

## Property and Evidence

### 804.1 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 custody and identifies those persons authorized to remove and/or destroy property.

### 804.2 DEFINITIONS

**Evidence** Property that may be related to a crime, which may implicate or clear a person of a crime. (POST)

**Found Property** Non-evidentiary property, which, after coming into the custody of a law enforcement agency, has been determined to be lost or abandoned and is not known or suspected to be connected with any criminal offense. (POST)

**Safekeeping** Non-evidentiary property that is placed in the custody of a law enforcement agency for temporary protection on behalf of the owner. (POST)

**Destruction** Non-evidentiary contraband property booked for destruction.

**Booking Officer** An employee that prepares the property for submission to the property section. (POST)

**Chain of Custody** A formal, written process that records the individuals having custody of property/evidence from the time it is received to its final disposition. (POST)

**Right of Refusal** Whenever property or evidence is booked incorrectly, the officer (through the chain of command) should be sent a rejection notification detailing the problems and correction to be made. The officer is then responsible to report to the property/evidence section or correction locker as indicated and make the corrections. (POST)

### 804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

#### 804.3.1 RELINQUISHED FIREARMS

Individuals who relinquish firearms who are subject to the relinquishment provisions of Penal Code § 29810(a)(1) shall be issued a receipt that describes the firearm, the serial number, or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

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Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold, or otherwise transferred, unless (Penal Code § 29810):

- (a) A certificate is issued by a judge of a court of record or the [District/County Attorney] stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
  1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property Technician shall update the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (see the Records Bureau Policy).

### 804.3.2 INTEGRATED BALLISTIC IDENTIFICATION SYSTEM (IBIS) / NATIONAL INTEGRATED BALLISTIC INFORMATION NETWORK (NIBIN) PROTOCOLS

#### Entry Guidelines

In accordance with ATF's Minimum Required Operating Standards Audit for National Ballistic Information Network Sites (MROS), in order to optimize the comprehensiveness of ballistic information on the NIBIN network, a site will not implement policies that restrict the submission of suitable ballistic evidence for NIBIN analysis. Limiting submissions of suitable ballistic evidence based on specific crimes, firearm calibers other than specified below, or other restrictions is prohibited.

Suitable ballistic evidence is considered all fired cartridge cases recovered by law enforcement as well as test – fired cartridge cases from firearms recovered by law enforcement that were illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime. These firearms are considered "crime guns".

NIBIN test firing is required for all operable "crime guns" that meet the following criteria:

- (a) Centerfire, Semi - automatic pistols including .22 caliber and larger
- (b) .223 and 7.62 semi – automatic rifles
- (c) 12 – gauge shotguns
- (d) Long guns that use handgun ammunition under the aforementioned guidelines

Firearms that are not typically test fired include:

- (a) Revolvers
- (b) Single shot or bolt action rifles

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- (c) Shotguns in other gauges
- (d) Weapons never fired
- (e) Or firearms deemed unsafe, inoperable, or incomplete

This standard does not preclude the entry of test fires from these firearms, however.

In compliance with the Test Fire, Ballistics IQ, and IBIS / NIBIN Operations Manual, revolvers, bolt action rifles, single shot rifles, and shotguns of any other gauge will be entered into NIBIN as time allows or at the discretion of the Supervising Forensic Investigator.

Similarly, NIBIN entry of fired cartridge cases recovered from all crime scenes is required for all cartridges consistent with centerfire, semi – automatic pistols including .22 caliber and larger .223 and 7.62 semi – automatic rifles, 12 – gauge shotguns, and long guns that use handgun ammunition under the aforementioned guidelines.

Ballistics information and / or evidence from firearms taken into law enforcement custody through (1) a Gun Buy Back Program, (2) Property damage crimes involving firearms, (3) Found or abandoned firearms, and (4) Domestic disturbances, are permitted for entry in the NIBIN database. It is noted that some jurisdictions may have local regulations or policies that prohibit some of these items to be included in NIBIN. Therefore, firearms from these submission types, while acceptable for NIBIN entry, are not required under the standards.

Sites must not have a case acceptance policy that limits the submission of all suitable ballistic evidence outlined above from submitting agencies. For purposes of this Standard, sites are not required to accept suitable ballistic evidence if more than one year has passed between evidence recovery and submission to the site. Nevertheless, entry of all suitable ballistic evidence regardless of timeliness of submission is certainly permissible. In addition, this Standard does not require sites to actively take on submissions from additional agencies.

