

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 21, 2018

GENERAL ORDER P-65

SUBJECT: PROCEDURES FOR CARE AND HANDLING OF PROPERTY AND EVIDENCE

PURPOSE

1. General Order P-65 describes the Departmental guidelines for the care and handling of property and evidence.

POLICY

2. Berkeley Police Department employees shall exercise the utmost care with property and evidence in their custody and control.
3. The professional management of evidence and property in the custody of the Berkeley Police Department is essential to the successful prosecution of criminal cases, a decreased level of civil liability on the part of the Department and its members, the maintenance of a high level of public trust, and the delivery of quality service to the community.

HOURS OF OPERATION

4. The business hours of the Property Room are Monday through Friday, from 0800 to 1200 hours and from **1400 – 1700** hours, excluding holidays. **Property releases are made between 1430 and 1630 hrs.** Should the need exist, additional appointments for the release of property may be made with the Property Officer.

PROPERTY OFFICER AND PROPERTY CLERK ASSIGNMENTS

5. The Property Officer shall be a Community Service Officer Supervisor assigned to the Property Room. The Property Clerk **shall be** a Community Service Officer assigned to the Property Room and shall support Property Room operations. The Property Officer and Property Clerk shall maintain files listing the current location and status of all property in the custody of this Department **including drugs, weapons, and drug property.** The Property Officer and the Property Clerk shall be responsible for the safe, secure and orderly operation of the Property Unit and shall comply with this general order and all laws relating to the care and disposition of property. A Police Aide may assist in the Property Room. At all times the Aide must be under the supervision of the Property Officer or the Property Clerk.

PROPERTY ROOM AREAS

6. The Property Room areas consist of the Property Room, the Bag & Tag Room, the **Bulk Storage Room, the Drug Storage Container,** and any other area designated by the Chief of Police as a property storage area.

LONG-TERM STORAGE LOCATIONS

7. The long-term storage of all evidence shall be in the Property Room, **the Drug Storage Room, the Bulk Storage Room, the Drug Storage Container, the Hazmat Storage Container, and/or any** other areas as approved by the Support Services **Division** Captain.

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TEMPORARY STORAGE LOCATIONS

8. The Property Room is equipped with **six** temporary storage units, into which employees shall book evidence or other property.
 - (a) The individual lockers located in the Bag & Tag Room are used for the temporary storage of property and evidence. Should all lockers be in use, property shall be placed in the **Bulk Storage Room**.
 - (b) The Drug Drop Safe, located in the Bag & Tag Room, is used solely for the temporary storage of narcotic or drug evidence.
 - (c) The High Value Drop Safe, located in the Bag & Tag Room, is used for the temporary storage of money, handguns, jewelry, or items of high value or a sensitive nature.
 - (d) The refrigerator, located in the Bag & Tag Room, is used for the temporary storage of evidence requiring refrigeration or freezing, and for the temporary storage of urine samples.
 - (e) The **Bulk Storage Room** is used for the storage of items of evidence or property that are too large for the temporary lockers (**such as bicycles**), or when all individual lockers are in use.
 - (f) The Drug Storage **Container (in the south parking lot)** is used for the temporary storage of drugs (e.g. marijuana plants), which are too large or otherwise unsuitable for the Drug Drop Safe.
 - (g) **The Hazmat Storage Container (located on Second St.) is used for the temporary and long term storage of flammable and toxic items such as lighters and spray paint.**

SECURITY OF THE PROPERTY STORAGE AREAS

9. Property storage areas shall be secured at all times.
10. One set of Property Room keys (**including key fob**) shall be issued to each of the following employees:
 - (a) The Property Officer;
 - (b) The Property Clerk;
 - (c) The Support Services **Bureau** Lieutenant;
 - (d) The Support Services **Division** Captain;
11. A **fifth** set of keys **and a key fob** shall be located in the Patrol Lieutenants Office in a combination lock box. The Property Officer, Property Clerk, **Support Services Captain and Support Services Lieutenant** shall have the combination to this **lock** box. In the event entry must be made into the Property Room **and the above four listed people are not available to respond to the PSB, the Support Services Captain or Lieutenant will be contacted and** he/she they will provide the combination to a

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command officer or their designee. **The combination to this box will only be given out if the above four listed people are not available to respond to the PSB. The Support Services Division Captain shall be responsible for changing the combination to the lock box every time it is used.**

ACCESS TO LONG-TERM STORAGE LOCATIONS

12. Except as described in this General Order, no unauthorized personnel are to be admitted to the interior of any Property Room.
13. In the event that an employee, other than Property Room personnel, needs to enter a long-term property storage area, the employee shall be escorted at all times within the property storage area by the Property Officer, **Property Clerk**, or the individual key holder (listed in paragraph 10 above) who provided access to the employee.
14. In the event that an employee, other than **Property Room personnel**, needs to enter a drug storage area, the employee shall be escorted at all times within the drug storage area by the **Property Officer, Property Clerk**, or the individual code holder (listed in paragraph 12 above) who provided access to the employee.
15. **Keys to the Hazmat Storage Container are located in the Sergeant's Office.**

EMERGENCY AFTER-HOURS ACCESS TO LONG-TERM STORAGE LOCATIONS

16. If it is necessary for an employee to enter the **any of the secured storage areas, and all Property Room personnel are off duty**, the employee making entry shall send an **email** detailing the date, time, reason for entry, and identity of the individuals making entry **to the Support Services Division Captain, Support Services Bureau Lieutenant, and the Property Officer and receive a reply before entry. If a response isn't received in a reasonable amount of time then a call should be placed to the Captain.** The Property Officer shall maintain a record of these notifications. The Property Officer shall maintain a manual sign-in log for individuals entering the Property Room, **Drug Storage Container, or Drug Storage Room.**

PROPERTY TYPES

17. Property which comes into the possession of the Department is usually one of five basic types:
 - (a) Evidence: Property, which is or may be related to a crime, and which, by its nature, may implicate or clear a person of a criminal charge.
 - (b) Recovered Property: Property which was illegally taken from its owner and subsequently recovered by this Department. For purposes of disposition, recovered property shall be treated as evidence.
 - (c) Found Property: Non-evidentiary property which is determined to be lost or abandoned and is not known or suspected to be connected with any criminal offense.

