

**BOULDER COUNTY SHERIFF'S OFFICE
POLICY AND PROCEDURE MANUAL**

SUBJECT: Evidence Processing & Handling

NUMBER: 525

EFFECTIVE: July 26, 2021

SUPERSEDES: March 31, 2020

POLICY: The Boulder County Sheriff's Office uses specific procedures during the collection, handling, packaging, and storage of property collected and/or seized in the course of official law enforcement operations, which will protect the integrity of evidence, and preserves the value of items held for safekeeping or as found property. This includes procedures limiting access to stored evidence, maintenance of records detailing the chain of custody, and a mechanism for the efficient disposal or lawful return of items.

DEFINITIONS:

Abandoned Property: Items held for safekeeping, which go unclaimed (30) thirty-days after written notification to the owner informing them that the item is available for release; found property which goes unclaimed for (90) ninety-days after being received in the Evidence Section; evidence for which ownership is not known which goes unclaimed for (90) ninety-days after release is authorized; evidence for which ownership is known and goes unclaimed (30) thirty-days after written notification to the owner that the item is available for release.

Evidence: An item that is collected or needs preservation for potential presentation in court, or which is collected for processing to obtain trace evidence for potential presentation in court for the purpose of proving and/or corroborating an assertion of fact or proposition in a civil or criminal court case. This term also refers to items seized under public nuisance laws for forfeiture purposes.

Found Property: Any item collected that is not related to a known criminal event, and/or for which ownership is not known.

Property Room: A room or rooms within the Boulder County Sheriff's Office's control in which all items of property collected as evidence, found property, or for safekeeping are stored. This is a secure facility with limited access.

Safe Room: A room within the property room used to store cash, valuables, and controlled substances. Access to this room is restricted and requires both a detective supervisor and Evidence Technician to be present.

Safekeeping Item: Any item collected that is not related to a known criminal event, and for which ownership is known. This includes but is not limited to property of inmates, which is not suitable for storage at the jail, and items such as guns, which may be collected to prevent future offenses.

RELATED POLICIES:

529 – Body-Worn Cameras

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PROCEDURE:

- I. Evidence Section Chain of Command
 - A. The Evidence Section is a component of the Operations Division, staffed by Evidence Technicians and supervised by Detective supervisors. Other Sheriff's Office members may be authorized to perform limited clerical and evidence functions in the absence of Evidence Technicians as designated by the Detective supervisors, or Operations Division Chief. The Evidence Technicians hold primary responsibility for the security of the property room and the accuracy of the inventory.
- II. Duties
 - A. An Evidence Technician performs the daily functions of the Section as described below:
 - 1. Logging of all items received by the Evidence Section — the Evidence Technician will conduct an inventory of incoming property to verify the presence of each item listed on the property report. Under normal circumstances, the Evidence Technician will not open sealed containers. The Evidence Technician will sign the property report acknowledging receipt only after all items are accounted for, and enter the items into the applicable computer system.
 - a. The Evidence Technician will notify the submitting employee and the employee's supervisor via phone, e-mail, or in person as soon as possible when a discrepancy is discovered in the list of items on the property report and the items submitted. Inventory problems are to be resolved before items are logged into the Evidence Section. The submitting employee is responsible for rectifying the problem as soon as possible. In the employee's absence, the supervisor will assume the responsibility.
 - b. The Evidence Technician will not accept any items that are not properly labeled or sealed. On occasions when property/evidence is improperly labeled or sealed, the Evidence Technician will notify the submitting employee and the employee's supervisor via phone, e-mail, or in person, and the employee will ensure that the property/evidence is properly labeled or sealed. The evidence technicians are responsible for the assignment of storage locations for each item received and ensuring the information is logged on the property report and in the evidence computer.
 - 2. Most items will be assigned space in the property room.

