



DEPARTMENT OF PUBLIC SAFETY OPERATING PROCEDURES MANUAL		
CHAPTER 202	PROPERTY AND EVIDENCE HANDLING	
	Effective: 10/12/2018	Commissioner Approval: 
	Authorities: 18 USC 922 (d); 21 USC 802; 18 USC 925 (b-c); AS 12.36.030-040; AS 12.36; AS 34.45;	
	Applicability: ALL DEPARTMENTAL EMPLOYEES	
	Special Instructions:	

202.010 INTRODUCTION

The department establishes policy and protocol for handling property and evidence received or acquired.

202.300 STORAGE

- A. *The Commander may establish storage areas in Posts as necessary.*** The Commander may establish property rooms, evidence lockers, temporary evidence drops, and outside storage facilities in each Detachment or Post. The areas used to store property will adequately provide for the safety and security of the property stored in them.
- B. *Storing Hazardous materials.*** The legal requirements for storing hazardous materials, flammables, toxins, explosives, etc. vary based on the type and quantity of the material. Evidence Custodians confronted with having to store hazardous materials must consult the Fire Marshal's Office for the current regulations concerning that material. Explosive materials should not be stored in populated buildings unless packaged in the original manufacturer's container or equivalent.
- C. *Access to areas containing evidence or contraband.*** The Evidence Custodian, the Alternate Evidence Custodian, and those specifically designated by the Commander are the only persons who will have keys to storage areas containing evidence or contraband. An Evidence Custodian or other designated individual must escort any visitors to areas that contain evidence or contraband storage.

202.310 EVIDENCE CUSTODIANS

- A. *Assigning an Evidence Custodian.*** The Commander or the Post Supervisor will assign one person as the Evidence Custodian and one person as an Alternate Evidence Custodian as required. The Evidence Custodian or Alternate may be commissioned personnel or noncommissioned personnel as appropriate. Prior to appointing any civilian as an Evidence Custodian or Alternate the Commander or supervisor shall assure that an appropriate background investigation, including at least a criminal history check, has been performed on the employee in accordance with OPM Chapter 127.
- B. *Evidence Custodian's Duties.*** Evidence Custodians are responsible for: maintaining the storage areas in a serviceable condition; establishing an identification system for the storage areas that allows rapid location of stored items; maintaining records appropriate to items

stored; the proper and timely disposal of property; complying with all Statutes and Regulations that apply to the handling of property; the policies of this chapter; and other duties specified in this chapter.

C. *Recording assignment of evidence custodians.* The Commander will maintain a [Record of Evidence Custodian Assignment](#) form for each evidence facility under his jurisdiction listing the names and dates of assignment for each person assigned as an Evidence Custodian or Alternate Evidence Custodian. This form should be posted in each evidence facility.

202.320 EMPLOYEE'S RESPONSIBILITY

A. *All employees will handle property properly.* Employees will properly handle or secure property or evidence that comes into their possession. It will be the responsibility of the employee who acquires property to prepare the necessary report(s), identify such property, and deliver it for storage in the property room or other appropriate storage area in compliance with the procedures of this chapter and local operating procedures.

B. *Temporary storage of property.* If an employee is unable to complete the proper packaging and delivery of property to the property room or storage area prior to the end of his shift he may, with the approval of a supervisor, temporarily store the property in an "evidence drop." The employee will complete the proper storage process on the following day. Employees will not store property in desks, filing cabinets, or unsecured in offices, etc.

C. *Actions by employee receiving firearms or ammunition.* Any employee who takes a firearm or ammunition into possession must complete a police report:

1. That has an ARMS incident number;
2. That documents how the firearm or ammunition came into DPS possession;
3. That documents why the firearm or ammunition was seized (e.g., search warrant, illegal weapon, found property, safekeeping, etc.);
4. That documents where the seizure or transfer of possession took place;
5. That documents information regarding from whom the firearm or ammunition was taken;
6. That includes specific documentation confirming that a stolen property check was completed in APSIN and NCIC;
7. If the firearm or ammunition was found property, that documents investigative attempts to locate the rightful owner; and
8. That includes ARMS entries, which, in the case of firearms, lists any and all serial numbers, owner applied numbers, caliber, distinguishing marks, etc.

