



End Violence Against Women International  
(EVAWI)

# Model Policy Materials: Evidence Retention, Disposition, and Removal

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In 2003, Sgt. Archambault founded EVAWI, a nonprofit organization dedicated to improving criminal justice responses to sexual assault and other forms of gender-based violence. Starting from scratch, she has grown EVAWI into the premier training organization on sexual assault investigations, providing superior training and resources, influencing national policy, and mentoring a new generation of leaders. In 2011, she achieved a dream first envisioned while working in the San Diego Police Department's Child Abuse Unit in 1985 – the launch of Start by Believing, a public awareness campaign designed to transform the way society responds to victims of sexual violence. With campaigns in all 50 US states, several US territories and protectorates, and numerous countries, this vision is now becoming a reality, changing the world for victims, one response at a time.



## Acknowledgements

This document represents a compilation of information from several sources, as well as original material. Substantial material was drawn from *The Biological Evidence Preservation Handbook: Best Practices for Evidence Handlers*. This document was created by the Technical Working Group on Biological Evidence Preservation and published in 2013 by the National Institute of Standards and Technology, within the U.S. Department of Commerce in collaboration with the National Institute of Justice, U.S. Department of Justice (NISTIR 7928). Additional material was drawn from policies submitted by the police departments in Mesa and Sahuarita, Arizona, as well as a training tool contributed by the San Diego County District Attorney's Office.

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- Glendale Police Department
- Mesa Police Department
- Phoenix Police Department
- Sahuarita Police Department
- Scottsdale Police Department
- Surprise Police Department
- Yuma Police Department



## Background

This document was created to provide law enforcement guidance when developing policies and procedures for the retention, disposition, and/or removal of evidence. While law enforcement agencies typically have appropriate policies and procedures for evidence in general, most do not specifically address the types of evidence often found in a sexual assault case. This includes used wet condoms, containers with liquid that might have been used in a drug or alcohol facilitated sexual assault, and forensic evidence kits, including those collected when the victim has not yet decided to personally report to law enforcement at the time of the medical forensic examination (non-investigative reports). Policies and procedures also need to address evidence collected from victims who report to law enforcement at the time of the medical forensic examination, but are then unable to participate in the process of the investigation.

This document also addresses evidence retention guidelines for sexual assault cases that are unfounded, either because they are determined to be false or baseless, as well as those cases that are recorded as an informational report rather than a crime report. Particularly detailed guidance is provided on the policies and procedures for storing biological evidence. The document provides specific text that can be adapted for use by agencies when crafting policies and procedures, as well as instructional commentary and supplemental materials. It can therefore be used as an educational tool to assist in the development of training materials and performance evaluations.

## Purpose

This order provides Police Department personnel with policies and guidelines for evidence retention, disposition and removal.

## Policy

The policy of the Department is to ensure that evidence and property is properly stored and disposed of in a timely and lawful manner.

## Definitions/Acronyms

- The Property Custodian is assigned with the responsibility of managing evidence and property.
- Evidence Storage/Property Room: The evidence storage room is located within the Police Department where employees impound recovered evidence/property.
- Storage Area: The area within the Evidence Storage/Property Room where evidence/property is secured/stored.

- Incident Report (IR): The departmental report form used to document information about a specific incident, which may or may not meet the elements of a criminal offense
- CIU: Criminal Investigations Unit
- RMS: Records Management System
- CJIS: Criminal Justice Information System
- NCIC: National Crime Information Center
- CIC: Criminal Information Center

## Identifying Biological Evidence

Biological evidence refers to samples of biological material (such as hair, tissue, bones, teeth, blood, semen, or other bodily fluids) -- or to evidence items containing biological material. This biological evidence, which may or may not have been previously analyzed at a forensic laboratory, should be retained in an appropriate storage facility until needed for court or for forensic testing. Such evidence is frequently essential in linking someone to crime scene evidence or excluding them as the source of such evidence. The criminal justice system depends on presenting evidence to judges and jurors to help them reach a conclusion about whether or not a defendant is guilty.

A wide variety of items can be successfully tested with current DNA technology. Furthermore, touch DNA (or DNA contained in shed skin cells that transfer to surfaces that humans touch) can be sampled from countless objects and surfaces.

However, if a law enforcement agency were to require the retention of all physical evidence that could potentially contain DNA, it would have to retain every single piece of evidence collected -- unless it was screened to determine the possible presence of genetic material. The guidelines provided here are therefore designed to balance the interests of justice with practical storage concerns and to offer a minimum threshold for biological evidence retention. The table below describes different types of evidence that can contain biological evidence, which, in turn could be tested for DNA.

### Examples of Sources of Biological Evidence

Source: National Institute of Justice, 2002

Evidence	Likely Location of DNA on the Evidence	Source of DNA
Baseball bat or similar weapon	Handle, end	Sweat, skin, blood, tissue
Hat, bandanna, or mask	Inside	Sweat, hair, dandruff

Eyeglasses	Nose or ear piece, Lens	Sweat, skin
Facial tissue, cotton swab	Surface area	Mucus, blood, sweat, semen, ear wax
Dirty laundry	Surface area	Blood, sweat, semen
Toothpick	Tip	Saliva
Used cigarette	Cigarette butt	Saliva
Stamp or envelope	Licked area	Saliva
Tape or ligature	Inside/outside surface	Saliva, skin
Bottle, can, or glass	Side, mouthpiece	Saliva, sweat
Used condom	Inside/outside surface	Semen, vaginal or rectal cells
Blanket, pillow, sheet	Surface area	Sweat, hair, semen, urine, saliva
“Through and through”	Outside surface	Blood, tissue
Bite mark	Person’s skin or clothing	Saliva
Fingernail, partial fingernail	Scrapings	Blood, sweat, tissue

The table above is only intended to provide guidance. The ultimate determination of whether a particular item could contain biological evidence – and whether it should therefore be retained as evidence -- should be made by officials with experience, training, and insight into the context of the individual case. This could include detectives, attorneys, investigators, crime scene technicians, and crime laboratory personnel. Property and evidence custodians rarely have the requisite expertise or insight into the context of a specific case to make initial determinations regarding which items should be retained and whether they are likely to contain biological evidence.