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(d) Property Held for Safekeeping*: Non-evidentiary property that is placed in the custody of this agency for temporary protection on behalf of the owner and for a period not to exceed sixty (60) days. (Civil Code section 2080.10) **This shall include:**

- **Marijuana (legally possessed) which cannot be accepted into the Berkeley Jail as property but which the owner may obtain later by visiting the Property Room during normal business hours.**
- **Prisoner Property which is too large to be stored in the Berkeley Jail's storage area, but which the owner may obtain later by visiting the Property Room during normal business hours.**

* Property, which is not claimed for 60 days **will be discarded or donated.** (Civil Code sections 2080, et seq.)

PROPERTY BOOKING PROCEDURES

18. Employees coming into possession of property during the course of their duties shall exercise proper care in the handling of the property, and take all necessary steps to ensure the property does not become lost or unnecessarily damaged.
19. A numbered police report shall be made for all items of property or evidence coming into the possession of any employee of the Police Department. This report shall detail the circumstances by which the property came into the Department's possession and describe each item of property obtained. The Property Officer **and Property Clerk** shall maintain files listing the current location and status of all items of property in the custody of this Department.
20. One **AEGIS Property** entry shall be **made** for each **booked** item.
21. Employees shall **ensure that the case number written on the Property Label corresponds with the correct case report.**
22. Items booked for safekeeping and found property shall be segregated from items of criminal evidence in order to facilitate the timely disposition of such property.
23. All property coming into the custody of Department personnel during the course of their duties shall be placed in one of the designated Property Room temporary storage locations prior to the employee going off duty:
 - (a) Officers may deliver processed and bagged items directly to Property Room personnel during regular Property Room hours.
 - (b) The temporary storage of any item of property or evidence in desks, lockers, mailboxes or other Departmental facilities, not specifically authorized for that purpose is strictly prohibited.
 - (c) If property is to be used as part of an on-going investigation, the property shall be booked in and later checked out of the property room.

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- (d) Prisoner property shall not be left in the Bag & Tag Room lockers or **Bulk Storage Room** without **an attached Property Label**.
- 24. Prior to booking any item of evidence or property into an appropriate Temporary Storage Location, employees shall first:
 - (a) Complete an **AEGIS entry** for the item, and
 - (b) **Attach a Property Label to the item**.
- 25. In the event of a depletion of labels, employees shall write all of the pertinent information on a piece of paper and attach it to the property.
- 26. Items are to be placed in an available Bag & Tag Room locker and the locker secured. One locker has been fitted with a mailbox type slot (locker #9). Small items should be stored in this modified locker. If the item is too large for a locker, such as a bicycle, the Bulk Storage Room may be used. The special procedures for narcotics and high-value items are described elsewhere in this Order.
- 27. Lockers are secured by closing the locker door.
 - (a) The **Bulk Storage Room** can be accessed with the Departmental key.

LIQUID, BEVERAGE, AND PERISHABLES PROCEDURES

- 28. Containers of liquids or beverages are not to be stored except in situations where the preservation of the entire liquid in its original state is critical to the prosecution. In most instances, a sample may be placed in a small glass vial, and the vial attached to the original container.
- 29. Perishable items are not to be deposited for storage in the Property Room. These items may be photographed if appropriate and the item(s) returned to the owner or destroyed.

SHARP OR BLADED ITEMS PROCEDURES

- 30. When packaging sharp or bladed items such as knives, ice picks, etc., employees shall ensure that the sharp point of the item, or the blade of the item, is neither protruding nor exposed, by wrapping the blade with masking tape, or otherwise securely covering the point and/or blade of the item.

CURRENCY, HIGH VALUE, AND FIREARMS PROCEDURES

- 31. Items placed in the High Value Drop Safe shall have **an attached Property Label**.
 - (a) All monies placed in the High Value Drop Safe shall be counted by the booking officer and witnessed by another employee (if the amount is \$50.00 or more). **To prevent fraud, all monies should be inspected by the booking officer, and if available, a counterfeit detection pen should be utilized.** Monies are to be placed into self-sealing Berkeley Police Department Money Bags. All information requested on the Money Bag is to be filled out **using a non-smearing pen, such**

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as a “Sharpie” marker. All bags will bear a unique control number, and this number **should** be listed in the corresponding police report.

