



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-050700 PPD Search of Offender's Person, Home, or Property; and Processing Confiscated Evidence or Property	Issued: 02/21/94 Effective: 02/21/94	Reviewed/Revised: 03/28/22
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Sections 31-21-7 and 33-1-10, NMSA 1978, as amended

REFERENCE:

ACA Standard 4-APPFS-3B-11, *Manual of Standards for Adult Probation and Parole Field Services*, 4th Edition.

PURPOSE:

To govern searches of an offender's person, home, or property by field officers; ensure the proper chain of custody, disposition of all seized items, and preservation of evidence. [4-APPFS-3B-11]

APPLICABILITY:

All Probation and Parole Division staff.

FORMS:

- A. **Confiscated Property Control form (CD-050702.1)**
- B. **Receipt For Confiscated Evidence and/or Property form (CD-050702.2)**
- C. **Evidence/Contraband Inventory Log form (CD-050702.3)**
- D. **Evidence/Contraband Destruction Inventory Log form (CD-050702.4)**
- E. **Application for Order Authorizing Destruction of Evidence form (CD-050702.5)**
- F. **Order Authorizing Destruction of Property form (CD-050702.6)**
- G. **Affidavit of Destruction form (CD-050702.7)**
- H. **Property Disposition Acknowledgment form (CD-050702.8)**

ATTACHMENTS:

None

DEFINITIONS:

- A. *Evidence*: Prohibited items in possession of an offender that are a violation of statute or their conditions of probation and/or parole.
- B. *Evidence Box/Cabinet*: A secure, preferably a lockable, cabinet or safe that is located within the district office.
- C. *Evidence Seals*: The seal used to secure evidence and confiscated materials.

- D. *Inherently Dangerous*: Any item or substance that, by its very presence, presents an unsafe environment to people in the office.
- E. *Law Enforcement Agency*: A government agency responsible for enforcing the law.
- F. *Narcotics*: (A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include isoquinoline alkaloids of opium. (B) Poppy straw and concentrate of poppy straw. (C) Coca leaves, except coca leaves and extracts of coca from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed. (D) Cocaine, its salts, optical and geometric isomers, and salts of isomers. (E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers. (F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).
- G. *Perishable*: Any property that cannot be returned in its current condition due to effects of storage and aging.
- H. *Property*: Items confiscated from an offender that are not used for violation purposes
- I. *Personal Property*: Items that are in an offender's possession that are not confiscated.
- J. *Reasonable Suspicion Cause Search*: A search in which available evidence would lead a person to believe that the offender is in possession of prohibited items or that evidence of a violation will be found.
- K. *Storage Containers*: Designated evidence bags, boxes, envelopes, etc which can be sealed and unsealed by some means.
- L. *Witness*: Any Division employee, law enforcement person or Division volunteer.

POLICY:

Staff of the Probation and Parole Division (PPD) should exercise their search authority when there is reasonable suspicion to believe that the offender is in possession of prohibited items or that there is reasonable suspicion that a violation of his or her conditions of probation or parole has occurred. Information received from law enforcement may be used; however, the Probation and Parole Officer (PPO) involved must seek corroborating evidence before conducting the actual search. Any seized items must be properly stored in an evidence locker and/or turned over to law enforcement authorities. The PPO will give a receipt to the offender for any item(s) confiscated. Staff of the PPD should also conduct a pat search of the offender and other persons and a search of the immediate area at the time of arrest or transportation to ensure the officers' safety and that no evidence of a violation is destroyed.

This policy is in no way to be construed as giving authority to PPD staff to conduct routine searches of offenders or their property without reasonable suspicion, but specifically limits the occasions when such activities will occur.



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AUTHORITY:

Policy *CD-050700*

PROCEDURES: [4-APPFS-3B-11]