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- a. Cash, odorless controlled substances, and other valuables, will be kept in the safe room located inside the evidence room.
 - b. Hazardous materials, such as explosives, will be kept in an off-site facility. The Evidence Technician will coordinate storage of these items with a certified hazardous device tech.
 - c. Larger items may be stored in locked cages, outside bins at the Sheriff's Headquarters, or other off-site facility, at the discretion of the Evidence Technician.
3. Release of Property: The Evidence Technician coordinates the expedient release of property as appropriate.
- a. Items held for safekeeping will be released to the listed owner, or a designated agent of the owner who is either the legal guardian of the owner, or who has a statement signed by the owner authorizing the agent to take custody of the owner's property. A notarized statement is preferred but not required. This document will be kept with the property report and later put into the case file in Records.
 - b. Items held as found property may be released at the Evidence Technician's discretion to a person whom the Evidence Technician is reasonably satisfied is the rightful owner of the property.
 - 1) Found property will be considered abandoned if an owner cannot be identified or located within (90) ninety-days, or if the owner does not claim or make arrangements for retrieval within (30) thirty-days of being notified via certified mail that it is available for release.
 - 2) In the event a member of the general public turns in found property, that person may reclaim the items if the owner cannot be identified or located, or fails to respond to written notification within (90) ninety-days. Employees receiving found property should document from whom the property was received on the property report, and indicate their desire to retrieve the property if unclaimed. In these cases, the Evidence Technician arranges the release of the property to the finder.
 - c. Evidence related to an active investigation or prosecution will only be released after authorization is received from the employee assigned

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to the case, an Operations Supervisor, or by court order. The authorizing employee is responsible for completing the following steps:

- 1) Confirm the case is no longer part of an active investigation by reviewing the RMS status.
 - 2) Confirm there are no outstanding warrants for any of the involved suspect(s).
 - 3) Check with the District Attorney on cases that involve an arrest to ensure there is no future need for the evidence in court for any other defendant or an appeal or potential appeal.
 - 4) Determine if an insurance claim has been made by contacting the victim, if so, advise the Evidence Technician of the claim and insurance company contact information.
 - 5) Provide BCSO evidence with written documentation showing the above steps have been completed.
- d. The Evidence Technician may solicit dispositions of items from the employee assigned to the case as listed in the Sheriff's Office computer system under the following circumstances:
- 1) Upon receipt of a disposition from the District Attorney.
 - 2) When 30 days has passed for non-evidentiary items.
 - 3) When the statute of limitations for the offense has expired.
 - 4) Forgery cases with no identified suspects and having a dollar amount under \$2500 after 10 years.
 - 5) When the case involves a Sexual Assault, the assigned employee must complete the following (C.R.S. §24-4.1-302.5 (b.8) (IV) (V):
 - i. The assigned deputy must notify the victim of a sexual assault at least sixty days prior to the destruction of forensic medical evidence collected in connection with the alleged sex offense.

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- ii. The victim has a right to file an objection to the destruction of evidence with the Sheriff's Office or the accredited crime lab proposing to destroy the forensic medical evidence prior to the expiration of the sixty-day period.
 - iii. If the victim objects to the destruction of the forensic medical evidence the evidence shall be maintained for an additional ten years.
- e. DNA evidence is preserved in accordance with applicable laws as detailed in C.R.S. § 18-1-1101 to 1109.
- f. Forensic medical evidence related to a sexual assault investigation is treated as detailed in *the Forensic Medical Evidence Collection in Connection with Sexual Assaults* policy (#526), in compliance with C.R.S. § 24-33.5-113.
- g. When available, the District Attorney's disposition form will be attached to the request for property disposition and submitted to the responsible employee. When the responsible employee is no longer affiliated with the Boulder County Sheriff's Office, a detective supervisor or patrol sergeant will determine a disposition for the property/evidence in question.
- h. When evidence is eligible for release, an Evidence Technician will contact the owner of the property at the owner's last known address from the BCSO records management database. A certified letter will be sent to the owner and the owner has 30 days to pick up the property or make arrangements for retrieval from evidence or it may be destroyed, converted, or sold.
- i. Marijuana – both medical and recreational – seized during the course of an investigation, will not be released back to the owner and will be destroyed in accordance with the Colorado Supreme Court ruling in *People v. Crouse*, 388 P.3d 39 (2017).
 - 1) Drug paraphernalia that contains any amount of marijuana will not be returned and the drug paraphernalia will be destroyed.
- j. Body worn camera recordings are stored as evidence in the cloud

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and are handled by the Records Section in accordance with the *Body Worn Camera* policy (#529).

