

## Property

### 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 Unit, including the following:

- Evidence - Items taken or recovered during 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 Office or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Office for safekeeping, such as a firearm, the personal property of an arrestee that has not been taken as evidence, and items taken for safekeeping under authority of law.

### 802.2 POLICY

It is the policy of the St. Mary's County Sheriff's Office 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 HOURS OF OPERATION AND STAFFING

Normal working hours for the Property Unit are 0800 hours to 1600 hours, Monday through Friday.

The Property Unit is staffed by a minimum of two (2) property specialist employees and will be supervised directly by a sworn member of the Sheriff's Office with a rank of sergeant or above.

### 802.4 PROPERTY UNIT SECURITY

The Property Unit shall maintain secure storage and control of all property in the custody of this office. A property specialist shall be appointed by and will be directly responsible to the Sheriff or designee. The property specialist is responsible for the security of the Property Unit.

For procedures related to Property Security, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Property Specialist Responsibilities](#)

#### 802.4.1 REFUSAL OF PROPERTY

The property specialist has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the property specialist refuse an item of property, the property specialist shall maintain secure custody of the item in a temporary property

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locker or other safe location and inform the submitting member and their supervisor of the reason for refusal and the action required for acceptance into the Property Unit.

### 802.4.2 KEY CONTROL

Property Unit keys should be maintained by the property specialist and members assigned to the Property Unit. Property Unit keys shall not be loaned to anyone and shall be maintained in a secure manner. If a Property Unit key is lost, all access points shall be re-keyed and new keys issued as necessary.

### 802.4.3 ACCESS

Only authorized members assigned to the Property Unit shall have access to property storage areas. Any individual who needs to enter the property storage area (e.g., maintenance or repair contractors) must be accompanied by a property specialist, and/or a unit supervisor. Each individual must sign the Property Unit access log (SMCSO Form #58) 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 office member.

## 802.5 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 property specialist 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 Office. A copy of the property receipt form shall be given to the individual from whom the property was taken.

### 802.5.1 PROCESSING AND PACKAGING

All property must be processed prior to the responsible member going off-duty, unless otherwise approved by a supervisor. General property can be placed into a drop box or locker at either the District 1, District 2 or District 4 stations. Firearms, controlled dangerous substances, and U.S. currency are prohibited from being stored at the District 1 and District 4 station. Members shall process and package property as follows:

- (a) An initial property entry will be made in the Tyler Enterprise Records System (RMS). The entry will contain the following information, if applicable:
  1. Evidence Type
  2. Case Number
  3. Evidence Code
  4. Date Received/Collected

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5. Collected by Officer
  6. Chain of Custody
  7. Temporary Storage Location
  8. Monetary Value
  9. Make
  10. Model
  11. Caliber
  12. Serial Number or Owner Applied Number
- (b) When collecting controlled dangerous substances (CDS), the following additional information will also be required:
1. Quantity
  2. Units
  3. Weight
  4. Suspected Drug Type
- (c) Physical property shall be packaged in a container suitable for its size, if applicable. A container is described as an evidence bag, box, or envelope.
- (d) Upon entry into Tyler Enterprise Records (RMS) System, the submitting member will generate and print a barcode for each item entered into the system. The barcode will then be affixed to the container in which the property is stored. If the item is unable to be properly stored within a container, the submitting member will utilize a property tag or other means to ensure the item is accompanied by the required barcode as needed.
- (e) The case number shall be indicated on the property tag and/or the container. If a container is used, it must be properly sealed by the submitting member with the use of evidence tape. Once the item has been properly sealed, the submitting member will record their initials, date, and time on the seal.
- (f) All general property submitted will be temporarily stored in property locker or dropbox located at either the District 1, District 2, District 4 stations or Crime Laboratory Temporary Storage. If an item is too large to fit inside a temporary property locker, it may be placed in a designated storage area that can be secured from unauthorized entry.
- (g) In the event an item(s) must be stored in Crime Laboratory Temporary Storage, approval from a supervisor of the Criminal Investigations Division must be obtained. Additionally, the item(s) will not be stored in that location longer than fourteen (14) days.
- (h) The temporary cellphone storage lockers located at the District 3 station will only be utilized after CID Supervisor consultation and for digital devices being forensically analyzed.