- A. If an officer has reasonable suspicion to believe that an offender is in possession of prohibited items (either by condition or statute), or that evidence of a violation will be found, and emergency conditions do not exist, the officer may seek the assistance of a law enforcement agency in conducting the search.
1. If emergency conditions exist (e.g., an offender will take away and/or destroy prohibited items or evidence of a violation), the Probation and Parole Officer (PPO) may conduct a search of the offender's person and/or property. Any items recovered during a search must be tagged as evidence by the appropriate agency and stored in an evidence locker and/or turned over to a law enforcement agency, as soon as possible, for disposal or retention until used for the prosecution of the offender in court and/or at a preliminary parole revocation hearing. A receipt will be given to the offender for any items confiscated using the Receipt for Confiscated Evidence and/or Property (*CD 05072.2*). A photograph or copy of the form should be made.
 2. Evidence collected that will be used for a pending criminal investigation and/or new charges will be turned over to law enforcement. Any other evidence that would be confiscated for administrative parole or probation violations will be placed into evidence at the district office. Evidence will be collected and tagged and maintained in a locked cabinet in a secured area at the district office.
 3. Property collected that is prohibited for the offender to possess during their term of supervision but will not be used in a violation will be stored for safe keeping until returned to an appropriate person. The offender will have 14 calendar days to have someone pick up the property.
 4. Whenever circumstances permit, field officers should seek concurrence from their supervisors on the possible need for a search. If prior concurrence is not obtained, the supervisor should be notified, as soon as possible, after the search. The PPO should notify a supervisor prior to confiscating any property or evidence.
 5. If a firearm is found during a search, the officer should immediately notify their supervisor for direction on how to proceed. If the offender is a convicted felon, law

Enforcement should be contacted to see if they will take possession of the weapon. If law enforcement refuses possession of the weapon, the officer should run the weapon in NCIC to ensure it is not stolen. If the offender is not a convicted felon, they should be given the opportunity to identify an appropriate person to take custody of the firearm. The individual taking custody of the firearm should be run in NCIC (Triple I) to show they are legally allowed to possess a firearm.

- B. Any offender who is to be transported by PPD staff shall be searched for prohibited items and weapons (e.g., knives) prior to the transport occurring.
- C. If an offender is arrested at the Probation and Parole Office, the offender's personal property will be stored at the arresting district office. The offender must complete the **Property Disposition Acknowledgment** form (*CD-050702.8*) prior to transport. The offender must arrange for an authorized person to pick up the personal property no later than fourteen (14) calendar days from the date of arrest. The offender will provide the name of the authorized person to the arresting Probation and Parole staff and that name shall be documented on the offender case notes in CMIS. The authorized person must provide picture identification before the personal property is released. Offender personal property will not be released to any person other than who the offender designated. If the property has not been picked up within fourteen (14) days after the arrest, the Probation and Parole Division shall dispose of the property. This process does not include personal property that is also tagged as evidence.
- D. Law enforcement agents may accompany PPO's who are conducting a search of an offender's home or other property, if the search is reasonably related to the PPO's duty to supervise the offender. A PPO will not conduct searches solely at the request of, or as an agent for any other law enforcement agency.
- E. Division staff shall not authorize or allude to giving authorization to any law enforcement agency to search any offender's person or property except when a PPO has reasonable suspicion to believe that prohibited items or other evidence of a violation will be found and the PPO initiates a request for assistance from the law enforcement agency.
- F. Property left in the custody and control of PPD for 14 calendar days after the expiration of the offender's supervision shall be considered abandoned property and PPD may dispose of the property.



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AUTHORITY:

Policy *CD-050700*

PROCEDURES: [4-APPFS-3B-11]

It is in the best interest of the Corrections Department to turn over all confiscated evidence and/or property to law enforcement; however, in cases where law enforcement will not take the evidence, the following guidelines will be followed for maintaining the evidence.

A. Tagging/Logging:

1. If possible, any evidence confiscated should first be photographed where it is found prior to removing and securing the item. If this is not possible, it should be photographed at some time prior to being placed in the evidence box/cabinet.
2. Upon seizure of the confiscated item(s) the Probation and Parole Officer (PPO) will place the item in an appropriate evidence container for tagging, logging and storing purposes.
3. If firearms are confiscated, each firearm must first be carefully unloaded and the chamber visually inspected prior to transport and storage.
4. Evidence containers used for the storage of evidence shall be according to the type of evidence being stored. The following are some examples of evidence containers:
 - a. Plastic bags – must be sealable and may be used for storage of any evidence that does not require ventilation to maintain the integrity of the evidence.
 - b. Paper bags – may be used for any evidence within an appropriate size and weight for the container. Any evidence such as clothing or items soiled with body fluids or other should be stored in paper bags so that ventilation can keep items from molding, which would result in the destruction of evidence.

Note: Any items soiled with body fluids or other fluids must be thoroughly air dried prior to storage in an approved ventilated container.

