

## Property and Evidence

### 803.1 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.

### 803.2 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 Office for safekeeping, such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law

**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.

### 803.3 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 item.

#### 803.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty. 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) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (c) Place the case number in the upper right-hand corner of the bag.

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- (d) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.
- (e) When the property is too large to be placed in a locker, the item may be retained in the property room next to the lockers. Submit the completed property record into a numbered locker indicating the location of the property.

### 803.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record.

Narcotics and dangerous drugs shall be weighed using a calibrated scale whenever a member enters or leaves the secured facility with the item unless the narcotics or dangerous drugs are being prepared for destruction.

The deputy seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Section and Detective Unit. The remaining copy will be detached and submitted with the case report.

### 803.3.3 EXPLOSIVES

Deputies who encounter a suspected explosive device shall promptly notify their immediate supervisor or the shift supervisor. 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 sheriff's 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.

### 803.3.4 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 property and evidence technician, or placed in the designated container for return 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 until a property and evidence technician can log the property.

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- (d) All cash shall be counted in the presence of a witness and the envelope initialed by the booking deputy and a witness. The shift supervisor shall be contacted for cash in excess of \$1,000 for special handling procedures.

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.

### 803.3.5 PROPERTY SUBJECT TO FORFEITURE

Whenever property seized by the Office is subject to forfeiture, specific notification procedures must be followed. It shall be the responsibility of the assigned deputy, detective, or the property and evidence technician to ensure that the following notifications are completed.

The owner of the property will be notified of the seizure and intended forfeiture of the seized property within 15 days following the seizure. Notification includes any person having any known right or legal interest in the seized property, including any community property interest. The notice of the seizure may be made by any method authorized by law (RCW 10.105.010).

The notification will include the legal reason for the seizure and information regarding how to appeal the pending forfeiture.

Notification procedures for property seized under Asset Forfeiture (RCW 69.50.505) are detailed in the Asset Forfeiture Policy.

### 803.3.6 STORAGE OF SURRENDERED FIREARMS

Deputies shall accept and store a firearm from any individual who has surrendered firearms under RCW 9.41.800 (Surrender of weapons), the Extreme Risk Protection Order Act, or after being detained under RCW 71.05.150 or RCW 71.05.153. The deputy receiving the firearm shall:

- (a) Record the individual's name, address, and telephone number.
- (b) Record the firearm's serial number.
- (c) Record the date that the firearm was accepted for storage.
- (d) Prepare a property receipt form and provide a copy to the individual who surrendered the firearm.
  - (a) If the firearm was surrendered pursuant to the Extreme Risk Protection Order Act, the original receipt should be forwarded promptly to the Records Manager for timely filing with the court (RCW 7.105.340).

The property and evidence technician shall handle and store firearms surrendered pursuant to a civil protection order to prevent damage or degradation in appearance or function and document the condition of the surrendered firearms including by taking a digital photograph (RCW 7.105.340).

### 803.3.7 FOUND PROPERTY

Found property surrendered to the Office shall be handled as required by RCW 63.21.050.

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### **803.4 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) Fireworks.
- (e) Contraband.

#### **803.4.1 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.

#### **803.4.2 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 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 report room. 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.

All drugs/narcotics shall be weighed/counted for quantity and recorded in the property form. The evidence/destruction package shall then be sealed as required and weighed for Total Package Weight (TPW) and this weight recorded in the property form before printing off the evidence tag and attaching the evidence tag to the sealed package. All weights must be done using a certified calibrated scale

### **803.5 RECORDING OF PROPERTY**

The property and evidence technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

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Any changes in the location of property held by the San Juan County Sheriff's Office shall be noted in the property logbook.

### **803.6 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 control card. Deputies desiring property for court shall contact the property and evidence technician at least one day prior to the court day.

#### **803.6.1 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 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.

#### **803.6.2 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 card and the request for laboratory analysis.

The property and evidence technician releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the deputy 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. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Section for filing with the case.

#### **803.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to deputies for investigative purposes, or for court, shall be noted on the property control card, 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 card, indicating date, time, and the person who returned the property.