## Packaging and Storing Biological Evidence

Improper evidence collection and storage of biological evidence may promote the growth of bacteria and mold, which can seriously damage or degrade the DNA contained in biological material and inhibit the ability to develop a DNA profile. All criminal justice stakeholders (e.g., forensic examiners, law enforcement personnel, prosecutors, and forensic scientists) therefore share responsibility for ensuring that biological evidence is properly collected, preserved, processed, stored, and tracked to avoid contamination, premature destruction, or degradation.

Any individuals who come into contact with biological evidence (such as evidence custodians) also need to be confident that it has been packaged and labeled in a way that will allow them to efficiently locate it. To establish this confidence, all handlers of biological evidence should follow appropriate procedures for its optimal preservation.

## Collection, Storage, and Documentation

All biological evidence must be kept refrigerated or frozen, as required, and clearly labeled with the IR number, source, and name and badge number of the person

who collected the evidence. Additionally, the evidence shall be properly sealed and marked with the impounding officer's initials and badge number on the seal. The chain-of-custody documentation form will also need to be included with the evidence.

Items requiring refrigeration (e.g., tissue, blood, semen, urine) will be impounded in the evidence/property refrigerator designated for that purpose.

## Evidence Collected by Health Care Providers

Biological evidence should be collected by hospital personnel or forensic examiners, in accordance with state and local laws, whenever there is the possibility that it may have an impact on a case. This would include situations where the patient is reporting a sexual assault, assault with a deadly weapon, intimate partner violence, or car accidents involving drugs or alcohol. Hospitals and forensic examiners should develop policies regarding the storage of biological evidence, because both the forensic examiner and the individual collecting the evidence are involved in the chain of custody.

Evidence is also collected by health care providers during a medical forensic examination of a patient who discloses sexual assault victimization. This is discussed in more detail in a later section.

In general, however, the individual who collects the evidence from a patient is responsible for initiating the chain of custody process. The responding officer will provide the health care provider with an IR and obtain the appropriate information, including a medical record number which will be included in the IR. The evidence will then be transported to the evidence room where it will be impounded.

## Evidence Packaging: General Summary

Offered below is a summary of best practices for evidence packaging. For more detailed information, please consult *The Biological Evidence Preservation Handbook: Best Practices for Evidence Handlers* (2013) published by the National Institute of Standards and Technology and the National Institute of Justice (NISTIR 7928).

### Containers

The following guidelines pertain to the containers used for packaging evidence:

- Use paper bags, manila envelopes, cardboard boxes, and similar porous materials for all biological evidence.
- Use butcher or art paper for wrapping evidence, for padding in the evidence container, and/or as a general drop cloth to collect trace evidence.

- Package evidence and seal the container to protect it from loss, cross-transfer, contamination, and/or deleterious change.
- For security purposes, seal the package in such a manner that opening it causes obvious damage or alteration to the container or its seal.

## Packaging

General guidance is also offered for the packaging of evidence:

- Package each item separately; avoid comingling items to prevent cross-contamination.
- Use a biohazard label to indicate that a potential biohazard is present.
- Plastic bags should not be used for storing biological evidence because of the possibility of bacterial growth or mold.
- If drying wet evidence is not possible, place the evidence in an impermeable, nonporous container and place the container in a refrigerator that maintains a temperature of 2 °C – 8 °C (approximately 35 °F to 46 °F) and that is located away from direct sunlight until the evidence can be air dried or until it can be submitted to the laboratory.
- Seal each package with evidence tape or other seals, such as heat seals and gum seals; if possible, do not use staples. Mark across the seal with the sealer's identification or initials and the date.
- Unload, make safe, and place all firearms submitted into evidence for biological testing into a new cardboard gun box. As the submitting individual, seal the box and indicate on the exterior of the box that the weapon was unloaded, made safe, and may contain biological material.
- Label items according to agency policy and procedures. At a minimum, mark each package with a unique identifier, the identification of the person who collected it, and the date of collection. The unique identifier should correspond to the item description noted on the property/evidence report (e.g., evidence tag, property sheet, property receipt, or property invoice). More information on evidence labeling can be found on pages 29 – 30 of the handbook.
- Maintain the integrity of the item through the package documentation, including all markings, seals, tags, and labels used by all of the involved agencies. Preserve and document all packaging and labels received by or returned to the agency, because this information is critical.

More specific guidance is needed for drying, packaging, and storing wet evidence, including blood, urine, and other biohazardous material.



## Wet Evidence

There are two physical states in which biological evidence is submitted: wet and dry. Certain types of evidence, such as blood-draw samples or some of the contents of a sexual assault kit (e.g., urine, blood) must remain in liquid form. All other evidence that is wet (e.g., a blood-soaked garment) should be dried to be properly stored and tested in the future.

If evidence with wet biological material is not correctly air-dried, there is a high probability that the biological material will be destroyed by bacterial growth. This could potentially preclude generation of DNA results. Drying wet items should therefore be the first task of anyone handling biological evidence once it has been collected.

## Temporary Storage of Wet Items

At times, evidence may have to be stored temporarily in its wet state because the facilities or equipment necessary to dry it properly are not available. In such a case, the handler should place the evidence in an impermeable and nonporous container (i.e., packaging through which liquids or vapors cannot pass). Examples include a metal can or glass jar. The container should then be placed in a refrigerator that maintains a temperature of 2°C to 8°C (approximately 35°F to 46°F) and is away from direct sunlight. The handler may leave the evidence there until it can be air dried or submitted to the laboratory.

