

Policy Name:	SEIZED PROPERTY		
Policy #:	OP 5.1	Last Updated:	2022-04-27
Issued By:	SUPPORT SERVICES BUREAU	Approved By:	SURREY POLICE BOARD
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RELATED POLICIES

OP 5.1.1 *Currency and Cryptocurrency*

OP 5.1.2 *Digital Evidence Management*

OP 5.1.3 *Exhibits Requiring Forensic Examination*

OP 5.1.4 *Firearms*

OP 5.1.5 *Perishables and Hazardous Goods*

OP 5.2 *Retention of Property for Court Purposes (Form 5.2)*

OP 5.3 *Release of Seized Property*

1. PURPOSE

- 1.1. To provide Surrey Police Service (SPS) Members with general information and guidance on the proper handling and storage of property that has been seized, found, or relinquished.
- 1.2. To provide Members with information on the proper tagging and documentation of seized, found, or relinquished property.
- 1.3. To outline the Property Office’s responsibilities regarding the storage and management of all property.

2. SCOPE

- 2.1. This policy applies to all SPS Employees.

3. POLICY

- 3.1. All property that comes into an Employee's possession must be properly documented and stored at the Property Office.
- 3.2. The Property Office will be responsible for efficiently managing property that is lodged, ensuring that all property is stored in designated secure storage areas depending on their physical attributes and environmental requirements.
- 3.3. All property must be managed and maintained in a manner that ensures continuity of evidence for court purposes and the continuity must be properly recorded.
- 3.4. Access to the secure storage area of the Property Office will be limited to authorized Members and Property Office Employees only.
- 3.5. A record will be kept of Employees accessing the Property Office and tagging and or retrieving property / exhibits.

4. PROCEDURE

General Property Procedures

- 4.1. All Employees must process and record any property coming into their possession by the end of their shift, unless authorized by their Supervisor. Property may consist of:
 - i. items seized as evidence;
 - ii. items for safekeeping;
 - iii. items for destruction;
 - iv. found property; or
 - v. property that has been voluntarily relinquished.
- 4.2. When Members come into possession of property, Members must:
 - i. record the property in their notebook;
 - ii. assign individual exhibit numbers to each item when applicable;
 - iii. transport the property to the Property Office;
 - iv. place each individual property item(s) into its own exhibit bags or envelopes or attach a property tag to oversized items;
 - v. create a PRIME-BC General Occurrence (GO) report and enter the individual property item(s) into the PRIME-BC GO property module and complete the Evidence Continuity page;
 - vi. print off a PRIME-BC generated property tag and attach it to the exhibit bag, envelope or to the actual property item if it is oversized;
 - vii. secure the property item in a designated temporary storage locker or cash and valuables safe (if applicable). If the item is too large to fit into any of the temporary storage lockers,

- notify the Property Office Employee who will move the item directly into the secure storage area (during business hours) or secure the item into the oversized item storage area (after business hours);
- viii. record the property item into the Property logbook with a brief description, temporary locker number; Member's badge number, and time the item was secured at the Property Office;
 - ix. complete a Form 5.2 (Report to a Justice) if the property was seized for investigation or evidence (see OP 5.2 *Retention of Property for Court Purposes (Form 5.2)*); and
 - x. update the PRIME-BC GO report with their actions.

Property Seized for Evidence / Court

- 4.3. Members must comply with all requirements found in OP 5.2 *Retention of Property for Court Purposes (Form 5.2)* when seizing and retaining property to be held as evidence for court purposes.
- 4.4. Upon seizing property under common law powers (e.g., incident to lawful arrest) or following the execution of a search warrant, Members must:
 - i. complete one of the Report to A Justice Form 5.2;
 - ii. complete the Detention Order section on the relevant forms to authorize the detention of the seized property for three months/90 days (seized property cannot be legally held without a Detention Order);
 - iii. retain a copy of the completed Form 5.2 for the Member's records and include a scanned copy into the PRIME-BC GO report; and
 - iv. submit the completed Form 5.2 to the Court Liaison Clerk responsible for forwarding completed Form 5.2's to the Court Registry for authorization by a Justice of the Peace.

