

# Property and Evidence

## 804.1 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.

## 804.2 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.

## 804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room 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 (FPD 007) must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items or the property release must be documented in the officer's report.

### 804.3.1 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 ARS entry describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) All packages must be sealed with evidence tape and initialed half on and half off the seal.

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

- (c) Each item booked into the Fontana Police Department Property Unit will have a bar code label attached in a location which is clearly visible. Instructions for proper location of bar code labels on packaging are located in a notebook on the property packaging counter.
- (d) If an officer encounters a problem with printing a bar code label, then all items must be marked with the officer's name, identification number, case number, evidence item number, and description. Write the information directly on the package. If the item is not packaged, write directly on the item if feasible, or use a self-stick label.
- (e) It is the officer's responsibility to complete the appropriate San Bernardino County Sheriff's Department lab forms for any item to be sent to the Crime Lab. Instructions for filling out each form may be found in the Property Packaging Manual and/or San Bernardino County Sheriff's Department Guidebook.
  - 1. The San Bernardino Sheriff's Crime Lab requires only one Blue bar code label for each narcotic investigation (affixed by Property Control Clerk). Therefore, if numerous narcotics are obtained during an investigation, they shall be packaged separately, but all packages shall be placed in one envelope or box but not to exceed 40 pounds. It is this envelope or box that shall have a bar code label affixed.
  - 2. This section does not apply to narcotics booked for destruction. Any narcotic booked to be destroyed shall be packaged separately and each package shall have a bar code label and the SBCSD lab form.

#### **804.3.2 EXPLOSIVES**

Fireworks (which include illegal and Safe & Sane Fireworks) shall not be brought into the station. These items shall be stored in the bomb box located in the impound area located on the east lot. Employees must notify property staff that the item(s) is stored in the bomb box. If an employee feels that moving of fireworks, because of their condition, may be hazardous, the Fire Department shall be notified to respond to the scene as outlined in this policy.

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be retained in the police facility. Officers who encounter a suspected explosive device shall immediately notify the immediate supervisor and/or Watch Commander. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

#### **804.3.3 WET, BLOOD CONTAMINATED EVIDENCE**

Wet, blood contaminated evidence, or any evidence that is wet from any source, shall be dried before it is put in an evidence locker and should be treated with the utmost caution, utilizing universal precautions at all times.

# Fontana Police Department

## Fontana PD Policy Manual

### Property and Evidence

Officers transporting the wet contaminated evidence is responsible for properly hanging the evidence for drying purposes in the blood drying room, locking the room, dropping off the required forms in the Field Evidence Unit's office or assigned tray and dropping off the blood drying room key into the FET lockbox, located at the Field Evidence Unit, as described below:

#### Blood Drying Room Procedures:

- a. Utilize the supplies provided in the blood drying room and property area to properly place evidence in the blood drying room. This includes, but is not limited to: Nitrile gloves, masks, eye protection, shoe coverings, hangers, paper bags, clothes pins, butcher paper, red bio-hazard plastic bags and/or receptacles and hand cleaning supplies.
- b. Place butcher paper under the area where items will be hung.
- c. Hang item(s) on hanger using the clothes pins provided. Place butcher paper between the clothes pin and the item (s).
- d. When completed, place all contaminated bags, gloves and used safety gear into the biohazard receptacle provided in each room.
- e. Do not touch door handles with contaminated gloves.
- f. If you have collected items from both victim and suspect in a case, DO NOT place these items into the same room. If only one room is available at the time, please hang these items separate from one another with butcher paper separating the items from each other.
- g. The processing officer will carefully document in their narrative the following: from whom the clothing/item was removed/ collected, who if anyone assisted in collecting, where it was removed from, the time it was removed/ collected, how it was packaged and any contamination it may have already received. In additional, the processing officer will document the blood drying room number where the items were stored.
- h. The item(s) shall be entered into ARS on your report. When selecting "property intake", please select all items in the room, and select the Blood Dry Room and the room number where the items were stored. Place the blood drying room key into the lock box located next to the FET office door.
- i. Complete the "Request for ID Unit Services" (form FPD 204) with the case information and descriptions of what items are in the blood dry room. The white copy of this form gets attached to your report, and the yellow copy will get placed into the FET Tray in report writing or in the FET Tray at the unit door.
- j. Drop the room key into the FET lock box at the FET Unit door when you have completed all of the above.

