

CHAPTER 9
DISPOSAL OF PROPERTY AND EVIDENCE
REVISED JULY 2025
TABLE OF CONTENTS

<u>INTRODUCTION</u>	9-3
<u>DOCUMENTATION</u>	9-3
Disposition of Items	9-3
Custody of Items.....	9-3
<u>GENERAL METHODS OF DISPOSAL</u>	9-3
Return to Owner/Finder	9-3
Destruction	9-4
Sale or Auction of Items	9-4
Departmental Use.....	9-5
Donations to Charity	9-5
<u>EVIDENCE</u>	9-5
Prior to Purging Evidence	9-6
Purging Evidence	9-6
Frequency of Purging	9-7
Decline of Cases by Prosecutor	9-7
Adjudication Records.....	9-7
Adjudicated Cases.....	9-7
Diversion.....	9-8
Unknown Suspect.....	9-8
Statute of Limitations	9-8
Non-adjudicated Cases	9-9
Appealed Cases	9-10
Early Release of Evidence.....	9-10
Stolen or Embezzled Property, Photographic Release.....	9-10
Evidence Obtained by Search Warrant/Court Ordered Release.....	9-11
Items Retained by an Outside Entity	9-11
<u>PROPERTY</u>	9-11
Purging Property.....	9-11
Lost and Found Property	9-12
Safekeeping.....	9-13
General Considerations for Returning Property.....	9-14
<u>GUIDELINES FOR PROCESSING SPECIFIC ITEMS</u>	9-14
Administrative Evidence	9-14
Threshold Incidents	9-14

Non-threshold Incidents.....	9-15
Civilians' Complaint	9-15
Administrative Investigation	9-16
Multidisciplinary Accident Investigation Team Evidence.....	9-16
Ammunition.....	9-16
Biological Material Booked as Evidence.....	9-16
Cannabis and Concentrated Cannabis.....	9-17
Controlled Substances	9-19
Counterfeit Currency	9-19
Explosives	9-19
License Plates	9-19
Medical Waste	9-19
Money.....	9-20
Obscene Materials.....	9-22
Photographs and Video	9-22
Obscene Materials.....	9-22
Retention of Death Penalty Items	9-22
Retention of Evidence for Civil Cases	9-23
Serialized Evidence	9-23
Sexual Assault Kits.....	9-23
Departmental Video/Audio Recordings.....	9-23
Weapons	9-24
<u>RELEASE OF PROPERTY FOR DECEASED, INCAPACITATED, OR JUVENILE</u>	
<u>PROPERTY OWNER</u>	9-24
Will.....	9-24
Affidavit for Collection of Personal Property	9-24
Trust	9-24
Durable Power of Attorney.....	9-25
Conservatorship	9-25
Guardianship	9-25

CHAPTER 9

DISPOSAL OF PROPERTY AND EVIDENCE

1. INTRODUCTION. Limited storage space for property and evidence is a significant problem in most Areas. It is imperative each evidence officer regularly dispose of evidence no longer having evidentiary value, and unclaimed property that has been held for the required time period.

2. DOCUMENTATION. All aspects of the disposal process should be adequately documented.

a. Disposition of Items. The disposition of all items shall be documented by the evidence officer in the evidence records management system (RMS) case file.

b. Custody of Items. When custody of items is transferred to another individual or agency (e.g., returned to owner or turned over to an allied agency for destruction or disposal), the name of the individual assuming custody shall be documented in the evidence RMS chain of possession. The signature of the person assuming custody shall be captured on the evidence iPad. Any documentation such as a court order, a JUS 8715, Adult Disposition of Arrest and Court Action, proof of ownership, or copies of identification shall be uploaded into the evidence RMS case file.

3. GENERAL METHODS OF DISPOSAL. Items from cases which have been adjudicated, rejected, or declined, and unclaimed property may be disposed of using one of the following accepted methods of disposal:

a. Return to Owner/Finder. If the lawful owner is known, notify the owner by letter using the last known address. The notice shall be sent via standard first-class mail. Inform the owner the property is available for release. Retain a copy of the signed and dated correspondence to document the good faith effort made to contact the owner. A copy of the letter shall be uploaded into the evidence RMS case file.

(1) Property may be released to the owner if it is not contraband (items that are illegal to possess). Items used in commission of the crime will not be returned. For example, burglary tools, slide hammers, and drug scales would not be returned. Items obtained during the commission of a crime, commonly referred to as "fruits of the crime," are not to be returned to the person convicted of committing the crime.

b. Destruction. Unclaimed evidence or property of little or no monetary value, nuisance weapons, firearms, contraband, evidence used in the commission of a crime, and controlled substances shall be destroyed, unless the item was approved for departmental use (refer to paragraph 3.d.). Disposal of controlled substances is covered in Chapter 10, Disposal of Controlled Substances, of this manual. Disposal of firearms and nuisance weapons is covered in Chapter 11, Release/Disposal of Weapons, of this manual. Destruction of an item at the Area level shall be witnessed and the witness should be a supervisor. The signature of the person witnessing the destruction of items shall be captured on the evidence iPad, updating the chain of possession for the corresponding evidence RMS case file.

(1) Discarding Items of Little or No Value. Items of little or no value include, but are not limited to, wallets, clothing, bedding, keys and key rings, glasses, documents, small hand tools (screwdriver, pliers, etc.), or items so badly worn they are no longer valuable. This also includes items damaged beyond repair or to the point that repair costs would exceed the value of the item. These are items that cannot be sold at auction or converted for state use.

(a) These items shall be disposed of at the Area level by being discarded, destroyed, or given to charity.

(b) If there is a question about the value of an item, the item shall be disposed of according to paragraph 3.c.(2) of this chapter.

