


Fort Collins Police Services

Policy Manual

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|  FORT COLLINS POLICE | POLICY | 804 |
| | TITLE | Property and Evidence |

804.1 PURPOSE AND SCOPE

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

804.1.1 PROPERTY AND EVIDENCE UNIT SECURITY

- (a) The Property and Evidence Unit (Evidence Unit) shall maintain secure storage and control of all property the agency takes into custody. Evidence Unit keys are maintained by the evidence technicians and the Evidence Unit supervisor. The evidence technicians and supervisor shall not provide Evidence Unit keys to anyone and shall maintain the keys in a secure manner. Unescorted access to the secure storage locations will be limited to Evidence Unit staff. The Evidence Supervisor may authorize access changes to these secure areas.
- (b) Any individual entering the Evidence Unit's secure areas must be escorted by Evidence Unit staff at all times and must sign in and out of the logbook, listing the date and time of entry and exit, and the purpose – including specific case, property number, or valid reason for entry (i.e. cleaning crew, pest control, etc.). No more than two non-Evidence Unit personnel may be escorted per evidence technician or supervisor at any given time. No public tours of the secure areas of the Evidence Unit are permitted, except for Fort Collins Police Services (FCPS) employees. Any entry into Evidence Unit's secure space should be for official purposes only.
- (c) High risk items (firearms, jewelry, money, drugs) will be stored within additional secure areas of the Evidence Unit.

804.1.2 PROPERTY AND EVIDENCE UNIT ACCOUNTABILITY

The Evidence Supervisor is responsible and accountable for control and management of all property accepted by the Evidence Unit and for all property stored in the Evidence Unit storage areas.

804.2 PROPERTY HANDLING

- (a) Any FCPS employee who comes into possession of any property shall retain such property in his/her possession until it is properly packaged, labeled and placed in the designated property locker or storage room. Care shall be taken to maintain the chain of custody for all evidence.

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

- (b) Where ownership of property with no apparent evidentiary value can be established, excluding contraband, such property may be released to the owner by an officer in the field without the need for booking. This release should be documented in a supplemental report.
- (c) Documents that have no evidentiary value (i.e. medical records, copies of police reports, etc.) should not be logged into evidence. Instead, they should be forwarded to Records to be scanned into the document imaging system (Laserfiche).
- (d) Employees logging in property shall indicate on the property receipt if the item can be disposed of or returned when it is no longer needed to be held as evidence.

804.2.1 PROPERTY BOOKING PROCEDURE

All property must be properly entered into the FORAY evidence management system and placed in a temporary locker in the Evidence Unit prior to the employee going off-duty. Supervisor approval is required for any exceptions. Employees booking property shall observe the following guidelines:

- (a) Fully complete the FORAY property entry describing each item separately, listing all serial numbers, owner's name, finder's name and all other required fields. The narrative of the report should include the circumstances by which the property came into the agency's possession. Any special handling requirements should be emailed to the attention of the Evidence Unit.
- (b) All items should be individually packaged in appropriately sized packaging, labeled with the case number, and the package marked with initials and the date on the seal.
- (c) Print a property/evidence label and attach it to each package or envelope in which the property is stored. Large items (i.e. bicycles, etc.) can have a completed evidence tag attached.
- (d) When the property is too large to be placed in a temporary property locker, the item should be temporarily stored in the evidence cages specifically designed to hold large items. If necessary, Evidence Unit personnel should be contacted to take immediate custody of the item.
- (e) If unforeseen circumstances arise, the Evidence Unit will notify the agency via email concerning any temporary modifications to the above procedures.

804.2.2 EXPLOSIVES

Officers who encounter a suspected explosive/hazardous device shall promptly notify a Patrol supervisor. The Northern Colorado Regional Bomb Squad (NCRBS) will be called to handle explosives-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be stored by the agency. Fireworks, road flares and similar signaling devices shall be stored in a marked orange container until final destruction by the NCRBS.