- (b) Cash count sheets shall be completed and included with all currency.
- 32. All money, handguns (including pellet guns), jewelry, or high value items shall be properly **labeled** and **should be** placed into the High Value Drop Safe located in the Bag & Tag Room. All items shall be logged in on the clipboard adjacent to the High Value Drop Safe. **Large items that will not fit in the safe, should be placed in a locker and a note should be made on the clipboard log indicating the item’s location**
- 33. When booking currency, ensure that the correct amount of the currency is entered in the **AEGIS property entry**.
 - (a) All currency shall be separated from other property in a case (e.g. Book currency separately from the wallet in which it was found.)
 - (b) **A currency denomination breakdown must be included in the description field in the system.**
 - (c) When booking counterfeit or foreign currency, enter “0.00” in the “**value**” field of the **AEGIS entry**.
- 34. All firearms shall be unloaded. All ammunition shall be booked separately from the firearm.
- 35. Each firearm booked into the Property Room shall be entered into the Department of Justice Automated Firearm System and a copy of the AFS entry form submitted by the assigned officer shall be attached to the firearm prior to booking into the Property Room.
- 36. All shotguns and rifles shall be booked into the Property Room. These weapons shall be placed in the large pass through lockers in the Bag & Tag Room. If the weapon is too large to fit in these lockers or if these lockers are already in use, the weapon shall be properly tagged and placed in the Spare Shotgun Locker in the Equipment Room (Public Safety Building Room 1145). Whenever an officer places a weapon in the Spare Shotgun Locker, the officer shall send an email to the Property Officer and the Property Clerk to notify them of the weapon’s location.
- 37. A safe belonging to the Finance Department of the City of Berkeley will be housed in the Berkeley Police Department Property Room. This safe will contain payroll documents, cash, and vouchers that can be used in the case of an emergency. Property Room personnel will escort Finance staff in and out of the Property Room if access is needed. Keys and combinations for this safe will remain with the Finance Department.

URINE AND BLOOD SAMPLE PROCEDURES

- 38. Urine or Blood samples will be stored in the Berkeley Police Department Property Room as follows:

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- (a) Urine sample jars and envelopes will still be kept in the jail.
- (b) Blood samples will be obtained from a **phlebotomist at the jail or from medical staff at an appropriate medical facility.**
- (b) **An AEGIS** entry will be created.
- (c) A **Property Label** shall be attached to the sample envelope.
- (d) Sealed urine sample envelopes and/or blood sample envelopes should be placed in the refrigerator in the Bag & Tag Room.
- (e) A biohazard label should be attached.
- (f) The Property Officer will remove any sample envelopes and store them in the Property Room. The Property Officer will update the **AEGIS system and print out a Property Receipt and Property Tag.**
- (g) A courier, **from the currently contracted lab**, will obtain any urine/blood samples from the Property Officer and transport for testing.

BICYCLE AND VEHICLE PROCEDURES

- 39. Bicycles, tricycles, or parts thereof shall be deposited in the **Bulk Storage Room with an attached Property Label.**
- 40. None of the Property Room storage areas are to be used for the storage of vehicles (except bicycles), discarded office furniture or equipment, or papers marked for destruction.
 - (a) Vehicles, including mopeds, shall be towed to a local garage in accordance with existing tow procedures.

EXPLOSIVES AND FLAMMABLE OR TOXIC SUBSTANCES

- 41. No flammable, explosive or toxic materials shall be stored in the Property Room, they must be booked into the Hazmat Storage Container.
- 42. Under no circumstances shall highly explosive, flammable, or toxic substances be stored in any portion of the Public Safety Building, or any Property Storage Area.
 - (a) Explosive materials shall be (a) moved, stored, and destroyed only under the direct supervision of a Berkeley Police Department Explosive Ordnance Technician.
- 43. Flammable materials shall be referred to the Berkeley Fire Department Fire Prevention Bureau for storage and disposal. During non-business hours, the On-Duty Fire Chief shall be contacted for storage and disposal assistance and direction.

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44. Toxic or hazardous substances shall be moved and stored ONLY under the direct supervision of the City of Berkeley Toxics Management Division or Berkeley Fire Department Hazardous Materials Response Team.

NARCOTICS EVIDENCE PROCEDURES

45. With certain stated exceptions, only narcotics and drugs will be accepted into the narcotic evidence system. Narcotics related paraphernalia shall be introduced into the property and evidence system as outlined previously (exceptions might include paraphernalia or syringes, properly packaged, which contain usable quantities of narcotics.)
46. A numbered report shall exist or be made for all items of narcotic or drug evidence coming into the possession of any employee of the Police Department. The Property Officer shall, through the **AEGIS** Computer System, maintain a record listing the location, disposition, or destruction of narcotic and drug evidence in the custody of this Department. All narcotics evidence shall be inspected by the Property Officer **or Property Clerk** to guard against tampering.

NARCOTIC AND DRUG DEPOSITING PROCEDURES

47. Employees taking possession of drug evidence and found drugs shall adhere to the following procedures:
 - (a) After its initial collection, employees shall, without delay, deposit any **narcotics or drugs** into the Drugs Drop Safe in the Bag & Tag Room or the Drug Storage **Container**.
 - (b) Employees coming into possession of narcotics or drugs during the course of their duties shall exercise proper care in the handling of these items, and take all reasonable steps to ensure that these items do not become lost or unnecessarily damaged.
 - (c) Employees shall use a **Property/Evidence Envelope** and properly complete the information on the envelope.
 - i. Employees shall fully and accurately complete **an AEGIS** entry.
 - ii. In all cases where narcotic and/or drug **information is entered** into **AEGIS**, the employee shall list the exact weight and/or exact quantity as accurately as could be reasonably expected.
48. The following packaging procedure shall be followed by employees who take possession of narcotic or drug evidence, and found drugs:
 - (a) Weigh the quantity of drugs on the scale provided. If this is inappropriate, such as a seizure of pills, tablets, or individual dosage units such as LSD, count the exact quantity of pills, tablets, or individual dosage units that are collected. If the size of the seizure (i.e. 50 Marijuana Plants) makes it inappropriate to weigh, list the number of plants.

