

Property and Evidence

801.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and those persons authorized to remove and/or destroy property.

801.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized Department Storage Facility - A duly designated building, facility, or other location authorized for the storage of property and/or evidence received by the department.

Booking Officer - The sworn officer or civilian employee, who receives property on behalf of the department and is responsible for properly processing, storing, and/or categorizing such property as evidence, found property and/or safe keeping.

Contraband - Any property which is unlawful for a person to use or have in their possession.

Disposal of property - The permanent release and/or lawful destruction of any property received and/or maintained by the department.

Evidence - Any property which may be of value towards resolving any criminal, civil, or administrative investigation or inquiry conducted by the department (or one in which the department is providing assistance), to include any item which may implicate or exonerate any person from an allegation of having committed an unlawful act.

Evidence Property Manager (EPM) - The duly appointed department employee responsible for the overall management and security of any property received, stored, or disposed of by the department, as well as the overall management of the facilities used by the department to receive, process, and store property and/or evidence.

Found property - Any property believed to be lost or abandoned by its lawful owner and has no real or possible evidentiary value, and is not relative to a criminal investigation.

Property - Any item received or otherwise obtained by a sworn or civilian employee of the department for evidentiary purposes, safekeeping, or pending the resolution of any criminal, civil, or administrative proceeding.

Safekeeping of property - The maintaining of property which has no evidentiary value and is lawfully obtained and stored by the department on a temporary basis for safekeeping purposes only.

Temporary Storage Location - Includes any duly designated locker, drawer, or other location authorized by the Administrative Services Division commander for the temporary storage of property and/or evidence received by the department.

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801.2 PROPERTY SECURITY

The EPM shall maintain secure storage and control of all property submitted to the Property Unit. The EPM reports to the Administrative Sergeant and is responsible for the security of all of the property storage areas. Property keys are maintained only by the EPM, the evidence/property assistant, and the designated evidence/property assistant alternate. Those entrusted with the keys to the property storage areas shall not loan property keys to anyone and shall maintain keys in a secure manner.

Any individual entering the Property Room other than the Property Manager must be accompanied by the EPM, the evidence/property assistant, or the designated evidence/property assistant alternate, and must sign in and out on the logbook, giving the date and time of entry and exit, and the purpose, including a specific case number, if applicable.

801.3 GENERAL RULES

- (a) Any employee who comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated locker or storage room, along with the property label, or released and properly receipted to the lawful owner. Care shall be taken to maintain the chain of custody for all evidence.
- (b) All property received or obtained by department personnel shall be categorized in one of the following manners:
 - 1. Evidence
 - 2. Found property
 - 3. Property Maintained for Safekeeping
- (c) All property received by department personnel, regardless of how it is categorized, shall be processed, packaged, and stored in accordance with the department's Property and Evidence Processing Manual, and all other department policies, procedures, or directives relative to the processing, packaging, and storage of property.
- (d) All property received by department personnel, regardless of how it is categorized, shall be properly recorded in the department's evidence records management system (ERMS), and described in detail. Additional information relative to the condition of the property, how and/or why it was received by the department, ownership of the property, the release of any property, etc., shall be properly documented and recorded on the appropriate department forms and within any corresponding case report(s).
- (e) Whenever possible, the appropriate inquiry will be made on all property received by department personnel to determine if it is lost, stolen, etc. The sworn officer or civilian employee receiving the property shall be responsible for making the inquiry and documenting the results within any corresponding case report(s) or on any other applicable department reporting form.
- (f) Where ownership can be established as to found property that has no apparent evidentiary value, excluding contraband, such property may be released to the owner

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without the need for booking. The proper documentation must be completed to document the release of property not booked. The owner shall sign the appropriate form acknowledging receipt of the item.

- (g) Department personnel are not permitted to retain or convert for their personal use any property, regardless of how it is categorized, that they receive through the performance of their duties.
- (h) All property received by the department, to include any found property, shall be purged from the department's storage facilities and/or destroyed in accordance with this policy or other department policies, procedures, or directives relative to the purging and/or destruction of property.
- (i) All department employees and their immediate family members, or any person acting on behalf of a department employee or their immediate family members, are prohibited from having any property received by the department (to include any found property) given or returned to them for their personal use without consent of the Chief of Police.
 - 1. This does not preclude department personnel, their family members, or other acquaintances from obtaining property which has been purged from the department's storage facilities and made available to the general public by way of sale or auction.

801.3.1 PROPERTY STORAGE

All property received by department personnel, including any property placed in a temporary storage location, shall be properly recorded, processed, and stored in the appropriate authorized department storage facility no later than the end of the booking officer's work shift or tour of duty, unless otherwise authorized by a command officer. Employees booking property shall adhere to the following requirements:

- (a) Under no circumstances will property received by department personnel be maintained or stored in a location other than a duly authorized department storage facility, or in an authorized temporary storage location.
- (b) The department's evidence room, located at the main station, shall be the primary location for storing property received by department personnel. Employees will utilize the designated property lockers adjacent to the evidence room to store property until Property Unit personnel takes custody of any such property.
- (c) The property storage lockers and/or other designated area located at the motor vehicle impound building shall be utilized to store any property which is too large to be adequately stored in the the department's evidence room.
 - 1. Motor vehicles, boats, ATV's, trailers, etc., categorized as evidence which requires indoor storage due to evidence processing, shall be stored within the building.
 - 2. Motor vehicles, boats, ATV's, trailers, etc., categorized as evidence, but do not require evidence processing, shall be stored in the motor vehicle impound lot.

