

## Property and Evidence

### 803.1 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 direction for those persons authorized to remove and/or destroy property. This policy applies to all department employees.

#### 803.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Evidence Locker** - A designated locked repository in each location where property and evidence shall be stored. The evidence locker shall only be accessible to authorized personnel.

**Property Monitor** - The employee designated in each location with an evidence locker who maintains primary responsibility for the integrity of the locked repository.

**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 or information stored on electronic media (e.g., compact discs, flash drives, or other related items).

**Contraband** - Includes items, materials or substances that possession of which is prohibited by conditions of probation or by law.

**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.

### 803.2 AUTHORITY AND REFERENCES

- 5150 WIC;
- Civil Code 2080.6;
- 12021.3(e) PC;
- 12021.3(g) PC;
- Code of Civil Procedure 386(b);
- 29300 PC;

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- 18010 PC;
- 32750 PC;
- 599a PC;
- 480 PC;
- 335a PC;
- 312 PC;
- 10751 VC;
- 11474 H&S;
- 1411 PC;
- 19000 PC;
- Government Code 50050;
- Government Code 50051;
- Government Code 50055.

### **803.3 POLICY**

Items or illegal substances seized during searches, or where possession is prohibited by conditions of probation, shall be secured, identified, logged and preserved for possible filing of additional charges or violations of probation.

### **803.4 PROCEDURE**

#### (a) Property Handling

1. 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 evidence locker with the property receipt. Care shall be taken to maintain the chain of custody for all evidence.
2. At the time property is removed, a property receipt shall be completed describing each item of property separately, listing all serial numbers, owner's name, finder's name, date obtained, and other identifying information or markings. A copy of the property receipt shall be provided to the owner of said property or a responsible party at the location.
3. If an item or substance may constitute a new law violation, law enforcement (if present) may take charge of the item. If not present, law enforcement should be asked to respond to the location and take charge of the item.

#### (b) Property Booking Procedure

1. 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 procedures:

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- (a) Ensure a property receipt was thoroughly completed and provided to the owner of said property or a responsible party at the location.
  - (b) Each item of evidence must be marked with the booking employee's full name and the date received using the appropriate method so as not to deface or damage the value of the property. The label/tag shall contain pertinent information including the client's name, CID number, case number, date confiscated, brief description of the item and whether the item is "destroyable" or "hold for safekeeping." In circumstances where large quantities of the same item are booked, evidence can be marked as a unit instead of individually as long as the entire unit is bound together (e.g., a package of photographs, several sharpies in a rubber band, etc.) and labeled/tagged as a unit.
  - (c) Whenever possible, evidence should be placed inside a sealed bag secured with tape. A property tag must be completed and attached to each package or envelope in which the property is stored. A brief description of the items should be included on the property tag indicating whether the item is "destroyable" or "hold for safekeeping."
  - (d) The original property receipt shall be retained in the probation file. A copy shall be placed with the property in the evidence locker until the property is destroyed or returned.
- (c) Narcotics and Dangerous Drugs
- 1. Controlled substances will not be held by the probation department longer than necessary. Substances shall be secured in a container. A physical description of the substance and the container will be entered onto the property receipt, including the number or weight of the material and/or the material plus the container, if possible.
  - 2. Articles suspected of containing PCP should not be handled unless absolutely necessary. If unavoidable, PCP shall be handled carefully with gloved hands and sealed and identified distinctively in special plastic bags or containers prior to storage.
  - 3. Law enforcement shall be asked to respond in all cases when the substance is appropriate and sufficient for the filing of a new arrest. They, in turn, should assume responsibility for the substance. If law enforcement is not willing to accept the controlled substance, and the substance is appropriate and sufficient for the filing of a new arrest, probation staff shall arrange for its processing to DOJ for analysis. Following submission to DOJ, appropriate documentation shall be entered into JAMS and on the Evidence Log (Attachment A). Upon receipt of the analysis results, the officer shall:
    - (a) Document the results in JAMS with a contact entry.
    - (b) Keep a copy of the analysis results in the client's case file.
    - (c) Forward the original to the prosecuting attorney of record.

