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<b>POLICY NUMBER: 9.17</b>		
<b>CHAPTER 9: SUPERVISION AND CASE MANAGEMENT</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b> <b>Adult Community Services</b>	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
	Approved by: <u><i>Master Magnusson</i></u> <b>Signature of Commissioner</b>	
<b>EFFECTIVE DATE:</b> November 24, 2007	<b>LATEST REVISION:</b>	<b>CHECK ONLY IF</b> APA [ <input type="checkbox"/> ]

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

Adult Community Services

**III. POLICY**

It is the policy of the Department of Corrections that all property/evidence collected by Probation Officers is properly packaged, handled, stored, accounted for, and disposed of.

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## VI. PROCEDURES

### Procedure A: Collection and Packaging of Property/Evidence

1. Whenever possible and appropriate, Probation Officers shall allow other law enforcement officers to take custody of property/evidence. In the event that Probation Officers must take custody of property/evidence, they shall abide by the following procedures.
2. The Property/Evidence Form (Attachment A) shall be used for all property/evidence taken into custody by Probation Officers.
  - a. The Probation Officer shall complete the form as soon as possible following the collection of any property/evidence. In addition to listing the items collected on the form, officers shall check the appropriate box indicating that proper notification was made and a deadline provided for the release of the property to the rightful owner. The deadline shall be at least six (6) months after the property/evidence is no longer needed for use in any court proceedings.
  - b. Two copies of the Property/Evidence Form shall be made. One copy shall be provided to the apparent owner of the collected property/evidence, if known. The other copy shall remain packaged with the property/evidence. Once this property is released to the rightful owner or other appropriate person or disposed of, a copy of the completed Property/Evidence Form shall be placed in the case file.
3. As soon as reasonably possible following the collection of property/evidence, the Probation Officer shall document this action in CORIS. This documentation shall include:
  - a. A description of the property/evidence;
  - b. The date and time when and place where the property/evidence was collected, the name of the person who collected it; and
  - c. A description of the circumstances surrounding the collection of the property/evidence.
4. Probation Officers shall avoid taking custody of any item (e.g., alcohol) which can only be used to prove a technical violation and can be sufficiently documented by direct observation, photographs, or other means to support a probation violation. Such an item shall be released to another person who may lawfully possess it or shall be immediately disposed of. Any photograph, photocopy, videotape, or other appropriate documentation shall be treated as evidence and handled as set out in this policy.

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5. Probation Officers shall NOT take custody of any item that is clearly not evidence of a probation violation when arresting probationers or at any other time. The only exception is that if, upon arrest of a probationer, a weapon is discovered, the Probation Officer shall take custody of the weapon and shall follow the requirements of ACS Policy 9.9.
6. A Probation Officer shall not take custody of legally prescribed medication unless there is reasonable suspicion that the medication is being abused. If such suspicion can be established and custody is taken of medication, the facts supporting the suspicion shall be documented as soon as possible in CORIS. The medication shall be treated and handled as evidence pursuant to this policy. A phone call shall be made as soon as possible to the prescribing physician regarding the medication and the physician's instructions as to whether the medication is to be returned shall be followed by the Probation Officer. The date, time and the substance of the phone call shall be documented in CORIS, as well as the actions taken by the Probation Officer in response.
7. If an item is not unlawful to possess in general, but may not be possessed by a probationer due to a condition of probation, and the Probation Officer does not intend to use the item as evidence in a probation violation proceeding, the Probation Officer shall allow the probationer to surrender the item to another appropriate person who may lawfully possess the item. The person taking possession of the item must agree not to return the item to the probationer. If an appropriate person cannot be immediately located, the Probation Officer shall take custody of the item as contraband and handle it as set out in this policy.
8. Whenever possible, the property/evidence shall be packaged in a paper or plastic evidence bag or envelope or a cardboard box which will not cause the property/evidence to become contaminated or deteriorate in any way. A copy of the Property/Evidence Form (Attachment A) shall be packaged with the property/evidence. If the container is not self-sealing, it shall be sealed with evidence tape. The Probation Officer packaging the evidence shall document on the packaging the name of the Probation Officer who collected it, the Probation Officer who packaged it, and any Probation Officer to whom the property/evidence is being transferred for storage, the probationer's name, a list of the items(s) contained in the package, and the date of collection. Items that cannot be secured in the evidence locker due to the risk of deterioration may be documented by photographs, or other appropriate means. Such an item shall be released to another person who may lawfully possess it or shall be immediately disposed of. Any photograph, photocopy, videotape, or other appropriate documentation shall be treated as evidence and handled as set out in this policy.
9. Whenever a Probation Officer collects narcotics or other dangerous drugs, the Property/Evidence Form (Attachment A) shall include documentation as to the quantity and/or count of the drugs collected. Syringes shall be placed in a