(c) Items of little or no value that are able to be recycled should be recycled.

c. Sale or Auction of Items. Items of value, excluding firearms, no longer needed for court and not otherwise covered in paragraph 5. of this chapter, are processed the same as unclaimed property and disposed of as follows:

(1) Auction. Though the California Vehicle Code allows for it, the Department does not auction items that are unclaimed or have become the property of the Department. Such items shall be sent to the Supply Services Unit (SSU) in Sacramento. The SSU will transfer the items to the Department of General Services, who will sell or auction the items.

(2) Preparing Items for Sacramento. The SSU truck drivers will pick up unclaimed property when making regularly scheduled quarterly deliveries to Area offices. Each item shall be listed on a CHP 266B, Credit Memo – Unclaimed Property, according to the instructions in Highway Patrol Manual (HPM) 11.2, Materials Management Manual, Chapter 13, Unclaimed Property. The truck driver shall sign the CHP 266B indicating the driver is transporting the property and leave a copy with the evidence officer. The evidence officer shall file the copy in suspense until the original has been signed and returned.

Once the property is delivered to SSU, the Material and Stores Specialist shall sign the CHP 266B indicating receipt of the property. Upon disposal, the evidence officer will be notified by SSU. The evidence officer will contact SSU after 30 days if notification has not been received. On the day that SSU collects an item from an Area that has a record in the Automated Property System (APS), that record shall be canceled, and any entries into California Law Enforcement Telecommunications System's Electronic Record Tracking (CERT) shall be updated to reflect the items disposition by the evidence officer. The record shall not be canceled prior to SSU taking possession of the item. Upload the CHP 266B into the associated evidence RMS case file.

d. Departmental Use. Unclaimed property or evidence from adjudicated cases may be used by the Department for training and educational purposes, or for operational use. This excludes controlled substances, biohazard items, and any items deemed hazardous or unsafe. The request shall be submitted in memorandum format and routed through proper channels to the appropriate Assistant Commissioner's office. Once approved, the item(s) becomes departmental property and shall be marked or tagged appropriately, if necessary, depending on its intended use, sensitivity, and/or value. For example, items used for training should be marked to read "Use for Training Purposes Only." A copy of the approved memorandum along with a photograph of the item shall be uploaded into the associated evidence RMS case file. If the item(s) has been marked or tagged and is deemed departmental property, the evidence RMS case file may be closed. If the item(s) are used for training purposes and there is a possibility the item(s) will be returned to the originating command, the scanned copy of the CHP 36, photograph, and memorandum shall be retained for the life of the property. When the item is no longer needed, it shall be returned to the originating command's evidence officer for proper disposal. The disposal should be noted in the evidence RMS case file.

e. Donations to Charity. Items such as bedding, clothing, books, and eyeglasses that have little or no value and will not be sent to SSU may be donated to a local charity. Donation of an item shall be witnessed, and the witness should be a supervisor. The signature of the person witnessing the destruction of items shall be captured on the evidence iPad, updating the chain of possession for the corresponding evidence RMS case to avoid the appearance of favoritism toward any one charity, the selection of charities should be made by the commander and rotated each time a donation is made.

4. EVIDENCE. Evidence that no longer has evidentiary value will be disposed of in a manner consistent with current law and policy. The disposition of evidence is covered in California Penal Code (PC) Sections 1411 and 1417-1417.9.

NOTE: In order to efficiently purge inventory, all commands should ensure evidence officers have electronic access to court records from their office in order to check the status of cases for all jurisdictions under their purview, provided the city/county possesses a records system capable of providing access.

a. Prior to Purging Evidence. The evidence officer should routinely check and document the status of cases and work closely with the courts and court officer to prevent the premature disposal of evidence that may:

- (1) Be linked to other cases.
- (2) Have multiple defendants.
- (3) Be subject to district or city attorney refiling.
- (4) Have questionable ownership.
- (5) Relate to a threshold incident involving the Department (potential litigation).
- (6) Be subject to court order (e.g., arrest warrant, search warrant, order of return).
- (7) Determine sexually violent predators (Welfare and Institutions Code Section 6600).
- (8) Contain biological materials which are required to be held until a convicted person's completion of their imposed penalty, or indefinitely if a suspect has not yet been identified or apprehended.

b. Purging Evidence. Evidence from criminal cases shall be disposed of using the following methods:

- (1) Return to owner/finder.
- (2) Sale or auction (items of value will be sent to the SSU to facilitate).
- (3) Destruction.
- (4) Recycle (items with little or no value).
- (5) Discard (items with little or no value).
- (6) Other claims of ownership (civil, pawn, insurance company, etc.).
- (7) Donations (local charity).

(8) Conversion to departmental training/education or operational use (requires approval from the appropriate Assistant Commissioner).

c. Frequency of Purging. Purging of evidence is a frequent, ongoing process. Evidence officers should purge evidence on a weekly basis. Daily purging is advisable in Area offices with a significant volume of evidence. The status of cases shall be checked as described below. Remember to check the status for **all** defendants and **all** charges. This requires a thorough check of court records.

(1) The case status of misdemeanor or infraction evidence shall be checked six months after booking. Thereafter, the case status shall be checked every six months, at a minimum.

(2) The case status of felony evidence shall be checked one year after booking. Thereafter, the case status shall be checked annually at a minimum.

(3) Document in the evidence RMS case file the last time the case status was checked and any pertinent information regarding its status.

d. Decline of Cases by Prosecutor. If the appropriate prosecutor declines to file a case with associated evidence, the court officer shall alert the evidence officer within two working days of receiving such notification. Prior to purging any associated items to the case, the evidence officer shall communicate with the investigating officer to ensure that further investigation will not be conducted in order to refile the case. The evidence may be disposed of after receiving notification the case has been rejected and confirming with the investigating officer no further action will be taken on the case.

e. Adjudication Records. Adjudication records **shall** be forwarded to the evidence officer within two working days of receipt by the court officer.

f. Adjudicated Cases. Adjudicated case evidence shall continue to be held until the period for appeals has expired as follows:

(1) Felonies: 90 days.

