

DISPOSITION OF EVIDENCE AND CONTRABAND

- AUTHORITY:** Section 1203 California Penal Code, Sections 835-851.85 P.C., 1407-1417.7 P.C., 537e (b) P.C., 1203.2 P.C., Policy Manual D-7.
- RESCINDS:** Procedure Manual Item 2-1-010, 11/20/19
- FORM:**
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|---|------------------|
| Property Booking Procedures | (F057-3203(A)AF) |
| Evidence Locker Property Record & Booking Procedure | (F057-3203(A)AF) |
| Firearm Booking Procedure | (Attachment 1) |
| Petition for Destruction of Seized Evidence/Inventory | (F057-8610AF) |
| Property Receipt | (F057-3013) |
| Evidence Review | (F057-3202(A)AF) |
| Consent Form | (Attachment 2) |
| Field Operations Advisory- Narcotics Testing and Collection | (Attachment 3) |
- PURPOSE:** To provide guidelines for the handling, recording, maintenance, and destruction of evidence or contraband.

I. PROCEDURE

A. Handling Evidence and Contraband

1. Probation Department Evidence Lockers

The Probation Department has an established systematic method for the processing of evidence or contraband. This process includes the utilization of temporary and permanent evidence lockers.

a. Temporary Storage Evidence Lockers

Each regional office and facility has temporary storage evidence lockers located within their facility. These are unlocked storage lockers with an open padlock or the type with the key maintained in the lock. After contraband or evidence has been placed inside, they can be padlocked or the key removed and inserted into the same locker. Once the locker is secured, the only person with access to the locker is the designated office **Evidence Room** Officer(s), who has master keys for all locks.

The temporary storage lockers are available for use to all staff 24 hours each day, 7 days per week.

b. Permanent Storage Evidence Lockers

Each regional office and facility has permanent evidence lockers located within their facility. The only persons having access to the permanent storage evidence lockers are the designated "Evidence

Room Officer(s).”

2. Securing of Contraband

a. With the Police Department:

Any evidence or contraband seized which may result in the filing of a new charge or complaint should, when possible, be held by the local police agency in the city where the contraband was found. A copy of the police report detailing the found **contraband** or evidence should be obtained and placed in the probationer's file. A notation should be included in ECR that the **evidence** was retained by the local agency.

Any evidence or contraband requiring special handling (i.e., expensive or fragile items) or handguns and rifles should be processed by the local law enforcement agency, when at all possible.

Toxic chemicals and explosives are not to be brought into the building or stored in any Probation Department lockers (see Evidence Booking Procedures for instruction on the appropriate disposition).

b. Permanent Evidence Locker Room

Each regional office and each facility has an evidence locker where the person(s) maintaining the chain of evidence will deposit all evidence packaged and labeled contraband that is not secured by police.

3. Packaging Confiscated Materials

a. The Evidence Room Officer should maintain a supply of packaging and labeling materials for confiscated items in each area office. The forms and supplies can be found near the evidence lockers or other designated location.

b. When contraband or **evidence** is found in a probationer's home and/or on his person or property, it should be handled by one staff member only. This is vital to maintain the chain of evidence. When working with another staff member, it should be established in advance who is to handle evidence to avoid compromising the evidence chain. **If evidence is handled by another officer, the chain of custody shall be documented in a supplemental report.**

c. The seized evidence should be packaged in the designated envelopes and an Evidence Booking Sheet completed. The original booking sheet goes with the evidence (more copies can be used if multiple envelopes or containers are used). A copy is placed in the probationer's file.

d. For complete instructions on booking property refer to:

1) **Evidence Locker Property Record & Booking Procedure**

2) Firearm Booking Procedures

- e. Prior to handling any suspected controlled substance, utilize the proper Personal Protective Equipment (PPE). Presumptive testing for all suspected narcotics is discontinued. Each Evidence Room has a digital scale available for use by staff. Prior to placing suspected drugs into the evidence locker, staff should individually and accurately weigh each drug seized. Note the weight on the evidence/contraband form and specify whether it includes the packaging material.
- f. The staff member is responsible for clearly and specifically identifying the quantity and suspected contents of each evidence envelope on the Evidence Booking Sheet form (i.e., "4 syringes and needles", or "one 12 oz. bag of suspected cocaine."
 - 1) All hypodermic syringes/needles are to be kept in protective tubes while in evidence for safety reasons.
 - 2) All hypodermic syringes/needles which contain a suspected drug will be marked as "Officer Safety loaded syringe".

