

## Property Room

### 802.1 PURPOSE AND SCOPE

**Best Practice**

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

#### 802.1.1 DEFINITIONS

**Best Practice**

Definitions related to this policy include:

**Property** - All articles placed in secure storage within the Property Room, 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.

### 802.2 POLICY

**Best Practice**

It is the policy of the Village of Cold Spring Police Department to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

### 802.3 PROPERTY ROOM SECURITY

**Best Practice**

The Property Room shall maintain secure storage and control of all property in the custody of this department. A property officer shall be appointed by and will be directly responsible to the Patrol Supervisor or the authorized designee. The property officer is responsible for the security of the Property Room.

#### 802.3.1 REFUSAL OF PROPERTY

**Best Practice**

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

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#### 802.3.2 KEY CONTROL

##### **Best Practice**

Property Room keys should be maintained by the property officer and members assigned to the Property Room. An additional set of keys should be kept in a sealed and initialed envelope in an after-hours key box. Property Room keys shall not be loaned to anyone and shall be maintained in a secure manner. If a Property Room key is lost, all access points shall be re-keyed and new keys issued as necessary. After-hours access to the Property Room via the additional set of keys must be documented in a memorandum and submitted to the Patrol Supervisor as soon as practicable.

#### 802.3.3 ACCESS

##### **Best Practice**

Only authorized members assigned to the Property Room shall have access to property storage areas. Any individual who needs to enter a property storage area (e.g., maintenance or repair contractors) must be approved by the Patrol Supervisor and accompanied by the property officer. Each individual must sign the Property Room access log and indicate:

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

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

#### 802.4 PROPERTY HANDLING

##### **Best Practice**

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the property officer and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property is taken from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken.

#### 802.4.1 PROCESSING AND PACKAGING

##### **Best Practice**

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

- (a) A property form shall be completed describing each item. List all known information, including:
  - 1. The serial number.
  - 1. The owner's name.
  - 2. The finder's name.

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3. Other identifying information or markings.
  - (b) Each item shall be marked with the member's initials and the date processed using a method that will not damage, deface, degrade or devalue the item. Items too small or too delicate to mark should be individually packaged and labeled and the package marked with the member's initials and date.
  - (c) Property shall be packaged in a container suitable for its size.
  - (d) A property tag shall be completed and attached to the property or container in which the property is stored.
  - (e) The case number shall be indicated on the property tag and the container.
  - (f) The property form, without the hard card portion (property control card), shall be submitted with the case report.
  - (g) The property control card shall be submitted with the property directly to the property officer or placed in a temporary property locker. Items too large to fit in a temporary property locker may be placed in a designated storage area that can be secured from unauthorized entry, and the property control card placed in a temporary property locker.

#### 802.4.2 EXCEPTIONAL PROCESSING

##### **Best Practice**

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

**Bicycles** - Bicycles and bicycle frames shall have a property tag securely attached and should be placed in the bicycle storage area.

**Biological and related items** - Evidence that may contain biological samples shall be indicated as such on the property form.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated on the property form.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

**Cash** - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall witness the count, initial, and date the envelope, and specify any additional security procedures that may be necessary. Cash shall be further secured in a safe or locked cabinet.

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**Explosives and fireworks** - Explosives will not be retained in the police facility. Fireworks that are considered stable and safe, as well as road flares or similar signaling devices, may be stored in proper containers in an area designated for storage of flammable materials.

The property officer is responsible for transporting to the fire department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

**Firearms and other weapons** - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives. Firearms shall be further secured within the evidence room by means of a locked cabinet or a cable and lock.

**Government property** - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the New York State Department of Motor Vehicles. No formal property processing is required.

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

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

**High value items** - Evidence or property reasonably believed to be of extraordinary value such as jewelry, precious gems and metals, artwork, historic artifacts, coins, and stamps should be locked within a safe or cabinet within the property storage area.

**Sharps** - Syringe tubes should be used to package syringes and needles.

### 802.4.3 CONTROLLED SUBSTANCES

#### State

- (a) Controlled substances shall not be packaged with other property, but shall be processed separately using a separate property form.
- (b) The member processing controlled substances shall retain such property in the member's possession until it is weighed, packaged, tagged, and placed in the designated controlled substances locker, accompanied by the property control card and lab copy of the property form.
- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. If conducted, the result of the test shall be included in the crime report.
  1. The member shall package controlled substances as follows:
    - (a) Maintain the property in the container in which it was seized and place it in a property envelope of appropriate size.
    - (b) Seal and initial the property envelope and cover the initials with cellophane tape.
    - (c) Weigh the property envelope to obtain the Gross Package Weight (GPW).
    - (d) Write the GPW and then initial and date both the outside of the package and the property form.