\*If DNA or further testing needs to be completed for the items in this room please complete those forms. General Request forms will go to FPD Property and completed SBSO DNA Request forms are to be emailed to FPD\_DNA@Fontana.org.

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

The drying process takes 24-48 hours. Once dry, the Field Evidence Technician will:

- a. Remove the item(s) utilizing universal precautions and ensuring proper handling of items and book the items into the Property & Evidence room.
- b. After removal of the items(s), the Field Evidence Technician will ensure the blood drying room is decontaminated, complete the decontamination log and place the room back in service by placing the key back on the door.
- c. Restock supplies as needed.

Spare sets of blood drying room keys will be maintained in the FET office.

#### 804.3.4 EXCEPTIONAL HANDLING

- (a) All bicycles/ bicycle frames require a property entry into Inform RMS. Property intake entry must be completed into the "outdoor cage area" and property staff notified of this entry. Property tags will be securely attached to each bicycle/bicycle frame, then placed in the east lot's fenced in evidence storage area.
- (b) Money shall be submitted to property in a currency envelope (FPD 156). The front of the currency envelope must be filled out completely when the total amount of money broken down by denomination. The count must be verified and countersigned by a second person. Seal the envelope, initial and tape over the seal with FPD evidence tape. The Watch Commander or other supervisor shall be contacted to verify cash in excess of \$1,000.00. For currency exceeding \$25,000.00 a supervisor may authorize sworn staff to place the currency into a bank bag(s) utilizing dual custody procedures and sealed. For bulk currency handling and processing, see section 804.3.6.
- (c) 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.
- (d) All pharmaceutical controlled substance collected from the public via the prescription drug drop-off program shall be retrieved from the secure department provided drug collection drop box and contents shall be delivered to the San Bernardino County Sheriff Crime Lab for destruction. Access to the drug collection drop box requires the use of two separate individuals keys. A key will be maintained within the property unit and a key will be maintained with sworn staff. Property Unit staff will schedule the collection of the drug collection drop box on a frequency deemed necessary based on usage. A sworn staff member shall accompany the property staff member when the contents of the drug collection drop box are collected. The contents will be weighed, placed in an appropriately sized box/ bag, sealed with evidence tape and initialed by both sworn/ property staff members. A miscellaneous incident report will be created by sworn staff to document collection of the drug collection drop box contents, a bar code label will be affixed to the bag/box and the SBSD lab form will be completed by the property staff requesting destruction.

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

#### 804.3.5 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
- (b) The convicted person provides written notice of intent to appeal the conviction that necessitated the relinquishment; or
- (c) The automated firearm system indicates that the firearm was reported lost or stolen;
  - 1. In such events, 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 section (33850 et seq.

The property clerk shall update the automated firearm system and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ).

#### 804.3.6 BULK CURRENCY HANDLING

Bulk currency seizures are seizures of U.S. Currency that consist of currency that is believed to be in excess of \$25,000 or amounts of currency that require a special count at a financial institution at a later date. Bulk currency handling will normally be handled by a supervisor. The supervisor shall:

- (a) Utilize a body worn computer (BWC) to document the seizure of the currency. The BWC footage should adequately show the location of where the currency was discovered and the condition it was discovered in. The supervisor shall place the currency in a security bag (supplied by a financial institution) and seal the bag by removing the serialized security strip. The supervisor shall retain the serialized security strip and recite the serial number into the BWC recording.
- (b) Once when the bag of currency is sealed, the supervisor shall retain possession of the currency and security strip. The supervisor shall be responsible to place the bag of currency into FPD Evidence until it can be counted at a financial institution. Evidence Technicians will secure the bag of currency into the vault until removed for counting/accounting purposes.
- (c) In the event there are more than one bag of currency related to the seizure, the bags shall be labeled accordingly (i.e., 1 of 3, 2 of 3, 3 of 3). The bag containing currency shall also contain the FPD Case number written on it and location seized.
- (d) The serialized security strip will remain in the possession of the supervisor until a count date is established and the bag of currency is removed from FPD Evidence. At that time, the supervisor will verify that the bag is still secure and that the security strip serial numbers match. This process shall also be memorialized on BWC.

