



COTTAGE CITY POLICE DEPARTMENT

GENERAL ORDER

SUBJECT: **RELEASING/RETURNING EVIDENCE OR PROPERTY**

NEW REVISED RESCINDS

APPROVED: *GM*
GEORGIA MILTENBERGER
ACTING CHIEF OF POLICE

Effective Date 8/22/2018

I. POLICY

- A. It will be the responsibility of the officer who seized a piece of property as evidence, or who took custody of a piece or item of property, to notify its owner as soon as possible that it is in the possession of the Police Department and the requirements to claim it.
- B. If the seizing officer cannot locate or contact the owner, or the owner is undetermined, the Evidence/Property Custodian will attempt such notification in-person, by phone, or by mail.
- C. Property not retrieved within 180 after coming into the possession of the Department or 60 days after its owner was properly notified of the retrieval process will be disposed of pursuant to the provisions of the Cottage City Code of Ordinances.
- D. When practical, the final disposition of found, recovered and evidentiary property will be accomplished within 6 months (180 days) after legal requirements have been satisfied.
- E. Currency that has been seized will be appropriately documented according to its classification, secured in the temporary property locker or evidence locker as appropriate and turned over to the Cottage City Treasurer no later than the next business day to be deposited in the town's financial institution. The original receipt from the treasurer will be attached to the Property Record.

II. RELEASING EVIDENCE/PROPERTY TO VICTIMS

- A. To ensure that Department records properly reflect that a person was returned his/her property that was used as evidence, an officer who signed the evidence out will not release it to its purported owner but will transport it back to the station and inform the individual to see the Evidence/Property Custodian to sign a receipt for the property.
- B. Submitted evidence not needed for Court that is not contraband, and the ownership of which is not in dispute, will be released to the victim/owner once it is determined that there will be no further court proceedings. The owner will have to sign for the evidence.
- C. Depending upon the nature of the evidence, severity of the crime committed, and whether it is an item of personal necessity for the victim, officers may take photographs of evidence at the scene and release evidence to victims if the photos accurately depict the evidence.
- D. When money/currency is involved and it is classified as Found Property and it is to be immediately released, officers should, in addition to completing the required Property Record or receipt, record the serial numbers and denominations and/or make photocopies of the bills.
- E. Money/currency that has been previously deposited with the Town Treasurer will require a return of the funds from that office.
- F. If the ownership of the property is in dispute, the recovering officer will not release it and will submit it to the Evidence/Property Room for storage.
- G. In accordance with County, State and Federal Law, some persons may not possess a firearm under certain circumstances. To ensure that the Department does not release firearms to those individuals not entitled to possess them an individual seeking the return of firearms will be furnished an "Application for Return of Firearms."
 - 1. After the individual completes the application, he/she will be advised that a background investigation will be conducted pertaining to the answers the individual provided in the application.
 - 2. The Evidence/Property Custodian will be responsible for conducting the investigation.

3. A person is not entitled to the return of a pistol, revolver, or assault weapon if the Police Department as a collective body, knows or has reasonable cause to believe that the person:
 - a. Has been convicted of a crime of violence;
 - b. Has been convicted of any of the provisions of the Annotated Code of Maryland, CL § 5 - 602
 - c. Has been convicted of any conspiracy to commit crimes mentioned above;
 - d. Is a fugitive from justice;
 - e. Is a habitual drunkard;
 - f. Is addicted to or a habitual user of narcotics, barbiturates, or amphetamines;
 - g. Is of unsound mind
 - h. Is visibly under the influence of alcohol or drugs or under 21years of age.

4. A person is not entitled to the return of a rifle or shotgun if the Police Department knows or has reasonable cause to believe that the person:
 - a. Is suffering from a mental disorder and has a history of violent behavior against another person or self; or
 - b. Has been confined for more than 30 consecutive days to a facility unless the person possesses a physician's certification that the person is capable of possessing a rifle or shotgun without undue danger to the person or others.
 - c. For purposes of this General Order, the term "mental disorder" includes mental illness that substantially impairs the emotional or mental functioning of an individual that treatment or care is necessary or advisable.
 - d. The term "facility" as used above means any public or private clinic, hospital, or other institution that provides or purports to provide treatment or services for individuals with mental disorders.