- c. Manila envelopes may be used for storage of any evidence within an appropriate size and weight for the container. Written documents, paper, etc, are appropriate for this type of container.

- d. Boxes may be used for any evidence within an appropriate size and weight for the container.
5. When placing evidence into storage containers, the PPO must indicate all containers that were used to secure evidence. For example, when evidence found is placed in a small envelope and later placed into a larger container, then indicate both containers used for the storage.
6. The evidence shall then be properly sealed and tagged using an established control number procedure. The property control number should be written on the outside of the evidence container. The **Confiscated Evidence and Property Control** form (CD-050702.1) shall be filled out.
7. In cases where the offender is not a convicted felon and a firearm is found in the offender's possession, the offender will be instructed to store the firearm at another location while he/she is under probation supervision. If the offender does not have an alternate location to store the firearm it will then be confiscated during the probation period and returned to the offender upon discharge from probation. This applies to other weapons, as well.

B. Storage:

1. Each district office shall be equipped with a locking storage box/cabinet or safe appropriate for the secure storage of evidence (e.g., narcotics, weapons, etc).
2. Each district office shall maintain an **Evidence/ Contraband Inventory Log** form (CD-050702.3) of all evidence placed into the evidence box/cabinet or safe. All evidence shall be logged with a control number to identify the item.
3. The district supervisor shall be responsible for maintaining an **Evidence/ Contraband Inventory Log** form (CD-050702.3) of all evidence in the evidence box/cabinet or safe. The district supervisor may at his or her discretion designate an alternate person in the office who can assume the responsibility of the evidence box/cabinet in his/her absence.
4. The district supervisor or his or her designee is the only person allowed access to the evidence box/cabinet or safe.
5. All evidence not turned over to a law enforcement agency shall be placed into the evidence box/cabinet or safe.
6. If the district supervisor or designee is not available at the time the evidence is confiscated, the PPO shall secure the evidence in a locked cabinet, drawer or office until such time it can be placed into the safe.
7. The district supervisor or his/her designee shall audit the evidence box/cabinet or safe on a quarterly basis to ensure the evidence is maintained and disposed of as necessary.

8. Region Managers will also audit the evidence box/cabinet or safe at periodic intervals.

C. Destruction of Evidence:

1. Items such as beer or any other liquor should be confiscated and photos shall be taken prior to destruction. If not used for revocation purposes, the PPO, with their supervisor or region manager approval, will dispose of the evidence. A witness must be present during disposal.
2. If confiscated narcotics or firearms are no longer needed for criminal prosecution or revocation purposes, then an **Application for Order Authorizing Destruction of Evidence** form (CD-050702.5) shall be prepared and an **Order Authorizing Destruction of Property** form (CD-050702.6) shall be obtained before the destruction of the evidence.
3. Per NMSA 29-1-14(H) and NMSA 29-1-13, the district supervisor shall prepare an **Application for Order Authorizing Destruction of Evidence** to the district attorney requesting destruction of the evidence that is no longer needed for prosecution and/or revocation hearings and provide it to the district attorney along with a copy of the **Evidence/Contraband Destruction Inventory Log** form (CD- 050702.4) reflecting the specific evidence to be destroyed and disposition of their cause number (if applicable). Prior to the paperwork being submitted to the district attorney, the application, inventory log, and order shall be reviewed and approved by the region manager.
4. The district attorney's office will approve an **Order Authorizing Destruction of Property** to be presented to the judge/court for approval for destruction.
5. Upon receipt of an **Order Authorizing Destruction of Property**, the district supervisor will contact the appropriate law enforcement agency and arrange for the proper destruction of the evidence through the state police or other appropriate law enforcement agency, for evidence destruction purposes NMCD is not included.
6. A copy of the **Order Authorizing Destruction of Property** and the **Evidence/Contraband Destruction Inventory Log** must accompany the evidence when delivering the evidence to the appropriate law enforcement agency.
7. Upon destruction, an **Affidavit of Destruction** form (CD-050702.7) shall be completed through the appropriate law enforcement agency. A copy of the **Affidavit of Destruction** and the **Evidence/Contraband Destruction Inventory Log** shall be maintained.
8. The Evidence/Contraband Inventory Log (CD-050702.3) and the **Evidence/Contraband Destruction Inventory Log** form (CD-050702.4) shall reflect all evidence that has been destroyed.