# Fontana Police Department

## Fontana PD Policy Manual

### Property and Evidence

---

- (e) Bank transportation of the currency shall be conducted in dual custody.
- (f) If a supervisor is not available for the seizure of the currency, sworn personnel must notify their supervisor as soon as practical of the seizure and are responsible for following the outlined procedure.
- (g) BWC Retention shall be 5 years.
- (h) Any deviation from this policy requires the Division Commander to be notified as soon as practical.

#### **804.4 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 & Safety Code § 11364
- (e) Fireworks
- (f) Contraband
- (g) Cash
- (h) Serialized Property
- (i) Photos/CD's
- (j) Bullets

##### **804.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size.

- (a) Knives with sharp, exposed blades should be double packaged or have the blades wrapped (with paper or cardboard and tape) if possible.
- (b) Needles, syringes and pipes will be photographed and discarded in an approved sharps container located in the property tagging area. Razor blades are to be packaged in the syringe tubes provided for that purpose.
- (c) Guns and magazines shall be unloaded. Place ammunition removed from the gun and/or magazine in a cushioned manila envelope, then place in 6 1/2 by 9 1/2 or 9x12 envelope/ label it as outlined above. Enter the ammunition as a separate item.
  1. Place the unloaded gun, secured with a non-removable cable tie in an evidence locker with cylinder open or the ammunition magazine removed. Do not package any gun unless it needs special handling (i.e. blood comparison, latent prints, etc.)
- (d) Sex crime evidence.
  1. It is important that clothing be packaged properly at the scene or place where it is collected. Each item of clothing must be packaged in a separate paper bag or envelope at the time of collection to prevent contamination. Underwear must be

# Fontana Police Department

## Fontana PD Policy Manual

### Property and Evidence

---

packaged in a 6 1/2" x 9 1/2" manila envelope. Mark each package as outlined above.

2. All sex kits or any item containing biological fluid samples shall be refrigerated. All sex kits need to be sent to the Crime Lab. Items being submitted to the crime lab must have a DNA analysis request form completed.

#### **804.4.2 PACKAGING NARCOTICS AND DANGEROUS DRUGS**

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 locker, accompanied by a request for analysis form

Narcotics and dangerous drugs shall be packaged in an envelope, large brown paper bag or box of appropriate size. All packages must be sealed with evidence tape and initialed half on and half off the seal. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property label shall be attached to the outside of the container.

- a. Marijuana must be dry and must be packaged in a manila envelope or paper bag. NEVER put marijuana or any other vegetable matter in plastic (it will mold and decay). Complete the green "Request for Analysis" crime lab form. Please label the envelope as outlined above.
- b. All other drugs must be packaged in K-Pac heat sealed pouches. Do not include containers other than K-Pac, baggies or vials. Place the sealed K-Pac pouch inside a manila envelope. Complete the green "Request for Analysis" crime lab form. Label the envelope as outlined above.
- c. Large amounts of controlled substances (in excess of 10 pounds gross weight) shall, unless otherwise authorized by the Chief of Police, be handled in accordance with Health and Safety Code 11479 which details the process for random sampling, photographing, weighing, and destruction of large amounts of controlled substances. Property control is responsible for destruction of controlled substances.
- d. The San Bernardino Sheriff's Crime Lab requires only one Blue Bar code label for each narcotic investigation (affixed by Property Control Clerk). Therefore, if numerous narcotics are obtained during an investigation, they shall be packaged separately, but all packages shall be placed in one envelope or box but not to exceed 40 pounds. It is this envelope or box that shall have a barcode label affixed. This section does not apply to narcotics booked for destruction. Any narcotic booked to be destroyed, shall be packaged separately and each package shall have a barcode label and the SBCSD lab form.