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- (b) Choose an appropriate size clear evidence pouch
 - i. For marijuana - use a plain paper bag or **envelope**
 - (c) Place **the drugs and** a business card or note with the employee's name, badge number, and case number inside the clear evidence pouch (**or plain paper bag/envelope for marijuana**).
 - (d) Heat seal the clear evidence pouch with the heat sealer provided.
 - ii. **For marijuana – fold the paper bag or envelope**
 - (e) Choose an appropriate size **Property/Evidence Envelope**. If it is necessary to use one of the larger envelopes that are not pre-printed, attach one of the printed white adhesive **Property Labels**.
 - (f) Fill out all the required information requested on the face of this envelope. Initiate the "Chain of Custody." If the drugs were seized from a suspect, write the suspect's name in the "Received from" box on the envelope or label. The employee writes his or her name in the "Name" box. Write the date and time in the appropriate boxes.
 - (g) Place the clear evidence pouch (**or, for marijuana, paper bag/envelope**) inside the manila evidence envelope.
 - (h) Close the manila evidence envelope flap and use the metal clasp to hold the flap down.
 - (i) Apply a strip of red colored "evidence" tape to seal the manila evidence envelope flap. Be certain this action does not obscure any necessary information on the face of this envelope. Initial and date the evidence tape.
 - (j) Deposit the **Property/Evidence Envelope** into the Drug Drop Safe.
49. The following procedures shall be used when the drug evidence, or found property, is too large to be placed in any Drug Drop Safe.
- (a) Use the same basic format, as previously listed, and modify as necessary. Make use of larger manila evidence envelopes and larger clear evidence pouches, as necessary. Should even these prove to be too small, standard "grocery" sized paper bags, found in the Property Room, should be used.
 - (b) A business card or note with the employee's name, badge number, and case number shall be included in each large container used.
 - (c) If the evidence envelope or grocery bag used does not have a pre-printed chain of custody box on it, attach one of the white printed adhesive chain of custody labels to it.
 - (d) Seal the opening of any paper bag with red colored "evidence" tape and staple or secure, as necessary. Initial and date the evidence tape.
 - (e) Place the item(s) in the Drug Storage **Container**

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- i. **If the officer needs to access the Container after hours, the Property officer shall be contacted by following the directions in paragraph 17.**

PROHIBITED ITEMS IN THE DRUG DROP SAFE

50. Only the actual drugs, perhaps with its original packaging, should be placed into the Drug Drop Safe. Any packaging included should not obscure the drugs from sight.
 - (a) Needles, mirrors, razor blades, "kits," in general, and any other "non-drug" item or tool, shall not be placed in the Drug Drop Safe.
 - (b) Smoking pipes and syringes should not be placed in the Drug Drop Safe unless they contain a usable quantity of drugs and it is impractical to separate them or were used in a crime or suspicious circumstance. An example of this would be a syringe suspected to being used in an assault with a deadly weapon case. In such cases, syringes should be packaged in plastic safety tubes provided.

SYRINGE MANAGEMENT

51. Except as described in (a) below, all syringes taken into possession shall be placed into the red colored "Sharps" collector to be destroyed. If the syringe is taken for evidentiary purposes alone, it is to be photographed along with the appropriate case number, then placed in the "Sharps" collector to be destroyed.
 - (a) Syringe packaging for narcotics analysis: Should a loaded syringe be obtained the following guidelines shall be used. First, employees must take their time and exercise due caution in this task. If there is a plastic shield over the needle, employees should remember that this is not puncture-proof. The syringe and needle must be packaged in a puncture-proof container such as a metal/fiber mailing tube or hard plastic containers. Furthermore, the presence and manner of packaging a syringe *must* be described **and written** explicitly on the container in which the syringe is sent.
 - (b) **The Property Officer or Property Clerk will dispose of the syringes at the City of Berkeley Public Health Clinic located at 830 University Avenue.**

PROCEDURES FOR PROCESSING BOOKED PROPERTY

52. The Property Officer or the Property Clerk shall check the Pass Through Lockers, High Value Safe, Bag & Tag Room refrigerator, and **Bulk** Storage Room each business day, retrieve the items from temporary storage, index them into **AEGIS**, barcode each package/bag/container, **attach a Property Receipt**, and store them in an appropriate area of the Property Room.
53. The Property Officer or the Property Clerk shall query **AEGIS** each business day to confirm that all property or evidence entered into **AEGIS** has been located and accounted for by the Property Officer or the Property Clerk. If the Property Officer or the Property Clerk locates a Computer Property System entry and cannot locate the

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actual evidence, **or if they find a piece of evidence without a corresponding AEGIS entry**, he/she shall take immediate action to resolve the inconsistency. Such action may include but is not limited to contacting the involved employee to determine the circumstances of the incident, contacting the employee's supervisor for further assistance, or other action taken with the intent to rectify the situation, and provide feedback to the involved employee in order to avoid future mistakes.

54. The **Property Officer or Property Clerk** shall check the Drug Drop Safe each business day, retrieve the items from temporary storage, confirm and update the corresponding record in **AEGIS**, barcode each package, bag, container, or item, and store them in an appropriate area of the Property Room.
55. The **Property Officer or Property Clerk** shall query **AEGIS** each business day to confirm that all drug property or evidence entered into **AEGIS** has been located and accounted for by the Property Officer. If the Drug Property Officer locates a Computer Property System entry and cannot locate the actual evidence, he/she shall take action to resolve the inconsistency. If the Drug Property Officer finds a piece of drug property or evidence without a corresponding entry in **AEGIS**, the Property Officer shall take action to resolve the inconsistency. Such action may include but is not limited to: contacting the involved employee to determine the circumstances of the incident, contacting the employee's supervisor for further assistance, or other action taken with the intent to rectify the situation, and provide feedback to the involved employee in order to avoid future mistakes.

