

Property and Evidence Unit

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 Unit, 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 not been taken as evidence and items taken for safekeeping under authority of law.

802.2 POLICY

It is the policy of the Missoula 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 UNIT SECURITY

The Property and Evidence Unit shall maintain secure storage and control of all property in the custody of this department. An evidence technician shall be appointed by and will be directly responsible to the Detective Division Captain or the authorized designee. The evidence technician is responsible for the security of the Property and Evidence Unit.

802.3.1 REFUSAL OF PROPERTY

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

802.3.2 KEY CONTROL

Property and Evidence Unit keys should be maintained by the evidence technician and members assigned to the Property and Evidence Unit. Property and Evidence Unit keys shall not be loaned

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to anyone and shall be maintained in a secure manner. If a Property and Evidence Unit key is lost, all access points shall be re-keyed and new keys issued as necessary.

802.3.3 ACCESS

Only authorized members assigned to the Property and Evidence Unit and Staff Officers shall have access to property storage areas. Any individual who needs to enter a property storage area (e.g., maintenance or repair contractors) must be approved by the Detective Division Captain and accompanied by a Property and Evidence Unit Member. Each individual must sign the Property and Evidence Unit access log and indicate:

- (a) The date and time of entry and exit.
- (b) The purpose for access, including the specific case or property number.

Each access log entry shall be initialed by the accompanying department member.

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 evidence technician 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. Copies of property receipts should be provided to members of the public whom property was taken from when required, including but not limited to high value items such as firearms, cell phones, money, etc.

802.4.1 PROCESSING AND PACKAGING

All property must be processed by the responsible member prior to the member going off-duty, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property form shall be completed describing each item. List all known information, including:
 - 1. The serial number.
 - 2. The owner's name.
 - 3. The finder's name.
 - 4. Other identifying information or markings.
- (b) Each item 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. Items too small or too delicate to mark should be individually packaged and labeled and the package marked with the member's initials and date.
- (c) Property shall be packaged in a container suitable for its size.
- (d) A property tag 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.

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- (f) The property receipt, without the property label, shall be submitted with the case report.
- (g) The property label shall be submitted with the property directly to the evidence technician or 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, with the property label attached.

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 bicycle storage area.

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 - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. The other member shall witness the count, initial and date the envelope, and specify any additional security procedures that may be necessary. This should be conducted on video, if available.

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.

Firearms and other weapons - Firearms shall be unloaded and packaged separately from ammunition in a designated firearm box. 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 Division. No formal property processing is required.

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

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

Sharps - Syringe tubes or sharps containers should be used to package syringes and needles.

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802.4.3 NARCOTICS AND DANGEROUS DRUGS

- (a) Narcotics and dangerous drugs shall not be packaged with other property.
- (b) The member processing narcotics and dangerous drugs shall retain such property in his/her possession until it is weighed, packaged, tagged, and placed in the designated narcotics and dangerous drugs locker, accompanied by the property label and a copy of the property form.
- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the result of the test shall be included in the crime report.
 - 1. The member shall package narcotics and dangerous drugs as follows:
 - (a) Maintain the property in the container in which it was seized and place it in a property envelope of appropriate size.
 - (b) Seal and initial the property envelope.
 - (c) Weigh the property envelope to obtain the Gross Product Weight (GPW).
 - (d) Write the GPW, and then initial and date both the outside of the package and the property form.
- (d) When the quantity of narcotics and dangerous drugs exceeds the available safe storage capacity as determined by the evidence technician, the quantity shall be photographed and weighed.
 - 1. A representative sample of sufficient quantity to allow scientific analysis of the narcotics and dangerous drugs should be taken as allowed by state law and placed in a separate package or container.
 - 2. Excess quantities should be stored or disposed of as required by law or directed by court order.
- (e) 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 evidence technician shall monitor stored marijuana for growth of mold.
- (f) Appropriate Personal Protective Equipment (PPE) should be utilized during the handling of any property or evidence.

802.5 RECORDING OF PROPERTY

The evidence technician receiving custody of property shall ensure a property label for each item or group of items is created. The property label will be the permanent record of the property in the Property and Evidence Unit. The evidence technician will record the Gross Product Weight (GPW) if the package contains narcotics and dangerous drugs, 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. This number shall be recorded on the property receipt and property label. The property receipt shall document the following:

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

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

802.6 PROPERTY CONTROL

The evidence technician temporarily relinquishing custody of property to another person shall record the transfer with their signature, the date and time the property was released, the name and signature of the person accepting custody of the property and the reason for release.

Any member receiving property shall be responsible for such property until it is returned to the Property and Evidence Unit or released to another authorized person or entity.

The return of the property to the Property and Evidence Unit shall be recorded, indicating the date, the time, the name and the signature of the person who returned the property and the name and signature of the person to whom the property was returned.

