
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.

802.2 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 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 (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

Recovered Property - Includes property which has been reported stolen and has been recovered.

802.3 PROPERTY HANDLING

Any employee who comes into possession of any property shall ensure such property is properly tagged and placed in the designated property locker or storage room along with the property record. Care shall be taken to maintain the chain of custody for all evidence.

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

An offense report shall be completed for all property booked with the exception of H&S 11357 (b) and CVC 23222(b).

Possession of personal property from a person for temporary safekeeping, the officer shall do the following per 2080.10 Civil Code:

- Take responsibility for the storage, documentation, and disposition of the property.
- Provide the person with whom the property was taken with a receipt and instructions for the retrieval of the property by personal delivery or mailed.
- If the person whom the property was taken is not the owner, make reasonable effort to identify the owner.

Redding Police Department

RPD Policy Manual

Property and Evidence

- Notify the person whom the property was taken that it must be claimed within 60 days or the property will be disposed by the Department.

802.3.1 PROPERTY BOOKING PROCEDURE

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

- (a) Complete the property record describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Print the evidence/property record and attach it to each package or envelope in which the property is stored.
- (d) Place the case number on the bag or container.
- (e) The printed property record shall be placed/affixed to the property.
- (f) When the property is too large to be placed in a locker, the item shall be retained in the overnight storage room with the property record attached.

802.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record.

Paraphernalia as defined by Health and Safety Code § 11364 shall be booked separately.

Paraphernalia used to inject or smoke controlled substances may be held as evidence due to other criminal violations for prosecution. It is not necessary to hold these instruments as evidence for 11364 H&S cases. In these cases, officers shall document the syringe, hypodermic needle, or glass smoking pipe with a digital photograph. The digital film card shall be placed into property/evidence. The instrument may then be placed in the by the officer. For further see Instruction 09-04.

The officer seizing the narcotics and dangerous drugs of evidentiary value shall place them in a DOJ envelope with the property record attached. Narcotics and other dangerous drugs not booked for evidentiary value should be placed in an appropriately sized envelope or storage container.

802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called 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 in the police facility. Only fireworks that are considered stable and safe and 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.

Redding Police Department

RPD Policy Manual

Property and Evidence

The Property and Evidence Technician is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.4 EXCEPTIONAL HANDLING

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

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.
- (c) All bicycles and bicycle frames require a property record. Property records will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Property and Evidence Technician or placed in the over-night storage area until a Property and Evidence Technician can log the property.
- (d) All cash exceeding \$100.00 shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. If seized money requires special handling, i.e. is physical evidence, has collector value, constitutes evidentiary value, or at the direction of the investigating officer or District Attorney's Office written explanation requesting funds not be deposited is to be attached to the evidence envelope or container by the officer at the time it is submitted into property.
- (e) All latent print cards which have been obtained by officers shall be placed into the Police Department evidence locker. The cards will note case number, the officer's name/ID number, and the location where obtained. Designated ID personnel shall be responsible for the maintenance of the latent print file. Latent prints shall be maintained for a period of at least three years and disposed of consistent with the case disposition. Latent print cards put into evidence shall not be listed under the property section of the Redding Police Department offense and/or supplemental report. Details involving the latent print lifts and number of cards submitted shall be related in the police report narrative. Latent print cards do not require a property record form.

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.

802.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

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

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

Redding Police Department

RPD Policy Manual

Property and Evidence

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

The Property and Evidence Technician shall ensure the Records Division is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ).

802.4 PACKAGING OF PROPERTY

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

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband
- (g) Marijuana
- (h) Monies
- (i) DVD's, CD's, flash-drives or devices containing contents that will need to be uploaded by the Crime Scene Technician

802.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, gun boxes should be used for firearms, 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.

802.4.2 PACKAGING NARCOTICS

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 a locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Redding Police Department

RPD Policy Manual

Property and Evidence

Narcotics and dangerous drugs shall be packaged in a DOJ envelope. The booking officer shall date and initial the envelope and seal it with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property record shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this envelope.

802.5 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record where the property will be stored on the property record.

Any changes in the location of property held by the Redding Police Department shall be noted in the Property System and the property record.

802.6 PROPERTY CONTROL

The Support Services Division is responsible for evidence and property control functions.

The Property/Evidence Technicians are the only persons authorized to carry keys to Property.

In an emergency, in the absence of Property/Evidence Technicians, the Investigations Division Commander and the Professional Standards Sergeant will each have access to Property.

Each time the Property and Evidence Technician receives property or releases property to another person, he/she shall enter this information on the property record. Officers desiring property for court shall contact the Property and Evidence Technician in person or via message.