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- (d) When an employee places an item in a temporary evidence/property locker they must fill out a placard which identifies the employee's name, date, and case number (if available). In the event an item is going to remain in the temporary storage locker beyond the end of an employee's shift or tour of duty, the placard must also state the command officer who authorized the extended temporary storage. The placard should be locked inside the locker with the property, with the information facing so it is visible from the outside. When the property is removed from the locker the employee should erase the placard and place it back inside the unlocked locker.
 - 1. Biological specimens or other unique items which require special processing and storage as outlined in the department's Property and Evidence Processing manual shall not be stored in the temporary lockers.
- (e) Bicycles classified as found property shall be stored at the storage facility specifically designated for this purpose, which is the 8th Ave. N. storage facility.
- (f) Motor vehicles pending any administrative forfeiture process, or any other item may be stored at 8th Ave. N. storage facility upon the approval of the department's EPM or a command officer.
 - 1. The command officer approving the storage of any property (except bicycles) at this facility shall ensure the EPM receives notice of the storage of such property.
- (g) Whenever property is placed in any of the department's authorized storage facilities other than the department's Evidence Room, regardless of how it is categorized, the booking officer shall provide Property Unit personnel with email notification that such property has been received and where it is being stored.
- (h) Access to any of the department's duly authorized storage facilities shall be limited to department personnel only. Any other person requiring access to any of the department's storage facilities may be granted access, but only after receiving authorization from the EPM or a command officer.
 - 1. This does not preclude other law enforcement officials from entering the department's property storage facilities when accompanied by department personnel.

801.3.2 EVIDENCE

All property categorized as evidence shall be received, processed, packaged, labeled, and stored as described in the department's Property and Evidence Processing Manual.

- (a) Department personnel needing to remove any property stored by the department and categorized as evidence from any of the department's authorized storage facilities shall notify the Property Unit personnel.
 - 1. Property Unit personnel shall be responsible for documenting the release of any evidence, to include which department employee the evidence was released to and for what purpose.
- (b) If evidence is released to a department employee under subpoena or court order, Property Unit personnel shall obtain a copy of the subpoena or court order prior to releasing the evidence.

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- (c) All evidence which is released to department personnel under a subpoena or court order shall be accounted for by Property Unit personnel.
 - 1. Property Unit personnel shall issue a receipt and have it signed by the sworn officer or civilian employee taking custody of the evidence prior to the evidence being released.
 - 2. Evidence released to department personnel under these circumstances shall be returned to the Property Unit as soon as practical and without undue delay.
- (d) If for any reason, the custody of any property stored by the department and categorized as evidence is transferred to another person after being released to a sworn officer or civilian employee by the Property Unit, the sworn officer or civilian employee transferring custody of the evidence shall confirm the person's identity and obtain the person's signature on the receipt.
 - 1. The sworn officer or civilian employee transferring custody of the evidence to another person shall legibly record that person's name, and the date and time of the evidence transfer on the receipt and return it to the Property Unit as soon as practical.

801.3.3 FOUND PROPERTY

Property, with the exception of found firearms and bicycles, received or obtained by department personnel and categorized as found property shall be properly recorded and described in detail on the Found Property Report/Receipt form.

- (a) When an employee takes possession of a found firearm the employee will be required to complete a case report for "Found Property Guns", and the employee will complete and submit the Fargo Police Firearms Information form. [See attachment: Fargo Police Firearms Information Form Fillable.pdf](#)
- (b) When an employee takes possession of a found bicycle the employee will only need to complete the Community Service Officer (CSO) intake form.
- (c) Department personnel receiving any property categorized as found property shall examine the property in an attempt to identify an owner and to ensure the property does not pose a hazard. If the property can lawfully be returned to the owner, the sworn officer or civilian employee receiving the found property shall make a reasonable attempt to contact the owner and immediately return the property, and have the owner sign the property report/receipt form. If the property cannot be immediately returned to the owner, the found property shall be processed, packaged, and stored in accordance with the department's Property/Evidence Manual.
- (d) If applicable, a copy of the department's Found Property/Receipt form shall be provided to a person who delivers or presents to the department any property categorized as found property.
 - 1. The person delivering the property to the department shall be informed that they may make a request to have the property returned to them if the department is unable to identify and/or located an owner within 60 days of the property being received by the department.

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2. Property which will not be returned to a person making any such request includes, but is not limited to;
 - (a) bicycles/tricycles,
 - (b) any gambling apparatus,
 - (c) explosives,
 - (d) alcoholic beverages,
 - (e) unsanitary or potentially contaminated clothing or other contaminated items,
 - (f) firearms,
 - (g) knives,
 - (h) wallets,
 - (i) cellular phones,
 - (j) computers,
 - (k) any item which poses a potential threat to the health or safety of the public, or
 - (l) any item which may contain any personal identification information of another person.

801.3.4 PROPERTY MAINTAINED FOR SAFEKEEPING

Any property received or otherwise obtained by department personnel and categorized as maintained for safekeeping purposes, shall be properly recorded within a corresponding case report.

The department's Property for Safekeeping Receipt shall be issued to the owner of the property at the time the property is received.

