



Policy Name:	RELEASE OF SEIZED PROPERTY		
Policy #:	OP 5.3	Last Updated:	2022-04-07
Issued By:	SUPPORT SERVICES BUREAU	Approved By:	SURREY POLICE BOARD
		Review Frequency:	AS REQUIRED

RELATED POLICIES

OP 4.4 Asset Forfeiture

OP 4.18 Drug Investigations

OP 5.1 Seized Property

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

1. PURPOSE

- 1.1. To provide Surrey Police Service (SPS) Members with information regarding the return of seized property.
- 1.2. To outline the procedure and the required forms necessary to properly record and return seized property that is not required for court purposes.

2. SCOPE

- 2.1. This policy applies to all Members.

3. POLICY

- 3.1. Members must return any seized property to the owner/possessor of the property when it is determined that the property is no longer required for investigation, examination, or as evidence for court purposes. This must be done as soon as practicable.
- 3.2. When conducting an investigation at a crime scene or during a search warrant execution, Members should consider photographing any property in place and leaving it at the scene, when practicable.

- 3.3. If Members seize property for investigation or evidence and determine that the physical item(s) can be returned to the owner, Members may take detailed photographs of the physical item for court purposes and return the physical item(s) to the owner.

4. PROCEDURE

Photographing of Items Not Seized

- 4.1. When a Member determines that it is appropriate to photograph property and return it to the owner at the scene instead of seizing the item(s), Members must:
- i. assign each property item with an exhibit number and enter a detailed description of each property item in their notebook or exhibit flowchart including make, model, brand, colour, size, serial number;
 - ii. take detailed photographs of the item that will show identifying marks and serial numbers. Photographs must be taken by a Member of the Lower Mainland District Integrated Forensic Identification Service (LMD IFIS) or by any Member using an SPS-issued camera;
 - iii. tell the owner that detailed photographs of certain items have been taken and are being left at the scene/returned to them and have the owner initial each item in the Member's notebook or exhibit flowchart; and
 - iv. complete a Form PCR 087 (Form 5.2) and include any attachment to the Form 5.2 or exhibit flowchart to record all items that have been seized and items that have been photographed and not seized. Beside each item listed on the Form 5.2/attachment or exhibit flowchart, indicate:
 - a. "A - it was returned to the person lawfully entitled to its possession, in which case the receipt therefore shall be attached to this report", or
 - b. "B - it is being detained to be dealt with according to law - state the location and manner in which, or where applicable, the person by whom, it is being detained".

Form 5.2 Submitted and Charges Have Been Approved

- 4.2. Seized property that is being held as evidence of an offence is not to be returned to the owner unless the assigned Member provides direction to Property Office staff that the property is to be returned to the owner and the Member provides a valid Order To Return Things Seized that has been signed by a Justice of the Peace.
- 4.3. The Property Office will notify the Member in instances where an owner of the property is asking for the return of seized property or when the Property Office needs to determine if the item(s) must be stored for a longer period of time.
- 4.4. Members are responsible for determining if the seized property is required for court purposes and to notify the Property Office to continue to store the property pending trial or it can be released it to the owner pending an Order of Return for Things Seized issued by a Justice of the Peace.

Form 5.2 Submitted and Charges Not Laid or Stay of Proceedings

- 4.5. When a Member seizes property during an investigation and the property is no longer required for investigative or court purposes due to insufficient evidence, lack of charge approval or stay of proceedings, Members must:
- i. complete Form PCR 095 (Order of Return for Things Seized);
 - ii. write a Police Statement (PS) page in the PRIME-BC General Occurrence (GO) Report, describing the reasons for returning the items;
 - iii. submit the completed Form PCR 095 (Order of Return for Things Seized), attachment or exhibit flowchart listing the property for return and a copy of the PS page to the Court Liaison Clerk who will forward the documents to the Court Services Branch for signature by a Justice of the Peace; and
 - iv. submit the signed copy of the Form PCR 095 (Order of Return for Things Seized) directly to the Property Office or scan a copy of the signed Form PCR 095 (Order of Return for Things Seized) into the PRIME-BC GO report and notify the Property Office via e-mail.
- 4.6. Where evidence indicates that the individual who the property was seized from was not the lawful owner of the property, Members must apply for an order to forfeit seized property as described in policy OP 5.2 *Retention of Property for Court Purposes (5.2)*.
- 4.7. Members must apply for an order to forfeit seized property when the seized property consists of prohibited weapon(s) or device(s) that is illegal to possess.
- 4.8. Members must not return seized controlled substances listed under Schedules I, II, III, IV or V of the *Controlled Drugs and Substances Act*.

Property Office Responsibilities

- 4.9. The Property Office will not return seized property to the owner of the seized property without a valid Order To Return Things Seized that has been signed by a Justice of the Peace. Upon receipt of an Order To Return Things Seized, a copy of the order must be scanned into PRIME-BC GO report / Report to Crown Counsel.
- 4.10. All property must be held at the Property Office for thirty-one (31) days from the date any Order is issued by a Justice of the Peace under the *Criminal Code*. The 31-day period allows for appeals or disputes related to the property.
- 4.11. If the Property Office does not receive notification of an appeal or dispute regarding the property in question, the Property Office will follow the instructions in the Order issued by the Justice of the Peace.

Reporting Requirements

- 4.12. Members must properly record the disposition and release and return of property in their notebooks and via a PS page in the PRIME-BC GO report.

- 4.13. Members must include all copies of the relevant forms and orders issued by a Justice of the Peace in the PRIME-BC GO report.

APPENDIX A: DEFINITIONS

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

“Form 5.2” means a Form 5.2 Report to a Justice to record seizures under the *Criminal Code*, 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 a 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.

“SPS” means Surrey Police Service.

APPENDIX B: REFERENCES

Controlled Drugs and Substances Act, S.C. 1996, c. 19