

Property

802.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and identifies those persons authorized to remove and/or destroy property.

802.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the Property and Evidence Room, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.

802.2 POLICY

It is the policy of the Elkton Police Department to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

802.3 PROPERTY AND EVIDENCE ROOM SECURITY

The Property and Evidence Room shall maintain secure storage and control of all property in the custody of this department. A property manager shall be appointed by and will be directly responsible to the Support Services Bureau Commander or the authorized designee. The property manager is responsible for the security of the Property and Evidence Room.

802.3.1 REFUSAL OF PROPERTY

The property manager has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the property manager refuse an item of property, the property manager shall maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting member's supervisor of the reason for refusal and the action required for acceptance into the Property and Evidence Room.

802.3.2 KEY CONTROL

Property and Evidence Room keys should be maintained by the property manager and members assigned to the Property and Evidence Room. An additional set of keys should be kept in an after-hours keybox. Property and Evidence Room keys shall not be loaned to anyone and shall be

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maintained in a secure manner. If a Property and Evidence Room key is lost, all access points shall be re-keyed and new keys issued as necessary. No access to the Property and Evidence Room by anyone outside of the Property Room Manager or authorized designee shall be allowed.

802.3.3 ACCESS

Only authorized members shall have access to property storage areas. Any individual who needs to enter the property storage area (e.g., maintenance or repair contractors) must be approved by the Special Operations Bureau Commander and accompanied by the property manager or authorized designee.

802.4 PROPERTY HANDLING

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the property manager and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

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.

802.4.1 PROCESSING AND PACKAGING

All property must be processed prior to the responsible member's next scheduled non-duty day, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property form shall be completed, separately describing each item of property. List all known information including:
 1. Serial numbers
 2. Owner's name
 3. Finder's name
 4. Other identifying information or markings
- (b) Each item's packaging shall be marked with the member's initials and the date processed using a method that will not damage, deface, degrade, or devalue the item.
- (c) Property shall be packaged in a container suitable for its size.
- (d) A property tag or label shall be completed and attached to the property or container in which the property is stored.
- (e) The case number shall be indicated on the property tag or label and the container.
- (f) A copy of the property form shall be submitted with the case report.

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- (g) The property form shall be submitted with the property and placed in a temporary property locker. Items too large to fit in a temporary property locker may be placed in a designated storage area that can be secured from unauthorized entry, and the property for shall remain with the item.

802.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

Bicycles - Bicycles and bicycle frames shall have a property tag securely attached and should be placed in the shed.

Biological and related items - Evidence that may contain biological samples shall be indicated as such on the property form.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated on the property form.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

Cash - The Duty Officer or another supervisor shall be contacted for all cash seizures and shall witness the count of the cash. The cash shall be placed in a property envelope and initialed by both the seizing member and the Duty Officer or other supervisor. The Duty Officer or other supervisor shall initial and date the envelope, seal the envelope with evidence tape, and specify any additional security procedures that may be necessary.

Explosives and fireworks - Explosives will not be retained in the police facility. Fireworks that are considered stable and safe, as well as road flares or similar signaling devices, may be stored in proper containers in an area designated for storage of flammable materials.

The property manager is responsible for notifying the Maryland State Fire Marshal for purposes of destruction, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

Firearms and other weapons - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives.

Government property - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the Motor Vehicle Administration. No formal property processing is required.

Town property that is of no evidentiary value should be released directly to the appropriate Town department. No formal property processing is required.

If no responsible Town personnel can be located, the property should be held for safekeeping.

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Sharps - Syringe tubes should be used to package syringes and needles that are needed for evidentiary purposes. All other syringes or needles shall be placed in a Sharps container and turned over to a hospital for destruction.

802.4.3 CONTROLLED DANGEROUS SUBSTANCES

- (a) Controlled dangerous substances (CDS) shall not be packaged with other property, but shall be processed separately using a separate property form.
- (b) The member processing CDS shall retain such property in his/her possession until it is packaged, tagged, and placed in the designated CDS locker, accompanied by the property form.
- (c) The member shall package CDS as follows:
 - 1. Heat seal or evidence tape the property packaging, and initial and date over the seal.
 - 2. CDS shall be separated from the container in which it was seized and placed into the appropriate evidence packaging.
- (d) Marijuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The property manager shall monitor stored marijuana for growth of mold.

802.4.4 EXTREME RISK PROTECTIVE ORDERS

Whenever a firearm or ammunition is received under an extreme risk protective order, the receiving member should complete a property form identifying the firearm by make, model, and serial number, retain the form, and provide a copy of the form to the person, along with information on the process for reclaiming the firearm/ammunition (Md. Code PS § 5–608).