804.2.3 EXCEPTIONAL HANDLING

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

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

1. Property stained with bodily fluids such as blood or semen shall be air-dried prior to booking and marked with the appropriate warning label indicating the material is bio-hazardous on the packaging.
2. License plates found not to be stolen or connected with a known crime should be placed directly in the designated container for return to the Colorado Department of Revenue, Motor Vehicle Division. No formal property booking process is required.
3. Found or abandoned bicycles should be taken directly to the Bike Co-Op. Bicycles or bicycle frames being logged into evidence should have a completed property/evidence tag securely attached and should be placed in the bicycle storage area.
4. All cash will be placed in an appropriately sized envelope. The front of the envelope should be filled out accurately to reflect the total and then placed in a secure evidence locker.
 - (a) When currency is submitted into evidence, the officer should either have a second officer count the money or record the counting of the money on the officer's body camera. If the officer chooses to have a second officer confirm the amount, both officers need to initial/date across the closing seal of the package. If the officer chooses to use his/her body camera, the officer will need to submit this video into evidence via Evidence.com.
5. An evidence technician should be contacted if any evidence requires special handling. Any evidence requiring refrigeration or freezing should be placed in the appropriate storage area specifically designated for these items.
6. Any item that is a potential hazard or biohazard shall be appropriately packaged and marked to reduce the risk of exposure or contamination.
7. Wet items need to be dried prior to packaging.
8. All backpacks/sleeping bags should be packaged in a large clear plastic bag. The bag should be tied in a knot, with an evidence label affixed to the bag. These items need to be properly searched before packaging for contraband or perishable items.
- (b) 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.

804.2.4 TEMPORARY EVIDENCE STORAGE

On rare occasions, officers may need to store evidence over a period of hours, overnight or over a period of several days. In such instances, officers will refer to SOP 313 regarding the proper temporary storage of evidence.

804.3 PACKAGING OF PROPERTY

- (a) Packaging will conform to certain procedures. Certain items may require special consideration and shall be packaged separately as follows:
 1. Controlled substances.
 2. Firearms/magazines (ensure they are unloaded, rendered safe, marked appropriately, and booked separately from ammunition). All make, type, caliber, and serial numbers should be documented in FORAY.
 3. Live ammunition.

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

4. Property with more than one known owner.
 5. Drug paraphernalia.
 6. Contraband.
 7. Biohazards.
 8. Currency.
- (b) The following items will not be accepted into Evidence under any circumstances:
1. Vehicles (see SOP 304 regarding vehicle seizures).
 2. Fireworks – place in appropriately marked orange container.
- (c) The following items will not be accepted into Evidence, unless as evidence of a crime, and are to be disposed of in the appropriately marked orange container:
1. Alcohol/alcoholic beverages.
 2. Perishable/consumable/de minimus items. This includes food and all tobacco products.
 3. Liquids.
 4. Gasoline/flammables/propane tanks/hazardous materials. This includes all lighters and electronic smoking devices.
 5. Drug paraphernalia that is not evidence of a crime or of evidentiary value (i.e. found property).

Items listed above, except for (b)1, that are not held as evidence of a crime will be disposed of and the proper entry shall be recorded in the narrative report. Officers must alert the Evidence Supervisor if they are entering any items listed in (c)1-4 as evidence of a crime.

804.3.1 PACKAGING CONTAINER

All property should be packaged in a suitable container that is appropriate for its size and weight. Knife boxes should be used to package knives or any other sharp items. Pocket knives (not including butterfly knives or switchblades) can be secured in a heat-sealed bag if the blade is taped to prevent it from opening. Handgun and rifle boxes should be used for firearms. Syringe tubes should be used to package syringes and needles. If a syringe or razor blade is not of evidentiary value, it should be photographed and disposed of immediately by placing it in a sharps container and then into one of the biohazard disposal bins in the log in room.

804.3.2 PACKAGING CONTROLLED SUBSTANCES

- (a) 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 an evidence locker. Prior to packaging and if the quantity allows, a presumptive test may be completed on suspected controlled substances. When conducted, the result of this test shall be included in the officer's report.
- (b) Narcotics and dangerous drugs shall be packaged in a heat seal bag of appropriate size, available in the evidence log-in area. The booking officer shall initial the heat-sealed bag. Controlled substances shall be packaged individually.
- (c) The officer shall weigh the suspected narcotics or illicit drugs in the container in which it was seized unless container weight would alter the charge or offense. The weight tape from the scale should be packaged with the narcotics. A full description of the item, along with packaging and total weight of the item seized, will be placed in the case report and in FORAY.

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

- (d) For marijuana plants and pills, the number of plants or pills should be documented in FORAY.
 - 1. Marijuana plants should be dried prior to packaging.
- (e) All suspected fentanyl will be double bagged in heat sealed packaging with the inner and outer closures sealed and a suspected fentanyl decal will be placed on the packaging.

804.3.3 RIGHT OF REFUSAL

An evidence technician has the right to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the evidence technician refuse an item of property, they will maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting officer so the situation can be corrected.

