

**SAN JOAQUIN COUNTY PROBATION DEPARTMENT
ADMINISTRATIVE MANUAL**

TO: ALL STAFF

BULLETIN #: 644

APPROVED BY: STEPHANIE L. JAMES
CHIEF PROBATION OFFICER

REPLACES: 2/27/2015

ISSUE DATE: 12/12/2018

SUBJECT: SEIZURE AND DISPOSAL OF EVIDENCE

POLICY

In undertaking a probation search, the Probation Officer should be aware of the possibility that the evidence seized may be used in a new criminal prosecution and/or a probation revocation proceeding. The chain of custody shall be maintained on all contraband seized during a probation search.

PROCEDURES

A. Seizure of Evidence

1. All seized property shall be counted and documented on a Search Receipt/Chain of Custody Form (Attachment A).
2. The Search Receipt/Chain of Custody Form shall be left on the premises, with a copy placed in the probationer's file, and the other copies booked with the evidence.
3. All seized property shall be booked into the Evidence Room by the end of the business day and logged in the Evidence Ledger.
4. Evidence being booked "after hours" and cannot be booked into the Evidence Room, shall be secured in the designated Temporary Storage Locker (TSL) outside the Evidence Room.
 - a. The Probation Officer shall put the evidence in a locker and retain the key.
 - b. The Probation Officer shall contact the Evidence Room Clerk to make arrangements to properly book the evidence.
 - c. Evidence placed in the Temporary Storage Locker shall be booked into the Evidence Room on the next business day by the Evidence Room Clerk.
5. The Evidence Ledger shall include the following:
 - a. Property Log #

- b. Date and time booked
 - c. Probationer's name and probation number
 - d. Probation Officer's name and caseload number
 - e. Probation Officer's signature
 - f. Number of items indicated on search receipt
 - g. Evidence Room Clerk's name and signature
6. The officer shall obtain the Evidence Log number assigned at the time of booking the evidence and write the Log # on the Search Receipt/Chain of Custody form. The copy of the Search Receipt left on the premises will not contain the evidence log number.
 7. All searches shall be explicitly recorded in detail by the appropriate probation officer in the chronological entries of the case record and address who, what, when, where, and why.
 8. The Probation Officer shall notify the Court by filing either a Modification of Probation, a Violation of Probation, or an Information Report (Attachments B – Adult and Attachment C - Juvenile) within two business days of any evidence being seized.
 9. When filing a Modification of Probation, a Violation of Probation, or an Informational Report pertaining to evidence seized, the probation officer shall recommend that the Court order the item be destroyed or returned to its lawful owner, upon disposition of the case.
 10. When a search results in evidence of a new law violation, law enforcement shall be summoned to the scene to take a report before the probation officer leaves.
 11. If law enforcement is unable to respond within a reasonable amount of time, the probation officer may seize the evidence and book it into the Evidence Room. Law enforcement shall be contacted by the end of the next business day to take custody of the evidence.
 12. Probation officers shall not seize explosives, fireworks, and/or flammable substances/liquids. The law enforcement agency of jurisdiction shall be contacted for any flammable substances/liquids that may be associated with illegal activities or suspected narcotics laboratories. All seized explosives shall be turned over to the law enforcement agency of jurisdiction for booking.
 13. All evidence seized shall be labeled with the evidence log number, probation case number, date seized, and the initials of the officer seizing the evidence and their caseload number.

B. Handling of Evidence

1. Firearms shall be submitted unloaded and the unexpended cartridges shall not be attached in any manner to the weapon. The probation officer should contact the Department Rangemaster if he/she is unfamiliar with clearing the firearm.
2. The action or cylinder of the firearm shall be zip tied in an open position.
3. Ammunition shall be bagged separately from the firearm.
4. Needles and syringes shall be packed in hard plastic containers.
5. Controlled substances shall be sealed in security evidence bags.
6. For safety, exposed blades shall be covered (i.e. cardboard, tape, etc.) before submission into evidence.

C. Property Room Operations

1. The Juvenile Investigations Unit Supervisor is the designated Evidence Room Clerk. In his/her absence, the Probation Unit Supervisor of the Assessment Unit will assume the Evidence Clerk's duties. The Juvenile Division Assistant Deputy Chief Probation Officer is also designated as the back-up Property Room Clerk.
2. The Probation Unit Supervisor of Juvenile Investigations, the Probation Unit Supervisor of the Assessment Unit and the Juvenile Division Assistant Deputy Chief Probation Officer shall maintain keys to the Evidence Room.
3. The Evidence Room Clerk will not accept evidence that is not appropriately packaged.
4. The Evidence Room Clerk shall be responsible for:
 - a. Reviewing Search Receipt/Chain of Custody Form for accuracy
 - b. Ensuring all pertinent information has been entered onto the Evidence Ledger
 - c. Verifying Evidence Log number has been entered on the Search Receipt/Chain of Custody form.
 - d. Entering evidence into locked storage
 - e. Storing evidence in a secure locker pending final disposition of the case
 - f. Overseeing the destruction of evidence on a minimum annual basis
5. All entries or withdrawals from the Evidence Room must be entered into the Search Receipt/Chain of Custody Form along with the reason for the withdrawal and the identification of the person. The Evidence Room Clerk is responsible for tracking evidence.