Firearms classified as Safekeeping Firearms will not generally be test fired for the purpose of submission to IBIS / NIBIN.

If a Safekeeping Firearm is unclaimed (in accordance with PC 33875) or ordered confiscated by a court, the firearm will be reclassified as a Nuisance Firearm.

If a Safekeeping Firearm is reclassified as a Nuisance Firearm, the Property & Evidence Bureau will complete and submit a Forensic Services Request Form to have the firearm test fired and entered into IBIS / NIBIN.

A trained IBIS Technician from the Elk Grove Police Department Forensic Unit will enter all suitable ballistic evidence into IBIS / NIBIN, as well as test fire all operable Crime and Nuisance Firearms for entry into IBIS / NIBIN, in accordance with the Test Fire, Ballistics IQ, and IBIS / NIBIN Operations Manual.

When the status of a firearm is changed, the change, as well as the date of release or destruction must be noted in the test fire exhibit of IBIS / NIBIN. The Property & Evidence Bureau will notify the Forensic Unit of the updated disposition of any firearm via the Forensic Services Request Form.

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#### 804.3.3 RETENTION AND DISPOSITION OF FIREARMS AND BALLISTIC EVIDENCE

Firearms test fired for entry into IBIS / NIBIN should be retained a minimum of (2) two years from the date of the IBIS / NIBIN entry. Any hit notifications or correlations will increase the retention period, based on the statute of limitations of the crime for which there is a hit notification or correlation.

All submitted ballistic evidence should be retained a minimum of (5) five years from the date of IBIS / NIBIN entry. Any hit notifications or correlations will increase the retention, based on the statute of limitations of the crime for which there is a hit notification or correlation.

Firearms and ballistic evidence will not be released or destroyed without the authorization of the case detective, or detective sergeant, if unassigned.

The case detective, or detective sergeant, if unassigned, may authorize release of the firearm to: an allied agency for which there was a hit or correlation, upon adjudication of our case, or with approval of the District Attorney, if the case is active.

#### **804.4 PACKAGING OF PROPERTY**

All property and evidence collected by department personnel shall be booked into the temporary storage lockers no later than the end of their shift. At no time will any property or evidence be stored in an employee's desk, locker, vehicle, or other container without the supervisor's specific approval and documentation.

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

#### 804.4.1 TRANSPORTATION OF LARGE ITEMS

Officers shall transport property and evidence in their assigned vehicles whenever possible. When items are too large or too heavy for a patrol vehicle, the officer shall contact his/her supervisor to request a Property/Evidence Technician respond to the scene to assist in the transportation.

#### 804.4.2 TRANSPORTATION AND HANDLING OF CONTROLLED SUBSTANCES

All controlled substances, including PCP/LSD, should be transported to the Police Department and booked immediately. Officers shall wear gloves to avoid direct contact with all controlled substances and should wash their hands thoroughly with soap and water after handling the items. All controlled substances shall be transported in the trunk of the vehicle.

When PCP is spilled onto clothing or shoes, the clothing must be removed immediately and will need to be discarded. Neither laundering nor dry cleaning will make the clothing safe to wear.

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#### 804.4.3 SUBMISSION - DOCUMENTATION

All property and evidence booked into a temporary storage locker shall have a Property & Evidence Voucher completed with identifying information on each item. The submitting officer shall list all serial numbers, owner's name, finder's name, and other identifying information or markings. The Property and Evidence Voucher will be placed into the temporary storage locker, or slot locker, with the item. All firearms booked additionally require the completion of the blue "*Firearms Property Receipt Report*" with the goldenrod receipt copy left with the person from whom the firearm was seized.

Any time departmental personnel take possession of property or evidence, they shall document the incident in a police report and document the items on a Property & Evidence Voucher.

#### 804.4.4 SUBMISSION - PACKAGING

All property and evidence collected by departmental personnel shall be labeled and packaged as illustrated in the Elk Grove Packaging Manual which is retained in the Officer Booking Area at The Police Department and on EGPD intranet.

