

Property and Evidence

802.1 PURPOSE AND SCOPE

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

802.2 PROPERTY AND EVIDENCE UNIT SECURITY

- A. The Property and Evidence Custodian shall maintain secure storage and control of all property the Agency takes into custody. Property and Evidence Unit keys are maintained only by the Property/Evidence technicians and the Property and Evidence Custodian. The Property/Evidence technicians and Custodian shall not loan Property and Evidence Unit keys to anyone and shall maintain keys in a secure manner. Access to the Evidence storage areas will be limited to Evidence staff. Only the Property/Evidence Custodian may authorize access changes to the evidence storage areas.
- B. Any individual entering the Property and Evidence Unit other than the Property/Evidence technicians must be accompanied by a Property/Evidence technician or the Custodian at all times and must sign in and out of the log book, giving the date and time of entry and exit, and the purpose including a specific case, property number, or valid reason for entry (i.e. cleaning crew, pest control, etc.). The entry shall be initiated by the accompanying individual. Any entry should be for official purposes only.
- C. High-risk items (firearms, jewelry, money, drugs (not including marijuana)) will be stored within additional secure areas of the property/evidence room.

802.3 PROPERTY AND EVIDENCE ACCOUNTABILITY

The Property and Evidence Custodian is responsible and accountable for the control and management of all property accepted by the Property and Evidence Unit and for all property stored in the Property and Evidence Unit storage areas.

802.3.1 PROPERTY HANDLING

- A. Any employee who comes into possession of any property shall retain such property in his/her possession until it is properly packaged, labeled and placed in the designated property locker or storage room. Along with the property, a copy of the Automated Reporting System (ARS) Property Entry Report shall be placed in the locker. Care shall be taken to maintain the chain of custody for all evidence.
- B. Where ownership of property with no apparent evidentiary value can be established, excluding contraband, such property may be released to the owner by an officer in the field without the need for booking. This should be documented in a supplemental report.
- C. Documents that have no evidentiary value (i.e. medical records, copies of police reports, witness statements, etc.) should not be logged into evidence. Instead, they

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should be forwarded to Records to be scanned into the document imaging system (SIRE).

- D. Employees booking in items shall indicate in the narrative of the case report if the item can be disposed of or returned when their need as evidence is terminated if known.

802.3.2 PROPERTY BOOKING PROCEDURE

All property must be entered into ARS and placed in a temporary locker in Evidence prior to the employee going off-duty. Supervisor approval is required for any exceptions. Employees booking property shall observe the following guidelines:

- A. Complete the property Automated Reporting System Property Entry describing each item separately, listing all serial numbers, owner's name, finder's name, other identifying information or markings and completing any other required fields. The narrative of the report should include the circumstances by which the property came into the Agency's possession. A property receipt should be printed and included in the locker along with the evidence/property. Any special handling needs should be documented on the property receipt.
- B. All items should be individually packaged in appropriate sized packaging, labeled and the package marked with initials and the date on the seal.
- C. Complete an evidence/property label and attach it to each package or envelope in which the property is stored. Large items (i.e. bicycles, etc.) can have a completed evidence tag attached.
- D. When the property is too large to be placed in a temporary property locker, the item should be temporarily stored in the area of refuge. If necessary, evidence personnel can be contacted to take immediate custody of the item(s).

802.4 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify a Patrol supervisor. The Northern Colorado Regional 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 stored by the Agency. Fireworks, flares, and similar signaling devices shall be stored in an area designated for safekeeping until final destruction by the Northern Colorado Regional Bomb Squad.

802.5 EXCEPTIONAL HANDLING

- A. Certain property items require a separate process. The following items shall be processed in the described manner:
 - 1. Property stained with bodily fluids such as blood or semen shall be air-dried prior to booking and marked with the appropriate warning label indicating the material is bio-hazardous on the packaging.
 - 2. Found or abandoned bicycles should be taken directly to the BEEP impound. Bicycles or bicycle frames being logged into evidence should have a completed

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property/evidence tag securely attached and should be placed in the area of refuge.

