



# TOWN OF MACEDON POLICE DEPARTMENT

<b>General Order:</b> 480	<b>Effective Date:</b> November 20, 2021
<b>Subject:</b> Evidence & Non-Agency Property Management	
<b>Reference Standards:</b> 5.3, 7.1, 7.2, 7.3, 51.6	
<b>Rescinds:</b> N/A	
Page 1 of 15	<b>Attachments:</b> Macedon PD Non-Agency Property/Evidence Report; NMS Labs Analysis Requisition & Chain of Custody Report, NYSP Crime Lab Evidence Submission report, NYSP DNA/Serology Submission report

## I. Purpose

The purpose of this General Order is to define the Macedon Police Department's policy and procedure for the handling of non-agency property. This includes but is not limited to property taken by the employees of the Macedon Police Department as evidence, for investigation, for safekeeping, for destruction, or being held for the owner thereof.

## II. Policy

All non-agency property obtained by employees of the Macedon Police Department during the course of their employment will be surrendered to the Property Office. The Property Clerk will be responsible for acceptance, recording, storage, classification, retrieval, and subsequent disposition of any non-agency property taken into custody.

All personnel assigned the duties of Property Clerk or assistant to the Property Clerk must successfully complete a course in property/evidence management within one year of being assigned such duties. If a property/evidence management course is not offered within one year, such personnel will attend as soon thereafter as such a course is made available.

## III. Property storage areas

The Property Room is an interior walled room with a single locked steel door as an entrance. It is located adjoining the patrol room area of the police department side of the Public Safety Building. Within the Property Room are shelves, lockers, bins and a safe.

Located in the patrol room proper is a bank of small steel lockers used for property intake. These lockers are secured with padlocks, the key to which is kept in the property vault.

Additional secure storage is available in the Tech Room, in which there is a gun locker, a specimen refrigerator, and space for very large items.

#### **IV. Access**

1. Access to The Property Vault is restricted to the Chief of Police and personnel designated as a Property Clerk or assistant to the Property Clerk.
2. Access to this area will also be allowed to any command officer or outside agency assigned to conduct an audit or inventory of non-agency property, or to a command officer assigned to oversee the destruction of non-agency property. Such access will only be allowed when that person is accompanied by the Property Clerk or an assistant to the Property Clerk.

#### **V. Property Packaging**

A. All non-agency property of evidentiary value must be packaged to ensure it is not tampered with, contaminated, and does not contaminate other property or pose a health or safety risk to any person handling such property. Items of non-evidentiary value will be packaged when it is reasonable and feasible to do so. Controlled substances, firearms, and currency must be bagged separately from other property. Any wet items will be dried prior to packaging.

1. All property should be packaged in a clear plastic bag or container. The plastic packaging will be heat sealed and the officer will initial and date over all seals. Each package will contain the MPD case number, date, and item number. Certain items may require alternative packaging methods. They are as follows:
  - a. Items of or containing biological samples that will be tested for DNA
  - b. Formerly wet items
  - c. Fire debris
2. Hypodermic needles, other sharp objects, and glass items must be packaged in protective packaging, such as a sharps container or cardboard box, to ensure safety in handling
3. Electronic items of evidentiary nature will be packaged in anti-static poly bags

4. The anti-static poly tubing will be heat sealed, and the officer will initial over the seals and complete the item information section of the bag

5. Controlled Substances are to be sealed in plastic bags.

a. The employee will initial over all seals and note case number, item number and date on the packaging.

b. Controlled substances submitted without an initial over the seal will be returned

6. All non-counterfeit currency will be sealed in a self-sealing "Currency Pouch".

a. Currency will be counted by denomination. The number of each denomination of bill and coin money will be listed in the appropriate box on the front of the "Currency Pouch", with a total amount calculated at the bottom.

(i) Any currency amount of over \$50.00 will be verified by two officers. Both officers will sign the "Currency Pouch" and the PCR.

b. All currency will be placed in a plastic "Currency Pouch", the front of which will be properly completed with the applicable information.

7. Handguns and small firearms must be sealed in a plastic bag if practical. Long guns may be left unpackaged.

a. All firearms must be first rendered safe by either the submitting officer or a Firearms Instructor.

b. Magazines and ammunition associated with a specific firearm are to be removed from the weapon. Magazines must be attached or bagged with the weapon when submitted.

c. Any ammunition must be bagged separately.

d. Nylon ties must be affixed through the breach or action of the firearm to indicate it has been made safe.

e. Any packaging must be sealed, and the officer will initial over the seals.