9. In cases where US currency or other currency is evidence or property which will no longer be needed for prosecution or revocation hearings, the district supervisor shall advise their region manager who will contact the Department's legal office for guidance.
10. All other evidence no longer needed will be destroyed and/or disposed of in an appropriate manner at the discretion of the region manager. A witness must be present during the disposal.
11. Under no circumstances will Departmental staff be allowed to possess or give away evidence to be disposed.
12. In cases where having a firearm is not a violation of probation and the offender is not a convicted felon and a firearm is found in the offender's possession, the firearm will be confiscated during the time period the offender is on supervision and given back to him/her upon discharge. This applies to other weapons, as well.
13. At the time the offender is placed on probation he or she should be told that any firearms they possess will be stored at another location until he or she is discharged from supervision.
14. For abandoned or unclaimed property, PPD shall make a reasonable attempt to notify the owner of items for return. Any property in the custody or control of PPD longer than 14 days past the expiration of the offender's supervision shall be disposed of.
15. A witness must be present during disposal.

D. Numbering System:

1. Reasons for the confiscation of item(s) should be reflected briefly on the **Confiscated Evidence and Property Control** form (*CD-050702.1*). There should be no question as to the reasons for the confiscation.
2. All property control forms should be numbered in the space provided. Numbers will include the region/district office number, the calendar year, and the consecutive number of the tagged item. For example: ROI/DO1A-05-1 indicates that for the calendar year beginning January 1, 2005, Region I, District Office 1A has issued its first tagging number.

E. Evidence Log:

Each district office will maintain an **Evidence/Contraband Inventory Log** form (*CD-050702.3*) listing the pertinent information and final disposition of all confiscated items. It will be the responsibility of the District Supervisor to periodically review the **Evidence/Contraband Inventory** to ensure proper entries.

**NEW MEXICO CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION
Confiscated Evidence and Property Control Form**

CONTROL NUMBER: [Click here to enter text.](#)

DATE: [Click here to enter text.](#)

OFFENDER NAME: [Click here to enter text.](#)

CMIS#: [Click here to enter text.](#)

Date and Location Property/Evidence Confiscated: [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Evidence

Property [Click here to enter text.](#)

Enter a detailed description of items taken to include quantity, model, make, serial number, color, etc.

STORAGE LOCATION: [Click here to enter text.](#)

EVIDENCE/PROPERTY CONTAINER: [Click here to enter text.](#)

REASON CONFISCATED: [Click here to enter text.](#)

LOGGED BY: [Click here to enter text.](#)

WITNESS: [Click here to enter text.](#)

EVIDENCE/PROPERTY RETURN

ITEMS RETURNED: [Click here to enter text.](#)

RETURNED TO: [Click here to enter text.](#)

Offender, family or friend, must only be returned to a person legally able to possess the property and only an individual that the offender identifies as able to pick up the property/evidence. Always obtain a copy of the family or friend's Government ID when returning property/evidence.

DATE RETURNED: [Click here to enter text.](#)

Signature of Officer

Signature of Person Picking up Items

CHAIN OF CUSTODY

CONFISCATED BY: [Click here to enter text.](#) DATE: [Click here to enter text.](#) TIME: [Click here to enter text.](#)

TRANSFERRED TO: _____ DATE: _____ TIME: _____

TRANSFERRED TO: _____ DATE: _____ TIME: _____

TRANSFERRED TO: _____ DATE: _____ TIME: _____

NEW MEXICO CORRECTIONS DEPARTMENT
PROBATION/PAROLE DIVISION
RECEIPT FOR CONFISCATED EVIDENCE AND/OR PROPERTY

A warrantless search was conducted of your residence, property, living quarters, vehicle, items, containers or any of these in your possession regardless of ownership. This warrantless search was conducted under the authority of NMCD Policy CD-050700, probation condition #6 and/or parole condition #11.

Offender name and CMIS # _____

Location evidence and/or property taken _____

The warrantless search was executed on _____, 20____, at _____(a.m.) (p.m.).

A copy of this receipt was left with _____

The following is an inventory of property taken pursuant to the warrantless search: _____

The following is an inventory of evidence taken pursuant to the warrantless search:

This inventory was made in the presence of _____(name of PPO)
and _____

(name of owner of premises or property. If not available, name of other credible person witnessing the inventory.)

This inventory is true and detailed account of all the property and/or evidence taken.