#### **803.6.4 AUTHORITY TO RELEASE PROPERTY**

The Detective Unit shall authorize the disposition or release of all evidence and property coming into the care and custody of the Office.

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### 803.6.5 RELEASE OF PROPERTY

The San Juan County Sheriff's Office shall make every effort to return personal property that is in the possession of this office when such property is not considered evidence of a crime or is no longer needed as evidence. In such cases, the property and evidence technician shall make a reasonable attempt to identify the lawful owner and provide written notice via US Mail within 15 days after the property is authorized to be released.

If the property remains unclaimed beyond sixty days after the initial written notice to the property owner, or, in the case of property held as evidence, sixty days from the date when the case has been finally adjudicated and the property has been released as evidence by order of the court, the Office may (RCW 63.32.010; RCW 63.40.010):

- (a) At any time thereafter sell the property at public auction to the highest and best bidder for cash. The disposition of all proceeds from such auctions shall be accounted for and recorded according to law (RCW 63.32.030).
- (b) Retain the property for the use of the Office subject to giving notice in the manner prescribed in RCW 63.32.020 (or RCW 63.40.020) and the right of the owner, or the owner's legal representative, to reclaim the property within one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the Sheriff, the property consists of firearms or other items specifically usable in law enforcement work, provided that at the end of each calendar year during which there has been such a retention, the Office shall provide the County's elected body and retain for public inspection a list of such retained items and an estimation of each item's replacement value. At the end of the one-year period any unclaimed firearm shall be disposed of pursuant to RCW 9.41.098(2).
- (c) Destroy an item of personal property at the discretion of the Sheriff if he/she determines that the following circumstances have occurred:
  1. The property has no substantial commercial value, or the probable cost of sale exceeds the value of the property; and
  2. The item has been unclaimed by any person after notice procedures have been met, as prescribed in this section; and
  3. The Sheriff has determined that the item is unsafe and unable to be made safe for use by any member of the general public.

If the item is not unsafe or illegal to possess or sell, it may, after satisfying the notice requirements as prescribed in RCW 63.32.020, be offered by the Sheriff to bona fide dealers, in trade for law enforcement equipment. Such equipment shall be treated as retained property for purpose of annual listing requirements of the RCW. Such items may be destroyed at the discretion of the Sheriff if he/she believes that it has been, or may be used in a manner that is illegal (RCW 63.32.010).

The 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

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Section for filing with the case. If some items of property have not been released the property card will remain with the Evidence Room. Upon release, the proper entry shall be documented in the Property Log.

### **803.6.6 DISPUTED CLAIMS TO PROPERTY**

Occasionally more than one party may claim an interest in property being held by the Office, 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 Office may wish to file an interpleader to resolve the disputed claim.

### **803.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS**

The Detective Unit will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this office.

The property and evidence technician shall complete a visual inspection to detect possible tampering for any narcotic or dangerous drug prior to destruction. The inspection shall be witnessed by another member who does not have access to the evidence room.

### **803.6.8 PROPERTY DEPICTING A MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT**

No property or material that depicts a minor engaged in sexually explicit conduct shall be copied, photographed, or duplicated. Such material shall remain under the control of this office or the court and shall be made reasonably available for inspection by the parties to a criminal proceeding involving the material. The defendant may only view these materials while in the presence of his/her attorney or an individual appointed by the court either at this office or a neutral facility as approved by the court (RCW 9.68A.170). Any request for inspecting such material should be brought to the attention of the assigned investigator or an investigation supervisor.

## **803.7 DISPOSITION OF PROPERTY**

All personal property, other than vehicles governed by Chapter 46.52 RCW, not held for evidence in a pending criminal investigation or proceeding, and held for 60 days 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 should request a disposition or status on all property which has been held in excess of 60 days, and for which no disposition has been received from a supervisor or detective (RCW 63.32.010; RCW 63.40.010).

### **803.7.1 BIOLOGICAL EVIDENCE**

The property and evidence technician shall ensure that no biological evidence held by the Office is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney

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- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Criminal Investigations Patrol Sergeant/Supervisor

Biological evidence shall be retained for a minimum period established by Washington law (RCW 5.70.010) 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 the Office 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 Criminal Investigations Patrol Sergeant/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 from an unsolved crime shall not be disposed of prior to expiration of the statute of limitations (RCW 5.70.010). Even after expiration of the applicable statute of limitations, the Criminal Investigations Patrol Sergeant/Supervisor should be consulted.

