

Property

801.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and identifies those persons authorized to remove and/or destroy property.

801.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the Property and Evidence Section, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.

801.2 POLICY

It is the policy of the Havre de Grace Police Department to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

801.3 PROPERTY AND EVIDENCE SECTION SECURITY

The Property and Evidence Section shall maintain secure storage and control of all property in the custody of this department. A property manager shall be appointed by and will be directly responsible to the Criminal Investigations Division Division Commander or the authorized designee. The property manager is responsible for the security of the Property and Evidence Section.

801.3.1 REFUSAL OF PROPERTY

The property manager has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the property manager refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting member's supervisor of the reason for refusal and the action required.

801.3.2 KEY CONTROL

Property and Evidence Section keys should be maintained by the property manager and members assigned to the Property and Evidence Section. Property and Evidence Section keys shall not be

Havre de Grace Police Department

HGPD Policy Manual

Property

loaned to anyone and shall be maintained in a secure manner. If a Property and Evidence Section key is lost, all access points shall be re-keyed and new keys issued as necessary. After-hours access to the Property and Evidence Section shall be requested via Command.

801.3.3 ACCESS

Only authorized members assigned to the Property and Evidence Section shall have access to property storage areas. Any individual who needs to enter the property storage area (e.g., maintenance or repair contractors, must be approved by a Command Member and accompanied by the property manager. Each individual must sign the Property and Evidence Section access log and indicate:

- (a) The date and time of entry and exit.
- (b) The purpose for access, including the specific case or property number.

Each access log entry shall be initialed by the accompanying department member.

801.4 PROPERTY HANDLING

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the property manager and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property or evidence is taken from an individual, a property form will be completed. A copy of the property form (receipt copy) shall be given to the individual from whom the property was taken.

801.4.1 PROCESSING AND PACKAGING

All property must be processed prior to the responsible member going off-duty, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property form shall be completed, separately describing each item of property. List all known information including:
 - 1. Serial numbers
 - 2. Owner's name
 - 3. Finder's name
 - 4. Other identifying information or markings
- (b) Separate packaging will be used when submitting evidence, or recovered items from different owners, possessors, or arrestees.
- (c) Evidence or property from various owners, possessors, or arrestees, involving the same incident, will be submitted separately, using a property form for each individual.

Havre de Grace Police Department

HGPD Policy Manual

Property

- (d) Evidence or property with a different disposition, i.e. evidence, property recovered, or to be destroyed, may be listed on the same property form, however, must be packaged separately according to the disposition type.
- (e) Each item shall be marked with the member's initials and the date processed using a method that will not damage, deface, degrade, or devalue the item. Items too small or too delicate to mark should be individually packaged and labeled and the package marked with the member's initials and date.
- (f) Property shall be packaged in a container suitable for its size, evidence tape utilized as applicable.
- (g) A property form shall be completed and attached to the property or container in which the property is stored.
- (h) The case number shall be indicated on the property tag, packaging, or container.
- (i) The property form (Report Copy) shall be submitted with the incident report.
- (j) The property form shall be submitted with the property directly to the property manager or placed in a temporary property locker. Items too large to fit in a temporary property locker may be placed in a designated storage area that can be secured from unauthorized entry, and the property form placed in a temporary property locker.

801.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

Bicycles - Bicycles and bicycle frames shall have a property tag securely attached and should be placed in the bicycle storage area. The original property form will be submitted to the Property Manager.

Biological and related items - Evidence that may contain biological samples shall be indicated as such on the property form.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated on the property form.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

Cash - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. A supervisor shall be contacted for cash in excess of \$300. The supervisor shall witness the count, initial and date the envelope, and specify any additional security procedures that may be necessary. Cash over \$300 will be placed on a separate property form.

Havre de Grace Police Department

HGPD Policy Manual

Property

Explosives and fireworks - Explosives and fireworks will not be retained in the police facility. Assistance may be requested from the Maryland State Fire Marshals Office.

Firearms and other weapons - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives.

Government property - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the Motor Vehicle Administration. No formal property processing is required.

City property that is of no evidentiary value should be released directly to the appropriate City department. No formal property processing is required.

If no responsible City personnel can be located, the property should be held for safekeeping.

Sharps - Syringe tubes will be used to package syringes and needles.

Serialized Items- A wanted check will be run through NCIC on any item (evidence or property) that contains a serial number.

801.4.3 CONTROLLED DANGEROUS SUBSTANCES

- (a) Controlled dangerous substances (CDS) shall not be packaged with other property, but shall be processed separately using a separate property form.
- (b) The member processing CDS shall retain such property in his/her possession until it is packaged, tagged and placed in the designated CDS locker, accompanied by the appropriate property form.
- (c) Due to the hazards presented to officers from substances such as Fentanyl, patrol officers will not conduct field tests on suspected CDS. If presumptive testing is necessary for the case, the Harford County Joint Narcotics Task Force will be contacted for assistance.
- (d) The member shall package CDS as follows:
 - (a) Maintain the property in the container in which it was seized and place it in a property envelope of appropriate size.
 - (b) Seal and initial the heat seal after sealing the envelope or package.
 - (c)
 - (d)
- (e) When the quantity of CDS exceeds the available safe storage capacity as determined by the property manager, the quantity shall be photographed and weighed.
 - (a) A representative sample of sufficient quantity to allow scientific analysis of the CDS should be taken as allowed by state law and placed in a separate package or container.

