forfeited, the owner shall be so notified at his last known address and within 30 days, thereafter, he may petition the appropriate District Court for release of the handgun to him. The State's Attorney's Office shall represent the State in the action. The court shall hear the matter and grant whatever relief is proper and in accordance with this subsection.

7. In a criminal proceeding, the court may order forfeiture or release of the handgun in accordance with the criteria for release set forth in this subsection. Persons who have made written claim of ownership of a handgun to the seizing authority or the State's Attorney's Office shall be notified of the proceeding and of the claimant's right to present his claim at the proceeding. A claimant who has completed the review procedure provided for by this subsection does not have the right to a second review under this paragraph.
8. If no timely application for a review is received, no petition to the court effected, and no order for release by the court during the criminal proceeding, the handgun shall be forfeited without further proceedings and destroyed or disposed of by the department in accordance with 13-206 of the Criminal Procedures Article.
9. If the owner of a seized handgun is not ascertained and located pursuant to inquiry or investigation, the handgun is forfeited without further proceedings.
10. Owners of property must be able to identify property through serial numbers, specific/unique markings, or other such characteristics that would distinguish the property from other like articles, before the property is released.
11. The Sheriff's Office will operate in accordance with existing State law regarding disposal of certain specified property; i.e., handguns and motor vehicles.

C. Disposition of Forfeited Handgun

1. Whenever a handgun is forfeited, the Sheriff may, in accordance with 13-206 of the Criminal Procedures Article:
 - a. Order the handgun retained for the official use of the department, or destroy the forfeited property, or sell, exchange, or transfer the forfeited property to another Law Enforcement agency for the official use of that agency.
 - b. Within 30 days of the disposition of the handgun, the Property Control Officer shall notify the Superintendent of the Maryland State Police of:
 1. The description of the property forfeited.
 2. The type of disposition made.

3. The identity of the person to whom the property was transferred for disposal, retention, or resale; and,
4. If the person was a licensed firearms dealer and, if so, the dealer's License number and address.

D. Firearms Ownership Tracing

1. Personnel taking a firearm into custody where ownership is in question will attempt to identify ownership by requesting a search of Alcohol, Tobacco and Firearms (ATF) records, Maryland State Police Firearms Registration File, or the Baltimore City Police Department's Firearm Registration File if it is thought the owner may live in Baltimore. Pertinent information accompanying the request will include: type of weapon, manufacturer, serial number, caliber or gauge, along with any other information that may be helpful in establishing the trace.
2. A request for a trace of MSP files will be assigned a priority. "Routine" traces are usually completed within seven (7) working days. "Urgent" requests are processed as rapidly as possible and are assigned when the firearm was used in a crime and the trace is essential to the detention or apprehension of a subject.
3. Whenever a handgun comes into possession of this department or whenever an individual is found to be in possession of a handgun (with or without a handgun permit) the following procedures will be followed:
 - a. The Property Control Officer, or his designate, will ensure the weapon is checked through MILES/NCIC to ascertain if the weapon is stolen. A trace request will be faxed to ATF requesting same.

E. Disposition of All Property

1. The disposition of all property shall be noted on the property record that identifies the property. (i.e. destruction, sell, exchange, or transfer of the forfeited property)

84.1.9 Controlled Dangerous Substance Disposal Procedures

- A. CDS Destruction: The departmental Property Control Officer will arrange for the destruction of found CDS or CDS no longer needed for evidence as soon as practical. CDS will be compared to the information originally placed on the property sheet. CDS will be destroyed by the CIU Supervisor in the presence of the Patrol Commander or his designate. CDS will be destroyed by incineration. CDS Property Records will be reviewed and approved by the Patrol Commander prior to destruction.

- B. During inventories or upon change of custody of the sealed evidence pouch/envelope after laboratory analysis, the Property Control Officer conducting the inventory shall inspect the evidence and verify that the seal is intact. The Patrol Commander will be advised if any evidence indicates tampering.
- C. Storage for CDS will be in a secure location within the Property Room, away from other types of evidence

84.2 Hazardous Materials

- A. Hazardous materials are not only being legally transported and used throughout the State, but they are finding their way into the criminal atmosphere; i.e., hazardous waste dumping, CDS laboratories, explosives, etc. The following guidelines are established to assist personnel when confronted with such material in its safe and proper disposition.
- B. If the necessity arises for the department to deal with the storage of a hazardous material as in the case of evidence in a criminal investigation or property storage situations, personnel will notify the Patrol Commander or higher authority. Personnel will not handle, transport, or store any hazardous material without proper equipment or guidance. Assistance may be obtained from:
 - 1. The Hazardous Waste Division, Waste Management Administration, Office of Environmental Programs, Department of Health and Mental Hygiene; or,
 - 2. The Maryland State Fire Marshal's Office; or,
 - 3. Commercial distributor of material; or,
 - 4. CHEMTREC
- C. If at all possible, such materials will be released to personnel with hazardous material expertise for transportation, storage, and/or disposition.
- D. Should hazardous material be evidence, necessary to a criminal prosecution, the following procedures will apply:
 - 1. Photograph the materials to include proper identification, labels, placards, etc.
 - 2. Ensure that the material is properly transported/disposed of by authorized personnel.
 - 3. Complete a property record and have the release signed by the representative of the authorized agency removing the material. Should laboratory analysis be necessary, members of the

Washington County Hazardous Incident Response Team can supply information and assistance.

- E. Personnel discovering violations of the hazardous waste laws; i.e., illegal dumping, storage, transportation, etc., will contact the Office of the Attorney General, Environmental Crimes Section. This unit has the responsibility for all investigation and prosecution dealing with hazardous waste materials.
- F. Property records will follow the distribution as specified elsewhere in this policy. In criminal proceedings, property records, photographs, along with other documents may prevail under the "Next Best Evidence Rule". Guidance should be requested from the State's Attorney's Office in such instances.

84.3 Court Exhibits

- A. Whenever evidence is retained by a court, the Clerk of Court will acknowledge receipt on the Property Record. The receipt will indicate the Clerk of Court is retaining the evidence for court. If a court disposes of any property without returning it to the department, a request will be made of court personnel to sign the release portion of the property record as the releasing official. If the request is refused, it will be so noted on the property record.
- B. A receipt indicating evidence has been retained by a court will not be considered as a final disposition. The Property Control Officer will ensure that personnel follow up on evidence retained by a court. When a case has been adjudicated and property has been retained by a court, personnel are to obtain the property and process according to policy. If the court refuses to return the property or has disposed of same, the property released portion of the record will be completed as specified.
- C. Personnel are responsible for evidence and the original of the property sheet upon removal of evidence for court. The property record and evidence will be returned to the evidence locker when court has concluded each day. If the property can be released after court to the rightful owner, the property record will so indicate with the signature of the owner.