(2) Misdemeanors: 60 days.

(3) Juvenile cases: 90 days.

NOTE: After the time period for appeals has expired, evidence officers confirm with the appropriate court an appeal has not been filed prior to purging any items.

g. Diversion. If a defendant was granted diversion, the evidence shall be held for the duration of the diversion period, unless otherwise directed by the court. The status of the diversion shall be checked with the court prior to purging the evidence. If the diversion is not completed, an authorization to purge the evidence shall be obtained from the court. Some cities and counties require the suspect to plead guilty in order to qualify for a diversion program, in which case the court may allow destruction of the evidence even if the suspect does not complete the program. The Area commander should confirm the court procedure for each county within their jurisdiction and annotate it within the Area's standard operating procedures.

h. Unknown Suspect. In the event a suspect is not known, there is no reasonable chance a suspect will be identified, and no further investigation is being conducted, the evidence may be disposed of with the concurrence of the investigating officer **and** a supervisor after the statute of limitations has been observed.

i. Statute of Limitations. Evidence for cases pending adjudication shall be held for the time prescribed by law. These time limits, also known as statutes of limitations, are primarily described in PC Sections 799-805. Some of the most common time limits are listed below. Be sure to confirm the statute of limitations prior to purging any items belonging to cases where a suspect has been identified but has not been charged. Arrest warrants such as John Doe warrants and Ramey warrants toll the statute of limitations.

(1) Offenses punishable by death or life imprisonment without the possibility of parole; or offenses involving the embezzlement of public money or falsification of public documents: **hold indefinitely**.

(2) For a felony offense described in PC Section 261(a)(1), (2), (3), (4), (6), or (7): **hold indefinitely**.

(3) For felony offense described in PC Section 264.1: **hold indefinitely**.

(4) For a felony offense described in PC Section 286(c)(2) or (3), or Section 286(d), (f), (g), (i), or (k): **hold indefinitely**.

(5) For a felony offense described in PC Section 288(a) involving substantial sexual conduct as defined in Section 1203.066, or Section 288(b): **hold indefinitely**.

(6) For a felony offense described in PC Section 288.5: **hold indefinitely**.

(7) For a felony offense described in PC Section 288(c)(2), or Section 288(d), (f), (g), or (i): **hold indefinitely**.

(8) For a felony offense described in PC Section 289(a), (b), (d), (e), or (g): **hold indefinitely.**

NOTE: The statute of limitations described in paragraphs 4.i.(2) through 4.i.(8) apply to crimes committed on or after January 1, 2017, and to crimes for which the statute of limitations that was in effect prior to January 1, 2017, was not expired as of January 1, 2017.

(9) Felony sexual offenses not previously mentioned: **hold for ten years after the commission of the offense.**

(10) For a violation of PC Section 311.4(b): **hold for ten years from the date of production of the pornographic material.**

(11) Offenses punishable by imprisonment of eight years or more: **hold for six years after the commission of the offense.**

(12) For a violation of the California Vehicle Code (CVC) Section 20001: **hold for six years after commission of the offense.**

(13) For a violation of PC Section 192(c)(1), or (2): **hold for six years after commission of the offense.**

(14) For PC Section 368 felonies (except theft or embezzlement): **hold for five years.**

(15) Offenses punishable by imprisonment in state prison: **hold for three years after the commission of the offense.**

(16) Misdemeanors/infractions (except PC Section 647.6, Business and Professions Code [BPC] Section 729, as well as a misdemeanor violation of Chapter 9 [commencing with Section 7000] of Division 3 BPC): **hold for one year.**

j. Non-adjudicated Cases. Before disposal of evidence in non-adjudicated felony and misdemeanor cases after the statute of limitations has expired, the evidence officer shall conduct a warrant check on all the involved defendants to determine if there are outstanding arrest warrants related to the case. If there are outstanding warrants, the evidence shall continue to be held. If there are no outstanding warrants, the district or city attorney's office shall be contacted to determine if the evidence may be disposed of. Evidence from infraction cases shall generally be disposed of after 12 months from the date of arrest, rotating monthly, unless there are extenuating circumstances such as a warrant. Check with the appropriate court to determine if the items may be disposed.

k. Appealed Cases. Cases on appeal should have their court records flagged as being on appeal. Evidence on these cases will be held until final adjudication.

l. Early Release of Evidence. The court may order the release of an item prior to the final determination of a case. The request shall be made to the court by the owner and certain requirements shall be met before the court will order the item returned. Prior to any release, the court will require a complete photographic record of the item. The photographs shall be of sufficient detail to show brand names, model numbers, unique marks, distinguishing characteristics, and serial numbers.

m. Stolen or Embezzled Property, Photographic Release. Penal Code Section 1413 allows for a victim or any other person who may have a claim to the property request that stolen or embezzled property booked into evidence be returned before the adjudication of a case. Every effort will be made to accommodate such a request. However, no release may take place without the approval of the court. If the court gives approval for the early release, follow the procedures listed below for returning stolen property to the owner. Stolen or embezzled property may be released to the lawful owner upon proof of ownership and proof of identification subject to the following conditions:

(1) The owner shall apply for the release of the property with the court. The court's order of return shall be uploaded into the evidence RMS case file.

(2) The owner shall provide proof of ownership and satisfactory proof of identity. Both documents shall be upload into the evidence RMS case file.

(3) Inquire with the owner if the property was insured at the time of loss and whether or not a claim was filed. If the property was insured and a claim filed, request that a letter from the insurance company be provided showing no claim of ownership by the carrier.

(4) A CHP 36G, Notice of Claim of Ownership Stolen or Embezzled Property, and a copy of the proof of ownership shall be sent by **certified mail, return receipt requested**, to the last known address of the person from whom the property was taken. If the **suspect** waived their rights at the time of arrest, as indicated by the suspect's signature on the CHP 36, no notice is necessary.