#### 804.4.5 SUBMISSION - TEMPORARY STORAGE

Temporary lockers are provided in the Officer Booking Area of The Police Department to secure property and evidence that has been collected. Currency and controlled substances have a designated slot locker provided in the same area.

Large items, such as bicycles, gardening equipment, vehicle parts, etc. shall be secured in the temporary fenced enclosures provided at the Fleet Facility. It shall be the responsibility of the booking officer to ensure the provided fenced enclosures are properly secured.

With the exception of the slot lockers, the booking officer shall ensure that the property and evidence is not commingled with other cases in the lockers or the fenced enclosures.

#### 804.4.6 SUBMISSION - RIGHT OF REFUSAL

When the Property and Evidence Bureau receives improperly documented or packaged property or evidence, they are required to immediately notify the submitting officer via "Right of Refusal Notice". The Right of Refusal Notice shall be completed by the Property and Evidence Bureau and forwarded to the submitting employee and his/her supervisor for trainees and probationary employees.

The item(s) needing correction will be held in the Officer Booking Area temporary correction locker. Money or controlled substances will be maintained in the warehouse vault. The submitting employee will respond to the Property and Evidence Bureau to make the necessary corrections or to the correction locker as indicated. The submitting employee may make an appointment for assistance outside of normal business hours.

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#### **804.5 RECORDING OF PROPERTY**

The Property 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 voucher.

A property control number (PCN) shall be obtained for each item or group of items. This number, along with the case number, shall be recorded on the evidence packaging.

Any changes in the location of property held by the Elk Grove Police Department shall be updated in the evidence management system.

##### **804.5.1 FLAMMABLE OR VOLATILE MATERIAL**

When flammable or volatile material from an arson or related crime needs to be booked as evidence, Cosumnes Services District (CSD) Fire Department will be contacted to collect and book the evidence into their Property and Evidence Bureau.

Flammable or volatile material shall be booked into the temporary flammable cabinet located at the Fleet Facility. The Property and Evidence Bureau will request the CSD Fire Department pick up the items for permanent storage at their facility.

Safe and sane fireworks may be booked into the temporary storage locations but will be turned over to the CSD Fire Department for destruction.

##### **804.5.2 SYRINGES**

As a matter of policy, the District Attorney's Laboratory of Forensic Services will not test any substance recovered from or contained in hypodermic syringes. These materials are Biohazards that pose a significant health risk to law enforcement and laboratory personnel. However, in unusual circumstances an explanation of said materials will be considered if a DA-7 (Request for Crime Lab Examination) form is completed by a supervising attorney detailing the reasons for the examination.

Needles that are to be disposed of shall be placed in the red sharp container provided in the evidence booking and temporary storage room.

##### **804.5.3 PERISHABLE ITEMS**

When perishable items such as food and beverages have been recovered and a victim can be identified, the items shall be returned to the victim. If the items have evidentiary value, they shall be photographed prior to being returned to the owner.

**Exception:** If food or beverage samples need to be taken for contamination/poison analysis, the labels will be clearly marked as a perishable item and be taken to the Property and Evidence Bureau to be placed directly into a refrigerator. If the Property and Evidence Bureau is closed, the officer's supervisor shall contact the Property and Evidence Bureau supervisor to make arrangements for the item to be picked up and placed into a refrigerator. The Case Detective will be responsible for completing the "Crime Lab Examination Form" to request a sample be sent

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to the lab for analysis. The Case Detective will also be responsible for authorizing the disposal of the remains.

#### **804.5.4 ALCOHOLIC BEVERAGES**

Alcohol, including kegs of beer, shall be disposed of at the site of the detention. If the detaining officer has a camera available, it is recommended that a photograph be taken with the violator. If it is not practical to dispose of the alcohol at the scene, it shall be taken to The Police Department for disposal.

An open container of alcoholic beverage should be retained. It is acceptable to discard the contents as long as the officer can attest to the alcoholic beverage nature of the contents by sight or smell. Photograph the liquid in the container and any other containers. Save one unopened container, if available for evidence.

In cases where the alcohol has a significant evidentiary value, such as a felony DUI or Person's Crime, the alcohol shall be booked into the Property and Evidence Bureau.