Havre de Grace Police Department

HGPD Policy Manual

Property

- (b) Excess quantities should be stored or disposed of as required by law or directed by court order.
- (f) Marijuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The property manager shall monitor stored marijuana for growth of mold. If necessary contact can be made with the Task Force to assist with drying of large quantities of marijuana.

801.4.4 EXTREME RISK PROTECTIVE ORDERS

Whenever a firearm or ammunition is received under an extreme risk protective order (ERPO), a report must be written. Firearms shall be unloaded and packaged separately from ammunition. The receiving member should also complete a property form identifying the firearm by make, model, and serial number, retain the form, and provide a copy of the form to the person, along with information on the process for reclaiming the firearm/ammunition (Md. Code PS § 5–608). Photographs of the received firearms will be taken by the submitting officer, specifically documenting any preexisting damage, i.e. rust, scratches, gouges, etc. These photos will be submitted digitally with the written report.

All firearms taken in relation to an extreme risk protective order should be stored and transported in a protective case, if available, and in a manner intended to prevent damage to the firearm. No identifying or other marks may be placed on the firearm (Md. Code PS § 5–608).

801.5 RECORDING OF PROPERTY

The property manager receiving custody of property shall ensure a property form for each item or group of items is created. The property form will be the permanent record of the property in the Property and Evidence Section. The property manager will record in the property database the date and time the property was received and where the property will be stored.

A unique property number shall be obtained for each item or group of items from the property database.. This number shall be recorded on the property form. The property database shall document the following:

- (a) Property number
- (b) Case number
- (c) Item description
- (d) Item storage location
- (e) Receipt, release and disposal dates

Any change in the location of property held by the Havre de Grace Police Department shall be noted in the property database.

Havre de Grace Police Department

HGPD Policy Manual

Property

801.6 PROPERTY CONTROL

The property manager relinquishing custody of property to another person shall record his/her signature, the date and time the property was released and the name of the person accepting custody of the property on the property database and property form chain of custody.

The property manager shall obtain the signature of the person to whom the property is released, and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to the Property and Evidence Section or properly released to another authorized person or entity.

The return of the property to the Property and Evidence Section should be recorded on the property database and property form chain of custody, indicating the date, time and the name of the person who returned the property, and to whom the property is returned.

801.6.1 EVIDENCE

Every time evidence is released or received, an appropriate entry on the property form and property database shall be completed to maintain the chain of custody. No evidence is to be released without authorization from a supervisor or investigator.

Temporary release of evidence to members for investigative purposes, or for court proceedings, shall be noted on the property database and property form chain of custody, stating the date, time and to whom released. Requests for items of evidence needed for court proceedings shall be submitted to the property manager at least three (3) days prior to the court date.

Requests for laboratory analysis for items other than CDS shall be completed on the appropriate lab form and submitted to the property manager. This request may be submitted any time after the property has been processed. Notification will be made to CID.

801.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The property manager releasing items of evidence for laboratory analysis must complete the required information on the property form.. The transporting member will acknowledge receipt of the evidence by indicating the date and time on the property form chain of custody.. The lab form will be transported with the evidence to the examining laboratory. Upon delivering the item involved, the member will record the delivery time on the lab form and the property form and obtain the signature of the person accepting responsibility of the evidence. The original copy of the lab form will remain with the evidence and a copy of the form will be returned to the Records Section for filing with the case.

801.6.3 CONTROLLED DANGEROUS SUBSTANCES

The Property Manager will be responsible for the storage, control and destruction of all CDS coming into the custody of the Department.

801.6.4 UNCLAIMED MONEY

The Property Manager or the authorized designee shall submit an annual report regarding money that is presumed to have been abandoned to the Chief of Police and the City department

Property

responsible for auditing property, or more frequently as directed. The Property Manager may transfer such money in compliance with existing laws upon receipt of proper authorization from the Chief of Police.

801.7 RELEASE OF PROPERTY

The Property Managers shall authorize the release of all property coming into the care and custody of the Department. All reasonable attempts shall be made, by the submitting officer, to identify the rightful owner of found property or items of evidence not needed for an investigation.

Disposition regarding the authorization of release of property will be responsibility of the investigating officer.

Found property and property held for safekeeping shall be held for the period of time required by law. During such period, the investigating officer shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented in related reports.

A property manager shall release the property when authorized by the investigating officer and the owner presents proper identification. A signature of the person receiving the property shall be recorded on the property form chain of custody. If some items of property have not been released, the property form will remain with the Property and Evidence Section. After release of all property entered on the property form, the form shall be forwarded to the Records Section for filing with the case. Upon release, the proper entry shall be documented in the property database.

