

Property and Evidence

801.1 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.

801.2 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.

801.2.1 RECEIPTING OF PROPERTY

When practical, persons from whom property is taken or received shall be issued a receipt. This can be accomplished by completing a Sheriff's Property Receipt, itemizing articles taken and providing the yellow copy of the Property Control Receipt to the individual.

NOTE: The back of the yellow copy of the Property Receipt has information that is of value to the deputy and receipted person. Deputies should check the appropriate categories/notices on the back of the yellow copy that apply to their circumstances. Notification can then be documented by marking the appropriate check box on the front of the Property Receipt.

801.2.2 FLEX EVIDENCE MANAGEMENT SYSTEM

All evidence and property shall be documented in the Flex Evidence Management System, hereafter known as Flex. Deputies will enter case information and evidence item information as completely as possible. This includes, but is not limited to incident number, date and location of occurrence, date of submission, officer name and ID number, search warrant number, involved parties' information (victim, suspect, owner, finder, etc.) including addresses and phone numbers, full descriptions of the property such as make, model, serial number, color, size and location received or taken.

NOTE: Deputies seizing items with I.D./serial numbers, especially weapons or vehicles, shall cause an entry to be made into the appropriate data center i.e., CLETS, NCIC, Automated

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Firearms Systems, Stolen Vehicle System, etc. An FCN for each entry will be obtained and should be included, when practical, with the description of the property in Flex.

801.2.3 PROPERTY TAGS

Property tags for both found property and evidence are to be used for items too large or bulky that they cannot be placed into standard evidence packages. This insures each item has a case number, item number, officer I.D., owner information and chain of evidence. The Sheriff's Office utilizes a yellow colored tag for evidence items and a green colored tag for found property.

NOTE: The back of the green found property tag contains a finder's claim that is to be completed if a claim other than the owner's is made on the found property.

801.3 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 along with the property form. 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 form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

801.3.1 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 case information and itemize the evidence items in Flex. Describe each item of property separately and fully, listing all makes, models, serial numbers, owner's name, finder's name, and other identifying information or markings such as color, quantity or weight.
- (b) Seal each item of evidence with clear packing tape and sign the seal with the booking employee's initials, ID number and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Write the case number, item number, controlled substance weight if applicable, and directions to the ID Lab in the appropriate location on the evidence envelope/bag.
- (d) When the property is too large to be placed in a locker, the item may be retained in the bulk property room.

801.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate item number. Paraphernalia as defined by Health & Safety Code § 11364 shall also be booked separately.

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801.3.3 EXPLOSIVES

Explosives that are known or suspected to be armed or live, other than fixed ammunition, will not be retained by the ID Lab. All fireworks that are considered safe should be deposited in the designated receptacle per the Fireworks Disposal Policy 2012-03. Contact the Department Bomb Squad for large quantities.

Deputies who encounter an explosive device shall immediately notify the immediate supervisor and/or Watch Commander. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

801.3.4 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. Lay the items on clean paper in a large locker or the bulk property room. Leave pre-marked envelopes/bags next to the items so the evidence techs can properly identify and package the items when they are sufficiently dried.
- (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. Leave a note with the license plate(s) indicating return to DMV only.
- (c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Evidence Technician or placed in the bulk property room until an Evidence Technician can log the property.
- (d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking deputy and the supervisor. All cash shall be placed into a cash only evidence envelope available in the ID Lab lobby.

County property, unless connected to a known criminal case, should be released directly to the appropriate County 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.

801.3.5 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):

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- (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.

The Evidence Technician shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Unit Policy).

801.4 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

801.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable department envelope, bag or box available for its size. Knife boxes should be used to package open blade knives, and syringe tubes should be used to package syringes and needles.

801.4.2 PACKAGING NARCOTICS

The deputy 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 narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test utilizing Nark II test pouches should be made on all suspected narcotics. If conducted, the results of this test shall be included in the deputy's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the ID Lab lobby. The booking deputy 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 tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

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801.4.3 NARK II TESTING

Narcotics testing should be utilized for the following controlled substances:

- Marijuana
- Methamphetamine
- Cocaine
- Heroin

The Shasta County Sheriff's Office utilizes the NARK II narcotics testing ampoule pouch. This test can be performed in the field or by utilizing the SAS Ductless Containment Hood system for immediate results. Deputies are responsible to test their own evidence. Any other suspected narcotic, prescription pill or other unknown substance should be sent to DOJ/BFS Lab for analysis via the ID Lab by request.