- 1) In circumstances where video evidence is maintained longer than current cloud retention levels as outlined in the *Body Worn Camera* policy, a copy of the footage may be transferred to physical media and turned into the Evidence Section. The disposition of that evidence will be handled in accordance with this policy.
- k. Photos collected by department issued smartphones will primarily be stored as evidence in the cloud and are handled by the Records Section in accordance with this policy.
 - 1) A BWC administrator, assigned case agent, or supervisor may request files be burned to disk and submitted to Evidence at times when on-site storage is requested.
- B. An Evidence Technician will perform periodic and specialized functions that may include, but are not limited to, the following:
 1. Transporting evidentiary items to the Colorado Bureau of Investigation (CBI), or other qualified evidence processing laboratory.
 - a. It is the responsibility of the employee assigned to the case to put in a request to the Evidence Section for evidence to be taken to CBI. Once an Evidence Technician receives this request, the property is then signed out by the Evidence Technician and taken to CBI. When an Evidence Technician is unable to take items to CBI, the employee assigned to the case is responsible for transporting the items to CBI.
 2. Disposing of items no longer required for a case or for those items for which an owner has not been found:
 - a. An Evidence Technician will obtain authorization for disposal of qualified items from the assigned employee prior to seeking authorization from the other appropriate sections of the criminal justice system.
 - b. All items meeting destruction criteria will be disposed of in a manner that is in compliance with current laws, regulations, or code governing that destruction. At least one Evidence Technician, and a Sheriff's employee approved by a detective supervisor, is required to

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be present during the destruction process of any drugs or weapons previously stored in the Evidence Section.

3. The execution of disposition orders that authorize the conversion, destruction, or sale of property.:
 - a. Proceeds from items that are auctioned or sold are given to the Sheriff's Finance Section.
4. Property maintained by the Evidence Section of the Sheriff's Office can be inspected or viewed by a person(s) who is involved with the investigation or by a representative of that person, such as an attorney. When an Evidence Technician receives a request to view property they are to notify the assigned employee. During a property viewing an Evidence Technician and an Operations Division deputy must be present to maintain the integrity of the property and chain-of-custody.
 - a. Digital evidence can be electronically shared for purposes of case investigation with deputies. The digital evidence is for investigative purposes and should not be given or transferred to anyone outside of the Sheriff's Office by any employee other than Evidence Technicians and Records Section personnel.
 - 1) Release of digital evidence to anyone outside of the Sheriff's Office must be initiated with a request made to the Records or Evidence Section.
 - 2) Detectives and supervisors are authorized to allow the use of evidentiary photos in intel reports, BOLO's, and media releases shared outside of the Sheriff's Office. If evidence photos are used in a release the employee requesting the photos or release is required to place a copy of the release in the case file.

III. Firearms and Contraband

- A. The Boulder County Sheriff's Office will not release any items to the general public, which are illegal to possess under Colorado Revised Statutes or federal law.
 1. Firearms will not be released to a person prohibited by law from possessing firearms, even when that person is the owner of the firearms. An Evidence Technician will obtain photographic identification from the person seeking release of firearms. A criminal history and records check will be conducted to

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verify that the person seeking the release does not have a criminal record that would prohibit the possession of a firearm. When the person has an arrest which, if convicted of that offense, would restrict or prohibit the possession of firearms, the Evidence Technician will verify the court disposition of the applicable charges and releases the weapon(s) when it is legal to do so (i.e. 18 U.S.C. § 922(a)(6), 924(a)(1)(A), and/or § 18-12-111, C.R.S.).

2. When it is legal to release a firearm, an Evidence Technician will attempt to contact the owner at the last known address by way of a certified letter. In the event that the owner does not make arrangements to pick up the firearm within 30 days of the mailing of the certified letter, the firearm(s) may be disposed of or destroyed in compliance with applicable laws, regulations, and/or Sheriff's Office policies.
 - a. Firearms classified as abandoned property and converted to Sheriff's Office use will not be sold, traded, or otherwise disposed of, except by approval of the Sheriff, or Undersheriff acting in the Sheriff's stead.
 - 1) When the law prohibits the owner from possessing firearms, the owner may authorize another person to be his agent and to take custody of the firearms. It is the responsibility of the owner to present a notarized statement designating a person as the owner's agent.
 - 2) The agent is subject to the same records check as the owner. The agent is required to sign a form acknowledging that he or she is receiving the firearm(s) for the owner, that it is illegal for the owner to possess the firearm(s), and that he or she will not provide or transfer the firearm(s) to the owner.
 - 3) This form includes a warning that the return of any of the firearms to the owner by the agent may constitute a crime on the part of the agent, and the agent, as well as the owner, may be prosecuted.
 - b. Illegal items held in evidence will be destroyed in a manner that complies with this policy, as soon as practical after any court needs are fulfilled.
 - c. Property seized pursuant to public nuisance laws is handled as evidence. The responsible employee and the District Attorney's

