

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: APA Evidence and Contraband	PAGE <u> 1 </u> OF <u> 6 </u>
	NUMBER: 100-APA-01
RULE/CODE REFERENCE: O.R.C. 2981.11, 2981.12; 3719.11, 2933.241	SUPERSEDES: 100-APA-01 dated 04/21/14
RELATED ACA STANDARDS: 4-APPFS-3B-11	EFFECTIVE DATE: June 23, 2016
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to set forth procedures for processing, storage, transportation, and disposal of all evidence and or contraband seized by Adult Parole Authority employees.

III. APPLICABILITY

This policy applies to all employees of the Adult Parole Authority (APA).

IV. DEFINITIONS

Contraband - Any goods or items for which possession constitutes a violation of the law, conditions of supervision, or any court or parole board ordered special conditions/sanctions.

Evidence - Objects, documents, or testimony, which substantiates or tends to substantiate an allegation.

Evidence Officer - The officer with responsibility to exercise control over weapons, drugs and other contraband confiscated as part of a search or search incident to arrest.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to ensure any contraband or evidence seized by an Adult Parole Authority (APA) employee be conveyed and stored in such a manner that maintains the integrity of the property and is disposed of according to applicable statutes.

VI. PROCEDURES

- A. Chain of Custody** - An accurate chain of custody shall be established at the scene and the designated evidence officer shall perform the following duties as soon as practical:
1. Secure and make safe any weapons, ammunition, or ammunition loaders. APA officers shall secure the assistance of law enforcement when confronted with unfamiliar weapons or ordnance.
 2. Pursuant to DRC policy 100-APA-05, APA Search and Arrest Procedures, any material evidence of a crime or contraband confiscated during a search shall be inventoried and recorded on the Property Tag/Chain of Custody form (DRC3446).
 - a. For warrant searches, the inventory shall be made in the presence of the officer who applied for the warrant and the person whose property is being taken, if they are present. One (1) credible person, such as another officer, may substitute for the warrant applicant or person whose property is being taken.
 - b. A copy of the inventory shall be verified by the officer and issued to an occupant of the premises or left in a conspicuous place at the scene. The inventory shall be retained by the evidence officer and made a part of the Property Log (DRC3447).
 3. If possible, photograph any evidence or contraband found. Document a detailed description of all property taken, where the items were located, by whom they were found, and the time. The description of the property or contraband taken shall include the following information, if applicable:
 - a. Firearms: List make, model, caliber, barrel length, finish, serial number and other pertinent information (e.g. four live rounds, loaded clip found nearby etc.)
 - b. Ammunition or Ordnance: List brand, quantity and caliber.
 - c. Weapons: List type, brand name, size, color, serial number, if applicable, and any distinguishing characteristics.
 - d. Drugs/Medication: List name(s) and/or type(s) of medication, amount, dosage, color and form (e.g. pill, capsule, powder, liquid, etc.).
 - e. Alcoholic Beverages: List number of containers, container type, brand, alcoholic content, and whether or not seal has been broken.
 - f. Other Property: List type, brand name, color, size, model, serial number, if applicable, and brief description.
 - g. Explosives or explosive related supplies and/or chemicals shall not be moved or handled by APA officers. The assistance of law enforcement or fire department personnel trained in the handling of such hazardous materials shall be secured in the event that these types of items are found during an APA search and/or arrest. Hazardous materials shall not be transported or stored within APA regional offices. These items shall be inventoried and/or photographed at the scene after the area is deemed safe by trained law enforcement or fire department personnel. The Property Tag/Chain of Custody (DRC3446) shall be utilized to document the transfer of explosives, or explosive related supplies, along with chemicals, to law enforcement at the conclusion of the search.

4. The evidence officer shall maintain the property in a secure fashion for immediate transport to the APA office location, marking it properly for identification purposes. The property shall then be turned over to the APA office property manager. Evidence or contraband shall not be stored in an unsecured area such as personal vehicle, home, or desk.
5. If the property is evidence of a new crime, local law enforcement shall be contacted and the property turned over to them, as soon as practical, for its preservation as evidence and use in the potential prosecution of any criminal charges.
6. If the property is evidence of violation behavior or local law enforcement cannot or will not take custody of the property, the APA officer shall inventory the property taken and issue a copy of the inventory as a receipt.
 - a. Alcoholic beverages (if the offender has no alcohol condition) clearly attributable to the offender may be disposed of at the scene, provided that its nature is described in detail (type, brand, container, number of containers) and its disposal is properly documented on the APA Property Tag/Chain Of Custody (DRC3446).
 - b. Any cash or currency found on the person of an offender being arrested shall be checked in as personal property when the offender is booked into a local detention facility. If the currency found is in conjunction with drugs, and is the fruit of a crime or otherwise evidence linked to a crime, it shall be turned over to appropriate law enforcement officials.

B. Storage

1. All confiscated property shall be turned over to the property room manager employee as designated by the regional administrator. The property room manager or designee shall do the following regarding confiscated property:
 - a. Review the APA Property Tag/Chain of Custody (DRC3446). By signing the APA Property Tag (DRC3446), the property room manager documents receipt of evidence seized. A copy of the property tag form shall be affixed to the seized item during the time it is stored in an APA contraband room. A copy of the property tag shall be provided to the transporting officer and/or unit responsible for supervision of the case. A copy shall also be maintained in the district office file.
 - b. Ensure the property being stored is not caustic, toxic or flammable. If the property is considered caustic, toxic or flammable, the property room manager shall ensure the property is disposed of in consultation with the Environmental Protection Agency (EPA) and/or Occupational, Safety, and Health Agency personnel. Explosives or explosive related supplies and/or chemicals shall not be transported or stored in APA contraband rooms. These items shall be turned over to law enforcement or other agencies trained in the handling and storage of dangerous and unstable contraband.

