

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 evidence and those persons authorized to remove and/or destroy property. Property belonging to persons in custody should be handled pursuant to policies guiding Juvenile Temporary Custody, Temporary Holding Facility and jail operations, and the procedures for each facility or operation.

804.1.1 PROPERTY AND EVIDENCE UNIT SECURITY

The Property and Evidence Unit shall maintain secure storage and control of all property necessitating custody by the Department. The property and evidence technician reports to the Property and Evidence supervisor and is responsible for the security of the Property and Evidence Unit. Property and Evidence Unit keys are maintained only by the property and evidence supervisor. An additional key is in a sealed and initialed envelope maintained in the safe in the Chief of Police's office. The Property and Evidence Technician and the Property and Evidence supervisor shall not loan Property and Evidence Unit keys to anyone and shall maintain keys in a secure manner.

Any individual entering the Property and Evidence Unit other than the Property and Evidence Technician must be accompanied by the Property and Evidence Technician or the Operations Division supervisor 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.

804.2 DEFINITIONS

Definitions related to this policy include (ARS § 12-940):

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

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.

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

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Whenever property is taken from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken (ARS § 12-944).

Any property seized by an officer with or without a warrant shall be safely kept for as long as necessary for the purpose of being produced as evidence. Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention or ordered destroyed or otherwise disposed of by the court.

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

804.3.1 PROPERTY BOOKING PROCEDURE

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

- Complete the property label describing each item separately, listing all serial numbers, owner's name, finder's name and other identifying information or markings.
- The officer shall mark each item of evidence with initials and date.
- Items too small to mark, or that will be damaged, degraded or devalued by marking, should be individually packaged, labeled and the package marked with initials and date.
- Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- Place the case number in the appropriate field of the evidence/property tag.
- A copy shall be placed with the property in the temporary property locker or with the property if it is stored somewhere other than a property locker.
- When the property is too large to be placed in a temporary property locker, the Property and Evidence Technician on call will be called out for assistance. 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.

804.3.2 CONTROLLED SUBSTANCES

All controlled substances shall be booked separately using a separate property record. Drug paraphernalia shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated temporary property locker accompanied by a copy of the form for the Property and Evidence Unit. The original will be detached and submitted with the case report.

804.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify the immediate supervisor or the Patrol Lieutenant. The Bomb Squad will be called to handle situations involving explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

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Explosives will not be retained in the police facility. All fireworks, railroad flares or fuses that are considered safe will be turned over to the Department of Public Safety (DPS) EOD on a regular basis for disposal by a property and evidence technician.

804.3.4 EXCEPTIONAL HANDLING

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

- Bodily fluids such as blood or semen stains shall be air-dried prior to booking.
- 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 Arizona Department of Transportation's Driver and Vehicle Services. No formal property booking process is required.
- All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property will be placed in the bicycle storage area until a property and evidence technician can log the property.
- All cash shall be counted in the presence of another officer and the envelope initialed by both officers. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.
- 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.
- Items that are potential biohazards shall be appropriately packaged and marked to reduce the risk of exposure or contamination.

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.

804.4 PACKAGING OF PROPERTY

Packaging will conform to the Property Packaging Procedures. Certain items require special consideration and shall be booked separately as follows:

- Controlled substances.
- Firearms (ensure they are unloaded and booked separately from ammunition).
- Property with more than one known owner.
- Drug paraphernalia.
- Fireworks.
- Contraband.
- Biohazards.
- Serialized Items

804.4.1 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, handgun

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Boxes should be used for handguns 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.

804.4.2 PACKAGING CONTROLLED SUBSTANCES

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

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size, available in the Property Processing area. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. 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 as seized, will be placed in the case report and on the property label.

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

804.4.3 RIGHT OF REFUSAL

The property and evidence technician has the right to refuse any piece of property that is not properly documented or packaged. Should the property and evidence technician refuse an item, he/she shall maintain secure custody of the item in a temporary property locker and inform the supervisor of the submitting officer.

804.5 RECORDING OF PROPERTY

The employee responsible for receiving the property shall enter in a suitable book a description of the property and make a corresponding entry (ARS § 13-3941(B)).

Any changes in the location of property held by the Peoria Police Department shall be noted in the property logbook.

804.6 PROPERTY CONTROL

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

804.6.1 RESPONSIBILITIES OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry shall be completed in the property module to maintain the chain of custody. No evidence is to be released without first receiving written authorization from a supervisor or investigator.