PROCESSING OF CURRENCY

56. Property Room personnel shall place all currency in the security safe in the Property Room. Only the Property Officer, Property Clerk and the Support Services Lieutenant shall have the combination to the security safe. The combination shall be changed immediately following the rotation of an individual from any of these assignments.
57. With the exception of currency that must be retained in its original state, currency in the Property Room should not be allowed to accumulate over \$5,000. The Property Officer shall periodically deposit currency in the Berkeley Police Department Property Room Fund, **Asset Forfeiture Account, or BPD State Asset Forfeiture Account**. The deposit shall be witnessed and verified by the Property Clerk or another departmental employee designated by the Support Services Lieutenant, and a receipt obtained. The Support Services **Lieutenant and** Captain shall be notified each time money is moved to **a financial institution of the City's choosing**.
58. All currency placed into the security safe shall be in sealed Berkeley Police Department Money Bags. Currency to be deposited shall remain sealed until removed from the security safe for deposit. The seals can then be broken only by the Property Officer and the witness described in paragraph 63 above. The Property Officer and witness shall perform a concurrent count of each package to verify the contents and amount prior to deposit.

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- (a) Any discrepancy between the amount on the property tag and the count prior to deposit shall be reported immediately to the Support Services Captain for follow-up investigation and resolution.
- (b) The Watch Commander or in his/her absence the Duty Command Officer shall also be notified. The Watch Commander or Duty Command Officer will notify the Chief of Police, the City Manager, the Director of Finance and the City Auditor.

WITHDRAWAL AND RETURN OF PROPERTY

- 59. When an investigation requires that an item be temporarily removed from the Property Room, the assigned employee shall contact the Property Officer **or Property Clerk via email with a cc to their respective supervisor.** The Property Officer **or Property Clerk** will check out the item to the employee and immediately update **AEGIS** records to indicate that the item(s) is in the temporary custody of the assigned employee. A chain of custody form shall be initiated by the Property Officer or **Property Clerk**, and attached to the item.
- 60. Property may be temporarily withdrawn from the Property Room for identification, laboratory examination, and court.
 - (a) Property shall be withdrawn on the date it is actually needed for identification, examination, or court. In special situations, the Property Officer should be contacted and arrangements made for the property to be available during early-morning hours or weekends, etc. Immediately following the withdrawal of an item of property, the Property Officer will update the Automated Property System on the status change of the item(s) including initiating a "Chain of Custody" record in the Automated Property System. Evidence leaving the Property Room shall have a Chain of Custody form attached.
- 61. No employee may place property in and then remove it from the **Bulk** Storage Room, unless to return the property to the owner. In that event, a Property Receipt shall be obtained from the owner and forwarded to the Property Officer or the Property Clerk so he/she may update the Automated Property System entry. The Property Officer or the Property Clerk will update the system during the next business day.
- 62. Items shall be securely bagged, wrapped, tied, taped or placed in a suitable container for transport to the forensic laboratory or storage.
- 63. When property is temporarily released from the Property Room, the item's change in status shall be immediately recorded in **AEGIS** by the Property Officer or Property Clerk releasing the item(s). A "Chain of Custody" form will be attached to the item and signed by the individual to whom the property is released. The Property Officer or Property Clerk will initiate a "Chain of Custody" entry in **AEGIS** for each item released. When the property is returned, the "Chain of Custody" form attached to the property will be retained with the item(s) of property. The Property Officer or Property Clerk will update the status of the item in **AEGIS** upon its return to the Property Room. The Property Officer or Property Clerk will also update the "chain of custody" record in **AEGIS** file.

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64. The assigned employee shall be responsible for the proper maintenance of the chain of custody record and security of the item(s). At times the item is not actually needed, it shall be returned to the Property Room.
65. When **stored** property, **including legally possessed marijuana**, is returned to the owner by the Property Officer **or** Property Clerk, a property receipt will be obtained. The property receipt will be forwarded to the Records Bureau for imaging with the case. The Property Officer or Property Clerk will immediately update **AEGIS** to reflect the release of the property.
66. If a piece of returned property has never been entered into **AEGIS**, the employee completing the property receipt should route it directly to the **Records Bureau** with the notation "Not in **AEGIS**."
67. When indexed property is placed in evidence (and retained by the court) at trial, it is the responsibility of the employee submitting the evidence to the court to obtain a property receipt from the Court Clerk. This receipt ("Property Receipt/Court Property Receipt") shall be routed to the Property Officer. The Property Officer or the Property Clerk shall make the necessary updates in **AEGIS** and forward it to the Records Bureau for attachment/imaging to the numbered report.
68. No item of property shall be released without a signature receipt from the person receiving the property. If the property is being released for identification, investigation, laboratory examination, or court, a Chain of Custody Form shall be attached to the property and signed by the officer/employee to whom the property is released.