All firearms taken in relation to an extreme risk protective order or for any other non-criminal purpose should be stored and transported in a protective case, if available, and in a manner intended to prevent damage to the firearm. No identifying or other marks may be placed on the firearm (Md. Code PS § 5–608).

802.4.5 FIREARMS REPORTING REQUIREMENTS

Whenever a firearm is recovered in connection with illegal firearm possession, transportation, or transfer, or that was used in the commission of a crime of violence as defined in Md. Code PS § 5-101, or that was surrendered pursuant to a final protective order issued under Md. Code FL § 4-506, the responsible member should record on the appropriate form, when applicable (Md. Code PS § 5-803):

- (a) The number and type of firearms recovered.
- (b) The jurisdiction where the firearm was recovered or surrendered.
- (c) The source of the firearm recovered if it can be determined.
- (d) Information concerning any person found in possession of the firearm or who surrendered the firearm.

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- (e) Any additional information required by the Maryland State Police Gun Center.

802.5 RECORDING OF PROPERTY

The property manager receiving custody of property shall ensure a property form for each item or group of items is created. The property form will be the permanent record of the property in the Property and Evidence Room. The property manager will record on the property form his/her signature, the date and time the property was received and where the property will be stored.

A unique property number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form and property tag, label, or property packaging. The property log shall document the following:

- (a) Property number
- (b) Case number
- (c) Item description
- (d) Item storage location
- (e) Receipt, release and disposal dates

Any change in the location of property held by the Elkton Police Department shall be noted in the property log.

802.6 PROPERTY CONTROL

The property manager relinquishing custody of property to another person shall record his/her signature, the date and time the property was released and the name of the person accepting custody of the property on the property form.

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

The return of the property to the Property and Evidence Room should be recorded on the property form, indicating the date, time and the name of the person who returned the property, and place the property into a temporary property locker.

802.6.1 EVIDENCE

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

Temporary release of evidence to members for investigative purposes, or for court proceedings, shall be noted on the property form, stating the date, time and to whom released. Requests for items of evidence needed for court proceedings should be submitted to the property manager at least one day prior to the court date.

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Requests for laboratory analysis for items other than CDS shall be completed on the appropriate lab form and submitted to the property manager. This request may be submitted any time after the property has been processed.

802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The property manager releasing items of evidence for laboratory analysis must complete the required information on the property form. The transporting member will acknowledge receipt of the evidence by indicating the date and time on the property form. The lab form will be transported with the evidence to the examining laboratory. Upon delivering the item involved, the member will record the delivery time on the lab form and the property form and obtain the signature of the person accepting responsibility of the evidence. The original copy of the lab form will remain with the evidence and a copy of the form will be returned to the property manager and shall be entered in the property log.

802.6.3 CONTROLLED DANGEROUS SUBSTANCES

The Support Services Bureau will be responsible for the storage, control, and destruction of all CDS coming into the custody of the Department.

802.6.4 UNCLAIMED MONEY

The Property and Evidence Room Supervisor or the authorized designee shall submit an annual report regarding money that is presumed to have been abandoned to the Chief of Police and the Town department responsible for auditing property, or more frequently as directed. The Property and Evidence Room Supervisor may transfer such money in compliance with existing laws upon receipt of proper authorization from the Chief of Police.

802.7 RELEASE OF PROPERTY

The Support Services Bureau shall authorize the release of all property coming into the care and custody of the Department. All reasonable attempts shall be made to identify the rightful owner of found property or items of evidence not needed for an investigation.

Release of all property shall be documented on the property form and shall include the name of the person to whom the property was released. A photocopy of the receiving persons identification should be attached to the property form.

Found property and property held for safekeeping shall be held for the period of time required by law. During such period, the seizing officer shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented in related reports.

A property manager shall release the property when the owner presents proper identification and an authorized property release form has been received (if the owner or agent is in possession of such form). A signature of the person receiving the property shall be recorded on the property form. If some items of property have not been released, the property form will remain with the Property and Evidence Room. After release of all property entered on the property form, the form

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shall remain with the property manager and retained according to the Records Retention and Release policy. Upon release, the proper entry shall be documented in the property log.

Firearms or ammunition should only be released upon presentation of valid identification and determination that the individual may legally possess the item.

802.7.1 DISCREPANCIES

The Duty Officer shall be notified whenever a person alleges there is a shortage or discrepancy regarding the person's property. The Duty Officer will interview the person claiming the shortage. The Duty Officer shall ensure that a search for the alleged missing items is complete and shall attempt to prove or disprove the claim.

