

Property and Evidence

802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and those persons authorized to remove and/or destroy property (CRS § 13-14.5-108).

802.1.1 PROPERTY AND EVIDENCE SECTION MANAGEMENT RESPONSIBILITIES

The Administrative Services Manager is responsible for the management of the Property and Evidence Section. The Administrative Services Manager should designate a specific property and evidence technician to assist with documenting, classifying, storing, tracking and disposing of property received by or managed by the Property and Evidence Section.

802.1.2 PROPERTY AND EVIDENCE SECTION SECURITY

The Property and Evidence Section shall maintain secure storage and control of all property necessitating custody by the Department. The property and evidence technician reports to the Administrative Services Manager and is responsible for the security of the Property and Evidence Section. Property and Evidence Section door codes and key cards are maintained only by the property and evidence technician, the Administrative Services Manager, and the Deputy Chief. The property and evidence technician, Administrative Services Manager, and the Deputy Chief shall not disseminate their key cards or door codes to the Property and Evidence Section to anyone and shall maintain them in a secure manner.

Any individual entering the Property and Evidence Section other than the property and evidence technician must be accompanied by the property and evidence technician, the Deputy Chief, or the Administrative Services Manager and must sign in and out on the logbook, giving the date and time of entry and exit, and the purpose, including a specific case or property number. The entry shall be initialed by the accompanying individual.

802.2 DEFINITIONS

Definitions related to this policy include:

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case.

Found property - Includes property found by an employee or citizen where the owner cannot be readily identified or contacted and has no apparent evidentiary value.

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

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- Property taken for safekeeping under authority of a law

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 the property label. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property that has no apparent evidentiary value, excluding contraband, such property may be released to the owner without the need for booking, as long as the property is returned prior to the end of the officer's shift. The property documentation must be completed to document the release of property not booked, including the property release form and a copy of the owner's identification. The owner shall sign the appropriate form acknowledging receipt of the item.

802.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty. Employees booking property shall observe the following guidelines:

- a. Enter the property in the BEAST software, describing each item separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- b. The officer shall mark each item of evidence with initials, date, and the officer's badge number.
- c. Print off the evidence/property label and attach it to each package or envelope in which the property is stored.
- d. The officer shall print off a custody form listing all the items booked into evidence to be placed in the officer's shift basket.
- e. When the property is too large to be placed in a temporary property locker, the item may be temporarily stored in the oversized lockers, the sally port, the outdoor flammable cabinets, or the lab. The location shall be secured to prevent entry and a completed property label placed into a numbered property locker indicating the location of the property.

802.3.2 ADDITIONAL DOCUMENTATION

Members must document the circumstances detailing how the property came into their possession. Documentation should be in accordance with the Report Preparation Policy and should include photographs of the property, if appropriate.

802.3.3 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately. Drug and narcotics paraphernalia shall also be booked separately from the narcotics or other drugs.

802.3.4 EXPLOSIVES

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Officers who encounter a suspected explosive device shall promptly notify an 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 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. An officer, supervisor or other designee is responsible for transporting to an appropriate agency that is equipped to safely dispose of such materials, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.5 EXCEPTIONAL HANDLING

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

- a. Any evidence collected which may contain DNA, should be properly labeled as such.
- b. Property stained with bodily fluids such as blood or semen stains shall be placed in the drying cabinet prior to booking, and a bio-hazard sticker will be placed on the packaging.
- c. License plates found not to be stolen or connected with a known crime should be released directly to the property and evidence technician.
- d. 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. All bicycles and bicycle frames shall be cleared by the officer through a CCIC/NCIC computer check.
- e. All items of significant value (e.g., cash, jewelry) shall be counted or inventoried in the presence of another officer, photographed and the envelope initialed by both officers. A supervisor shall be contacted for all cash booked into property and evidence. The supervisor shall also witness the count and will initial and date the property documentation and specify any additional security procedures to be used.
- f. All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property label.
- g. Items that are potential biohazards shall be appropriately packaged and marked to reduce the risk of exposure or contamination.
- h. All containers submitted into property and evidence, such as backpacks, suitcases, purses, etc., must first be inventoried. Any items of value must be documented and packaged separately.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

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802.3.6 MARIJUANA

Anytime an officer seizes marijuana, either medical or recreational, it will not be returned to the owner and instead will be destroyed.

