

Custody and disposal of exhibits

Table of Contents

Table of Contents	2
Executive summary	3
How long can exhibits be held by Police?	4
Returning exhibits when copies or photographs are adequate	4
Exhibits required for investigative purposes or liable to forfeiture	4
Things not required for investigative purposes or liable to forfeiture	4
Immediate release of things when events occur	5
Summary of disposal actions	6
Applications for access to or release of exhibits in Police custody	8
Methods of destruction	9
Police applications for exhibit related court orders	11

Executive summary

This part of the 'Exhibit and property management' chapter:

- details how long exhibits can be held by Police
- provides a summary of disposal actions, including return to owner, destruction, forfeiture to the Crown or another person, sale, or retention by Police.

Key things to note in this part of the 'Exhibit and property management' chapter include:

Anything that has been seized or produced must, if it is not required for investigative or evidential purposes, or liable to forfeiture to the Crown or any other person, be:

- returned to its owner or person entitled to possession; or
- made the subject of an application under section 154; or
- disposed of under section 160, or 161; or
- destroyed if it is:
 - perishable and has become rotten or otherwise deteriorated, or is likely to before it can dealt with under any of the above options, or
 - likely to pose a risk to public health.

Exhibits must be released from Police custody immediately the first of the following occurs:

- a decision is made not to bring proceedings
- the item is forfeited to the Crown or any other person or released under a District Court order
- if proceedings for an offence have not been commenced before the date that is 6 months after the thing was seized or produced and a request has been made for the return of the thing
- where proceedings are brought and they are withdrawn, dismissed or completed, or
- the item is otherwise disposed of.

Exhibits must be destroyed in accordance with the '[Methods of destruction](#)' guidance provided in this chapter.

How long can exhibits be held by Police?

This section contains these topics:

- Returning exhibits when copies or photographs are adequate
- Exhibits required for investigative purposes or liable to forfeiture
- Things not required for investigative purposes or liable to forfeiture
- Immediate release of things when events occur

Returning exhibits when copies or photographs are adequate

The O/C case or O/C exhibits should use discretion and return exhibits to the owner or a person entitled to possession if a photograph or copy of it will be adequate for investigative or evidential purposes.

([s152](#)).

Exhibits required for investigative purposes or liable to forfeiture

Any thing seized or produced:

which is ...	may be ...
<ul style="list-style-type: none"> - required for investigative or evidential purposes, <p>or</p> <ul style="list-style-type: none"> - liable to forfeiture to the Crown or any other person 	<p>held in Police custody or by a person acting on behalf of Police until the first of the following occurs:</p> <ul style="list-style-type: none"> - a decision is made not to bring proceedings - the item is forfeited to the Crown or any other person - the item is released following a District Court order (s158 or s159) - proceedings for an offence have not started within six months of the seizure or production and the person from whom it was seized has requested its return (unless an application for an extension has been made under s153 - see Search - Part 12 - Procedures applying to seized and produced things) - proceedings are withdrawn, dismissed, or completed - the item is disposed of as an unlawful item (s160).

Note: When items relate to more than one offence, they do not need to be released until the first of the events described in the tables above has occurred in relation to each and every offence.

([s151\(2\)&\(3\)](#))

