

# San Joaquin County Civil Grand Jury



## San Joaquin County Property Rooms *Missing or Messy* 2016-2017 Case No. 0316

### (AMENDED REPORT)

#### Summary

The San Joaquin County Civil Grand Jury (Grand Jury) received a complaint alleging the San Joaquin County Sheriff's Department (Sheriff's Department) was "missing" and "hiding" over 10,000 items from its property room and within the evidence tracking system software.

The collection and safekeeping of evidence obtained from a crime scene is a vital component of the judicial process. Proper handling, packaging, testing, disposal and tracking of evidence can lead to the effective prosecution of criminal offenders or confirmation of innocence. Victims may find truth and closure as justice is served.

The Grand Jury reviewed 11 county law enforcement agencies' property rooms to determine compliance with their own policies and procedures along with the recommended policies and best practices of California Peace Officer Standards and Training (POST) and Lexipol.

The Grand Jury could not substantiate that any property is missing from the Sheriff's Department Property Room. In review of the Sheriff's Department and other property rooms in the county, the Grand Jury discovered other findings and made several recommendations.

The findings were varied and some include:

- Lack of storage space;
- Lack of personnel to review cases for disposition;
- Lack of consistency in auditing/inspections;
- Lack of inventory controls; and
- Lack of training for staff/supervisors relative to the accountability of the property and evidence room.

Grand Jury recommends agencies:

- Develop authorized policies and procedures;
- Implement annual audits and monthly inspections of the property/evidence rooms; and
- Develop a training plan for property clerks and supervisors who are responsible for the management of the property/evidence room and staff.

## **Glossary**

<b>Adjudicated</b>	The legal process of resolving a dispute. The formal giving or pronouncing of a judgment or decree in a court proceeding; also the judgment or decision given. The entry of a decree by a court with respect to the parties in a case.
<b>Audits</b>	The process of reviewing and evaluating the systems used to locate, track and account for items of evidence/property in the agencies' custody.
<b>CALEA</b>	The Commission on Accreditation for Law Enforcement Agencies. CALEA is a nationally recognized accreditation body for law enforcement.
<b>CAPE</b>	California Association for Property and Evidence, an organization that promotes professionalism in property and evidence gathering, processing and retention through information sharing.
<b>CJIS</b>	Criminal Justice Information System.
<b>Chain of Custody</b>	A formal written procedure to record all individuals who have taken custody of evidence/property from the time it is received to its final disposition.
<b>Computer File Migration</b>	The transfer of data files from one computer to another.
<b>Disposition of Property</b>	Authorized and approved method of purging evidence and property by returning to owner, destroying or sale.
<b>Evidence</b>	Property which may be related to a crime, or which may implicate or exonerate a person of a criminal charge.
<b>Evidence Custodian</b>	Employee responsible for the intake, submission, disposal and/or retrieval of evidence in a property room.
<b>Evidence Technician</b>	A person who responds to crime scenes to collect and process evidence.

<b>FCE</b>	Full Court Enterprise is San Joaquin Superior Court's Case Management Program. It is used by the courts and law enforcement agencies for access to court information.
<b>Found Property</b>	Non-evidentiary property determined to be lost or abandoned, that is not known to be connected to, or suspected with any criminal offense.
<b>IAPE</b>	The International Association of Property and Evidence is an organization created to provide education and training for all aspects of handling, storage, maintenance and disposal of property and evidence.
<b>IBIS</b>	Integrated Ballistics Imaging System that stores the digital images of bullets and casings from crime guns. The system assists law enforcement in making identifications for investigations and court proceedings.
<b>Inspection</b>	A procedure to check for safety, cleanliness, functionality and efficiency related to an agency's property/evidence room.
<b>Inventory</b>	An accounting of all items of evidence and property in the custody of the agency.
<b>Lexipol</b>	An organization that provides state-specific, customizable public safety policy content and integrated policy training.
<b>Non-sworn Officer</b>	A civilian employee.
<b>POST</b>	California Commission on Peace Officer Standards and Training.
<b>Property/Evidence Room</b>	A location dedicated to housing property/evidence for the purpose of criminal and civil investigations. Can be located in a law enforcement facility, district attorney's office, crime lab or court.
<b>Property Officer</b>	An employee responsible for the intake, submission, disposal and/or retrieval of evidence in a property room.
<b>Safekeeping Property</b>	Non-evidentiary property placed into the custody of a law enforcement agency for temporary storage on behalf of the owner.
<b>Sworn Police Officer</b>	Persons formally trained and authorized to make arrests while acting within the scope of explicit legal authority.

## **Background**

The primary focus of this investigation is the Sheriff's Department property room functions. The following information is a brief overview of the Grand Jury's focus areas followed by the results of its review of the 11 county property rooms.

The Grand Jury's focus was:

- Training/Staffing;
- Audits/Inventory/Inspections;
- Purging/Disposition of Property; and
- Facilities/Safety

### **Training/Staffing**

In order to maintain the highest standards and integrity, adequate personnel needs to be assigned to the property room functions. To ensure the integrity of evidence presented in court, best practices concerning training need to be followed or adopted as part of the agencies' policies and procedures. Several organizations offer courses for property and evidence training such as: Peace Officer Standards and Training (POST), International Association of Property and Evidence (IAPE), Commission on Accreditation for Law Enforcement Agencies (CALEA), California Association of Property and Evidence (CAPE) and Lexipol. Nine of the 11 agencies reviewed currently use Lexipol guidelines as part of their policies and procedures.

Staff in special assignments in law enforcement agencies, such as, SWAT, K-9, Bomb Squad and Hostage Negotiations, attend continuous training, as special assignments are a high priority. Agencies find it difficult to send property room personnel to training for several reasons: understaffing, budgetary issues or the low administrative priority given to the property and evidence room.

Currently, the salaries in the county of the property/evidence staff total approximately \$1,600,000 per year. Each law enforcement agency operates its own property and evidence room with a variety of staffing practices. Some are staffed with full-time and part-time staff, while others utilize only part-time staff.

This chart presents salary costs for staff assigned to the property room over the last three fiscal years. Some agencies include supervisor positions.

<b>PROPERTY ROOM SALARIES</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
<b>Escalon Police Department</b> Three part-time positions <i>Includes benefits</i>	\$26,650	\$27,345	\$22,998
<b>Lodi Police Department</b> One full-time position <i>Includes benefits</i>	\$111,609	\$104,628	\$110,974
<b>Manteca Police Department</b> One full-time position <i>Includes benefits</i>	\$108,638	\$115,092	\$105,638
<b>Ripon Police Department</b> Two part-time positions averaged over three years <i>Unknown benefits</i>	\$4,327	\$4,327	\$4,327
<b>San Joaquin County District Attorney</b> Three part-time positions <i>Salary Only</i>	\$7,639	\$4,846	\$8,299
<b>San Joaquin Delta College</b> One full-time sergeant, assigned part-time in property <i>Benefit package unknown</i>	\$98,000	\$98,000	\$98,000
<b>San Joaquin County Sheriff's Department</b> One full-time custodian; two, full-time technicians; Two full-time supervisors and one sergeant) <i>Includes benefits</i>	\$530,245	\$525,410	\$435,135
<b>Stockton Police Department</b> Four full-time positions <i>Includes benefits</i>	\$310,398	\$266,235	\$366,851
<b>Stockton Unified Police Department</b> Two part-time positions <i>Benefit package unknown</i>	\$20,538	\$49,287	\$27,870
<b>Tracy Police Department</b> Five full-time positions <i>Includes benefits</i>	\$401,545	\$399,517	\$374,903
<b>University of the Pacific</b> One part-time position <i>Benefits not offered</i>	\$6,400	\$6,400	\$6,400
<b>TOTALS</b>	<b>\$1,625,989</b>	<b>\$1,601,087</b>	<b>\$1,562,029</b>

## **Audits/Inventory/Inspections**

Audits are performed to verify compliance and identify areas needing improvement. To maintain a high degree of evidentiary integrity, annual audits and monthly inspections need to be performed to ensure the safekeeping of all items, preserve the chain of custody and assure public confidence. Some agencies conduct audits quarterly, some annually and many not at all.