802.7.2 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 valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department should be contacted.

802.7.3 EXTREME RISK PROTECTIVE ORDERS

Firearms or ammunition taken in relation to an extreme risk protective order should only be released as follows (Md. Code PS § 5-608):

- (a) On the expiration or termination of the order, the property manager should notify the respondent on the order that the respondent may request a return of the firearms/ammunition.
- (b) If the respondent requests a return of the firearms/ammunition and is not prohibited from possessing the firearms/ammunition, the property manager should return the firearms/ammunition no later than 14 days after the expiration of an interim or temporary order or termination of a final order and no later than 48 hours after the expiration of a final order.
- (c) If the respondent does not desire that the firearms/ammunition be returned, the property manager may release the firearms/ammunition to a licensed firearms dealer or another person who is not prohibited from possessing the firearms/ammunition and who does not live with the respondent, but only upon written verification that the respondent has agreed to the transfer.
- (d) If another person claims ownership of the firearms/ammunition, the property manager may release the property to the person upon proof of ownership if the person is not prohibited from possessing the firearms/ammunition.

802.8 DESTRUCTION OR DISPOSAL OF PROPERTY

The property manager shall authorize the destruction or disposal of all property held by the Department. All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper

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authorization from a supervisor. The disposition of all property shall be entered on the property form and property log.

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:

- Weapons or devices that are forfeited or declared by law to be illegal to possess (Md. Code CP § 13-206).
- CDS declared by law to be illegal to possess without a legal prescription (Md. Code CP § 12-403).
- Money seized in connection with arrest for unlawful bookmaking, betting, or gaming (Md. Code CP § 13-106).
- A forfeited motor vehicle, other vehicle, vessel, or aircraft that was used to conceal, convey, or transport explosives in violation of law (Md. Code CP § 13-301(d)).
- Firearms or ammunition surrendered pursuant to an extreme risk protective order, upon a respondent's request for destruction, or if such property is not reclaimed within six months of the notice provided to the respondent (Md. Code PS § 5-608).

802.8.1 BIOLOGICAL EVIDENCE

The property manager shall ensure that no biological evidence held by this department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Special Operations Bureau Commander

Biological evidence shall be retained for a minimum period established by law (Md. Code CP § 8-201) 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 this 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 Support Services Bureau Commander. If the property manager determines that biological evidence should be destroyed before the end of the statutorily required retention period, the property manager should give 120-days' notice to the appropriate parties pursuant to Maryland law, if applicable (Md. Code CP § 8-201).

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

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Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of the applicable statute of limitations, the Special Operations Bureau Commander should be consulted and the sexual assault victim should be notified.

Sexual assault evidence collection kits and other crime scene evidence relating to sexual assaults that has been identified by the prosecutor as relevant to the prosecution should not be disposed of prior to 75 years from the date of collection, unless allowed by law (Md. Code CP § 11-926; COMAR 02.08.01.04).

802.8.2 REQUEST FOR NOTICE

Upon written request by a victim of sexual assault, the Elkton Police Department should notify the victim 60 days before the date of intended disposal of biological or other evidence relating to the victim's case or retain the evidence for 12 months longer than the time period required by law unless a different time period has been agreed upon by the victim (Md. Code CP § 11-926; COMAR 02.08.01.04).

802.8.3 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth and the property manager shall make efforts to lawfully destroy the contaminated marijuana in compliance with this policy and as soon as practicable. The property manager should consult with the member assigned to the case investigation for his/her authorization to destroy the remaining marijuana after taking representative samples and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

802.8.4 MEDICAL CANNABIS

The investigating member should advise the property manager and the prosecutor if the party from whom the marijuana was seized claims that the possession of the marijuana is for medical purposes.

The property manager shall store marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis consistent with the provisions of the Medical Cannabis Policy.

Marijuana that is infected with mold shall not be returned. This includes marijuana seized from a person who holds a valid medical permit to possess marijuana or who claims that possession of the marijuana is for medical purposes.

802.9 INSPECTIONS OF THE PROPERTY AND EVIDENCE ROOM

The Support Services Bureau Commander shall ensure that periodic, inspections of the Property and Evidence Room operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Support Services Bureau Commander also shall ensure that an audit is conducted annually, or as directed by the Chief of Police. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the Property and Evidence Room operations.

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Whenever there is a change of assignment for any member with authorized access to the Property and Evidence Room, an inventory of all property should be conducted by a person who is not associated with the Property and Evidence Room or function. This is to ensure that all property is accounted for and records are correct.