Things not required for investigative purposes or liable to forfeiture

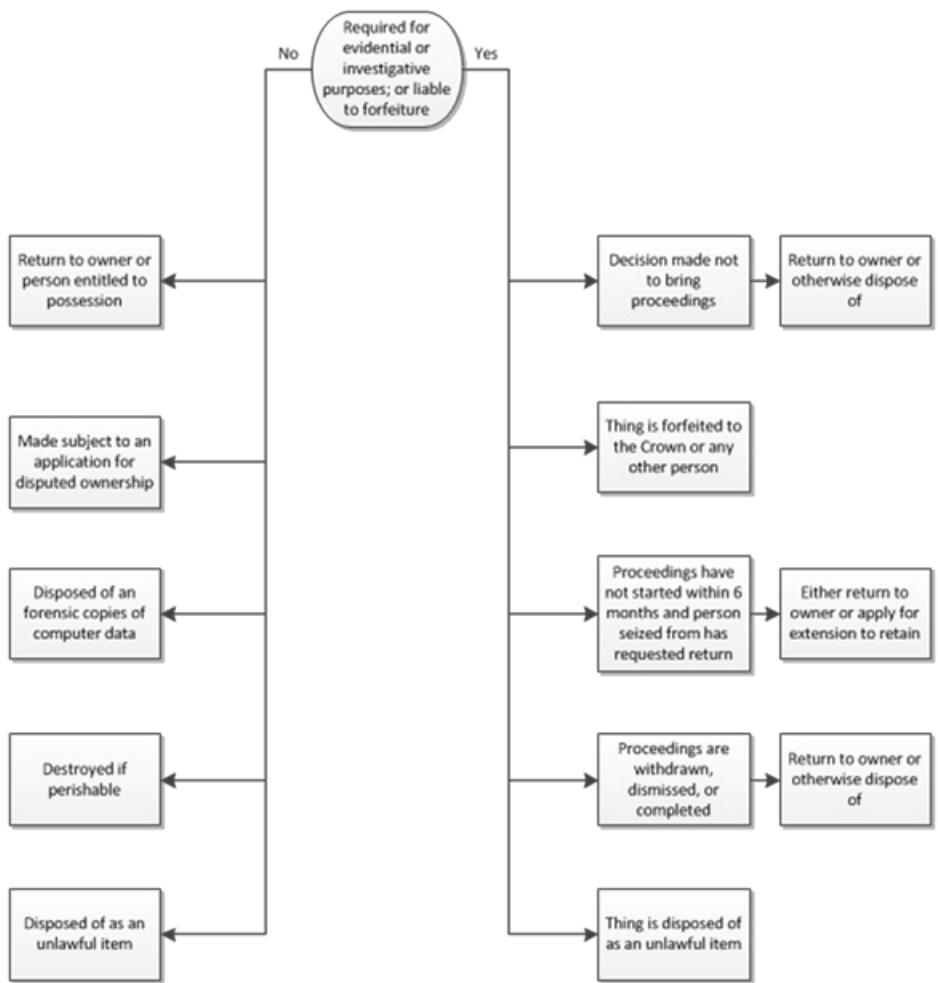
Any thing seized or produced:

which is ...	must be...
- not required for investigative or evidential purposes, or - not liable to forfeiture to the Crown or any other person (by law, court order or otherwise)	- returned to its owner or the person entitled to possession; or - made the subject of an application for disputed ownership (s 154); or - disposed of as an unlawful item (s 160); or - disposed of as forensic copies of computer data if it does not contain evidential material (s 161); or - destroyed if it is: <ul style="list-style-type: none"> - perishable and has become rotten or deteriorated, or - likely to become rotten or perish before a court orders its disposal, or - likely to pose a risk to public health.

Immediate release of things when events occur

When an event in the tables above occurs the item must be immediately released:

- to the owner or person entitled to possession, **unless** it is unlawful to be in possession; or
- in the case of items that have been forfeited, or subject to court orders requiring access or release, in the manner required under the Act.



Summary of disposal actions

All exhibits must be disposed of in one of the following manners. Note that there is no statutory authority to deal with exhibits other than as outlined below and therefore there must be no 're-purposing' of exhibits or property in any other manner. Upon disposal the method of disposal and the officer that disposed of the exhibit must be recorded in PROP.

Disposal method	Requirements
Returned to owner (s150)	<p>Exhibits must be returned to the owner or person entitled to have possession of it unless:</p> <ul style="list-style-type: none"> - the Court has issued an order for destruction; or - the item is liable to forfeiture to the Crown; or - the item is still required for investigative or evidential purposes; or - an application is made for disputed ownership (s154); or - it is to be disposed of as an unlawful item (s160); or - it is to be disposed of as forensic copies of computer data if it does not contain evidential material (s161). <p>If a photograph or copy of an item seized or produced will be adequate for investigative or evidential purposes, then that thing can be returned to the owner or person entitled to possession of it. (s152)</p> <p>Exhibits must be returned following a successful application for release or access to the item seized or produced (s156), or by a subsequent Court order if the initial application was refused (s158, s159).</p> <p>For more information on return of exhibits see:</p> <ul style="list-style-type: none"> - How long can exhibits be held by Police? in this part of the 'Exhibit and property management' chapter. - Search Part 12 - Procedures applying to seized and produced things -
Destroyed	<p>Exhibits can be destroyed:</p> <ul style="list-style-type: none"> - On an order from the Court for destruction - If the thing is perishable and has become rotten or deteriorated or is likely to deteriorate before a Court orders its disposal, or it's likely to pose a risk to public health (s150). - On order from the Court following a disputed ownership application (s154). - If possession of the item from whom it was seized or produced is unlawful under NZ law (e.g. unlawful drug), so long as notice has been given to that person, and they have either consented to destruction, or have not objected to destruction within 30 days (s160) - If the item is a forensic copy of data from a computer system and that data does not contain evidential material (s161) <p>For more information see:</p> <ul style="list-style-type: none"> - 'Disposal of seized and produced things' in Search Part 12 - Procedures applying to seized and produced things - particularly on the requirements for giving notice - Methods of destruction in this part of the 'Exhibit and property management' chapter.
Forfeited to the Crown	<p>Exhibits are forfeited to the Crown:</p> <ul style="list-style-type: none"> - On order from the Court following a disputed ownership application (s154). - If the owner or person entitled to the item has not been established within 60 days of the seizure or production, and the item is not required for evidential or investigative purposes, and has not been disposed or sold by the Court in that period (s155). <p>See 'Disputed ownership and forfeiture' in Search Part 12 - Procedures applying to seized and produced things.</p>