POST's Property and Evidence System Audit Guide states:

*"It is the responsibility of management to see that a sound system of internal control is developed and implemented. Audits and inventories should be conducted to ensure the continuity of the custody of property and evidence."*

Lexipol is a company that provides customizable, reliable and regularly updated online policy manuals which work in conjunction with each agency policies and procedures. Lexipol's best practices state:

*"1. On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.*

*"2. Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police [or Sheriff].*

*"3. An annual audit of the evidence held by the department shall be conducted by a Division Commander [as appointed by the Chief or Sheriff] not routinely or directly connected with evidence control.*

*"4. Whenever change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence is accounted for."*

Inspections are conducted to determine whether:

- Property/evidence rooms are clean and orderly;
- Integrity of the property and evidence is being maintained;
- Departmental provisions and polices are being followed;
- Property/evidence is being protected from damage or deterioration;
- Employee health and safety is protected;
- Property/evidence accountability procedures are being followed; and
- Property having no further value as evidence is being promptly disposed.

## **Purging/Disposal**

It is imperative each case involving evidence is reviewed for proper release. Failure to thoroughly review a case may result in a subject being incorrectly released from custody. The process of determining if evidence, found property or safekeeping property can be returned to the owner or destroyed is a critical function of the property room.

Law enforcement agencies are responsible for reviewing the status of their cases and communicating with the District Attorney's Office to determine if evidence can be returned or destroyed. The process of property disposal is time consuming, complicated and cumbersome for an agency to complete in a timely manner. Law enforcement officers rely heavily on the Criminal Justice Information System (CJIS) to research case information, co-defendant status, probation status, bail information, defendant information and court disposition. Law enforcement agencies reported CJIS was easy to navigate for essential information on a particular case or defendant.

In October 2015, the San Joaquin Superior Court's Executive Officer chose to change the court's software program from CJIS to Full Court Enterprise (FCE). FCE was purchased and installed without input from the District Attorney, Police Chiefs, Sheriff or Chief Probation Officer. Agencies are forced to navigate through the new system without proper training and technical support, adding to the already overburdened review process for the disposition of evidence. Information previously available through CJIS, such as co-defendants and agency case numbers, is no longer accessible in FCE.

Agencies emphasized the following major obstacles regarding purging property:

- Lack of time for case review;
- Shortage of staff to review cases for disposition;
- Overabundance of found and safekeeping property filling property rooms;
- Lack of property room space;
- Lack of communication with the District Attorney's Office regarding case dispositions; and
- Frustration navigating through FCE.

## **Facility/Safety**

Another important aspect of the property/evidence function is the safety of the employees and the security and storage of the property and evidence items. The size and layout of the facility is dependent on the size of the department. The evidence storage facility should be secured and alarmed. Additional security measures must be taken for the high-risk items such as firearms, narcotics and currency/high-value items. A few of POST's best practices are:

- Facilities should be equipped with high-density shelving.
- Separate storage location for long-term storage of homicide cases.
- Bicycles and bulk items stored in a separate locked and secured area.
- Found and safekeeping property should be stored separately for easy retrieval.

- Hazardous materials should be stored away from all other evidence and preferably in an open-air environment or secured in a ventilated fireproof cabinet located outside.
- A refrigerator/freezer for the storage of biological evidence.
- Narcotics storage area should be ventilated to the outside with an air exchange that meets OSHA requirements.
- Agencies should have a first aid kit and evacuation plan.

## **Reason for Investigation**

The Grand Jury received a complaint alleging the Sheriff's Department was "missing" and "hiding" over 10,000 items from the property room and within the evidence tracking system while contending the evidence room as perfectly maintained.

The collection and safe keeping of evidence obtained from a crime scene is a vital component of the judicial process. Proper handling, packaging, testing and tracking of evidence can lead to the successful prosecution of criminal offenders while exonerating an innocent individual. Victims may find truth and closure as justice is served. Due to the severity of the allegations, the Grand Jury elected to investigate the complaint to ensure compliance with policies and procedures and to determine if best practices are being followed and enforced.

The investigation was expanded to include the following law enforcement agencies in the county:

- Escalon Police Department;
- Lodi Police Department;
- Manteca Police Department;
- Ripon Police Department;
- San Joaquin Delta College Police Department;
- San Joaquin County District Attorney;
- Stockton Police Department;
- Stockton Unified School District Police Department;
- Tracy Police Department; and
- University of the Pacific Police Department.

## **Method of Investigation**

The Grand Jury entered and viewed property and evidence rooms in San Joaquin County with the exception of Lodi, which did not allow jurors to enter its property room. Jurors reviewed the policies and procedures and general orders of all property and evidence rooms.

## **Materials Reviewed**

- Butte County Property Retention Policy, Appendix A
- California Civil Code section 2080.4
- POST- Law Enforcement Evidence and Property Management Guide
- Property Room Policies and Procedures of 11 agencies
- Fitzgerald, Michael, “Vendor alleges sheriff lost slew of evidence,” *The Record* [Stockton] Sept. 6, 2016.

## **Interviews Conducted**

- San Joaquin County
  - Sheriff
  - Staff
  - Command Staff
  - Retired personnel
- Staff from Lodi, Manteca, Tracy, Stockton, Ripon and Escalon Police Departments
- Staff from University of the Pacific Police Department, San Joaquin Delta College Police Department and Stockton Unified School District Police Department
- Complainant
- State of California Commission on Peace Officer Standards and Training, Bureau Chief, Management Counseling and Leadership Development

## **Site Tours/Visits**

- California POST Property and Evidence – Sacramento, California
- Escalon Police Department Property Room
- Lodi Police Department Jail
- Manteca Police Department Property Room
- Ripon Police Department Property Room
- San Joaquin County District Attorney’s Office Property Room
- San Joaquin County Sheriff’s Property Room, including observation of intake procedures
- San Joaquin Delta College Property Room
- Stockton Police Department Property Room
- Stockton Unified School District Police Department Property Room
- Tracy Police Department Property Room
- University of the Pacific Property Room

# Discussions, Findings and Recommendations

## San Joaquin County Sheriff's Department

### 1.0 Staffing

The Sheriff's Department serves a population of approximately 170,000 unincorporated area residents. In 2016, there were 22,576 items booked into the property room resulting in an average of 1,881 items booked per month.

