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# Evidence Management

## 802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, security and disposition of evidence and other related property. This policy also provides for the protection of the chain of custody and those persons authorized to remove and/or destroy evidence and other related property.

### 802.1.1 EVIDENCE MANAGEMENT SECURITY

The Evidence Manager shall maintain secure storage and control of all property necessitating custody by the Department. The Evidence Manager reports to the Chief of Police supervisor designee and is responsible for the security of the evidence section. Evidence section keys are maintained only by the Evidence Manager and the evidence section supervisor. Authorized personnel shall not loan evidence section keys to any unauthorized personnel and shall maintain keys in a secure manner.

Any individual entering the evidence section must be authorized or escorted by authorized personnel and must sign in and out on the logbook, giving the date and time of entry and exit, and the purpose, including a specific case or property number.

## 802.2 DEFINITIONS

Definitions related to this policy include:

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case.

**Evidence Section Custodian** - Assists evidence section manager with the operations of the evidence section and is deemed an authorized personnel.

**Evidence Section Manager** - Is responsible for the day to day operations of the evidence section.

**Evidence Section Supervisor** - Is designated by the Chief of Police, that designee is responsible for the overall supervision of the evidence section.

**Found property** - Includes property found by a member or citizen where the owner cannot be readily identified or contacted and has no apparent evidentiary value.

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Safekeeping** - Items requiring secure storage which may include the following types of property:

- Property obtained by the Department for safekeeping, such as a firearm
- Personal property of an arrestee not taken as evidence but requires secure storage
- Property taken for safekeeping under authority of a law

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### **802.3 EVIDENCE HANDLING**

Any member who first comes into possession of any evidence shall retain such evidence in his/her possession until it is properly tagged and placed in the designated evidence locker or secure storage room. Care shall be taken to maintain the chain of custody for all evidence.

Any property seized with or without a warrant shall be safely kept for as long as necessary for the purpose of being produced as evidence. Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention or ordered destroyed or otherwise disposed of by the court (Wis. Stat. § 950.04(1v)(s)).

#### **802.3.1 EVIDENCE INTAKE PROCEDURE**

All evidence must be entered prior to the member going off-duty. Members entering evidence shall observe the following guidelines:

- (a) Complete the evidence receipt describing each item separately.
- (b) The Officer shall mark each package of evidence with initials and date.
- (c) Each item of evidence should be individually packaged, labeled with an evidence tag, and then secured in a numbered pre-evidence locker for processing.
- (d) The original evidence receipt shall be submitted with the case report.
- (e) When the evidence is too large to be placed in a designated pre-evidence locker, the item may be temporarily stored in another location that can be secured from unauthorized entry.

#### **802.3.2 CONTROLLED SUBSTANCES**

Controlled substances held for Circuit Court shall be stored separately when in the secure evidence room.

Controlled substances and paraphernalia recovered for Municipal Court may be identified, tested, photographed and then placed in the designated locker for disposal by the Evidence Manager. If circumstances arise where the items need to be held then they can be placed into a pre-evidence locker following proper procedure.

#### **802.3.3 EXPLOSIVES**

Officers who encounter a suspected explosive device shall promptly notify an immediate supervisor. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be kept if absolutely necessary.. All such

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items shall be stored in proper containers and in an area designated for the storage of flammable materials.

### 802.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Any evidence collected which may contain DNA, should be properly labeled as such.
- (b) Property stained with bodily fluids such as blood or semen stains shall be air-dried prior to booking.
- (c) All bicycles not held as evidence shall be placed in the bicycle storage area.
- (d) All cash entered into evidence shall be counted in the presence of another officer or recorded with body camera and the envelope initialed by both officers and or video downloaded per procedure..
- (e) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property and communicate to the evidence section manager .
- (f) Items that are potential biohazards shall be appropriately packaged and marked to reduce the risk of exposure or contamination.

### 802.4 PACKAGING OF EVIDENCE

All evidence should be packaged in compliance with Wisconsin Division of Criminal Investigations standards or standards set by this Department.

Certain items require special consideration and shall be entered accordingly:

- (a) Controlled substances
- (b) Firearms (ensure they are unloaded, rendered safe, and entered separately from ammunition)
- (c) Fireworks
- (d) Biohazards
- (e) Consider separately packaging any original container or packaging, including controlled substances packaging, to permit latent print or other evidence recovery

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#### **802.4.1 PACKAGING CONTAINER**

Members shall package all evidence in a suitable container that is appropriate for its size. Knife boxes should be used to package knives or any other sharp items. Handgun boxes should be used for handguns. Syringe tubes should be used to package syringes and needles.

An evidence tag shall be securely attached to the outside of all items or group of items packaged together.

#### **802.4.2 PACKAGING CONTROLLED SUBSTANCES**

The Officer seizing controlled substances shall retain such evidence in his/her possession until it is properly weighed, packaged, tagged and placed in the pre-evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. When conducted, the result of this test shall be included in the Officer's report.

Controlled substances shall be sealed in packages. The booking officer shall initial the sealed envelope and the initials shall be covered with cellophane tape. Controlled substances shall not be packaged with other property.

The responsible Officer shall weigh the suspected controlled substance.. A full description of the item, along with packaging and total weight of the item as seized, will be placed in the case report.. After packaging and sealing as required,

a completed property tag shall be attached to the outside of the container.

#### **802.4.3 RIGHT OF REFUSAL**

The Evidence Section Manager has the right to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the Evidence Section Manager refuse an item, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting Officer or his / her supervisor to correct the issue.