Plastic bags can be used temporarily to store wet evidence, but they must not be used for long-term storage because of the possibility of bacterial growth or mold. Exceptions include plastic bags that contain desiccant (a drying agent that prevents condensation and the subsequent growth of fungi or bacteria) and breathable plastic bags (such as Tyvek). Such exceptions can be used for temporarily storing damp items and swabs.

## Methods for Drying Wet Evidence

For agencies with sufficient resources, wet evidence can be dried using a commercially manufactured evidence drying cabinet.

However, many law enforcement agencies do not have sufficient funds or need for this high-tech equipment, because they do not handle a significant volume of wet evidence. For these agencies, low-tech methods can be used. For example, agencies can use an isolated and secure area (such as a locker, shower stall, or room) designated for this purpose. Two examples are provided in the pictures below.





Figure 1 shows a metal locker that has been specifically labeled for biohazards. In this example, officers attached wet packaging materials to the outside doors of metal lockers to dry. These materials will be used for repackaging the evidence once it has dried.

As pictured in Figure 2, a shower stall can also be an excellent and inexpensive way for Departments to dry wet evidence.

Wet garments should always hang with sterilized paper beneath and between them to minimize contamination while drying. After the drying process, the paper should be packaged separately and submitted with the garment, as it may contain trace evidence.

## Decontamination

After using any such surfaces for drying wet items, they will need to be decontaminated. Decontamination of any surfaces or items shall be accomplished by using a freshly made solution of 10 percent bleach or a suitable substitute. Individuals responsible for decontamination should consult with the laboratory for suitable substitutes.

## Blood Evidence

Surgical gloves should always be worn when handling blood evidence. To prevent cross contamination, always change gloves after handling each item of blood evidence. If the blood is in a fluid state, an experienced Crime Scene Technician or Investigator should collect a sample in a clean glass vial. After thorough drying, the sample shall be refrigerated as soon as possible.

Blood draw tubes and vials must be collected and submitted as recommended by the crime laboratory and/or medical facility. If personnel receive a vial or tube that is not packaged in a readily identifiable manner, it should be placed in an envelope that is easily recognizable, clearly marked as to its contents, and bearing a visible biohazard label.

## Blood Kits and Tests

Obtain a Department issued blood kit from a supervisor or investigator. All of the required information will need to be printed on the labels provided with the kit, including the IR number that matches with the report. The time listed should be the time the sample was drawn, and it should be recorded along with the name of the doctor, nurse, or laboratory technician who drew the blood.

Blood tests shall be stored in the refrigerator provided for biological evidence, along with the completed crime laboratory form. Glass vials of blood should never be frozen because the vial might explode or crack. The package should be marked "**DO NOT FREEZE,**" and the entry made in the property tracking system. All unused items from the blood kit must be properly disposed.

The property custodian will transfer the item to the crime laboratory or store in the property room refrigerator as indicated by the case investigator or other appropriate authority.

## Dried Blood on Objects

Blood that has dried on an object that can be easily transported, should be left untouched, and the object itself should be placed in a paper bag, box, or other suitable container.

Dried blood on an object that is too large, too heavy or too awkward to transport, should be photographed in place before scraping blood or removing sections. The surface of the object should then be scraped onto a clean piece of paper, folded securely and placed into an appropriate sized vial or bag. Care must be taken to ensure that the evidence is properly packaged and sealed.

If dried blood is found on an object from which a section could be cut to preserve the evidence, a crime scene technician should be called.

## Bloody Clothing

If there are bloodstains on clothing collected as evidence, no effort should be made to remove them. Wet or damp bloodstains on items should be thoroughly dried, away from sunlight or artificial heat, before packaging.

Once the stain has dried, the entire item should be packaged, and logged into evidence. Bloodstained clothing is not to be stored in plastic.

## Urine Evidence

Surgical gloves should be used when handling the urine sample container. Direct physical contact should not be made with the urine or the specimen container.

To obtain a urine sample from a victim or suspect, the individual should be advised to urinate into a urine sample container. All of the required information will then be printed on the urine sample label, including the donor's name and the type of laboratory test requested. The label should be placed on the container to seal and secure the integrity of the sample, and the sealed container should be placed in the box provided. The box will then be sealed with the labels provided. The box will also require a Biohazardous label.

Never freeze urine samples.

## Biohazardous Materials

Safety shall always be the highest priority when handling biohazardous material. All items that may constitute a biological hazard to personnel (e.g. blood, body fluids, potential disease carrying items) will be packaged so as to protect all personnel who handle evidence/property, and will display a "**BIO HAZARD**" sticker clearly visible on the exterior of the packaging.

## Tissue Samples

At times, preservation of tissue samples for the long term may be handled by a property and evidence custodian after the tissue has been sampled and analyzed by a crime laboratory or medical examiner. Tissue samples submitted for DNA analysis are usually stored at -20 °C as rapidly as possible to halt the degradation process. In cases of mass casualty disasters, however, freezing or refrigeration may not be immediately available.

Storage methods and preservation reagents (used to stabilize tissue samples temporarily at room temperature) vary widely among laboratories. Law enforcement personnel should therefore contact the crime laboratory conducting the analysis of a particular sample to identify what specific procedures are recommended or required. Hypodermic Syringes



## Hypodermic Syringes

Hypodermic syringes will be placed in plastic syringe tubes or other suitable container.

## Other Items

Items such as used condoms or aborted fetal tissue may be placed in plastic, and then sealed and frozen. In all cases where there is any ambiguity regarding proper storage, evidence custodians should contact the crime laboratory for further guidance.

## Sexual Assault Medical Forensic Examination

When a sexual assault medical forensic examination is conducted by a health care provider, the evidence will be transferred to law enforcement for long-term storage. However, it may be stored at the medical facility for a specified period of time, before it is transferred to law enforcement. It is therefore necessary to distinguish temporary storage from long-term storage. Medical facilities typically do not have the proper conditions to ensure evidence integrity or to protect chain of custody for long time periods of time.