6. The bottom portion of the Search Receipt/Chain of Custody Form shall be completed for transfer of custody between officers and/or to other agencies.

D. Disposal of Evidence

1. Retention of Evidence

- a. In accordance with Penal Code Section 1417.1, seized evidence shall be retained for a minimum of sixty (60) days after “final determination” of the criminal action. Penal Code Section 1417.1 provides that no order shall be made for the destruction of an exhibit in a criminal proceeding prior to the final determination in the action. That same section states that the date when a criminal action becomes final is as follows:
 - i. When no notice for appeal is filed, 30 days after the last day, for filing that notice
 - ii. When a notice of appeal is filed, 30 days after the date the clerk of the Court receives the remittitur affirming the judgment
 - iii. When an order for a rehearing, a new trial, or other proceeding is granted and the ordered proceedings have not been commenced within one year thereafter, one year after the date of that order
 - iv. In cases where the death penalty is imposed, 30 days after the date of execution of the sentence
- b. The supervising probation officer shall be responsible for tracking whether a “final determination” has taken place shall notify the evidence room clerk and forward all relevant documents in order to facilitate final disposition of seized items.

2. Notice of Intent to Dispose of Evidence

- a. Informational Reports: The supervising probation officer will mail the Notice of Intent to Destroy/Return Seized Property (Attachment D) to the probationer no later than 60 days after the filing of the Informational Report.
- b. Violations of Probation: The Violation of Probation filed in Court should include a recommendation that the seized evidence be destroyed or returned to lawful owner.
- c. Modification of Probation: The Modification of Probation filed in Court should include a recommendation that the seized evidence be destroyed or returned to lawful owner.

3. Property Returned to Lawful Owner

- a. The supervising probation officer shall notify the lawful owner by checking the appropriate box on the Notice of Intent to Destroy/Return Seized Property form within 30 days of eligibility of the property to be returned.

- b. The owner shall be notified that if he/she does not respond within 30 days, the property may be deemed eligible for destruction.
 - c. After case disposition, the supervising probation officer shall complete the Authorization for Property Destruction/Release (Attachment E) and submit a copy to the Evidence Room Clerk accompanied by the Court Order.
 - d. Citizens receiving property shall provide the Evidence Room Clerk with photo identification and when possible, proof of ownership. Upon receipt of the property, the citizen shall sign the Authorization for Property Release Notice (Attachment F) and the Evidence Room Clerk will countersign, verifying the release. The original form shall be retained by the Evidence Room Clerk.
4. Destruction of Evidence by the Probation Department
- a. The Evidence Room Clerk shall be accompanied by another Probation Officer when destroying all eligible evidence.
 - b. Both officers will sign the Property Destruction Receipt (Attachment G) verifying the destruction and disposal of the evidence, which shall be retained by the Evidence Room Clerk.

SAN JOAQUIN COUNTY PROBATION SEARCH RECEIPT

NAME: _____
LOG# _____

DATE: _____	TIME: _____	ADDRESS: _____
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ITEM	DESCRIPTION & SERIAL NUMBERS	LOCATION WHERE FOUND	OFFICER

- ☐ This property is evidence and will be handled in accordance with subsequent court action.
- ☐ Property shall be picked up within 30 days of your release from custody/detention. Unclaimed property will be destroyed if not picked up within 30 days.

OFFICER'S SIGNATURE _____ BADGE# _____

PROBATIONER/RESPONSIBLE PARTY

Chain of Custody

Date	Description of articles	Released/Received by (Name, agency, badge#)	Signature	Purpose

Date	Description of articles	Released/Received by (Name, agency, badge#)	Signature	Purpose

Date	Description of articles	Released/Received by (Name, agency, badge#)	Signature	Purpose

Date	Description of articles	Released/Received by (Name, agency, badge#)	Signature	Purpose

Distribution: FILE, PRC, PROB, CHAIN OF CUSTODY

Prob 644-1 (3/15) Search Receipt

Attachment A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN STOCKTON BRANCH	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA vs. Defendant: «Adult.Full» AKA: «Adult.Aliases»	
PROBATION OFFICER'S INFORMATIONAL REPORT REQUEST FOR DESTRUCTION OF SEIZED PROPERTY	CRT: «Adult.CaseFolder.Case» PROB: «Adult.PIN»

