Property and Evidence

802.1 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.

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

Property Tag - A property tag is a bar code label or other semi permanent label either affixed directly to or wired to the item to be impounded.

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, CDs and assorted media, contraband items 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.

802.3 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 a barcode label. 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 invoice form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the item(s).

802.3.1 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 field describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
(b) Mark each item of evidence with the booking employee’s initials, ARJIS number and the date booked using the appropriate method so as not to deface or damage the value of the property.

(c) Complete the property field in RIMS, print the barcode label, and attach it to each package or envelope in which the property is stored. If the item is bulky or has a smooth surface, place the barcode on a property label “toe tag” and attach to the property.

(d) When the property is too large to be placed in a locker, call the property room custodian for impound.

802.3.2 NARCOTICS AND DANGEROUS DRUGS
All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health & Safety Code § 11364 shall also be booked separately.

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

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

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

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

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the Department of Motor Vehicles. No formal property booking process is required

(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 property and evidence technician, or placed in the bicycle storage area in PS V until a property and 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 officer and the supervisor. The Watch Commander shall be contacted for cash in excess of $1,000 for special handling procedures
San Diego State University property, unless connected to a known criminal case, should be released directly to the appropriate San Diego State University 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.

**802.4 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

**802.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

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

**802.4.2 PACKAGING NARCOTICS**

The officer seizing narcotics and dangerous drugs shall retain such property in their 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 should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in K-Pack of appropriate size available in the processing area. The booking officer shall initial the sealed K-Pack and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property or their packaging material.

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.

**802.5 RECORDING OF PROPERTY**

The property and evidence technician receiving custody of evidence or property shall record his/her signature electronically by scanning or input, the date and time the property was received and where the property will be stored on the property record in RIMS.
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A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag.

Any changes in the location of property held by the San Diego State University Police Department shall be noted in the property record in RIMS.

**802.6 PROPERTY CONTROL**

Each time the property and evidence technician receives property or releases property to another person, he/she shall enter this information on the property record. Officers desiring property for court shall contact the property and evidence technician at least one day prior to the court day.

**802.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the evidence record shall be completed to maintain the chain of possession. No property or evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the property and evidence technician. This request may be filled out any time after booking of the property or evidence.

**802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The transporting employee will check the evidence out of property, indicating the date and time on the property control record in RIMS and the request for laboratory analysis (LSR).

The property and evidence technician releasing the evidence must complete the required information on the property control record and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered, SDSO will affix a barcode and case number to the LSR. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Bureau for filing with the case.

**802.6.3 STATUS OF PROPERTY**

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

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

The return of the property should be recorded on the property control record, indicating date, time, and the person who returned the property.
802.6.4 AUTHORITY TO RELEASE PROPERTY
The Investigation Bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

802.6.5 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.

A property and 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 original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released the property card will remain with the Property and Evidence Bureau. Upon release, the proper entry shall be documented in the Property Log.

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 Property and Evidence Bureau 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).
802.6.6   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)).

802.6.7   CONTROL OF NARCOTICS AND DANGEROUS DRUGS
The Property and Evidence Technician 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.

802.6.8   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 property and 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).

802.6.9   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.
802.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS
Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a
gun violence restraining order shall be returned to the restrained person upon the expiration of
the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code
§ 18120).

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

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

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

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

802.7.1 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; 18010; 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, etc.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
802.7.2 UNCLAIMED MONEY
If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

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

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

802.7.3 RETENTION OF BIOLOGICAL EVIDENCE
The Property and Evidence Bureau 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 Property and Evidence Bureau 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 Chief of Police and the head of the applicable prosecutor’s office.

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of an applicable statute of limitations, the
Investigation Division supervisor should be consulted and the sexual assault victim should be notified.

802.8 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 a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.

(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.