DISPOSAL OF PROPERTY

69. Property shall be disposed of by either:
 - (a) Return of the property to its owner or finder;
 - (b) Sales of the property at auction;
 - (c) Conversion of the property to agency or other public use; or
 - (d) Destruction of the property.
 - (e) Property with no monetary or evidential value shall not be allowed to accumulate.
 - (f) Evidence on suspended misdemeanor investigations may be disposed of after twelve (12) months with the approval of the assigned employee's supervisor.
 - (g) Evidence in felony investigations may be disposed of with the approval of the assigned Detective Bureau supervisor. In deciding what evidence may be disposed of, the major consideration should be the value of the items in a criminal prosecution. Some items held in evidence have little or no value in court. If it will serve a useful prosecution purpose, photographs of the evidence may be requested prior to its disposal.
 - (h) In every instance where property in Departmental custody has been returned to its owner or finder, sold at auction, destroyed, or converted to agency or public use,

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the Property Officer, Property Clerk or Property Officer shall immediately update the **AEGIS** System. An appropriate comment may also be added to indicate the manner in which the item was disposed.

RETURN OF PROPERTY TO OWNER

70. The policy of this Department shall be that every item of found property, recovered property, or evidence is to be returned to the owner except in the following situations:
- (a) Where there is a **Court Order** to destroy.
 - (b) Where there is written permission **from** the owner to destroy.
 - (c) Where the law provides for the destruction or other disposition of the item.
 - (d) Where all investigative measures have been taken **but the** owner cannot be identified or located.
 - (e) Where the owner is contacted by telephone and gives the employee permission to dispose of the property. In such instances, the employee must file a written report with the numbered case, setting forth all the circumstances of the contact. A copy of this report must be routed to the Property Officer or Property Clerk.
71. When property is to be returned to the owner, the Property Officer or Property Clerk shall forward the Property Receipt to the **Records Bureau**. If the property has a serial number and has been entered into the Automated Property System of the Department of Justice, the Property Officer or Property Clerk shall notify the officer who authorized the release and that officer shall be responsible for insuring that item is removed from the Automated Property System or Automated Firearms System of the Department of Justice. If the authorization for release came from a court order, the Property Officer will request the item be removed from the appropriate Department of Justice automated system.
- (a) In all cases, property shall be released only after the owner has provided satisfactory proof of ownership, presented proper personal identification, and signed a Property Receipt.

FOUND PROPERTY TURNED IN AT THE FRONT COUNTER

72. When found property is brought to the Front Counter by a community member during business hours, Front Counter Professional Staff shall proceed as follows:
- (a) **Complete a Found Property form to the best of your ability. The form should document the name of the community member, a description of the property, the location where it was found, and the circumstances surrounding its discovery. If the community member is hesitant in disclosing their personal information, try explaining the importance of a possible link to a crime and subsequent needed follow up. If they are still hesitant, do not insist and write "Declined" or "Refused" on the appropriate line. This will demonstrate to the**

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officer that an attempt was made to obtain the information and it was not an oversight on your part.

- (b) Do not search backpacks or large bags. Professional Staff is not trained in handling the potential dangers sometimes hidden in bags. Items which need to be searched should be directed to a Community Service Officer (CSO) at the Jail Bail window during business hours.**
- (c) Itemize the found property on the form. If cash or valuables are turned in, it is recommended that either the community member turning in the property or a co-worker confirm the form is accurate by signing the form as a witness.**
- (d) Contact the Communication Center to obtain a case number and have an officer assigned to the call. The case number may be given to the community member reporting the found property.**
- (e) Place the property and the Found Property form in the blue locker next to the break room in the Records Bureau. The code for the locker will be the same code used to enter the PSB parking lot.**
- (f) The dispatched officer will retrieve the found property and handle it per normal protocol.**
- (g) If the property is oversized and will not fit in the locker or needs to be searched, bring the completed Found Property form and the property to a CSO at the Jail Bail window.**

73. After normal business hours, the Communication Center will direct the community member with the found property to a CSO at the Jail Bail window.

FOUND PROPERTY TURNED IN AT THE JAIL BAIL WINDOW

74. CSOs will adhere to the same procedures as Professional Staff, with the following exceptions:

- (a) Booking prisoners and assisting officers will take precedence to collecting found property.**
- (b) Backpacks and large bags may be searched.**
- (c) The found property will be stored in the secure Jail Bail window office, which will also be the location for the officer to pick up the property.**

RETURN OF FOUND PROPERTY TO FINDER

75. Berkeley Municipal Code Section 2.64.110 provides that all found property or found money coming into the possession of any member of the Police Department shall remain in the custody of the Department for at least 90 days. Methods of disposing of such property (with the exception of returning found and unclaimed property to the finder) are set forth in the ordinance.

76. California law distinguishes between a police employee finding an article or money in the course of his/her employment and the usual case where the finder has superior title

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against anyone except the real owner. It is the duty of a police employee to forfeit all claim of title to any article found or surrendered to him/her in the course of employment.

77. When a citizen reports the finding of money or any article, he/she may request that this Department take custody of the item and stipulate that it be returned at the finder's expense if the rightful owner cannot be located. The citizen shall be advised:
- (a) If no owner appears and proves ownership of the property within 90 days, the finder may take title to the property if requested within 30 days after expiration of the 90-day period.
 - (b) If the finder makes claim to the property within 30 days after expiration of the 90-day period, the Property Officer can release the property to the claimant if the value is less than \$250.00.
 - (c) If the property value is \$250.00 or greater, the Property Officer shall arrange for a notice of the found property to be published in a local newspaper of general circulation. The notice shall appear in at least one local newspaper for a minimum of (1) week and costs shall be paid by the finder.
 - (d) If, after seven (7) days following the publishing of the notice, no owner appears and proves ownership, title to the property shall vest in the finder. The finder may claim the property upon presentation of valid (picture) identification, and reimbursement to the Police Department for the publication of the notice described in (c) above.
78. The Property Officer or Property Clerk shall be responsible for insuring that all necessary cancellations are made in Departmental files whenever property is released under this Order. These cancellations are usually restricted to firearms entries in AFS.
79. It is not mandatory that citizens turn in found property to this Department; however, the procedure set forth above should be complied with to protect the finder from being in violation of Penal Code Section 485. This Section states that a finder is guilty of theft unless he/she makes a reasonable effort to find and restore the property to its rightful owner.
80. Should the finder wish to retain the property and proceed to gain title as set forth in this Order, a numbered report shall be prepared, a complete description of the property obtained, and the description checked against all appropriate files and systems (Local, State, etc.) in an attempt to locate the owner.