B. Duties of the Evidence Room Officer

The Director of any office or facility that has an evidence locker/room will designate a Supervisor to serve as the Evidence Room Officer.

The Evidence Room Officer will weekly or as often as necessary remove items of evidence or contraband from the temporary storage lockers and move these items into the permanent storage locker/room. At the time the items are moved, the Evidence Officer will:

- 1. Check to ensure the item(s) are labeled correctly. If the items are not labeled correctly, contact the DPO that booked the evidence so that corrections can be made to the Evidence Booking Sheet.
- 2. Check to ensure that items are appropriate for storage in the departmental lockers and if they are not appropriate, take steps to ensure their transfer to the appropriate evidence storage facility.
- 3. Log the items into the permanent storage locker via the Evidence Record Log, noting date of entry, probationer's name, A or J/L# (circle), name and DPO#. Assign items a sequential **evidence** number that is placed on the **Evidence** Record Log, the Evidence Booking Sheet and the **evidence** envelope.
- 4. **Evidence logs may be destroyed after 7 years of retention.**
- 5. The original copy of the Evidence Booking Sheet is maintained as the administrative copy in the Evidence Room.

C. Retrieval of Items from the Temporary Evidence Lockers or Permanent Storage Lockers/Room

1. Removal of Items

- a. Any staff member who needs to retrieve evidence (i.e. release evidence to police; take evidence to the Sheriff's crime lab or to court) that has already been booked into the Evidence Room should contact the Evidence Room Officer.
- b. The Evidence Room Officer will make a notation on the original Evidence Booking Sheet detailing which **evidence** was released, with the date and name of officer receiving the **evidence**. The evidence officer will sign and date the entry. Similar entries will be made every time evidence is returned or released from the Evidence Room.
- c. Staff delivering items to the Sheriff's lab for analysis are also responsible for picking up these items after analysis has been completed and returning them to the Probation Department evidence locker.
- d. Upon returning any previously booked evidence or contraband to the Evidence Room, the original assigned control number is used. The Evidence Room Officer should make another notation on the Evidence Record form noting the return date and returning officer name. The evidence officer will again sign and date this notation.

2. Retrieval of Items for Return to Owner

- a. All requests by Counsel or others to view evidence must be made in writing and be requested through the Probation Department Professional Standards Division (PSD). Staff may retrieve items no longer deemed to be evidence and return these items to their owner as long as items are not considered evidence, contraband or unlawful to possess.
- b. Staff should contact the Evidence Room Officer to retrieve the **evidence** and record on the Evidence Booking Sheet form: Date of removal; name of staff member removing item; name of **Evidence** Officer releasing the item; and the reason for release.
- c. The staff member returning any confiscated item to its owner must complete a Property Receipt (F057-3013) for the returned item (used for both evidence and property). A copy of the signed receipt must be given to the Evidence Officer and matched with the administrative copy of the Evidence Booking Sheet.
- d. **If the person upon whom a notice of claim and proof of ownership has been served does not respond asserting a claim to the property within 15 days from the date of receipt of the service, the property may be disposed of in a manner not inconsistent with request for evidence destruction.**

D. Disposal of Confiscated Items

1. The designated Evidence Room Officers will semi-annually (or as needed)

inventory all evidence and contraband held within their respective evidence lockers in preparation for the disposal of all items no longer needed as evidence. An e-mail to all field DPO's/SPO's should be sent by the Evidence Room Officer giving advance notice of the inventory disposal. The e-mail shall include a 4-week grace period to allow for a DPO to respond, in the event evidence needs to be saved. Generally, all saved evidence will be disposed after a four-month holding timeframe.

2. The Evidence Room Officer will prepare an itemized list utilizing the Petition for Destruction of Seized Evidence and Evidence Disposal Inventory (F057-8610AF). These templates are located in Word under the "Adult Forms" tab. All items will be separated into categories as outlined in the Evidence Disposal Inventory sheets. (Note: Use the "Tab" key to add lines to sections A and B in the Inventory Sheet.) The property items should then be boxed and labeled by category. When the inventory sheets have been completed, they are submitted with the Petition for Destruction of Seized Evidence to the Judge in the Felony Probation Violation Court at Central Justice Center for signature.
3. Once the Petition for Destruction of Seized Evidence and Inventory is returned signed by the Judge, the property officer should call the Orange County Sheriff's Department Property Room to schedule an appointment to transfer the property. Call: [REDACTED]
[REDACTED] On the appointed date and time, the Petition and attached Inventory Sheets together with all itemized and boxed property will be transported to the Orange County Sheriff's Property Room located at [REDACTED] [REDACTED] for disposal. Once the evidence has been accepted by OCSD, the OCSD representative and the Property Room Officer will sign the petition. The original petition and inventory remains with **OCSD** and the Property Room Officer obtains a copy that is kept in the evidence/property room. Disposition of all disposed evidence should be entered on the Evidence Record Log.