804.4 RECORDING OF PROPERTY

- (a) The evidence technician taking custody of property shall ensure the FORAY entry is accurate and there is an entry for each item of property received. The property record in FORAY will be the permanent record of the property in the Evidence Unit.
- (b) A unique property number is created for each piece of property received.
- (c) Any changes in the location of property (release, disposition, transfer, court, etc.) held by the agency shall be noted in the chain of custody section of FORAY.

804.5 PROPERTY CONTROL

When an evidence technician releases property to another person, they will document this information in the chain of custody section in FORAY. Anyone needing property or copies of media for court shall contact an evidence technician at least one business day prior to the court date when possible and they must complete an Evidence Request Form or an email request to evidence@fcgov.com.

804.5.1 RESPONSIBILITIES OF OTHER PERSONNEL

- (a) Every time property is released or received, an appropriate entry in FORAY will be completed to maintain the chain of custody. No property or evidence is to be released without first receiving a request.
- (b) Requests for lab analysis of items by the CBI/NCRFL shall be submitted via the CBI on-line portal by the requesting officer. A copy of the submittal form and cover letter should be emailed or dropped off with the Evidence Unit. Any rush requests must be brought to the attention of the Evidence Unit.

804.5.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

- (a) Evidence Unit technicians will be responsible for transporting items of evidence to the appropriate lab for processing.
- (b) All items being submitted to the crime lab for analysis should be packaged in accordance with general evidence submittal guidelines.
- (c) When transporting the evidence to the crime lab, Evidence Unit personnel should have a placard in their vehicle showing the proper protocol in case of an incapacitating accident.
- (d) Evidence Unit personnel will receive a receipt from the crime lab noting when the item was received or returned.

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

- (e) All results/reports from the crime lab will be provided electronically to the submitting officer.
- (f) Any item deemed perishable in nature will be maintained in an Evidence Unit freezer or refrigerator in the secure evidence area until transported.

804.5.3 STATUS OF PROPERTY

- (a) The evidence technician receiving the property will make the appropriate entry to document the chain of custody. Temporary release of property to officers for investigative purposes, or for court, shall be noted in FORAY, stating the date, time, and to whom it was released. The evidence technician shall be responsible for establishing trace dates and conducting follow up on all property that is removed on a temporary basis.
- (b) Signatures shall be obtained from 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 returned to the Evidence Unit or released to another authorized person or entity.
- (c) The return of the property should be recorded in FORAY, indicating date, time, and the person who returned it.

804.5.4 AUTHORITY TO RELEASE PROPERTY

To release, destroy, or dispose of property after final disposition of a case, the Physical Evidence Retention Policy will be followed.

804.5.5 RELEASE OF PROPERTY

- (a) Evidence shall be held until such time as no prosecution is contemplated, a final disposition is reached in the related criminal charge or the statute of limitations has expired. All releases will follow the Evidence Retention Policy guidelines.
- (b) A reasonable attempt shall be made to identify the rightful owner of property booked into evidence. Officers shall enter accurate owner information into FORAY and the narrative report to ensure that the property can be returned to the rightful owner.
- (c) Property belonging to a crime victim shall be promptly released to that victim unless required to be held as evidence (CRS § 24-4.1-302.5(1)(k)). Following a request from the victim, property no longer needed as evidence shall be returned to the victim within five working days of determining it is no longer needed, unless the property is contraband or subject to forfeiture proceedings (CRS § 24-4.1-303(7)).
- (d) Except for firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 30 days. During such period, Evidence Unit 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 30 days after notification (or receipt if notification is not feasible) may be disposed of in accordance with property/evidence disposal and destruction procedures. The final disposition of all such property shall be fully documented in FORAY.
- (e) An evidence technician shall release the property to the owner or finder, upon valid photo identification and proper documentation presented by the owner or finder (when necessary), for which an authorized release has been received. A signature of the person receiving the property will be obtained on the release paperwork and scanned into Laserfiche.
- (f) Upon release or other form of disposal, the proper entry shall be recorded in FORAY.

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

- (g) A firearm will not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922(d).
 - 1. Evidence Unit personnel will confirm whether the owner is currently residing in Colorado. If not, the firearm will have to be sent, at the owner's expense, to an agency within their state of residence.
 - 2. The Evidence Unit will be responsible for completing a background check through OpenFox, Request for Evidence Return Check (RERC), setting a release appointment where an armed officer is present and collecting documentation of the release.
- (h) Occasionally, evidence may be recovered that has significant historical value. Such items may include rare weapons and/or other evidence. The FCPS Chief of Police shall make a final determination whether to destroy or hold these types of items.
- (i) Before being destroyed, transferred, or released, property bearing serial numbers shall be checked through CCIC/NCIC to ensure that it has not been reported stolen.
- (j) Evidence shall be held for civil matters until a litigation hold has been released.