PUBLIC AUCTION OF PROPERTY

81. State law provides for the sale of unclaimed property which cannot be returned, and which is not required to be destroyed. Once each year, or more often if necessary, the Property Officer shall arrange for unclaimed property to be sold at public auction.

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- (a) Unclaimed firearms and other weapons shall not be sold at auction. They shall be destroyed as provided by law.

DESTRUCTION OF STOLEN OR EMBEZZLED PROPERTY

- 82. Where the Property Officer has identified items of property for destruction, the Property Officer shall request approval for destruction of the item from the Police Department Bureau responsible for the criminal investigation involving the item.
 - (a) The Bureau **Lieutenant or his/her designee** shall determine if there are pending court actions regarding the item, whether the item should be returned to its owner, or whether the item is suitable for destruction.
 - (b) If the owner can be located, the Bureau **Lieutenant or his/her designee** shall notify the owner that the item is available for recovery within 30 days from the Police Department Property Room. The Bureau shall in turn notify the Property Officer that the owner is notified, and that the property shall be held for the owner.
 - (c) If no owner can be located, the Bureau shall so notify the Property Officer, and confirm that the item is suitable for destruction.
- 83. If there is a dispute as to the ownership of a piece of stolen property, all parties shall be advised to apply to the court of jurisdiction for a determination of ownership.

DESTRUCTION OF FIREARMS AND WEAPONS

- 84. Firearms and weapons defined as “nuisances” by Penal Code Section 12028 are subject to disposal. By June 30th of each year, the Property Officer shall apply for a court order authorizing the destruction of “nuisance” weapons. The application shall list the weapons to be destroyed by make, model, caliber, and serial number.
- 85. Weapons defined as “Destructive Devices” by Penal Code Section 12301 and machine guns defined in Section 12251 PC, which were unlawfully possessed, must be surrendered to the California Department of Justice unless a certificate signed by a Judge or District Attorney is filed with the Department of Justice. The certificate must state that the preservation of such destructive devices or machine guns is necessary to serve the ends of justice.
 - (a) Destruction of firearms and weapons shall be accomplished in such a manner so as to render the weapons absolutely useless. The destruction process shall occur at a commercial location arranged by the Property Officer and shall be witnessed by the Property Officer and Support Services **Division Captain or his/her designee**. A Sworn Supervisor may substitute for the Support Service Division **Captain**.
 - (b) The Property Officer or Property Clerk shall update information regarding all serialized weapons from the appropriate computer system(s) immediately following such destruction. The Property Officer/Property Officer will update **AEGIS** immediately following any destruction of property or drugs.

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- (c) The Property Officer shall maintain information on all property that has been destroyed and shall forward that information to the Records **Bureau** for placement in the applicable record storage system.

CONVERSION OF PROPERTY TO AGENCY OR PUBLIC USE

86. Civil Code Section 2080.4 and Penal Code Section 1411 provide that, if a City or county has enacted an enabling ordinance, certain unclaimed property held in the custody of the agency may be retained for agency or other public use, rather than being sold or destroyed. Penal Code Sections 12028 and 12030 provide the authority for acquisition of firearms for agency use.

- (a) Requests for acquisition for Departmental or other public use of unclaimed property held by this Department shall be made in **memo format** and forwarded to the Support Services **Bureau Lieutenant**. All requests shall include complete justification for acquiring the property and copies of all relevant agency documents describing how the requested property came into possession of the Department.
- (b) After a request has been approved by the **Support Services Bureau Lieutenant**, additional documents shall be obtained as described below when the property to be acquired is a firearm:
 - 1. A Certificate of Weapon Retention obtained from and signed by a Judge or District Attorney; and,
 - 2. A letter, describing the make, model, caliber, and serial number of the firearm, prepared for the signature of the Chief of Police, to the California Department of Justice.
- (c) Notwithstanding an order from the court to the contrary, money which is in the possession of the property section and which cannot be lawfully returned to its owner (after consultation with the appropriate prosecuting attorney), shall, at the direction of the Chief of Police, be transferred from the BPD Property Fund to the City General Fund. (Ref. Penal Code Sections 335a and 1418, and Health and Safety Code Sections 11488, etc.)
- (d) No property so acquired shall be used for personal or non-governmental purposes.

STORAGE OF SEIZED DRUG-RELATED FUNDS

87. Unless otherwise ordered by the District Attorney or Alameda County Superior Court, all seized drug-related funds shall be kept in the custody of the Police Department pursuant to Berkeley Municipal Code section 2.64.090, which requires a record be made thereof. Seized drug-related funds shall be kept a minimum of one year and ninety days from the date of seizure of the funds.

- (a) "Drug-related funds" means all moneys, negotiable instruments, or securities described in California Health and Safety Code section 11470 (f).