The LPD will continue to store marijuana and marijuana products in cases where it is seized as evidence. Upon receiving a Notice of Final Action from the District Attorney's office, the items will be destroyed.

Any marijuana, edibles, hash oil, etc. seized as safekeeping should be marked for destruction.

Anytime an officer seizes any marijuana or marijuana products, they should tell the party the items are being seized from that they will be marked for destruction.

802.3.7 EXCEPTIONAL HANDLING OF TRIAL EVIDENCE

The property and evidence technician shall allow defense attorneys and their authorized associates to view and inspect evidence held in connection with certain criminal cases as soon as practicable after a request, but no later than 35 days before trial (CRS § 16-9-801).

The property and evidence technician shall be present at any evidence viewing or handling by representatives of the prosecution or defense to document the chain of custody and maintain the integrity of the evidence. If the documentation includes recording the session, the property and evidence technician or the authorized designee shall notify the prosecuting authority of the recording's existence (CRS § 16-9-801). No member may activate a body-worn camera or Mobile Audio/Video (MAV) system to capture, view, or record the session (CRS § 24-31-902).

802.4 PACKAGING OF PROPERTY

Packaging will conform to certain procedures. Certain items require special consideration and shall be booked separately as follows:

- a. Controlled substances
- b. Firearms (ensure they are unloaded, rendered and marked as safe, and booked separately from ammunition)
- c. Property with more than one known owner
- d. Drug paraphernalia
- e. Syringes
- f. Fireworks
- g. Biohazards

802.4.1 PACKAGING CONTAINER

Employees shall package all property, except controlled substances, in a suitable container that is appropriate for its size. Knife boxes should be used to package knives or any other sharp items. Handgun boxes should be used for handguns. Syringe tubes should be used to package syringes and needles.

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A property label shall be securely attached to the outside of all items.

802.4.2 PACKAGING CONTROLLED SUBSTANCES

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, tested, packaged, tagged and placed in a locker, accompanied by the property label. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. When conducted, the result of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in a plastic bag of appropriate size. Controlled substances shall not be packaged with other property.

The booking officer shall weigh the suspected narcotics or dangerous drugs in the container in which it was seized. A full description of the item, along with packaging and total weight of the item, in grams, as seized, will be placed in the case report and on the property label. The controlled substances must be initialed by a supervisor to confirm the weight on the property label.

A completed property label shall be attached to the outside of the container.

802.4.3 RIGHT OF REFUSAL

The property and evidence technician has the right to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the property and evidence technician 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 officer's supervisor.

802.5 RECORDING OF PROPERTY

The booking officer enters the property into the BEAST Property Management software and this serves as the permanent record of the property in the property and evidence section. The property and evidence technician will document receipt of the property within the BEAST, as well as record the evidence location and other notes.

The BEAST will keep track of the chain of custody for each item, including but not limited to the property number, the date received, the case number, item description, location, and date disposed.

802.6 PROPERTY CONTROL

Each time the property and evidence technician receives property or releases property to another person, he/she shall document this within the BEAST software. Officers desiring property for court shall contact the property and evidence technician at least one day prior to the court day.

802.6.1 RESPONSIBILITIES OF OTHER PERSONNEL

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No property or evidence is to be released without first receiving written authorization from a supervisor or investigator.

Request for analysis of items shall be completed on the appropriate forms and submitted to the property and evidence technician. This request may be filled out anytime 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, and the the date and time will be documented on the custody form.

The property and evidence technician releasing the evidence, or the detective transporting the evidence to the lab will receive a receipt from the lab upon drop-off. That receipt is returned to the property and evidence technician and attached to the case file as documentation of the chain of custody.

802.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of custody. Temporary release of property to officers for investigative purposes, or for court, shall be noted with in the BEAST software, stating the date, time and to whom it was released.

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

The return of the property should be recorded in the BEAST software, indicating date, time and the person who returned it.

802.6.4 AUTHORITY TO RELEASE PROPERTY

The property and evidence technician shall not release any property without a signed authorization from an appropriate authorized member of the Department. The lead officer, detective or supervisor shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, a property and evidence technician shall, upon the request of the owner:

- a. Provide a list describing the property, unless such release would seriously impede an investigation.
- b. Return the property expeditiously, unless the property is contraband or required as evidence.

Upon the direction of a prosecuting attorney, property held as evidence of a crime may be photographed and released to the owner.

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802.6.5 RELEASE OF PROPERTY

A reasonable attempt shall be made to identify the rightful owner of found or stolen property or evidence not needed for an investigation.