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- (d) When the quantity of controlled substances exceeds the available safe storage capacity as determined by the property officer, the quantity shall be photographed and weighed.
  - 1. A representative sample of sufficient quantity to allow scientific analysis of the controlled substances should be taken as allowed by state law and placed in a separate package or container.
  - 2. Excess quantities should be stored or disposed of as required by law or directed by court order.
  - 3. For cases involving the sale or possession of controlled substances, a qualitative and quantitative analysis, including weight, shall be performed within 45 days after receipt (CPL § 715.50).
- (e) Cannabis with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The property officer shall monitor stored cannabis for growth of mold.
- (f) All controlled substances shall be further secured in a safe, locked cabinet, or secondary secure storage.

### 802.4.4 BALLISTICS PROCESSING

**State**

The property officer shall coordinate with the Training Officer for test-firing and ballistics information to be collected from seized and recovered firearms or ammunition when there is a reasonable belief they are associated with a crime, as well as abandoned or discarded firearms, and ammunition associated with an unlawful discharge of a firearm. The property officer should provide the OIC with enough information to meet reporting and data-sharing requirements required by Executive Law § 230.

### 802.5 RECORDING OF PROPERTY

**Best Practice** **MODIFIED**

The property officer receiving custody of property shall ensure a property control card for each item or group of items is created. The property control card will be the permanent record of the property in the Property Room. The property officer will record on the property control card his/her signature, GPW if the package contains controlled substances, the date and time the property was received and where the property will be stored.

A unique property number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form, property tag and the property control card. The property log shall document the following:

- (a) Property number
- (b) Case number
- (c) Property tag number
- (d) Item description

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- (e) Item storage location
- (f) Receipt, release and disposal dates

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

#### **802.6 PROPERTY CONTROL**

##### **Best Practice**

The property officer temporarily relinquishing custody of property to another person shall record on the property control card his/her signature, the date and time the property was released, the name and signature of the person accepting custody of the property and the reason for release.

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

The return of the property to the Property Room should be recorded on the property control card, indicating the date, the time, the name and the signature of the person who returned the property and the name and signature of the person to whom the property was returned.

##### **802.6.1 EVIDENCE**

##### **Best Practice**

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

The temporary release of evidence to members for investigative purposes or for court proceedings shall be noted on the property control card, stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the property officer at least one day prior to the court date.

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

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

##### **Best Practice**

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

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#### 802.6.3 CONTROLLED SUBSTANCES

##### **Best Practice**

The Patrol will be responsible for the storage, control and destruction of all controlled substances coming into the custody of this department. The GPW will be verified every time controlled substances are checked in or out of the Property Room and any discrepancies noted on the outside of the package. Any change in weight should be immediately reported to the Patrol Supervisor.

#### 802.6.4 UNCLAIMED MONEY

##### **Best Practice**

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

#### 802.7 RELEASE OF PROPERTY

##### **State**

The Patrol shall authorize the release of all property coming into the care and custody of the Department.

When a request by a crime victim is made to return stolen property owned by the victim, Property Room members shall notify the defendant or their counsel as soon as practicable. Property Room members will make the property available to the defense counsel and/or the prosecutor for examination (Penal Law § 450.10).

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

All reasonable attempts shall be made to identify the rightful owner of found property and items held for safekeeping.

Found property and property held for safekeeping shall be retained for the period of time required by law. During such period, Property Room members shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented on the property control card.

A property officer shall release such property when the owner presents proper identification and an authorized property release form has been received. The signature of the person receiving the property shall be recorded on the property control card.

If any item listed on a property control card has not been released, the property control card will remain with the Property Room. When all property listed on the card has been released, the card shall be forwarded to the Office of the OIC for filing with the case, and the release or reason for refusal of all items shall be documented in the property log.

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#### 802.7.1 DISCREPANCIES

##### **Best Practice**

The Supervisor shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. The Supervisor will interview the person claiming the shortage. The Supervisor shall ensure that a search for the alleged missing items is completed and shall attempt to prove or disprove the claim.

#### 802.7.2 DISPUTED CLAIMS TO PROPERTY

##### **State**

Occasionally, more than one party may claim an interest in property being held by this department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or establishes an undisputed right to the property.

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

#### 802.7.3 RELEASE OF FIREARMS

##### **Federal**

Neither a firearm, ammunition, nor a license to carry concealed weapons or firearms may be released until it has been verified that the person receiving the firearm is not prohibited from receiving or possessing the firearm or ammunition under federal or state law (18 USC § 922(d)).

#### 802.7.4 RELEASE OF WEAPONS, FIREARMS AND LICENSES IN FAMILY OFFENSE MATTERS

##### **State**

Weapons, firearms, and licenses seized pursuant to CPL § 140.10 shall be returned to the lawful owner within 48 hours as long as there is no court order or pending criminal charge or conviction that would prevent the owner from possessing the firearm, weapon, or license, and upon a written finding that there is no legal impediment to the owner's possession as provided in CPL § 140.10.