(5) If a CHP 36G is sent, the property shall be held an additional 15 days to allow the person from whom the property was taken reasonable time to respond.

(6) If the suspect from whom the property was taken does not exert a claim of ownership, the property shall be returned to the owner. If the suspect wishes to claim ownership, they shall file an application with the court within 15 days of receipt of the CHP 36G for the issue to be heard.

(7) The owner shall sign the declaration of ownership on the Chain of Possession portion of the CHP 36. A copy of the CHP 36 can be printed from the evidence RMS case file or Forms directory of the CHP Intranet site.

(8) The evidence officer, in compliance with PC Section 1413, shall make and retain a complete photographic record of the property prior to release. The photo shall have sufficient detail to show brand names, model numbers, unique marks, distinguishing characteristics, and serial numbers. Include the property control number in the photo. The photo(s) shall be uploaded into the evidence RMS case file.

n. Evidence Obtained by Search Warrant/Court Ordered Release. Items seized pursuant to a search warrant are the property of the court and may only be disposed of by court order (PC Section 1536). When a case has been adjudicated, the court can order the release/disposition of an item. If the court does not make such an order, a request shall be submitted to the court to properly dispose of items seized by a search warrant unless the search warrant contained a clause releasing custody of the items to the Department for proper disposition following adjudication.

o. Items Retained by an Outside Entity. Evidence of biological or controlled substances released to a county or city laboratory that retains and destroys such items in accordance with their policy shall be considered as permanently released evidence to that laboratory. The evidence RMS case file shall be updated to reflect the item's status once the analysis report is received from the laboratory. The analysis report shall be uploaded into the evidence RMS case file and a copy provided to the court officer. In the event a laboratory returns the evidence to the Area office after the evidence RMS case file has been closed, the record shall be reopened, and a notation made explaining the change in the item's updated status.

5. PROPERTY. Property shall be retained and disposed of as required by law. The disposition of property is covered generally in PC Sections 1407-1413, Civil Code (CC) Sections 2080.1-2080.10, CVC Sections 2414 and 2415, and HPM 11.2, Chapter 13.

a. Purging Property. Methods for disposal of property are similar to those for evidence:

- (1) Returned to the owner/finder.
- (2) Sale or Auction (items will be sent to the SSU to facilitate the disposal).
- (3) Destruction.
- (4) Recycled (items with little or no value).

- (5) Discard (items with little or no value).
- (6) Donations (local charity).
- (7) Conversion to departmental training/education or operational use (requires approval from appropriate Assistant Commissioner).

b. Lost and Found Property.

(1) Return to Finder. If the finder would like to claim the item (including found money) and the owner cannot be located, the following steps shall be adhered to:

(a) Found firearms and nuisance weapons are never returned to the finder. Refer to Chapter 11 of this manual for proper disposition of these items.

(b) Civil Code Section 2080.3 prohibits employees of the Department from claiming property found during the course of employment.

(c) If the value of the property is less than \$250 and remains unclaimed after 90 days, it may be given to the finder. If the value is more than \$250 and remains unclaimed after 90 days, the evidence officer shall place an advertisement describing the property in a local newspaper of general circulation for one day. Prior to placing the advertisement, the finder shall be advised of their obligation to pay for the advertising cost before the item will be released to them. If the item is still unclaimed after 7 days from the date of public notice, it shall be given to the finder after payment for the advertising cost is received.

(d) Photo identification is required. Upload a copy of the identification into the evidence RMS case file.

(e) If, following the 90-day retention period, the owner of an item cannot be located and the finder does not want to make a claim to the item, then it may be disposed of using the remaining available methods listed in paragraph 5.a. of this chapter.

(2) Return to Owner. Property may be returned to the owner upon proof of ownership and proof of identification. Upload copies of both into the evidence RMS case file.

(a) A store receipt is the best proof of ownership. However, satisfactory proof of ownership might be the owner's ability to describe the property, especially its distinguishing marks. Descriptions of the date, time, place,

and circumstances of the loss, which correspond with the found property report (digital CHP 36 and evidence RMS case file), would be satisfactory. Document the owner's statement and have it signed by the owner. Upload the document into the evidence RMS case file.

c. Safekeeping. Property held for safekeeping will be assumed to belong to the person from whom it was seized, absent evidence to the contrary.

(1) Upon receipt of the property that may be released to the owner, the evidence officer shall mail to the owner a property letter via first-class mail. Note in the evidence RMS case file the date the notice was mailed. Contact the Internal Affairs Section (IAS), Evidence Unit, or Division Property and Evidence Program Coordinator for a sample property letter.

(2) Civil Code Section 2080.10 requires that property be held for 60 days before disposal. Within the 60-day period, the person from whom the property was taken, or the owner may do one of the following:

(a) Retrieve the property.

(b) Authorize, **in writing**, another person to retrieve the property.

(c) Notify the Department, **in writing**, that they are unable to retrieve the property and request the Department to hold the property. If a person notifies the Department, they are unable to retrieve the property within 60 days or will designate an authorized person to retrieve the property on the owner's behalf, the Department shall hold the property for an additional ten months for a total retention **not to exceed 12 months** (60 days + ten additional months).

(3) Should the owner fail to claim their property following the notification and the 60-day retention period, or 12-month retention period if they made a request for the Department to hold the property beyond the initial 60 days, then it may be disposed of using the remaining available methods listed in paragraph 5.a. of this chapter.

d. General Considerations for Returning Property.

(1) When returning property to an individual, upload a copy of the person's identification into the evidence RMS case file or photograph the person's identification using the evidence RMS iPad. When possible, take a photograph of the person along with the item being returned and attach it to the evidence RMS case file. The signature of the person taking possession of the property shall be captured on the evidence iPad.