#### **804.6 TRANSFER-EVIDENCE FOR CRIME LAB ANALYSIS**

Evidence can be sent to the Sacramento County Lab for analysis at the request of the Case Detective. The Case Detective shall complete a "Crime Lab Examination Form" (DA-7) and submit it to the Property and Evidence Bureau for action.

The Property and Evidence Bureau will transport the evidence identified on the "Crime Lab Examination Form" to the lab. When evidence is transferred to the custody of the crime lab, the receiving employee shall sign the "Chain of Custody Form" indicating they have received the item(s). The chain of custody will be updated in the computer tracking software program.

Blood and Urine Specimen Collection Kit boxes, where there is no arrest, shall have a completed Elk Grove Police Department Property and Evidence voucher attached and placed in the small refrigerator or a locker in the temporary evidence storage room. The Property and Evidence Bureau will transport the samples to the Sacramento County Crime Lab for analysis. When there is an arrest, the kit should be transported to the jail with the arrestee for quicker analysis.

#### **804.6.1 TRANSFER-EVIDENCE TO COURT**

When Officers receive subpoenas for court, in which evidence is needed, they shall contact the Property and Evidence Bureau 24 hours in advance whenever possible. The Property and Evidence Bureau will obtain the items from permanent storage and have them readily available to go to court on the appropriate date and time. When checking out any type of controlled substance, or marijuana, the Officer will provide a copy of the court subpoena to the Property/Evidence Technician when picking up the items.

At the time evidence is taken from the Property and Evidence Bureau, a "Receipt of Evidence Form" shall be provided to the requesting officer along with the evidence. When the evidence is received as an exhibit in court, the form must be completed by the officer and signed by the person taking custody of the evidence (court clerk, Deputy DA, DA Investigator, etc.). The completed,

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signed, form shall be returned to the Property and Evidence Bureau on the same day the evidence was checked out. If the Property and Evidence Bureau is closed, the form shall be left in a temporary locker.

When the evidence is not received as a court exhibit, it shall be the responsibility of the officer to return the evidence to the Property and Evidence Bureau on the same day the evidence was checked out. If the Property and Evidence Bureau is closed, the evidence shall be left in a temporary locker.

If the evidence or a "Receipt of Evidence Form" is not returned to the Property and Evidence Bureau by the end of the court day, it shall be the responsibility of the Property and Evidence Bureau personnel to immediately notify the employee and their supervisor of the policy violations.

#### 804.6.2 TRANSFER-RELEASE TO OTHER AGENCY

Evidence shall not be released without written authorization from the Case Detective. When evidence has been authorized for release to another Agency, a representative of the Agency shall sign the "Evidence Disposition Form", indicating they have custody of the evidence.

#### 804.6.3 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

#### 804.6.4 FIREARMS RELEASE PROTOCOLS

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. Ammunition will not be released to individuals the same day as a firearm but will require a separate appointment, or the owner may elect to sign a waiver authorizing disposal of the ammunition. In the event a firearm is being released to a Federal Firearms Licensed Dealer to facilitate the sale or transfer of the firearm(s) on behalf of an individual the ammunition may be released at the same appointment.

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).

#### 804.6.5 PROCEDURES FOR FIREARMS CONFISCATIONS ON 8102 WIC, 18250 PC AND 186.22A (F) PC CASES

This procedure is designed to guide employees through the necessary steps to ensure compliance with the requirements of these code sections pertaining to firearms confiscations. Compliance with this procedure will enable the City Attorney's Office to make a determination as to whether or not to file firearm confiscation petitions with the Superior Court.

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#### 804.6.6 OFFICER RESPONSIBILITIES

- (a) When an officer confiscates weapon(s), the Firearm Property Receipt must be completed, and the citizen from whom the weapon(s) was seized provided with the signed goldenrod copy. If the citizen refuses or is unable to sign the receipt, the circumstances should be indicated on the receipt and an unsigned copy left with the citizen. If the receipt is not left with the citizen, it is the officer's responsibility to notify Records to send a certified letter to the citizen's last known address.
- (b) The officer then completes the cover sheet entitled "City Attorney Routing Sheet - Deadly Weapons Confiscation Petition" and submits the firearm property receipt and 5150 W&I form (if applicable) for supervisory approval. The officer's report shall be at Level 1 approval no later than two (2) calendar days from the date the weapon(s) was confiscated.