E. Request by Counsel or District Attorney to View Evidence

1. All requests by Counsel or others to view evidence must be made in writing and be requested through the Probation Department Professional Standards Division (PSD) and accompanied by a search warrant, court order, or consent of the defendant (see attachment for consent release form).
2. Once PSD has determined the request is within lawful provisions, PSD will contact the assigned DPO, SPO and/or Evidence Room Officer (SPO/DPO III).
3. PSD will coordinate a date to view the evidence and once determined, the assigned DPO will contact the DA, and/or Defense Counsel and notify each, of the viewing date and time.
4. Viewing Evidence
 - a. During the viewing of evidence, the assigned DPO, Evidence Room Officer and PSD will be present.

- b. Only the assigned DPO will handle evidence in the presence of the interested parties.
- c. Individuals present will complete an Evidence Review form (F057-3202(A)AF), which will document the viewing of the evidence and who was present at the time.
- d. Interested parties may take photographs or notes with authorization from PSD; however, they may not handle evidence.

REFERENCES:

Procedures:	2-1-002	Transportation Security
	2-1-009	Probation Search and Seizures
	2-1-018	Offender Personal Property Control-Field

Policy:	D-7	Search and Seizures
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Attachments

C. Schonert

APPROVED BY:

FIREARM BOOKING PROCEDURE

1. Clear all ammunition from every gun and empty all clips before entering an office, this includes bb/pellet guns. Contact a Supervisor if you need assistance.
2. Run a record check on the serial number of each gun to determine:
 - if the gun is stolen
 - if there is a registered ownerIf a record check reveals a gun is stolen, it needs to be promptly turned over to the police. Contact the law enforcement agency holding the stolen report and obtain a receipt for the gun from police for your A/J file. If there is no serial number on the gun, please indicate this on the Property Booking Sheet.
3. Complete a Property Booking Sheet, listing the caliber, make, model and serial number of each gun. Attach a copy of the gun record check to the Property Booking Sheet (include Teletype printouts that indicate "no record" on the serial number).
4. If the gun is to be saved, it is the responsibility of the DPO to notify the Property Room SPO in a timely manner as to the final disposition of the firearm, either dispose or return to a lawful owner (see instructions below for information on releasing a firearm).
5. Storing firearms for safekeeping is not a regular practice and can only be done under exceptional circumstances with Property Room SPO approval.

PROCEDURE FOR RELEASE OF FIREARM TO AN INDIVIDUAL

If a gun is to be released to a lawful owner, a Law Enforcement Gun Release Application (**BOF 119**) must first be submitted to DOJ. This DOJ application must be submitted in all cases to insure there are no factors prohibiting the individual from owning or possessing a firearm, such as prior 5150 WIC holds, etc. The form can be downloaded from the California Attorney General Website:

www.oag.ca.gov/firearms

The application fee is \$20.00 and must be paid by the claimant. Processing of the application takes approximately 30 days.

- If approved by DOJ, a notice will be sent only to the applicant. The notice will include a gold sticker seal on the lower left side of the notice. The applicant has 30 days from the date of the letter to bring it to our office for release of the weapon.
- If the person is prohibited, the notice will not include the gold sticker seal and it will be sent to both the applicant and the agency holding the firearm. The DPO should contact the Property Room SPO to make the necessary arrangements. Use Property Receipt form F057-3010 when releasing any firearm and provide a signed copy to the Property Room SPO once the gun(s) have been released.

If the claimant is a prohibited person and DOJ does not give clearance and there are no other eligible claiming parties to a seized firearm, notify the Property Room SPO that the firearm can now be disposed.