### Sexual Assault Forensic Evidence Kits

The evidentiary kits used to conduct a sexual assault medical forensic examination can also be used in homicides, and cases involving child abuse, intimate partner violence, or any other crime where biological evidence might have been transferred between victims and suspects. Once sealed following proper procedures as outlined above, the evidentiary kit will be placed in the Evidence Storage Room refrigerator/freezer – because it contains items requiring refrigeration/freezing.



If blood, urine or vaginal aspirate are refrigerated separately from the evidentiary kit, the impounding officer will list these items with separate item numbers. For example, the item numbers might be listed as follows:



- Item 1 – Sexual Assault Evidentiary Kit
- Item 2 – Blood from Sexual Assault Kit
- Item 3 – Urine from Sexual Assault Kit

When blood, urine, or vaginal aspirate are refrigerated and stored separately, all other items inside the evidentiary kit will remain together and will be impounded under one item number. This portion of the evidentiary kit can then be maintained using dry storage.

### Suspected Drug and Alcohol Facilitated Sexual Assault (DAFSA)

When a victim of a suspected drug facilitated sexual assault contacts the Department to file a report, a urine sample should be obtained if the report is made within 120 hours. If the report is made within 24 hours, both a blood and urine sample should be collected -- to analyze for drugs as well as blood alcohol content, depending on the case facts. According to the Society of Forensic Toxicologists (SOFT), it is recommended that a urine sample is collected from the victim if less than 120 hours have elapsed since an incident of suspected drug or alcohol facilitated sexual assault. If possible, 100 milliliters

of urine should be collected in a specimen cup with the preservative sodium fluoride. Most drugs will be undetectable in the blood more than 24 hours after ingestion, so a blood sample is recommended if less than 24 hours have elapsed since the incident. At least 12 milliliters of blood should be obtained in a grey toptube containing the preservative sodium fluoride and the anticoagulant potassium oxalate.

Blood and urine should then be impounded and refrigerated as soon as possible.

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For more information, please see the [Fact Sheet on Drug-Facilitated Sexual Assaults](#) published by the SOFT Drug-Facilitated Sexual Assault Committee.

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If the victim does not have a medical forensic examination (or if the forensic examiner does not collect blood and urine), the investigator can facilitate both using police personnel and resources. If urine or blood samples are collected from a victim of a suspected drug or alcohol facilitated sexual assault, the victim should be advised that the sample will **only** be used to assist in the sexual assault investigation -- and that a positive toxicology report for illicit substances will not be used to prosecute the victim for any minor drug offense or to blame the victim for the sexual assault. A description of the investigative procedures and options shall be provided to the victim in writing, and the victim will need to sign a consent form before providing the sample for law enforcement to pursue laboratory analysis, depending on the course of the victim's sexual assault investigation.

## Two Purposes for Testing: Medical vs. Investigative

If the victim of a sexual assault has a medical forensic examination, urine and blood samples can be collected by the sexual assault forensic examiner. The hospital may need toxicology tests to effectively treat the patient for medical symptoms. If so, they will send a sample to the hospital laboratory to assist with diagnosis and treatment. The medical facility will not generally test the sample for law enforcement purposes, however. This is true for a number of reasons.

First, hospital laboratory do not typically document chain of custody, because the test is not intended to be used as evidence. In addition, because most sexual assault reports are delayed, many hospital laboratories will not be able to test the sample at the low detection limits typically needed in a drug facilitated sexual assault. If a DAFSA is suspected, health care providers should make every effort to split the sample, with the patient's written consent. That way, the sample can be used for both medical testing and treatment as well as the law enforcement investigation. This also means that law enforcement will have access to a urine sample as early as possible.

If it is not possible for the health care provider to split the sample, or if there is an insufficient quantity to split the sample, a second urine sample should be obtained for law enforcement as soon as possible. The [Society of Forensic Toxicologists](#)



recommends that 100 milliliters<sup>1</sup> of urine be collected in a specimen cup containing the preservative sodium fluoride. Laboratories prefer to have more urine than required for a single test, in order to confirm tests and to perform tests for other drugs if necessary.

## Alcoholic Beverages and Containers

To collect alcoholic beverages or containers in a case of suspected DAFSA, photographs should first be taken of the containers, contents, and any paraphernalia prior to processing the evidence. Any suspected liquid will then be poured into a clean container with a lid, and the liquid and container will both be impounded and refrigerated as appropriate. Suspected drug residue shall be impounded following standard procedures for impounding narcotics.

## Non-Investigative Reports

The Violence Against Women Act requires all U.S. states, territories, and tribal governments to certify that sexual assault victims in their jurisdiction have access to a medical forensic examination regardless of whether they personally report to law enforcement. This means that an examination will sometimes be conducted with a victim who has not yet made a decision regarding whether or not to participate in the law enforcement investigation. Even in these situations, however, the recommended practice is for evidence to be stored by law enforcement following proper procedures.

When dispatched to any medical facility to retrieve a sexual assault evidence kit, when the patient has declined to speak to law enforcement, officers will meet with the appropriate hospital personnel to obtain the evidence. The evidence will then be stored with no further investigation until the victim contacts the forensic examiner or the Department to initiate an investigation. These non-investigative forensic evidence kits will not be submitted to the crime laboratory without the victim's signed consent.

## Documentation and Tracking

It is best to preserve and document evidence as soon after collection as possible, as the integrity of the process is conversely proportional to the number of people involved. Therefore, the sooner evidence is preserved and documented by as few personnel as possible, the better.

## Chain of Custody

Chain-of-custody documentation is needed to identify (1) individuals who have had custody of evidence and (2) all locations where that evidence has been kept in chronological order from collection to disposition. The chain should represent an unbroken trail of the collection, custody, control, transfer, and disposition of the evidence.

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<sup>1</sup> Milliliters are equivalent to cubic centimeters (often referred to as "ccs").