#### 804.6.7 SUPERVISOR RESPONSIBILITIES

- (a) Supervisors are required to review the reports of officers under their command to verify accuracy and completeness, and that the routing sheet, firearm property receipt, and any other relevant documentation have been completed and received.
- (b) For the report to be finalized, the supervisor must approve the report and forward the completed routing sheet, firearm property receipt, and other relevant documentation to Records as a priority report. Supervisors shall complete all work necessary to elevate the report to Level 2 approval no later than four (4) calendar days from the date the weapon(s) was confiscated.

#### 804.6.8 RECORDS RESPONSIBILITIES

- (a) When Records receives the "Routing Sheet", firearm property receipt and other relevant documentation, the report may then be approved at the Records level as a priority report.
- (b) Records personnel are responsible for printing certified copies of the approved report, the Automated Firearms System (AFS) printouts, and the CAD event. The report and CAD event, as well as the firearm property receipt and any other related documents are forwarded to the City Attorney's Office, along with the "routing sheet". It is the responsibility of Records personnel to ensure that all documents are received by the City Attorney's Office within ten (10) days from the calendar date the weapon(s) was confiscated.

#### 804.6.9 CITY ATTORNEY'S OFFICE RESPONSIBILITIES

- (a) The City Attorney's Office reviews the report, and supplemental information, and makes a decision on whether or not to file a petition for the retention of the confiscated weapon(s).

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- (b) The decision is documented by the City Attorney's Office on the "routing sheet", which is then returned to the Department.
- (c) When a petition is filed, a copy of the court decision is forwarded to Property to effect the disposition of the weapon(s).

#### 804.6.10 CITY ATTORNEY'S ROUTING SHEET

See attachment: [CAO Routing Sheet.pdf](#)

#### 804.6.11 PROPERTY AND EVIDENCE RESPONSIBILITIES

- (a) Upon receipt of a firearm, the information in the property record is verified for accuracy against the firearm and the appropriate queries and the entries are done in the Automated Firearms System (AFS). If the firearm is unregistered, there is no stolen hit in AFS and no other claim of ownership in the officer's report, the respondent is the presumed owner of the firearm.
- (b) If the respondent is the registered owner of the firearm and the decision is to not file a petition for retention, Property sends out the 180 day letter to initiate the process for release, sale or transfer through a licensed gun dealer (pending DOJ clearance), or other disposal of the weapon(s), assuming there is no pending criminal case that could result in a prohibition.
- (c) If the decision is to file a petition for retention, the weapon(s) is held pending outcome of the petition process and any pending criminal case.

#### 804.6.12 RELEASE OF FIREARMS 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 or ammunition, the Property Technician shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, another successive order has been issued against the individual, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 29825.5; Penal Code § 33855).

#### 804.6.13 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, verification that the person is not otherwise legally prohibited from possessing a firearm, and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18108; Penal Code § 18120).

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

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If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Elk Grove Police Department determines the person 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.

#### **804.6.14 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 a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or 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) that 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 firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that 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.

#### **804.7 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 in the evidence management system.

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

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destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

The Property and Evidence Bureau 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 or captured electronically. After release of all property entered in the evidence management system, any hard copies shall be scanned to the incident. If some items of property have not been released the property record will remain with the Property and Evidence Bureau. Upon release, the proper entry shall be documented in the evidence management system.

#### **804.8 DISPOSITION-CASE DETECTIVE REVIEW OF PROPERTY**

Case Detectives shall attempt to return property and evidence to the rightful owner as soon as possible.

All reports shall be reviewed by the Case Detective, when initially assigned for investigation, to determine if evidence collected will be needed for prosecution.

If any Evidence or Found Property is not required for prosecution or other reasons, and can be released to the owner, the Property and Evidence Bureau shall be notified via a "Evidence Disposition Form" that the item(s) may be released or destroyed. It shall be the authorizing Detective's responsibility to provide the Property and Evidence Bureau with a mailing address to facilitate the sending of the "Notification Letter".

Property not held for evidence in a pending criminal investigation or proceeding, 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. Per Civil Code 2080-2080.10, safekeeping property is held a minimum of 60 days upon notice to owner; found property is retained a minimum of 90 days to attempt to identify and notice the owner. The Property and Evidence Bureau 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.