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1. Digital devices placed into the temporary cellphone storage lockers will be properly packaged per policy. Only devices in a current "on" state will be placed in the District 3 station cellphone temporary storage lockers. Devices recovered in the "off" state, regardless of needing to be forensically analyzed, will be submitted to any of the property lockers located at either District 1, District 2 or District 4 stations.

#### 802.5.2 EXCEPTIONAL PROCESSING

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 a secure storage area.

**Photographs** - Members will utilize their agency issued cell phones or cameras to take photographs. The photographs will be uploaded to Evidence.com via the Axon Capture application. In the event the member's cell phone is inoperable, photographs will be taken with their agency issued camera and then e-mailed to the Property Unit (SMCSOPROPERTY@stmaryscountymd.gov). Contained within the member's e-mail will be the case number, the number of photographs being submitted and the reason the member was unable to submit the photographs via Axon Capture. The Property Specialist will then add the photographs to Evidence.com on the member's behalf.

**Digital Interviews and Digital Evidence** - Members will upload any digital interviews and/or digital evidence to Evidence.com.

Often times, members are provided with digital evidence which is contained on a storage media device (USB, CD, DVD, or hard drive). In these instances, an entry will be made in the record management system and the item(s) will be submitted to the appropriate temporary storage locker or drop box. If access to the digital content is needed, the Property Specialist will upload the requested evidence to Evidence.com.

**Documents** - Paper documents will be submitted in an appropriate evidence container with an evidence label affixed.

**Biological and related items** - Evidence that may contain biological samples shall be indicated as such in the record management system.

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 located at Crime Laboratory Temporary Storage.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated in the record management system.

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

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**Cash** - All U.S. currency collected will be placed in the currency drop box located at the District 2 station. Prior to submitting any U.S. currency, the member will count it in the presence of another member with the rank of sergeant or above or the Crime Laboratory Supervisor. The witnessing supervisor will also count the money to ensure accuracy. At least one member's assigned body worn camera will be activated at the time of the count. Once the currency amount has been verified by both members, the money will be placed in a currency evidence bag. The bag will be sealed, signed and dated by the members who conducted the count. All U.S. currency collected will be placed in the currency drop box.

**Explosives and fireworks** - Explosives will not be retained inside any sheriff's 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 outside of the District 2 station.

The property specialist is responsible for transporting and/or providing to the State Fire Marshal's Office or to the fire department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

**Firearms and other weapons** - Firearms and ammunition shall be packaged separately. Firearms will be packaged in provided gun boxes and/or paper bags if applicable. Submitting members will ensure an evidence label is affixed on the outside of the box and/or paper bag containing the case number, make, model, and serial number or owner applied number. All firearms will be processed and stored at the District 2 station.

**Government property** - County property that is of no evidentiary value should be released directly to the appropriate County department. If no responsible county personnel can be located, the property will be held for safekeeping.

All license plates or Maryland driver's licenses that have not been reported stolen or are of no evidentiary value should be placed in the general property drop box for return to the appropriate Motor Vehicle Administration. The property specialist will return all out of state license plates and driver's licenses to the appropriate agency via certified mail.

**Sharps** - All syringes and other sharp items, excluding knives, shall be packaged inside of a puncture resistant tube and sealed with evidence tape. Such items should be stored as evidence only when essential to the prosecution of the case. Otherwise, needles and other sharps will be submitted only for destruction. A sharps container is affixed to the wall in the Patrol Squad Room within the District 2 station for the disposal/destruction of syringes and razor blades. Sharps and biohazards will be clearly and boldly marked as such. See [Saint Mary's County Sheriff's Office LE Procedures Manual: Syringe Recovered Requiring Analysis](#)

#### 802.5.3 CONTROLLED DANGEROUS SUBSTANCES

- (a) Controlled dangerous substances (CDS) shall not be packaged with other property. All controlled dangerous substances (CDS) shall be stored and packaged within a heat-sealed container.

