

## Property and Evidence Section

### 802.1 PURPOSE AND SCOPE

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

Definitions related to this policy include:

**Property** - All articles placed in secure storage within the Property and Evidence Section, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence and items taken for safekeeping under authority of law.

### 802.2 POLICY

It is the policy of the Bozeman 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 AND EVIDENCE SECTION SECURITY

The Property and Evidence Section shall maintain secure storage and control of all property in the custody of this department. A evidence technician shall be appointed by and will be directly responsible to the Detective Division Commander or the authorized designee. The evidence technician is responsible for the security of the Property and Evidence Section.

#### 802.3.1 REFUSAL OF PROPERTY

The evidence technician has the obligation 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, 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 and Evidence Section.

#### 802.3.2 KEY CONTROL

Property and Evidence Section keys should be maintained by the evidence technician and members assigned to the Property and Evidence Section. Property and Evidence Section keys shall not be loaned to anyone and shall be maintained in a secure manner. If a Property and

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Evidence Section key is lost, all access points shall be re-keyed and new keys issued as necessary. After-hours access to the Property and Evidence Section via the additional set of keys must be documented in a memorandum and submitted to the Detective Division Commander as soon as practicable.

#### 802.3.3 ACCESS

Only authorized members assigned by the Chief of Police 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 Detective Division Commander and accompanied by the evidence technician or other authorized member.

#### **802.4 PROPERTY HANDLING**

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 evidence technician 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 safekeeping 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

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) Complete information for the property will be entered into the records management system for the applicable case. This will include important descriptive information that particularly describes the items. This typically includes:
  1. The serial number.
  2. The owner's name.
  3. The finder's name.
  4. Other identifying information or markings.
- (b) Each item shall be 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.

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- (f) 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

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

**Bicycles** - Refer to the Bicycle Processing Protocol.

**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 communicated to an evidence technician.

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 an 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.

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

**Firearms and other weapons** - Firearms shall be unloaded and packaged separately from ammunition. Firearms shall be secured in a manner so they cannot be readily loaded. The method may vary, but may include zip-typing the action of the firearm to prevent the functioning of the action or the ability of it to be loaded, and/or securing it in an appropriate gun box. Boxes should be used to package knives.

**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 Motor Vehicle Division. No formal property processing is required.

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

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

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

#### 802.4.3 NARCOTICS AND DANGEROUS DRUGS

- (a) Narcotics and dangerous drugs shall not be packaged with other property, but shall be processed separately.
- (b) The member processing narcotics and dangerous drugs shall retain such property in an evidence locker.
- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the result of the test shall be included in the report.
  - 1. The member shall package narcotics and dangerous drugs as follows:
    - (a) Maintain the property in the container in which it was seized.
    - (b) Weigh and photograph the evidence and note the weight on the evidence input and then place it in a property envelope of appropriate size.
    - (c) Seal and initial the container with evidence tape. Initial the seal so as to write on both the package and seal along with the date it was sealed.
    - (d) It is acceptable to place any narcotics into a heat sealed bag should the input officer choose to do so. However, any suspected dangerous drug in powder form, and known or suspected Fentanyl in any form (pills, powders, etc.), shall be placed into a plastic bag and heat sealed. The heat sealed bag should be the outer-most container so it is evident to others handling the evidence that it is safely sealed.
    - (e) Any narcotic evidence which is expected to be sent to a laboratory for analysis shall be heat sealed when entering it into evidence.
- (d) When the quantity of narcotics and dangerous drugs exceeds the available safe storage capacity as determined by the evidence technician, the quantity shall be photographed and weighed.
  - 1. A representative sample of sufficient quantity to allow scientific analysis of the narcotics and dangerous drugs 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.
- (e) Marijuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The evidence technician shall monitor stored marijuana for growth of mold.

#### 802.5 RECORDING OF PROPERTY

The officer entering evidence shall ensure that it is properly secured and clearly identified with a barcode label produced by the records management system.

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

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#### **802.6 PROPERTY CONTROL**

The evidence technician temporarily relinquishing custody of property to another person shall record in the records management system the date and time the property was released, the name 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 and Evidence Section or released to another authorized person or entity.

The return of the property to the Property and Evidence Section should be recorded in the records management system indicating the date, the time, the name of the person who returned the property and the name of the person to whom the property was returned.

##### **802.6.1 EVIDENCE**

Every time evidence is released or received, an appropriate entry in the records management system shall be completed to maintain the chain of custody.

The temporary release of evidence to members for investigative purposes or for court proceedings shall be noted in the records management system stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the evidence technician at least one day prior to the court date.

Requests for laboratory analysis shall be completed via the records management system. This request may be submitted any time after the property has been processed.

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

The evidence technician releasing items of evidence for laboratory analysis must complete the required information in the records management system. The evidence technician releasing items of evidence for laboratory analysis must complete the required information in the records management system. The lab request 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.

##### **802.6.3 NARCOTICS AND DANGEROUS DRUGS**

The evidence technician will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department. The GPW will be verified every time narcotics and dangerous drugs are checked in or out of the Property and Evidence Section and any discrepancies noted on the outside of the package. Any change in weight should be immediately reported to the Detective Division Commander.

#### **802.7 RELEASE OF PROPERTY**

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

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

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shall be signed by the authorizing member and must conform to the items listed in the records management system or must specify the specific items to be released. Release of all property shall be documented in the records management system.

Firearms or ammunition should only be released upon presentation of valid identification and authorized documents showing that the individual may legally possess the item.

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 and Evidence Section 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.

A evidence technician 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.

#### **802.7.1 DISCREPANCIES**

The Detective Sergeant or Detective Captain shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. They will interview the person claiming the shortage. They, or their designee, 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**

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.

#### **802.8 DESTRUCTION OR DISPOSAL OF PROPERTY**

The evidence technician is authorized to destroy property in a manner consistent with this policy and standard procedures.

All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws. The disposition of all property shall be documented in the records management system.

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
- Narcotics or dangerous drugs declared by law to be illegal to possess without a legal prescription

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#### 802.8.1 BIOLOGICAL EVIDENCE

The evidence technician 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 Detective Division Commander

Biological evidence shall be retained for a minimum period established by § 46-21-111, MCA 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 records management system. Any objection to, or motion regarding, the destruction of the biological evidence should be retained.

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 from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. The evidence technician shall ensure that all biological evidence in sexual assault cases is shared with appropriate state agencies in accordance with state law.

#### 802.8.2 MARIJUANA

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

#### **802.9 INSPECTION OF THE PROPERTY AND EVIDENCE SECTION**

The Detective Division Commander shall ensure that periodic, unannounced inspections of the Property and Evidence Section operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Detective Division Commander also shall ensure that an audit is conducted annually, or as directed by the Chief of Police. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the Property and Evidence Section operations.