804.5.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this agency shall be returned to the legal owner. Such property may be released from law enforcement custody when the following is satisfied (CRS § 13-25-130(3)):

- (a) Proper retention release policy has been reviewed, and permission received from the case officer/detective and prosecuting attorney.
- (b) Photographs of the property are filed and retained by the Evidence Unit.
- (c) Satisfactory proof of ownership is shown by the owner, or an officer has advised ownership is confirmed.
- (d) If a defendant has been filed upon, he/she has been notified that such photographs, video tapes, or films have been taken, recorded, or produced.
- (e) A receipt for the property is obtained from the owner upon delivery.

804.5.7 DISPUTED CLAIMS TO PROPERTY

- (a) Occasionally, more than one party may claim an interest in property being held by the agency and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.
- (b) All parties should be advised that their claims are civil. In some situations, legal counsel for the agency may be asked to file an interpleader in court to resolve the disputed claim.

804.5.8 RELINQUISHED FIREARMS FOR DESTRUCTION

Firearms can be relinquished to FCPS in several different situations to include: 1. Routine call for service where the person wants to turn over a firearm to an officer for destruction. 2. An event hosted at FCPS where community members bring in firearms specifically for destruction.

Property and Evidence Staff shall not take a firearm directly from a citizen and a routine call for service will need to be entered for anyone desiring to relinquish a firearm.

In any event the following instructions will be followed:

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

(a) Firearms that are being relinquished to FCPS for destruction by citizens will follow the packaging standards listed in SOP 309.23.1 and SOP 309.23.3. Each firearm should be run through NCIC/CCIC for clearance.

(b) A "Firearm Disposal Form" is to be filled out and electronically signed with the citizen relinquishing the firearm(s) and ammunition. The form is available through the HUB and Managed Bookmarks.

1. An automatic receipt will be emailed to the relinquishing citizen, the officer and property and evidence automatically after completing and submitting the form.

(c) A new case number will be pulled for each relinquishment. The firearm(s) and ammunition will be individually logged in in Foray for "Destructions" and an informational report will be written in RMS.

1. If the relinquishment occurs during an event that has been sponsored by Fort Collins Police Services, one single case number will be pulled to document all firearms and ammunition taken during that event.

(d) Items will be stored in evidence until a destruction is scheduled for firearms and other weapons, and will then follow destruction procedures listed in 804.6.1.

804.6 DISPOSITION OF EVIDENCE

(a) Upon the release or disposition of any property, the proper notation will be made in FORAY.

(b) Any item of evidence can be converted to valid agency use once legal retention requirements have been met, with the following exceptions:

1. Items which must be returned to owner.
2. Hazardous materials.
3. Illegal items.

(c) Any request to convert evidence to agency use must be made in writing to the Evidence Unit indicating the date of the request, the type and quantity of the property/evidence requested, the individual making the request and the reason the items are requested. This request will then be forwarded to the Criminal Investigations Division (CID) Assistant Chief for a final decision.

(d) Conversion of controlled substances to agency use in canine training is described in Policy 318 – Canine Program.

(e) Any item that is deemed to be acceptable and usable, but cannot be auctioned, may be donated to a non-profit agency following city procedures set forth by the Purchasing Department.

(f) All items of value will be sent to auction. Proceeds from the auction shall be deposited into the city's General Fund consistent with the procedures set forth by the Purchasing Department.

804.6.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction:

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

- (a) Weapons declared by law to be nuisances.
- (b) Counterfeiting equipment.
- (c) Gaming devices.
- (d) Obscene matter ordered to be destroyed by the court.
- (e) Altered vehicles or component parts.
- (f) Narcotics.
- (g) Unclaimed, stolen, or embezzled property.
- (h) Destructive devices.
- (i) Any other item as designated by a court order.

804.6.2 UNCLAIMED MONEY

If found money is no longer required as evidence and remains unclaimed after one year, the money is presumed abandoned property (CRS § 38-13-108.2).

804.7 RETENTION OF BIOLOGICAL EVIDENCE

- (a) The Evidence Unit shall ensure that no biological evidence held by the agency is destroyed without adequate notification from the District Attorney's Office (DA's Office).
- (b) Biological evidence shall be retained for a minimum period established by law and based on the Physical Evidence Retention Policy.
- (c) Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with written approval of the case officer and the DA's Office.
- (d) Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Authorization for disposition/destruction will be obtained from the case officer.