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- (b) The member processing CDS shall retain such property in his/her possession until it is weighed, packaged, tagged, and placed in the designated CDS locker drop box located at the District 2 station and accompanied with an MSP Form 67 if testing is requested.
- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected CDS. If conducted, the result of the test shall be included in the offense report.
  - 1. The member shall package CDS as follows:
    - (a) Maintain the property in the container in which it was originally seized.
    - (b) Prior to placing the suspected CDS into an evidence container, the submitting member will attempt to obtain the Gross Package Weight (GPW). If no weight is able to be obtained, the submitting member will notate if the item contains trace amounts or residue. Members must also attempt to identify the suspected drug type. All information must be notated within the Tyler Enterprise Records (RMS) System.
    - (c) If collecting prescription medications, each medication will be itemized with the Tyler Enterprise Records (RMS) System. The itemization will include the medication name (if known), dosage and the amount recovered. The submitting member will also notate if the medication can be destroyed. All recovered medications will be packaged in a heat-sealed container and stored at the District 2 Station (CDS Box).
    - (d) The submitting member will record their initials, date, and time on the heat seal. Additionally, the heat-sealed container will be affixed with a barcode sticker which will contain the date, the case number and a brief description of the contents within the packaging.
- (d) When the quantity of CDS exceeds the available safe storage capacity as determined by the property specialist, the quantity shall be photographed and weighed.
  - 1. A representative sample of sufficient quantity to allow scientific analysis of the CDS 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 property specialist shall monitor stored marijuana for growth of mold.

For procedures related to Controlled Dangerous substances, see the St. Mary's County Sheriff's Office LE Procedures Manual: [TruNarc Analyzer](#) and [Narcotics Processing Unit](#).

#### 802.5.4 EXTREME RISK PROTECTIVE ORDERS

Whenever a firearm or ammunition is received under an extreme risk protective order, the receiving member shall provide an evidence receipt identifying the firearm by make, model and serial number, retain the form, and provide a copy of the form to the person from whom the items

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were received, along with information on the process for reclaiming the firearm/ammunition (Md. Code PS § 5-608).

All firearms taken in relation to an extreme risk protective order should be stored and transported in a manner intended to prevent damage to the firearm. No identifying or other marks may be placed on the firearm (Md. Code PS § 5-608). All recovered firearms will be processed, packaged, and stored at the District 2 station for safekeeping. Refer to [St. Mary's County Sheriff's Office LE Policy Manual: 802.5 PROPERTY HANDLING](#).

### 802.5.5 FIREARMS REPORTING REQUIREMENTS

Whenever a firearm is recovered in connection with illegal firearm possession, transportation, or transfer, or that was used in the commission of a crime of violence as defined in Md. Code PS § 5-101, the responsible member should record on the appropriate form, when applicable (Md. Code PS § 5-803):

- (a) the number and type of crime firearms;
- (b) the jurisdictions where crime firearms are recovered;
- (c) the sources of the crime firearms recovered, if discoverable, including:
  - 1. the federally licensed firearms importer;
  - 2. the federally licensed firearms dealer; and
  - 3. the first purchaser of the crime firearm;
- (d) information regarding the individual found in possession of the crime firearm, including:
  - 1. the individual's age;
  - 2. the individual's jurisdiction of residence;
  - 3. the jurisdiction where the individual is charged; and
  - 4. whether the individual was prohibited from possessing a firearm; and
- (e) any other information requested by the Center.

Whenever a firearm was surrendered pursuant to a final protective order issued under Md. Code FL § 4-506, the responsible member should record on the appropriate form, when applicable (Md. Code PS § 5-803):

- (a) the number and type of firearms;
- (b) the jurisdictions where firearms are surrendered; and
- (c) information regarding the individual who surrendered each firearm, including:
  - 1. the individual's age;
  - 2. the individual's jurisdiction of residence; and
  - 3. any other information requested by the Center.

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### **802.6 RECORDING OF PROPERTY**

The Property Specialist receiving custody of any property will ensure each item has been properly packaged and documented by the submitting officer and affixed with the corresponding barcode. Once accepted, the Property Specialist will update the item's location within the Tyler Enterprise Records (RMS) System and assign it a permanent storage location.