3. All cash will be placed in an appropriate sized envelope. The front of the envelope should be filled out accurately to reflect the total and then placed in a secure evidence locker.
 - (a) When currency is submitted into evidence, the officer should have a second officer count the money. Both officers need to initial/date across the closing seal of the package.
 4. A Property/Evidence technician should be contacted if any evidence requires special handling. Any evidence requiring refrigeration or freezing should be handled by evidence technicians immediately.
 5. Any item that is a potential hazard or biohazard shall be appropriately packaged and marked to reduce the risk of exposure or contamination.
 6. Wet items need to be dried prior to packaging.
 7. All backpacks/sleeping bags should be packaged in a large plastic bag. The bag should be tied in a knot, with an evidence label affixed to the bag.
- B. Campus property, unless connected to a known criminal case, should be released directly to the appropriate 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.

802.6 TEMPORARY EVIDENCE STORAGE

On rare occasions, officers may need to store evidence over a period of hours, occasionally overnight and rarely over a period of several days. In such instances, officers will contact the property /evidence Custodian for instructions in the storage of said property or evidence.

802.7 PACKAGING OF PROPERTY

Packaging will conform to certain procedures. Certain items require special consideration and shall be packaged separately as follows:

- A. Controlled substances
- B. Firearms (ensure they are unloaded, rendered safe, marked appropriately and booked separately from ammunition.) All make, type, caliber and serial numbers should be documented in an ARS entry. Ensure all firearms are cleared through CCIC/NCIC.
- C. Property with more than one owner.
- D. Drug paraphernalia
- E. Contraband
- F. Biohazards
- G. Currency

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The following items will not be accepted into evidence:

- A. Vehicles
- B. Fireworks
- C. Alcohol or alcoholic beverages
- D. Perishable items
- E. Gasoline/ flammables or hazardous materials
- F. Propane tanks

802.7.1 PACKAGING CONTAINER

Police employees are referred to the packaging guide to ensure all property is packaged in a suitable container that is appropriate for its size and weight. Knife boxes should be used to package knives or any other sharp items. Pocket knives (not including butterfly knives or switchblades) can be secured in a heat seal bag. Handgun and rifle boxes should be used for handguns and rifles. Syringe tubes should be used to package syringes and needles. If a syringe or razor blade is not of evidentiary value, they can be photographed and disposed of immediately by placing in a sharps container and then into one of the biohazard disposal bins in the log in the room.

802.7.2 RIGHT OF REFUSAL

A Property Evidence technician has the right to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the Property Evidence technician 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 officer.

802.8 RECORDING OF PROPERTY

- A. The Property Evidence technicians receiving custody of evidence or property shall ensure the Property Entry in ARS is complete and there is an entry for each item of property received. The property record in BEAST will be the permanent record of the property in the Property and Evidence Unit.
- B. A unique property number is created for each piece of property received.
- C. Any changes in the location of property (release, disposition, transfer, court, etc.) held by the Agency shall be noted in the chain of custody section of the BEAST program and an appropriate entry into the ARS/RMS system.

802.9 PROPERTY CONTROL

Each time the Property/Evidence technician releases property to another person, he/she shall document this information in ARS/RMS with the BEAST receipt being sufficient for supplemental reporting. Anyone desiring property for court or copies of media shall contact the Property/Evidence technician at least one business day prior to the court day when possible.

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802.9.1 RESPONSIBILITIES OF OTHER PERSONNEL

- A. Every time property is released or received, an appropriate entry in the Records Management System shall be completed to maintain the chain of custody. No property or evidence is to be released without first receiving a request.
- B. Request for lab analysis of items shall be completed on the appropriate submittal forms and/or cover letters. The forms are then submitted to the Property/Evidence technician. This request may be filled out any time after booking of the property or evidence. Any rush requests must be brought to the attention of the Property/Evidence technicians. The Property/Evidence technicians will provide these forms to CBI/NCRFL prior to the items being submitted to the lab.

