

## Property

### 802.1 PURPOSE AND SCOPE

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

#### 802.1.1 DEFINITIONS

Definitions related to this policy include:

**Property** - All articles placed in secure storage within the Investigative Section, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.

### 802.2 POLICY

It is the policy of the Washington Suburban Sanitary Commission Police Department to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

### 802.3 INVESTIGATIVE SECTION PROPERTY SECURITY

The Investigative Section shall maintain secure storage and control of all property in the custody of this department. A property officer shall be appointed by and will be directly responsible to the Investigative Commander or the authorized designee. The property officer is responsible for the security of the property maintained under the authority of the Investigative Section.

#### 802.3.1 REFUSAL OF PROPERTY

The property officer has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the property officer 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 member's supervisor of the reason for refusal and the action required.

#### 802.3.2 KEY CONTROL

Property Section keys should be maintained by the property officer and members assigned to the Investigative Section. An additional set of keys should be kept in an after-hours keybox. Property

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Section keys shall not be loaned to anyone and shall be maintained in a secure manner. If a Property Section key is lost, all access points shall be re-keyed and new keys issued as necessary. After-hours access to the Property Section via the additional set of keys must be documented in a memorandum and submitted to the Investigative Commander as soon as practicable.

#### **802.3.3 ACCESS**

Only authorized members assigned to the Investigative Section shall have access to property storage areas. Any individual who needs to enter the property storage area (e.g., maintenance or repair contractors) must be approved by the Investigative Commander and accompanied by the property officer. Each individual must sign the Investigative Section access log and indicate:

- (a) The date and time of entry and exit.
- (b) The purpose for access, including the specific case or property number.

Each access log entry shall be initialed by the accompanying department member.

#### **802.4 PROPERTY HANDLING**

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the property officer and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property is taken from an individual, an incident report and property report will be completed. The incident report/property record shall describe the property taken and the owner notified on how to retrieve the property from the Department. An incident tracking number shall be given to the individual from whom the property was taken.

#### **802.4.1 PROCESSING AND PACKAGING**

All property must be processed prior to the responsible member going off-duty, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property form shall be completed, separately describing each item of property. List all known information including:
  - 1. Serial numbers
  - 2. Owner's name
  - 3. Finder's name
  - 4. Other identifying information or markings
- (b) Each item shall be marked with the member's initials and the date processed using a method that will not damage, deface, degrade, or devalue the item. Items too small or too delicate to mark should be individually packaged and labeled and the package marked with the member's initials and date.
- (c) Property shall be packaged in a container suitable for its size.

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- (d) A property tag shall be completed and attached to the property or container in which the property is stored.
- (e) The case number shall be indicated on the property tag and the container.
- (f) The property report shall be submitted with the case report.
- (g) The property report shall be submitted with the property directly to the property officer or placed in a temporary property locker. Items too large to fit in a temporary property locker may be placed in a designated storage area that can be secured from unauthorized entry, and the property report placed in a temporary property locker.

#### 802.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

**Bicycles** - Bicycles and bicycle frames shall have a property tag securely attached and should be placed in the bicycle designated storage area.

**Biological and related items** - Evidence that may contain biological samples shall be indicated as such on the property form.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated on the property form.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

**Cash** - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall witness the count, initial and date the envelope, and specify any additional security procedures that may be necessary.

**Explosives and fireworks** - Explosives will not be retained in the police facility. Explosives, including Fireworks should be collected by Fire Department personnel or personnel of the Fire Marshall's Office. Road flares or similar signaling devices, may be stored in proper containers and in an area designated for storage of flammable materials.

The property officer is responsible for transporting to the fire department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

**Firearms and other weapons** - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives.

**Government property** - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the Motor Vehicle Administration. No formal property processing is required.

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Commission property that is of no evidentiary value should be released directly to the appropriate Commission department. No formal property processing is required.

If no responsible Commission personnel can be located, the property should be held for safekeeping.