Any property maintained by the department for safekeeping purposes shall be released to the owner upon request unless it's unlawful for the owner to possess or reclaim the property. All firearms require a background check by a detective/admin officer prior to releasing the firearm back to the owner. The department's Property Unit personnel shall be responsible for the release of property maintained by the department for safekeeping.

801.3.5 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be processed in accordance with the department's Property and Evidence Processing Manual.

801.3.6 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify an immediate supervisor or the Shift Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

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Explosives (including fireworks), flammables, or other hazardous materials will not be retained in the police facility. Flammables or other hazardous materials shall be stored in accordance with the departments Property and Evidence Processing Manual and stored in the Hazardous Materials Storage facility. Commercial grade fireworks and explosives will not be stored in the Hazardous Materials Storage facility. They need to be handled and stored by the bomb squad at their storage facility, if not immediately destroyed.

801.3.8 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) **Sexual Assault Evidence Collection Kits refer to Policy 606 Sexual Assault Investigations and/or the FPD Evidence Processing Manual for guidance.**
- (b) Any evidence collected which may contain DNA, requires a ND Crime Lab DNA Information sheet which is completed by Criminal Investigations Division (CID) personnel. Additionally, DNA analysis is limited to three items per case unless prior approval is obtained from the ND Crime Lab..
- (c) Property stained with bodily fluids such as blood or semen shall be air-dried, preferably in the air drying unit, prior to booking.
- (d) All cash shall be manually counted or utilizing a currency counter, in the presence of another officer and independently verified by the second officer. The currency will be packaged in a currency envelop and the envelope will be signed and initialed by the booking officer. This includes currency from inside wallets, purses, and backpacks.
- (e) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should refer to the Property and Evidence Manual for guidance, and notify the Property Unit via email of any special requests for evidence processing by the ND Crime Lab.
- (f) Items which are potential biohazards shall be appropriately packaged and marked as such to reduce the risk of exposure or contamination.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

801.3.8 EVIDENCE SUBMISSION TO STATE CRIME LAB

General evidence submissions such as controlled substances and drug paraphernalia will continue to be submitted to the crime lab by the Evidence/Property Unit upon receipt of written request by the City Attorney/Prosecutor's office, the State Attorney's office, or the investigating officer. DUI blood samples will continue to be submitted to the crime lab by having the arresting officer mail the samples directly to the crime lab.

801.3.9 REQUIRED LAB FORMS

Submissions for analysis, with the exception of controlled substances and drug paraphernalia as mention in section 801.3.8, require the proper forms to be filled out, which are located on the N.D.

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Attorney General's website ([ND Crime Lab General Forms](#)). Do not use old forms. To ensure the most recent forms are used, retrieve them from the website. All forms must be completely filled out with every question answered. If the question does not pertain to the case, put Not Applicable or N/A. If there is not enough space in the box to answer the question, attach an additional page. If information cannot be obtained, list "Unknown" in the box. Narrative sections need to be detailed. Incomplete forms will not be accepted.

Parties requesting any new exhibit submissions from a case where other items have already been analyzed, re-submissions of previously submitted exhibits for re-analysis, or additional analysis must include the ND Crime Lab's unique case number which was assigned upon the original submission. The ND Crime Lab case number can be found on the receipt from the original submission which will have been scanned to the case in Laserfiche. This original ND Crime Lab case number must be included regardless of which evidence submission form is used.

FPD Evidence Submission for Laboratory Analysis form

Evidence requiring specific analysis, with the exception of DNA and latent fingerprint analysis, will be submitted to the crime lab only at the direction of the assigned detective using the FPD Evidence Submission for Laboratory Analysis form. The detective will submit the completed documentation to their respective supervisor, who will review the documents, and forward to the EPM. The Evidence/Property Unit will be responsible for submitting the specified evidence to the crime lab only upon receipt of these forms from a CID supervisor. This form is not a crime lab form, but rather is a department form. This form needs to be completed for all submissions to the crime lab, though submission for DNA for latent print analysis requires additional forms as indicated within this subsection.

The FPD Evidence Submission Laboratory Analysis form for non-DNA evidence already includes the Records Unit email address, but the submitting detective will be required to provide their work email address in the "Copies to Case Detective" field on the form.

[See attachment: LAB EVIDENCE SUBMISSION FORM.pdf](#)

ND Crime Lab DNA Evidence Information sheet (SFN59915)

This state form is required for DNA evidence submissions for analysis by the State lab. The FPD Evidence Submission for Laboratory Analysis form is not required to be submitted for DNA evidence analysis. The investigating detective will be required to insert "Fargo Police Department (records@fargond.gov)" in the submitting agency field as well as their own name and work email in the "Investigating Officer/Contact" field on this form.

The detective will submit the completed documentation to their respective supervisor, who will review the documents, and forward to the EPM. The Evidence/Property Unit will be responsible for submitting the specified evidence to the crime lab only upon receipt of these forms from a CID supervisor.

The submitting detective must specify on the submitted forms what specific analysis is being requested relative to each submitted exhibit. The exhibit and the requested analysis will be

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adequately described in the designated locations on the form. A supplemental report will be completed summarizing what evidence has been submitted and the requested analysis.