The property room staff budget includes two, full-time evidence custodians and two offsite supervisors who oversee the property room and staff. The property room is the responsibility of the Investigations Division. The direct line supervisors are the Evidence Technician III and Deputy Sergeant. The Lieutenant and Captain in Investigations are responsible for the direct line supervisors.

A fully staffed property room prior to 2009 operated with two, full-time evidence custodians, one part-time and an administrative sergeant. The budget at that time also supported four retired deputy sheriffs, on a per diem basis, to review cases for evidence disposition.

Severe cutbacks in 2009, led to only one evidence custodian staffing the property room until 2013. During that period, the evidence custodian advised the direct supervisor of plans to retire in two years. Though a request was made to bring in a replacement in time for adequate training, an evidence technician with prior property room experience was reassigned just before the position was vacated and received minimal training on the new program software.

Two additional evidence custodians were hired, one in 2013 and one in 2014. In April 2016, an incident occurred in the property room and the two custodians were transferred to other areas within the Sheriff's Department and two evidence technicians have again been temporarily reassigned to work the property room, until further notice.

The first-level supervisor is the Evidence Technician III, as defined by San Joaquin County Human Resources (RP4013) as:

*"This is a supervisory level class in the Evidence Technician Series. An employee in this class is responsible for the supervision of a unit of Evidence Technicians and Evidence Custodians."*

*Typical duties are: "Train and evaluate the work of a unit of Evidence Technicians and Evidence Custodians' schedules and assigns technicians to various schedules; advises staff of complex problems. Develops, reviews and insures that all evidence collection, storage methods and procedures are followed completely and accurately...."*

General supervision of the property and evidence room does not occur on a regular, consistent manner. The Grand Jury reviewed the property and evidence room logs covering a five-year

period, from November 2010 through November 2015, which revealed the first-level supervisor entered the property and evidence room 95 times. During a span of seven months there were no log-ins verifying the supervisor's visit.

In summary, there was no pattern of consistent and general supervision of the property and evidence room personnel to ensure the integrity of all evidence handled.

## **Findings**

**F1.1** The property room does not currently have the minimum staffing level to ensure that property room functions are carried out with the highest standards and integrity.

**F1.2** There was no pattern of consistency in general supervision of the property and evidence room personnel to ensure policies and procedures are being followed.

## **Recommendations**

**R1.1** By December 31, 2017, develop, adopt and implement a minimum staffing level to carry out the functions of the property room to ensure the highest standards and integrity.

**R1.2** By December 31, 2017, assign a full-time, onsite supervisor for general supervision to assure the property room functions are being performed according to department policies and procedures.

## **2.0 Training**

To better manage agency risk and reduce liability, all property/evidence personnel need to complete either POST's Evidence and Property Management course or International Association Property and Evidence (IAPE) course. This relevant training should be completed in a timely manner. Continuing education and training courses should be encouraged. They are available through organizations such as CAPE.

Ideally, newly hired evidence custodians are assigned to work with experienced personnel for on-the-job training before attending additional outside education.

The evidence custodians that were hired in 2013 and 2014, were not scheduled to attend the POST Property and Evidence Management course until January 2016, more than two years after they were hired.

Law enforcement personnel, on all levels, fail to understand or appreciate the necessity and nature of the property and evidence room functions and its contribution to the success of the agency. Understanding the rationale behind the establishment of the POST property/evidence guidelines related to intake, handling, storage and disposal within their facilities enables staff to effectively manage property/evidence room functions, thus reducing the exposure of liability to their agencies.

The POST course is designed to educate staff on best practices regarding property and evidence function, specifically in the areas of:

- Organization;
- Documentation;
- Security;
- Storage and handling;
- Audits/Inventories/Inspections; and
- Disposition/Purging.

The supervisors in the Investigations Division have not completed any courses in property and evidence management. Staff is not routinely sent to outside courses in a timely manner. Training is not a priority for the Sheriff's Department's property room.

## **Finding**

**F2.1** There are no policies or timelines for the training of staff and supervisors assigned to the property room.

## **Recommendation**

**R2.1** By December 31, 2017, develop, adopt and implement a policy and a timeline for training of custodians, technicians and supervisors working or supervising in the property room.

## **3.0 Evidence/Bar-code Tracking System**

Prior to 2009, a bar-code software system called Evidence Tracker was used by the Sheriff's Department for evidence tracking. It became difficult for staff to communicate with the vendor from Evidence Tracker on issues concerning the system. The supervisor in Investigations or the IT Department could only initiate contact. Upon the vendor's death, support of Evidence Tracker ceased, which prompted the department to look for a new software system.

Revolution was selected to replace Evidence Tracker. It contains many different programs, one being the evidence bar-code tracking component. In 2009, prior to installation, the property room clerk received approximately four hours of training, which was the contracted amount. Before the system was installed, the Sheriff's Department was given two options for the implementation of the new labels:

Option one - going forward, all new property coming in on the day of installation would be labeled and scanned with the new bar-code.

Option two - going backward, all property currently in the property room would be relabeled and scanned with the new bar-code.

Administration chose option two and several employees began the relabeling process. The migration process resulted in some minor glitches. Due to an old server and weak wireless connection in the property warehouse, the vendor developed a software enhancement to assist with the relabeling of property room items and to alleviate the issues.

The vendor visited and observed the progress of relabeling and claims to have seen “excess” labels thrown away in a 55-gallon drum. The vendor allegedly reported the observation to the evidence custodian but did not feel it was his responsibility to speak with the supervisor. The vendor based the 10,000 “missing” and “hidden” pieces of evidence by the estimated number of disposed labels. The Grand Jury could not confirm or deny the existence of excess disposed labels.

#### **4.0 Audits, Inventories and Inspections**

The Sheriff’s Department Policy and Procedures 804.8 - Inspection of the Evidence Room states:

*“(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.”*

This practice was not followed and was the responsibility of the Evidence Technician III.

*“(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Sheriff.”*

This practice was done in combination with the annual audits.

*“(c) An annual audit of evidence held by the department shall be conducted by a Division Captain (as appointed by the Sheriff) not routinely or directly connected with evidence control.”*

Audits were completed in February 2013, August 2015 and October 2016.

The 2014 annual audit, was delayed because the Investigations Division was in the process of conducting a full inventory. The inventory and audit were not completed because:

- Conducting a full inventory was labor-intensive;
- Deputies assigned were not trained in the property room procedure creating a learning curve;
- Wi-Fi was inadequate in the building;
- Items uploaded and downloaded slowly;
- Scanners were slow and had limited storage;
- Sole custodian had day-to-day operations to maintain; and
- Detectives and other staff were occupied with their own caseloads and staffing shortages.

Similar observations and recommendations were made following the 2013, 2015 and 2016 audits.

- Property was overflowing in the property room;
- The property room is running out of space;
- Found property and safekeeping property from inmates had to be stored on the floor;
- The found and safekeeping property is not being disposed of in a timely manner;
- Backlog of guns for Integrated Ballistics Identification System (IBIS) testing;
- Recommended hiring extra staff to review cases for disposition;
- Recommended assigning additional staff to assist with the backlog of guns to be IBIS tested; and
- Recommended hiring additional staff in the property room.

