

Property and Evidence

802.1 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.

802.1.1 DEFINITIONS

Property: Includes all items of evidence, items taken for safekeeping and found property.

Evidence: Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes but is not limited to photographs, video, digital media, and latent fingerprints.

Chain of Custody: The chain of custody is the documented sequential record of all individuals who maintained control of any physical evidence. A complete and accurate record of the chain of custody is essential in establishing the validity and integrity of evidence in court.

Safekeeping: Includes the following types of property:

1. Property obtained by the Department for safekeeping such as a firearm,
2. Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons)),
3. Personal property of an arrestee not taken as evidence.

Found property: Includes property found by a Member or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

P.E.A.B.I.T. S.: Property Evidence Automated Booking Information and Tracking System.

Destruction: Items collected and booked with the Property/Evidence Detail for the sole purpose of having the item(s) destroyed. Examples: Contraband items seized by a deputy with no suspect, Court exhibits returned along with a court order for destruction, bulk found property stored at an outlying facility in excess of 90 days (Airport, Courts, Social Service buildings) with no owner identified, etc.

802.2 PROPERTY HANDLING

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

If a Member collecting evidence is unable to book the evidence, they may assign another Member to book the evidence, maintaining the chain of custody. The transfer of evidence shall be documented in the collecting Member's report and the booking Member's supplemental report.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

802.2.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the Member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

1. Using the automated property system, the Member shall log onto the automated property system, book all items into the computer separately, listing all serial numbers, owner's name, finder's name, and all other applicable fields. When finished, the Member shall log off the automated property system.
2. Package each item using the proper packaging materials. An evidence seal (clear tape), must be applied to the opening of the package. The seal should have the booking officer's initials, PID and date, half on the tape and half on the packaging to create a tamper proof seal. On the lower left hand corner of the evidence tag, place the initials and PIN of the deputy booking the item. Securely attach evidence tag and bar code label after entering required case information into P.E.A.B.I.T.S.
3. The original property form shall be submitted with the case report. The yellow copy of the 90-day safekeeping form shall be placed with the property in the temporary property locker or with the property.
4. When the property is too large to be placed in a locker, the item may be retained in the evidence room.
5. After all items are booked, the member shall attach the Evidence Case Items Report to the respective report within FBR. In the event FBR is offline, and a paper report will be generated, the Evidence Case Items Report should be printed and submitted to Records with the original paper report.
6. Supervisors shall check that all property or evidence has been booked prior to approving any related reports.
7. If temporary property/evidence lockers are full, the Member shall notify their immediate supervisor. During normal hours of operations, the supervisor will notify the Property and Evidence Bureau and direct the Member to book the items at another temporary property/evidence locker location. During off hours, the Property and Evidence supervisor shall be notified through the Department Commander.
8. Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (e.g. a locked office safe or cabinet) if the area is only accessible by the Member or the supervisor.

802.2.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using separate property packaging. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The Member seizing the narcotics and/or dangerous drugs shall place them in the designated locker.

802.2.3 EXPLOSIVES

Members who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Department Commander. The Hazardous Devices Section (HDS) will be called

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

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 by the Property and Evidence Bureau. 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.

802.2.4 EXCEPTIONAL HANDLING

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

1. Bodily fluids, such as blood or semen stains, shall be air dried and placed in paper packaging prior to booking. In the event of a Crime Lab response, the evidence shall be processed by the Crime Lab.
2. Soaked or saturated items, shall be air dried and placed in paper packaging prior to booking. If the items will not dry to an acceptable level for booking, the Crime Lab should be contacted for assistance.
3. 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 officer, or placed in the bicycle storage area until a property officer can log the property.
4. All cash over \$2,500 shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Property and Evidence Bureau supervisor or his designee shall respond to take possession of the currency and immediately place the currency in the vault.
5. Vehicles may be seized for evidentiary purposes. Vehicles that are evidence to a serious offense that need to be worked for forensic evidence should be followed to [REDACTED]
[REDACTED] A "hard" evidence tag should be filled out, and placed under the wiper blade of the vehicle.
 - (a) Vehicles that cannot be later released by Investigation will be stored in the Property/Evidence Detail Vehicle Evidence Lot [REDACTED] until the criminal case is fully adjudicated, and when civil liability involving the County of Orange no longer exists (e.g. officer involved shootings, officer involved traffic accidents with serious injuries, etc.).
6. Flammable substances including paints, propane canisters, and other liquid flammable substances may be stored in a temporary locker only if the containers are tightly secured, and are free from liquid or chemical discharge. Property/Evidence staff will then transport these items to the Property Warehouse for storage.
7. The Property/ Evidence Detail shall no longer accept any hazardous waste items. Chemicals seized at methamphetamine labs are considered hazardous waste. The Crime Lab will take samples of the chemicals for evidence. The remainder of the chemical shall be processed/destroyed by a state licensed disposal company.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