Evidence derived from primary samples (such as DNA extracts from a laboratory analysis) should have their own chain-of-custody maintained to the same extent as the original evidence.

## Chain-of-Custody Documentation Form

The Appendix provides a sample Chain-of-Custody Form to document information that should be obtained by the person collecting the evidence and subsequently recorded for every transfer and transaction. Such chain-of-custody documentation should include the following:

1. Description of the evidence
2. Unique case identifier (e.g., case number or IR)
3. Location where the evidence was collected from, along with the date and time
4. All locations where the evidence was stored, either temporarily or long-term
5. Name of each individual who was in possession of the evidence and for what purpose
6. Description of what was done to the evidence (e.g., laboratory analysis or re-packaging)
7. Documentation of all movements of the evidence package
8. Notation of any changes to the evidence package (e.g., opening it for a legal proceeding, evidence that might remain in court or in the crime laboratory)
9. Name of the person who returned the evidence to its storage location

Chain-of-custody records must be retained for a period of time, even though the evidence may be destroyed or lost. The specific retention period of the evidence records depends on the type of case and on local, state, and federal laws.

## Primary Storage Area

The primary storage area for all evidence and property is located at the Department Evidence and Property Facility. Most items stored in this facility are kept within the locked and alarm monitored property area.

All evidence/property must be properly secured or packaged. Each evidence container/envelope must be marked with the IR number, item number, and will have the officer's initials and badge or ID number.

## Receipt of Evidence/Property

Employees will ensure that all evidence/property impounded during their shift is properly documented and physically placed into the Evidence Locker prior to securing their shift. Supervisors may approve exceptions to this requirement under exceptional circumstances; however, under no circumstances will evidence be left in unsecured areas (e.g., glove compartments, car trunks, office refrigerators).

## Property Invoice and Receipt Form

All items secured into the Evidence and Property Facility shall have a copy of the Property Invoice and Receipt Form securely attached and clearly visible containing the proper information. The words "Seizure," "Evidence," or "Safekeeping" will be written clearly on the Property Invoice and Receipt Form. The original copy of the Property and Invoice Form will be left in the appropriate box in the Evidence Storage Room reflecting that the item was stored/secured at the Evidence and Property Facility.

## Requesting Crime Laboratory Analysis

It is the responsibility of officers or investigators assigned to a case -- in consultation with their immediate supervisors and in some cases the prosecutor and/or a forensic scientist -- to determine which items of evidence should be sent to the crime laboratory for analysis. The investigator then has the responsibility to notify the Property Custodian of the specific items to be sent to the laboratory. Alternatively, the forensic scientist might obtain the evidence directly from the Property Custodian.

Investigators will provide this notification to the Property Custodian by completing a Laboratory Service Request or other applicable laboratory form and submitting it with the evidence. The crime laboratory will not generally test evidence until a Laboratory Service Request is submitted by the appropriate authority.

Evidence requiring laboratory analysis will be taken to the appropriate laboratory as soon as practical. Items will be prepared, packaged, and then delivered or shipped - in accordance with the requirements of the receiving laboratory -- by the Property Custodian, Crime Scene Technician, or assigned investigator. There may be circumstances when the investigator will need to personally take evidence to a forensic laboratory. Regardless of how the evidence arrives in a laboratory, the appropriate authority will coordinate with the Property Custodian to ensure that the applicable laboratory form has been completed and returned.

When evidence is submitted to a laboratory for analysis, investigators will need to complete a supplemental narrative report -- detailing their involvement in the case, with respect to the evidence submitted to the laboratory, and information about the test requested (e.g., DNA, latent fingerprints, trace).

Whenever there is a known (or suspected) source for any biological evidence, a reference standard or material from that known source shall be collected and sent to the laboratory for comparison with the physical evidence collected. For example, if a vaginal swab taken from a sexual assault victim is submitted to the laboratory to test for foreign DNA, a reference standard should be taken both from the suspect in the case as well as any person with whom the victim had consensual sex within 120 hours of the medical forensic examination.

## Tracking Evidence Submitted for Analysis

A written record will need to be maintained for any evidence submitted to a forensic laboratory for examination. This record shall include the following information:

- The name of the officer or investigator last having custody of the item.
- The date and time of submission or mailing and the method used for transmission.
- The date and time of receipt in the laboratory.
- The name and signature of the person in the laboratory receiving the evidence.

Copies of the request for laboratory analysis will be forwarded to the Property Custodian.

All evidence submitted to the laboratory will be accompanied by a request for the laboratory to return a written report on the results of the analysis. When a laboratory report is received by the Department, it will be forwarded to the Property Custodian, the Records Department, and the officer or investigator assigned to the case. The officer/investigator (or a Crime Scene Technician) will then complete a supplemental narrative report detailing the results of the laboratory analysis.

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Two sample laboratory reports are provided – one communicating the results of [screening](#) of biological evidence and the other reports the results of [DNA testing](#).

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## Corrective Actions

Evidence that has not been properly packaged or is submitted incorrectly will be returned to the employee for correction. The following procedures will then be initiated:

1. The employee, his/her supervisor, and the Investigations Supervisor will receive an email regarding instructions the officer must take to correct the deficiency.

2. The employee and his/her supervisor will receive a hard copy of the "Evidence Correction Advisory Form" completed by the Property Custodian detailing the corrections required.
3. The employee will have 72 hours from the receipt of the "Evidence Correction Advisory Form" to correct the listed deficiencies and properly re-submit the evidence. The Property Custodian and Investigations supervisor(s) will be available during normal business hours to provide the officer with access to the item (Monday through Friday from 0700 to 1700 hours, excluding holidays).
4. The employee will obtain the evidence from the evidence locker and make the correction(s). The corrected evidence will then be placed in an evidence/property locker and secured. The employee will return the corrective action locker key to the Property Custodian or Investigations Supervisor and will note the return time on the sign out log.
5. Upon completion of these steps, the employee will send an email to his/her supervisor, the Property Custodian, and the Investigations Supervisor with notification that the evidence has been corrected and re-submitted.