(i) A properly completed property label will be affixed to the packaging.

f. If the firearm is not packaged, a properly completed property tag will be affixed to the firearm.

g. All firearms taken into custody as “found property” or used in relation to a NYS Penal Law offense will be sent to the New York State Police lab.

## **V. Documentation**

### **A. Reports**

1. The Property/Evidence Report (PER) is the written record documenting the existence of any non-agency property taken into custody by the Macedon Police Department. A PER must be completed for all items submitted to the Property Office for storage.

2. The employee submitting non-agency property will accurately complete and route a PER pursuant to General Order 615. The information contained thereon must include:

a. CR (case) number

(i) All CR numbers will be that of the Original Case, not supplemental actions. The syntax should be: four-digit year with a five digit case number (ex: 202001234).

b. Item number

(i) All item numbers should be a natural number exactly corresponding to the number of the items as listed on the PER.

(ii) All items on a PER will be numbered consecutively and each separate report page will begin with Item number one. (ex; if there are 3 pages within the same CR#, there will be three PER pages each numbered 1-8)

c. Date and time the property was taken into custody

d. Location where the property was taken into custody

e. Reason property was taken into custody, such as evidence, investigation, safekeeping, or destruction

f. Source or owner of the property

g. Victim information if known

h. Suspect information if known

- i. Incident type
- j. Brief description of the property, including make, model, and/or serial number if known
- k. The investigating officer's name
  
- l. The name and signature of the recovering officer
- m. The chain of custody of all non-agency property will be properly documented on the PER from time of collection until time of final disposition. This information must include:
  - (i) The name and signature or ID number of any employee taking custody of the property
  - (ii) The date and time of receipt, transfer or destruction of the property
  - (iii) The unique identifier of the property
- n. The employee submitting non-agency property is responsible for ensuring that all the data contained on the property tags or labels coincides with the information on the PER.

## B. Property tags and labels

1. All property submitted to the Property Office for storage will be marked and tagged as is appropriate. The non-agency property will be marked in at least one of four ways:
  - a. A self-sealing bag with the pre-printed information areas properly completed.
  - b. A write-on strip being used to note required information.
  - c. A property tag properly completed and tied to the item.
  - d. A sealed bag, tubing, box, or suitable container with a properly completed property label or tag affixed to the packaging.
2. All packaging seals, including heat seals and tape, must be initialed over the seal by the sealing officer.
3. A BIOHAZARD sticker will be affixed to the package in all situations in which an item may contain or carry bodily fluids, fentanyl and derivatives, or any other suspected biologically hazardous trace or substance.

4. A property tag or label will contain as much information as possible. The information on the property tag or label will correspond with the information on the associated PER, and will include:

a. CR number

(i) All CR numbers will include the 4 digit year with a five digit CR# (ex: 202001234)

b. Item number

(i) All item numbers will be consecutive natural numbers, starting with 1

c. Date and time the property was taken into custody

d. Location where the property was taken into custody

e. Reason property was taken into custody, such as evidence, investigation, safekeeping, or destruction

f. The source or owner of the property

g. Brief description of property, including make, model and/or serial number if known

h. Name of person taking custody of the property

5. Property tags or labels must be filled out completely and accurately. The submitting officer is responsible for ensuring that all procedures are being adhered to.

a. Property containing a tag or label that is submitted with improper or incomplete information will be secured in a patrol room property locker and secured with a combination lock. The unlock information will be sent to the pertinent officer via email. If the item remains uncorrected for more than three days, the information will be forwarded to the officer's immediate supervisor.

b. Once necessary corrections have been made, the reporting officer will resubmit the property per this General Order.

c. The supervisor will ensure that all policies and procedures are followed properly.

## **VI. Procedures**

A. All non-agency property will be entered into secure storage by the recovering officer prior to the end of the shift in which it was collected.

B. All non-agency property will be surrendered to the Property Office as soon as possible after collection.

C. All non-agency property submitted to the Property Office will be accompanied with a properly completed Property/Evidence Report.

D. All non-agency property that is delivered to the Property Office, with the exception of certain items designated by the Property Clerk, will be stored in the Property Vault

1. Bicycles not of extreme evidentiary value, motorized equipment, items containing fuel or other flammable/hazardous material, and items of extraordinary size or weight will be tagged and stored in the Macedon Police garage.