8. If there is a need to make an "advance working" copy of digital media for investigative purposes, a copy can be made of the original media prior to booking it into Evidence. The department member will document in his/her report that the original digital media was booked as evidence and a copy was given to Investigations. When Investigations no longer needs the "advance working" copy of the digital media, it shall be destroyed. Investigators must document at the conclusion of the investigation and the purging of any copies. An "advance working" copy is not evidence and shall not be used in court.

802.2.5 FIREARMS RELINQUISHED BASED ON CONVICTION PURSUANT TO PENAL CODE 29800 AND 29805

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

Firearms relinquished pursuant to Penal Code § 29810 shall be retained for 30 days, after which time the firearm is subject to destruction, retention, or transfer (Penal Code § 29810(i)), except when:

1. The firearm will be retained if the Court or the District Attorney determines that the retention of the firearm is necessary or proper to the ends of justice or if the defendant provides written notice of an intent to appeal a conviction for an offense that rendered the defendant unable to possess or own the firearm.
2. The Automated Firearms System (AFS) indicates that the firearm was reported lost or stolen.
 - (a) 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 § 33855.

The Member booking the firearm shall ensure teletype is notified of the relinquished firearm for purposes of updating AFS and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Bureau Policy).

802.3 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

1. Narcotics and dangerous drugs,
2. Paraphernalia as described in Health and Safety Code § 11364,
3. Property with more than one known owner,
4. Firearms (ensure they are unloaded and booked separately from ammunition),
5. Fireworks (Will be stored at OCSD Hazardous Devices Section),
6. Contraband,
7. Currency (US or Foreign).

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

802.3.1 PACKAGING CONTAINER

Members shall package all property in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles. Heat sealing is the preferred method of packaging items suspected of being or containing Fentanyl.

A property tag shall be securely attached to the outside of each item.

802.3.2 PACKAGING NARCOTICS

The Member seizing the narcotics and/or dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated evidence lockers. Do not conduct presumptive testing.

Narcotics and/or dangerous drugs shall be packaged in an envelope of appropriate size available in the booking room. The booking Member shall initial, date, and time the sealed envelope and cover the initials with packaging tape. Narcotics and/or dangerous drugs shall not be packaged with other property.

All narcotics evidence, with the exception of plant material, shall be packaged in a ziplock or heat sealed plastic bag of appropriate size. All primary packaging (baggie, bundle, paper, ziplock) shall be contained in at least one additional (sealed) plastic bag. The evidence is then sealed in an envelope. If fentanyl or a similar toxic substance is suspected, see Field Operations Advisory Issue 43 – Fentanyl on booking procedures.

All large item cases of 400 grams or more, including kilos, must be in plastic ziplock or heat sealed bags prior to placement in boxes or bags.

Never package fresh marijuana, plant material, or perishable items in plastic. These items will mold in plastic.

A completed, printed property tag shall be attached to the outside of the container. The booking Member will initial and record his/her PIN in the appropriate box located in the lower left hand corner of the evidence tag.

802.3.3 CRIMELAB WORK REQUEST AND DNA EVIDENCE SUBMISSION

All items to be worked by the Crime Lab must have a work request completed. This is accomplished by entering a request on the Crime Lab's online system, Work Request and Case Status (WRCS), at www.occl.ocgov.com. All WRCS users must have prior authorization to enter requests into the system.

See Training Bulletin 9-23 regarding For DNA Evidence Submission.