Application for Further Detention of Things Seized

- 4.5. When a Detention Order lapses (the 90 days detention period expires), the seized property may be re-claimed by the possessor of the property.
- 4.6. Members must apply to the court to further detain seized property beyond 90 days if additional time is needed to continue the investigation.
- 4.7. If Members need to further detain seized property beyond the first 90 days, Members must initiate the process to apply for further detention of things seized at the **60-day** mark. Members must:
 - i. draft an affidavit in support of the Member's application outlining the reasons for seeking further detention of the seized property beyond 90 days;
 - a. ensure that the affidavit is affirmed/sworn/declared by the affiant and signed by a Commissioner;
 - ii. contact the Surrey Provincial Court to schedule a hearing with a Justice of the Peace to make the application for further detention by either:

- a. calling the Surrey Provincial Court at **604-572-2200** (select option 2 and ask to speak to a Justice of the Peace), or;
- b. e-mailing [REDACTED] to request a hearing date;
- iii. complete a Notice of Application for Hearing once a hearing date with a Justice of the Peace is confirmed;
 - a. Members must ensure that the following information is clearly indicated on the Notice of Application for Hearing for the possessor of the property: the date of the further detention hearing, the Court Services Branch phone number: **604-681-0260** and [REDACTED] to attend via teleconference;
- iv. complete an Affidavit for Service. An Affidavit for Service is a document swearing that the Member served or attempted to serve the possessor of the property with the Notice of Application for Hearing;
- v. serve or attempt to serve the possessor of the property with the Notice of Application for Hearing:
 - a. if the Member is unable to serve the Notice of Application for Hearing, they must record on the Affidavit of Service the number of attempts and the reasons why the attempts to serve were unsuccessful (e.g., no forwarding address, person has moved, unable to contact, or person avoiding service);
 - b. if Members have the name and e-mail address for counsel representing the possessor of the property, they have the option of serving the Notice of Application for Hearing directly to counsel via e-mail attachment. Members must ensure that any e-mail reply from counsel includes an acknowledgement that counsel received the Notice of Application for Hearing;
 - c. all Members must serve the Notice of Application for Hearing **3 clear business days BEFORE** the date of the hearing with the Justice of the Peace;
- vi. ensure that any documents requiring a Commissioner's signature are signed by a Commissioner for Taking Affidavits (e.g., may be another police officer);
- vii. complete the Order for Further Detention of Things Seized section on Form PCR 095;
- viii. e-mail all documents to [REDACTED] (e.g., Member's affidavit, Notice of Application for Hearing, Affidavit of Service, Form PCR 095 Order for Further Detention of Things Seized) and, if applicable, the e-mail chain with counsel prior to the scheduled hearing date with the Justice of the Peace. Members will receive an e-mail reply from a Justice of the Peace at the Court Services Branch with instructions on attending the further detention hearing.

4.8. For major projects, Members may personally attend the Surrey Provincial Court and submit the Form 5.2's to a Justice of the Peace for authorization.

Property Held for Safekeeping

4.9. Any property belonging to a person in custody which is too large to be admitted into the Surrey Cell Block will be transported to the Property Office for storage by the Member. This also applies to property that belongs to persons who have been apprehended under the *Mental Health Act* and the property is too large to accompany the person while at the hospital.

- 4.10. Members will retain any property found on deceased or injured individuals that is not required for investigation and/or not turned over to a person authorized to receive the property and secure it at the Property Office for safekeeping.
- 4.11. When a Member seizes a vehicle containing property and the driver of the vehicle is not present, the Member must conduct an inventory search of the vehicle and record all property contained inside the vehicle and store the property at the Property Office for later retrieval. This only applies to instances where the property inside the vehicle is not required or related to an investigation. If the property is required for an investigation, Members will seize the vehicle and write a search warrant to search the vehicle and seize the property, unless the search and seizure is conducted incident to lawful arrest.
- 4.12. If a Member seizes a vehicle containing property (not for investigative purposes) and the driver (and occupants) of the vehicle is present, the Member will direct the driver and occupants to remove the property prior to seizing the vehicle. Upon request of the driver or occupants, Members may assist with temporarily storing the property for safekeeping. Members must clearly record this request in their notebook along with the items that are being stored for safekeeping. This only applies in instances where the property is not required or related to an investigation. If the property is required for an investigation, Members will seize the vehicle and write a search warrant to search the vehicle and seize the property, unless the search and seizure is conducted incident to lawful arrest.
- 4.13. Members must follow the applicable General Property Procedures listed in paragraphs 4.2.i to 4.2.ix when handling property that is being stored for safekeeping.