ND Request for latent Print Examination (SFN60404)

This state form is required for latent fingerprint submissions for analysis by the State lab. The FPD Evidence Submission for Laboratory Analysis form is not required to be submitted for latent fingerprint analysis. To assist the lab technicians, provide information on total monetary loss and/or potential threat to public safety on the form. Information on the orientation of the prints are requested for every lift. A sketch to help with orientation can be made on the back of the form.

ND Request for Case Prioritization (SFN60165)

This form is required in addition to the FPD Evidence Submission for laboratory Analysis form and will be completed only if there is urgency in the investigation. These requests must be done in writing on this form rather than emails, phone calls, or other correspondence. It should be completed by the detective in charge of the case and must be signed by a CID supervisor.

If prosecutors need a rush on a request, the lab would like the form to be completed by the prosecuting staff and signed off by their supervisor. Prosecutors may need to be directed to the location of the forms on the Attorney General's website.

801.4 RIGHT OF REFUSAL

Property Unit personnel have the right to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should Property Unit personnel refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker, or other safe location and inform the submitting officer and his/her supervisor.

The submitting officer shall make the necessary corrections on their first work shift after the correction notice was sent by a member of the Evidence/Property Unit.

801.5 PACKAGING OF PROPERTY

Packaging will conform to certain procedures as described in the FPD Property and Evidence Processing Manual.

801.6 RECORDING OF PROPERTY

All property received in custody of the Property Unit, regardless of the category, will be recorded through data entry in the department's ERMS. All items must have a bar code label bearing a unique, identifiable tracking number, a detailed description, the location and date it was received, and the submitting officer's name and computer number.

All changes in the location of property held by the department shall be recorded within the chain of custody section of the ERMS or within the narrative of the handling officer's report.

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801.7 PROPERTY CONTROL

Each time Property Unit personnel receives property or releases property to another person, he/she shall enter this information in the ERMS under the applicable case number. Officers desiring property for court shall contact Property Unit personnel at least two business days prior to the court day.

801.7.1 TRANSFER OF EVIDENCE TO CRIME LABORATORY

Transfer of evidence items to a laboratory for analysis will be accurately documented within the chain of custody section of the ERMS. Documentation required by the lab must be properly completed and submitted to the Property Unit for transfer with the evidence. Evidence may be transferred to the lab via certified mail through the USPS with return receipt or via hand to hand delivery by an on-duty department member utilizing a department vehicle.

With the exception of the transfer of toxicology samples related to DUI cases, all transfers of evidence to a laboratory for analysis shall be arranged and facilitated only by the Property Unit staff following established procedures within the Property Unit.

801.7.2 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of custody. Temporary release of property to officers for investigative purposes, or for court, shall be noted in the ERMS, stating the date, time and to whom it was released.

The Property Manager shall obtain the signature of the person to whom property was released and the reason for release. Any employee receiving property shall be responsible for such property until it is returned to the Property Room or released to another authorized person or entity, and obtaining a signed receipt of that transfer.

The return of the property should be recorded within the ERMS, indicating date, time and the person who returned it.

801.7.3 AUTHORITY TO RELEASE PROPERTY

Property Unit personnel shall not release any property being retained for evidentiary purposes or pending the resolution of any criminal, civil, or administrative proceeding without a signed authorization from an appropriate authorized member of the Department. The respective assigned case officers/detectives shall authorize the disposition or release of all evidence and property relative to their assigned cases coming into the care and custody of the Department.

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, Property Unit personnel shall, upon the request of the owner and with the written approval from the case detective/officer:

- (a) Provide a list describing the property, unless such release would impede an investigation.
- (b) Return the property expeditiously, unless the property is contraband or required as evidence.

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Officers or detectives, who have taken custody of property/evidence of crime, may photograph and release the property to the owner. When in doubt if the property should be released to the owner, the officer/detective should consult with their supervisor or prosecuting attorney.

Personnel assigned to the Evidence Room may return or dispose of any found property or safekeeping property, with the exception of firearms, in accordance with this policy without obtaining written authorization.

801.7.4 RELEASE OF PROPERTY

A reasonable attempt shall be made to identify the rightful owner of found, stolen property, or evidence not needed for an investigation, and immediately return such property to the owner. Any evidence taken by an officer which will not be submitted to the Property Unit, but rather returned to the rightful owner, the officer shall issue a Property Inventory Report/Receipt to the owner.

Property belonging to a crime victim shall be promptly released to the victim unless needed for evidence within 10 days of being taken or recovered, or as expeditiously as possible, unless the property is contraband or otherwise excluded (N.D.C.C. § 12.1-34-02(9)).

Release of property within the Property Unit shall be made upon receipt of an authorized transfer receipt, listing the name and address of the person to whom the property is to be released. The release authorization shall either be submitted to the Property Unit via email or signed disposition form by the authorizing supervisor or detective/officer, and must conform to the items listed on the property label, or must specify the item to be released. Release of all property shall be properly documented within the department's ERMS.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 60 days. During such period, property personnel shall attempt to contact the rightful owner by mail when sufficient identifying information is available.

Property Unit personnel shall release the property to the owner or finder, upon valid identification and proper documentation presented by the owner or finder, for which an authorized release has been received. The owner or finder may be required to pay any costs incurred by the agency, such as costs for advertising or storage. Upon release or other form of disposal, the proper entry shall be recorded in the ERMS. A signature of the person receiving the property shall be recorded.