D. *Employee responsible to direct disposal of firearms or ammunition in absence of CCID or court order.* When a case is completed and where there is no court order or DAO documents directing the disposition of the property, the case officer will be responsible for providing written instruction to the evidence custodian regarding the final disposal of the firearm or ammunition. A copy of this written direction will supplement the original case report.

202.330 PROPERTY REPORT FORM, 12-210

The Evidence Custodian will archive all 12-210 Property Report Forms. The Evidence Custodian shall digitally scan and archive all 12-210 Property Forms located in their assigned facility. The paper copies shall be maintained at that location until such time as they are instructed to forward the copies to Records and Identification for permanent archiving. Any new documentation received for Legacy ASPIN cases shall be attached to the appropriate 12-210 Property Form and the scanned copy updated.

202.340 DELIVERY OF PROPERTY FOR STORAGE

A. Completing the Property barcode label. The employee will individually tag every piece of property with a barcode label generated by ARMS. The employee will completely fill out the required information in ARMS to generate an appropriate barcode label. Every person having official custody of the property will complete the "chain of custody" in ARMS until the disposal of the property or return to the owner.

B. Proper packaging of property. The Evidence Custodian will not accept improperly packaged evidence. Proper packaging includes: thoroughly drying wet or damp items and packaging in paper bags or boxes ; placing liquids in water proof containers that will not leak if knocked over; drying fresh marijuana and packaging to minimize the danger of molding; completely sealing drugs in a plastic bag either by heat sealing or with tamper evident evidence tape; sealing knives, sharps (e.g. hypodermic needles), or other cutting instruments in containers that will prevent accidental cuts; clearly identifying hazardous materials such as flammables, toxins, explosives, blood or items contaminated by blood, etc. Packaging must also comply with the OPM chapter on Bloodborne Pathogens (205) and federal Bloodborne Pathogens regulations. All items must be packaged and sealed if physically possible. Consult the [Laboratory's Website](#) for further details.

C. Proper packaging of firearms. All firearms should be made safe. Unload firearms after properly documenting the cylinder in revolvers or the chamber and magazine in pistols, rifles and shotguns.

For submission of firearms to the DPS Laboratory; package firearms in a rigid container, seal, mark container and indicate condition of firearm on container as LOADED or UNLOADED. Firearms submitted for DNA must be sealed with tape over all edges and any openings (such as holes in the box) prior to submission. - Safety is the first consideration; therefore, firearms should be unloaded prior to delivery to the laboratory. If this is not possible, call the firearm supervisor to discuss. Packaging material may rub latent prints and destroy evidence; therefore, it is important to package in a manner so the gun contacts the packaging material as little as possible. Documenting the cylinder in a revolver may help determine the sequence of events and aid in scene reconstruction. It is requested that you not package guns in plastic. Consult the [Laboratory's Website](#) for further details.

D. Delivery of property to the Evidence Custodian. Once the employee has completed all required entry into ARMS and properly packaged and labeled the property, s/he should deliver them to the Evidence Custodian directly or secure them in a temporary evidence drop.

E. *Approved methods of shipping evidence.* If an employee must ship evidence it shall be sent via certified with a return receipt requested, registered mail, or shipped via a package express service (e.g. Federal Express, UPS). Evidence may also be shipped via airlines freight services such as Alaska Airlines “Gold Streak” or other commercially available freight services, as long as tracking and delivery to final destination is available. If an evidence shipment presents special shipping problems, the crime lab should be contacted for advice. There are some items that cannot be shipped via USPS. If you are uncertain about shipping a specific item, contact the USPS or other knowledgeable authority.

F. *Improperly completed forms or improperly packaged evidence.* If property is delivered to the Evidence Custodian and the data entry is not completed properly (including, in the case of firearms, the investigative report required under OPM 202.320 C 1-8) or the property is not packaged properly, the property will be returned to the submitting employee. If the improperly delivered property was sent from another post the Evidence Custodian may temporarily store the property while arrangements are made to correct the flaws.