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4. All narcotics and dangerous drugs shall be booked separately using a separate property receipt. Paraphernalia as defined by Health and Safety Code 11364 shall also be booked separately.
- (d) Explosives
1. Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor. The bomb squad will be called to handle explosive-related materials and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.
  2. Explosives will not be retained in the probation facility.
  3. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be placed in the evidence locker. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The property monitor is responsible for transporting to the fire department, on a regular basis, any fireworks or signaling devices that are not retained as evidence. If a designated area for the storage of flammable materials does not exist in a booking location, such items shall be taken directly to the fire department by the employee in possession of the item.
- (e) Firearms, Ammunition or Accessories
1. Officers who seize, confiscate, or otherwise take possession of firearm(s) or related items shall promptly notify their immediate supervisor. Law enforcement shall be asked to respond in all cases when the item is appropriate and sufficient for the filing of a new arrest. When a firearm, ammunition or firearm accessory is taken into custody, the following applicable information shall be entered on to the property receipt: the quantity found, physical description, make, model number, serial number, barrel length, and caliber.
- (f) Packaging of Property
1. Certain items require special consideration and shall be booked separately as follows:
    - (a) Narcotics and dangerous drugs (marijuana should not be placed into an air-tight container).
    - (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 (as outlined in the explosives section).
- (g) Packaging Container
1. Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. If available, knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

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2. A property tag shall be securely attached to the outside of all items or group of items packaged together.
- (h) Packaging Narcotics
1. The officer seizing narcotics and dangerous drugs shall maintain the chain of custody and/or arrange for its securement with law enforcement. 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 provided to the law enforcement officer taking custody of the item(s). Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size. Narcotics and dangerous drugs shall not be packaged with other property.
  2. A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the tag.
- (i) Recording of Property
1. Each office will designate and maintain an evidence locker in which seized property will be stored. All items entering the evidence locker shall be appropriately marked as outlined in the property booking procedure and registered in the evidence log (utilizing the Evidence Log Form). Appropriate JAMS entries shall be made documenting the receipt and storage of said property. Associated property receipts shall be stored in the repository with the evidence log.
  2. Any changes in the location of property held by the Riverside County Probation Department shall be noted in the evidence log.
- (j) Property Control
1. Each office will designate a Property Monitor who is responsible for the evidence locker.
  2. Each time property is released to another person, he/she shall enter this information on the evidence package, property receipt and evidence log to maintain the chain of evidence. Officers desiring property for court shall notify the property monitor of the need to remove property from the repository at least one day prior to the court day.
- (k) Status of Property
1. The signature of the person to whom property is released, and the reason for release, will be kept in the evidence log. 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.
  2. The return of the property should be recorded on the property receipt and evidence log, indicating date, time, and the person who returned the property.
- (l) Authority to Release Property
1. The Property Monitor shall authorize the disposition or release of all evidence and property coming into the care and custody of the department. The

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disposition or release of all property shall be recorded on the evidence log and documented in JAMS.

#### (m) Release of Property

1. All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation. With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, probation personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 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 (Civil Code 2080.6). The final disposition of all such property shall be fully documented in related reports and JAMS.
2. The property monitor 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 the original property receipt. After release of all property entered on the property receipt, the receipt shall be maintained in the probation file. If some items of property have not been released the property receipt will remain with the evidence locker. Upon release, the proper entry shall be documented in the Evidence Log and JAMS.
3. 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 12021.3(e).
4. The releasing person should also 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.
5. 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).

#### (n) Disputed Claims to Property

1. 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.
2. 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)).

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#### (o) Disposition of Property

1. 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 Monitor 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 division director or designee. If property is eligible for destruction/disposal, the property monitor and at least two staff members will destroy/dispose of the property. Said destruction will be recorded in the Evidence Log and documented in JAMS.

#### (p) Exceptional Dispositions

1. 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:
  - (a) Weapons declared by law to be nuisances (Penal Code 29300; 18010; 32750)
  - (b) Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code 599a)
  - (c) Counterfeiting equipment (Penal Code 480)
  - (d) Gaming devices (Penal Code 335a)
  - (e) Obscene matter ordered to be destroyed by the court (Penal Code 312)
  - (f) Altered vehicles or component parts (Vehicle Code 10751)
  - (g) Narcotics (Health and Safety Code 11474, etc.)
  - (h) Unclaimed, stolen or embezzled property (Penal Code 1411)
  - (i) Destructive devices (Penal Code 19000)

#### (q) Unclaimed Money

1. 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 5005).
2. 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).
3. 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

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operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

(r) Inspections of the Evidence Locker

1. On a monthly basis, the Property Monitor shall make an inspection of the evidence locker and practices to ensure adherence to appropriate policies and procedures.
2. Unannounced inspections of evidence lockers shall be conducted annually as directed by the Chief Probation Officer or designee.
3. An annual audit of evidence held by the Department shall be conducted by managers appointed by the chief deputies or designees. The managers assigned to conduct the audit shall not be directly connected to the evidence lockers being audited.
4. Annual audit findings shall be compiled and submitted to the appropriate chief deputy for review.

Date(s) revised:

05/22/2013

12/01/2005

05/08/1996

08/08/1995

05/11/1995

Created: 05/14/1994

Attachments:

[1. Evidence Log](#)





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**Full Name (printed)/Signature of Property Monitor**

**If Property Monitor is changed, begin a new Evidence Log page**

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