As part of the 2016 audit, a list of items was randomly chosen for inspection from different areas in the property room. Custodians printed a list of property by case number, shelf, box and door designation and the safe. A search was conducted for the items listed, all were located. During the search, additional property was located that was not on the list generated by the custodian.

A search for these items was completed using the bar-code affixed to the evidence package. Some items were found to be stored in the wrong location and the rest were located on a computer-generated list. This list was placed in a folder which was created and arbitrarily marked “missing” by an evidence custodian. All property was located, accounted for and packaged according to the department’s policies and procedure. The Grand Jury requested a status report on five random items from the “missing” list.

All items were accounted for and listed below:

1. Case rejected by the District Attorney, property released back to the jail;
2. Property released to owner;
3. Court order - property destroyed except firearm for IBIS testing;
4. Firearm released to owner, remaining property destroyed; and
5. Court order for property destruction.

Command staff was aware of the issues outlined in the audit reports but were slow to address them.

The Sheriff’s Department is in the process of doing a full inventory. It is a time-consuming and labor-intensive process. A retired deputy was hired to oversee the inventory. The Sheriff’s Department acquired an extra warehouse bay next to the existing property room. All evidence collected from Jan. 1, 2017, forward is being processed and stored in the warehouse until the inventory is done.

As of this writing, 60 percent of the inventory is complete and the Grand Jury cannot substantiate the complainant’s allegations of missing evidence.

## **Finding**

**F4.1** The Grand Jury cannot substantiate evidence missing from the property room or hidden in the software system at this time.

## **Recommendation**

**R4.1** By December 31, 2017, complete a full inventory of the property room and provide a report to the Grand Jury.

## **5.0 Purging and Disposition of Property**

Maintaining the chain of custody of all evidence in the Sheriff's possession is imperative, as its integrity may come under scrutiny in the courtroom. The retrieval, booking, packaging, storing and disposition of property must be well regulated and is a tedious process.

The Sheriff's Department has approximately 175,000 items, including property held for safekeeping and found property. Last year alone 22,576 items were booked, averaging 1,881 items a month.

The space in the Sheriff's property room is overflowing with found property and property held for safekeeping. There is a backlog of firearms needing IBIS testing and review for return to owner or destruction. The purging and disposition of property is not done in a timely and efficient manner, causing an overwhelming inventory of items.

It is difficult for the evidence custodians to manage and maintain a neat facility. Due to overcrowded conditions, evidence has been placed on the floor, on top of a vault and stacked on top of one another. This has been a constant complaint and frustration of the evidence custodians.

A recommendation was made in the 2013 audit, to have a notification system from the District Attorney's Office directly to investigations when cases are adjudicated. This would start the process of disposition. Currently, the disposition of property is in the hands of sworn officers who have been assigned to review the cases. The recommended notification system would benefit all agencies countywide. Agencies find it very difficult to navigate through FCE for information. The previous case management system, CJIS, provided greater access to the information needed.

Delays have been reported by agencies waiting for disposition authorization from the District Attorney's Office for evidence held in their property/evidence rooms. The District Attorney in several counties have established Property Retention Policy Agreements with law enforcement agencies within their counties.

See attached Appendix I, Butte County Property Retention Policy.

## **Findings**

**F5.1** There is an insufficient number of staff to consistently and efficiently review cases to purge items from inventory.

**F5.2** There are delays and difficulties in obtaining disposition and authorization information from the District Attorney's Office.

**F5.3** Full Court Enterprise has been a barrier to the efficient and effective disposition of evidence in the county.

## **Recommendations**

**R5.1** By December 31, 2017, assign sworn staff to actively and consistently review cases for disposition.

**R5.2** By December 31, 2017, the Sheriff collaborate with other local law enforcement agencies and the District Attorney to develop a countywide Property Retention Policy Agreement.

**R5.3** By December 31, 2017, the Sheriff collaborate with other local law enforcement group to ensure all agencies' needs are being met.

## **6.0 Facility/Safety**

The property/evidence room has three specific areas: office/bookings, main property/evidence room and an exterior evidence yard including metal storage containers. All areas are secure and have alarm systems. The room has numerous steel-shelving units. Evidence is stored in banker's boxes, in paper bags and in bulk. There are locked, wire-mesh, steel cabinets containing firearms that have been or are awaiting IBIS testing. Backpacks, duffle bags and other property are being stored on the floor, due to lack of storage space.

The evidence room has two commercial refrigerators, two commercial freezers and a residential style refrigerator/freezer combo. These are used for evidence, including biological evidence, requiring cold storage. The vault is located within the main storage area, locked and secured at all times. Cold case and old homicide evidence is stored upstairs in a locked, storage area.

Best practices suggest that all persons (other than the assigned employees of the property room) entering and leaving the property room must sign in and out on a designated log. The log identifies the individual, date and time of entry and exit and the purpose for entering the property room. All visitors need to be in the immediate physical presence of property room personnel. The Sheriff's Department requires that anyone entering the property room must sign in and out.

The supervisor's office is separate from the property room and located in the Administration Building, which is across the complex. The property room itself is located within the Honor Farm grounds. Evidence custodians have the ability to communicate with their supervisor through email, phone calls or a visit to the administration building.

The Sheriff's Department has several issues regarding safety in the property room. A first-aid kit is not available, respirators and defibrillator are not supplied and safety and updated policies and procedure manuals are not provided. There is an emergency evacuation plan.

### **Finding**

**F6.1** The Sheriff's Department property room does not have a first-aid kit and up-to-date safety manuals and policies and procedures.

### **Recommendations**

**R6.1.1** By December 31, 2017, provide the property room with a first-aid kit.

**R6.1.2** By December 31, 2017, update the policies and procedures manuals relating to the property room.

# San Joaquin County Sheriff's Site Map



## Escalon Police Department

Staffing and Training: The Escalon Police Department serves a population of approximately 7,200 residents. The property and evidence room is operated by a Police Services manager and two, part-time property clerks. The Police Services Manager has the primary responsibility of the property room as well as collateral duties in records, serving subpoenas, working warrants, registering sex offenders and other duties, as assigned. Officers on average work two to three hours a week in the property room. All clerks have attended POST or IAPE Property and Evidence Management training and attend CAPE for additional training update and networking.

Audits/Inventory/Inspections: Audits, inspections and inventories have not been a priority. Recently, Escalon changed from manual evidence tracking to the Records Information Management System (RIMS) Bar-Code System. The process of converting all evidence, property and safekeeping, with new bar codes will enable them to complete an audit. The only inventory conducted was in 2010. There are 10,000 items in the property room.

Purging/Disposition of Property: Escalon is actively purging their evidence.

Facility/Safety Equipment: Escalon does not have a space problem. There is no secured vault for the safekeeping of currency and valuables booked in the property room.

POST Property and Management Guidelines 4.5 state:

*“Currency/high-value items must be stored separately in a safe or vault, and should NOT be mixed with general items of evidence/property...”*

Property room officers have the basic safety equipment. There is no respirator or defibrillator onsite. They have an emergency evacuation plan.

### Findings

**Escalon F1.1** Escalon does not conduct monthly inspections of evidence storage facilities, as outlined in Escalon Police Department Policy Manual 804.8 (a).