(2) If someone is picking up property on behalf of the owner, written authorization from the owner giving that individual permission to pick up the property is required. The original written authorization shall be uploaded into the evidence RMS case file in addition to the identification of the person to whom the property is released. The signature of the person taking possession of the property shall be captured on the evidence iPad.

(3) Property may be shipped if the owner lives closer to another Area office. Contact the closest Area office to the owner and make arrangements for the return of property. The owner shall prepay the shipping cost prior to shipping the property to the receiving Area. The originating Area will check out the item to the receiving Area in the evidence RMS case file. The receiving Area will return the property to the owner upon verifying and copying the owner's identification or and having the owner sign the evidence RMS case file chain of custody. The receiving Area will upload the copy of the owner's identification into the evidence RMS case file. The receiving Area will make the final disposition in the evidence RMS case file.

6. GUIDELINES FOR PROCESSING SPECIFIC ITEMS.

a. Administrative Evidence. Administrative evidence is evidence booked for use in administrative proceedings, civil litigation, civilian complaints, or disciplinary action taken against a departmental employee. Evidence used in administrative, court, or Departmental proceedings will be retained until the proceedings have been completed and the period for appeal, if applicable, has expired. The Department has determined administrative evidence is required to be held for a defined length of time, based on the type of item/incident, before being eligible to purge. Prior to purging, contact the appropriate Office of Primary Interest for approval.

b. Threshold Incidents. **All** evidence retained from threshold incidents as defined in HPM 100.86, Risk Management Manual, Chapter 1, Risk Management Response Protocol, (e.g., on-duty officer death, shooting, on-duty traffic collisions with serious injury to a member of the public, electronic control device deployments with serious injury to a subject) and incidents which may result in civil liability for the Department shall be held at the Area for at least ten years, unless otherwise specified by the IAS, the Employee Health and Wellness Section, Risk Management Unit (EHWS, RMU), or the Office of Legal Affairs (OLA). Threshold incidents that involve criminal prosecution and result in a subject's incarceration shall be held for ten years or the length of incarceration of the subject, whichever is longer. Prior to releasing any evidence held as a result of a threshold incident to an allied agency, district, or city attorney's office, contact the IAS, the EHWS, RMU, and the OLA for guidance. The evidence officer shall determine if any civil litigation is pending prior to purging the evidence. Approval shall be obtained from the

EHWS, RMU prior to purging any evidence from a threshold incident by sending an e-mail to RiskManagementUnit@chp.ca.gov with the following information:

- (1) Area number, date of the incident, and time of the incident. This information should coincide with information listed on the corresponding CHP 216, Arrest-Investigation Report.
- (2) Name(s) and ID number(s) of involved officer(s).
- (3) Name(s) of involved subject(s).
- (4) The Area commander shall be included on the e-mail copy.

c. Non-threshold Incidents. Evidence held as a result of a non-threshold incident shall be retained for a minimum of five years. Approval shall be obtained from the EHWS, RMU prior to purging any evidence from a non-threshold incident by sending an e-mail to RiskManagementUnit@chp.ca.gov with the following information:

- (1) Area number, date of the incident, and time of the incident. This information should coincide with information listed on the corresponding CHP 216.
- (2) Name(s) and ID number(s) of involved officer(s).
- (3) Name(s) of involved subject(s).
- (4) The Area commander shall be included on the e-mail copy.

d. Civilians' Complaint. Administrative evidence held in association with a Civilians' Complaint shall be held for a minimum of 5 years before being eligible for purging. Contact the OLA for confirmation there is no pending litigation related to the case. Approval shall be obtained from the OLA by sending an e-mail to OfficeofLegalAffairs@chp.ca.gov with the case information (name[s] of the complainant[s] and the involved officer[s]) in order to check the status. The e-mail shall include a carbon copy to the Area commander. The evidence officer may need to obtain the information from a supervisor or management for records only accessible by them. If case information is not readily available after inquiring with a supervisor or management, contact the IAS, Evidence Unit, for suggestions on how to proceed.

e. Administrative Investigation. Administrative evidence held in association with an administrative investigation shall be held for a minimum of five years before being eligible for purging. Administrative investigations that were converted to a miscellaneous investigation in which the employee received informal discipline should be retained for a minimum of three years. Contact the OLA for confirmation there is no pending litigation related to the case. Approval shall be obtained from

the OLA by sending an e-mail to OfficeofLegalAffairs@chp.ca.gov with the case information (name[s] of the involved officer[s]) to check the status. The Area commander shall be included on the e-mail copy. The evidence officer may need to obtain the information from a supervisor or management for records only accessible by them. If case information is not readily available after inquiring with a supervisor or management, contact the IAS, Evidence Unit, for suggestions on how to proceed.

f. Multidisciplinary Accident Investigation Team Evidence. Multidisciplinary Accident Investigation Team (MAIT) evidence shall be retained based upon the circumstances of its acquisition. Evidence booked by MAIT personnel in order to support or supplement cases involving criminal charges shall be retained for the time period necessary to complete the adjudication process as described in paragraph 4. of this chapter. Evidence booked by MAIT personnel as part of a threshold incident shall be retained and purged based on the process outlined in paragraph 6.b. Other cases involving evidence booked by MAIT personnel will be eligible for purging when all other evidence from the corresponding criminal cases are eligible. Prior to disposal, the evidence officer shall contact, via e-mail, the appropriate Division MAIT supervisor for approval. The MAIT supervisor will perform a check to ensure there is not any pending litigation that would necessitate an extension of the retention time for the items. The response, via e-mail, for approval or denial to purge shall be printed and uploaded to the evidence RMS case file. A response denying approval shall include a specified length of time for additional retention of the evidence. After this time period, the evidence officer may check the status. The evidence officer shall also e-mail the OLA for confirmation there is no pending litigation. The e-mail shall include a carbon copy to the Area commander.

g. Ammunition. Refer to Chapter 11 of this manual for proper return or disposal.

h. Biological Material Booked as Evidence. Any object or material that contains or includes biological material used to convict any person of a crime shall be retained by the Area for the duration of the incarceration of an individual (Section 1417.9 PC). Biological evidence includes blood, semen, saliva, vaginal secretions, fecal matter, hair, urine, skin, tissue, and bone. This material may include DNA samples from suspects, victims, and anyone else relevant to the investigation. The evidence may be destroyed earlier if all the following conditions are satisfied:

(1) The evidence officer or their designee notifies the person who is incarcerated (notification shall be sent to the current location where the person is incarcerated), any counsel of record, the public defender in the county of prosecution, the district or city attorney in the county or city of prosecution, and the Attorney General of the intention to destroy the biological evidence.