- a. The corresponding PER will be completed and placed in the Property Clerk's Tray in front reception office.

2. Non-agency property that requires forensic processing may be temporarily stored in the Tech Room, along with a properly completed corresponding PER.

3. Non-agency property that requires refrigeration will be stored in the refrigerator within the Tech Room. The properly completed corresponding PER will be attached to the door of the refrigerator.

4. Non-agency property that is not submitted to the Property Office will be assumed to be in the custody of the officer involved. The officer will assume full responsibility for said property.

- a. Non-agency property will not be stored in an officer's personal locker, personal vehicle, or taken home at any time.

- b. Non-agency property will never be converted for an officer's personal use.

## **VII. Property Clerk procedures**

A. At the beginning of each regular business day, the Property Clerk or his/her designee will inspect the Patrol Room property intake lockers and the Tech Room for submitted non-agency property.

B. The Property Clerk, or his/her designee, will remove all non-agency property from the lockers.

C. The Property Clerk, or his/her designee, will verify that each item is properly marked or tagged and an accompanying PER is properly filled out for submission to the Property Office.

D. The Property Clerk, or his/her designee, will stamp the date and time on the PER utilizing a date/time stamp machine, indicating when the property is accepted for storage.

E. The Property Clerk, or his/her designee, will initial the PER indicating acceptance for storage.

F. The Property Clerk, or his/her designee, will enter all pertinent information contained on each PER into the property custody database system.

G. The property custody database system will generate a barcode label for each item of property. The bar code label will indicate all appropriate information pertaining to the item of property.

H. The Property Clerk will note initial storage location on the barcode tag. One label will be affixed to the property.

I. The Property Clerk, or his/her designee, will secure all non-agency property in an appropriate location.

J. The Property Clerk, or his/her designee, will store all guns, money, and drugs in a separate storage area within the Property Vault.

K. All currency that is not evidence, and is being held for its value only, will be logged into the Property Office as outlined in this order.

1. Currency having no particular evidentiary value and that has not been claimed by either an owner or the finder will be held the appropriate period of time, as prescribed in the NYS Personal Property Law § 253-7.

- a. When the legally required period of time has expired and it is no longer required that the Property Clerk secure the currency. The currency will be turned over to the Town Clerk, or his/her representative.

2. Any transfer or change in custody status of all non-agency property will be so noted in the property custody database.

## **VIII. Transport of property**

A. No property will be transported to any lab, court, other agency, or any other location without first being accepted into custody by the Property Clerk or his/her designee, logged into the property custody database, and subsequently released by the Property Clerk, or his/her designee for transfer.

B. NMS Labs



1. As required, the Property Clerk, or his/her designee will ship that property which is designated as requiring DWI laboratory analysis to the NMS Laboratory.

- a. This applies Only to DWI serology-blood samples and urine.

- b. The investigating officer must complete the NMS Labs Analysis Requisition form and submit it with the evidence and PER.

#### C. NYSP Labs

1. Property requiring any other type of processing or analysis will be submitted to the proper NYSP lab by the Property Clerk. The investigating officer must submit a completed NYSP form Lab 2. DNA collection, examination, and comparison requests must be submitted on NYSP form Lab 5, in addition to Lab 2.

- a. Those officers who require immediate analysis of evidence by another agency should note the transfer specifics and the reasons for said transfer prior to submission to the property clerk on the Property/Evidence Report under "notes".

### IX. Retention

#### A. Found property

1. Found property not declared contraband will be held by the Property Office for no less than 90 days pursuant to NYS Personal Property Law § 253-7.

2. After the time period specified in NYS PPL § 253-7, has expired, the finder has the right to claim said property if the rightful owner cannot be determined.

3. Exception to this policy will exist if the finder cannot legally possess the property, such as if a minor finds beer, or the finder is a member of the Macedon Police Department.

#### B. Confiscated property

1. Confiscated property held as evidence in an arrest will be held by the property clerk until a disposition of the arrestee has been made. A 90 day or longer waiting period for appeals purposes may be imposed by order of the District Attorney's Office.

2. After that time, any property legal to possess, may be returned to the rightful owner. If a rightful owner cannot be determined, said property will be deemed abandoned and disposed of according to the laws of the State of New York.