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protective container before packaging. Once the drug evidence is packaged, it shall be immediately secured in the evidence locker.

10. Items such as syringes, knives, razor blades, and other sharp objects shall be packaged in an appropriate container in a manner to prevent them from puncturing the container. Labels on containers containing sharps shall note in a conspicuous way that sharps are contained. Once these items are packaged, they shall be immediately secured in the evidence locker.
11. Ammunition shall be removed from firearms and packaged separately and other appropriate action shall be taken to prevent the use of other weapons.
12. Currency shall only be seized by Probation Officers as a last resort. If currency must be seized by a Probation Officer, it shall be counted and inventoried by two (2) staff persons whenever possible. The exact amount shall be documented on the Property/Evidence Form and in CORIS. The currency shall be photocopied and turned over to the appropriate law enforcement agency as soon as possible, unless it is evidence of only a technical violation of probation. The date, time and to whom the currency was turned over shall be documented in CORIS.
13. As soon as reasonably possible after collection, property/evidence shall be transferred to the evidence locker. Notations of all property/evidence being secured in the locker shall be entered in the Property/Evidence Log (Attachment B) by the Probation Officer who placed it into the locker.

#### **Procedure B: Storage of Property/Evidence**

1. The Regional Correctional Administrator (RCA) or Assistant RCA shall be responsible for proper security, storage, and disposal of property/evidence.
2. Property/evidence shall be stored in a secure evidence locker in a secure location, as approved by the RCA or Assistant RCA.
3. Property/evidence shall be stored in a manner that protects it from damage, tampering, contamination or deterioration.
4. Any item which is used as evidence of a crime or probation violation shall be retained in the same state as when it was used as evidence until final disposition of the proceedings in which it was used, including any appeal.

#### **Procedure C: Temporary Removal of Property/Evidence**

1. Probation Officers shall not remove property/evidence from the evidence locker unless it is needed for investigative purposes, laboratory analysis or other testing, testimonial purposes, or for transfer to another law enforcement officer.

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2. When removing property/evidence from the locker, the Probation Officer must sign for the property/evidence on the Property/Evidence Log form (Attachment B). Notations must be made in the log whenever property/evidence is removed from the evidence locker or returned to the evidence locker.
3. Any item which may be evidence of a crime may be transferred to another law enforcement officer for investigative purposes, testing, or use in criminal proceedings.
4. Whenever property/evidence is transferred to another Probation Officer or other law enforcement officer, the transferring Probation Officer shall complete a Chain of Custody Form (Attachment C), which shall remain with the item(s) at all times.

**Procedure D: Disposal of Property/Evidence and Documentation**

**1. General**

Except as set out below, property/evidence may be released to its rightful owner once it is no longer needed as evidence in any court proceedings. Otherwise, property/evidence may be disposed of by donation to a charity, or if it has no significant monetary value, by trash pick up, if it is no longer needed as evidence in any court proceedings and if one of the following criteria is met. Appropriate documentation shall be completed indicating the disposition of the property/evidence in the Property/Evidence Log and on the Property/Evidence Form.

- a. The property/evidence is unlawful for the rightful owner to possess and has not been surrendered to an appropriate person who may possess the item;
- b. Ownership of the property/evidence was signed over by its rightful owner on the Property/Evidence Form to the Department of Corrections;
- c. Ownership of the property/evidence was not documented on the Property/Evidence Form, reasonable efforts have been made to locate the rightful owner of the property, and the property/evidence has been held for at least six (6) months after the first attempt documented in CORIS to locate the rightful owner of the property; or
- d. The deadline on the Property/Evidence form for claiming the property/evidence has expired.