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Office coordinate the release or conversion of the property.

- d. Any person removing evidentiary items from the evidence room on either a temporary or permanent basis are to sign for the items. An Evidence Technician is responsible for documenting the return of the item(s) and making appropriate computer entries.

IV. Accountability and Control

- A. The Evidence Technicians and Detective Supervisors are the only employees authorized to enter the evidence room without restriction. Any other employee or person that enters the property room must have the authorization of an Evidence Technician and/or Detective Supervisor and sign a log indicating the in and out time and the purpose for entry. Persons allowed in the property room are to be escorted by an Evidence Technician or by his/her designee. The entry log remains as a permanent record in the Evidence Section.
- B. The Evidence Technicians are responsible for all items logged into the property room. Technicians are to annually conduct an inventory audit or conduct one as directed by their supervisor, the Detective Commander, Operations Division Chief, or Sheriff. All audits are to be documented in a written report that is forwarded to the Detective Commander. Any inventory discrepancies found during the audit are to be noted and resolved as quickly as possible.

V. Property Custody Procedure

- A. Any member of the Sheriff's Office is authorized to place an item into the evidence locker or bin when the item is evidence, found property or being held for safekeeping.
- B. All items are to be inventoried on a Sheriff's Office property report submitted with the items. This includes electronic evidence submitted via email, digital memory cards, CDs, DVDs, etc., turned in for storage or processing. Each item is labeled individually and is packaged separately.
 - 1. All property report forms must designate items as evidence, found property, safekeeping, or as items to be destroyed, and the submitting employee will complete all applicable portions of the form and write their name each page. The type of crime or incident is to be listed on the form. Ownership information is added to the form for any item booked into Evidence, when it is known.
 - 2. Items are to be placed in a sealed container and/or properly tagged or

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marked. The container is to be sealed using evidence tape, and initialed and dated by the person sealing the container. The initials and date must cover a portion of the container and evidence tape. Items are not considered sealed if they are stapled inside a paper bag. In the event it is not practical to place items in a sealed container due to size or other problems, the item is marked, labeled, or tagged in a manner that preserves the evidence.

3. All items entered into Evidence are to be labeled with the case number, item number, employee initials or signature, and date. Other information, such as type of item, may be put on the label. This may be done either on the container, on the item or on a tag attached to the item. The outermost container must be labeled regardless of markings on the item itself.
 4. Items are to be placed into a locking evidence bin, or into an evidence cage when applicable. In some instances, it may be necessary for an employee to contact the Evidence Technician to facilitate items being placed directly in the property room.
- C. Items requiring special handling may include, but are not limited to, the following:
1. Documents submitted as evidence are placed in a sealed envelope, or clear plastic bag.
 2. Latent print cards are to be placed in a sealed envelope.
 3. Digital memory cards that are associated with a case are to be turned in with a property report. Digital memory cards that are not associated with a case are to be turned in and appropriately labeled, i.e. training, annual report, ID photos, etc.
 4. Bloody clothing, or other wet items, needing to be dried, are not to be sealed in plastic bags. These items are placed in drying cabinets according to the directions on the drying cabinets. It is the responsibility of the employee to package the evidence after it is completely dry. In the event the employee is unable to complete this task he or she will notify the Evidence Technician by email, phone, or in person and the Evidence Technician will package the evidence. The Evidence Technicians are to be notified in person or by email that property is in the cabinets. Wet evidence is to be placed in an open paper bag(s) or in a secured bin when a drying cabinet is not available. The Evidence Technician will set out the item(s) to dry in a secured drying area, prior to packaging. All packages containing articles with blood or other bodily fluids must have a bio hazard label on the packaging.