## Evidence Retention Guidelines

Biological evidence from felony sex offenses and homicides shall be retained for the period of time established by state law, department policy, administrative regulation, or the statute of limitation for the crime. If a person was convicted for a felony sex offense or homicide, the evidence shall be stored as long as the person remains incarcerated for that offense or until the completion of the person's supervised release.

If a felony sexual offense or homicide remains unsolved, the evidence shall be retained for [insert number] years or until a person is convicted of the crime and that person remains incarcerated or under supervised release for the offense.

## Case Disposition and Evidence Retention

When determining the duration of time that biological evidence must be held, there are five general categories of case status:

1. Open Cases (no suspect, but investigation continuing)
2. Inactivated or Suspended Cases (with or without an identified suspect but there is insufficient information or evidence to present the case for prosecution)
3. Charges Filed (suspects charged and court proceedings active)
4. Adjudicated (conviction, dismissal, or acquittal)
5. Unfounded / Charges Declined / Victim Not Participating / No Further Investigation



Case disposition is determined by the assigned officer or investigator. This officer therefore has responsibility for the disposition of evidence associated with the case.

## When Evidence Disposition is Addressed

The disposition of all evidence associated with a case will be immediately addressed by the assigned officer or investigator when notice is received from a prosecutor or any Municipal, County or State Court that:

- Charges have been declined
- Felony charges have been filed
- The case has been referred to Adult Court
- The prosecuting agency has requested additional investigative work
- The case has been appealed
- The case has reached a final Court disposition

The disposition of evidence shall also be immediately addressed when it is determined that a case will not be referred to a prosecuting agency. This includes, but is not limited to, unfounded cases and cases that are inactive for a period of time equal to or exceeding the statute of limitations.

## Evidence Disposition Grids

The Appendix includes two sample Evidence Retention Grids, to assist in the determination of how long to retain evidence based on the type of offense and case disposition.

For example, when it is consistent with state law and Department policy, evidence can be disposed of in cases that are classified as unfounded, where charges have been declined by the prosecutor, where the victim is not participating in the investigative process, where no arrest will be made, and where no further investigation will be conducted. This can include cases that have been exceptionally cleared. The destruction of evidence requires an Evidence Disposition Form from the assigned investigator that has been signed by their supervisor.

In cases of sexual assault, however, it is not recommended to destroy evidence under these circumstances. This is because of the high rate of re-perpetration by sex offenders as well as the complex dynamics involved in sexual assault crimes and investigations. Investigators shall therefore refer to the Evidence Retention Grid for information on how long to retain evidence in a sexual assault case, taking care not to dispose of potential evidence in cases that are initially declined for prosecution, unfounded as baseless or false, or exceptionally cleared (when the suspect has been identified and could be arrested and referred to the prosecutor if the victim had been able to participate in the investigation and prosecution). In these cases, exceptions should be made whenever possible, so that the evidence can be retained as long as feasibly possible.

## Evidence Disposition for Misdemeanors

As authorized by the prosecutor's office, evidence from misdemeanor crimes may be released or disposed of when all of the following applies:

1. No charges have been filed.
2. The case is two (2) or more years old.
3. Owners have not been identified and the property has been held the required thirty (30) days.
4. Owners have been identified and notified to claim the property, but the property has remained unclaimed for the required thirty (30) days.

Department members will contact the prosecutor's office for guidance in determining the disposition of evidence for misdemeanor crimes when a suspect has been identified and has an outstanding warrant.

## Misdemeanor Sex Crimes

Because of the nature of sexual assault offenses, care should be taken to make sure that the Unit with responsibility for investigating sex crimes is aware of any potential DNA evidence involving suspects arrested for sex-related misdemeanors such as indecent exposure, peeping, or sexual battery. Officers and investigators need to consider the possibility that the offender could be responsible for completed or attempted felony sexual assault crimes as well. Every effort should be made to ensure that there is communication between the patrol division, general investigations unit, and any specialized units responsible for investigating felony and misdemeanor sex crimes before such evidence is released or destroyed.

## Found Property

When impounding found property, officers must include a statement in the Property/Evidence Management System indicating the name of the person who found the property and whether that person wants the item if it is left unclaimed after the appropriate period of time (depending on Department policy). The finder's name and address must be entered into the Property/Evidence Management System, so they can be contacted.

## Evidence Disposition Form

An Evidence Disposition Form will be completed as soon as the officer or investigator assigned to a case determines that:

- Items are still required to be retained.

- Items are no longer required to be retained and may be released to citizens or other law enforcement agencies.
- Items are no longer required to be retained, but no owner has been identified or located, so the item can be disposed of.

Once such a determination has been made, the officer or investigator assigned to the case has responsibility for completing an Evidence Disposition Form. (Two sample Evidence Disposition Forms are provided in the Appendix.) If the officer is no longer employed at the Department at the point when the Evidence Disposition Form must be completed, it will be assigned to a member or supervisor from the same Unit.

When completing the Evidence Disposition Form, the IR number shall be entered in the space provided and the appropriate disposition selected. Department members shall choose a disposition status for all impounded evidence involved in the case, sign and date the completed forms, and have their supervisor sign and date the completed forms.

### Completing the Evidence Disposition Form

When completing the Evidence Disposition Form, the following information is needed for items to be retained, released, or disposed of as authorized by law.

**Hold items:** Enter item number(s) and/or property ID number(s) that are requested to be retained in the appropriate area on the form and explain the reason why the item(s) should be retained.

**Release items:** Enter item number(s) and/or property ID number(s) that are requested to be released in the appropriate area on the form, along with the name and complete address of the individual authorized to claim the items.

**Dispose of items as authorized by law:** Enter item number(s)/ property ID number(s) that are authorized for disposal in the appropriate area on the form.