801.7.5 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property that is in the custody of this department shall be restored to the legal owner upon receipt of a court order (N.D.C.C. § 29-01-21). However, goods used for personal, family or household purposes or property that is covered by a certificate of title may be released to the legal owner without necessity of a court order (N.D.C.C. § 29-01-20).

The Department shall deliver stolen or embezzled property that has not been claimed by the owner within six months following the conclusion of criminal court proceedings to the county treasurer. Property that is not money shall be sold and the proceeds paid to the City of Fargo Finance Office.

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801.7.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or establishes proof of the undisputed right to the property (N.D.C.C. § 12.1-34-02(9)).

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.

801.7.8 RELEASE AND DISPOSAL OF FIREARMS AND AMMUNITION

Under no circumstances should any firearm be returned to any individual unless and until such person presents valid identification and proof that the individual may legally possess such items.

Pursuant to a court order, a forfeited dangerous weapon may be sold at public auction, sold or traded to other law enforcement agencies or dealers, retained for use or destroyed (N.D.C.C. § 62.1-01-02).

The investigating officer/detective shall determine if a firearm has been lost by, stolen from or otherwise unlawfully obtained from an innocent owner and notify the owner, if located, before disposal. Evidence Room personnel will notify the Criminal Investigations Division supervisors and Intel Unit when a firearm is taken in. This will allow for case assignment to complete an E-trace and gun background information. Dispositions of firearms shall follow the steps and reporting set forth in N.D.C.C. § 62.1-01-02. Also refer to FPD Investigations memorandum 2007-002.

[See attachment: 2007-002 Seizing Firearms.pdf](#)

801.8 DISPOSITION OF PROPERTY

Property Unit personnel shall request a disposition or status on all property that has been held in excess of 120 days and for which no disposition has been received from a supervisor or detective, or as required by local ordinance (N.D.C.C. § 40-05-02(20)).

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be sold at a public auction in compliance with existing laws, upon receipt of proper authorization for disposal.

Property not held for any other purpose and not claimed after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed.

Upon any release or sale of any property, the proper notation shall be made in the ERMS under the appropriate case number. Proceeds from the sale of unclaimed property shall be deposited into the City of Fargo General Fund.

801.8.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction:

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- Weapons declared by law to be nuisances
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court
- Counterfeiting equipment
- Gaming devices
- Obscene matter ordered to be destroyed by the court
- Altered vehicles or component parts
- Narcotics
- Unclaimed, stolen or embezzled property
- Destructive devices
- Abandoned vehicles (N.D.C.C. § 23.1-15-07)
- Evidence related to a criminal offense before adjudication of the offense or expiration of the statute of limitations (N.D.C.C. § 12.1-34-02)

801.8.2 UNCLAIMED MONEY

If money is no longer required as evidence and remains unclaimed after 60 days per Home Rule charter, the money is presumed abandoned property and shall be turned over to the Unclaimed Property Division of the North Dakota Department of Trust Lands (N.D.C.C. § 47-30.1-13).

Lost money turned over to this department shall be handed over to the finder if it is not claimed by the true owner after 60 days per Home Rule Charter.

801.8.3 RETENTION OF BIOLOGICAL EVIDENCE

The Investigation Division supervisor shall ensure that no biological evidence is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Investigation Division supervisor

Biological evidence shall be retained for a minimum period established by this policy in the absence of guidance from statute . Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of

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the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division supervisor.

Crime Categories (NIBRS*)	Open¹	Charges Filed	Adjudicated	Unfounded/ Refused/ Denied/ No further Investigation
Homicide Offenses	Retain indefinitely	Retain indefinitely	At a minimum, retain for the length of incarceration	Dispose of upon receipt of authorization
Sexual Offenses	At a minimum, retain for the length of the statute of limitations	Retain pending adjudication	At a minimum, retain for the length of incarceration	Dispose of upon receipt of authorization
Assault Offenses, Kidnapping/ Abduction, Robbery	At a minimum, retain for the length of the statute of limitations	Retain pending adjudication	At a minimum, retain for the length of incarceration	Dispose of upon receipt of authorization
All Other Group A & B Offenses	At a minimum, retain for the length of the statute of limitations	Retain pending adjudication	Dispose of upon receipt of authorization	Dispose of upon receipt of authorization

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*The FBI's National Incident-Based Reporting System (NIBRS) classifies 22 types of offenses as Group A crimes and 11 types of lesser offenses as Group B crimes. This table uses the NIBRS crime categories.

¹Cases where someone was found not guilty after criminal proceedings and additional suspects have not yet been identified or charged should follow the same guidance as open cases.

801.8.4 DISPOSAL OF PROPERTY

The department's Property Unit personnel shall be responsible for the purging and disposing of all property, regardless of how its categorized, from the department's authorized storage facilities, including documenting the disposal of any such property.

- (a) Property Unit personnel shall ensure the disposal of any property received and/or stored in a department storage facility, regardless of how it is categorized, is accomplished in full compliance with established law, and within the parameters of any City of Fargo and/or Fargo Police Department policy, procedure, or directive which regulates the disposal of any such property.
- (b) Except as otherwise described within this policy and/or the department's Property and Evidence Processing Manual, department personnel are prohibited from destroying or disposing of any property, regardless of how it is categorized.
- (c) The booking officer, or officer/investigator assigned to a case where he/she is conducting the investigation in which property categorized as evidence shall be responsible for authorizing the release and/or disposal of any such property in cases where the investigation or prosecution is pending.
 - 1. Property Unit personnel will release and/or dispose of property categorized as evidence only after receiving notification to do so from the booking officer or case officer/investigator or the appropriate prosecutor's office.
- (d) In the course of purging property from the department's authorized storage facilities, Property Unit personnel will, in some instances, notify the booking officer or the officer/investigator responsible for conducting an investigation in which property is relevant to of the need or review the pending disposition of such property. Department personnel receiving any such notice from the Property Unit shall respond by completing the Property Disposition/Review Form and return it to the EPM with 14 days of receiving the notice.

