

# Bowie Police Department - General Orders



TITLE: RELEASING/RETURNING PROPERTY OTHER THAN EVIDENCE		NUMBER:  429
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AUTHORITY  <b>Chief John K. Nesky</b>	ACCREDITATIONS STANDARDS CALEA STANDARDS: 55.2.4-d, 84.1.1-f-g, 84.1.7	TOTAL PAGES  5
<input checked="" type="checkbox"/> NEW <input type="checkbox"/> AMENDS <input type="checkbox"/> RESCINDS		DATE:

## 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 Bowie Police Department and the requirements to claim it.
- B. If the seizing Officer cannot locate or contact the owner immediately, or the owner is undetermined at the time of recovery, the Evidence/Property Custodian will attempt such notification by certified mail.
- C. Property not retrieved within 90 days 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 Section 18-114 of the County Code.
- 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 City Finance Office as soon as practical to be deposited in the City'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 acknowledge receipt of 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 Finance Department 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 subject to a limited background investigation to include criminal history and domestic/protective order history.
  - 1. The Evidence/Property Custodian or Captain will be responsible for conducting the background investigation.
  - 2. 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. Is under the age of 21;
    - b. Is a fugitive from justice;
    - c. Is a habitual drunkard;
    - d. Is addicted to or habitual user of any controlled dangerous substance;
    - e. Is suffering from a mental disorder and have a history of violent behavior;
    - f. Has been confined for more than 30 consecutive days to a mental health facility;
    - g. Is visibly under the influence of alcohol or drugs;
    - h. Is subject to an active protective/peace order;
    - i. Has been convicted of a crime of violence, any Maryland classified felony, conspiracy to commit a felony, a common law crime for which the person received a term of imprisonment for more than two years, or any Maryland classified misdemeanor that carries a statutory penalty of more than two years.
    - j. Is under 30 years of age who has been adjudicated delinquent by a Juvenile Court for an act that would be a disqualifying crime if committed by an adult.

3. 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 mental health 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.
4. 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.
5. In addition to the procedures outlined above, only the Chief of Police, or his/her designee, shall authorize the return of firearms.
6. The individual receiving the released firearms is required to sign appropriate Department forms acknowledging receipt. Ammunition will not be released the same day as the firearm.
7. 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.
8. Pursuant to the provisions of the Annotated Code of Maryland, Crim. Prot. Art. §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, Crim. Law Art. §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.
9. In the event an 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 Incident Report will be written; and
  - c. The Department will require the donor to sign a notarized statement acknowledging that he/she is donating 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 has signed 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. RETURNING/RELEASING CURRENCY HELD FOR SAFEKEEPING**

Citizens responding to the Bowie Police Department to claim currency that is being held for safekeeping must provide a valid federal, state, military picture identification card that matches the name of the owner listed on the property form. Once this requirement is met, the City of Bowie Finance Director will be notified and will issue a check made payable to the owner of the currency.

### **V. RETURNING/RELEASING FOUND CURRENCY**

Citizens responding to the Bowie Police Department to claim found currency shall provide proof of ownership of the currency. If the claimant is unable to provide proof of ownership, a description of currency, i.e. denominations or container in which currency was found, may be given to the satisfaction of the Evidence/Property Custodian or a Lieutenant. Once these requirements are met, if applicable, the container in which the currency was found will be released to the owner and a check, made payable to the claimant, will be issued by the City of Bowie Finance Director and mailed to the address provided by the claimant.

### **VI. 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 telephone is not successful, the Evidence/Property Custodian will mail the apparent owner a certified 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 90 days from the date of the mailing of such notice, the property will be disposed of in accordance with Departmental policy/procedures.
- 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 to be 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 90 days of coming into the possession of the Department pursuant to the City of Bowie Code.

**VII. DISPOSITION OF UNCLAIMED PROPERTY**

- A. Upon expiration of a 90 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 the City of Bowie, donated or to serve a useful purpose, released to PropertyRoom.com, sold at public auction to the highest bidder, or otherwise disposed of in accordance with Departmental policy/procedures, applicable laws and the City of Bowie Code of Ordinances.
- B. Any person qualified to be designated as a finder of personal property, and who gives over to the City of Bowie 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 90 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 Bowie 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 90 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 30 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. City of Bowie employees, 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 withhold 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 in accordance with authorized policy/procedures.