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5. A hazardous item that presents a potential safety issue is to be clearly marked in a manner that provides sufficient warning to anyone handling the item and/or container with the item. Sharp objects, such as knives or hypodermic needles, are to be marked as such and packaged so as to minimize the possibility of accidental injury. Any blood-soaked, blood stained, or other bodily fluid items are to be labeled with a biohazard sticker/label.
6. Firearms are to be unloaded and made safe prior to submitting into Evidence. The Evidence Technician will confirm that all firearms entering Evidence are unloaded and safe unless already sealed in a firearms box. If a firearm is placed into Evidence and requires further processing for trace evidence, the employee will clearly note this on both the property report and the packaging containing the firearm. An Evidence Technician will contact the assigned employee to assist in rechecking the weapon to ensure that any trace evidence is preserved. When practical, the submitting employee will show the firearm to the Evidence Technician prior to sealing the container, thus alleviating the need to open the seal for a safety check. Firearms, which do not require processing for trace evidence, may be tagged rather than sealed in containers at the employee's discretion. Employees are to request that the Records Section or Dispatch Section enter the serial number for all firearms turned into evidence into the CCIC gun file classified as "impounded".
 - a. If a deputy is unable to confirm a firearm is unloaded the deputy must email the Evidence Section advising them the firearm may be loaded.
7. Items with serial numbers are to be cleared through CCIC/NCIC by the submitting employee prior to being placed in Evidence. Results of the query are to be documented on the property report. When CCIC/NCIC is not functional, a notation of this fact will be made on the property report. The deputy submitting the firearm is responsible for clearing the items as soon as practical.
8. The submitting employee is responsible for ensuring that controlled substances are tested and weighed prior to submission into Evidence.
 - a. It is preferred that the weight of the substance be shown as net weight. However, the weight can be calculated as the net weight or gross weight. Net weight is the weight of the substance by itself and gross weight is the weight of the substance including the packaging, wrapping, or container.

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- b. The weight of all controlled substances is to be documented on the property report form and notation made as to whether the amount shown is gross or net weight.
 - c. Pills must be separated by type based on markings, size, color, etc.; counted and weighed prior to being submitted to Evidence.
 - d. A presumptive test is to be completed on the substance(s) prior to submitting the item into Evidence and the result of the test is documented on the property sheet
 - e. Freshly cut marijuana plants are to be placed in open paper bags. The Evidence Technician sets the bags containing the plants in a secure, designated area to dry. When there are too many plants to be placed in a locked evidence bin, the Evidence Technician is to be called to facilitate setting the plants out to dry in a secure area.
9. Money is to be counted by the submitting employee, preferably in the presence of a second employee. If a second employee is not available, the employee must record the counting of the money using their Body Worn Camera. Employees submitting money over \$1000 must count the money in the presence of a second employee. After the money is counted it is placed in a container and sealed, both employees sign and date the container. The amount of money is written on the container and on the property report form.
10. Items booked into Evidence for processing are to be clearly marked with specifics about the type(s) of processing required.
11. Large items may be placed in the common secure area in the outside evidence cage. Property reports for these items are to be placed in the evidence bins with a notation as to where the item is located. The Evidence Technician assigns permanent storage space for these items.
12. Motor vehicles are not the responsibility of the Evidence Section. Vehicles that are seized for a search or processing, are to be secured in the vehicle cage in the vehicle maintenance garage or at an impound lot. The vehicle will remain the responsibility of the impounding employee and/or case detective. Motor vehicles are subject to the Sheriff Office's vehicle impound procedures with paperwork handled by the Records Section, and do not require an evidence property report form.
13. Beer kegs taken as evidence in criminal cases are booked as a "safekeeping"

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item and placed in the outside evidence cage. The keg is to be listed on a property report form and the form is to be placed in an evidence bin. The Evidence Technician will arrange for the disposition of the keg. The keg is to be photographed before the keg is released. Kegs are to be returned to applicable local business, and any compensatory monies received in exchange for the kegs may be designated by the Sheriff or his/her designee, to fund functions within the Sheriff's Office.

By Order of the Sheriff,



Joseph K. Pelle

7/26/2021
Date

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