(2) The Department does not receive, within 180 days of sending the notification, any of the following:

- (a) A motion filed pursuant to PC Section 1405.
- (b) A request under penalty of perjury that the evidence not be disposed of or destroyed because a motion pursuant to PC Section 1405 will be filed. The declarant will have one year from the time the request is made to file the motion unless an extension is requested and agreed to by the Department.
- (c) A declaration of innocence is made within one year of judgement of conviction, and the court determines the declaration is false.

(3) No other provision of law requires that the biological evidence be preserved or retained.

i. Cannabis and Concentrated Cannabis.

(1) Booked as Property. The release of cannabis and concentrated cannabis booked as property for safekeeping shall be in compliance with the legally defined amounts capable of being possessed by the individual seeking its return. Additionally, commands shall adhere to the following procedures for the release of cannabis stored as property:

(a) Recreational Cannabis and Concentrated Cannabis. Verify the individual seeking the item's return is legally capable of its possession by checking their valid identification card to ensure they are age 21 or older. Take a photograph of the valid identification card and attach it to the evidence RMS case file. The evidence officer shall capture the signature of the individual taking possession of the cannabis by having them sign the evidence RMS case file on the iPad.

(b) Medicinal Cannabis and Concentrated Cannabis. Verify the individual seeking the item's return is legally capable of its possession by checking their valid identification card to ensure they are age 18 or older. Using sound professional judgment, determine the validity of the medicinal marijuana document(s) presented by the individual. Acceptable documents for use of marijuana for medicinal purposes are a valid state medical cannabis identification card, a county-issued medical marijuana identification card, or a current physician's recommendation. Refer to HPM 100.69, General Law Enforcement Manual, Chapter 15, Cannabis Laws, Enforcement, and Transportation, for an example of the state-issued medical marijuana identification card. If the Area determines the documentation to be valid, take a photograph of the identification card and other document(s) provided and upload them to the evidence RMS case file. The evidence officer shall capture the signature of the individual

taking possession of the cannabis by having them sign the evidence RMS case file on the iPad.

NOTE: Although medicinal cannabis users shall generally be 18 years of age or older to purchase medical cannabis, persons under 18 years of age may use medical cannabis when provided by a parent or guardian for a medical condition.

(c) Commercial Cannabis. Refer to General Order (GO) 70.16, Cannabis Laws, Enforcement, and Transportation, for information related to cannabis distributors.

(2) Booked as Evidence. A court order of return is needed for the release of cannabis and concentrated cannabis booked as evidence with criminal charges specifically associated with the item(s). Areas shall adhere to the following procedures for the release of marijuana booked as evidence:

(a) Adjudicated Cases. Evidence officers shall inquire with the district attorney in adjudicated cases where there was no criminal conviction related to the cannabis and the court disposition does not provide any specific direction. The order to destroy or return the cannabis shall be received in writing from the court. If the court orders the cannabis to be returned, the evidence officer shall send a property letter to the individual and process the item(s) following the guidelines in paragraph 5.c. of this chapter. If the court orders the cannabis destroyed, process it according to the procedures outlined in Chapter 10 of this manual.

1 If the evidence officer has not confirmed with the district attorney how to address the cannabis and the individual seeks its return, the individual should be advised to file a motion with the appropriate court seeking an order of return for the cannabis. Evidence officers shall make a note in the evidence RMS case file indicating the individual is seeking a court order for return and follow up with the court. Evidence officers shall not process the cannabis for destruction until obtaining specific instructions from the court in these cases. If the individual obtains a court order for return, determine the validity of the court order presented, verify the individual's identity, take a photograph of the identification card and other document(s) provided and upload them to the evidence RMS case file. The evidence officer shall capture the signature of the individual taking possession of the cannabis by having them sign the evidence RMS case file on the iPad.

(b) Rejected or Declined Cases. Evidence officers shall inquire with the district attorney in rejected or declined cases for specific direction whether the cannabis should be destroyed or returned to the individual.

1 If the district attorney does not provide specific direction, release the cannabis consistent with the procedures in this manual.

j. Controlled Substances. Refer to Chapter 10 of this manual for proper disposal.

k. Counterfeit Currency. Counterfeit currency should be sent to the U.S. Secret Service. It shall remain in its packaging and placed in an envelope along with a copy of the evidence RMS case file, a completed SSF 1604, Counterfeit Note Report form, and mailed to the following office:

Bureau of Engraving and Printing
c/o Counterfeit Currency Processing Facility (CCPF)
Room 541-A
301 14 Street, SW
Washington, DC 20228

NOTE: Do not make any notes on the outside of the mailing envelope, such as "Counterfeit Money Inside."

l. Explosives. Turn these items over to an allied agency, fire department, or a bomb disposal unit for destruction. Ensure the agency employee taking possession of the explosives signs the evidence RMS iPad and includes their agency employee identification number with their signature.

m. License Plates. California license plates are the property of the Department of Motor Vehicles (DMV) and shall be returned to the local DMV office. License plates from states other than California should be destroyed locally.

n. Medical Waste. The disposal of medical waste (biological hazardous or biohazard waste) is regulated by law. Disposal is covered by Health and Safety Code (HSC) Division 104 (commencing with Section 117600). All medical waste is to be clearly marked with approved biohazard labels or stored in red biohazard marked bags. Examples of medical waste include bloody clothing, used syringes, blood or urine samples, or any item containing any bodily fluids. This type of waste may only be incinerated. The quantity of this waste generated by Areas is usually very limited.