801.8.5 CONVERSION OF PROPERTY FOR DEPARTMENT USE

Property received and/or stored by the department which is scheduled for disposal, regardless of how it is categorized, may be converted to department use.

- (a) Department personnel wanting to convert any such property to department use shall submit a written request to their respective division commander, who may authorize the conversion of any such property to department use. Prior to authorizing the conversion of any such property to department use, the division commander shall ensure the property is retained and used by the department in a lawful manner. Under no circumstances shall property be used by department personnel prior to it being authorized for department use by a division commander.

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- (b) Any property authorized for conversion for department use shall be recorded as such by Property Unit personnel and included in the department quartermaster's standard property/equipment inventory until such time as the property is no longer needed or usable. The quartermaster shall record the disposal of any such property in the same manner as all other department owned property/equipment.
- (c) Property such as general office supplies or other equipment of minimal value which is converted to department use and does not bear a distinct model or serial number, may simply be recorded as such by the department's Property Unit personnel.
- (d) Department personnel taking custody of any property defined by this policy as contraband and converting it to department use shall be responsible for the safe and secure maintenance of such property. When not in the immediate possession of the sworn officer or civilian employee responsible for the property, the property shall be stored in a specific and secure location within a Fargo Police Department facility, unless otherwise authorized by a command officer.

801.9 REPORT OF ABANDONED PROPERTY

The City of Fargo Finance Office is responsible for completing and submitting the North Dakota Unclaimed Property Report Summary to the Unclaimed Property Division of the Department of Trust Lands annually (N.D.C.C. § 47-30.1-17).

Property Unit personnel shall provide the City of Fargo Finance Office with the apparent owner's information in order for the Finance Office to send a written notice to the apparent owner of the abandoned money at the owner's last known address. This notice shall be sent if all of the following are met:

- (a) The department has an address for the apparent owner, which reasonably appears to be inaccurate.
- (b) The claim of the apparent owner is not barred by the statute of limitations.
- (c) In excess of \$30.

801.10 INSPECTIONS OF THE PROPERTY

On a quarterly basis, the Administrative sergeant in charge of the Property Unit shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

- (a) Unannounced inspections of evidence storage areas shall be conducted annually, as directed by the Chief of Police or Administrative Division Commander.
- (b) An annual audit of evidence held by the Department shall be conducted by the Office of Professional Standards, who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.
- (c) Whenever a change is made in personnel who have access to the Property Unit, an inventory of all evidence/property shall be done to ensure that records are correct and all evidence/property is accounted for.

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Attachments

Fargo Police Firearms Information Form Fillable.pdf

Fargo Police Firearms Information Form

Case # _____ Tracker Item # _____

Reason Taken (circle): Evidence Found Property Safekeeping

If Evidence, offense associated to firearm: _____

Where taken from (ie: on person, in car, from residence etc.):

NCIC run? Yes No Results: _____

If Stolen, from which jurisdiction? _____

That jurisdiction's case #: _____

Possessor: _____

Questions to ask or ☐ invoked right to not answer (check if applies)

Are you the owner of the firearm? YES NO

If No, who is the owner? _____

How did you come to possess the firearm? _____

If Yes, can you provide proof of ownership? YES NO

When and Where was firearm purchased/acquired? _____

If from a private party, who? _____

*Photograph and collect any receipts, bills of sale or other documents or items that tend to prove ownership.

LAB EVIDENCE SUBMISSION FORM.pdf

2007-002 Seizing Firearms.pdf

INVESTIGATIONS DIVISION – MEMORANDUM

TO: All Department Personnel

FROM: Lieutenant Jason Nelson

SUBJECT: Seizing Firearms for Evidence, Found Property, or Safekeeping

DATE: February 1st, 2017 (Updated)

NUMBER: 2007–002

POLICY REFERENCE: FPD - 019

This memorandum provides guidelines for officers when they can and should take custody of firearms. Firearms should only be seized when such seizure is *lawful and necessary* for the purpose of a criminal investigation (evidence), removing the firearms from the possession of those who may not legally possess them (contraband), it is considered found property, or to secure the firearms to prevent harm and limit the department's liability (safe keeping).

EVIDENCE/CONTRABAND

Firearms should be seized and logged in as evidence when the seizure is made lawfully with a warrant or a valid exception to the warrant requirement AND there is an offense listed in the report that relates to the firearm. Examples of when to take guns for evidence include:

- ◆ When the firearm was used (includes actual use, threatened use or display) during the commission of a crime such as Homicide, Assault, Robbery, GSI, Terrorizing or Menacing **OR**
- ◆ When the firearm was possessed by a person who is prohibited by state or federal law from possessing firearms. (See NDCC 62.1-02-01 & USC Title 18 922[g]) **OR**
- ◆ When the firearm is found in a location or carried by an individual in a manner prohibited by law (examples, carried concealed w/o a permit, loaded uncased in a MV) **OR**
- ◆ When the firearm has been modified in a way prohibited by law (examples: shotgun barrel sawed off too short or serial number obliterated) **OR**
- ◆ When the firearm has been reported stolen (Note: Information on recovered stolen guns should be documented in a supplement to the original theft report or, if the original theft was reported in another jurisdiction, in a Recovered Stolen Property or Assist Other Agency report, NOT a Found Property report. The gun should then be logged in as Evidence under that case number.)