**Escalon F1.2** Escalon does not conduct annual audits of the evidence room, as outlined in Escalon Police Department Policy Manual 804.8 (c).

**Escalon F1.3** Escalon does not have a secured vault or safe for the storage of currency and valuables.

## **Recommendations**

**Escalon R1.1** By December 31, 2017, the supervisor of the evidence custodian conduct an inspection of the evidence storage facilities as outlined in the Escalon Police Department Policy Manual 804.8 (a).

**Escalon R1.2** By December 31, 2017, a sergeant, as appointed by the chief, conduct an audit of the property and evidence room, as outlined in the Escalon Police Department Policy Manual 804.8 (c).

**Escalon R1.3** By December 31, 2018, install a safe or vault for the storage of currency and valuables booked into evidence.

## Lodi Police Department

The Grand Jurors were not permitted to enter the property room, citing “the chain of custody.” The Lodi Police Department was the only agency to refuse this access to the jurors.

Staffing/Training: Lodi Police Department serves a population of approximately 63,950 residents. Lodi operates with one, full-time property clerk and is currently in the process of training dispatchers to work part-time for shift coverage and vacations. The property room is supervised by the dispatch supervisor and a lieutenant of the Support Services Division. The property officer, supervisor and lieutenant have not taken a course in property room management. The property officer attends CAPE for training updates and networking.

Audits/Inventory/Inspections: Within the last eight months, Lodi has implemented Lexipol guidelines as its property room policies and procedures. An inventory has never been conducted and monthly inspections have not been made on a regular basis by the property room supervisor. In September 2016, the first inspection was completed in accordance with the newly implemented Lexipol policy. The last three audits were in 2000, 2006 and 2008.

Purging/Disposition of Property: Lodi actively purges property to make room for incoming property and evidence. There is a minimum of 10,000 items in the property room.

Facility/Safety Equipment: The facility was built in 2004, space is becoming an issue. Lodi Police Department stores currency and valuables in the narcotics vault.

POST Property and Management Guidelines 4.5 state:

*“Currency/high-value items must be stored separately in a safe or vault, and should NOT be mixed with general items of evidence/property...”*

There is no respirator or defibrillator onsite. They have safety manuals, first-aid kit and an emergency evacuation plan. POST materials and guidelines are available for reference.

### Findings

**Lodi F1.1** Lodi does not perform annual audits and monthly inspections, as outlined in the Lodi Police Department Policy Manual 802.8 (a) and (c).

**Lodi F1.2** The property clerk and supervisors have not attended formal property and evidence management training.

**Lodi F1.3** Lodi does not have a safe to store currency and valuables. They are stored inside the narcotics vault.

## **Recommendations**

**Lodi R1.1** By December 31, 2017, develop, adopt and implement an audit and inspection schedule, as outlined in the Lodi Police Department Policy Manual 802.8 (a) and (c).

**Lodi R1.2** By December 31, 2017, develop, adopt and implement a schedule for training of property room staff at a POST course in property and evidence management.

**Lodi R1.3** By December 31, 2018, install a safe or vault for the storage of currency and valuables booked into evidence.

## Manteca Police Department

Staffing/Training: Manteca Police Department serves a population of approximately 67,100 residents. One Community Service Officer (CSO) is assigned to the property/evidence room. This officer has additional duties of payroll and telephone reports. A detective CSO is the alternate when the primary CSO is unavailable. The CSOs have attended the POST \Property and Management Course and attend CAPE for training updates and networking. The supervisors have not had training in Property and Evidence Management.

Audits/Inventory/Inspections: Manteca Police Department has never conducted an audit, inventory or inspection. Their Lexipol guidelines state that unannounced inspections of evidence storage areas may be conducted periodically as directed by the Chief of Police or Services Division Commander. There are no policies and procedures for an annual audit or monthly inspections.

Purging/Disposition of Property: There are approximately 20,000 items in the property room. Property is actively being purged. The FCE system makes it difficult to find information for disposition. A detective sergeant and two detectives help with the disposition of firearms. Found and safekeeping property is returned or disposed of within the allotted time.

Facility/Safety Equipment: The property/evidence room is a self-contained building within a fenced yard behind the Manteca Police Department. While the building is clean and organized, it is filled to capacity and lacked proper ventilation. The smell of marijuana is very strong throughout the building.

A new 2,800 square foot property room will be completed in spring 2017. There will be a state-of-the-art drying room, a firearms vault and an adequate ventilation system for narcotics. The new facility will enable officers to package, label and deposit evidence into lockers. Homicide and sexual assault evidence will be separated and stored in the older facility.

A first-aid kit, respirator and safety policies and procedure manuals are available in the property/evidence room. There will not be a defibrillator in the new building.

An article in the Manteca Bulletin on April 27, 2017, highlighted the new facility and its features. <http://www.mantecabulletin.com/section/1/article/143265/>

### Findings

**Manteca F1.1** There are no policies and procedures for annual audits of the property room.

**Manteca F1.2** Manteca Police Department has never conducted an audit, inventory or inspection, as outlined in the Manteca Police Department Policy Manual 803.8 (a).

**Manteca F1.3** The supervisors never attended formal property and evidence management training.

## **Recommendations**

**Manteca R1.1** By December 31, 2017, develop, adopt and implement policies and procedures for annual audits of the property room.

**Manteca R1.2** By December 31, 2017, develop, adopt and implement policies to conduct monthly inspections of the property and evidence room, more frequently than what is outlined in the Manteca Police Department Policy Manual 803.8 (a).

**Manteca R1.3** By December 31, 2017, develop, adopt and implement a schedule for training of the property supervisor at a POST course in property and evidence management.

## Ripon Police Department

Staffing/Training: Ripon Police Department serves a population of approximately 14,300 residents. A full-time CSO's time is divided performing animal control services, field evidence technician duties and property functions. The clerk dedicates approximately one hour per day and one full day per week to property room functions. Another CSO fills in as needed. Both CSO's have attended the POST property and management course, the Property CSO attends CAPE for training updates and networking. The property room supervisor has never attended any property and evidence management courses.

Audits/Inventory/Inspections: Ripon incorporated Lexipol guidelines as part of its property and evidence policies and procedures. Ripon uses RIMS for property and evidence tracking. According to policy, monthly inspections and annual audits are required. The last audit was conducted in late 2016.

Purging/Disposition of Property: Firearms booked over eight years ago have been purged. The CSO is working on purging items from adjudicated cases from 2007. Ripon has 8,669 items stored in their facility. Found and safekeeping property are stored in a separate location from the evidence.

Facility/Safety Equipment: The Ripon Police Facility is fairly new, they are not concerned about running out of room. Ripon has no safety or reference manuals in the property room. During the Grand Jury tour of this facility the jurors inquired about a safe to secure currency and valuables. Jurors were advised they did not have one. Several weeks later, the Grand Jury was notified that a safe was installed.

### Findings

**Ripon F1.1** Ripon Police Department does not conduct monthly inspections or annual audits, as outlined in the Ripon Police Department Policy Manual 802.8 (a) and (c).