**Sharps** - Syringe tubes should be used to package syringes and needles.

#### 802.4.3 CONTROLLED DANGEROUS SUBSTANCES

- (a) Controlled dangerous substances (CDS) shall not be packaged with other property, but shall be processed separately using a separate property form.
- (b) The member processing CDS shall retain such property in his/her possession until it is weighed, packaged, tagged, and placed in the designated CDS locker, accompanied by the property report and lab copy of the property form.
- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected CDS. If conducted, the result of the test shall be included in the crime report.
  - 1. The member shall package CDS as follows:
    - (a) Maintain the property in the container in which it was seized and place it in a property envelope of appropriate size.
    - (b) Seal and initial the property envelope and cover the initials with cellophane tape.
    - (c) Weigh the property envelope to obtain the Gross Package Weight (GPW).
    - (d) Write the GPW and then initial and date the outside of the package and the property form.
- (d) When the quantity of CDS exceeds the available safe storage capacity as determined by the property officer, the quantity shall be photographed and weighed.
  - 1. A representative sample of sufficient quantity to allow scientific analysis of the CDS should be taken as allowed by state law and placed in a separate package or container.
  - 2. Excess quantities should be stored or disposed of as required by law or directed by court order.
- (e) Marijuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The property officer shall monitor stored marijuana for growth of mold.

#### 802.4.4 FIREARMS CRIMES

Whenever a firearm is recovered in connection with illegal firearm possession, transportation, or transfer, or that was used in the commission of a crime of violence as defined in Md. Code PS § 5-101, the responsible member should record on the appropriate form (Md. Code PS § 5-703):

- (a) The number and type of firearms recovered.
- (b) The jurisdiction where the firearm was recovered.

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- (c) The source of the firearm recovered if it can be determined.
- (d) Information concerning any person found in possession of the firearm.
- (e) Any additional information required by the Maryland State Police Gun Center.

#### **802.5 RECORDING OF PROPERTY**

The property officer receiving custody of property shall ensure a property report for each item or group of items is created. The property report will be the permanent record of the property in the Investigative Section. The property officer will record on the property report his/her signature, GPW if the package contains CDS, the date and time the property was received and where the property will be stored.

An incident number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form, property tag and the property report. The property log shall document the following:

- (a) Incident number
- (b) Property tag number
- (c) Item description
- (d) Item storage location
- (e) Receipt, release and disposal dates

Any change in the location of property held by the Washington Suburban Sanitary Commission Police Department shall be noted in the property log.

#### **802.6 PROPERTY CONTROL**

The property officer relinquishing custody of property to another person shall record his/her signature, the date and time the property was released and the name of the person accepting custody of the property on the property report.

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

The return of the property to the Investigative Section should be recorded on the property report, indicating the date, time and the name of the person who returned the property, and to whom the property is returned.

##### **802.6.1 EVIDENCE**

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

Temporary release of evidence to members for investigative purposes, or for court proceedings, shall be noted on the property report, stating the date, time and to whom released. Requests for

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items of evidence needed for court proceedings shall be submitted to the property officer at least one day prior to the court date.

Requests for laboratory analysis for items other than CDS shall be completed on the appropriate lab form and submitted to the property officer. This request may be submitted any time after the property has been processed.

#### **802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The property officer releasing items of evidence for laboratory analysis must complete the required information on the property report. The transporting member will acknowledge receipt of the evidence by indicating the date and time on the property report. The lab form will be transported with the evidence to the examining laboratory. Upon delivering the item involved, the member will record the delivery time on the lab form and the property report and obtain the signature of the person accepting responsibility of the evidence. The original copy of the lab form will remain with the evidence and a copy of the form will be returned to the Investigative Section for filing with the case.

#### **802.6.3 CONTROLLED DANGEROUS SUBSTANCES**

The Investigative Bureau will be responsible for the storage, control and destruction of all CDS coming into the custody of the Department. The GPW will be verified every time CDS are checked in or out of the Investigative Section and any discrepancies will be noted on the outside of the package. Any change in weight should be immediately reported to the Investigative Commander.

#### **802.6.4 UNCLAIMED MONEY**

The Investigative Section Supervisor or the authorized designee shall submit an annual report regarding money that is presumed to have been abandoned to the Chief of Police and the Commission department responsible for auditing property, or more frequently as directed. The Investigative Section Supervisor may transfer such money in compliance with existing laws upon receipt of proper authorization from the Chief of Police.

#### **802.7 RELEASE OF PROPERTY**

The Investigative Bureau Supervisor shall authorize the release of all property coming into the care and custody of the Department. All reasonable attempts shall be made to identify the rightful owner of found property or items of 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 property release form shall be signed by the authorizing supervisor or investigator and must conform to the items listed on the property report or must specify the specific items to be released. Release of all property shall be documented on the property report.