202.350 RELEASE OF FIREARMS OR AMMUNITION

Employees are required to conform to the provisions of this section prior to releasing firearms or ammunition to any person.

A. *Federal law controls delivery of firearms or ammunition.* Federal law [Ref 18 USC 922] makes it illegal to deliver to any person firearms or ammunition if they have any disqualifying conditions. Those conditions are outlined in the Department of Public Safety Firearm and Ammunition Delivery form.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of 18 USC 925 chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of 18 USC 925.

B. *APSIN checks to be run on person prior to delivery of firearm or ammunition.* Prior to delivery of a firearm or ammunition to any person, appropriate APSIN checks; to include IFFS status, check for APSIN, NCIC warrants, and the Interstate Identification Index (III); will be run to check for evidence of disqualification. Ambiguous results shall be resolved prior to any delivery.

The Firearm and Ammunition Delivery form will be completed to show the results of the records checks.

C. *Person to complete Firearm and Ammunition Delivery Form.* The person requesting delivery of a firearm or ammunition must complete and sign the [Firearm and Ammunition Delivery Form](#). This form is available to the public on-line via the DPS AST [webpage](#). Prior to making any appointment with an evidence custodian, the intended recipient should be asked to go on-line and access the form (or a hard copy of the form can be mailed to the requester if necessary), fill it out, and route the form back via mail or e-mail to an evidence custodian at the DPS office where the firearm is being stored. Upon receipt, the evidence custodian will insure the form is complete (less signature, date, type of identification, and number section). Any

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"Yes" answer is a disqualification and the Department cannot deliver firearms or ammunition to the person. The evidence custodian will perform their normal checks in databases such as APSIN, NCIC, and ARMS. If release of a firearm is involved the evidence custodian will then scan and e-mail the firearm form to the Alaska Information Analysis Center (AKIAC) (akiac@alaska.gov) at AST headquarters. The AKIAC will check the NICS E-Check database and will receive a response typically within 24-48 hours. Note - The NICS E-Check is only for firearms and not for ammunition. Upon receiving a response from NICS E-Check, the AKIAC will send this approval for release of the firearm back to the evidence custodian. The evidence custodian, after having completed the above steps, will then set up an appointment for the person to come to the evidence location, show identification, sign and date the form. The evidence custodian will then sign, date, and file this form. Copies of the Firearm and Ammunition Delivery Form and the results of all database checks (including but not limited to NCIC, warrants, and III) should be attached to any evidence records and/or ARMS incidents involved.

D. *Delivery of firearm.* Delivery of a seized firearm to a person shall not be withheld if the person honestly answers "no" to all the questions on the Firearm and Delivery form cited in 202.350 A (above) and;

1. The person is the owner of the firearm; or is in possession of an executed "power of attorney" from the owner which authorizes taking possession of the firearm; or who possesses a valid bill of sale reflecting that he or she has purchased the firearm from the former owner; and
2. The firearm is no longer needed for a criminal prosecution or civil lawsuit brought against the state; and
3. The firearm is not subject to a forfeiture action; and
4. The firearm has not been forfeited to the state, either by agreement or court order.

202.360 RECORDS TO BE KEPT BY EVIDENCE FACILITIES

A. *Tracking evidence in ARMS.* Detachments or Posts that have property rooms or other storage areas, shall track their evidence using the evidence section of ARMS.

B. *The Evidence Custodian will log all property submitted to the Evidence Room.* When the Evidence Custodian receives property for storage, they will update the ARMS records with the appropriate storage location. Use of the 12-219 Evidence Log is no longer authorized. All property will be tracked using ARMS.

202.370 EVIDENCE ROOM INSPECTIONS AND INVENTORY

A. *Evidence room inspection required.* All evidence facilities will be inspected according to the following schedule.

The responsible Commander shall specify the extent and location of items to be inventoried. In addition to the announced inspections, two *unannounced* inspections will be conducted each year of every evidence facility.

