

## Property and Evidence Section

### 801.1 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 identifies those persons authorized to remove and/or destroy property.

#### 801.1.1 DEFINITIONS

Definitions related to this policy include:

**Property** - All articles placed in secure storage within the Property and Evidence Section, 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.

### 801.2 PROPERTY HANDLING

Any employee who first comes into possession of property determined to have monetary or evidentiary value shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. 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 form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

The San Diego Community College District Police Department books all evidence, seized property, narcotics, etc., with the San Diego Police Department. See SDPD procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

#### 801.2.1 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):

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- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (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 Officer shall ensure the Records Supervisor 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) (See the Records Unit Policy). See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks

### **801.3 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 follow the San Diego Police Department procedures for booking evidence, seized property, narcotics, etc.

### **801.4 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

See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

### **801.5 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, and syringe tubes should be used to package syringes and needles. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks, and 3.15 Narcotics Impounds/Release of Evidence.

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### **801.6 RECORDING OF PROPERTY**

The Property Officer receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

### **801.7 PROPERTY CONTROL**

Each time the Property Officer receives property or releases property to another person, he/she shall enter this information on the property control card. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

#### **801.7.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

#### **801.7.2 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 control card, stating the date, time and to whom released.

The Property Officer shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such 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 control card, indicating date, time, and the person who returned the property. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

#### **801.7.3 AUTHORITY TO RELEASE PROPERTY**

The Investigative Unit shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

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### 801.7.4 RELEASE OF PROPERTY

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

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 personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 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.

Under no circumstances shall any firearm, magazine, or ammunition 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, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875). See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

### 801.7.5 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 may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

### 801.7.6 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

See San Diego Police Department Procedure 3.15 Narcotics Impounds/Release of Evidence.

### 801.7.7 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks.

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### 801.7.8 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 or ammunition, the Property Officer shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, another successive order has been issued against the individual, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 29825.5; Penal Code § 33855).

### 801.7.9 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, verification that the person is not otherwise legally prohibited from possessing a firearm, and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18108; Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, they are 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 San Diego Community College District PD determines the person 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.

### 801.7.10 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms, other deadly weapons, or ammunition confiscated or relinquished 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:

- (a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or 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) that 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 firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.

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- (c) Unless the person contacts the 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.

### **801.8 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. The Property Officer 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 detective.

#### **801.8.1 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 § 25700; Penal Code § 26110; Penal Code § 26395; 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)

#### **801.8.2 UNCLAIMED MONEY**

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department 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 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).

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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.

See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks; 3.02 Impounding of Property to be Seized; and 3.15 Narcotics Impounds/Release of Evidence.

### **801.8.3 RETENTION OF BIOLOGICAL EVIDENCE**

The San Diego Police Department Property and Evidence Supervisor shall ensure that no biological evidence booked by the San Diego Community College 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 Investigation Unit Division supervisor

See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks.

### **801.9 NARCOTICS AND DANGEROUS DRUGS**

All narcotics and dangerous drugs shall be booked separately using a separate record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately. See San Diego Police Department Procedure 3.15 Narcotics Impounds/Release of Evidence.

### **801.10 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 the designated narcotics locker. 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. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks, and 3.15 Narcotics Impounds/Release of Evidence.

### **801.11 EXPLOSIVES**

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Patrol Sergeant. 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. See the San Diego Police Department Procedure 8.15 arson investigations, bomb threats, bombings, explosives, and pyrotechnic materials.

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### **801.12 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 released directly to the Property Officer, or placed in the designated container to 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 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 the Property Officer can log the property.
- (d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Patrol Sergeant shall be contacted for cash in excess of \$1,000 for special handling procedures.

Educational Institution property, unless connected to a known criminal case, should be released directly to the appropriate Educational Institution 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. See San Diego Police Department procedures 3.02/3.05 Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks

### **801.13 POLICY**

It is the policy of the San Diego Community College District PD 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.