802.9.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

- A. Property/Evidence technicians will be responsible for transporting items of evidence to the appropriate lab for processing.
- B. All items being submitted to the crime lab for analysis should be packaged in accordance with general evidence submittal guidelines.
- C. When transporting the evidence to the crime lab, evidence personnel should have a placard in their vehicle showing the proper protocol in case of an incapacitating accident.
- D. Evidence personnel will receive a receipt from the crime lab noting when the item was received or returned to Fort Collins Police Services evidence personnel.
- E. All results from the crime lab will be received in writing and scanned into SIRE.
- F. Any item deemed perishable in nature will be maintained in an evidence freezer or refrigerator in the main evidence room until transported.

802.9.3 STATUS OF PROPERTY

- A. Property/Evidence technicians receiving the property will make the appropriate entry to document the chain of custody. Temporary release of property to officers for investigative purposes, or for court, shall be noted in the BEAST System, stating the date, time and to whom it was released. Property/Evidence technicians shall be responsible for establishing trace dates and conducting follow up on all property that is removed on a temporary basis.
- B. Signatures shall be obtained from the person to whom property is released and the reason for the release. Any employee receiving property shall be responsible for such property until it is returned to the Property and Evidence Unit or released to another authorized person or entity.
- C. The return of the property should be recorded in the Records Management System, indicating date, time and the person who returned it.

802.9.4 AUTHORITY TO RELEASE PROPERTY

In order to release, destroy or dispose of property after final disposition of a case, the Evidence / Records Retention Policy will be followed.

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802.9.5 RELEASE OF PROPERTY

- A. Evidence shall be held until such time as no prosecution is contemplated, a final disposition is reached in the related criminal charge, or the statute of limitations has expired. All releases will follow the Evidence / Records Retention guidelines.
- B. A reasonable attempt shall be made to identify the rightful owner of property booked into evidence. Officers shall ensure that the owner information is entered into the ARS Property Entry to ensure that the property will be returned to the rightful owner.
- C. Property belonging to a crime victim shall be promptly released to the victim unless needed for evidence (CRS 24-4.1-302.5(1)(k)). Following a request from the victim, property no longer needed for evidence shall be returned to the victim within five working days of determining it is no longer needed, unless the property is contraband or subject to forfeiture proceedings (CRS § 24-4.1-303(7)).
- D. 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, property 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 disposed of in accordance with property/evidence disposal and destruction procedures. The final disposition of all such property shall be fully documented in the BEAST software and a receipt submitted to Records.
- E. A Property Evidence technician shall release the property to the owner or finder, upon valid photo identification and proper documentation presented by the owner or finder (when necessary), for which an authorized release has been received. A signature of the person receiving the property shall be recorded in the BEAST system or collected on the release paperwork and scanned into SIRE.
- F. Upon release or another form of disposal, the proper entry shall be recorded in the Records Management System.
- G. A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922 (d).
 - 1. Evidence personnel will confirm the owner has a current residence within Colorado. If not, the firearm will have to be sent, at the owner's expense, to an FFL within their state of residence.
 - 2. All firearms will be released through USA Liberty Arms as they are a Federal Firearms License holder.
 - 3. The Evidence Unit will be responsible for setting up the release through USA Liberty Arms and the owner, and will be present for the release so property documentation is received. The owner is responsible for any fees charged at USA Liberty Arms.

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- H. Occasionally, evidence may be recovered that has significant historical value. Such items may include rare weapons and/or other evidence. The Chief of Police shall make a final determination whether to destroy or hold these types of items.
- I. Before being destroyed, transferred, or released property bearing serial numbers shall be checked through CCIC/NCIC to ensure that it has not been reported stolen.
- J. Evidence shall be held for civil matters until a litigation hold has been released.

802.9.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this department shall be restored to the legal owner. Such property may be released from law enforcement custody when the following is satisfied (CRS § 13-25-130(3)):

- (a) Photographs of the property are filed and retained by the Crime Lab.
- (b) Satisfactory proof of ownership is shown by the owner.
- (c) A declaration of legal ownership is signed under penalty of perjury.
- (d) If a defendant has been filed upon, he/she has been notified that such photographs, video tapes or films have been taken, recorded or produced.
- (e) A receipt for the property is obtained from the owner upon delivery.

