

1.9 Property & Evidence

1.9.15 Return of Property to Property Owner

(Effective: 2011.10.19)

POLICY

Members shall return found property to the lawful owner as soon, as is practicable, unless it is necessary to retain the property for evidence, scientific testing or legal process (keeping in mind the seriousness of the offence and continuity of the evidence).

PROCEDURE

Members shall:

1. When seizing property at a crime or investigative scene for evidence consider photographing the property and returning it to the owner. The property should, when possible, be photographed by any member from the Forensic Identification Unit (FIU), Crime Scene Investigation Unit, or any member with a Departmental issued camera. Members shall also:
 - a. Record a description of the property and identifying marks (e.g. Serial Numbers) prior to returning the property to the owner;
 - b. Have a close-up photograph taken of the identifying marks;
 - c. Have the owner photographed with the property prior to release (if possible);
 - d. Include in their notebook (regardless of whether photographs are taken or not):
 - i. A complete list of the property;
 - ii. A detailed description of the property (e.g. serial numbers);
 - iii. The date and time when the property was returned; and,
 - iv. The name and signature of the lawful owner and possessor.
2. Advise the owner to retain the property until after the court process is complete and that it may be required as evidence. Members shall complete the appropriate reports outlining the continuity of the evidence. If photographs are taken and subsequently required for court, the member is responsible for obtaining and presenting them in court. The seizing member must order the photographs from the FIU at least five business days before the trial.
3. Submit a Form 5.2 and complete the return to lawful owner section (property status 'A') including the name of the person whom the property was returned. Members shall not complete the Application for Detention section at the bottom of the Form 5.2 because the property has been returned at the scene and there is no reason to request the court's authorization to detain the property.
4. When returning property held as evidence, or responding to requests from the Property Office or a property owner, follow the procedures below:

Form 5.2 submitted and charges have been laid

- a. The Property Office staff shall attempt to determine if the property is required for court.
- b. If the property is not presently required for court, or if the Property Office is unable to determine the status of the property, the Property Office shall forward a Property Query Form to the member who seized the property.

- c. The seizing member shall determine the status of the property and indicate on the Property Query Form whether or not the property is required for the investigation and/or court. The member shall return the form indicating the disposition of the property to the Property Office.
- d. Members have sole responsibility for releasing property when it is not entered as evidence and is no longer required by Crown Counsel for court.

Form 5.2 submitted and charges have not been laid

- e. If the property is no longer required for an investigation and the owner is known, then the investigating member shall:
 - i. Complete a [Form PCR095: Orders Relating to Report to a Justice](#);
 - ii. Have the Form PCR095 signed by a Judicial Justice of the Peace (JJP);
 - iii. Complete a Police Statement (PS) page in the General Occurrence (GO) report advising why the property is being released to the owner; and,
 - iv. Attach a copy of the PS page and the Form PCR095 to the original Form 5.2 and submit the package to the Property Office.
- f. If the property was seized from a suspect and there is no evidence to disprove that the property belongs to the suspect, the investigating member shall:
 - i. Complete a [Form PCR095: Orders Relating to Report to a Justice](#);
 - ii. Have the Form PCR095 signed by a Judicial Justice of the Peace (JJP);
 - iii. Complete a Police Statement (PS) page in the General Occurrence (GO) report advising why the property is being released to the person who was in possession of the property at the time of the seizure; and,
 - iv. Attach a copy of the PS page and the Form PCR095 to the original Form 5.2 and submit the package to the Property Office.
- g. If the property is a prohibited weapon/device is illegal to possess, or there is evidence to prove that the person who was in possession of the property at the time of the seizure is not the lawful owner, the member shall seek a forfeiture order (See [RPM Section 1.9.4: Seized Property](#)).
- h. In paragraphs (d),(e) and (f), when the Orders are submitted to the Property Office, the staff shall comply with the direction of the order.
- i. All property shall be held in the Property Office for thirty-one (31) days from the date any Order is issued by a JJP as per the *Criminal Code*. This provides thirty-one (31) days for any appeals or disputes in relation to the disposition of the property. After thirty-one (31) days, if no appeals or disputes are received by the Property Office, the property shall be dealt with as stated in the Order.