**Ripon F1.2** Property room supervisor has not attended any property and evidence management course.

### Recommendations

**Ripon R1.1** By December 31, 2017, develop, adopt and implement a schedule for monthly inspections and annual audits, as outlined in the Ripon Police Department Policy Manual 802.8 (a) and (c).

**Ripon R1.2** By December 31, 2017, develop, adopt and implement a schedule for training of the property room supervisor at a POST course in property and evidence.

## San Joaquin County District Attorney's Office

Staffing/Training: The District Attorney's Office is responsible for the prosecution of all criminal offenses and some civil matters in San Joaquin County. They employ a division consisting of 47 sworn investigators and non-sworn investigative assistants who do follow-up on pending cases and sometimes initiate original investigations. Two investigative assistants share the responsibilities of the small property and evidence room on a part-time basis. The investigative assistants are supervised by a lieutenant and chief of investigations. One day a week is spent working on property functions and purging. The two investigative assistants and the Chief Investigator have completed property and evidence room training. One supervisor has not completed training but is scheduled to do so. Training updates for all property and evidence room staff will be scheduled.

Audits/Inventory/Inspections: The last audit was conducted in 2013 by the previous property and evidence staff. The audit indicated that some exhibits from three court cases could not be located. Several items from one of the cases were located with other evidence and were properly disposed of in January 2017. The current staff will continue to attempt to locate the remaining items in the upcoming audit scheduled in 2017. Monthly inspections and annual audits are not conducted consistently. There are no directives pertaining to audits and inspections in the policy manual.

The Grand Jury requested the status of five random items from the 2013 audit/inventory records. All items were accounted for.

Purging/Disposition of Property: While most evidence remains in the custody of the originating agency, evidence obtained by the District Attorney Investigators is booked, stored and tracked. The District Attorney's Office prohibits the booking of firearms and narcotics into its property room. There are 807 items in the property room. The District Attorney's Office is continuing to purge items from the property room

Facility/Safety Equipment: The District Attorney's Office maintains a small, neat, organized and secured property room to process and store evidence needed for prosecution. There is no respirator or defibrillator. A first-aid kit is onsite.

### Findings

**DA F1.1** The District Attorney's Office policies and procedures do not address audits and inspections.

**DA F1.2** The District Attorney's Office has not located two court exhibits as identified in the 2013 audit, leading to a break down in the chain of custody by previous staff.

## **Recommendations**

**DA R1.1** By December 31, 2017, develops, adopt and implement policies and procedures regarding annual audits and monthly inspections of the property room, according to best practices.

**DA R1.2** By December 31, 2017, complete an inventory of the property room and report findings to the Grand Jury.

**DA R1.2.1** By December 31, 2017, Develop a policy that requires an inventory of all evidence and property whenever a change is made in personnel who have access to the evidence room.

## San Joaquin Delta College

San Joaquin Delta College (SJDC) is a community college located in Stockton with an offsite campus in Mountain House that serves approximately 20,000 students.

Staffing/Training: Staffing consists of a sergeant in charge of the property and evidence room. The property room sergeant attended the POST Property and Management course in the early 1990's, when assuming the responsibility of the property room. SJDC is in the process of sending another officer to training. The sergeant attends continuing education classes, when possible.

Audits/Inventory/Inspections: SJDC hired an outside consultant in 2015, to review all property and evidence policies and procedures and to offer recommendations to remain in compliance with best practices. All recommendations from the review have been implemented.

To maintain the integrity of its property and evidence, Delta College will have an outside consultant return to conduct additional reviews and inspections. SJDC uses Lexipol as part of its policies and procedures.

Purging/Disposition of Property: During the fiscal year 2013/2014, officers and non-sworn personnel booked 217 pieces of evidence and 1,314 items of found property. The majority of found property consisted of backpacks and books. Found property with no evidentiary value, is released by on-duty dispatchers. Clothing and other unclaimed items are given to the Children's Home, and unclaimed books are donated to the bookstore.

Facility/Safety Equipment: Property and evidence is located in a small corner of the police facility. The property room is equipped with standard safety equipment, but has no respirator. Delta College Police Department has an emergency evacuation plan. The only person with a key to the property room is the property room sergeant. If the property room sergeant is not available and immediate access to the property room is needed, a lock smith would have to be called.

### **Finding**

**SJDC F1.1** The property room sergeant is the only personnel that has a key to the property room, resulting in a lack of access.

### **Recommendation**

**SJDC R1.1** By December 31, 2017, assign a property room key to an additional, authorized staff.

## Stockton Police Department

Staffing/Training: Stockton Police Department serves a population of approximately 303,000 residents. The full-time supervisor has been working in the property room since 1991. The supervisor has attended multiple trainings and continuing education courses. It is common for other property clerks in the county to call Stockton for the supervisor's assistance based on knowledge and experience. There are four property room clerk positions and one police services manager position vacant. Stockton is in the interview process to fill these openings.

Audits/Inventory/Inspections: The Office of Professional Standards performs quarterly audits in the property and evidence room. The supervisor audits daily work and performs daily inspections. Stockton does not use Lexipol, but has its own general orders.

The property room supervisor is rigorous about every aspect of the property room functions. Stockton officers and field technicians enter and book their own evidence. The property room supervisor developed a property and evidence how-to reference manual with screen shots to guide the officers in booking evidence to reduce errors.

Purging/Disposition of Property: There are over 150,000 items in the property room. Stockton is aggressively purging to keep space open for future property/evidence.

Facility/Safety Equipment: The facility is clean and the property/evidence is neatly packaged and placed on the shelves. Space is a constant need as they are running out of room. Stockton has an emergency evacuation plan, first-aid kit. There is no respirator or defibrillator onsite. City of Stockton Risk Management conducts yearly safety inspections of the property room.

***The Grand Jury would like to acknowledge and commend the Stockton Police Department for the professional manner in which they operate their property and evidence room. This department is an outstanding example of property and evidence room management by following best practices and procedures.***

## Tracy Police Department

Staffing/Training: Tracy Police Department serves a population of approximately 85,850 residents. The property and evidence room operates under the direction and management of the department's forensic services. There are four crime scene technicians and a mid-manager with line level supervision responsibilities. The supervisor has 20 years in the forensic services unit, followed by technicians who have 18, 11, 10 and three years respectively. The supervisor also has collateral duties of fleet and facilities management. All property and evidence clerks have completed the POST Property and Management course. Employees are sent for training soon after hire. The supervisor and technicians are members of CAPE and regularly attend for training updates and networking.

Audits/Inventory/Inspections: Property and evidence audits are conducted by the department's Office of Professional Standards. Department records reveal that audits were conducted in August 2013, September 2014, and October 2016.

Purging/Disposition of Property:

There are approximately 51,000 items in the property room. Purging property is a priority to accommodate evidence in the future.

Four times a year firearms and drugs are destroyed. Identifying the status of cases is difficult due to the change between CJIS and FCE. Full Court Enterprise is difficult to navigate and more time consuming.



Facility/Safety Equipment: Tracy maintains evidence storage units at a city facility. The facility is secured behind locked gates and is monitored by a surveillance video system. It is alarmed and monitored by Tracy police dispatchers in the communications center.



Tracy has respirators and two defibrillators onsite. The supervisor conducts safety training with staff and has an evacuation plan. POST manuals, policies and procedures and safety manuals are available for reference, both hard copy and online.