The Property Specialist reserves the right to refuse any property submitted by a member. If an item is rejected, the submitting member will be notified automatically via the Tyler Enterprise Records (RMS) System and e-mail citing the reason for the refusal. The submitting member will have seven (7) calendar days to rectify the issue. If the issue is not corrected within the aforementioned timeframe, an additional e-mail will be sent to the submitting member and their supervision for immediate attention.

### **802.7 PROPERTY CONTROL**

The Property Specialist relinquishing custody of an item to another member, another member of another Law Enforcement Agency, State's Attorney personnel or citizen will record this action within the Tyler Enterprise Records (RMS) System.

Upon return of the items (if applicable), the Property Specialist will record this action within the Tyler Enterprise Records (RMS) System.

#### **802.7.1 EVIDENCE**

Every time evidence is released or received, an appropriate entry in the computer database shall be completed to maintain the chain of custody. No evidence is to be released without first receiving written authorization from a supervisor or investigator.

Temporary release of evidence to members of the Sheriff's Office for investigative purposes or for court proceedings shall be recorded in the database and on the existing SMCSO Form #60. For the database, the date, time and who released the property will be required. The personnel receiving the property will be required to sign the SMCSO Form #60 and list the date and time the property was received.

Evidence requested by the State's Attorney's Office for court proceedings will be made through the case officer to the Property Unit. The requested evidence pick-up/transfer will be coordinated by either the case officer or the requesting attorney. Upon receipt of all evidence, the case officer or Property Unit personnel will ensure the requesting attorney provides all information for the SMCSO Form #60 and the State's Attorneys Office will sign the form, if required. No currency, firearms, or controlled dangerous substances will be left at the State's Attorney's Office for any reason.

Once evidence is no longer needed for court proceedings, it will be returned to the Property Unit as soon as practical. The return of evidence to the Property Unit will either be done by the case officer or requesting attorney. Upon receipt of the items, Property Unit personnel will indicate on the SMCSO Form #60 the date and time the items were received. The database will then be updated to reflect the return of the items to Sheriff's Office custody.



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#### 802.7.2 TRIAL PREPARATION

Evidence requested by the State's Attorney's Office (SAO) for court proceedings/trial preparation will be made through the case investigator and/or assigned attorney to the Property Unit. The requested evidence pick-up/transfer will be coordinated by the requesting attorney or their designee directly from the Property Unit. The property transfer will be directly from the Property Unit to the SAO designee. Upon receipt of all evidence, Property Unit personnel will ensure the requesting attorney or designee provides all information for the record management system to document the chain of custody. Circumstances requiring a review of evidence involving currency, firearms, or controlled dangerous substances will occur with oversight of the case investigator.

Upon release of evidence to the SAO, that office is responsible for maintaining chain of custody, condition of the evidence, proper storage, and the integrity of any physical, electronic or DNA evidence. At the conclusion of any trial, any items not admitted as evidence will be promptly returned to the Property Unit by the SAO.

At no time will currency, firearms, and/or controlled dangerous substances be left at the State's Attorney's Office for any reason. In the event these items are needed for trial preparation by the requesting attorney, a court order will be obtained. In turn, a Law Enforcement Officer will deliver any requested items specified in the order to the SAO. It will be the responsibility of the requesting attorney to maintain the items in a safe and secure manner.

Once any currency, firearms and/or controlled dangerous substances are admitted as evidence during court proceedings, they will be maintained by the Clerk of the Court. When the items are no longer needed, the court will relinquish custody of the item(s) to a Law Enforcement Officer to be returned to the property unit.

#### 802.7.3 TRANSFER OF EVIDENCE TO CRIME LABORATORY

Requests for laboratory analysis for items other than CDS shall be completed on the appropriate Crime Lab Request Form #408 and submitted to the Crime Lab as soon as possible.

Requests for laboratory analysis for items of CDS shall be completed on an MSP Form #67 and submitted to the Property Unit. MSP Form #67 should accompany the item of CDS at the time of drop, if possible.

The property specialist releasing items of evidence for laboratory analysis must complete the required information in the record management system.