#### **804.5 RECORDING OF PROPERTY**

The Property Clerk receiving custody of evidence or property shall record his/her information, the date and time the property was received and where the property will be stored in the computer system (ARS/RMS).

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

When an item is to be sent to the SBSO Crime Lab, the property clerk will produce and attach the appropriate blue bar code required by the Lab and enter into the SBSO Property and Evidence Tracking System.

Any changes in the location of property held by the Fontana Police Department shall be noted in the property system.

#### **804.6 PROPERTY CONTROL**

Each time the Property Clerk receives property or releases property to another person, he/she shall enter this information in the property control system. Officers desiring property for court shall contact the property clerk at least one day prior to the court date.

##### **804.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry shall be completed to maintain the chain of possession.

##### **804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The transporting employee will check the evidence out of property, indicating the appropriate information in the property control system.

The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved. The original copy of the lab form will remain with the evidence.

##### **804.6.3 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 evidence check out form and the property control system. The Property Clerk 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 in the property control system, indicating date, time, and the person who returned the property.

##### **804.6.4 AUTHORITY TO RELEASE PROPERTY**

The Property Unit shall oversee the disposition or release of all evidence and property coming into the care and custody of the Department.

##### **804.6.5 RELEASE OF PROPERTY**

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

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 60 days and found property

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

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.

A property clerk 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 form. A signature of the person receiving the property shall be recorded on the release form, scanned to the case and an Inform RMS entry made.

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 Property Clerk should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

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).

#### **804.6.6 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)).

#### **804.6.7 CONTROL OF NARCOTICS & DANGEROUS DRUGS**

The Narcotics Unit along with the Property Unit 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 & Safety Code § 11364.

Narcotics and drugs taken as evidence shall be stored in the vault, or if necessary, taken to San Bernardino County Sheriff's Crime Lab for analysis. When no longer needed as evidence, narcotics and drugs shall be taken to the San Bernardino County Sheriff's Crime Lab for disposal. Narcotics and drugs, which are turned in to Property Control for destruction only, shall be taken to the San Bernardino County Sheriff's Crime Lab for disposal. Large quantities of narcotics,

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

which are not accepted by the San Bernardino County Sheriff's Crime Lab, shall be disposed of in accordance to the agreement between City of Fontana and Southeast Resource Recovery Facility (SERRF) in Long Beach, or another such agency.

#### **804.6.8 RELEASE OF FIREARM, MAGAZINE AND/OR AMMUNITION IN DOMESTIC VIOLENCE MATTERS**

If a firearm, magazine and/or ammunition is not retained for use as evidence or related to criminal charges brought as a result of a domestic violence incident, or is not retained because it was illegally possessed, seized items shall be made available 48 hours after seizure, or as soon thereafter as possible, but no later than five business days. Property staff shall return the weapon, magazine and/or ammunition after the owner or person who was lawfully in possession demonstrates compliance with Penal Code section §33850 and Penal Code section § 33855.

Except as provided in Penal Code Section 18400 and Family Code § 6389(a).

#### **804.6.9 OTHER RELEASE OF PROPERTY OR EVIDENCE**

##### **(a) Items checked out for court**

1. Items may be checked out of Property Control by department personnel to take to court, DMV hearings, parole hearings, etc. At the time the employee takes possession of the property they will sign an Evidence Check-Out Form (FPD 243).
2. The employee will maintain the white copy of the Evidence Check-Out Form until the evidence is returned to property control or released to another party. The property clerk will maintain the yellow copy in a tickler file until the white copy is returned. If the evidence and/or the form is not returned within a reasonable period of time, the property clerk will refer the matter to the employee's supervisor.
3. If employees release evidence, they shall so indicate on the Evidence Check-Out Form and obtain the signature of the person to whom they release the evidence and return form to property control. If the evidence is returned to Property Control, the employee will so indicate on the form and return it with the evidence to Property Control.