Property belonging to a crime victim shall be promptly released to the victim unless needed for evidence (CRS § 24-4.1-302.5(1)(k)). Following a request from the victim, property no longer needed for evidence shall be returned to the victim within five working days unless the property is contraband or subject to forfeiture proceedings (CRS § 24-4.1-303(7)).

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 investigator and must conform to the items listed on the property label or must specify the specific item to be released. Release of all property shall be properly documented.

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 30 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 30 days after notification (or receipt, if notification is not feasible) may be auctioned at a public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed. Items of value will be advertised in the local print media before it is destroyed or auctioned. The final disposition of all such property shall be fully documented in related reports.

A property and evidence technician shall release the property to the owner or finder, upon valid identification and proper documentation presented by the owner or finder, for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property documentation. After release of all property entered on the property form, the form shall be forwarded to the Records Section for filing with the case. If some items of property have not been released, the property form will remain with the Property and Evidence Section.

Upon release or other form of disposal, the proper entry shall be recorded in all property documentation and logs.

802.6.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this department shall be restored to the legal owner. Such property may be released from law enforcement custody when the following is satisfied (CRS § 13-25-130(3)):

- a. Photographs of the property are filed and retained by the Property and Evidence Section.
- b. Satisfactory proof of ownership is shown by the owner.
- c. A declaration of legal ownership is signed under penalty of perjury.

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- d. If a defendant has been filed upon, he/she has been notified that such photographs, video tapes or films have been taken, recorded or produced.
- e. A receipt for the property is obtained from the owner upon delivery.

802.6.7 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 court order or other proof of the undisputed right to the involved property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.

802.7 DISPOSITION OF PROPERTY

The property and evidence technician shall request a disposition or status on all property for which no disposition has been received from a supervisor or detective.

Upon any release or sale of any property, the proper notation shall be made on the property form and in the property log. Proceeds from the sale of unclaimed property shall be deposited into the City's general fund, minus reimbursement for department expenses.

Abandoned motor vehicles impounded by the Department may be sold at a public or private sale following notice pursuant to CRS § 42-4-1805.

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 or by a court of competent jurisdiction:

- Weapons declared by law to be nuisances
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court
- Counterfeiting equipment
- Gaming devices
- Obscene matter ordered to be destroyed by the court
- Altered vehicles or component parts
- Narcotics
- Unclaimed, stolen or embezzled property
- Destructive devices

802.7.2 UNCLAIMED MONEY

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If found money is no longer required as evidence and remains unclaimed after one year, the money is presumed abandoned property (CRS § 38-13-108.2).

802.8 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Section 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
- d. Any sexual assault victim
- e. The Detectives Division supervisor

Biological evidence shall be retained for a minimum period established by law 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 Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file and a copy forwarded to the Detectives Division Commander.

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 Detectives Division Commander should be consulted and the sexual assault victim should be notified at least 60 days prior to the disposition of the evidence. The evidence shall be retained for an additional ten years upon objection by the victim to destruction (CRS § 24-4.1-303; CRS § 18-3-407.5).

802.8.1 SUFFICIENT SAMPLE PRESERVATION

DNA evidence that is subject to preservation pursuant to CRS § 18-1-1103 shall be preserved in an amount and manner sufficient to develop a DNA profile, based on the best scientific practices at the time of collection, from the biological material contained in or included on the evidence (CRS § 18-1-1104(2)).

If DNA evidence is of such a size, bulk or physical character as to render retention impracticable, the property and evidence technician shall remove and preserve portions of the evidence likely to contain DNA related to the offense in a quantity sufficient, based on the best scientific practices at the time of collection, to permit future DNA testing.

The preserved DNA evidence shall, whenever possible, include a sample sufficient to allow for independent testing by the defendant. After preserving the necessary amount of the DNA evidence, the remainder of the evidence may be properly destroyed as allowed by law.

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802.8.2 RECORDS RETENTION AND PRESERVATION

The Department shall maintain a DNA record for the statutory period of a DNA specimen collection from an eligible individual from the date of collection.