802.6.1 EVIDENCE

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

The temporary release of evidence to members for investigative purposes or for court proceedings shall be noted in the property chain of custody field in the records management system, stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the evidence technician at least one day prior to the court date.

Requests for laboratory analysis shall be completed on the appropriate lab form and submitted to the evidence technician. This request may be submitted any time after the property has been processed.

802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

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

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with the evidence and a copy of the form will be returned to the Administrative Division for filing with the case.

802.6.3 NARCOTICS AND DANGEROUS DRUGS

The Detective Division will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department. The GPW will be verified every time narcotics and dangerous drugs are checked in or out of the Property and Evidence Unit and any discrepancies noted on the outside of the package. Any change in weight should be immediately reported to the Detective Division Captain.

802.6.4 UNCLAIMED MONEY

The evidence technician shall submit an annual report, or more frequently as directed, regarding money that is presumed to have been abandoned to the Chief of Police and the City department responsible for auditing property. The evidence technician may deposit such money in compliance with existing laws upon receipt of proper authorization from the Chief of Police.

802.7 RELEASE OF PROPERTY

The Detective Division or assigned investigator shall authorize the release of all property coming into the care and custody of the Department.

Release of property shall be made upon receipt of an authorized property release form, listing the name and address of the person to whom the property is to be released. The property release form shall be signed by the authorizing supervisor or investigator, and must conform to the items listed on the property label or must specify the specific items to be released. Release of all property shall be documented on the property label.

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

As prescribed by law, all reasonable attempts shall be made to identify the rightful owner of found property and items held for safekeeping.

Found property and property held for safekeeping shall be retained for the period of time required by law. During such period, Property and Evidence Unit members 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 on the property label.

An evidence technician or authorized designee shall release such property when the owner presents proper identification and an authorized property release form has been received. The signature of the person receiving the property shall be recorded on the property label.

If any item listed on a property label has not been released, the property label will remain with the Property and Evidence Unit. When all property listed on the card has been released, the property receipt shall be forwarded to the Administrative Division for filing with the case, and the release of all items shall be documented in the records management system.

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802.7.1 DISCREPANCIES

The Shift Commander shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. The Shift Commander will contact the person claiming the shortage. The Shift Commander shall ensure that a search for the alleged missing items is completed and shall attempt to prove or disprove the claim. If this cannot be resolved, the person will be instructed to contact the Office of Professional Standards.

802.7.2 DISPUTED CLAIMS TO PROPERTY

Occasionally, more than one party may claim an interest in property being held by this 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 establishes an undisputed right to the property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for this department should be contacted.

802.8 DESTRUCTION OR DISPOSAL OF PROPERTY

An authorized Detective Division investigator or supervisor shall approve the destruction or disposal of all property held by this 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 authorization from a supervisor. The disposition of all property shall be entered in the records management system in the appropriate property field.

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 declared by law to be illegal to possess
- Narcotics or dangerous drugs declared by law to be illegal to possess without a legal prescription

802.8.1 BIOLOGICAL EVIDENCE

The evidence technician 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 Detective Division Captain

Except as provided below, biological evidence shall be retained for a minimum period established by law (§ 46-21-111, MCA) 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

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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 Detective Division Captain.

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

Biological evidence from a sexual assault kit shall be stored in a secure and reasonable manner that preserves the evidence for 75 years from the date of collection. Even after expiration of the applicable statute of limitations, the Detective Division Captain should be consulted before destruction. If the sexual assault victim has requested notification regarding the destruction of evidence, written notice shall be provided 120 days before destruction or disposal. The notice shall include but is not limited to (§ 46-15-413, MCA):

- (a) A description of the biological evidence.
- (b) A statement of the intended destruction or disposal of the biological evidence in 120 days.
- (c) The name, mailing address, and other relevant contact information of the agency with custody of the evidence.

802.8.2 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth. As soon as practicable, the evidence technician shall make efforts to lawfully destroy the contaminated marijuana, in compliance with this policy. The evidence technician should consult with the member assigned to the case investigation for 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.

802.8.3 MEDICAL/RECREATIONAL MARIJUANA

The investigating member should advise the evidence technician and the prosecutor if the party from whom the marijuana was seized can legally possess marijuana or claims that the possession of the marijuana is for medical purposes.

The evidence technician shall store marijuana, drug paraphernalia or other related property that is seized from a person engaged in or assisting with the use of medical marijuana in a manner that is consistent with the provisions of the Medical Marijuana Policy.

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

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802.9 INSPECTION OF THE PROPERTY AND EVIDENCE UNIT

The Detective Division Captain shall ensure that periodic inspections of the Property and Evidence Unit operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Detective Division Captain 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 Unit operations.

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