##### **804.8.1 DISPOSITION-CASE DETECTIVE REVIEW PROCESS**

- (a) **Assigned Cases** : Each month the Case Detective will receive "Evidence Disposition Forms" from cases 1 year old. The Case Detective will mark one of three choices for the disposition of the property.
- (b) **Non-Assigned Cases**: The following property does not need to be reviewed by Investigation and can be disposed of at the property bureau's discretion according to department guidelines:
  - 1. All cases (misdemeanor or felony) outside the statute of limitations, where an arrest was never made and there are no warrants relative to the case.

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2. Cases with a DA property release and disposition (adult and/or juvenile) authorizing release and all suspects have already been sentenced or equivalent adjudication proof, such as KPF or DAIMONDX printout.
  3. Evidentiary and non-evidentiary property (found, safekeeping, destruction, etc.) to include firearms and controlled substances except as directed below.
  4. DA case reject notifications for lack of evidence, time served, etc.
- (c) **The following property should be sent to Investigations for review:**
1. DA case reject notifications where further investigation is required, the identity of the suspect is in question, and on all Part 1 crimes.
  2. All warrant rejects.
  3. Found property cases containing:
    - (a) Firearms
    - (b) Property with suspicious circumstances
    - (c) Identifiable or high-value property (i.e. serial number, distinctive jewelry, etc.)
- (d) **Property disposition options:**
- (a) **Retain:** Selecting "retain" places a one-year "hold" on the evidence in the Property and Evidence Unit. In order for the "hold" to be processed, it shall be the responsibility of the Case Detective to provide justification for a longer retention, such as: needed for prosecution, warrant issued, civil case, internal investigation, case under appeal or DNA evidence per 1417.9 PC.
  - (b) **Release:** Selecting "release" authorizes the Property and Evidence Bureau to release the approved item(s) to the named party. The Case Detective shall provide the Property and Evidence Bureau the name, address, and telephone number of the person authorized to take custody of the item(s). To ensure the proper notification is legally made and properly tracked, it shall be the responsibility of the Property and Evidence Bureau to mail the actual notification letter. The mailing address will be obtained from the completed "Evidence Disposition Form".
  - (c) **Destroy:** Selecting "destroy" authorized the Property and Evidence Bureau to destroy, auction, or divert to City use, unless otherwise instructed. After the "Evidence Disposition Form" has been checked "destroy", it shall be submitted to the Property and Evidence Bureau for action.

"Evidence Disposition forms" not returned by the stamped date will be referred to the Case Detective's unit commander for resolution.

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#### 804.8.2 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 Bureau 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.

#### 804.8.3 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680(e))

#### 804.8.4 FOUND PROPERTY

Prior to booking any serialized item as Found Property, the officer shall initiate a check into the Automated Property System (APS) of CLETS. Items that have been checked for stolen status and determined to be clear, may then be booked as Found Property.

Officers shall inform the Finder of the property that they are eligible for ownership of the property if not claimed by the rightful owner within 90 days (CCC 2080.1). The Finder must be given a Found Property Affidavit " by the receiving officer. The affidavit is to be completed and routed per the instructions on the backside of the form.

The Finder cannot claim firearms, and other legal weapons.

Members of the Elk Grove Police Department are prohibited from claiming any item of found property.

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### 804.8.5 PROPERTY FOR SAFEKEEPING

When receiving items of Safekeeping, Property & Evidence personnel shall mail a "Safekeeping Notification letter".

The "Notification Letter" has instructions notifying the person about the requirement to pick up the property within sixty days. The person may also authorize another person to pick up the property in their place.

The "Notification Letter" also gives the person, if incarcerated, an additional ten month extension in which to make arrangements for the disposition of the property. In order for an extension to be granted, the person must make a written request addressed to the Elk Grove Police Department, Property and Evidence Bureau.

### 804.8.6 MONEY

- (a) All money received by the Property and Evidence Bureau will be held in the vault for 30 days. The money shall then be deposited into a bank account assigned to the City of Elk Grove.
- (b) Currency, in which the serial number of the bill is evidence, shall be photographed prior to booking the currency.
- (c) Exception: Money falling into the following categories will be stored in the Property and Evidence Bureau vault until a final disposition is reached or further direction is given by the Case Investigator.
  - 1. Currency with DNA evidence (blood or other bodily fluid) on the bill.
  - 2. Currency or coin requesting fingerprint processing.
  - 3. Bait Money
  - 4. Case Investigator may request the money not be deposited in the bank when providing a valid explanation.
- (d) If found or seized money is no longer required as evidence and remains unclaimed after three years, property technicians shall follow City policy and applicable laws to facilitate the transfer of the funds.