(1) Blood and urine samples are required to be retained for a period of one year after collection to allow the defendant an opportunity to have their own test conducted. Early adjudication of the case **DOES NOT** relieve the Department of the legal requirement of the one-year retention period. Cases involving the issuance of a warrant shall be retained until the case is adjudicated and the time period for appeals has expired. In felony cases, the local district or city attorney should be consulted to determine final disposition of collected samples. Refer to the California Code of Regulations Title 17, Division 1, Chapter 2, Group 8, Article 4, Sections 1219.1 and 1219.2.

(2) Evidence officers should attempt to make arrangements with a local hospital or crime lab for destruction of the medical waste. If unable to make such arrangements, the Area will arrange with a hazardous waste disposal company, such as Stericycle, to dispose of the medical waste. When transporting medical waste, a CHP 36E, Medical Waste Tracking, shall be completed as required by HSC Sections 118040 and 25163.

(a) Payment may be by X Number. If a contract is required, contact Business Services Section, Contract Services Unit, at (916) 843-3610 for more information.

o. Money.

(1) Money booked as evidence in a criminal case, which has been adjudicated, should have its disposition explicitly noted by the court, whether it is to be awarded or retained by the Department or returned to the person from whom it was seized. If court documents do not specifically detail how to dispose of the money, then the evidence officer shall inquire with the court and obtain written instructions for the disposition of the money. In rejected or declined cases, the money shall be returned to the person from whom it was seized.

(2) Money booked as either safekeeping or found, and the owner is known and can be located, shall be returned to the owner.

(3) If the owner is unknown or cannot be located, the money should be forwarded to the Fiscal Management Section (FMS) as outlined in HPM 11.1, Administrative Procedures Manual, Chapter 4, Miscellaneous Sales – Transmittal of Collections. The evidence officer shall transfer custody to the Area cashier, and the cashier shall sign the chain of possession in the evidence RMS case file. The Area's cashier will issue and provide the white copy of a CHP 251, Counter Receipt, to the evidence officer. The CHP 251 is for the evidence officer's records and shall be uploaded to the evidence RMS case file. The evidence officer will assist the cashier in completing a CHP 230, Transmittal Record, ensuring the money sent to FMS will be placed in the appropriate account. The property control number shall be referenced on the CHP 251 and CHP 230, and a copy of the evidence RMS case file shall be attached to the CHP 230. When the original CHP 230 is returned to the Area from FMS, the evidence officer shall be given a copy to upload into the evidence RMS case file. The CHP 230 will have red initials on the bottom left corner signifying the FMS has confirmed receipt of the funds.

(4) International currency, paper and/or coin shall be forwarded to FMS. The currency should remain in the packaging in which it was booked. The currency will need to be documented on a CHP 266B, in addition to the CHP 230 along with a copy of the evidence RMS case file. When listing the currency on line

11 of the CHP 230, enter \$0.00 for the value. The currency will be taken to a bank by FMS, and the bank will issue the Department a cashier's check for the value. Contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator, for examples of completed forms.

(5) United States (U.S.) currency—paper and/or coin—that is damaged shall be forwarded to FMS if it is not able to be converted by a bank to a cashier's check with other currency for transmittal. It shall be packaged in a plastic tamper resistant evidence bag. The currency will be documented on a CHP 230 and forwarded along with a copy of the evidence RMS case file. When listing the currency on line 11 of the CHP 230, enter \$0.00 for the value. The FMS will send the currency to either the U.S. Mint or the Bureau of Engraving and Printing.

(6) United States currency—paper and/or coin—that is contaminated with hazardous material, such as a controlled substance, blood, or mold, shall be forwarded to FMS. It shall remain in the packaging in which it was booked. The currency will be documented on a CHP 230 and sent along with a copy of the evidence RMS case file. When listing the currency on line 11 of the CHP 230, enter \$0.00 for the value. The FMS will send the currency to either the U.S. Mint or the Bureau of Engraving and Printing.

(7) To have money that has already been sent to FMS returned requires a CHP 51, Memorandum, written by the command and submitted to FMS along with a copy of the corresponding evidence RMS case file and CHP 230 which accompanied the transmittal to FMS. The CHP 51 shall contain the following details:

(a) The reason for the request, such as the return of money which was stored for safekeeping.

(b) Reference the property control number from the evidence RMS case file.

(c) Identify the name to make the check payable to.

(d) Identify whether the check is to be sent to the Area for the person to pick up or indicate an address to which it should be mailed.

NOTE: Advise the individual receiving the money to allow at least two weeks to receive the check.

p. Photographs and Video. Only photographs and video which have evidentiary value for criminal prosecution, civil proceedings (against or initiated by the Department), or administrative proceedings/investigations should be booked into

evidence. All other photographs and video should be stored in accordance with GO 110.8, Processing and Storage of Digital Media. The disposal of photographs and video booked into evidence should coincide with other items associated with the case with the following exception: If a case with photographs and video from a traffic collision has been adjudicated (or was declined/rejected by the district attorney) prior to expiration of the collision report's retention period, the photographs and video shall be removed from evidence and stored with the non-evidentiary traffic collision files as detailed in GO 110.8.