Firearms or ammunition should only be released upon presentation of valid identification and determination that the individual may legally possess the item.

801.7.1 DISCREPANCIES

The Watch Commander shall be notified whenever a person alleges there is a shortage or discrepancy regarding the person's property. The Watch Commander will interview the person claiming the shortage. The Watch Commander shall ensure that a search for the alleged missing items is complete and shall attempt to prove or disprove the claim.

801.7.2 DISPUTED CLAIMS TO PROPERTY

Occasionally, more than one party may claim an interest in property being held by the Department and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department should be contacted.

801.7.3 EXTREME RISK PROTECTIVE ORDERS

Firearms or ammunition taken in relation to an extreme risk protective order should only be released as follows (Md. Code PS § 5-608):

Property

- (a) On the expiration or termination of the order, the property manager should notify the respondent on the order that the respondent may request a return of the firearms/ammunition.
- (b) If the respondent requests a return of the firearms/ammunition and is not prohibited from possessing the firearms/ammunition, the property manager should return the firearms/ammunition no later than 14 days after the expiration of an interim or temporary order or termination of a final order and no later than 48 hours after the expiration of a final order.
- (c) If the respondent does not desire that the firearms/ammunition be returned, the property manager may release the firearms/ammunition to a licensed firearms dealer or another person who is not prohibited from possessing the firearms/ammunition and who does not live with the respondent, but only upon written verification that the respondent has agreed to the transfer.
- (d) If another person claims ownership of the firearms/ammunition, the property manager may release the property to the person upon proof of ownership if the person is not prohibited from possessing the firearms/ammunition.

801.8 DESTRUCTION OR DISPOSAL OF PROPERTY

The investigating officer shall authorize the destruction or disposal of all property held by the Department. All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper authorization from a supervisor. The disposition of all property shall be entered on the property form and property database.

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court:

- Weapons or devices that are forfeited or declared by law to be illegal to possess (Md. Code CP § 13-206).
- CDS declared by law to be illegal to possess without a legal prescription (Md. Code CP § 12-403).
- Money seized in connection with arrest for unlawful bookmaking, betting, or gaming (Md. Code CP § 13-106).
- A forfeited motor vehicle, other vehicle, vessel, or aircraft that was used to conceal, convey, or transport explosives in violation of law (Md. Code CP § 13-301(d)).
- Firearms or ammunition surrendered pursuant to an extreme risk protective order, upon a respondent's request for destruction, or if such property is not reclaimed within six months of the notice provided to the respondent (Md. Code PS § 5-608).

801.8.1 BIOLOGICAL EVIDENCE

The property manager shall ensure that no biological evidence held by this department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant

Havre de Grace Police Department

HGPD Policy Manual

Property

- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Criminal Investigations Division Division Commander

Biological evidence shall be retained for a minimum period established by law (Md. Code CP § 8-201) or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice, unless a motion seeking an order to retain the sample is filed and served on this department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Criminal Investigations Division Division Commander. If the property manager determines that biological evidence should be destroyed before the end of the statutorily required retention period, he/she should give 120-days' notice to the appropriate parties pursuant to Maryland law.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and in no case, prior to 20 years from the date of collection unless allowed by law (Md. Code CP § 11-926). Even after expiration of the applicable statute of limitations, the Criminal Investigations Division Division Commander should be consulted and the sexual assault victim should be notified.

Sexual assault evidence collection kits and other crime scene evidence relating to sexual assaults that has been identified by the prosecutor as relevant to the prosecution should not be disposed of prior to 20 years from the date of collection, unless allowed by law (Md. Code CP § 11-926; COMAR 02.08.01.04).

801.8.2 MEDICAL CANNABIS

The investigating member should advise the property manager and the prosecutor if the party from whom the marijuana was seized claims that the possession of the marijuana is for medical purposes.

The property manager shall store marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis consistent with the provisions of the Property Policy.

801.8.3 REQUEST FOR NOTICE

Upon written request by a victim of sexual assault, the Havre de Grace Police Department should notify the victim 60 days before the date of intended disposal of biological or other evidence relating

Havre de Grace Police Department

HGPD Policy Manual

Property

to the victim's case or retain the evidence for 12 months longer than the time period required by law unless a different time period has been agreed upon by the victim (Md. Code CP § 11-926; COMAR 02.08.01.04).

801.9 INSPECTIONS OF THE PROPERTY AND EVIDENCE SECTION

The Administrative Division Commander shall ensure that periodic, unannounced inspections of the Property and Evidence Section operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Division Commander also shall ensure that an audit is conducted annually, or as directed by the Chief of Police. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the Property and Evidence Section operations.

Whenever there is a change of assignment for any member with authorized access to the Property and Evidence Section, an inventory of all property shall be conducted by a person who is not associated with the Property and Evidence Section or function. This is to ensure that all property is accounted for and records are correct.