Disposal method	Requirements
Sold	<p>Exhibits can be sold:</p> <ul style="list-style-type: none"> - On order from the Court for sale of the item following a disputed ownership application (s154) - On order from the Court for disposal (by sale or otherwise) if the item is perishable, or the cost of holding the item is unreasonable having regard to its market value, and reasonable efforts have been made to advise the person from whom it was seized of the application (s163). <p>In cases where exhibits are to be sold, follow the sale procedures for found property as far as practicable.</p> <p>See the 'Disposal of found property' part of the 'Exhibit and property management' chapter.</p>
Retained by Police	<p>If the item is seized or produced in relation to more than one alleged offence, it does not need to be released until the first of the events described in 'When can exhibits be held in Police custody and for how long?' has occurred in relation to each and every alleged offence. (s151(2) & (3))</p> <p>Police can also seek an extension of time for holding things - -see 'Return, transfer, and custody of seized or produced things' in Search Part 12 - Procedures applying to seized and produced things.</p>
Police Museum Collection	<p>District or Area Commanders must arrange for the Police Museum to receive complete evidence from significant cases that have completed the justice process, significance to be negotiated between O/C & Museum Director. See: New Zealand Police Museum Collection Management policy.</p>

Applications for access to or release of exhibits in Police custody

Applications for access to or release of seized or produced items held by Police can be made by:

- the person who produced the item or from whom it was seized
- the owner or person entitled to possession
- any person with a legal or equitable interest in the item.

See 'Applications for access to or release of things' in [Part 12 of the Search chapter- Procedures applying to seized and produced things](#) for information on:

- how to consider and record decisions on applications for access or release
- Police bonds when access or release is conditional
- action following failure to comply with Police bonds or conditions.

Methods of destruction

s.6(c) OIA

Property class	Legal justification
Drugs	<ul style="list-style-type: none"> - s160 Search and Surveillance Act - Court order for destruction. - s32 Misuse of Drugs Act 1975
Firearms	<ul style="list-style-type: none"> - s70 Arms Act 1983 <p>Note: before destroying a firearm, consider whether the firearm may be of interest to the Armoury for catalogue purposes.</p>
Ammunition	<ul style="list-style-type: none"> - s70 Arms Act 1983
Hazardous substances	<ul style="list-style-type: none"> - s150(1)(d)(iii) Search and Surveillance Act. - s76C Hazardous Substances and New Organisms Act <hr/> <ul style="list-style-type: none"> - Court order for destruction.
E-waste	<ul style="list-style-type: none"> - Court order for destruction. - s41(5) Policing Act 2008

s.6(c) OIA

Property class	Legal justification
General property	<ul style="list-style-type: none">- Court order for destruction.- s150 Search and Surveillance Act 2012 (perishable)- s160 Search and Surveillance Act 2012 (unlawful possession)- s41(5) Policing Act 2008

Police applications for exhibit related court orders

A number of applications may be made to a court relating to exhibits including:

- an extension of time ([s153](#))
- ownership holding ([s154](#))
- disposal of property ([s163](#))
- failure to comply with bond ([s157](#))
- retention of raw data ([s63](#))
- retention of raw data excerpts ([s63](#))

Refer to 'Court related documentation relating to seized and/or produced things' in [Search Part 12 - Procedures applying to seized and produced things](#) for details of how to make such applications.