Found Property

- 4.14. Any property that is found by a Member, civilian Employee, or turned over to an SPS Employee by a member of the public must be transported to the Property Office for secure storage. Members must adhere to the applicable General Property Procedures listed in paragraphs 4.2.i to 4.2.ix when handling the found property.
- 4.15. All found property will be held at the Property Office for 90 days.
- 4.16. Property Office Employees will make a reasonable effort to find the owner of the property and contact them. If an owner is found and contacted, Employees will inform the owner that they have 90 days to claim their property and that their property will be subject to disposal after 90 days if left unclaimed.
- 4.17. Any found property that is not claimed within 90 days will be subject to disposal by the Property Office Clerk via one of the following methods:

- i. Destruction – Items may be authorized for destruction at the discretion of Property Office Clerk. The method of destruction (trash, incinerator, shredder, etc.) will also be at the discretion of the Property Office Clerk;
- ii. Donated – Items of an estimated value of under \$1,000 may be donated to a charitable organization (e.g., Salvation Army);
- iii. Retained for SPS use – items with an estimated value of under \$1,000 that can be used by SPS will be signed over to the Deputy Chief Constable Support Services Bureau (or designate) who will determine where the property will be placed. The Property Office will keep an inventory of all items issued for SPS use.

4.18. The Property Office will dispose of any unclaimed property within 12 months from the expiration of the 90-day timeframe.

4.19. Found property that is perishable, unsafe, unsanitary may be disposed of at any time at the discretion of the Property Office Clerk.

4.20. Members are not required to complete and submit a Form 5.2 (Report to a Justice) for found property as it has not been seized as evidence or associated to an ongoing investigation.

Claims for Found Property (no owner located)

4.21. Members will inform the finder of property that they may submit a written claim for the property to the Deputy Chief Constable Support Services Bureau (or designate) within thirty (30) days of the property being received by SPS. Members must not promise the finder that they will automatically receive the item if it is left unclaimed.

4.22. The Deputy Chief Constable Support Services Bureau (or designate) will review the written claim and, if accepted, will request the Property Office to provide the found property to the finder after the 90-day period has elapsed.

4.23. Any property that is found by a Member who is on-duty cannot submit a claim for the property.

4.24. Any property that is found by a Member who off duty may submit a claim for the property if the property remains unclaimed after 90 days. Members submitting a claim will be required to provide a detailed report providing detail of how the property came into their possession and any witnesses to the found property.

Property Seized for Destruction

4.25. When Members locate property that is illegal to possess (e.g., prohibited knives) and there is insufficient evidence for criminal charges, Members will seize the property for destruction and disposal. Upon seizing property for destruction, Members must:

- i. record the seizure of the property for destruction in their notebook;
- ii. transport the property to the Property Office;

- iii. create a PRIME-BC GO report to outline the circumstances of the incident and enter the substantive offence (e.g., possession of a controlled substance, possession of break-in instrument) and enter the property into the PRIME-BC GO property module;
- iv. attach a property tag sticker to the property for destruction, place it into a designated storage locker and enter the property into the Property Office logbook as “for destruction”.

4.26. If the property seized for destruction is a controlled substance and the Member determines there is insufficient evidence for criminal charges, the Member must:

- i. record the seizure of the controlled substance(s) for destruction in their notebook;
- ii. transport the controlled substance(s) to the Property Office;
- iii. safely package the controlled substances for destruction;
- iv. create a PRIME-BC GO report to outline the circumstances of the incident and enter the substantive offence (e.g., possession of a controlled substance) and enter the controlled substances into the PRIME-BC GO property module;
- v. attach a property tag sticker to the exhibit bag(s) containing the controlled substance(s) for destruction place them into a designated storage locker;
- vi. enter them into the drugs for destruction logbook. The property office will be responsible for the destruction of the controlled substances; and
- vii. complete Form 5.2 (Report To A Justice). Members must choose disposition “B - it is being detained to be dealt with according to law”. Under the section, “Location Where Detained” of the Form 5.2, write in “For Destruction as per Health Canada”.