802.9.7 DISPUTED CLAIMS TO PROPERTY

- A. Occasionally more than one party may claim an interest in property being held by the Agency, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.
- B. All parties should be advised that their claims are civil. In some situations, legal counsel for the Agency may be asked to file an interpleader in court to resolve the disputed claim.

802.10 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 sold at a public auction in compliance with existing laws, upon receipt of proper authorization for disposal. The Crime Lab Manager 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.

Upon any release or sale of any property, the proper notation shall be made on the property control card and in the property logbook. Proceeds from the sale of unclaimed property shall be deposited into the University treasury, minus reimbursement for department expenses.

Abandoned motor vehicles impounded by the Department may be sold at a public or private sale following notice pursuant to CRS § 42-4-1805.

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802.10.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction

- A. Weapons declared by law to be nuisances
- B. Counterfeiting equipment
- C. Gaming devices
- D. Obscene matter ordered to be destroyed
- E. Altered vehicles or component parts
- F. Narcotics
- G. Unclaimed, stolen or embezzled property
- H. Destructive devices
- I. Or any other item as designated by a court order

802.10.2 UNCLAIMED MONEY

If found money is no longer required as evidence and remains unclaimed after one year, the money is presumed abandoned property (CRS § 38-13-108.2).

802.11 RETENTION OF BIOLOGICAL EVIDENCE

The Property/Evidence Unit Supervisor shall ensure that no biological evidence held by the Agency is destroyed without adequate notification from the District Attorney's Office. Biological evidence shall be retained for a minimum period established by law and based on the Evidence / Records Retention Policy. Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the case officer and the District Attorney. Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Authorization for disposition/destruction will be obtained from the case officer.

802.11.1 SUFFICIENT SAMPLE PRESERVATION

DNA evidence that is subject to preservation pursuant to CRS § 18-1-1103 shall be preserved in an amount and manner sufficient to develop a DNA profile, based on the best scientific practices at the time of collection, from the biological material contained in or included on the evidence (CRS § 18-1-1104(2)).

If DNA evidence is of such a size, bulk or physical character as to render retention impracticable, the Crime Lab Manager shall remove and preserve portions of the evidence likely to contain DNA related to the offense in a quantity sufficient, based on the best scientific practices at the time of collection, to permit future DNA testing.

The preserved DNA evidence shall, whenever possible, include a sample sufficient to allow for independent testing by the defendant. After preserving the necessary amount of the DNA evidence, the remainder of the evidence may be properly destroyed as allowed by law.

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802.11.2 RECORDS RETENTION AND PRESERVATION

The Department shall maintain a DNA record for the statutory period of a DNA specimen collection from an eligible individual from the date of collection.

- (a) DNA evidence collected in reference to a criminal investigation of a felony that does not result in or has not resulted in charges being filed shall be preserved for the length of the statute of limitations for the felony crime that was investigated (CRS § 18-1-1103(1)).
- (b) Except as provided by law (CRS § 18-1-1105; CRS § 18-1-1106; CRS § 18-1-1107), the Department shall preserve the DNA evidence for the life of a defendant who is convicted, if the sample was collected in a criminal investigation that resulted in a conviction listed in CRS § 18-1-1102(1) and CRS § 18-1-1103(2).
- (c) A court may order the Department to preserve existing biological evidence for DNA testing at the request of a defendant (CRS § 18-1-414(2)).

802.11.3 EXPUNGEMENT OF DNA EVIDENCE

A person may qualify for expungement and destruction of DNA evidence. This department will destroy DNA evidence after written notice is received from the Colorado Bureau of Investigation (CRS § 16-23-105).

802.11.4 DISPOSITION OF DNA EVIDENCE

In cases described in state law (CRS § 18-1-1102(1)(c); CRS § 18-1-1102(1)(d)), the Department may seek to dispose of DNA evidence by providing notice to the District Attorney who prosecuted the charges (CRS § 18-1-1105(2)).

If the District Attorney determines that the DNA evidence should not be disposed of, the District Attorney will provide notice. Upon receipt of the notice, the Department shall preserve the DNA evidence until such time that a court order is obtained to dispose of the DNA evidence (CRS § 18-1-1105(4)).

If the Department does not receive notice from the District Attorney within a reasonable amount of time, the Department may file a motion with the court that entered the conviction in the case, asking for a court order to dispose of the DNA evidence.