*****When a gun check indicates a probationer is the registered owner of a firearm and the probationer claims he/she no longer has the firearm, the DPO should request all supporting documentation from the probationer and take necessary measures to verify, i.e. conducting search and seizure. The probationer should then complete DOJ form **BOF 4546** "Notice of No Longer in Possession" (download from web site listed above) and the DPO sends the form to DOJ (with copy to file).*****

CONSENT FORM

I have been informed that a law enforcement official(s) has requested to search my personal property that is currently held by the Orange County Probation Department. I give my consent to any law enforcement official(s) to search my personal property. My consent is given freely and voluntarily. I have not been threatened or promised anything in exchange for my consent. I have read the information above or have had it read to me and I understand these terms.

Signed: _____

Date: _____

Printed: _____

Booking Number: _____

Witness: _____

Date: _____

REVISED 8/28/17



Orange County Probation Department

FIELD OPERATIONS ADVISORY

NARCOTICS TESTING AND COLLECTION

EFFECTIVE IMMEDIATELY, FIELD PRESUMPTIVE TESTING FOR ALL SUSPECTED CONTROLLED SUBSTANCES WILL BE DISCONTINUED

Recent drug trends necessitate a change in how controlled substances are collected and tested. This is due largely to the drug, fentanyl. Fentanyl is an extremely dangerous synthetic opiate and is frequently mixed with heroin and other controlled substances. The presence of fentanyl may be difficult to immediately detect. In powder form it can resemble cocaine or heroin. It may be mixed with other substances, altering its appearance. Fentanyl can be found in pill, liquid, tar, patch, and other forms. Fentanyl may be easily absorbed through the skin or eyes or inhaled through the nose or mouth. **Exposure to a small amount of fentanyl can cause serious health-related complications or death.**



Law enforcement officers, first responders, deputy coroners, crime scene investigators, and evidence collection personnel should not handle suspected fentanyl or any suspected controlled substance without proper personal protective equipment (PPE). The minimum PPE includes two (2) pair of nitrile (not latex) gloves, face mask (N95) and eye protection.

Handling/ Collection Procedures

The following protocols shall be followed when handling, collecting and booking ALL CONTROLLED SUBSTANCES:
Handling Instructions

1. **EFFECTIVE IMMEDIATELY, FIELD PRESUMPTIVE TESTING FOR ALL SUSPECTED NARCOTICS WILL BE DISCONTINUED.**
2. Prior to handling any substance that may contain fentanyl, don two (2) pair of nitrile gloves, eye protection and a N95 mask (available through your division).
3. If the substance is already in a sealed container, **DO NOT OPEN.**
4. Communicate with other first responders when fentanyl or other unknown substances are present.

Collection, Packaging and Booking Instructions

1. Caution shall be used when handling narcotics and suspicious material in the field by DPO's. Local Law Enforcement shall be contacted when usable quantities of narcotics are found so that a new law violation may be filed. If Local Law Enforcement is unable to respond, then follow the procedures outlined below for collection, packaging and booking.
2. **Prior to handling unknown substances, don the above listed PPE items.** Package all narcotics and other unknown substances in two (2) clear Ziploc plastic bags. If the substance is a powdery substance or believed to be fentanyl, the substance shall be placed in three (3) clear Ziploc plastic bags. The evidence can then be placed into an envelope and sealed. (EXCEPTION: Plant material will mold in plastic and therefore can be placed in paper bags and/or envelopes.)
3. When doffing PPE, remove the outer set of gloves before touching **ANYTHING** else. Once the outer gloves are off, you can then remove the rest of your PPE.
4. All narcotics or suspicious material shall be packaged prior to being transported to minimize the risk of exposure. All narcotics shall be transported in vehicle trunks or in the rear cargo area of SUV's.