3. Property confiscated for investigation where no arrest is made, will be held until the statute of limitations expires for the particular offense. At that time, the property will be declared abandoned and treated as such.

#### C. Controlled Substances

1. Confiscated controlled substances from investigations where no arrest is made will be surrendered to the Property Office for storage until destruction.

2. All controlled substances returned to this department by any lab will be so noted on the PER and returned to storage until destruction.

3. All controlled substances identified for destruction will be boxed and sealed by a Property Clerk and a sworn member of this department appointed by the Chief of Police. Such designee and property clerk will submit a list of CR# and case names, if applicable, to the Chief of Police

a. Upon obtaining the approval for destruction from the Chief of Police, the Property Clerk and the department designee will coordinate with the Wayne County Sheriff's office Property Clerk to arrange for transportation of the listed and sealed items to an approved incinerator facility for destruction.

4. After the controlled substances are destroyed, the department designee will return an affidavit of destruction, signed by the Property Clerk and the department designee, to the appropriate county court judge.

#### D. Firearms

1. Firearms held as evidence or confiscated for illegal possession will be surrendered to the Property Clerk or his/her designee.

a. All firearms taken into custody as "found property" or used in relation to a NYS Penal Law offense will be transported to the NYSP lab.

2. Following the disposition of the case, the Property Clerk will notify the New York State Police, in writing, of the firearms that are being considered for destruction.

3. Upon receipt of permission to destroy the listed firearms from the New York State Police, the firearms will be destroyed under the direction of the Property Clerk, in coordination with the Wayne County Sheriff's Office.

4. If a firearm had been surrendered voluntarily for safekeeping, the person who surrendered the firearm will have the option of taking possession of the firearm or selling the firearm to an authorized or licensed individual, as prescribed by federal firearms laws and the New York State SAFE Act. This only applies to firearms that were not stolen, modified or otherwise illegal to possess.

5. Voluntarily surrendered firearms can remain in the possession of this agency a maximum of one (1) year according to New York State law. After this period the firearm may be included for destruction as outlined.

## **X. Release of property**

A. Non-agency property held by the Macedon Police Department may be released for the following reasons:

1. Release to rightful owner
2. Laboratory analysis
3. Investigation (identification, comparison, etc.)
4. Court proceedings
5. Review by an Assistant District Attorney assigned to the related investigation
6. Inter-Departmental transfer
7. Authorized destruction

B. Property in the custody of the Property Office may be released only by the Property Clerk or his/her designee. The release of firearms and ammunition held for any reason other than safekeeping must also follow the provisions of the NYS SAFE act. All other property may be released utilizing the following procedures:

1. The non-agency property record will be located in the property database.
2. The original PER that is associated with the property will be retrieved.
3. The property will be retrieved from its storage bin.
4. If the property is being released to an officer for investigation or as evidence for court, the receiving officer will sign for the property in the area designated for this purpose on the PER.

a. The Property Clerk or his/her designee will indicate the transfer in the property database.

b. Upon the return of the property to the Property Office, the Property Clerk or his/her designee will change the status of the property custody on the PER and note the return in the property database. The property will then be placed in its appropriate storage bin.

5. If the property is being released to its rightful owner, or a designee of a commercial concern, the owner will supply identification, place his/her signature or electronic signature on the appropriate line, print his/her name next to his/her signature, and indicate the date, and time of release on the bottom of the PER.

a. Release to an authorized agent of the owner may only be done where upon the agent presents a notarized letter from the owner stating that such a release is authorized.

b. Valid photo ID will be obtained from the claimant and such ID numbers noted on the PER.

c. The Property Clerk or his/her designee will indicate the release in the property database. Property may be released to its owner only after the disposition of the case or upon expiration of the waiting period for found property or with written permission from the Wayne County District Attorney's Office.

6. The PER will then be re-filed.

C. Firearms and ammunition may only be released to a lawful owner after an eJustice search (including Criminal History file 15) is conducted regarding the firearm and the owner. There will be a minimum four (4) week release time, even for firearms that were submitted for non-criminal reasons. Releases will be conducted according to the provisions of the NYS SAFE Act.

1. Handgun owners must provide a valid pistol permit for the specific handgun prior to the release of any handgun.

2. Any owner who does not possess a valid pistol permit or cannot legally possess a firearm in New York State may sell the weapons via a licensed firearms dealer. The owner must submit to the Property Clerk a notarized letter authorizing the transfer of the firearm to a specified licensed dealer.

a. The Property Clerk may then release the firearm to the dealer after obtaining the proper documentation, including the dealer's Federal Firearms License information.