The defendant was awarded a 1-year grant of formal probation on «Adult.CaseFolder.Simple» for a violation of Section

- ☒ Non-appearance
- ☒ Pursuant to the terms of probation, the following items were seized:

EXPLANATION:

RECOMMENDATION:

- ☐ The above incident to be handled by the Probation Officer and made a matter of record only.
- ☐ The Court orders the above items destroyed.
- ☐ The Court orders the above items be returned to its lawful owner.
- ☐

APPROVED BY:

Respectfully submitted
STEPHANIE L. JAMES
CHIEF PROBATION OFFICER

«Adult.Officer.Supervisor»
Unit Supervisor
Date:

«Adult.Officer.Full»
Probation Officer/Adult Division
«Adult.Officer.Location»

Attachment B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN STOCKTON BRANCH	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA vs. Defendant: «Adult.Full» AKA: «Adult.Aliases»	
ORDER FOR PROPERTY DESTRUCTION/RETURN	CRT: «Adult.CaseFolder.Case» PROB: «Adult.PIN»

The Probation Officer of the County of San Joaquin, having filed with this Court an Informational Report, and the Court having duly considered the matter, the following is hereby ordered:

- ☐ The above incident to be handled by the Probation Officer and made a matter of record only.
- ☐ The Court orders the above items destroyed.
- ☐ The Court orders the above items be returned to its lawful owner.
- ☐

DATED:

JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN JOAQUIN

Attachment B

SUPERIOR COURT OF CALIFORNIA OF SAN JOAQUIN
Probation Officer's Informational Report

IN RE:
DOB: _____

Court #: _____
Probation #: _____

☒ (X) Non-appearance

The Minor was adjudged a Ward of the Juvenile Court on _____ for a violation of Section
_____ of the _____ Code.

☒ (X) Pursuant to the Minor's terms of Probation, the following items were seized:

EXPLANATION:

RECOMMENDATION:

☒ (X) The above incident to be handled by the Probation Officer and made a matter of record only.

☐ () The Court orders the above-seized items destroyed.

☐ () The Court orders the above-seized items returned to its lawful owner.

APPROVED BY:

RESPECTFULLY SUBMITTED

Unit Supervisor
Juvenile Division

Probation Officer
Juvenile Division

DATE:

Attachment C



PROBATION DEPARTMENT

STEPHANIE L. JAMES
CHIEF PROBATION OFFICER

NOTICE OF INTENT TO DESTROY/RETURN SEIZED PROPERTY

Name: _____ Date: _____
Address: _____ Probation #: _____
Address: _____
City, State, Zip: _____

- ☐ In accordance with Penal Code Section §1417.1, the San Joaquin County Probation Department is hereby giving notice of intent to destroy the below listed property.
- ☐ A final determination has been made in your case.
- ☐ The court has ordered that your property be returned to you: Please contact (209) 468-4000, M-F between 8:00am – 5:00pm and ask for the Property Room Clerk to set up an appointment to pick up your property. If no response is received from you within thirty days of the date of this notice, your property will be destroyed.

Property to be destroyed/returned:

ITEM	DESCRIPTION & SERIAL NUMBERS

Distribution: File
PRC
Probation

Prob 644-3 (3/15)

Juvenile Court and Field Services
575 W. Mathews Road
French Camp, CA 95231
209/468-4000

Juvenile Detention Facilities
535 W. Mathews Road
French Camp, CA 95231
209/468-4200

Adult Services
Room 201, Canlis Building
24 S. Hunter St.
Stockton, CA 95202
209/468-4100

Administration
575 W. Mathews Road
French Camp, CA 95231
209/468-4068

Attachment D

SAN JOAQUIN COUNTY PROBATION DEPARTMENT
AUTHORIZATION FOR PROPERTY RELEASE

The following item(s) is authorized for release:

Log# _____ A/J# _____ Assigned PO _____

Description: _____ Brand: _____ Serial # _____

Description: _____ Brand: _____ Serial # _____

Description: _____ Brand: _____ Serial # _____

Description: _____ Brand: _____ Serial # _____

To the following person(s): Valid I.D. Required

Name: _____ Phone# _____ DOB: _____

Address: _____ Driver's License #: _____

City: _____ State _____ Zip Code _____

Released by: _____ **Badge#** _____
(Property Room Clerk) (Print Name)

(Signature) **Date** _____

Released to: _____ **Date** _____
(Signature)

WHITE-FILE YELLOW-PRC PINK-LAWFUL OWNER

Attachment F

SAN JOAQUIN COUNTY PROBATION DEPARTMENT PROPERTY DESTRUCTION RECEIPT

[illegible]

Destroyed by: _____ **Badge #** _____

 (Print Name)

 (Signature) **Date** _____

Witnessed by: _____ **Badge #** _____
 (Print Name)
 _____ **Date** _____
 (Signature)

Attachment G