Firearms should not be seized and logged in as evidence when:

- ◆ The firearm is merely present in a location where other criminal activity took place or is taking place. These circumstances do not necessarily justify a seizure and a seizure may not be lawful.
 - You should investigate if the firearm is stolen or lawfully possessed.
- ◆ The firearm is not related to a crime under investigation.

FOUND PROPERTY

Firearms should be taken and logged in as found property when:

- ◆ The firearm is discovered or located by the officer or a citizen under circumstances that would indicate the firearm has been lost, misplaced or abandoned. **AND**
- ◆ An NCIC inquiry (and/or others records check) indicates no record of the firearm being reported stolen. **AND**
- ◆ The firearm is not known or suspected of being related to any criminal investigation.

Firearms should not be taken and logged in as found property when:

- ◆ The firearm is surrendered to police by a person with an ownership interest in the firearm. **OR**
- ◆ The firearm is seized by an officer from another's possession. **OR**
- ◆ The firearm is found by an officer during the course of a criminal investigation or impound inventory.

SAFEKEEPING

NOTE: ND law does NOT grant specific authority to seize property from another for purposes of safekeeping (not even from suicidal individuals) and doing so could create a liability for the department and the officer. In cases where there is no lawful reason to seize the firearms as evidence, the firearms may only be taken into custody with consent of the lawful owner or their designee. These persons should be encouraged to find alternative methods of securing the firearms such as, turning them over to family member, friend, rendering them un-usable or selling them to a licensed firearm dealer.

Firearms may be taken and logged in as safekeeping when:

- ◆ All other options for alternative storage have been exhausted **AND**
- ◆ The owner has given permission for the firearms to be placed in police custody **AND**
- ◆ A report has been done documenting the reason for police custody and consent from the owner **AND**
- ◆ A Safekeeping Receipt has been issued to the owner.

NOTE: The Fargo Police Department does background checks on all persons claiming the return or release of a firearm from the Property Unit. Firearms will not be returned to claimants who are not the lawful owner and/or who cannot lawfully possess them.

GUIDELINES AND DIRECTION WHEN A FIREARM IS TAKEN INTO POLICE CUSTODY

The police department has to make an effort to establish ownership of a firearm. It is important to note, simply possessing a firearm does not equate to ownership. We need to document the steps we take to establish ownership. An arrested person may choose not to provide information regarding a gun in their possession. Please document this in your report. The following must be done when taking a gun into custody:

- ◆ Anytime a firearm is taken into custody by the police department, officers will complete a New World case report (this includes found property and for safekeeping). This will allow for tracking the firearm and case follow up.
- ◆ A “Fargo Police Firearms Information Form” will be completed for each firearm taken into custody. The entire form should be filled out as completely as possible by the original officer. Completing this early in the process helps determine if/when the gun should be returned or destroyed. This form should be scanned into the case report.
- ◆ On scene officers or investigators will also utilize the “Request for Destruction” form when on scene and applicable.
 - In cases of suicide, please consider asking next of kin if they are interested in providing written authorization for the destruction of the firearm upon conclusion of the investigation. Obviously if a family member is extremely distraught this is not expected to happen; however this can save everyone involved some uncomfortable moments down the road. If written consent for destruction is obtained, please scan it into the case report. State law allows us to destroy these weapons when we have a written request from a family member and there are no “innocent owners” claiming the firearm.
- ◆ The Evidence Room will send an email to the Criminal Investigations Division (CID) Lieutenants, CID Sergeants, and Intel when a firearm is taken in. This will allow for case assignment so any needed follow-up is completed.
 - CID will start an E-trace and any other gun background information needed.
 - CID will complete the case investigation and the “Firearm Disposition Form.”
- ◆ Request for Release/Return of Firearm form is completed by the person requesting to take lawful possession and control of the firearm.

Fargo Police Firearms Information Form

ICR # _____ Tracker Item # _____

Reason Taken (circle): Evidence Found Property Safekeeping

If Evidence, offense associated to firearm: _____

Where taken from (ie: on person, in car, from residence etc.):

NCIC run? Yes No Results: _____

If Stolen, from which jurisdiction? _____

That jurisdiction's case #: _____

Possessor: _____

Questions to ask or ☐ invoked right to not answer (check if applies)

Are you the owner of the firearm? YES NO

If No, who is the owner? _____

How did you come to possess the firearm? _____

If Yes, can you provide proof of ownership? YES NO

When and Where was firearm purchased/acquired? _____

If from a private party, who? _____

*Photograph and collect any receipts, bills of sale or other documents or items that tend to prove ownership.