802.4 RECORDING OF PROPERTY

The property officer receiving custody of evidence or property shall record electronically via the P.E.A.B.I.T.S receiving and new custody location of the item.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

802.5 PROPERTY CONTROL

Each time the property officer receives property or releases property to another person, he/she shall record electronically via the P.E.A.B.I.T.S., the movement of the item. Members desiring property for court shall contact the property officer as soon as feasibly possible to allow for the Property and Evidence Bureau to retrieve and stage the item(s) for pick up.

802.5.1 RESPONSIBILITY OF OTHER MEMBERS

Every time property is released or received, an appropriate entry into P.E.A.B.I.T.S shall be completed to maintain the chain of evidence. No property or evidence is to be released outside OCSD custody without first receiving written authorization via a court order, case agent or supervisor.

A request for forensic analysis of items shall be completed on-line via the OC Crime Lab WRCS System.

802.5.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The Property and Evidence Bureau will check the evidence out of property, via the automated crime lab request report.

The property officer releasing property must complete the required lab transfer document and update the electronic chain of custody to reflect released location.

802.5.3 STATUS OF PROPERTY

All Property and Evidence Bureau personnel releasing property to other Members of the Department will complete the appropriate information on the Chain of Custody Receipt, thus continuing the chain of custody. Temporary release of property to Members for investigative purposes, or for court, shall be noted by Property and Evidence Bureau personnel in the automated audit trail which captures the date, time, who received the property and the reason for checking out the property.

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

The return of the property is tracked by the Property and Evidence Bureau and should be less than seven calendar days. Department Members may contact the Property and Evidence Bureau if an extension is needed.

802.5.4 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify and provide notice to the rightful owner of found property or evidence not needed, or no longer needed, for an investigation or criminal proceeding.

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

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

the property form or must specify the specific item(s) to be released. 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 investigator. Release of all property shall be documented on the property form. If property was seized pursuant to a search warrant, a court order is required to release the property or destroy the property if it is contraband (Penal Code § 1536).

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 and Evidence Bureau personnel may attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. If a mailing address is available, Property and Evidence Bureau personnel will mail a notice to the owner, notifying the owner that he/she must claim the property or it will be scheduled for disposal. Property not held for any other purpose and not claimed within 90 days after notification may be auctioned to the highest bidder at a properly published public auction. Found property with no known owner and valued at \$250.00 or more shall be posted in the newspaper for two weeks prior to being sent to a properly published auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in the P.E.A.B.I.T.S.

If the Department was unable to make notification to the owner of the property, or if the owner provides written notification that they are in custody and unable to pick up the property or have an authorized person retrieve the property, the property will be retained no longer than 12 months. It will then be scheduled for disposal.

A property officer 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 public release document. After release of each item, the corresponding documents will be scanned into the Records Management System and retained pursuant to the Department's records retention and disposition schedule.

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 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). Although this is the correct way to maintain & process firearms, our department holds firearms for the OC Bullet Program (See OC Crime Lab PPM requirements for firearms).

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

802.5.5 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Property & Evidence Bureau will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this Department, including paraphernalia as described in Health and Safety Code § 11364.

802.5.6 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, the property officer shall return the weapon to the owner upon proof of compliance with the requirements of Penal Code sections 33850, et seq. If, however, the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm, it shall not be returned (Family Code § 6389(g)).

If there is legal cause to not return the firearm(s) to the person and the person is the lawful owner of the firearm(s), the person is entitled to sell or transfer the firearm to a licensed dealer as defined in Penal Code section 26700. If the Department determines the firearm(s) are stolen, the firearm(s) should be restored to the lawful owner upon proof of compliance with Penal Code sections 33850, et seq. Release of the firearm(s) to the rightful owner does not require expiration of the restraining order.

The 180 day limit on retaining firearms set forth in Penal Code § 33875 does not apply to firearms and ammunition relinquished as a result of a Domestic Violence restraining order unless the firearm/ammunition go unclaimed for 180 days after the restraining order expires.