Application for Forfeiture of Things Seized

4.27. When Members seize any property that cannot be returned (e.g., items that are illegal to possess or property that was not lawfully possessed by the person from whom it was seized), Members must request permission from the court to have the property forfeited. Members must:

- i. draft an affidavit in support of the application outlining the reasons for seeking forfeiture of the seized property;
 - a. ensure that the affidavit is affirmed/sworn/declared by the affiant and signed by a Commissioner;
- ii. contact the Surrey Provincial Court to schedule a hearing with a Justice of the Peace to make the application to seek forfeiture of the seized property by:
 - a. calling the Surrey Provincial Court at **604-572-2200** (select option 2 and ask to speak to a Justice of the Peace), or;
 - b. e-mail [REDACTED] to schedule a hearing;
- iii. complete a Notice of Application for Hearing once a hearing date with a Justice of the Peace is confirmed;
- iv. ensure that the following information is clearly indicated on the Notice of Application for Hearing for the possessor of the property: the date of the further detention hearing, the

- Court Services Branch phone number: **604-681-0260** and [REDACTED] to attend via teleconference;
- v. complete an Affidavit for Service;
 - vi. serve or attempt to serve the possessor of the property with the Notice of Application for Hearing:
 - a. if the Member is unable to serve the Notice of Application for Hearing, the Member must record on the Affidavit of Service the number of attempts and the reasons why the attempts to serve were unsuccessful (e.g., no forwarding address, person has moved, unable to contact, or person avoiding service);
 - b. if the Member has the name and e-mail address for counsel representing the possessor of the property, the Member has the option of serving the Notice of Application for Hearing directly to counsel via e-mail attachment. Members must ensure that any e-mail reply from counsel includes an acknowledgement that counsel received the Notice of Application for Hearing;
 - c. all Members must serve the Notice of Application for Hearing **three (3) clear business days BEFORE** the date of the hearing with the Justice of the Peace;
 - vii. ensure that any documents requiring a Commissioner's signature are signed by a Commissioner for Taking Affidavits (e.g., may be another Member);
 - viii. complete the Order of Forfeiture of Things Seized section on Form PCR 095; and
 - ix. e-mail all completed documents to [REDACTED] (e.g. Member's affidavit, Notice of Application for Hearing, Affidavit of Service, completed Form PCR 095 (Order of Forfeiture of Things Seized) and, if applicable, the e-mail chain with counsel prior to the scheduled hearing date with the Justice of the Peace. Members will receive an e-mail reply from a Justice of the Peace at the Court Services Branch with instructions on attending the further detention hearing.

Relinquished Property

4.28. In instances where an owner voluntarily relinquishes property to a Member, the Member must:

- i. record the following information in their notebook:
 - a. the statement: "I (Name of Owner relinquishing property) voluntarily relinquish my property to the Surrey Police Service to be disposed of in accordance with Surrey Police Service policy";
 - b. the list of property being relinquished;
 - c. signature of the property owner; and
 - d. signature and badge number of the Member;
- ii. transport the relinquished property to the Property Office;
- iii. create a PRIME-BC GO report recording the circumstances of the incident and enter the relinquished property in the PRIME-BC GO property module;
- iv. attach a property tag sticker to the relinquished property, place it into a designated storage locker and enter the property into the property office logbook as "for destruction", and;
- v. scan and attach a copy of the Member's notebook page showing the information noted above.

Cash/Currency

- 4.29. All cash or currency that is seized as evidence or investigation to the Property Office for counting and secure storage (see OP 5.1.1 *Currency and Cryptocurrency*).
- 4.30. Any cash or currency that is found by a Member, civilian Employee or turned in by a member of the public must be transported to the Property Office prior to the end of their shift for counting and storage (see OP 5.1.1 *Currency and Cryptocurrency*).
- 4.31. All cash or currency will be held in the designated cash and currency/valuables safe located inside the secure storage area of the Property Office. Access to this safe will be limited to the Property Office Supervisor and authorized Property Office Clerks only (see OP 5.1.1 *Currency and Cryptocurrency*).
- 4.32. Any claims made by a potential owner(s) of cash that has been found must be investigated thoroughly. Members must obtain as much information from the claimant including possible proof of ownership (e.g., ATM receipts, withdrawal slip), circumstances of loss or theft, and location of the loss or theft.
- 4.33. Any cash or currency that remains unclaimed despite a valid Order For Return Of Things Seized issued by a Justice of the Peace, may be considered for referral to the Director of the Civil Forfeiture Office if the cash or currency was previously seized for investigation or as evidence of a criminal offence. In such instances, the Property Office Supervisor may contact the Sergeant of the Civil Forfeiture Unit. The Sergeant of the Civil Forfeiture Unit will then determine the feasibility of conducting a further investigation to refer the unclaimed cash or currency to the Director of the Civil Forfeiture Office.
- 4.34. The Property Office Supervisor and authorized Property Office Clerk will conduct an audit of all cash and currency stored in the designated safe every six (6) months. The audit report will be forwarded to the Deputy Chief Constable Support Services Bureau (or delegate) for information purposes.