D. Property which is not evidence or contraband and has been recovered in the field, but not yet surrendered to the Property Office, may be released in the field by the recovering officer.

1. While completing a PER, the officer will indicate the release in the applicable section of the report. The officer will indicate the date and time of the release, as well as the name of the person receiving the property. The releasing officer will note the photo ID number or other confirming information in the release portion of the PER. The officer will also have the owner sign the PER indicating the return of the property to them.

E. Any release of property not outlined in this section must be authorized by the Wayne County District Attorney's Office, or the Chief of Police, or his/her designee.

## **XI. Disposal of property**

### **A. Destruction**

1. All non-agency property that is not contraband, has no evidentiary value, is marked for disposal, and has not been claimed by a finder is to be placed in the destruction bins by the Property Clerk or the assistant to the Property Clerk.

a. The items contained in the destruction bins will be placed in an appropriate receptacle that will then be sealed. A sworn law enforcement officer who is not normally affiliated with the duties of the Property Office and the Property Clerk or his/her designee will then transport the receptacle to a place designated by the Chief of Police, where it will be completely destroyed.

(i) This destruction will be so noted on the original PCRs and in the property custody database.

## **XII. Community collection programs**

A. The Macedon Police will participate in community based household medication and prescription drug "take back" and "drop off" programs. The officer stationed at the collection point will place all items into the provided bin. Said bin will be sealed, and those seals initialed, at the conclusion of the take-back event.

B. Destruction of collected household medications and prescription drugs collected through the community collection programs will be completed in conjunction with other participating local law enforcement agencies through the Wayne County Sheriff's office.

## **XIII. Audit and inventory management**

### **A. Definitions**

1. A property and evidence audit is a review and examination of property inventory and related documentation to ensure compliance with established written directives, and to recommend changes to those directives if necessary.
2. A property and evidence inventory is matching a piece of property or evidence to a list.
3. A single item is defined as an individual item, or a single package containing multiple items, such as a bottle containing 10 pills.

#### B. Audit and inventory requirements

1. Annually, the Macedon Police Department will conduct either a sample inventory and a sample audit, or two sample audits of the Property Office. The inventory and the audit will not be conducted within four months of one another, and will not include the same items, unless the total available sample size dictates otherwise. Every inventory and audit must include a sampling of monies, firearms, and controlled substances.

a. The property and evidence audit shall include an inventory and review of the property records for each item to ensure compliance with written directives. The minimum amount of property to be sampled during the audit shall be five percent (5%) of the Property Office's inventory, or fifty (50) items, whichever is less.

b. The property and evidence inventory shall consist of an eyes-on inspection of items to ensure accountability. The minimum amount of items to be sampled during the inventory shall be ten percent (10%) of the Property Office's inventory or one hundred (100) items, whichever is less.

c. A single property and evidence audit of all property shall meet the audit and inventory requirements listed above.

d. At the conclusion of every inventory and audit, a report will be completed identifying the property that was inventoried and/or audited. This report will be submitted to the Office of the Chief of Police.

#### C. External audits and inventories

1. Upon the hiring of a new Property Clerk, or as determined by the Chief of Police, an audit will be made of the Property Office. The purpose of this audit will be to determine that the proper documentation and storage procedures are being performed regarding the custody of property.

- a. This inspection will be conducted by an outside individual or group designated by the Chief of Police.
- b. Upon completion of the inspection, the auditor will issue a written report detailing his/her findings, as well as a list of the items audited, to the Office of the Chief of Police.

**D. Internal audits and inventories**

1. Internal audits and inventories will be conducted by a Macedon Police Department supervisor who is not normally affiliated with the duties of the Property Office and is designated by the Chief of Police.

- a. Upon completion of the audit or inventory, the supervisor will issue a written report detailing his/her findings as well as a list of the property inventoried or audited, to the Office of the Chief of Police.

**XIV. Security**

A. Whenever a Property Clerk or assistant to the Property Clerk leaves employment with the Macedon Police Department, access to the Property Vault will be altered.

1. The key locks for the Property Storage Area doors will be changed.

By Order of the Chief of Police

*John P. Colella*

John P. Colella (Dec 29, 2021 06:55 CST)

John P. Colella

Chief of Police

Dated this 20th day of November 2020