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Unannounced Inspections

All evidence facilities	Two (2) <i>unannounced</i> inspections per year
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Announced Inspections

Anchorage, Fairbanks, Palmer, and Soldotna	Three (3) announced inspections per year
Bethel, Juneau, Ketchikan, and Kodiak	Two (2) announced inspections per year
All other evidence facilities	One (1) announced inspection per year

B. *Conduct of evidence facility inspections.* Inspections of evidence facilities shall include an examination of at least the following items:

1. Security of the facility from unauthorized access;
2. Backlog of materials pending processing or storage;
3. Adequacy of facilities for handling/storage of materials contaminated with blood borne pathogens, controlled substances and valuables such as cash;
4. Proper packaging and labeling of items stored;
5. Proper ARMS entry of evidence; and
6. Comparison of ARMS with actual storage locations

C. *Commanders to prepare inspection reports.* At the completion of an inspection of each evidence room, the responsible Commander will send an [Evidence Facility Inspection Report](#) form to their Director's Office. The report will include the date and identification of those conducting the inspection, the description and location of items selected for inspection, and any findings or significant observations. The items sampled for examination will be listed on the [Evidence Inventory Report](#) form.

D. *Special inventory upon change of evidence custodian.* Whenever there is a change in the primary evidence custodian an inventory will be conducted. At evidence facilities in Anchorage, Fairbanks, Palmer, and Soldotna the inventory shall include all drugs, guns, and cash stored and as many other items as is practical. In all other evidence facilities this inventory shall include all items stored.

E. *Required annual audit of firearms, controlled substances and monies held in evidence facilities.* Annually, or more often at the direction of a supervisor, the evidence custodian will deliver to the Commander an audit of all firearms, controlled substances and monies held in the evidence facility (including those temporarily out of the facility for laboratory examination or court). The Commander will direct the employee responsible for each item placed in the evidence facility to review the items stored and to direct the disposal of items no longer needed for investigative purposes, or that have been held for the minimum time outlined in AS 12.36.030-040.

202.380 RETURN OR DISPOSAL OF PROPERTY

A. *Knowledge of Statute.* The Evidence Custodian and the Alternate Custodian are responsible for being knowledgeable of Alaska Statutes, as they relate to the disposal of property by the Department including but not limited to [AS 12.36](#) and [AS 34.45](#).

B. *Release of Evidence.* Release of property stored as evidence requires the written notice from the employee responsible for the property. This written notice will reflect the incident number, items to be released, the name of the employee who submitted the evidence, and the name and contact information of the person(s) who may receive the property. The employee responsible for the property will indicate this information in ARMS. The evidence custodian is responsible for contacting the owner or other responsible party and arranging the return of the property.

C. *Release of found property or property stored for safekeeping.* Release of property stored as found or for safekeeping, does not require notification from the employee submitting the property, except when the items are money or weapons. Release of money or weapons stored as found or for safekeeping requires written notice from the employee who submitted the property. The employee responsible for the property will indicate the name and contact information of the person(s) who may receive the property in ARMS.

D. *Written notice by a supervisor.* If an employee is no longer employed by the Department or is unavailable, the employee's supervisor may provide the Evidence Custodian with the written notice required in this section. The supervisor must take care to ensure it is permissible to release the property and that it is released to the proper person, as indicated in section B and C above.

E. *The Evidence Custodian will complete data entry required for the release of property in ARMS when releasing property permanently out of DPS custody..* The Evidence Custodian will always require a signature from the person receiving the property either in electronic form or on the AK Property Release Report available in ARMS when an item is no longer in the actual custody of the Department. If the Release Report is used, the form should be scanned and attached to the incident. When releasing property from Legacy APSIN cases, the custodian will require the receiver to sign the release portion on the original 12-210 Property Form.

F. *Paperwork for surplus or destroyed property.* When the Department destroys or surpluses property, the Evidence Custodian will update ARMS accordingly and scan and attach all supporting documents (e.g. Court Order, supplement, judgments, etc.) to the appropriate incident. When destroying or surplus items from a Legacy APSIN case, the Evidence Custodian will attach all supporting documents to the original 12-210 (e.g., Court Order, 12-202, supplement, citing the circumstances of disposition).

