



# Colorado Springs Police Department

## Standard Operating Procedure

### DL-1400-01 Visual Recording of Evidence

#### Section 1400 – Evidence Functions

Effective Date: 2/1/2021  
Supersedes Date: 7/15/2019

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### .01 Purpose

The purpose of the directive is to specify conditions and procedures for photographing or **digitally recording** certain evidence and returning it to owners.

### .02 Cross Reference

[GO 122 Treatment of Victims/Witnesses and Victim Rights Notification](#)

[GO 1415 Evidence Office Procedures](#)

[DL-1415-01 Evidence Disposition Process](#)

### .03 Definitions

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### .04 Procedure

The Colorado Springs Police Department (CSPD) has an obligation to crime victims to return their recovered property within a reasonable time. The retention of items beyond the time required for processing and evidentiary purposes not only deprives owners of their property, but also may violate victim rights laws in some cases.

Properly authenticated photographs or **digital recordings** of items of evidence are, with certain exceptions, directly admissible as evidence in court. Photographing and **digitally recording** permits the rapid return of items to their owners, increases available storage space, complies with victim rights laws in certain cases, and provides comprehensive documentation that can easily be retrieved.

**CSPD personnel will visually record evidence** whenever practical and not detrimental to the case.

Colorado Revised Statute (CRS) §13-25-130 authorizes law enforcement agencies, under certain conditions, to release items of recovered stolen property back to the lawful owner. The property must be identifiable by make or brand, serial number, model number, or other identifiable number, marking, or characteristic.

Photographs and video of property over which a person is alleged to have exerted unauthorized control or otherwise to have obtained unlawfully are competent evidence if the photographs or video are admissible into evidence under the rules of law. Any photo or video, when satisfactorily identified and authenticated as outlined in this policy, is as admissible in evidence as the property itself. This applies to the following cases:

- Misdemeanors
- Any Felony **except** Class 1 or 2.
- The following statutes specifically address photos and videos as evidence. CRS 18-4-305 Robbery, CRS 18-4-415 Theft, CRS 18-4-514 Trespass, Tampering, and Criminal Mischief.

#### *Exceptions:*

The following types of evidence will not be photographed and released:

- Illicit drugs or other items which are unlawful to possess.
- Items of non-testimonial identification, "sample" or exemplar evidence, or trace items (i.e., blood, semen, saliva, hair, fibers, etc.).
- Other items when, in the judgment of the primary investigator, supervisor, or prosecuting attorney, their release would jeopardize the presentation of the case or present a danger to the public. Decisions will be made on an item-by-item basis in each specific case.
- If the case involves a sexual assault or homicide, the evidence will not be released.
- After an arrest is made, no items retained as evidence will be released without written authorization from the District Attorney's Office (DA).

### **Authentication**

A photo or video meets the criteria of being satisfactorily identified and authenticated so long as it is documented in a supplement to include:

- A description of the property being returned
- The associated case report, accident report, or summons number
- The name of the property owner
- The name of the arrested person/accused, if any

- The date the photograph or video was made
- The name of the individual taking the photo or video

The photo or video must be maintained in DIMS per policies and procedures governing all other digital evidence.

## **Owner Agreement**

Items of recovered stolen property may be returned to the owner upon the owner's showing satisfactory proof of ownership, and upon signing a receipt for the return of the property, which includes:

- A declaration of ownership, which must be signed under the penalty of perjury.
- An agreement not to dispose of the property without the written authorization of the DA or City Attorney, while the criminal case is pending, and
- An agreement to produce the items promptly should they be required during a trial or other disposition of criminal charges.

If a case number is associated, a copy of this agreement will be included in the **Law Enforcement Records Management System** (LERMS). The original will be placed into evidence.

## **Photographs or Video Retained as Evidence**

Officers or prosecutors authorizing release of evidence under these circumstances are responsible for taking or coordinating adequate, identifiable, and authenticated photos or videos of the evidence to be released, and for completing all steps required by this GO.

If digital photos or videos are used, they must be uploaded into the Digital Image Management System (DIMS) under the case number, accident number, or summons number. The photographs or videos will be retained at a minimum until the associated case has reached final disposition in the courts and evidence has been authorized for disposal by the prosecuting attorney or law enforcement agency per the *most current* [District Attorney's Office or CSPD Release Guidelines](#).

## **Release Authorizations**

The photograph-and-release procedure may be authorized by the primary investigating officer or detective assigned to the case, that officer's supervisor, or by a prosecuting attorney assigned to the case.

If charges have been formally filed in court, the District Attorney's Office must authorize the release in writing.

**Photograph and Release**

When appropriate to the circumstances of the case, recovered stolen property may be photographed and released without having first been entered into Evidence on Q (EoQ). In such cases, extra care must be taken to thoroughly document property descriptors and item value to ensure accountability and for later court presentation. Use of the photograph-and-release process should be documented in the associated offense report, accident report, or summons narrative.

#### ***EoQ Entries***

For items entered into EoQ the responsible officer/prosecutor will either request to check the items out from the Evidence Unit to return personally (and forward the Receipt for Return of Property to the Evidence Unit), or complete the Authorization to Release Evidence (Release Form) per [DL-1415-01 Evidence Disposition Process](#) and forward to the Evidence Unit.

To release evidence in any felony case, personnel need to establish evidence is “Not DNA Relevant” and indicate this on the release form, selecting one of the applicable reasons that DNA is not relevant to the retention of the evidence.