Signature of Officer

Signature of Property Owner or Witness

_____ JUDICIAL DISTRICT
COUNTY OF _____
STATE OF NEW MEXICO

IN THE MATTER OF THE
DESTRUCTION OF PROPERTY
EVIDENCE OF: _____

NO. _____

**NEW MEXICO
CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION
Application for Order Authorizing Destruction of Evidence**

Applicant Name: _____ Title: _____

The attached **Evidence/Contraband Destruction Inventory Log** reflects property that was seized as evidence for the prosecution of a crime or has otherwise been in the lawful possession of _____ (District office), and has been so in excess of ninety (90) days and is no longer needed as evidence or for other public purposes.

The applicant moves this court for an order authorizing the destruction of the property listed on the attached **Evidence/Contraband Destruction Inventory Log**.

Applicant Signature: _____ Date: _____

xc: file

JUDICIAL DISTRICT
COUNTY OF _____
STATE OF NEW MEXICO

IN THE MATTER OF THE
DESTRUCTION OF PROPERTY
EVIDENCE OF: _____

NO. _____

**NEW MEXICO
CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION
Order Authorizing Destruction of Property**

Pursuant to the **Application for Order Authorizing Destruction of Evidence** and good cause appearing; THE COURT FINDS the proposed destruction of the property listed on the attached **Evidence/Contraband Destruction Inventory Log** is in the best interest of the public safety and welfare; **IT IS THEREFORE ORDERED** that the property listed on the attached **Evidence/Contraband Destruction Inventory Log**, should be destroyed, unless an alternative disposition is provided as such:

District Judge: _____ Date: _____

xc; file

____JUDICIAL DISTRICT
COUNTY OF _____
STATE OF NEW MEXICO

IN THE MATTER OF THE
DESTRUCTION OF PROPERTY
EVIDENCE OF: _____

NO. _____

**NEW MEXICO
CORRECTIONS DEPARTMENT
PROBATION AND PAROLE DIVISION
Affidavit of Destruction**

We, the undersigned, do solemnly swear and certify that the items listed on the attached
Evidence/

Contraband Destruction Inventory Log was destroyed on the _____ day of _____,
20_. This was done pursuant to N.M.S.A. 1978, §29-1-14, The Unclaimed Property Act. The
property was destroyed by means of:

Witness

Witness

SUBSCRIBED and SWORN to before me this _____ day of _____, 20_;

By _____.

Xc; file

**NEW MEXICO CORRECTIONS DEPARTMENT
PROPERTY DISPOSITION ACKNOWLEDGEMENT**

Offender Name: _____

Offender #: _____

I, _____, have been informed and
Name of Offender
understand that circumstances may require my arrest by the New Mexico Department of Corrections by the Probation Parole Division during my period of parole and/or probation supervision. In the event that I am arrested by the Probation and Parole Division at the Probation and Parole Office, my personal property will remain at the office. I understand that I must arrange for an authorized person(s) to pick up my personal property no later than fourteen (14) calendar days after my arrest and I will advise the arresting Probation and Parole staff of the name of my authorized person(s). I further understand that my personal belongings will not be released to anyone who I have not designated as authorized. My authorized person must provide picture identification in order for the Probation Parole Office to release my property. If I fail to arrange for an authorized person(s), or if the authorized person(s) fails to pick up my personal property no later than fourteen (14) calendar days after my arrest, I understand that the Probation and Parole Division staff will dispose of my personal property.

This acknowledgement is also a Disclaimer which gives the Department of Corrections the discretion to dispose of any property should I abandon or abscond from supervision. The Corrections Department will not be liable for the loss of or damage to personal property pursuant to Policy CD-150201.

Personal property does not include contraband or evidence in an investigation.

Offender signature: _____

Probation Parole Officer: _____

Date: _____

**NEW MEXICO CORRECTIONS DEPARTMENT
Policy/Procedure Acknowledgement**

I, _____, acknowledge that I have received a copy of and Procedure and I further acknowledge that it is my responsibility to become familiar with this policy/procedure and recognize that violations may result in disciplinary action. If I have questions or if I do not understand any provision of this policy/procedure, I will ask my supervisor.

**CD 050700: PPD Search of Offender's Person, Home, or Property; and Processing
Confiscated Evidence or Property**

CD 050701: PPD Search of Offender's Person, Home, or Property

CD 050702: PPD Processing Confiscated Evidence or Property

Employee's Signature

Date

Witness's Signature

Date

Original = Employee File

Copy = Employee