804.7.1 SUFFICIENT SAMPLE PRESERVATION

- (a) If DNA evidence is of such a size, bulk, or physical character as to render retention impracticable, the case officer shall remove and preserve portions of the evidence likely to contain DNA related to the offense in a quantity sufficient, based on the best scientific practices at the time of collection, to permit future DNA testing.
- (b) The preserved DNA evidence shall, whenever possible, include a sample sufficient to allow for independent testing by the defendant. After preserving the necessary amount of the DNA evidence, the remainder of the evidence may be properly destroyed as allowed by law. The sample is logged into FORAY as a separate item, and the remainder is documented in the chain of custody when destroyed.
- (c) DNA evidence collected in reference to a criminal investigation of a felony that does not result in or has not resulted in charges being filed, shall be preserved for the length of the statute of limitations for the felony crime that was investigated (CRS § 18-1-1103(1)).

804.7.2 DISPOSITION OF DNA EVIDENCE

If the DA's Office determines that the DNA evidence should not be disposed of, the DA's Office will provide notice. Upon receipt of the notice, the agency shall preserve the DNA evidence until such time that a court order is obtained to dispose of the DNA evidence (CRS § 18-1-1105 (4)).

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

804.7.3 DISPOSITION OF VICTIM DNA EVIDENCE

If DNA evidence being held is the property of the victim, the victim may request the DA's Office to review whether the DNA evidence may be returned. If the DA's Office determines the DNA evidence may be returned, the DA's Office may file a petition with the court for the return of the DNA evidence. Upon proper receipt, the agency will release DNA evidence belonging to the victim (CRS § 18-1-1107).

804.8 REPORT OF ABANDONED PROPERTY (MONEY)

The Records Manager shall complete and file a report of presumed abandoned property with the State Treasurer each year. The report shall cover the period from July 1 to June 30 and shall be submitted no later than the immediately following November 1 date (CRS § 38-13-110).

The Evidence Unit will transfer chain of custody of all abandoned money found during final case disposition with the FCPS Finance Unit. All money will be deposited into the General Fund account of the city.

804.9 INSPECTIONS OF THE PROPERTY AND EVIDENCE UNIT

- (a) On a semi-annual basis, the Evidence Supervisor shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures. In addition, a random audit of evidence items shall be conducted placing emphasis on the inspection of narcotics, weapons, and money.
- (b) An annual audit of the Evidence Unit shall be conducted by a supervisor, not normally associated with the Evidence Unit, and appointed by the Chief of Police. This audit will be in compliance with P&E Appendix A (CALEA Appendix K). A memorandum summarizing the results of the inspection shall be forwarded to the Chief of Police, with copies being sent to the CID Assistant Chief, a CID lieutenant and the Evidence Supervisor. There should be emphasis placed on the inspection of narcotics and illicit drugs to ensure the integrity of their seals, and verify that procedures pertaining to the storage, handling, and processing of money and firearms are followed.
- (c) An audit of the Evidence Unit to include high risk items and general evidence will be done whenever a new Evidence Supervisor is assigned to or from the position. This will be conducted jointly by the newly appointed Evidence Supervisor and a designee of the Chief of Police. A random audit of 100 of the general property/evidence items will be completed. The number of high-risk items audited will be in compliance with P&E Appendix B (CALEA Appendix I). When a new evidence technician completes his/her training and probationary period, a random audit of 100 high risk items will be completed with the Evidence Supervisor.
- (d) Once a year, the Chief of Police will designate a supervisor, not normally associated with the functions of the Evidence Unit, to complete an unannounced inspection.
- (e) Definitions:
 - 1. Audit – Report is generated for number of items based on Appendix A or B. The items will be reviewed for integrity to ensure the seal has not been broken, the label and barcode match.
 - (a) Joint Audit – A percentage of high-risk items are reviewed under Appendix B. If the error rate exceeds four percent, a full inventory must be done.

| | |
|---------------|-----------------------|
| POLICY | 804 |
| TITLE | Property and Evidence |

- (b) Annual Audit – Ensure the continuity of custody, but not to review every single item in evidence. Per Appendix A, a percentage of items will be reviewed to ensure the integrity and accountability of the system.
- 2. Inspection – Review of the processes and procedures to determine that the secure evidence locations are being maintained in a clean and orderly fashion, that the integrity of the property is being maintained, that provisions of the Agency orders or other directives concerning the property management system are being followed, that the property is being protected from damage or deterioration, that proper accountability procedures are being maintained and that property having no further evidentiary value is being disposed of promptly.