(1) Photographs or video of a traffic collision which were initially booked into evidence, but through the course of the investigation it was determined that no criminal charges would be filed, should be removed from evidence and stored as detailed in GO 110.8. It is incumbent upon the investigating officer to notify the evidence officer in this situation. The evidence officer shall notate in the evidence RMS case file the reason for the removal.

q. Obscene Materials. Obscene materials shall be destroyed in accordance with PC Section 312. Destruction of these materials will be based upon the medium within which they are contained. Destruction of these materials shall be witnessed by a supervisor and documented in the evidence RMS case file. The signature of the witness shall be captured on the evidence iPad updating the chain of possession in the evidence RMS case file.

r. Retention of Death Penalty Items. Items from cases where the death penalty was imposed shall be held at least 30 days after the execution of the sentence (refer to PC Section 1417.1[d][1]). In instances where the death penalty is imposed and the defendant dies while awaiting execution, the items shall be held for at least one year after the date of the defendant's death (refer to PC Section 1417.1[d][2]).

s. Retention of Evidence for Civil Cases.

(1) Retention of Evidence. The Department is under no obligation to preserve evidence for civil suits in which the Department is not a party. Exceptions to this rule may apply, including a court order or a gratuitous promise, for example, an employee promises or implies that evidence will be held for civil litigation.

NOTE: This refers to civil litigation to which the Department is a third party. In other words, the Department is neither a plaintiff nor defendant in the case.

(2) Disposal of Evidence. A letter should be mailed to all parties of interest in the case to advise them of the Department's intent to dispose of the evidence. Ample time should be allowed for the parties to respond with a court order seeking custody of the evidence, or to view the evidence and obtain photos or

a comprehensive description of the item. Contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for a sample letter.

(3) Promising or Implying of Evidence. Employees shall not promise or imply that evidence in a criminal case will be preserved or retained for any other purpose such as future civil action.

t. Serialized Evidence. Records from all serialized evidence, found or recovered property, or property held for safekeeping, in the Department's possession, having been entered into APS, Automated Firearms System (AFS), and CERT, shall be updated upon disposal. Refer to Chapter 11 of this manual, for proper handling of AFS records and their corresponding CERT records. For items sent to SSU that have a record in APS, refer to paragraph 2.c.(2) of this chapter for proper handling. All other items with APS records that are disposed by other means should have the records updated at the time of disposal.

u. Sexual Assault Kits. Sexual assault kits and other evidence from an unsolved sexual assault case shall not be destroyed or disposed of for at least 20 years, or if the victim was under 18 years of age at the time of the alleged offense, before the victim's 40th birthday (refer to PC Section 680[f][2]). A written notification of Area's intent to dispose or destroy a sexual assault kit or other evidence from an unsolved sexual assault shall be mailed to the victim at least 60 days prior to the destruction or disposal (refer to PC Sections 680[f][1] and 680[g]).

v. Departmental Video/Audio Recordings. Routine video shall be destroyed pursuant to Chapter 15 of this manual. For departmental video/audio recordings containing significant events, such as arrests, pursuits, and threshold incidents, contact the IAS, Evidence Unit, or Division Property and Evidence Program Coordinator for the retention schedule.

w. Weapons. Refer to Chapter 11 of this manual for proper return or disposal.

7. RELEASE OF PROPERTY FOR DECEASED, INCAPACITATED, OR JUVENILE PROPERTY OWNER. Prior to releasing any property belonging to a deceased individual, incapacitated individual, or juvenile under guardianship, specific documents shall be provided by the person requesting the item's release. Contact the OLA for any questions.

a. Will. The will designates a personal representative or executor of the deceased's estate. The following items are required to release property to a representative and shall be uploaded into the evidence RMS case file:

(1) Court order appointing the person requesting the property as the executor of the estate.

- (2) Death certificate of the property owner.
- (3) Acceptable identification of the representative.

b. Affidavit for Collection of Personal Property. This is applicable when a deceased property owner has a small estate that will not be probated. This is a notarized document that does not require the approval of a judge. The following items are required to release property and shall be uploaded into the evidence RMS case file:

- (1) A notarized affidavit.
- (2) Death certificate of the property owner.
- (3) Acceptable identification of the person requesting the property.

NOTE: A will or an affidavit for collection of personal property is only effective for a deceased property owner.

c. Trust. Trusts are privately created and, therefore, do not require a court order naming the trustee, which is the person named by the trust to manage the trust property. To release property, the following are required:

- (1) A copy of any of the following: the trust, an abstract of the trust, or a certification of the trust. Whichever document is provided, it should indicate the name and powers of the trustee(s).
- (2) Acceptable personal identification of the trustee(s).
- (3) All documents provided shall be uploaded into the evidence RMS case file.

NOTE: All firearms shall be processed as outlined in Chapter 11 of this manual.

d. Durable Power of Attorney. A Durable Power of Attorney (DPOA) grants a property owner's agent, which is specified in the document, authority to act on their behalf. It is important to read the documents to verify the correct authorities are granted in order for the Department to release the requested items. To release property (except firearms), the following items are required:

- (1) A notarized DPOA granting authority over property transactions.
- (2) Acceptable identification of the person named as an agent.
- (3) All documents provided shall be uploaded into the evidence RMS case file.

e. Conservatorship. A conservatorship is a legal process whereby the court appoints a conservator to make decisions regarding a conservatee. To release property (except firearms), the following items are required:

- (1) A court order appointing the person requesting the property as the conservator of the estate.
- (2) Acceptable identification of the person named as the conservator.
- (3) All documents provided shall be uploaded into the evidence RMS case file.

f. Guardianship. A guardianship is a court order appointing an adult responsibility for the minor's care (person) and/or finances (estate). To release property, the following items are required:

- (1) A court order appointing the person requesting the property as the guardian of the estate of the minor.
- (2) Acceptable identification of the person named as the guardian.
- (3) All documents provided shall be uploaded into the evidence RMS case file.

THIS PAGE INTENTIONALLY LEFT BLANK