802.5.7 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 § 8103, 5150, 5250, or 5300 shall be released or disposed of as follows:

1. The Department has 30 days from the date a person detained for mental health evaluation is released to initiate a petition for a hearing to determine whether the firearm or other deadly weapon should be returned (Welfare and Institutions Code § 8102(c)). The weapon shall be released or disposed of as provided by an order of the court following a hearing. If the court orders a firearm returned, the requirements of Penal Code 33850, et seq. shall be complied with before the firearms can be released.
 - (a) If the person fails to respond to the request for a hearing, the Department may request entry of a default order authorizing the destruction of the firearm in 180 days from the date of the default order unless the person contacts the Department to facilitate a transfer or sale of the firearm as allowed under Penal Code section 33870.
 - (b) If, after the hearing, the court determines the firearm should not be returned to the person, the Department may destroy the firearm within 180 days of the date of the order unless the person contacts the Department to facilitate transfer or sale of the firearm as allowed under Penal Code section 33870.

Property and Evidence

2. If no petition is initiated pursuant to Welfare and Institutions Code § 8102(c) and there is no other legitimate basis for the Department to retain the weapon, the Department shall make the weapon available for return subject to the requirements of Penal Code sections 33850, et seq.

802.5.8 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 and in accordance with the requirements of Penal Code § 33850 (Penal Code § 18120). Upon receiving the surrender of a firearm, ammunition, and/or ammunition feeding device pursuant to a gun violence restraining order, the Department shall issue a receipt to the person as proof of the surrender. The 180 day limit on retaining firearms set forth in Penal Code § 33875 does not apply to firearms and ammunition relinquished as a result of a gun violence restraining order unless the firearm/ammunition go unclaimed for 180 days after the restraining order expires.

If the restrained person who owns the firearm(s), ammunition, and/or ammunition feeding device does not wish to have the firearm(s), ammunition, and/or ammunition returned, he/she is 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).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120, and the person is determined to be the lawful owner by the Department, the firearm(s), ammunition, and/or ammunition feeding device shall be returned to the lawful owner upon proof of compliance with the requirements of Penal Code § 33850 (Penal Code § 18120). Release of the firearm to the rightful owner does not require expiration of the restraining order.

802.6 ADDITIONAL DISPOSITION OF PROPERTY

802.6.1 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:

1. Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750).
2. Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a).
3. Counterfeiting equipment (Penal Code § 480).
4. Gaming devices (Penal Code § 335a).
5. Obscene matter ordered to be destroyed by the court (Penal Code § 312).
6. Altered vehicles or component parts (Vehicle Code § 10751).

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Property and Evidence

7. Narcotics (Health and Safety Code § 11474 et seq.).
8. Unclaimed, stolen or embezzled property (Penal Code § 1411).
9. Destructive devices (Penal Code § 19000).
10. Sexual assault evidence (Penal Code § 680(e)).

802.6.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall complete the Schedule of Accounts form and submit it to the Treasurer-Tax Collector, which shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the County on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of the County of Orange's General Fund.

802.6.3 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, prior to the end of the statute of limitations or upon court order when applicable:

1. The defendant,
2. The defendant's attorney,
3. The appropriate prosecutor and Attorney General,
4. Any sexual assault victim,
5. The Investigation Bureau supervisor.

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property and Evidence Bureau supervisor, or until the expiration of any imposed sentence that is 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 180 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 Bureau supervisor; and/or the OCDA Camille Hill Innocence Review Panel.

Property and Evidence

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the case agent or district attorney.

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 Bureau supervisor should be consulted and the sexual assault victim shall be notified 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). A special agreement with the OCSD Special Victim's Detail and the OCDA's Office states both parties must be notified and concurrently agree to the disposition.

802.7 INSPECTIONS OF EVIDENCE ROOM

1. On a monthly basis, the supervisor of the Property and Evidence Bureau shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
2. When a change is made in personnel who had access to the evidence room, and misconduct or theft is suspected, an inventory of evidence/property shall be made by an individual not associated with the property room or function to ensure that records are correct and all evidence/property is accounted for.
3. A random audit of evidence held by the Department shall be conducted on an annual basis by a third party auditor (as appointed by the Director of Support Services) not routinely or directly connected with the Property and Evidence Bureau.
4. Unannounced inspections of evidence storage areas shall be conducted monthly as directed by the Evidence Custodian (Property Evidence Bureau Sergeant).
5. Any inspection or audit of the Property and Evidence Bureau will consist of a minimum of 12 items of property/evidence.