### 803.7.2 RETURN OF FIREARMS

Prior to the return of a privately owned firearm, the property and evidence technician shall ensure confirmation of the following (RCW 9.41.345):

- (a) The individual to whom the firearm is to be returned is the individual from whom the firearm was obtained, an authorized representative of the individual, or other person identified by a court order.
- (b) The individual is eligible to possess a firearm pursuant to RCW 9.41.080.
- (c) The firearm is not required to be held in custody or prohibited from release.
- (d) Twenty-four hours has elapsed from the time the firearm was obtained by law enforcement or five business days if the firearm was seized in connection with a domestic violence call under RCW 10.99.030.
- (e) Notification is made to those family or household members, or an intimate partner, who have requested notification pursuant to established office protocol (RCW 9.41.340).
  1. Firearms shall be held in custody for 72 hours from the time notification is provided.

If a firearm or dangerous weapon was surrendered or lawfully seized pursuant to a protection order issued under RCW 9.41.800 and is to be returned to a person other than the individual from whom the firearm or dangerous weapon was obtained, the property and evidence technician shall determine that the person is the lawful owner and obtain a written agreement, signed by the lawful owner under the penalty of perjury, that the firearm or dangerous weapon will be stored in

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a manner to prevent the individual from whom the firearm or dangerous weapon was obtained, from accessing, controlling, or possessing the firearm or dangerous weapon (RCW 9.41.801).

Upon confirmation that the individual is eligible to possess a firearm and any applicable notifications are complete, the firearm shall be released to the individual or authorized representative upon request without unnecessary delay.

If a firearm cannot be returned because it is required to be held in custody or is otherwise prohibited from release, written notice shall be provided to the individual within five business days of the date the individual requested return of the firearm. The written notice shall include the reason the firearm must remain in custody.

### **803.7.3 RELEASE OF FIREARMS IN EXTREME RISK PROTECTION ORDER MATTERS**

If an extreme risk protection order is terminated or expires without renewal, a firearm taken or surrendered pursuant to the order shall be returned to the person after (RCW 7.105.345):

- (a) Confirming through a background check that the person is currently eligible to possess the firearm under federal and state law.
- (b) Confirming with the court that the extreme risk protection order is no longer in effect.
- (c) Notice has been provided to a family or household member who requested notification.

If an individual other than the restrained person claims title to any firearms surrendered or taken into custody, and that individual is determined to be the lawful owner and a lawful possessor of the firearm, the firearm shall be returned to that individual provided that the individual agrees to store the firearm in a manner that prevents the restrained person from access (RCW 7.105.340).

### **803.7.4 SEXUAL ASSAULT KITS**

Unreported sexual assault kits shall be stored and preserved for 20 years from the date of collection (RCW 5.70.030).

### **803.7.5 RELEASE OF FIREARMS AFTER EMERGENCY DETENTION**

Firearms surrendered pursuant to RCW 71.05.182 (surrender of firearms after emergency detention) shall be returned in compliance with the provisions of RCW 9.41.345 as long as the six-month suspension period has expired or the person's right to possess firearms has been restored, whichever is sooner (RCW 71.05.182).

### **803.8 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a quarterly 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 Sheriff.
- (c) An annual audit of evidence held by the office shall be conducted by a Patrol Sergeant/Supervisor (as appointed by the Sheriff) not routinely or directly connected with

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evidence control. The annual report to the Sheriff shall contain the number of items cleared during the prior year.

- (d) Whenever a change is made in the property room manager, 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.

### 803.8.1 EVIDENCE ROOM SECURITY

Access to the San Juan County Sheriff's Office Evidence Room is restricted to authorized office personnel only. It shall be the responsibility of the property and evidence technician to control all access to the Evidence Room.

The property and evidence technician shall maintain a log of all persons entering the secured area of the Evidence Room. Personnel, other than those assigned to the Evidence Room, who have legitimate business in the secured area will be required to record their name, the date, time, and purpose for entry.