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- (b) "Seized drug-related funds," means any drug-related funds seized by the Police Department pursuant to Division 10, Chapter 8 (commencing with Section 11470) of the Health and Safety Code.

DISPOSITION OF UNCLAIMED SEIZED DRUG-RELATED FUNDS

88. If the District Attorney or Attorney General institutes forfeiture proceedings for seized drug-related funds, the funds shall be disposed of in accordance with Division 10, Chapter 8 (commencing with Section 11470) of the Health and Safety Code.
89. Non-withstanding Berkeley Municipal Code section 2.64.110, if forfeiture proceedings are not instituted and if seized drug-related funds are not ordered to be disposed of by a court, the Police Department shall comply with any notice to withhold issued with respect to the funds by the Franchise Tax Board. If no notice to withhold has been issued with respect to the funds by the Franchise Tax Board, the funds shall be disposed of in accordance with the terms of this section.
90. No sooner than one year from the date of seizure of drug-related funds, the Property Officer shall send a certified letter to the last known address of the individual whose funds were seized. The Property Officer shall simultaneously publish a notice once a week for three successive weeks in a newspaper of general circulation in Alameda County.
- (a) Both the letter and the notice shall include the following:
1. The case number of any criminal proceedings related to the funds;
 2. The Police Report number related to the funds;
 3. The date and place of seizure; and
 4. The amount of funds held by the Police Department.
- (b) Both the letter and the notice shall direct the individual to apply for a court date for release of the funds and shall specify the date by which the person must apply.
1. The date shall be no sooner than ninety (90) days after the certified letter is deposited in the mail. The letter and notice shall further state that if such a court order is not obtained, the funds shall become the property of the City.
91. If court proceedings are not instituted and served on the City on or before the date specified in the notice and letter, the funds shall be transferred to the Police Department's asset forfeiture account.

INSPECTIONS OF EVIDENCE/PROPERTY STORAGE AREAS

92. A scheduled inspection of the Property Room will be made at least once every six months. The Support Services Division Captain or his/her designee shall conduct these inspections to determine that:

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- (a) The respective Property Room storage facilities are being maintained in a clean and orderly fashion,
- (b) The provisions of this General Order are being followed,
- (c) Property is being protected from damage or deterioration,
- (d) Property accountability procedures are being maintained, and
- (e) Property having no further evidentiary value is being disposed of in accordance with the law and departmental policy.

93. The Support Services Division **Captain** or his/her designees shall include the nature and results of these inspections in his/her monthly management report to the Chief of Police.
94. Unannounced inspections of the Property Room will be conducted annually as directed by the Chief of Police. These spot inspections shall be conducted to determine that the Property Rooms are being maintained in a clean and orderly fashion, that the General Orders are being followed, that property accountability and security procedures are in compliance, that all property is being sent to the main Property Rooms as soon as possible, and that the main Property Rooms received the necessary paper work to dispose of evidence/property no longer having evidentiary value. A random comparison of the records with physical property should consume most of the time allocated to the spot inspections. The **Operations** Division and Support Services Division **Captains** or their designees shall include the nature and results of these inspections in his/her report to the Chief of Police.

AUDITS

95. In December 2000, an automated property system was instituted. In order to ensure the credibility of this automated property system, a series of regular audits will be instituted. The following audits will be performed:
- (a) **Monthly Audits:** At least once each month, the Property Officer **or Property Clerk** will conduct a random audit of 25 items of property from various locations within **the drug and property rooms**. This monthly audit will examine the records for these items and confirm the status and location of each of these items is correct. The Property Officer will additionally conduct a "Cash" audit of the Property Room and determine the amount of cash currently stored within the Property Room. Once each month, the Property Officer **or Property Clerk** will check the "Chain of Custody" disposition records in **AEGIS**, or a manual log. When an article has been out of the Property Room for two weeks or more, the Property Officer will contact the employee that checked out the item of property and determine its status. Items out for more than two weeks shall have an explanation placed in **AEGIS**. The results of each of these audits shall be reported to the respective Division **Captains**.
 - (b) **Bi-Annual Audits:** The Professional Standards Bureau Audit and Inspections Sergeant will be responsible for conducting audits of all of the Property

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Rooms at least twice a year. The Property Officer and **Property Clerk** will use portable barcode scanners to audit 100 pieces of property in their respective Property Rooms. The audit will check for the correct locations and status of each item. This audit will also check at least 5 different property locations and two drug evidence locations and confirm that those locations contain all the individual pieces of property that the **AEGIS** has assigned to those locations **and ensure that there has been no tampering of the evidence.** The results of each of these audits shall be reported to the **Chief of Police, via the Professional Standards Division chain of command. The results will also be shared with the Captain and Lieutenant of the Support Services Division.**

96. Whenever a new Property Officer is appointed, outgoing and incoming personnel shall conduct a joint inventory. The purpose of the inventory is to ensure the continuity of custody and not require the accounting of every single item of property. The inventory should be sufficient to ensure the integrity of the system and the accountability of the property. The person assuming custody of the property should ensure that all records are current and any discrepancies are recorded and reported to the Support Services Division **Captain** prior to the assumption of property accountability by the newly appointed custodian.

References: Berkeley Municipal Code § 2.64.090 and 2.64.110, California Civil Code § 2080.3, 2080.4; California Health and Safety Code § 11470 and 11488; California Penal Code § 335a, 1407, 1411, 1413, 1418, 12028, 12030, 12301, 12251; General Orders O-4, P-66, P-67, R-17, V-2 and V-5; Special Orders 89-29960, May 24, 1989 and 92-00026, March 21, 1992