G. *Prompt disposal of property.* The Evidence Custodian is responsible for promptly returning or disposing of property that is no longer needed as evidence or that satisfies the requirements of AS 12.36 or AS 34.45. Property is not to accumulate beyond its required storage life. Employees will respond promptly to inquiries from the Evidence Custodian regarding disposition of property that they have stored. Evidence Custodians will not dispose of property stored as evidence in unsolved Unclassified or Class A felony crimes.

H. *Destruction of property to be witnessed.* Any destruction of property shall be witnessed by at least one person in addition to the custodian responsible for the property. In the case of drugs the second person will be a commissioned officer.

I. *Disposal of ammunition.* Ammunition held by the Department that is slated for disposal shall be destroyed locally. Each Detachment will establish written procedures for the

safe destruction of ammunition. Each evidence custodian and their supervisor shall be briefed on Detachment ammunition destruction procedures.

J. *Disposal of firearms.* Firearms slated for disposal will be transferred to DPS Procurement. Local destruction of firearms will not take place. All firearms, unless released to the owner, the owner's estate, or another agency, etc., will be disposed of through DPS Procurement.

When firearms placed in DPS evidence facilities by municipal or federal agencies are no longer needed for evidence they will be returned to an agent of that department who will be responsible for proper disposal.

1. Prior to the physical transfer of seized firearms to DPS Procurement the evidence custodian shall re-check the firearm against APSIN/NCIC stolen weapon files. If new information regarding the firearm is discovered (e.g., it is now listed as stolen) the original case officer or evidence facility supervisor will be notified and the firearm will not be transferred to Procurement without further investigation.
2. Firearms transferred to DPS Procurement will be accompanied by an Intra-Department Transfer of Property form (12-1001) showing the complete description of the weapon, the serial number (if any), and the original case number/item number or incident number/property number.
3. The evidence facility will retain a copy of the Intra-Department Transfer of Property form (12-1001) to scan and attach to the incident in ARMS or with the original 12-210 when it is a Legacy APSIN case. These records shall be retained and processed in the same manner as those for other property.

202.390 SEIZURE AND DISPOSITION OF PROPERTY RECOVERED FROM PAWN SHOPS

It is the position of the Department of Public Safety that stolen property located at pawn shops will be legally obtained, utilized for the detection and prosecution of criminal defendants, retained until ownership disputes can be resolved and then released in a manner consistent with legal standards.

The following guidelines have been established and shall be utilized when stolen property is located within pawnshops in the State of Alaska:

A. *Limitations on the seizure of pawned property.* No property shall be seized from pawnshops unless it is planned that it will be used as evidence in a case for presentation to a prosecutor.

A search warrant will not be required for seizure of pawned property except when the ownership of the property in question is disputed.

Nevertheless, officers may seize property from a pawn shop based upon a written waiver of search signed by either the owner of the pawn shop, an officer of a corporation operating the pawn shop, or the on-site business manager of the pawn shop. If the pawn shop refuses to provide the property in question, and ask for a search warrant, Officers shall write a search warrant for the property.

B. *Receipts for property seized under 202.390 A.* When property is seized from a pawnshop under any of the exceptions to the search warrant requirement listed in 202.390 (A), an officer will provide the pawnshop employee with a properly completed Alaska State Trooper Receipt for Property 12-273. A copy of the 12-273 shall be attached to the ARMS case report.

C. *Establishing pawnshop claims to property.* Within ten (10) calendar days following the seizure of property from a pawn shop, or following receipt of the property from another police agency which obtained the property from a pawn shop, the [Pawn Shop Notice of Property Seizure and Declaration of Intent](#) form shall be hand delivered to the pawn shop to establish whether the pawn shop intends to assert a claim to the seized property (copies of cover letter and intent form are appended to this chapter). A copy of the form shall be attached to the report.

D. *Disposal of property where pawnshop waives its rights to seized property.* If a pawn shop waives its rights to the seized property on the Pawn Shop Notice of Property Seizure and Declaration of Intent, and all evidentiary use of the seized property has been concluded, the property may be released to the former owner of record, an insurance company, or as directed by the court, or a statute, regulation or procedure.