When notified by Crime Lab employees or unit supervisor, the property custodian/specialist will retrieve items and accompanying file and will assist in coordination of items for transfer to outside agency. The property specialist will not complete any requests for laboratory examinations.

For procedures related to Transfer of Evidence to Crime Laboratory, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Submission of Evidence to Forensic Laboratories](#)

For procedures related to Crime Laboratory, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Operation Test Shot](#)

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#### 802.7.4 CONTROLLED DANGEROUS SUBSTANCES

The Property Unit will be responsible for the storage, control and destruction of all CDS coming into the custody of the Office.

#### 802.7.5 UNCLAIMED MONEY

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

#### 802.7.6 EXAMINATION BY INTERESTED PARTIES

Occasionally property and evidence will require examination by investigators, prosecutors, or defense attorneys with the authorization of the State's Attorney's Office. In these instances, the property specialist will produce the requested property/evidence and assist in the coordination of the examination of the property/evidence.

### **802.8 RELEASE OF PROPERTY**

The investigating officer and/or State's Attorney's Office shall authorize the release of all property coming into the care and custody of the Office. All reasonable attempts shall be made to identify the rightful owner of found property or items of evidence not needed for an investigation by the investigating officer.

Release of property shall be made upon receipt of an e-mail or letter from the investigating officer or State's Attorney's Office containing 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 in the computer entry or must specify the specific items to be released. Release of all property shall be documented in the record management system.

Found property and property held for safekeeping shall be held for a period of ninety (90) days. During such a period, the initial investigating officer 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 in the record management system.

A property specialist shall release the property when the owner presents proper identification and the appropriate legal paperwork (if applicable). If the property owner is unable to retrieve their own property, a notarized letter must be presented authorizing the release to another party. After release of all property, the entry shall be updated to reflect the release within the record management system.

Firearms or ammunition will only be released upon presentation of valid identification and determination that the individual may legally possess the items after a thorough background check has been completed by the Property Specialist.

Whenever possible, as a routine part of daily Property Unit operations, the property specialist will monitor all new incoming property/evidence as well as property/evidence moving back and

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forth from court or outside agencies/laboratories to identify any items which may be appropriately disposed of. Every effort will be made to purge unneeded property and evidence on a daily basis, as those items are identified as disposable. The Property Specialist will coordinate a major purge of any items no longer needed at least twice a calendar year.

#### 802.8.1 DISCREPANCIES

The Property Unit Supervisor shall be notified whenever a person alleges there is a shortage or discrepancy regarding property. The submitting member's supervisor will interview the person claiming the discrepancy. If the discrepancy is unable to be resolved, the supervisor will notify the submitting member's chain of command for further action if needed.

#### 802.8.2 DISPUTED CLAIMS TO PROPERTY

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

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Office should be contacted.

#### 802.8.3 EXTREME RISK PROTECTIVE ORDERS

Firearms or ammunition taken in relation to an extreme risk protective order should only be released as follows (Md. Code PS § 5-608):

- (a) On the expiration or termination of the order, the property specialist should notify the respondent on the order that the respondent may request a return of the firearms/ammunition.
- (b) If the respondent requests a return of the firearms/ammunition and is not prohibited from possessing the firearms/ammunition, the property specialist should return the firearms/ammunition no later than 14 days after the expiration of an interim or temporary order or termination of a final order and no later than 48 hours after the expiration of a final order.
- (c) If the respondent does not desire that the firearms/ammunition be returned, the property specialist may release the firearms/ammunition to a licensed firearms dealer or another person who is not prohibited from possessing the firearms/ammunition and who does not live with the respondent, but only upon written verification that the respondent has agreed to the transfer.
- (d) If another person claims ownership of the firearms/ammunition, the property specialist may release the property to the person upon proof of ownership if the person is not prohibited from possessing the firearms/ammunition.

#### 802.8.4 FIREARMS

- (a) Firearms, once in possession of a member of this agency, must be held and released in accordance with State and Federal Law. A thorough criminal history check will be performed on the person receiving a firearm from the Property Unit to confirm their eligibility to possess firearms.