The Probation Officer shall obtain a signature from the rightful owner of the property/evidence on the Property/Evidence form when property is to be released to the rightful owner, is surrendered by the rightful owner to an appropriate person, or ownership of the property/evidence is relinquished to the Department.

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2. **Drugs and Drug Paraphernalia:** It is required by federal law that the custody of drugs and paraphernalia to be disposed of be maintained by at least two (2) Probation Officers at all times. The two designated Probation Officers shall both maintain custody of the drugs and paraphernalia throughout the entire transportation and disposal process. Drugs and paraphernalia shall only be brought to a state-approved facility for disposal and the Probation Officers shall remain with the items until after the drugs and paraphernalia are tossed into the incinerator and fully incinerated. Appropriate entries shall be made in the Property/Evidence Log and on the Property/Evidence Form.
  
3. **Firearms and Other Weapons:** For firearms, the legal title to a firearm passes to the State if it is pled and proven in court that it was used in the commission of a crime or was in the possession of a felon or domestic violence offender (felony or misdemeanor) and the court orders on the Judgment and Commitment that the firearm is forfeited. Otherwise, the Probation Officer shall consult with the Assistant Attorney General for instructions on how to proceed with legal forfeiture of the firearm. If the firearm is forfeited, it shall be turned over to the Maine Crime Laboratory. At least two (2) Probation Officers shall maintain custody of a firearm to be disposed of until it is surrendered to the Maine Crime Laboratory. Appropriate entries shall be made in the Property/Evidence Log and on the Property/Evidence Form.

A firearm that is not subject to forfeiture or other type of lawful weapon that is no longer needed as evidence in any court proceedings shall be handled as follows:

- a. The Probation Officer shall release the weapon to the rightful owner, if the Probation Officer locates that person and determines that the person may lawfully possess the weapon.
  
- b. If the probationer from whom the weapon was taken is the rightful owner, but the weapon is unlawful for the probationer to possess due to a condition of probation, the probationer may, in writing, permit the Probation Officer to release the weapon to an appropriate person. In such a case, the Probation Officer shall make a reasonable effort to determine that the person designated to take the weapon may lawfully possess the weapon. The person taking possession of the weapon must agree not to return the weapon to the probationer.
  
- c. If another person is the rightful owner, but the weapon is unlawful for that person to possess for any reason, the Probation Officer shall turn the weapon over to the appropriate law enforcement agency.
  
- d. If, after reasonable efforts, the Probation Officer cannot locate the rightful owner of the weapon, the weapon shall be destroyed after being held for at least six (6) months after the first attempt documented in CORIS to locate the rightful owner. Two (2) Probation Officers shall take custody of the

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weapon and maintain custody until after it has been transported to an appropriate facility and rendered non-functional. Ammunition shall be turned over to the State Fire Marshal for disposal. Appropriate documentation shall be completed indicating the disposal of property in the Property/Evidence Log and on the Property/Evidence Form.

4. **Explosives:** Explosives that are no longer needed as evidence in any court proceeding shall be surrendered to the State Fire Marshal for disposal. Appropriate documentation shall be completed indicating the disposal in the Property/Evidence Log and the Property/Evidence Form.
5. **Child Pornography:** Whether in written or electronic form, child pornography shall be destroyed as soon as reasonably possible if and when it is no longer needed as evidence for court proceedings. If it is on a computer, the hard drive shall be removed and physically destroyed. Two (2) Probation Officers shall observe the destruction of the hard drive and appropriate documentation shall be completed indicating the disposal in the Property/Evidence Log and the Property/Evidence Form.
6. Documentation shall be maintained for the disposition of all property/evidence
  - a. Documentation, by completing the bottom portion of the Property/Evidence Form (Attachment A) that is kept within the property/evidence package, shall be made for all property that is either released or disposed of in the appropriate manner. A copy of the completed property/evidence form shall be provided to the appropriate person upon disposition of the property.
  - b. A completed copy of the Property/Evidence Form (Attachment A) shall be placed in the case file of the appropriate probationer once the property/evidence is disposed of.

## VII. PROFESSIONAL STANDARDS

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