- a. DNA evidence collected in reference to a criminal investigation of a felony that does not result in or has not resulted in charges being filed shall be preserved for the length of the statute of limitations for the felony crime that was investigated (CRS § 18-1-1103(1)).
- b. Except as provided by law (CRS § 18-1-1105; CRS § 18-1-1106; CRS § 18-1-1107), the Department shall preserve the DNA evidence for the life of a defendant who is convicted, if the sample was collected in a criminal investigation that resulted in a conviction listed in CRS § 18-1-1102(1) and CRS § 18-1-1103(2).
- c. A court may order the Department to preserve existing biological evidence for DNA testing at the request of a defendant (CRS § 18-1-414(2)).

802.8.3 EXPUNGEMENT OF DNA EVIDENCE

A person may qualify for expungement and destruction of DNA evidence. This department will destroy DNA evidence after written notice is received from the Colorado Bureau of Investigation (CRS § 16-23-105).

802.8.4 DISPOSITION OF DNA EVIDENCE

In cases described in state law (CRS § 18-1-1102(1)(c); CRS § 18-1-1102(1)(d)), the Department may seek to dispose of DNA evidence by providing notice to the District Attorney who prosecuted the charges (CRS § 18-1-1105(2)).

If the District Attorney determines that the DNA evidence should not be disposed of, the District Attorney will provide notice. Upon receipt of the notice, the Department shall preserve the DNA evidence until such time that a court order is obtained to dispose of the DNA evidence (CRS § 18-1-1105(4)).

If the Department does not receive notice from the District Attorney within a reasonable amount of time, the Department may file a motion with the court that entered the conviction in the case, asking for a court order to dispose of the DNA evidence.

The Department may not request permission to dispose of DNA evidence in cases described in state law (CRS § 18-1-1102(1)(a); CRS § 18-1-1102(1)(b); CRS § 18-1-1105(1)).

802.8.5 DISPOSITION OF VICTIM DNA EVIDENCE

If DNA evidence is being held that is the property of the victim, the victim may request the District Attorney to review whether the DNA evidence may be returned. If the District Attorney determines the DNA evidence may be returned, the District Attorney may file a petition with the court for the return of the DNA evidence. Upon proper receipt, the Department will release DNA evidence belonging to the victim (CRS § 18-1-1107).

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802.9 REPORT OF ABANDONED PROPERTY (MONEY)

The Detective Section supervisor shall complete and file a report of presumed abandoned property to the State Treasurer each year. The report shall cover the period from July 1 to June 30 and shall be submitted no later than the immediately following November 1 date (CRS § 38-13-110).

802.10 INSPECTIONS OF THE PROPERTY AND EVIDENCE SECTION

On a monthly basis, the Administrative Services Manager shall inspect the property and evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

- a. Unannounced inspections of property and evidence storage areas shall be conducted annually, as directed by the Chief of Police.
- b. An annual audit of property and evidence held by the Department shall be conducted by a Division Commander who is not routinely or directly connected with property and evidence control, as assigned by the Chief of Police.
- c. Whenever a change is made in personnel who have access to the Property and Evidence Section, an inventory of all evidence/property shall be made by an individual not associated with the Property and Evidence Section or function to ensure that records are correct and all evidence and property is accounted for.

The date and results of all inspections and audits shall be documented and forwarded to the Chief of Police.

802.11 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon (18 USC § 922 (d); CRS § 13-14-105.5; CRS § 18-1-1001; CRS § 18-6-801; CRS § 24-33.5-424).

802.11.1 RELEASE OF FIREARMS IN RISK PROTECTION ORDER MATTERS

Upon notice that an extreme risk protection order has been terminated or not renewed, notice should be provided to the respondent of the process for the return of firearms (CRS § 13-14.5-109).

Upon request by the person named in a risk protection order, firearms or permit surrendered pursuant to the order shall be returned to the person within three days after confirming eligibility to own or possess the firearm under federal and state law through a criminal history record check (CRS § 13-14.5-109). Additionally, prior to the release of firearms or a permit the Department should:

- a. Confirm that the risk protection order is no longer in effect.
- b. Provide notice to any family or household member of the person that the firearms or ammunition are going to be returned.

If a person other than the person named in the risk protection order claims ownership of any seized firearms, the Department shall follow the procedures outlined in CRS § 13-14.5-108.

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If a person who has surrendered firearms pursuant to a risk protection order elects to transfer ownership of the firearms to another person, the Department shall follow the procedures outlined in CRS § 13-14.5-108 prior to releasing any firearm.

If a firearm remains unclaimed for at least one year from the date that an extreme risk protection order expired, the firearm should be disposed of according to department procedures (CRS § 13-14.5-109).