E. *Disposal of property where pawnshop does not waive its rights to seized property.* The Department of Public Safety shall not release property seized from a pawnshop to anyone other than the pawn shop without prior notice to the pawn shop and judicial action adjudicating the pawn shop's interest in the property.

If the Department determines that property seized from a pawnshop will not be used as evidence in a prosecution, or that its evidentiary value is ended after use in a prosecution (case concluded through verdict with no appeal, entry of plea, dismissal, etc.) the state shall within 90 days of such determination either:

1. Return the property to the pawnshop;
2. Initiate a judicial proceeding affording the pawn shop due process which leads to a judicial order for the disposition of the property; or
3. Retain the property while other persons claiming an interest in the property pursue a legal action to determine disposition of the property.

If a pawnshop does not waive its rights to seized property and all evidentiary use of the property has been concluded, the District Attorney/Attorney General's Office representing the local area shall be contacted to determine whether legal action should be initiated to resolve claims to the property. In any case, officers shall follow [AS 08.76.390](#):

4. A pledger or seller of property to a pawn broker is liable to the pawnbroker for the full amount that the pledger or seller received from the pawnbroker, all charges owed by the pledger for the pawnbroker transaction, and attorney fees and other costs as allowed by the rules of the course, in an action under AS 08.76.380, that is;
 - a. The superior court determines that the pledger or seller misappropriated the property from the claimant;

- b. The superior court orders the pawnbroker to return the property to the claimant.

F. *Periodic notice to pawnshop concerning the status of seized property.* In the event that property seized from a pawn shop has not been returned or become the subject of a judicial disposition proceeding within 180 days after its seizure, the Department of Public Safety will send a [180-Day Pawn Shop Notice of Seized Property Status](#) form to the pawn shop by certified mail indicating the status of the property and the reasons for its continued retention. A similar communication shall be sent to the pawnshop every subsequent 180 days until the property is returned or becomes the subject of a judicial disposition proceeding. A copy of the form and the returned certified mail receipts shall be attached to the 12-210 on file in the Evidence Facility.

202.400 TRANSFER OF FIREARMS TO THE DPS PROCUREMENT OFFICE

A. *Requirements for acceptance of firearms transferred to the Procurement Office.* The Firearms Property Custodian, Firearms Property Custodian Alternate, or approved designee can accept firearms from DPS units and from other State agencies. All firearms transferred to Procurement will be cleared and will not contain or be accompanied by any ammunition. The documentation required is determined by the source of the firearm:

1. DPS Owned Firearms: must be accompanied by an Intra-Department Transfer of Property – Firearms Form – [Link to Form](#).
2. State Owned Firearms from other State Agencies: must be accompanied by a State of Alaska Controlled Property Form (Inter-Departmental Transfer) – [Link to Form](#).
3. Confiscated, Forfeited, and Unclaimed Firearms: must be accompanied by an Intra-Department Transfer of Property – Firearms Form – [Link to Form](#). Note: The “IRIS #” does not need to be completed on the Intra-Department Transfer of Property – Firearms Form
4. Firearms that cannot be unloaded due to damage to the firearm, corrosion or some other factor must be clearly labeled as “loaded.” At the time of transfer, it must be communicated to the Firearms Property Custodian, Firearms Property Custodian Alternate, or approved designee if any firearms are loaded.

B. *Hours of operation for transferring firearms to the Procurement Office.* The Procurement Office requires 48 hours advance notice before the transfer of firearms to the Procurement Office. Firearms will be accepted during regular business hours. Request for transfers, questions regarding required documentation, and times for turn in can be directed to DPS.supply.orders@alaska.gov.

ATTACHMENTS

Evidence Facility Inspection Report – [Link to Form](#)

Evidence Inventory Report – [Link to Form](#)

Record of Evidence Custodian Assignment – [Link to Form](#)

Firearm and Ammunition Delivery Form – [Link to Form](#)

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Pawn Shop Notice of Property Seizure and Declaration of Intent – [Link to Form](#)

180-Day Pawn Shop Notice of Seized Property Status – [Link to Form](#)

Scientific Crime Detection Laboratory – [Link to Website](#)