### 804.8.7 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:

The defendant

The defendant's attorney

The appropriate prosecutor and Attorney General

Any sexual assault victim

The Investigation Division supervisor

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Biological evidence shall be retained for a minimum period established by law (Penal Code § 1417.9), the Property and Evidence Bureau Manager or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made the Investigations Division supervisor via 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. 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 or designee and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigation Division supervisor should be consulted and the sexual assault victim should be notified by the Investigations supervisor at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

#### 804.8.8 DESTRUCTION OF FIREARMS AND OTHER WEAPONS

The Property and Evidence Bureau supervisor or the authorized designee shall develop and maintain guidelines and procedures relating to the destruction of firearms and other weapons that includes but is not limited to the following (Penal Code § 18005):

- (a) Identification of firearms and other weapons that need to be destroyed
- (b) Maintenance of records of firearms and other weapons that need to be destroyed, including entry into the Automated Firearms System, as applicable, and records of the destruction and disposal of those firearms and other weapons
- (c) Identification of any law enforcement agency that the Department contracts with or has an agreement with related to the storage or destruction of firearms or other weapons that outlines the responsibilities of this department and the other agency
  1. If the Department contracts with a third-party for destruction of firearms or other weapons, the contract must explicitly prohibit the sale of any firearm or weapon or any part or attachment to the firearm or weapon.

The Property and Evidence Bureau supervisor or the authorized designee should ensure guidelines and procedures relating to the destruction of firearms and other weapons are posted on the Elk Grove Police Department website (Penal Code § 18005).

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#### **804.9 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.

## Attachments

## CAO Routing Sheet.pdf



**ELK GROVE POLICE DEPARTMENT  
CITY ATTORNEY ROUTING SHEET  
DEADLY WEAPONS CONFISCATION PETITION**

**\*\*\*THIS PACKET MUST BE COMPLETED ON ALL WIC 8102, PC 18250, and PC 186.22a CASES WHERE FIREARMS OR OTHER DEADLY WEAPONS ARE CONFISCATED\*\*\***

CASE NUMBER: \_\_\_\_\_ SUBJECT NAME: \_\_\_\_\_

Weapon(s) confiscated for:

\_\_\_ **WIC 8102** Mental Health confiscation                      \_\_\_ **PC 18250** Domestic Violence confiscation

\_\_\_ **PC 186.22a** Street Gang confiscation

**THIS PACKET MUST BE COMPLETED AND INITIALED BY OFFICER, FORWARDED TO SUPERVISOR, AND REPORT MUST BE AT LEVEL 1 APPROVAL WITHIN 2 DAYS OF INCIDENT.**

\_\_\_ "Firearms" **Itemized Property Report ("IPR")** completed, signed by subject, and attached.

\_\_\_ Goldenrod copy of **IRP** left with subject, *or*  
\_\_\_ Goldenrod copy attached- **\*\*\*Records please send via Certified mail.\*\*\***

\_\_\_ 5150 form attached (**Form MH 302- mental health cases only**).

\*\*\*\*\*

**SUPERVISORS: PLEASE APPROVE REPORT TO LEVEL 2 AND FORWARD THIS PACKET TO RECORDS WITHIN 4 DAYS OF THE INCIDENT.**

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**EGPD RECORDS USE ONLY**

\_\_\_ Crime report (certified)                      \_\_\_ CAD Event (certified)                      \_\_\_ CLETS firearm printout

\_\_\_ Audio Files (if available)                      \_\_\_ 911 tape (email dispatch)                      \_\_\_ E-mail Gang unit **PC 186.22a**

Date received \_\_\_\_\_ Request filled by: \_\_\_\_\_ Date: \_\_\_\_\_

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**CITY ATTORNEY'S USE ONLY**

COEG will      will not      file petition for retention with Superior Court.

\_\_\_\_\_  
CITY ATTORNEY  
Rev 02/12

\_\_\_\_\_  
DATE