

## Property and Evidence

### 804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

### 804.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property receipt must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items, or the officer must document the release in the report, or CAD call.

#### 804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

- (a) Enter the property into the RMS property screen describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Mark outside packaging of each item of evidence with the booking employee's initials and the date booked using the appropriate method.
- (c) Complete the RMS property entry, print a property sticker, and attach it to each package or envelope in which the property is stored.

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- (d) Write the case number in the upper right hand corner of the bag/envelope.
- (e) The original property receipt shall be given to Property and Evidence staff or placed in the Property and Evidence lockers.
- (f) When the property is too large to be placed in a numbered locker, the item may be retained in the supply room.

### 804.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the numbered locker.

### 804.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Property and Evidence Technician is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

### 804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.
- (c) All bicycles and bicycle frames require a property record. Property stickers will be securely attached to each bicycle handlebar or bicycle frame. The property may be placed in the bicycle storage area until a Property and Evidence staff member can check in the property.
- (d) Cash over \$100 shall be counted in the presence of a supervisor. The Watch Commander shall be contacted for cash in excess of \$1,000.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

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### 804.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
  - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

Property and Evidence staff shall ensure Automated Firearms System is updated of the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ).

### **804.4 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

#### 804.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size provided by a Property and Evidence staff member.

A property sticker shall be securely attached to the outside of all items or group of items packaged together.

#### 804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

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Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property sticker shall be attached to the outside of the drug/narcotic envelope. The chain of evidence and weight shall be recorded on the drug/narcotic envelope.

### **804.5 RECORDING OF PROPERTY**

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Citrus Heights Police Department shall be noted in the property logbook.

### **804.6 PROPERTY CONTROL**

Each time a Property and Evidence staff member releases property to another person, he/she shall check in/check out an item electronically through the property management system. An invoice will be generated and printed with a list of the item(s) being checked out and a signature must be acquired by the person receiving the property. A signature is not required by the person returning the property.

Each time Property and Evidence staff receives property, he/she shall electronically check the item(s) in through the property management system. The chain of custody is electronically maintained through the property management system, it is not required to complete the chain of custody on the bag or envelope; unless drug/narcotic envelope, blood boxes, SART kits, or is required by law.

Officers desiring property for court shall contact Property and Evidence staff at least one day prior to the court day, unless extraordinary circumstances dictate otherwise.

#### **804.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released and received back, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. The item(s) shall be electronically checked in and out through the property management system. No evidence is to be released to owner or disposed of without first receiving written authorization from the Professional Standards and Training Sergeant or Senior Crime Scene Property/Evidence Specialist.

Request for analysis for items other than narcotics or drugs shall be sent via email to PDpropertyroom@citrusheights.net. The proper orange or pink DNA sensitivity or green latent print processing request sticker shall be affixed to the outside of the bag/envelope needing processing.

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#### 804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will electronically check the evidence out of the property management system and remove the item(s) from the property warehouse.

The Property and Evidence staff member releasing the evidence must check the item(s) out from the property management system. Staff must also hand write the chain of custody on all narcotics envelopes and weigh these envelopes prior to taking them to the lab. The lab forms will be transported with the property to the DA Crime laboratory, or other designated facility.

#### 804.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom released.

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

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

#### 804.6.4 AUTHORITY TO RELEASE PROPERTY

The PST Sergeant, GIU Sergeant, SIU Sergeant, Traffic Sergeant, or Senior Crime Scene Property/Evidence Specialist shall authorize the disposition or release of all evidence coming into the care and custody of the Department.

#### 804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made by the officer/community services officer to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized property release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing officer or community services officer and must conform to the items listed on the property form or must specify the specific item(s) to be released.

With the exception of firearms and other property specifically regulated by statute, and found property shall be held for a minimum of 90 days. With the exception of firearms and other property specifically regulated by statute, safekeeping property shall be held for a minimum of 60 days. During such period, property and evidence staff shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available unless a property receipt was provided to the owner. Property not held for any other purpose and not claimed within 60 to 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed, donated, or acquired for department use (Civil Code § 2080.6, 2080.4 WC 217). The final disposition of all such property shall be electronically

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documented within the property management system. Any authorization to destroy, donate, or acquire for department use will be scanned into the report..

A property and evidence staff member shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on a property release invoice.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

Property and Evidence staff should make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

### 804.6.6 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 may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

### 804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The PST Sergeant, or designee, will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

### 804.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, property and evidence staff shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

### 804.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

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- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Department shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

### **804.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS**

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Citrus Heights Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

### **804.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

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### 804.7.1 EXCEPTIONAL DISPOSITIONS

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 of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

### 804.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

### 804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The PST Sergeant shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General

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- (d) Any sexual assault victim
- (e) PST or GIU Sergeant

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the PST or GIU Sergeant, or until the expiration of any imposed sentence that is 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 the Department within 180 days of the date of the notification.

A record of all certified mail receipts shall be retained in the related report. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the report and a copy forwarded to the PST or GIU Sergeant .

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed or returned to the rightful owner, with the approval of the PST or GIU Sergeant .

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the PST or GIU Sergeant should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).