***The Grand Jury would like to acknowledge and commend the Tracy Police Department for the professional manner in which they operate their property and evidence room. This department is an outstanding example of property and evidence room management by following best practices and procedures.***

## **Stockton Unified School District**

Staffing/Training: The Stockton Unified School District Police Department serves over 40,000 students, faculty and staff at more than 60 schools throughout 65 square miles. All officers within the department are sworn police officers per California Penal Code section 830.32, however, their authority as peace officers is limited by California Education Code section 38000. The Chief of Police answers directly to the Stockton Unified School District Superintendent. One sergeant is assigned to the property and evidence room who also has collateral duties as a patrol sergeant. All staff have attended POST property and evidence management training.

Audits/Inventory/Inspections: Audits were performed in 2009, 2014 and 2015. SUSD uses the ARMS software program for evidence tracking. They are in the process of completing their 2016 audit. Inspections have been conducted and a full inventory was completed when the property room relocated in 2015.

Purging/Disposition of Property: SUSD is actively purging items in inventory. Misdemeanor items that have past the statute of limitations have already been purged. Disposition of guns still need to be completed. There are 985 case items booked into property and evidence. Note that each case may have more than one item booked.

Facility/Safety Equipment: The property room is located within the SUSD Police Department building. The property area was moved from the basement of the old SUSD Police Department to an upstairs property room. Narcotics are now ventilated properly and flammables are stored outside. There is no respirator or defibrillator onsite. There is a first-aid kit and evacuation plan.

## **University of the Pacific Police Department**

Staffing and Training: The Public Safety Department of the University of the Pacific (UOP) provides protection for the 7,000 students and university staff. UOP is one of two private universities in California whose officers have full police officer powers. Pursuant to a memorandum of understanding with the City of Stockton and the Stockton Police Department, which uses SPD Property and Evidence General Orders, UOP officers receive and maintain state mandated training standards. Though able to use their police officer powers off campus, their primary jurisdiction is the Stockton campus.

The property room is staffed by one, part-time clerk who works one day a week to maintain the evidence room. A UOP sergeant is the assigned supervisor and has a backup clerk. The property clerk, supervisor and lieutenant have all attended the POST Property and Evidence Management training.

Audit/Inventories/Inspections: Inventory/audits were completed in 2014, 2015 and 2016.

Purging/Disposition of Property: UOP actively purges property.

Facility/Safety Equipment: UOP property room is located in the Department of Public Safety Building. The property room is small, neat and organized. There are 611 items in the property room. UOP uses Revolution bar-code tracking system. Manuals are available for reference. A first-aid kit is on-site.

## Conclusion

Law enforcement is government's most visible public agency. Interaction between the public and law enforcement often comes under scrutiny, whether it be for good or bad.

Property and evidence rooms are not just warehouses. The collection and safekeeping of evidence obtained from a crime scene is a vital component of the judicial process. Proper handling, packaging, testing, disposal and tracking of evidence can lead to the effective prosecution of criminal offenders or confirmation of innocence. Victims may find truth and closure as justice is served.

When doubt is cast on evidence handling, the impression is created that all entrusted evidence has been mishandled or tainted. A complaint alleging that a massive number of items are missing or lost from an evidence storage facility is very serious.

After exhaustive interviews, numerous site visits and review of copious, relevant documentation, the Grand Jury could not substantiate that there was any missing or hidden evidence as alleged in the complaint.

The integrity of the San Joaquin County Sheriff's Department was called into question by the complainant, for whatever reason. The security of evidence housed in law enforcement property rooms must be paramount. This requires periodic inventories of all items maintained.

This investigation will result in a higher awareness and positive change by law enforcement agencies in their management of property and evidence rooms in San Joaquin County. The priority of the property rooms will be elevated and result in a more effective way of handling, processing, storing and purging evidence. This will lead to greater transparency in evidence chain of custody. The residents of San Joaquin County deserve to have full confidence in the county's justice system.

## Acknowledgements

**The Grand Jury appreciates the guidance and cooperation of the State of California Commission on the Police Officer Standards and Training, Bureau Chief of Management Counseling and Leadership Development.**

## **Disclaimer**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. The Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code section 911.924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code sections 924.2 and 929).

## **Response Requirements**

California Penal Code sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court. The San Joaquin County Board of Supervisors shall respond to the findings and recommendations, where applicable, within 90 days of receipt of the report.

The San Joaquin County Sheriff shall respond within 60 days to the following:

Findings: F1.1, F1.2, F2.1, F4.1, F5.1, F5.2, F5.3, F6.1

Recommendations: R1.1, R1.2, R2.1, R4.1, R5.1, R5.2, R5.3, R6.1.1, R6.1.2

Escalon City Council shall respond to the following findings and recommendations within 90 days of receipt.

Findings: Escalon F1.1, Escalon F1.2, Escalon F1.3

Recommendations, Escalon R1.1, Escalon R1.2, Escalon R1.3

Lodi City Council shall responds to the following findings and recommendations within 90 days of receipt.

Findings: Lodi F1.1, Lodi F1.2, Lodi F1.3

Recommendations: Lodi R1.1, Lodi R1.2, Lodi R1.3

Manteca City Council shall responds to the following findings and recommendations within 90 days of receipt.

Findings: Manteca F1.1, Manteca F1.2. Manteca F1.3

Recommendations: Manteca R1.1, Manteca R1.2. Manteca R1.3

Ripon City Council shall responds to the following findings and recommendations within 90 days of receipt.

Finding: Ripon F1.1, Ripon F1.2

Recommendation: Ripon R1.1, Ripon R1.2

The District Attorney shall responds to the following finding and recommendation within 60 days of receipt.

Finding: DA F1.1, DA F1.2

Recommendation: DA R1.1, DA R1.2, DA R1.2.1

San Joaquin Delta College Board of Trustees shall responds to the following finding and recommendation within 90 days of receipt.

Finding: SJDC F1.1

Recommendation SJDC R1.1

Mail a hard copy of the response to:

Honorable José L. Alva  
Presiding Judge San Joaquin County Superior Court  
180 W. Weber Avenue Suite 1306  
Stockton, CA 95201

Or hand deliver to:

180 W. Weber Avenue, Suite 1306  
Stockton, California 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury  
[grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## **Appendix A**

### **BUTTE COUNTY PROPERTY RETENTION POLICY**

#### **PURPOSE**

The purpose of this policy is to establish standard criteria for Law Enforcement Agencies with regard to property retention.

#### **POLICY**

This document gives all agencies within the authority to purge all property taken into their possession based on meeting the criteria outlined below. This was created with the input of all Butte County Law Enforcement Agencies, in conjunction with the Butte County District Attorney's Office.

#### **PROCEDURE**

##### Evidence Retention Considerations

- 1) Post conviction
- 2) Post dismissal
- 3) Case not filed
- 4) DNA/Biological evidence
- 5) Sexually Violent Predators (SVP) cases
- 6) Domestic Violence/Elder Abuse/Child Abuse
- 7) Juvenile cases
- 8) Drug diversion cases
- 9) Bench warrant vs. arrest warrant
- 10) Search warrant
- 11) General purge considerations
  - a) Statute of limitations considerations
  - b) Agency may initiate
  - c) Currency
- 12) Photograph and release option

## **Purge criteria**

Absent a directive by the District Attorney, the following criteria shall apply permitting the purging of property or evidence.