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1. Mental Health records database access is restricted by law and the retention of mental health records is prohibited by federal law
  2. Access to mental health records database will be made through the Maryland State Police Firearms Licensing Division. The liaison will access the FBI maintained National Instant Background Check System database (NICS) and will only reveal if the gun owner is eligible or prohibited from possessing firearms.
- (b) Any firearm owner who is prohibited from possessing a firearm due to a violation of Federal and/or State Law or a mental health issue may still be entitled to the fair market value of said firearm. Firearms which have been forfeited by Court Order or forfeited for a certain violation of Federal or State Law will not be returned to the owner and will be destroyed.
1. A firearm(s) obtained in connection with a criminal investigation will be stored by the Sheriff's Office after all legal requirements have been satisfied. Once all legal requirements have been met, the owner will be notified via certified mail that their firearms are eligible for release and/or destruction. A thorough background check will be completed by the Property Specialist prior to the release of any firearms.
  2. A firearm(s) obtained in connection with a civil procedure can be released, transferred, or destroyed by this agency pursuant to Federal and State Law and/ or any ruling by the Circuit or District Court. (SMCSO Form #59C-Civil).
  3. A gun owner who has suffered mental health issues but has not been confined to a mental facility for more than (30) thirty days or diagnosed with a psychiatric or neurological disorder, may be eligible to receive firearms. A sixty (60) day hold will be implemented on a gun owner whose firearms have been confiscated due to an emergency petition. A thorough background check will be completed on the individual once the sixty (60) day hold has concluded.
  4. A found or recovered firearm in which no ownership information is available will be retained for (90) ninety days and will be destroyed, unless information is received which could potentially change the found or recovered status, prior to destruction. A found or recovered firearm where ownership is known can be released to the owner immediately pending a thorough background investigation by the Property Specialist.
  5. A firearm owner who is prohibited from possessing a firearm but is entitled to its fair market value will be given the opportunity to contact a Federal Licensed Firearms Dealer (FFL) for a transfer of custody of said firearm(s) from the St. Mary's County Sheriff's Office to the FFL dealer. The firearm owner will be responsible for completing and returning a Request for Release/Destruction of Firearms (SMCSO Form #59D) and the Request for Transfer of Firearms (SMCSO Form #59F) which must be signed by the firearm owner and the FFL dealer. Any firearm disposition made after the transfer will be made with the gun owner and the FFL dealer. A firearm owner who is prohibited from possessing a firearm may request the SMCSO destroy said firearm(s).

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6. After receiving written notification and associated documents by certified mail from the SMCSO, the gun owner will have (30) thirty days to reply to the agency's request for a firearm disposition. After this period, if no response is received, the firearm(s) may be destroyed.
  7. Federal Firearms Licensed Dealers who will be receiving the firearm(s) are required to provide the SMCSO with the appropriate original Federal Firearms License and photo identification which will be photocopied. A receipt of the Transfer Property Form will be completed prior to any firearm transfer through a Federal Firearms Licensed Dealer.
- (c) An administrative review process will be conducted prior to the transfer, release, or destruction of firearms. This will be facilitated through use of the Administrative Review for the Release or Destruction of Firearm(s) Form.
1. The Property Unit will provide a completed Administrative Review for the Release or Destruction of Firearms Form, a copy of the Property Unit Firearm(s) Disposition Check List (SMCSO Form #59G), case reports and a copy of the Property Record for administrative review through the chain of command to the Sheriff or his designee for approval.
  2. The Property Unit will retain the original property records, ATF trace reports and criminal history information.

#### **802.9 DESTRUCTION OR DISPOSAL OF PROPERTY**

The Sheriff or designee shall authorize the destruction or disposal of all property held by the Office. 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 in the computer entry 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 that are forfeited or declared by law to be illegal to possess (Md. Code CP § 13-206).
- CDS declared by law to be illegal to possess without a legal prescription (Md. Code CP § 12-403).
- CDS evidence possessed/distributed by persons convicted of a CDS violation and sentenced to a term from 5 to 20 years will be held as evidence and can be subject to appeal for up to ten (10) years from the date of conviction. After ten (10) years the CDS shall be destroyed.
- CDS evidence possessed/distributed by persons convicted of a CDS violation and sentenced to a term of 18 months to 5 years will be held as evidence for one (1) year after the commencement of sentencing. After one (1) year the CDS shall be destroyed.
- CDS evidence possessed/distributed by persons convicted of a CDS violation and sentenced to a term up to 18 months will be held as evidence for 60 days after the commencement of sentencing. After 60 days the CDS shall be destroyed.