- c. Secure the contraband or evidence in a metal property locker or locked cabinet. Property room managers shall maintain keys to the contraband room. The keys shall not be released to any other person. (An additional set of keys may be maintained in a designated lock box, where applicable, and general access is limited. This will provide backup entry in the event the manager is not available.)
 - i. If the property being stored is considered bio-hazardous, it shall be stored in an EPA approved bio-hazardous waste container. The property room manager shall utilize the appropriate personal protective equipment when handling bio-hazardous waste. At no time shall the property room manager discard the property with ordinary refuse.
 2. The property room manager shall maintain an APA Property Log (DRC3447). The APA Property Log (DRC3447) shall include the following information:
 - a. The date on which the property came into APA custody;
 - b. An appropriate description of the property sufficient to identify and distinguish the property, (appearance, serial numbers, weight, etc.);
 - c. The manner and date of its disposal; and
 - d. The name of the person who received the property if it was not destroyed (the property room manager).
 3. If the confiscated property is lost, stolen, or appears to be tampered with, the property room manager shall complete an Incident Report (DRC1000) no later than the end of the business day. This report shall be sent to the chief of the APA with copies to the investigations section, regional administrator, and superintendent.

C. Transfer

1. If confiscated property is being used to pursue criminal charges, then the property shall be turned over to a local law enforcement agency, if requested. When property is required for evidence in revocation or criminal proceedings, transfer of the property shall be the responsibility of the property room manager or designee. The property room manager or designee shall do the following:
 - a. Complete the chain of custody section on the APA Property Tag/Chain of Custody (DRC3446), detailing who the receiving party is and documenting the date and time of the evidence transfer.
 - b. Ensure the APA Property Log (DRC3447) is updated upon any instance when seized evidence or contraband is removed from the regional property room.

2. If the property is returned to the property room, the property room manager/designee shall document the appropriate information on the APA Property Tag/Chain of Custody (DRC3446) and the APA Property Log (DRC3447).

D. Disposal

If the property has been used in criminal or violation proceedings that concluded and the property is not subject to further litigation, the property may be utilized or destroyed pursuant to Ohio Revised Code Section 2981.12:

1. The property room manager shall make a reasonable effort to locate the person entitled to possession of the property and return the property to them pursuant to Ohio Revised Code 2981.11 (C) unless:
 - a. The property was the subject of an offense and the person entitled to possession was a conspirator, accomplice, or offender with respect to the offense.
 - b. A court has determined that the property should be forfeited; in light of the nature of the property or the circumstances of the person, it is unlawful for the person to acquire or possess the property.
2. The property room manager shall prepare and submit an application for disposal of property to the common pleas court in that jurisdiction. The application shall have attached an inventory of the property. The inventory shall contain all the information from the APA Property Log (DRC3447). The inventory shall not contain the name of the APA officer from whom the property room manager received the property. The application to the court shall also have a draft journal entry attached, which when signed and journalized, shall authorize the disposal of the inventoried property pursuant to the provisions of Ohio Revised Code 2981.12 (A), as follows: (See sample entry attached in Appendix A).
 - a. The court will order that the drugs shall be destroyed or sent to the Bureau of Criminal Identification and Investigation for destruction by the Bureau. The property room manager, in conjunction with the regional administrator, shall coordinate the disposal process of drugs with the Bureau of Criminal Identification and Investigation, the court, or by approved destruction methods, pursuant to the controlling statute of the Ohio Revised Code 3719.11 (A).
 - b. Pursuant to Ohio Revised Code 2981.12 (A) (2), firearms and dangerous ordnance shall be given to a law enforcement agency for police work, sold at public auction, sold to a federally licensed firearms dealer that the court considers proper, destroyed, or sent to the Bureau of Criminal Identification and Investigation for destruction by the Bureau. The property room manager

and the regional administrator shall coordinate the disposal process of firearms with the Bureau of Criminal Identification and Investigation.

- c. Upon the conclusion of a criminal or violation proceeding, obscene materials seized or confiscated shall be destroyed. Shredding and/or destruction of obscene items shall be documented by the property room manager and witnessed by a member of APA management staff.

3. Bio-hazardous waste: All property stored in the bio-hazardous waste container shall be disposed of in accordance with EPA standards. The property room manager shall make arrangements with a local medical facility, a DRC institution, or local refuse hauler to arrange disposal. Disposal of all bio-hazardous waste shall be disposed of within thirty days of storage.

4. No contraband shall be used for training purposes.

5. Each sheet of the APA Property Log (DRC3447) shall be maintained according to the DRC record retention schedule.

Attachments:

Sample Journal Entry

Appendix A

Related Department Forms:

Property Tag/Chain of Custody

DRC3446

Property Log

DRC3447

IN THE COURT OF COMMON PLEAS

_____, Ohio

Ohio Adult Parole Authority
_____ Regional Office

)Case No.:_____

)Judge:_____

)APPLICATION AND ORDER

)FOR DISPOSAL OF PROPERTY

)R.C. §2981.12

Now comes the Ohio Adult Parole Authority, a law enforcement agency within the State of Ohio, and hereby makes application for the disposal of lost, abandoned, stolen, seized and unclaimed property in its custody. The Applicant certifies that the attached inventory is a complete and accurate inventory of the property to be disposed of, that the property was lawfully seized, and that the property is no longer needed as evidence. Upon the approval of this application, and the journalization of this entry, the applicant shall timely dispose of the property pursuant to R.C.2981.12.

_____, Regional Administrator

The Application is hereby APPROVED and the disposal of the property
ORDERED.

Honorable Judge _____