### **1) Post conviction**

If case was a plea or no contest, the investigating agency can purge property as soon as they receive the Butte County District Attorney's Evidence Release Memo (hereinafter referred to as Evidence Release Memo). There is no need to hold onto the evidence any longer.

If convicted by jury, evidence shall be held for 60 days on misdemeanors and 90 days on felonies for possible appeals. This time is based on the date of the case adjudication and is for those cases in which an Evidence Release Memo is received.

In 187 PC and life sentence cases, there will not be an Evidence Release Memo sent until the (s) is deceased or released from prison and is on parole. If the (s) dies while in custody, this information may come to either the DA or the local agency. Once this information is received, it is important that both are made aware of this information. Therefore, always ensure the other party involved has been contacted and is aware of the status. Once the suspect has been released from prison or is deceased, the property can be purged. In order to check on the status of a particular inmate, contact Chico Parole. They will be able to provide you with parole information or a deceased notification on your suspect.

### **2) Post dismissal**

The District Attorney's office shall send an Evidence Release Memo for cases that are dismissed due to lack of sufficient evidence or in the interest of justice. These evidence releases shall state the reason for the dismissal. Once an Evidence Release Memo has been received, the property section will verify the status with their case agent prior to disposal of property. The District Attorney will not move forward with the case unless the case agent has further information.

In co-defendant cases, the first Evidence Release Memo will state the fact there is a co-defendant. The subsequent release will state the final release of evidence.

### **3) Case not filed**

The District Attorney's office shall send an Evidence Release Memo for cases that are either declined due to lack of sufficient evidence, or declined in the interest of justice. These Evidence Release Memos shall state the reason of the case being declined. Once an Evidence Release Memo has been received, the property section will check with their case agent prior to disposal of property. The District Attorney will not move forward with the case unless the case agent has further information.

For any cases without an arrest, all property can be purged at statute of limitations. For further information regarding statute of limitations, see Attachment 1.

#### **4) DNA/Biological evidence**

DNA evidence used to convict must be maintained until the (s) is released from prison, unless authorized by the District Attorney. The (s) has the right to have the DNA evidence retested at any point in time during their incarceration. However, if the proper documents have been signed by the (s), the (s) attorney, the DA, and the judge, all property can be purged after conviction. This documentation would accompany any evidence release memo sent by the District Attorney. Each agency shall be held responsible for the retention of evidence when there is a John Doe warrant issued based on DNA. The agency shall verify status of any potential warrants prior to the disposal of DNA evidence at the statute of limitations.

#### **5) Sexually Violent Predators (SVP) cases**

CART interviews shall be conducted using DVD media and forwarded to the individual agencies.

Sexual assault cases have a statute of limitations of ten (10) years. No evidence in such cases, unless unfounded, can be purged prior to the statute of limitations. For the retention of any DNA evidence, refer to the DNA section of this document.

#### **6) Domestic Violence/Elder Abuse/Child Abuse**

All photos and interviews shall be maintained for a period of ten (10) years from the date of incident on all domestic violence/elder abuse/child abuse convictions. This is pursuant to California Evidence Code Section

1109. This is due to the fact that all prior convictions of such a crime are admissible for future cases. This allows the District Attorney to attempt to show a pattern of this behavior for the (s) to include motive, intent, and opportunity.

All property, other than photos and interviews, may be purged once the Evidence Release Memo is received from the District Attorney's office.

#### **7) Juvenile cases**

The District Attorney's office will send an Evidence Release Memo on Juvenile cases based on case adjudication. Property may be purged upon receiving these releases.

If an Evidence Release Memo is not received, each agency may look up the case status in HOD. Once the case shows closed in HOD, the investigating agency may purge the property.

For cases without a suspect, property may be purged based on statute of limitations

#### **8) Drug diversion cases**

All evidence seized in criminal cases that result in drug diversion will be maintained until the suspect completes their diversion process. Once diversion is successfully completed, an Evidence Release Memo will be sent to the investigating agency. If the suspect fails to complete diversion, the evidence will remain active. In all narcotics cases, the evidence will be considered active until an evidence release memo is received by the investigating agency.

In cases in which the suspect pleads, an Evidence Release Memo will be sent prior to the completion of drug diversion. The evidence will no longer be needed and can be purged. All agencies are authorized to destroy all needles/syringes taken as evidence of Business and Professions Code Section 4140 after the seizing officer photographs (Xerox is also acceptable) the item and identifies the same with the agency case number. Hypodermic syringes containing suspected controlled substances are subject to the same procedure with the addition that a portion of the contents should be presumptively tested for proper criminal charging. The contents are then to be placed into a vacuum tube (void of preservative) and sent to the lab for analysis.

## **9) Bench warrant vs. arrest warrant**

Bench warrant is issued after a person has appeared in court, but fails to show for additional court appearances.

Arrest warrants are issued for persons law enforcement maintains is a (s) in a case, but has yet to arrest with regard to the incident.

Firearms taken in cases in which there is an arrest or bench warrant, it can be purged after one year on possession cases only. Law Enforcement must document and photograph the firearm thoroughly, but can purge it as abandoned property after one year.

For purge criteria on misdemeanor cases, refer to Attachment 2. *This criteria is for those misdemeanor cases over seven (7) years old that have gone to warrant.*

## **10) Search warrant**

All evidence taken as part of a search warrant must have a court order (1536 PC) prior to the return or purging of any property. If the original warrant service included a return (1536 PC) order, the property can be released by an evidence memo issued by the District Attorney upon case adjudication. All property considered to be stolen/recovered will be photographed and released to the rightful owner, refer to Attachment 3.

## **11) General purge considerations**

### **a) Statute of limitations considerations**

Purging of property in criminal cases is sometimes based on the statute of limitations. If there has not been an arrest on a case and there is not an outstanding warrant, purging is based on the statute of limitations. For the most part, the statute of limitations runs one (1) year on misdemeanor crimes and three (3) years on felony crimes. However, this is not a set standard. For clarification based on criminal code section, see Attachment 1. An example of crimes that do not meet this basic statute of limitations would be sex crimes or violent crimes against person.

### **b) Agency may initiate**

Individual agencies may have individual purge criteria set up for various non-criminal or civil cases. A list of such cases includes, but is not limited to: 27491 GC, traffic collisions, and cases they deem are unfounded.

**c) Currency**

Any currency taken into the custody of local law enforcement agencies as part of a narcotics sales case will be handled by the District Attorney-Asset Forfeiture Unit.

In embezzlement cases, the money may be returned to the victim upon case adjudication. If the victim has filed a claim with their insurance company and received compensation, the money would then be released to the insurance company.

**12) Photograph and release procedure**

Stolen/Recovered items will be photographed and released to the (v). There is no need to maintain stolen/recovered property as evidence. Proper documentation (which includes obtaining and photographing the serial numbers) and photographing of all evidence must occur prior to the release of any property. These photos should include the (v) with the items to be returned. The (v) must also be informed to maintain possession of this property until the criminal case is adjudicated, in case it is needed for prosecution.