5. Short-barreled shotguns/rifles shall not be returned unless the person requesting the return can prove he/she may legally possess such a firearm. e.g. ATF Tax Stamp.

6. In addition to their procedures outlined above, only the Evidence/Property Custodian or Chief of Police shall authorize the return of firearms.

7. The individual receiving the released firearms is required to sign appropriate Department forms acknowledging receipt.

8. Firearms not returned/released to individuals, unless a court order to the contrary exists, will remain in the Police Department's custody and disposed of according to law.

9. Pursuant to the provisions of the Annotated Code of Maryland, CP §13- 201, the following items of property shall be subject to seizure and forfeiture and, upon forfeiture, no property right shall exist in them:
 - a. Any handgun being worn, carried, or transported in violation of the Annotated Code of Maryland, CL §4 - 203 and 204.
 - b. All ammunition or other parts of or appurtenances to any such handgun worn, carried, or transported by such person or found in the immediate vicinity of such handgun.

10. In the event and individual intends to give a weapon(s) to the Department, the following procedure will occur:
 - a. The weapon will be checked for stolen,
 - b. A Police Event Report will be written, and
 - c. The Department will require the donor to sign a notarized statement acknowledging that they are giving the weapon to the Department.

III. RETURNING/RELEASING PROPERTY HELD FOR SAFEKEEPING

Property that was taken into custody by an officer for "safekeeping" (except for a firearm) will be returned to the property's owner/custodian if the Evidence/Property Custodian is satisfied that:

- A. The person seeking the property's return is the owner/custodian and the property is not contraband.
- B. The person to whom the property is released will be required to sign the Evidence/Property Custodian's records acknowledging receipt of the property.
- C. If the person is a juvenile, a parent must also be present and must also sign the records.

IV. FOUND PROPERTY DISPOSITION PROCEDURES

If, upon examination of a piece of property, the identity of its owner becomes apparent, or later becomes available to the Evidence/Property Custodian, the following procedures will be adhered to:

- A. Within a reasonable period of time after the property arrives at the Police Department, if contact by phone is not successful, the Evidence/Property Custodian will mail the apparent owner a letter on Department letterhead, indicating:
 1. A description of the property,

2. A statement that it is being held by the Department,
 3. The property's location, and
 4. The stipulation that unless the property is claimed within 60 days from the date of the mailing of such notice, the property will be disposed of.
- B. If the apparent owner appears to claim the property, satisfactory identification shall be shown to the Evidence/Property Custodian prior to release.
- C. The claimant will be required to sign the Evidence/Property Custodian's records acknowledging receipt of the property and declaring him/her the rightful owner of the property.
- D. If no one responds to the mailed letter, or ownership cannot be determined, the evidence/Property Custodian will dispose of the property after 180 days of coming into the possession of the Department pursuant to the Cottage City Code.

V. DISPOSITION OF UNCLAIMED PROPERTY

- A. Upon expiration of a 180 day retention period, all unclaimed personal property, not evidence or contraband, remaining in the custody of the Department may be kept for public use by Cottage City, donated to serve a useful purpose, sold at public auction to the highest bidder, or otherwise disposed of Property disposed of shall be in accordance with all applicable laws and the Cottage City Code of Ordinances.
- B. Any person qualified to be designated as a finder of personal property, and who gives over to Cottage City such property for the purpose of establishing rightful ownership may, at the time of the giving over of such property, state his/her intention to reclaim the found property after the established 180 day waiting period has elapsed.
1. A "finder" is the person who discovers or comes into the possession of personal property to which he/she is not the rightful owner and otherwise has no claim at the time of finding and gives the property over to the Cottage City Police Department.
 2. If no apparent rightful owner is located, or if upon location and required notification, the rightful owner fails to make claim to the personal property within the 60 day period, the claim of the finder may be acted upon and the property released to him/her.

3. Failure of the finder to claim the property within 120 days after having been notified of the right to claim the property will be deemed as a waiver of all rights and claim to said property and it will be disposed of accordingly.
4. The finder will be required to sign the Evidence/Property Custodian's records acknowledging receipt of the property.
5. Employees of Cottage City, either full or part-time, shall not be considered as a "finder" with right to possession, and/or be permitted to convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or with hold any property or evidence in connection with any investigation or other police action.
6. Completed Property Records shall be filed by the year in which the property was released or disposed of.