### Process for Determining Evidence Disposition

Department members completing the Evidence Disposition Form are responsible for contacting all appropriate agencies and conducting the appropriate research necessary to determine the potential evidentiary value, case status and item dispositions. This can include, but is not limited to, the following actions:

1. Conducting a check on the suspect's driver's license records, vehicle registration, and warrants to assist in determining case disposition status.
2. Contacting other Department members involved in the case for additional information or assistance in determining case disposition status.

3. Contacting victims, suspects, and/or owners (of the evidence or property) to assist in determining case disposition status.
4. Contacting the prosecuting agency to obtain authorization to photograph and release or dispose of the item(s).
5. Contacting a prosecuting agency to review case disposition status and to determine the status of any/all defendants involved in the case.
6. Contacting the proper court to review case disposition status.

Personnel completing the Evidence Disposition Form are ultimately responsible and accountable for the actions they take to determine the evidentiary value of items and the disposition of property and evidence.

## **Request for Evidence Disposition**

The Evidence and Property Facility routinely sends out requests for the disposition of evidence/property to Department members using the Evidence Disposition Request, List of Evidence Disposition Request Receipt, and/or the via the Department's e-mail system. Members are required to complete the Evidence Disposition Form on all requested items and return it to the Evidence and Property Facility within thirty (30) calendar days from the date of the request. The form will be signed by the member's immediate supervisor.

## **Initial Requests**

Initial disposition requests are sent to the affected employee's commanding officer or the commanding officer's designee who will act as the Evidence Coordinator (e.g., staff sergeant, administrative or investigative aid) who will then be responsible for coordinating requests for evidence dispositions.

The Evidence Coordinator shall sign all initial disposition requests, indicating receipt and distribute them to the appropriate employees. Upon completion by the employee and supervisor approval, they will then be returned to the Evidence and Property Facility.

## **Second Requests**

Second requests are sent via email to the affected employees and the Evidence Coordinator (with receipt confirmation requested). Department members have ten (10) business days from the date of the second request to complete an Evidence Disposition Form and return it to the Evidence and Property Facility.



## Third Requests

Third requests are sent to the affected member's Commander or Manager for immediate action and disciplinary consideration.

## Property Custodians

Property Custodians assigned to Evidence and Property will accurately track the status of all property held by the Department, including the date and time evidence was received or released from any location – and documentation of the entire chain-of-custody.

### General Responsibilities

Property Custodians are responsible for the receipt, storing, indexing, security, retrieval, disposal, and processing of all evidence and property impounded or otherwise received by the Department in a manner that is safe, consistent, and in accordance with this policy.

The Property Custodian's general responsibilities include the following:

- Accountability for all evidence and property once it has been accepted as part of the inventory of the Evidence and Property Facility.
- Proper disposition of all evidence and property in custody, as prescribed by Revised State Statutes and Department Policies.

### Specific Activities

Fulfilling these responsibilities requires a number of specific activities, such as:

- Receiving, cataloging, storing evidence and property as soon as possible after it has been received, and keeping current records of all transactions involving property.
- Ensuring that all impounded evidence and property has been properly marked and/or tagged, and that all records (including status) are accurate.
- Releasing property to its rightful owner according to Department Policies and/or directives.
- Releasing evidence to officers for investigation or court purposes.
- Managing digital photographs from digital CDs received into evidence.
- Conducting inventories and inspections as required.



- Preparing evidence and property for destruction in accordance with evidence disposition guidelines.
- Copying media and documents held in evidence at the request of an investigator, prosecutor, defense attorney, etc.
- Preparing evidence for transportation and submission to the appropriate forensic laboratory.

Property Custodians are the only individuals authorized by the Chief of Police to permit the removal of property or evidence from its storage location.

## Security of the Facility

Property Custodians are also responsible for maintaining security of the property storage areas and evidence storage rooms. These areas will remain locked except when evidence/property is being added, removed, or inventoried.

Property Custodians are responsible for maintaining all Evidence and Property Facility keys, as well as the keys to the storage areas, lock boxes and the combination to the evidence safe. A complete set of the keys and safe combination shall be maintained in a secure location designated by the Chief of Police.

Duplication of any key to the Evidence and Property Facility or any of the evidence/property storage locations, without permission of the Chief of Police or designee, is prohibited.

## Inventories and Inspections

### Annual Inventory

An annual inventory of evidence and property held by the Department will be conducted by a supervisory member of the Department who is not connected to the control of the property function. This individual will be designated by the Chief of Police.

The annual inventory does not require the individual accounting of every item of evidence and property. It is intended to validate the integrity and management of the Department's evidence and property system.

The Investigations Commander will be provided with the written results of the property inventory, with a copy to the Property Custodian.

### Required Special Inventory

Whenever a change in personnel assigned to the Evidence and Property Unit occurs, the Property Custodian, and designee of the Chief of Police, will conduct a

property inventory, consisting of a sampling of property records on a sufficient number of items to verify accuracy of the property records, and ensure the integrity and continuity of the system.

## **Semi-Annual Inspections**

The Investigations Commander or designee is responsible for supervising the operation of the Evidence and Property Unit, and will conduct informal semi-annual inspections to determine if the following duties are being accomplished:

1. Maintenance of the Evidence and Property Unit in a clean and orderly fashion.
2. Protection of property from damage and deterioration.
3. Maintenance of proper accountability procedures.
4. Prompt disposition of property with no evidentiary value in a manner that complies with Revised State Statutes and Department Policies.

## **Unannounced Inspections**

At the discretion of the Chief of Police, unannounced inspections of the property storage areas may be conducted. These inspections supplement the regularly scheduled inspections, and they may include:

1. A review of property accountability and security procedures.
2. Random comparisons of written records with the actual physical evidence and property held by the Department.

The random comparison is intended to be the most significant aspect of the unannounced inspections as it will reflect the integrity of the system currently in place. However, other operational procedures may be examined.