##### **(b) Evidence in shoplifting cases**

1. Evidence (merchandise) in shoplifting cases where the suspect is cited released may be retained by the retail establishment if it is photographed and the merchant agrees to hold the evidence for presentation in court. The photograph will be retained by Property Control until there is a disposition on the case, and then destroyed.

##### **(c) Items for destruction only**

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

1. Items of property or evidence, which are turned in to Property Control for destruction only must have a case number. Property Control clerks shall dispose of such items in a manner consistent with the laws of the state and this policy.
- (d) Release of property for official department use
  1. Items of property or evidence, which have no evidentiary value, are not subject to release to the owner, and/or have not been claimed by the owner within the legal time limit, may be used for official purposes in displays, presentations, or training upon written request for each item and written approval of the Chief of Police.
  2. Any item so used for public display shall have all information obscured which would identify a victim or a suspect.
- (e) Items of property or evidence for use in 'sting' operations
  1. Items of property or evidence which have no evidentiary value are not subject to release to the owner, and/or have not been claimed by the owner within the legal time limit, may be used in sting operations, buy-bust operations, etc., upon approval of the Chief of Police. Written request shall be made, and written approval shall be obtained from the Chief of Police before any item of property or evidence is released for such purpose.
- (f) Release of items for public use
  1. Items of property or evidence (other than dangerous and deadly weapons, narcotics and drugs, and explosives) which have no evidentiary value, are not subject to release to the owner, and/or have not been claimed by the owner within the legal time limit, may be released for official public use upon written request and written approval of the Chief of Police. The term "public use" includes use by any public agency deemed appropriate by the Chief of Police. Computers will have the hard drive removed by the Computer Crimes Investigator, or other employee as assigned by the Investigations Lieutenant.
- (g) Unclaimed bicycles and toys
  1. Bicycles and toys, which have no evidentiary value, are not subject to release to the owner, and/or have not been claimed by the owner within the legal time limit, may be used in a bicycle/toy give-away program in accordance with FCC 22-35, WIC 217.
- (h) Release of firearms for departmental use
  1. Firearms, which have no evidentiary value, are not subject to release to the owner, and/or have not been claimed by the owner within the legal time limit, may be released for the official use of this department upon written request and written approval of the Chief of Police.

# Fontana Police Department

## Fontana PD Policy Manual

### Property and Evidence

---

#### 804.6.10 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:

- (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.
- (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.

#### 804.6.11 DISPOSITION OF EVIDENCE ON INFRACTION CITATIONS

When an officer takes evidence from a person who is cited for an infraction, the officer shall attempt to obtain the name of the owner of the property. If the owner is different from the person who was cited, the owner's name and address shall be written included in the report. A copy of the citation needs to be attached to the property or placed in an evidence locker.

Any and all perishable items shall be photographed and disposed of immediately by the officer. In no case shall officers put perishable items in property lockers or leave them in food carts or containers. Photograph(s) shall be placed in evidence or downloaded into Visual Labs.

After the court date for the citation has passed, the property control clerk will mail a notification to the owner, or to the violator if the owner's name is unknown, advising them the property is ready for release. The notification shall state that in order to claim the property, they must produce proof a disposition was made on the citation, or show that a new court date has been set. The notification will also include a notice that the property will be disposed of if not claimed within three months.

If the court provides a disposition, the property will be released pursuant to department policy. If a new court date has been set, the property will be held until the new court date, and then another notification will be sent.

If the violator does not respond to the notification, property control clerks will hold the property for three months after the date of advisal, photograph and dispose of it.

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

#### 804.6.12 AUCTIONING OF PROPERTY AND EVIDENCE

Items of property or evidence (other than dangerous and deadly weapons, narcotics and drugs, and explosives) which have no evidentiary value, are not subject to release to the owner, and/or have not been claimed by the owner within the legal time limit, may be sold at auction in accordance with the laws pertaining to disposition of property and evidence. The auction of property and evidence is conducted by a private auction company that contracts within the city.