802.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the property record and evidence package shall be completed to maintain the chain of evidence.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property and Evidence Technician. This request may be filled out any time after booking of the property or evidence.

802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date on the property record and the request for laboratory analysis.

The Property and Evidence Technician releasing the evidence must complete the required information on the property control record and the evidence.

802.6.3 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 on the property record, stating the date and to whom released.

The Property and Evidence Technician shall obtain the initials and employee number of the person to whom property is released. Any employee receiving property shall be responsible for such

Redding Police Department

RPD Policy Manual

Property and Evidence

property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property record, indicating date and the person who returned the property.

802.6.4 AUTHORITY TO RELEASE PROPERTY

The responsible officer shall authorize the disposition or release of all evidence and property, with the exception of found property and items kept for safekeeping, coming into the care and custody of the Department.

802.6.5 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 authorization from an officer, court, or DA's Office. Release of all property shall be documented on the property record.

With the exception of firearms and other property specifically regulated by statute, found property shall be held for a minimum of 90 days. Property held for safekeeping shall be held for a minimum of 60 days. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). 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 record. After release of all property entered on the property control record, the record shall be forwarded to the Records Division for filing with the case. If some items of property have not been released the property record will remain with the Property and Evidence Section. Upon release, the proper entry shall be documented in the Property System.

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).

No item held by search warrant may be returned to the defendant/owner without a court order.

Redding Police Department

RPD Policy Manual

Property and Evidence

802.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Redding Police 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 Redding Police Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

802.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Property Division 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.

802.6.8 RELEASE OF FIREARM 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 and Evidence Technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

802.6.9 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 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm 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 Redding Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

802.6.10 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

Redding Police Department

RPD Policy Manual

Property and Evidence

- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Redding Police Department shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Redding Police Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

802.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal.

802.7.1 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:

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

802.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Redding Police Department shall cause a notice to be published each week for a period

Redding Police Department

RPD Policy Manual

Property and Evidence

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 agency 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 this Department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

802.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Section technician shall ensure that no biological evidence held by the Redding Police 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 assigned investigator

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 officer, 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 Redding Police 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 Investigations Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the approval of the assigned investigator and the District Attorney's Office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigations Division 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).

Redding Police Department

RPD Policy Manual

Property and Evidence

802.7.4 FORFEITED WEAPONS -- USE BY SWORN OFFICERS

Weapons forfeited in compliance with Penal Code Sections 12028, 12030, 12032 and Welfare and Institutions Code Section 8102 and clear of any criminal or civil case may be used by sworn members of this Department.

Each firearm shall have a court order, court docket or release from the owner authorizing the forfeiture to the Police Department attached to the original report.

A Redding Police Department tracking form shall be used to document the receipt of a forfeited weapon in the Department and all assignments of the weapon to Department personnel.

Each weapon forfeited shall be documented in the following manner:

- (a) An offense report supplement to the original report including the approving signature of the Chief of Police, the Field Operations Division Commander and the Records Technician who entered the weapon in CLETS.
- (b) CLETS entry in the Automated Firearms System listing the weapon as "Retained for Official Use Only."
- (c) An RPD weapons tracking form shall be filed with the Chief of Police or his designee indicating to whom the weapon is assigned.

Weapons shall only be assigned to sworn officers. Maintenance of the assigned weapon shall be the responsibility of the officer in accordance with established policies for any other duty weapon.

Weapons to be forfeited will be of good quality, in serviceable condition, and in a caliber applicable to law enforcement use. Prior to being issued, each weapon shall be inspected by a Department Range Master.

Weapons forfeited shall only be used for:

- (a) Training
- (b) Official law enforcement duties, including undercover, backup, off-duty or tactical use.
- (c) Transfer to another law enforcement agency.
- (d) Educational display.

The use of these firearms shall be governed by existing laws and Department policy.

When no longer needed, the weapon shall be returned to the Property Evidence Technician for destruction with a record made on the RPD weapons tracking form and CLETS entry.

802.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) The Professional Standards Sergeant should periodically inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures. The inspections should follow the guidelines outlined in the California POST Evidence and Property Management Guide. The inspection results should be documented and forwarded to the Chief of Police.

Redding Police Department

RPD Policy Manual

Property and Evidence

- (b) Unannounced inspections of evidence storage areas should be conducted annually by the Professional Standards Sergeant or designee of the Chief of Police. The inspection results should be documented and forwarded to the Chief of Police.
- (c) An annual audit should be completed by the Professional Standards Sergeant or a designee of the Chief of Police. The audit should follow the guidelines outlined in the California POST Evidence and Property Management Guide. A report should be completed and forwarded to the Chief of Police.