Found property and property held for safekeeping shall be held for the period of time required by law. During such period, the property Officer shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented in related reports.

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A property officer shall release the property when the owner presents proper identification and an authorized property release form has been received. A signature of the person receiving the property shall be recorded on the property report. If some items of property have not been released, the property report will remain with the Investigative Section. After release of all property entered on the property report, the report shall be forwarded to the Investigative Section for filing with the case. Upon release, the proper entry shall be documented in the property log.

Firearms or ammunition should only be released upon presentation of valid identification and determination that the individual may legally possess the item.

#### **802.7.1 DISCREPANCIES**

The Patrol Commander shall be notified whenever a person alleges there is a shortage or discrepancy regarding the person's property. The Patrol Commander will interview the person claiming the shortage. The Patrol Commander shall ensure that a search for the alleged missing items is complete and shall attempt to prove or disprove the claim.

#### **802.7.2 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 should be contacted.

#### **802.8 DESTRUCTION OR DISPOSAL OF PROPERTY**

The Investigative Bureau Supervisor shall authorize the destruction or disposal of all property held by the Department. All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper authorization from a supervisor. The disposition of all property shall be entered on the property report and property log.

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:

- Weapons or devices that are forfeited or declared by law to be illegal to possess (Md. Code CP § 13-206).
- CDS declared by law to be illegal to possess without a legal prescription (Md. Code CP § 12-403).
- Money seized in connection with arrest for unlawful bookmaking, betting, or gaming (Md. Code CP § 13-106).
- A forfeited motor vehicle, other vehicle, vessel, or aircraft that was used to conceal, convey, or transport explosives in violation of law (Md. Code CP § 13-301(d)).
- Firearms or ammunition surrendered pursuant to an extreme risk protective order, upon a respondent's request for destruction, or if such property is not reclaimed within six months of the notice provided to the respondent (Md. Code PS § 5-608).

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##### 802.8.1 BIOLOGICAL EVIDENCE

The property officer shall ensure that no biological evidence held by this 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 Investigative Commander

Biological evidence shall be retained for a minimum period established by law (Md. Code CP § 8-201) or the expiration of any sentence imposed 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 this department within 90 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 Investigative Commander. If the property officer determines that biological evidence should be destroyed before the end of the statutorily required retention period, he/she should give 120-days' notice to the appropriate parties pursuant to Maryland law, if applicable (Md. Code CP § 8-201).

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 the applicable statute of limitations, the Investigative Commander should be consulted and the sexual assault victim should be notified.

Sexual assault evidence collection kits and other crime scene evidence relating to sexual assaults that has been identified by the prosecutor as relevant to the prosecution should not be disposed of prior to 20 years from the date of collection, unless allowed by law (Md. Code CP § 11-926; COMAR 02.08.01.04).

##### 802.8.2 REQUEST FOR NOTICE

Upon written request by a victim of sexual assault, the Washington Suburban Sanitary Commission Police Department should notify the victim 60 days before the date of intended disposal of biological or other evidence relating to the victim's case or retain the evidence for 12 months longer than the time period required by law unless a different time period has been agreed upon by the victim (Md. Code CP § 11-926; COMAR 02.08.01.04).

##### 802.8.3 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth and the property officer shall make efforts to lawfully destroy the contaminated marijuana in



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compliance with this policy and as soon as practicable. The property officer should consult with the member assigned to the case investigation for his/her authorization to destroy the remaining marijuana after taking representative samples and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

#### **802.8.4 MEDICAL CANNABIS**

The investigating member should advise the property officer and the prosecutor if the party from whom the marijuana was seized claims that the possession of the marijuana is for medical purposes.

The property officer shall store marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis consistent with the provisions of the Medical Cannabis Policy.

Marijuana that is infected with mold shall not be returned. This includes marijuana seized from a person who holds a valid medical permit to possess marijuana or who claims that possession of the marijuana is for medical purposes.

#### **802.9 INSPECTIONS OF THE INVESTIGATIVE SECTION**

The Chief of Police or designee shall ensure that periodic, unannounced inspections of the Investigative Section operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Chief of Police or designee also shall ensure that an audit is conducted annually, or as directed by the Chief of Police. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the Investigative Section operations.

Whenever there is a change of assignment for any member with authorized access to the Investigative Section, an inventory of all property shall be conducted by a person who is not associated with the Investigative Section or function. This is to ensure that all property is accounted for and records are correct.