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- CDS evidence in cases which have been Nolle Prosequi in Circuit Court can be destroyed immediately after the disposition is reached.
- District Court, Nolle Prosequi cases will be held for one (1) year at which time the CDS evidence shall be destroyed.
- CDS evidence in cases which have been placed on the Stet Docket will be retained for one 1 year before destruction is permitted.
- The State's Attorney's Office does not have an interest in CDS collected from unknown sources in which no persons can or will be charged, such as found CDS, therefore, it may be destroyed after one year from date of recovery or as notated by the submitting member.
- Prescription medications which are recovered and not part of a criminal investigation can be destroyed, such as medications from non-criminal death investigations.
- The property specialist will comply with this arrangement and will insure any CDS evidence held in criminal cases which do not have a clear disposition will be presented to the States Attorney's Office for review prior to destruction.
- Money seized in connection with arrest for unlawful bookmaking, betting, or gaming (Md. Code CP § 13-106).
- Firearms or ammunition surrendered pursuant to an extreme risk protective order, upon a respondent's request for destruction, or if such property is not reclaimed within six months of the notice provided to the respondent (Md. Code PS § 5-608).
- Property which is evidence in a court proceeding will be held for three (3) years until the annual purge, unless otherwise directed by the State's Attorney's Office.
- Evidence from homicide cases and other serious crimes against persons or crime of violence (i.e. first degree assault, rape, kidnapping, etc.), as well as those in which DNA evidence played a part in the conviction and/or exoneration of a defendant, will be retained indefinitely.
- Unclaimed property which is not needed for court or other law enforcement purposes will be held for ninety (90) days unless immediate destruction is authorized. Contraband will not be released.
- If an item(s) is marked 'destroy' by a submitting member, said item(s) will be destroyed on the scheduled destruction date.

#### 802.9.1 BIOLOGICAL EVIDENCE

The property specialist shall ensure that no biological evidence held by this office 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 Criminal Investigation Division Commander

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Property*

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Biological evidence shall be retained for a minimum period established by law (Md. Code CP § 8-201) 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 office 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 Criminal Investigation Division Commander. If the property specialist determines that biological evidence should be destroyed before the end of the statutorily required retention period, the property specialist should give 120-days' notice to the appropriate parties pursuant to Maryland law, if applicable (Md. Code CP § 8-201).

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Sheriff 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 Criminal Investigation Division Commander should be consulted, and the sexual assault victim should be notified.

Sexual assault evidence collection kits and other crime scene evidence relating to sexual assaults that has been identified by the prosecutor as relevant to the prosecution should not be disposed of prior to 75 years from the date of collection, unless allowed by law (Md. Code CP § 11-926; COMAR 02.08.01.04).

#### 802.9.2 REQUEST FOR NOTICE

Upon written request by a victim of sexual assault, the St. Mary's County Sheriff's Office should notify the victim 60 days before the date of intended disposal of biological or other evidence relating to the victim's case or retain the evidence for 12 months longer than the time period required by law unless a different time period has been agreed upon by the victim (Md. Code CP § 11-926; COMAR 02.08.01.04).

#### 802.9.3 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth and the property specialist shall make efforts to lawfully destroy the contaminated marijuana in compliance with this policy and as soon as practicable. The property specialist should consult with the member assigned to the case investigation for his/her 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.

#### 802.9.4 MEDICAL CANNABIS

The investigating member should advise the property specialist and the prosecutor if the party from whom the marijuana was seized claims that the possession of the marijuana is for medical purposes.

## *Property*

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

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

### **802.10 INSPECTIONS OF THE PROPERTY UNIT**

The Sheriff or designee shall ensure that periodic, unannounced inspections of the Property Unit operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Sheriff or designee shall ensure that an audit is conducted semi-annually, or as directed by the Sheriff. Inspections and audits shall be conducted by the Office of Professional Responsibilities.