The Department may not request permission to dispose of DNA evidence in cases described in state law (CRS § 18-1-1102(1)(a); CRS § 18-1-1102(1)(b); CRS § 18-1-1105(1)).

802.11.5 DISPOSITION OF VICTIM DNA EVIDENCE

If DNA evidence is being held that is the property of the victim, the victim may request the District Attorney to review whether the DNA evidence may be returned. If the District Attorney determines the DNA evidence may be returned, the District Attorney may file a petition with the court for the return of the DNA evidence. Upon proper receipt, the Department will release DNA evidence belonging to the victim (CRS § 18-1-1107).

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802.12 REPORT OF ABANDONED PROPERTY (MONEY)

The Property/Evidence Custodian shall complete and file a report of presumed abandoned property to the State Treasurer each year (CRS § 38-13-401). The report shall cover the period from July 1 to June 30 and shall be submitted no later than the immediately following November 1 date (CRS § 38-13-403).

802.13 INSPECTIONS OF THE PROPERTY AND EVIDENCE UNIT

- A. On a semi-annual basis, the Property/Evidence Custodian shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures. In addition, a random audit of evidence items shall be conducted placing emphasis on the inspection of narcotics, weapons and money.
- B. An annual audit of Property and Evidence shall be conducted. A memorandum summarizing the results of the inspection shall be forwarded to the Chief. There should be particular emphasis placed on the inspection of narcotics and illicit drugs to ensure the integrity of their seals, and verify that procedures pertaining to the storage, handling and processing of money and firearms are followed.
- C. An audit of Property and Evidence to include high-risk items and general evidence will be done whenever a property and evidence supervisor or custodian is assigned to or from the position. This will be conducted jointly by the newly appointed property and evidence supervisor or custodian and a designee of the Chief of Police. A random audit of 100 of the general property/evidence items will be completed. Once a year, the Chief of Police will designate a supervisor not normally associated with the functions of the Evidence Unit to complete an inspection, inventory and audit.
- D. Property and Evidence security access is strictly limited. The vault, storage areas and Evidence Unit Office only accessible to the Property/Evidence technicians and Custodian.
- E. Definitions:
 - 1. Audit - A report is generated for the number of items based on Appendix A or B. The items will be reviewed for integrity to ensure the seal has not been broken, the label and barcode match.
 - 2. Inspection - review of the processes and procedures to determine that the property room is being maintained in a clean and orderly fashion, that the integrity of the property is being maintained, that provisions of the Agency orders or other directives concerning the property management system are being followed, that the property is being protected from damage or deterioration, that proper accountability procedures are being maintained, and that property having no further evidentiary value is being disposed of promptly.

802.14 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon (18 USC § 922 (d); CRS § 13-14-105.5; CRS § 18-1-1001; CRS § 18-6-801; CRS § 24-33.5-424).

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802.14.1 RELEASE OF FIREARMS IN RISK PROTECTION ORDER MATTERS

Upon notice from the Records Manager that an extreme risk protection order has been terminated or not renewed, notice should be provided to the respondent of the process for the return of firearms (CRS § 13-14.5-109).

Upon request by the person named in a risk protection order, firearms or permit surrendered pursuant to the order shall be returned to the person within three days after confirming eligibility to own or possess the firearm under federal and state law through a criminal history record check (CRS § 13-14.5-109). Additionally, prior to the release of firearms or a permit the Department should:

- (a) Confirm that the risk protection order is no longer in effect.
- (b) Provide notice to any family or household member of the person that the firearms or ammunition are going to be returned.

If a person other than the person named in the risk protection order claims ownership of any seized firearms, the Department shall follow the procedures outlined in CRS § 13-14.5-108.

If a person who has surrendered firearms pursuant to a risk protection order elects to transfer ownership of the firearms to another person, the Department shall follow the procedures outlined in CRS § 13-14.5-108 prior to releasing any firearm.

If a firearm remains unclaimed for at least one year from the date that an extreme risk protection order expired, the firearm should be disposed of according to department procedures (CRS § 13-14.5-109).