Orange County Probation Department

FIELD OPERATIONS ADVISORY

Handling/ Collection Procedures

5. All PPE utilized during the collection of any suspected narcotics or unknown substances shall be disposed of after use. **Do NOT retain or reuse any part of your PPE.** If you believe your PPE or other equipment has been contaminated with fentanyl, notify your supervisor immediately and follow the protocols described in PMI 1-4-115 Hazard Communication Program and 2-1-009 Probation Search and Seizure.
6. If fentanyl or fentanyl-related substances is suspected, it must be noted on the OCSD WRCS evidence request and documented on the outside of the evidence envelope so that it is clearly visible.
7. Personnel should not attempt to collect unidentified, loose substances suspected of containing fentanyl. If you encounter such a substance, leave the building and contact your SPO's/ CIS and notify Local Law Enforcement as this may be a Hazmat situation.
8. Transport all narcotics or suspicious material back to your area office for immediate booking into the evidence room as described in PMI 2-1-010 Disposition of Evidence and Contraband. To request testing of the substance, contact your SPO for approval. If approved, your SPO will access the Orange County Crime Lab (OCCL) Works Request and Case Status (WRCS) website and complete an on-line request. Once the OCCL has approved your request, they will contact you or your SPO via email to make an appointment with the Evidence Control Unit (ECU) 714-834-6414 to bring your item in for testing. On the day of the appointment, you will transport the substance to the ECU which is located at the OCSD Brad Gates Forensic Science Building at 320 N Flower St., Santa Ana, CA 92703. The ECU is located at the front of the Brad Gates Building, Suite 100. (Not at the rear of the building.) Instructions on how to navigate the OCCL WRCS Website is located on ProbNet.

Exposure Risk and Treatment

- **EXPOSURE:** Fentanyl can be ingested orally or inhaled through the nose. It can also be absorbed through the skin or eyes.
- **SYMPTOMS:** The onset of overdose symptoms due to fentanyl exposure usually occurs within minutes. Symptoms include difficulty breathing, drowsiness, sedation, disorientation, pinpoint pupils, skin rash and clammy skin.
- **IMMEDIATE ACTION:** If exposure occurs, remove the exposed individual from the contaminated environment and wash the exposed area of the individual with soap and water as soon as possible. Do not use alcohol-based hand sanitizer.
- **MEDICAL INTERVENTION:** Seek medical attention and monitor victim. Be prepared to administer naloxone (if available and trained to administer). If the exposed individual exhibits overdose symptoms, immediately administer naloxone which is proven to be effective in counteracting fentanyl exposure. Be prepared to administer additional doses of naloxone (if available) every 2-3 minutes until EMS arrives or until the victim is breathing on their own for at least 15 minutes.

Examples of Fentanyl





Orange County Probation Department

FIELD OPERATIONS ADVISORY

Filing Procedures

Due to the discontinued use of field presumptive testing during narcotics collection, new law violations and probation violations will be based upon the strength of the Deputy Probation Officer's documented expert opinion or of those of the Law Enforcement Agency collecting the substance. The Orange County District Attorney's Office has provided guidance in the following area:

Probation Violations

- Specifically describe the controlled substance seized including the location, packaging, odor, etc.
- Document all evidence you considered in forming your opinion including, but not limited to, the presence of specific paraphernalia, writings, observations of the suspect, evidence of recent use, etc.
- Document suspect statements regarding the seized substances, their use patterns, their familiarity with the substance and recent ingestion, both pre and post Miranda advisement.
- Document witness statements regarding the substance and recent ingestion by the suspect.
- Describe your background, training and experience, specifically related to the identification and use of controlled substances, including the specific substance seized.
- If you collected the narcotic and transported to the OC Crime Lab for testing, ensure you have a receipt for all evidence booked and try to obtain the testing results from the OC Crime Lab
- If local law enforcement collected the narcotics, include the name of the officer and the Department collecting the narcotic and if the narcotic was sent in for testing and with what lab. Try to obtain the results of the testing if available.

Misdemeanor and Felony New Law Violations

- Contact the respective local law enforcement agency for filing of a new law violation. If the DPO will be preparing a new law violation, the following should be documented in your report.
- Specifically describe the controlled substance seized including the location, packaging, odor, etc.
- Document all evidence you considered in forming your opinion including, but not limited to, the presence of specific paraphernalia, writings, observations of the suspect, evidence of recent use, etc.
- Document suspect statements regarding the seized substances, their use patterns, their familiarity with the substance and recent ingestion, both pre and post Miranda advisement.
- Document witness statements regarding the substance and recent ingestion by the suspect.
- Describe your background, training and experience, specifically related to the identification and use of controlled substances, including the specific substance seized. Document your expertise, observations, suspect statements, and observations in the crime report and probable cause declaration.
- If there is probable cause to believe the substance seized may be methamphetamine or cocaine or any other substance listed in H&S Code sections 11350 or 11377, both violations should be included in the probation violation. The filing deputy district attorney will have the option to wait for the forensic analysis before filing the case for new law violations.
- DPO's should be prepared to articulate their observations, training and expertise, and any other relevant information if they are called to testify in Court.