Request for analysis for 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.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time in the property module and the request for laboratory analysis.

The property and evidence technician releasing the evidence must complete the required information in the property module. The lab forms will be transported with the property to the examining accredited laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies and indicate the locker in which the item was placed or the employee to whom it was delivered. 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.

A request for written results of analysis shall be made on all evidence submitted to a laboratory.

- Copies of this request shall be forwarded to the officer/detective requesting the analysis and to the Records Unit.
- Lab reports, when returned by the lab, shall be forwarded to the Records Unit.

804.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted in the property module, 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 properly returned to the Property and Evidence Unit or released to another authorized person or entity.

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

804.6.4 AUTHORITY TO RELEASE PROPERTY

The property and evidence technician shall not release any property without a signed or electronic authorization from an appropriate authorized member of the Department. The Criminal Investigation Section or case agent 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, return the property expeditiously unless the property is 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 of the property.

804.6.5 RELEASE OF PROPERTY

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

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or investigator and must conform

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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 to the highest bidder at a properly published public auction, which may be conducted as an Internet-based auction. The final disposition of all such property shall be fully documented in related reports.

A property and evidence technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property documentation. After release of all property entered in the property module

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

804.6.6 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 owner (ARS § 13-3941). Such property may be released from law enforcement custody when the following are satisfied:

- Photographs of the property are filed and retained with the report.
- Satisfactory proof of ownership of the property is shown by the owner.
- A declaration of ownership is signed under penalty of perjury.
- A receipt for the property is obtained from the owner upon delivery.

804.6.7 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.

804.6.8 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 by 18 USC § 922 or ARS § 13-3101.

The Department shall make best efforts for a period of 30 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal consistent with this policy.

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All property not held for evidence and held for a minimum of 30 days may be disposed of as follows:

- (a) Property having a value of \$150 or more and whose owner is not known requires posting or publication of a notice in the local print media prior to disposal (ARS § 12-944). If, 30 days after notice has been posted or published, the owner or person entitled to the property has not appeared, the property shall be disposed of pursuant to ARS § 12-945.
- (b) If the property is a firearm, it shall be disposed of pursuant to ARS § 12-945.
- (c) Found property may be returned to the person who found and turned it in as provided in ARS § 12-941.

804.7.1 EXCEPTIONAL DISPOSITIONS

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

- Counterfeiting equipment
- Gaming devices
- Obscene matter ordered to be destroyed by the court
- Altered vehicles or component parts
- Controlled substances
- Unclaimed, stolen or embezzled property
- Destructive devices

804.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after 30 days or after final disposition of the case, the money is presumed abandoned property and may be disposed as specified in ARS § 12-942.

804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Unit 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
- Any sexual assault victim
- The Operations Division supervisor

Biological evidence shall be retained for a minimum period established by law (ARS § 13-4221), the Property and Evidence Unit supervisor 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.

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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 Operations Division supervisor.

All biological evidence related to a homicide or a felony sexual offense that remains unsolved for one year or more after being reported shall be kept for 55 years, even when there are no viable or unexplored investigatory leads (ARS § 13-4221).

Biological evidence related to any homicide may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

The Property and Evidence Unit supervisor must ensure that all biological samples are retained in a condition suitable for DNA testing. The Property and Evidence Unit supervisor may dispose of bulk evidence and retain probative samples of biological evidence using procedures that do not affect the suitability of the sample for DNA testing. Prior to disposing of any bulk evidence, the Property and Evidence Unit supervisor shall obtain approval from the county attorney or Attorney General and make reasonable efforts to provide written notice to the victim (ARS § 13-4221).

804.8 INSPECTIONS OF THE PROPERTY AND EVIDENCE UNIT

On a monthly basis, the Property and Evidence supervisor shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

- Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- An annual audit of evidence held by the Department shall be conducted by a Deputy Police Chief of Operations who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.
- Required special inventory: Whenever a new Property and Evidence Unit employee is assigned to the Property and Evidence Unit, the new and former Property and Evidence Unit employee shall conduct a property inventory, consisting of a sampling of property records on a sufficient number of items to verify accuracy of the property records, and ensure the integrity and continuity of the system. (84.1.6.b)
- Semi-Annual Inspections: The Property and Evidence Unit Supervisor is responsible for supervising the operation of the Property and Evidence Unit, and shall conduct informal semi-annual inspections to determine if the following duties are being accomplished: (84.1.6.a)