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## Property and Evidence

### 808.1 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 custody of all evidence and those persons authorized to remove and/or destroy property.

### 808.2 DEFINITIONS

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

**Safekeeping** - Property booked into Property and Evidence for temporary storage/custody on behalf of the owner. Owner information must be known and included on the property tag.

**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.

### 808.3 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 secured temporary bike cage or hazardous cabinets. 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 release of such property should be documented in the officer's report.

#### 808.3.1 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) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings
- (b) Each item of evidence shall be sealed and marked with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number on the packaging.
- (e) The original property form shall be submitted with the case report.

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- (f) When the property is too large to be placed in a locker, the item may be placed in the temporary bike cage located outside next to the Property and Evidence public entrance.

#### 808.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately and shall include a completed property tag. The weight/amount of drugs shall be listed and a lab request attached if testing is required. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

#### 808.3.3 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. Fireworks that are considered stable and safe and needed for evidence shall be collected and stored by the bomb squad.

If fireworks are not to be retained as evidence, the handling officer is responsible for transporting the fireworks to the Fire Department.

#### 808.3.4 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 by CSI prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be released directly to the Property and Evidence Specialist. No formal property booking process is required. Property personnel will deliver license plates to the DMV as needed. If the owner of a license plate is known, a found property report shall be written and license plate(s) shall be booked into Property.
- (c) All bicycles and bicycle frames require a property tag. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Property and Evidence Specialist, or placed in the temporary bicycle storage area until a Property and Evidence Specialist can log the property.
- (d) All currency requires a two-person verification process. Currency shall be counted in the presence of another officer or supervisor and initialed by both. The watch commander shall be contacted for cash in excess of \$1,000 for special handling procedures.
  - 1. Currency must be packaged in a pre-labeled white "9X11" currency envelope.
  - 2. Amount should be verified by another officer or supervisor.
  - 3. Booking officer and verifying officer or supervisor must complete the envelope by signing and dating the appropriate sections.

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4. Envelope needs to be sealed with tape, date, initialed and a completed property tag attached to outside of envelope.
5. Currency in the amount of \$1,000 or more needs to be secured in the Watch Commander safe by supervisor or brought directly to Property and Evidence during normal business hours for immediate booking.

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/found property in the normal manner.

#### **808.3.5 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.

#### **808.4 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 and magazine)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364; biohazard (hypodermic needles or syringes)
- (e) Fireworks
- (f) Contraband
- (g) Bloody/soiled articles
- (h) Currency

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#### **808.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs in a suitable envelope/bag available for its size. Knife boxes should be used to package knives or any other sharp/dangerous items(s), and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of each package. A description of the contents of each package shall be provided on the property tag.

#### **808.4.2 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 an evidence locker. Prior to packaging and if the quantity allows and at the discretion of the officer, a presumptive test should be made on suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall not be packaged with other property. Narcotics and dangerous drugs shall be packaged in a 9x12 envelope or appropriate size bag, depending on the quantity/amount of narcotics. The booking officer shall initial and date the sealed package/envelope.

A completed property tag shall be attached to the outside of the bag or envelope. A lab request shall also be attached if testing of narcotics is required.

#### **808.5 RECORDING OF PROPERTY**

The Property and Evidence Specialist receiving custody of evidence or property shall attach a bar code label to the property tag recording his/her names, a property ID number, the date and time the property was received and where the property will be stored.

Any changes in the location of property held by the Irvine Police Department shall be noted in the property chain of custody.

#### **808.6 PROPERTY CONTROL**

Each time the Property and Evidence Specialist receives property or releases property to another person, he/she shall enter this information on the reverse side of the property tag and electronically in the property management system. Officers desiring property for court shall contact the Property and Evidence Specialist at least one day prior to the court day. Property and Evidence shall provide officer with a court property release form. This form shall be completed if the evidence is logged into court as an exhibit; at which point the bottom copy of the form must remain with the evidence at all times. The top copy of the form shall be returned by the officer to Property and Evidence.

##### **808.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the evidence tag shall be completed to maintain the chain of custody.

No property or evidence is to be released without first receiving written authorization from an investigative supervisor or detective. Found property and property for safekeeping can be released by Property and Evidence without written authorization from a detective.

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Requests for items needing additional analysis performed by CSI such as fingerprints, photographs or DNA collection for items other than narcotics or drugs shall be requested directly through CSI.

#### 808.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

When transfer of evidence to the laboratory is made by someone other than Property and Evidence, the transporting employee will check the evidence out of property following the appropriate procedures. Property and Evidence will update the chain of custody on the property tag and the property management system. Two receipts will be provided by Property and Evidence; upon delivery the transporting employee shall have both receipts signed and dated by the receiving lab employee, one will remain at the lab and the other shall be returned to Property.

If transfer is made by Property and Evidence, the transporting employee shall document the date and time on the evidence tags and in the property management system. Two receipts will be printed and upon delivery of the items, the transporting employee shall have both receipts signed and dated by the receiving lab employee, one receipt will remain at the lab and the other shall be returned to Property for record keeping.

#### 808.6.3 STATUS OF PROPERTY

The release and return of property to members for investigative purposes, or for court, shall be documented by the Property Specialist on the property tag and property management system. The records shall include the date, time and name to whom the item was released.

Any employee receiving property shall sign for receipt of such property and shall be responsible for such property until it is returned to property or released to another authorized person or entity; chain of custody must be updated upon every transfer. The release and return of property to members for investigative purposes, or for court, shall be documented by the Property Specialist on the property tag and property management system. The records shall include the date, time and name to whom the item was released.

#### 808.6.4 AUTHORITY TO RELEASE PROPERTY

The Investigations Bureau shall authorize the disposition or release of all evidence coming into the care and custody of the Department.

#### 808.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made 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 supervisor or detective and must specify the item(s) to be released. Release of all property shall be documented on the property release form, property tag, and property management system.

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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 agency takes possession (or receipt, if notification is not feasible) may be disposed or auctioned at a public auction. If within 90 days the person from whom the property was taken notifies Property and Evidence in writing they are in custody and unable to retrieve, or have an authorized person to retrieve the property, the property shall be held for no longer than 10 additional months. (Civil Code § 2080.10(3))

A Property and Evidence Specialist 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 release form. Release of all property shall also be documented on the property tag and property management system. After release of all property listed on the property tag, the tag shall be forwarded to the Records Bureau for filing with the case. If some items have not been released the property tag will remain with the Property and Evidence Section.

Under no circumstances shall any firearm, magazine or ammunition 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.

The Property and Evidence Section should work with the assigned detective to 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, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

#### 808.6.6 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)).

#### 808.6.7 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, the Property and Evidence Specialist shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met

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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).

#### 808.6.8 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 § 18090).

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 § 18090).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18090 and the Irvine 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 § 18090).

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

#### 808.6.9 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:

- (a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or 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) that 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 firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that 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.

#### 808.6.10 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

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#### **808.7 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.

##### **808.7.1 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)
- 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)

##### **808.7.2 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 the City's General Fund.

##### **808.7.3 RETENTION OF BIOLOGICAL EVIDENCE**

The Property and Evidence Section shall work with the Investigations Bureau to ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant



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- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) An Investigation Bureau supervisor

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 assigned detective, 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 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 Investigation Division supervisor.

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 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 Investigation Division supervisor 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).

#### **808.8 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by the Office of Professional Standards.