Request for Destruction of Firearm

FPD Case# _____

The Fargo Police Department is required to comply with North Dakota Century Code 62.1-01-02(5) regarding destruction of firearms. In order to destroy a firearm, three criteria must be met:

1. The firearm was used in a violent crime, in an accidental shooting, or a self-inflicted shooting resulting in the death of an individual
2. There is not a claim for the firearm by an innocent owner*; and
3. **A family member of the deceased individual makes a written request for the destruction of the firearm.**

*North Dakota Century Code 62.1-01-02(8) defines an innocent owner as a person who:

- a. Did not beforehand know or in the exercise of ordinary care would not have known of the conduct which caused that person's firearm to be forfeited, seized, or abandoned to any law enforcement agency of the state or any political subdivision of the state, including the game and fish department;
- b. Did not participate in the commission of a crime or delinquent act involving that person's firearm;
- c. Legally owned and presently owns the firearm forfeited, seized, or abandoned; and
- d. Is authorized by state and federal law to receive and possess his or her firearm.

I, _____/_____, request the firearm used in this violent crime,
accidental
(printed name of family member/relationship to deceased)
shooting, or self-inflicted shooting resulting in the death of an individual be destroyed.

Signature of Family Member

Date

Witness (Officer and ID#)

Date

Firearm Disposition Form

Case Number _____
Detective _____
Firearm Make _____ Model _____ Serial# _____
Firearm Evidence Exhibit # (Use Tracker Number) _____

1. State law requires an agency to use "best efforts" to determine ownership of a firearm and to notify the owner of its custody of the firearm. Does the owner know the firearm is in the custody of the Fargo Police Department? Yes___ No___

2. Is the firearm unsafe for use because of wear, damage, age, or modification or because any federal or state law prohibits the sale or distribution of the firearm? Yes___ No___

If "Yes," the firearm is authorized to be destroyed and section 3 is irrelevant.

3. Mark if each statement is "Correct" or "Incorrect":

- a. The firearm was used in a violent crime, in an accidental shooting, or a self-inflicted shooting resulting in the death of an individual. Correct___ Incorrect___
b. There is not a claim for the firearm by an innocent owner*. Correct___ Incorrect___
c. A family member of the deceased individual made a written request for the destruction of the firearm. Correct___ Incorrect___

(*See NDCC 62.1-01-02(8) for definition of innocent owner)

If "Correct" to all three, the firearm may be destroyed.

4. State law requires the owner submits sufficient proof of ownership (of the firearm) as determined by the agency. **Your method of determining ownership must be described in a supplement.** If ownership of the firearm was determined, who is the owner:

First Name:_____ MI_____ Last Name_____

Address:_____ City_____ State___ Zip code_____

Phone#_____ DOB_____ (**Owner must Complete Request for Return Form**)

5. Before release of a firearm, the party must be determined as lawful to possess the firearm. Check **only** if the person was determined as lawful to possess through:

NCIC___ NICS___ CWIS___ MOCIC___ TRIPLE III___ Probation___ ND Courts___

NCIC on firearm___

6. Disposition of firearm:

___The listed firearm is authorized for release to the owner listed in section 4.

___The listed firearm is authorized for destruction

___The listed firearm is authorized for auction

Detective/ ID#

Date

Supervisor/ ID#

Date

Request for Release/Return of Firearm Case # _____

From Fargo Police Evidence

Federal and state laws restrict ownership, possession and the control of firearms. Before a firearm can be released from the custody of the Fargo Police Department, an investigation must be conducted to determine if the person it is being released to can take lawful possession. Please complete all areas on both sides of this request form. You will be contacted at the phone number or address you list below when the investigation of this request has been completed. NOTE: Firearms must be picked up within 30 days of the completion of the background check. If not picked up within those 30 days, the firearm will be disposed of per department procedures.

Person making request (print Full, legal name): _____

Address: _____

Phone Number(s): (H)_____ (W)_____ (C)_____

Date of Birth: _____

Social Security Number: _____

Other names used: _____

List ALL states in which you have resided: _____

List the firearm(s) you are requesting: _____

Are you the lawful owner of the firearm(s) you are claiming? _____

If Yes, provide proof of ownership (attach):

If No, who is the lawful owner? _____

Are you currently on Parole or Probation? Circle one: Yes No

If Yes, who is your Parole/Probation Officer? _____

What is your PO's phone number? _____

Have you ever been convicted of a felony level offense? Circle one: Yes No

If Yes, provide date(s) and jurisdiction(s): _____

Have you ever been convicted of a misdemeanor involving violence or intimidation while using or possessing a firearm or dangerous weapon? Circle one: Yes No

If Yes, provide date(s) and jurisdiction(s): _____

Have you ever been convicted of a crime involving domestic violence? Circle one: Yes No

If Yes, provide date and jurisdiction: _____

Are there any court orders in place that prohibit you from possessing firearms? Yes No

If Yes, provide type of order and jurisdiction: _____

Is there a court order for the release/return of the firearm(s) you are claiming? Yes No

If Yes, you must provide a court certified copy (attach).

Mark the statement below that applies to your situation. MARK ONLY ONE!

☐ I certify that I have never been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere as a mentally ill or mentally deficient person.

☐ I have been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere as a mentally ill or mentally deficient person, but otherwise claim I may lawfully own possess or control a firearm because:

I certify that my responses to the above questions are true and correct. I understand that I will NOT receive the firearm(s) I am claiming if it is determined that I cannot lawfully own, possess or have a firearm under my control. Firearm(s) that are unclaimed or that may not be lawfully returned to the owner will be destroyed.

Signature

Date