#### 802.7.5 RELEASE OF PROHIBITED ITEMS IN EXTREME RISK PROTECTION ORDER MATTERS

##### **State**

Prohibited items (e.g., firearms, shotguns, rifles) that were surrendered or seized pursuant to an extreme risk protection order or temporary extreme risk protection order should be released to the person or lawful owner upon court order (CPLR § 6343; CPLR § 6344).

The Department should release a prohibited item to a person upon demonstration that ownership has been legally transferred to the person and that he/she is permitted by federal and state law to own or possess the item.

#### 802.8 DESTRUCTION OR DISPOSAL OF PROPERTY

##### **State**

An authorized Patrol investigator or supervisor shall approve the destruction or disposal of all property held by this department.

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All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper authorization from a supervisor. The disposition of all property shall be entered on the property control card and property log.

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court:

- Weapons or devices declared by law to be illegal to possess, including firearms or weapons declared a nuisance one year after its surrender to the Department (Penal Law § 400.05)
- Controlled substances declared by law to be illegal to possess without a legal prescription
- Unlawful fireworks (Penal Law § 405.05)
- Unauthorized recordings (Penal Law § 420.00)
- Stolen property (Penal Law § 450.10)
- Prohibited items from an extreme risk protection order after a minimum of two years after surrender or seizure unless otherwise released according to this policy (Penal Law § 400.05; CPLR § 6343; CPLR § 6344).
- Prohibited items from a family offense pursuant to CPL § 140.10 after a minimum of two years (CPL § 140.10; Penal Law § 400.05).

### 802.8.1 BIOLOGICAL EVIDENCE

#### **Best Practice**

The property officer shall ensure that no biological evidence held by this department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Patrol Supervisor

Biological evidence shall be retained for a minimum period established by law, the statute of limitations, or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice, unless a motion seeking an order to retain the sample is filed and served on this department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Patrol Supervisor.

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

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of the applicable statute of limitations, the Patrol Supervisor should be consulted and the sexual assault victim should be notified.

#### 802.8.2 EVIDENCE FROM SEXUAL ASSAULT CASES

##### **State**

Evidence from a sexual assault case should not be disposed of prior to expiration of the statute of limitations or the storage period established by law, whichever time period is greater (Public Health Law § 2805-i).

If the Village of Cold Spring Police Department has possession of the sexual assault evidence, then the Property Officer, or an assigned member, shall make a reasonable effort to notify the victim 90 days before the retention period is set to expire that (Executive Law § 838-b):

- (a) The evidence will be discarded in compliance with state and local health codes on a date set forth in the notice.
- (b) The victim's clothes and personal effects will be returned to the victim upon request.

#### 802.8.3 CANNABIS

##### **Best Practice**

At the first sign of mold growth, stored cannabis shall be photographed showing the mold growth. As soon as practicable, the property officer shall make efforts to lawfully destroy the contaminated cannabis, in compliance with this policy. The property officer should consult with the member assigned to the case investigation for authorization to destroy the remaining cannabis, after taking representative samples, and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

#### 802.8.4 MEDICAL CANNABIS

##### **Best Practice**

The investigating member should advise the property officer and the prosecutor if the party from whom the cannabis was seized holds a valid medical permit to possess cannabis or claims that the possession of the cannabis is for medical purposes.

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

Cannabis that is infected with mold shall not be returned. This includes cannabis seized from a person who holds a valid medical permit to possess cannabis or who claims that possession of the cannabis is for medical purposes.

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#### **802.9 INSPECTION OF THE PROPERTY ROOM**

##### **Best Practice**

The Patrol Supervisor shall ensure that periodic, unannounced inspections of the Property Room operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Patrol Supervisor also shall ensure that an audit is conducted annually, or as directed by the Officer-in-Charge. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the Property Room operations.

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

##### **802.9.1 STATE-SPECIFIC AUDIT AND INVENTORY REQUIREMENTS**

##### **Discretionary**

Audits shall minimally include five percent of the total Property Room inventory or 50 items, whichever is less.

An inventory shall minimally include ten percent of the total Property Room inventory or 100 items, whichever is less.

All audits and inventories in the Property Room shall include a sampling of money, firearms, controlled substances, and high-value items.

A report shall be completed identifying the items that were inventoried or audited.

##### **802.9.2 AUDIT AND INVENTORY MANAGEMENT**

##### **Best Practice**

The inventory and the audit shall not be conducted within four months of each other and should not include the same items unless the total available sample size dictates otherwise.

#### **802.10 TRAINING**

##### **Best Practice**

All members assigned the duties of a property officer shall successfully complete a course in Property Room management within one year of being assigned such duties.

The Training Officer is responsible for scheduling the training and maintaining records of the training.