The SAS Ductless Containment Hood system is an enclosed ventilation system which is designed to limit the number of airborne particles of controlled substance to produce a safer field testing environment. Sheriff's Office employees should use the SAS Ductless Containment Hood while testing suspected controlled substances. By utilizing the SAS Ductless Containment Hood employees will limit exposure and possible injury from airborne particles. In the event there is an accidental exposure leading to overdose, there is a black metal box with an orange "N" on the lid mounted near the SAS Ductless Containment Hood which contains a naloxone kit.

Employees shall use appropriate personnel protective equipment (PPE) when using the SAS Ductless Containment Hood for testing suspected controlled substances. Appropriate PPE includes protective nitrile exam gloves and a NIOSH (The National Institute for Occupational Safety and Health) approved N95 particulate respirator. N95 particulate respirators will be made available and stored near the SAS Ductless Containment Hood. Filter Maintenance of the SAS Ductless Containment Hood shall only be conducted by the Shasta County Sheriff's ID Lab personnel in accordance with the manufacturer's recommendations. **DO NOT** tamper with or attempt to adjust any of the setting/ filters/ filter screws or any part of the unit.

The SAS Ductless Containment Hoods are placed in the following locations:

- **Shasta County Sheriff's Office ID Lab lobby.**
- **Shasta County Sheriff's Office Main Jail, intake/ processing area.**
- **Shasta County Sheriff's Office Burney Station/ evidence processing room.**

801.5 RECORDING OF PROPERTY

The Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received on the chain of custody section on the item packaging. A unique item number shall be designated for each item. This number shall be recorded on each item and in the evidence management module of Flex.

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Any changes in the location of property held by the Shasta County Sheriff's Office shall be noted in Flex.

801.6 PROPERTY CONTROL

Each time the Evidence Technician receives property or releases property to another person, he/she shall enter this information in the evidence management module of Flex, and preferably with a signature capture from the recipient. The recipient will also sign the chain of custody on the evidence package. Deputies desiring property for court shall contact the Evidence Technician at least two days prior to the court day.

801.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving authorization from the case agent and District Attorney if the case is in any stage of prosecution. If the case was declined, dismissed or not submitted for filing, an authorization from the case agent will suffice. Request for analysis or processing of evidence items should be noted on the evidence package under the case and item numbers.

801.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, by documenting the transfer in Flex and signing the chain of custody on the evidence package.

The Evidence Technician releasing the evidence must complete the required information. The DOJ BFS 1 forms which will be transported with the property to the examining laboratory. The DOJ BFS 1 form will remain with the evidence.

801.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence on each item. Temporary release of property to deputies for investigative purposes, or for court, shall be noted in Flex, stating the date, time and to whom the property was released.

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

The return of the property shall be recorded in Flex.

801.6.4 AUTHORITY TO RELEASE PROPERTY

The ID Lab/CSU shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

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801.6.5 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 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 conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

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 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.

An Evidence Technician 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 property release form. After release of property, the updated information will be recorded in the evidence management module of Flex. The property release form will be scanned and attached to the case under "Files" in Flex.

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.

The ID LAB Supervisor 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.

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).

801.6.6 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)).

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801.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The ID Lab 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.

801.6.8 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, the Evidence Technician 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).

801.6.9 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 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.

801.6.10 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).

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If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Shasta County Sheriff's Office 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.

801.7 DISPOSITION OF PROPERTY

All evidence and property items not held for evidence in a pending criminal trial or by court order will be disposed per the Shasta County Evidence Retention Policy (Policy 805). Property should be returned, destroyed or disposed as soon as feasibly possible upon case adjudication. All property dispositions shall be properly documented per the Evidence & Property Unit Policy Manual.

801.7.1 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)

801.7.2 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).

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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.

801.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The ID LAB Supervisor 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
- (d) Any sexual assault victim
- (e) The Investigation Division 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 ID LAB Supervisor, 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 Sheriff 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).

801.8 INSPECTIONS OF THE EVIDENCE ROOM

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- (a) On a monthly basis, the ID Lab supervisor shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Inspections of evidence storage areas shall be conducted annually as directed by the Sheriff.