#### **802.5 RECORDING OF PROPERTY**

The Evidence Section Manager receiving custody of evidence or property shall create a record of the items received in the Department evidence management system. The record will be the permanent record of the evidence or property in the evidence section.

The Department evidence management system shall be maintained and shall record the date received, case number, tag number, item description, item location and date disposed.

Any changes in the location of evidence / property held by the evidence section shall be noted in the Department evidence management system.

#### **802.6 PROPERTY CONTROL**

Each time the Evidence Section Manager receives items or releases items to another person, he/she shall enter this information into the Department evidence management system. Officers

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desiring property for court shall contact the Evidence Section Manager in a reasonable amount of time.

#### 802.6.1 RESPONSIBILITIES OF OTHER PERSONNEL

Every time items are released or received, an appropriate entry into the Department evidence management system shall be completed to maintain the chain of custody.

Request for analysis of items shall be completed on the appropriate forms and submitted to the Evidence Manager. This request may be filled out as needed.

#### 802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting member will check the evidence out of the evidence section which will be recorded in the Department evidence management system.

Any transfer of evidence to the crime laboratory requires:

- (a) The name and contact information of the person submitting the evidence.
- (b) Appropriate packaging and conveyance of evidence to the laboratory.
- (c) Necessary documentation accompanies evidence at time of transmittal.
- (d) Adequate receipts and signatures to support chain of evidence.

The lab forms will be transported with the property to the examining laboratory. The transmittal form will remain with the evidence and copy will be submitted for filing with the case.

#### 802.6.3 STATUS OF PROPERTY

Temporary release of property to Officers for investigative purposes, or for court, shall be noted in the Department evidence management system, stating the date, time and to whom it was released.

Any member receiving property shall be responsible for such property until it is returned to the evidence section or released to another authorized person or entity.

The return of the property shall be recorded in the Department evidence management system, indicating date, time and the person who returned it.

#### 802.6.4 AUTHORITY TO RELEASE PROPERTY

The Evidence Manager and authorized personnel have the authority to release property upon proper disposition of the case. The Evidence Manager shall set the disposition of all evidence and property coming into the care and custody of the Evidence Section.

Upon necessity the Department will take direction from the District Attorney's office or the Circuit Court for items involved in continued investigations or is contraband.

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#### 802.6.5 RELEASE OF EVIDENCE OR RELATED PROPERTY

A reasonable attempt shall be made to identify the rightful owner of evidence or related property not needed for an investigation.

Property belonging to a crime victim shall be promptly released to the victim unless needed for evidence within 10 days of being taken unless the property is weapons, contraband or is otherwise excluded (Wis. Stat. § 950.04(1v)(s)).

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. Release of all property shall be properly documented.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 30 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 30 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction (Wis. Stat. § 66.0139(2)). If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed. The final disposition of all such property shall be fully documented in related reports.

The Evidence Section Manager shall release the property to the owner or finder, upon valid identification and proper documentation presented by the owner or finder, for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property receipt. After release of all property entered on the property receipt, the receipt shall be forwarded to the Records Division for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence Section.

Upon release or other form of disposal, the proper entry shall be documented in the evidence management system..

#### 802.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or otherwise establishes undisputed right to the property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.

#### 802.6.7 CONTROL OF CONTROLLED SUBSTANCES

The Evidence Section Manager will be responsible for the storage, control, and destruction of all controlled substances coming into the custody of this department, including paraphernalia as described in Wis. Stat. § 961.571(1)(a).

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#### 802.6.8 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922(d) or Wis. Stat. § 968.20(1m).

The Department shall make best efforts for a period of 30 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with Wis. Stat. § 66.0139, Wis. Stat. § 165.81 and Wis. Stat. § 968.20(3)(b) and consistent with this policy.

#### **802.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for 30 days or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal (Wis. Stat. § 66.0139(2)). The Evidence Section Manager can request a disposition or status on all property which has been held in excess of 30 days and for which no disposition has been received from a supervisor, investigator and / or District Attorney's office.

Upon any release or sale of any property, the proper notation shall be made on the property receipt and in the evidence management system. Proceeds from the sale of unclaimed property shall be deposited into the City treasury, minus reimbursement for department expenses.

#### 802.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction:

- Weapons declared by law to be nuisances
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court
- Counterfeiting equipment
- Gaming devices
- Obscene matter ordered to be destroyed by the court
- Altered vehicles or component parts
- Controlled substances
- Unclaimed, stolen or embezzled property
- Destructive devices
- Any property used in the commission of a crime

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#### **802.7.2 RETENTION OF BIOLOGICAL EVIDENCE**

The Evidence Section Manager shall ensure that no biological evidence held by the Department is destroyed prematurely or without adequate notification pursuant to Wis. Stat. § 968.205 to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Investigation Division supervisor

Biological evidence shall be retained for a minimum period established by law, the Evidence Section Supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department pursuant to Wis. Stat. § 968.205(5). Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

#### **802.8 REPORT OF ABANDONED PROPERTY AND UNCLAIMED FUNDS**

Refer to 802.6.5 and 802.7.

#### **802.9 INSPECTIONS OF THE PROPERTY AND EVIDENCE SECTION**

On a monthly basis, the Evidence Section Supervisor shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

- (a) Unannounced inspections of evidence storage areas shall be conducted annually, as directed by the Chief of Police.
- (b) An annual audit of evidence held by the Department shall be conducted by a supervisor, who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.
- (c) Whenever a change is made in personnel who have access to the evidence section, an inventory of all evidence/property shall be made by an individual not associated with the evidence section or function, with the assistance of the new personnel, to ensure that records are correct and all evidence property is accounted for.