

SAN DIEGO POLICE DEPARTMENT ORDER

DATE/TIME: SEPTEMBER 22, 2021 1605 HOURS
NUMBER: OR 21-26
SUBJECT: RELEASE OR DISPOSITION OF CELL PHONES
COST CENTER: 1914131221
SCOPE: ALL MEMBERS OF THE DEPARTMENT
DEPARTMENT PROCEDURE AFFECTED: DP 3.02

The following portion of Department Procedure 3.02 will be updated to include the following information. **Effective immediately**, these procedures shall be followed for the release or disposition of cellular phones.

A. Release or Disposition of Cellular Phones

1. Except as otherwise provided in this Procedure, when a cellular phone (commonly referred to as a cell phone) is seized without a warrant, the officer or detective shall make a determination whether to seek a warrant to hold and/or search the cell phone, within a reasonable time of the cell phone's seizure. A reasonable time to make a decision to seek a warrant may include, but is not limited to, analysis of the following factors: 1) complexity of the case; 2) number of witnesses and possible witnesses; 3) number of arrests; 4) time of arrest; and 5) delays due to emergency operations or circumstances. Officers and detectives shall make reasonable efforts to make a determination as early as possible.
2. When the officer or detective determines that a cell phone seized from an arrestee without a warrant is no longer considered evidence and does not intend to seek a warrant to hold and/or search the cell phone, the officer or detective shall notify the cell phone's owner in writing, via a Property Release Form (as required in Department Procedure 3.02, Section XI.A.), that the cell phone has been released and provide instructions on how to retrieve the cell phone.
 - a. **Property Release Forms (PD-184) shall be sent by certified mail to the address the individual provided to the Department when arrested.** If the individual did not provide a mailing address

when arrested, the officer or detective shall use the address registered with the Department of Motor Vehicles.

- b. If a detective sergeant does not assign an officer or detective the case, the detective sergeant reviewing that case shall be responsible for the release of the cell phone by certified mail.
- c. The Certified Mail Return Receipt form (United States Postal Service PS Forms #3800) and Certified Mail Domestic Return Receipt (United States Postal Service PS Forms #3811) are available at each area command from the clerical staff. At HQ, the mail room staff have supplies of the forms.

Note: Please contact the mail room staff if your command needs replacement certified mail forms.

- 3. The Department, through the assigned investigator, shall provide notice and a copy of any warrant to search for electronic data on the phone to the individual or target of the investigation, as required by the California Electronic Communications Privacy Act (“CalECPA”) and Penal Code section 1546.2.

Please read at squad conferences and give a copy to all personnel.