## **Release or Disposal of Evidence**

Department members may remove items from the Evidence and Property Facility for official purposes only, including the investigation, laboratory testing, court presentation, Department use, release to other law enforcement agencies, or to return property to its lawful owners.

## **Release of Evidence / Property**

The removal of items from the Evidence and Property Facility for any reason must be documented on the Chain-of-Custody Form and/or in the evidence inventory tracking system in order to maintain the chain of custody.

Any Department personnel removing items from the Evidence and Property Facility will be responsible for:

1. Completing a supplemental report, if the items will be transferred to any agency or individual outside the Department (e.g., prosecutor's office, court, other law enforcement agency, or lawful owner).
2. Taking custody of items from the Evidence and Property Facility only after the transaction has been documented in the evidence inventory tracking system as outlined in the Evidence Manual.
3. Providing a bar-coded Department-issued picture identification card for positive identification.

The bar-coded identification card shall be scanned so the identification of the individual taking custody of the items can be documented electronically. Items shall not be transferred if the Department member does not supply a bar-coded identification card.

## **Evidence Released to Court**

When evidence is released to court, the officer transporting the property to court will notify the Property Custodian of the court that has possession of the property, and will ensure that it is noted on the Property Invoice and Receipt Form.

If only a portion of the evidence has been released to or retained by the Court, it will be documented on the Property and Evidence Control Form.

## **Other Agencies**

Representatives from other agencies may take custody of authorized items upon providing their agency picture identification.

A signature from the agency representative is required before evidence is released.

## **Public / Citizens**

Citizens may take custody of authorized items by providing a U.S. or state government-issued picture identification.

Department members may utilize a booking photograph to verify identification of individuals who do not possess government-issued picture identification. A signature from the individual taking custody of the item(s) is required.

## Disposal of Evidence / Property

In accordance with Revised State Statutes, no property will be disposed of until one of the following conditions has been met:

1. All defendants' trials have been concluded (if two or more defendants are involved in a criminal case).
2. The period for appeals has closed and all appeals have been concluded.
3. The end of the relevant time period established by the Department for holding the item has been reached.
4. The proper documentation has been received (Court order, or written instructions from the prosecutor's office) or the owner/finder fails to claim the property during the time period specified following notification.

## Sexual Assault Evidence Kits

All sexual assault evidence kits that contain biological evidence will be retained until [insert appropriate length of time based on Department policy and state law]. With the exception of non-investigative sexual assault reports, all sexual assault kits will be sent to the forensic laboratory for testing as appropriate. Depending on the case facts, Department policy or State law, the forensic scientist may test the entire kit or portions of the kit. If the forensic scientist determines that biological evidence from a potential suspect(s) can be added, compared, or identified within CODIS, the sexual assault evidence kit will be retained. Following an arrest and any court proceeding, investigators will follow the same protocol for determining whether evidence is disposed of as other felony crimes, e.g., ensuring that all suspects have been arrested, charged, tried and that any appeals have been exhausted.

Regardless of the results of any forensic testing, the kit should be retained for the appropriate time period. It is important to note the results of any testing in the investigator's supplemental reports as well as the property management system clearly indicating what was tested and the results of those tests. When determining whether sexual assault kits and other biological evidence should be returned to the owner or destroyed, investigators must recognize that depending on the course of the investigation, additional tests may be needed at a later time. It is also important to remember that even if the statute of limitations has passed, it is often possible to use evidence to establish prior bad acts under Federal Rules of Evidence to prosecute future assaults by the same suspect.

While victims can have some type of evidence returned to them (e.g., clothing, bedding), the sexual assault evidence kit will not be released to victims under any circumstances. When the specified time period for retention has passed, sexual assault evidence kits will be destroyed following biohazard protocols.

## Court Ordered Disposal

Property will be disposed of as instructed in any court order. When property is released by virtue of a court order, the person serving the order will be directed to the Property Custodian.

## Cases with Multiple Defendants

Evidence and property shall be retained in cases involving multiple defendants. The investigator must ensure that the property indicated for release or disposal is no longer needed for additional investigation or trials related to other defendants.

## Civil Litigation

When there is civil litigation, a memorandum will be sent from the attorney's office to the Chief of Police requesting that any and all specific property be retained until otherwise directed. Once the Office of the Chief of Police receives such a memorandum, it will be processed by the Investigations Unit who and then forwarded to the Evidence and Property Unit. The memorandum will be attached to the property invoice and a copy will be filed within the Administrative Unit as designated by the Chief of Police

## Notice of Imminent Evidence Disposal

The Evidence and Property Facility may periodically forward a Notice of Imminent Evidence Disposal to the officer assigned to a case. These notices may be sent when:

1. Court dispositions have been received indicating that evidence is no longer required for the purposes of prosecution or appeal.
2. The prosecutor's office has declined prosecution.
3. Misdemeanor evidence has been retained for at least two (2) years without an update from the court or the prosecutor's office on the status of the evidence.
4. Felony evidence (not meeting the mandatory retention criteria as listed on the Evidence Disposition Grid) has been retained for at least [insert appropriate length of time based on statutes of limitation and Department policy] without an update on the status of the evidence.

The Imminent Evidence Disposal Form will not be sent to assigned investigators for any sexual assault offense or homicide, due to the statute of limitations for these offenses.

Assigned investigators are responsible for reviewing all cases listed on the Notice of Imminent Disposal, and the listed items shall be retained when one of the following conditions is met:

1. The case investigation is still active.
2. Case litigation or an appeal is proceeding.
3. A warrant has been issued for the accused individual.  
If it is necessary to continue retaining such items as evidence, or if items cannot be returned to owners, Department members will complete and return the Notice of Imminent Evidence Disposal to the Evidence and Property Facility for processing. Retained items will then be held by the Evidence and Property Facility for at least an additional year, at which time another Notice of Imminent Evidence Disposal will be sent to the case officer.

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