

MISSOULA POLICE DEPARTMENT POLICY MANUAL



<i>Subject:</i> PROPERTY DISPOSAL		
<i>Effective Date:</i> 4/25/2018	<i>Original Date:</i> 4/25/2018	<i>Next Review:</i> 4/25/2020
<i>Chapter</i> 12	<i>Policy #</i> 12.40	<i>Distribution:</i> ALL
<i>References:</i> MCA 46-5-307, MCA 46-5-313, Missoula City Council Resolution 8255		

I. Purpose

To establish guidelines for the disposal of evidence, lost/found, abandoned and/or unclaimed property of non-evidentiary value (safekeeping).

II. Policy

All personnel shall safeguard all property within departmental custody. All evidence, lost property, found property, abandoned property and/or unclaimed property of non-evidentiary value (or which no longer has evidentiary value) shall be disposed of according to state statutes, Missoula City Council Resolution 8255 and department policy. Property coming into departmental possession as evidence shall be disposed of pursuant to MCA. Under no circumstances will property that is turned in or seized become property of a department employee.

III. Definitions

Employee: For the purposes of this policy employee refers to all Missoula Police Department personnel and volunteers performing any work for the MPD, who receive or seize property that does not belong to the Missoula Police Department or the City of Missoula.

Evidence: Anything that is used in the commission of a crime, a product of the commission of a crime, documentation of actions during the commission of a crime, documentation of the veracity of an individual person (excluding police reports), or some article or fact that could prove or disprove an allegation or a criminal act in a court of law.

NICS: The National Instant Criminal Background Check System.

Property: Any tangible item or article that is being held by the Missoula Police Department in order to protect it from loss, mishandling, or destruction not utilized in the prosecution of a crime or in an investigation into the commission of a crime.

Safekeeping: Means to keep an item or article in a protected place until it can be safely returned to its rightful owner.

IV. Procedure

A. Responsibilities

1. All employees are responsible for the safe storage of all property and evidence coming into the custody of the Missoula Police Department.
2. All Employees are equally responsible for proper record-keeping and establishing a chain of custody of all property and evidence.
3. Employees shall appropriately log all incoming and outgoing property and evidence, as well as documentation of any auction, retention, or destruction of property and contraband.
4. The Administrative Captain under the authority of the Chief of Police shall be responsible for the management of all property and evidence being held by the Missoula Police Department and shall ensure all employees follow these responsibilities.

B. General procedures

1. Non-evidentiary property shall be held 90 days if the monetary value exceeds \$20 and 30 days if the monetary value is \$20 or less.
2. Non-evidentiary property may be disposed of immediately if it is trash or personal property that is hazardous, perishable, or valueless.
3. The department shall make every reasonable effort to identify and locate owners of property turned into the MPD, to include sending a letter to the last known address of the owner, telephone contact, or checking the Records Management System for residence information.
4. If the owner of the property cannot be located and the property remains unclaimed:
 - a. A finder of property, other than a department employee or member of his or her immediate family, may claim the property within 10 days following the expiration of the 90-day or 30-day period as applicable.
 - b. If a finder of property requests to have the property returned, it shall be documented as a supplemental report and noted in the property section of the case.
 - c. Unclaimed property will be destroyed as allowed or required by local, state or federal law, donated or otherwise sold at public auction to the highest bidder. Unclaimed property may be retained

- by the Police Department for department use if approved by the Chief or his designee.
- d. Notice of destruction, donation, or sale at public auction shall be given by publication one time in the newspaper of general circulation at least 10 days prior to the scheduled destruction, donation, or sale at public auction of unclaimed property with a value in excess of \$20.
 - e. Items with a value under \$20 may be disposed of, donated, or sold at auction following the 30 day waiting period if no owner has been located.
 - f. Auction or destruction shall be the preferred method for disposal of unclaimed property.
 - i. Only property that is difficult to dispose of, due to it being somehow unique or of low value and not readily sold at auction, should be considered for donation.
 - ii. Any property that is donated should be donated to a local non-profit charitable organization.
 - g. Upon proof of legal ownership the property will be returned to its legal owner as set forth in Section IV. D. below.

C. Property held as Evidence

1. Property retained as evidence shall be disposed of in accordance with 46-5-307 MCA and any other applicable State statute or Federal law.
 - a. Evidence held for a case filed in District Court, the Prosecutor must file a petition which meets the requirements set forth in 46-5-307.
 - b. Evidence held for a case filed in Municipal Court does not require a petition.
 - i. The owner of property seized pursuant to a case filed in Municipal Court, has six months from the conclusion of the case to contact the prosecuting attorney to claim the property.
 - ii. An owner who fails to contact the prosecuting attorney's office within six months after the conclusion of the case surrenders the property to the seizing or holding agency and forfeits any right to the property.
 - iii. If an owner claiming property demonstrates proof of ownership and the prosecuting attorney determines the property is no longer needed for prosecution of the case, the property must be returned to the claiming owner.
 - iv. Six months from the conclusion of a case filed in Municipal Court, the Property Clerk must contact the

prosecuting attorney to determine if a claim was filed prior to disposing of the property.

- c. If the evidence has a high monetary value (over \$200) or is a firearm the Property clerk shall attempt to contact the owner by telephone and certified letter at the last known address (if known) prior to disposing of the property.

D. Release of non-evidentiary and lost/found/safe keeping property

1. Non-evidentiary and lost/found property shall be released to the true owner or his agent when claimed.
2. Satisfactory proof of ownership (e.g., serial number, receipts, sales slip, invoice, listed in report as owner) must be presented. In lieu of proof listed above, when an owner can describe a property item in great detail as to color, style, brand, scratches, marks, and condition (characteristics which only the owner would know), property may be released after the person or agent claiming the property signs an affidavit indicating they are the true owner or are a representative of the true owner.
3. Any other person seeking release of property, particularly when a dispute exists about ownership, shall be advised that the property can only be released to them as a result of the following:
 - a. A valid court order.
 - b. Written consent from the City or County Attorney.
 - c. All but one of the parties claiming ownership relinquishes their claims to the property in writing.

E. Disposal of lost, found, and non-evidentiary property

1. The Administrative Sergeant shall oversee and ensure disposal of these items in accordance with procedures specified by law (e.g., advertisement, public sale, deposit of proceeds, retention for MPD use), and will ensure documentation of the disposal is entered properly for each piece of property.

F. Weapons

1. Following all criminal proceedings, legally possessed weapons not ordered confiscated by the court shall be returned to the owner or the owner's agent.
2. Proof of ownership (e.g., serial number, receipts, sales slips or detailed descriptions, identified in police report) shall be required before release.
3. Disposal of contraband weapons shall be according to this policy and any applicable court orders after an NCIC check.

4. Firearms not retrieved by the owners shall be disposed of pursuant to 46-5-313 MCA.
5. A NICS check shall be performed through CJIN/NCIC on any person retrieving any firearm from the MPD including safekeeping and lost/found.

G. Drugs/narcotics

1. Disposal of any drugs will be conducted by the Property Clerk or Crime Scene Technician and the Administrative Sergeant or any other supervisor ranked sergeant or above.

H. Money

1. Any money received from the sale or disposal of lost, found, abandoned and or unclaimed property shall be deposited in the appropriate City of Missoula Account through the Finance Office.