A list of items to be auctioned will be circulated to designated persons in all city departments, prior to items being released to the auction company so that any items that could be retained for city use may be retained. Written request shall be made within the time period designated, and written approval shall be obtained from the Chief of Police before any item on the auction list will be released for city use. If auctioned, computers will have the hard drive removed by the Computer Crimes Investigator, or other employee as assigned by the Investigations Lieutenant.

#### 804.6.13 HIGH-CAPACITY MAGAZINES

High-capacity magazines, purchased after January 1, 2000, shall not be released.

All high-capacity magazine releases should be reviewed and overseen by the designated department firearms expert.

If an individual asserts lawful ownership of a high-capacity magazine and requests a property release, the request shall only be facilitated if the following two requirements are met:

- Verbal description and visual identification of the magazine
- Ability to produce proof of ownership of the magazine dated no later than December 31, 1999

If an individual does not volunteer pre-2000 ownership of the magazine, the magazine will be retained and destroyed in accordance with Penal Code section 18010(b).

#### 804.6.14 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 Fontana Police Department determines him/her to be the

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

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.

#### **804.6.15 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.

#### **804.7 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. The property clerk 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.

##### **804.7.1 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)

##### **804.7.2 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).

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

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.

#### **804.7.3 RETENTION OF BIOLOGICAL EVIDENCE**

The Property Supervisor shall ensure that no biological evidence held by the 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 Division Supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation's Division Supervisor.

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

#### **804.8 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

### **804.9 PROPERTY & EVIDENCE FACILITY SECURITY**

The Property Sergeant, Property Supervisor and assigned Property Clerks will be issued keys and alarm codes for access to the Property and Evidence Room. Any changes in Property and Evidence staff personnel will require a change of locks and alarm codes. Property staff shall not lend or give their assigned keys or alarm code to any person. All other personnel entering the Property and Evidence room shall be accompanied by property and will be required to complete the property log prior to entry.

#### **804.9.1 PROPERTY & EVIDENCE ROOM ACCESS DURING NON-BUSINESS HOURS**

On rare occasions, access to the Property and Evidence room may be required during non-business hours. This access shall be handled in the following manner:

- (a) If the situation allows for a response time, a property staff member shall be located and/or called out to respond for entry.
- (b) A spare set of keys to the Property and Evidence room will be maintained in an envelope secured in the locked safe located in the Chief's office. The Chief and Administrative Captain are the only employees with the combination. The sealed envelope containing the keys may be utilized for situations in which access is required and property staff is unavailable. The following procedure shall be adhered to if this option becomes necessary and whenever the seal on the envelope containing the keys is broken:
  1. If entry is made using the aforementioned keys, a memo addressed to the Property Sergeant is required and will contain the date/time entry was made, name of all staff members who entered the Property and Evidence room and the justification for entry.
  2. Entry and retention of the keys shall be conducted following a two-person rule. Dual custody shall be maintained at all times while in possession of the key and while in the Property and Evidence room.
  3. After entry has been made, and the Property and Evidence room secured, the keys shall be immediately sealed in an envelope. The envelope shall be signed and dated by the two (2) PD staff members in possession of the keys and placed

# Fontana Police Department

## Fontana PD Policy Manual

### *Property and Evidence*

---

back in the safe located in the Chief's office. Dual custody of the Property and Evidence room keys shall be maintained until this can be accomplished.

4. On a monthly basis, the Support Services Supervisor shall conduct an inspection of the keys retained in the aforementioned safe.

(c) If entry into the Property and Evidence room is required under exigent circumstances, please respond accordingly:

1. After entry, a memo addressed to the Property Sergeant is required and will contain the date/time entry was made, names of all staff members who entered the Property and Evidence room and justification for entry.
2. Entry shall be made following a two-person rule. Dual custody shall be maintained at all times while in the property and evidence room.
3. Dual custody of the Property and Evidence room shall be maintained until the room has been secured or released to a property staff member.