Credit Cards

- 4.35. The legal owner of a credit card is the issuing institution. All cards coming into the possession of Member must be submitted to the Property Office and Members must follow the general property procedures outlined in paragraphs 4.2.i to 4.2.ix.
- 4.36. The Property Office will contact the issuing institution and either return the credit card to them or destroy them with consent of issuing institution.
- 4.37. Credit cards will not be destroyed in the following circumstances:
- i. the cards are being held as evidence or for further investigation; or

- ii. the cards held being for safekeeping were seized from a person in custody or from a deceased individual and there was no opportunity for the card to be used illegally. In these instances, the Property Office may return cards to the cardholder with the proper verification of ownership or claim.

Bicycles

- 4.38. Any bicycles that are seized, found or recovered by a Member must be transported to the Property Office.
- 4.39. Members will query PRIME-BC to confirm if the bicycle was reported stolen and create a PRIME-BC GO report detailing the circumstances of the incident and record the physical description (e.g., make, model, color, size) and serial number. If the bicycle was reported stolen, Members must attempt to contact the bicycle owner who made the original report.

Liquor and Alcohol Seizures

- 4.40. If a Member seizes liquor or alcohol, the Member must ensure that all containers are properly sealed.
- 4.41. Members will create a PRIME-BC GO report detailing the circumstances of the liquor or alcohol seizure and list the brand name, number of containers (e.g., bottles, cans, boxes) and whether they are full, partially full, or empty.
- 4.42. Seized liquor or alcohol will be held for 90 days. After 90 days, the Property Office will dispose of the liquor in an environmentally safe manner. Liquor or alcohol must not be donated.

Oversized Items

- 4.43. Members must ensure that all oversized property items are stored in the temporary storage area of the Property Office that is designated for oversized items.
- 4.44. Members must attach a property tag sticker to all oversized items being stored at the Property Office.

APPENDIX A: DEFINITIONS

“Controlled substance” means a substance included in Schedules I, II, III, IV or V of the *Controlled Drugs and Substances Act*.

“Found Property” means any property that is found by the Member to not be in the possession of the lawful owner, or person who claims to be the owner, and is not linked to an investigation or required for a future investigation.

“Form 5.2” means a Form 5.2 Report to a Justice to record seizures under the *Criminal Code*, s. section 489.1. This section requires that where a peace officer seizes anything during the execution of their duties where either ownership is in dispute or the continued detention of the thing seized is required for the purposes of any investigation or court proceedings, the peace officer will report the items seized to a justice using a Form 5.2.

“GO” means General Occurrence Report submitted in the PRIME-BC records management system.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“PRIME-BC” means the Police Records Information Management Environment, the provincial police records management system.

“Property Office” means the SPS Property Office where exhibits and property is securely stored while awaiting disposition.

“Relinquish” means any property that is voluntarily turned over to the police by the owner or possessor of the property with the knowledge that the property will not be returned to them and will be otherwise disposed of by the police. Anyone in possession of property is deemed, in law, to be in lawful possession of the property, unless it is proven otherwise in a court of law.

“Seized property” means any property that comes into the possession of a Member during an investigation, and is not considered found property, relinquished property or property for safekeeping.

“SPS” means Surrey Police Service.

APPENDIX B: REFERENCES

Criminal Code, R.S.C. 1985, c. C-46

Section 490 Detention Extension Applications - Heather Russell, Public Prosecution Service of Canada, November 2, 2021