

MONTPELIER POLICE DEPARTMENT

Property and Evidence Management	Related Policies: Management
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Vermont Statutes: 20 V.S.A. § 2301, 2303, 2304, 2305, 2306	
CALEA Standard: 74.4.1, 84.1.1, 84.1.4, 84.1.6	
Date Implemented:	Review Date: April 11, 2023

- I. **Purpose:** The purpose of this policy is to outline the procedure of this department with respect to property, contraband or evidence that is seized. All property, with the exception of vehicles, will be dealt with under this policy.
- II. **Policy:** The policy of this department is to provide for the reasonable safekeeping of all property that comes into the possession of this agency. With respect to evidentiary items, this agency shall maintain a proper chain of custody and secure such items in a manner that will ensure that the evidence is available to be admitted at trial.
- III. **General Provisions Applicable To All Evidentiary Items:**
 - A. Members of this department shall only seize items under the following conditions:
 - a. Officer has probable cause to believe that an item is contraband. (Contraband is an item(s) that by their very nature are illegal to possess. E.g. illegal narcotics.)
 - b. Officer has probable cause, at the moment of seizure, that the item to be seized is stolen.
 - c. Officer has probable cause, at the moment of seizure, to believe that the item is evidence of a crime.
 - B. When seizing items of value (money/jewelry/precious metals/electronics) officers shall make a handwritten inventory of the items at the scene of the seizure. Two officers shall conduct this inventory of the property. Both officers shall then sign the handwritten inventory.
 - C. In cases where professional expertise is required to make a proper accounting of the property, the commanding officer of the unit shall be notified so that the services of an expert may be obtained.
 - D. Once an item is seized it shall be transported to police headquarters.

- E. The officer who has seized the property shall fill out a Police Department property form.
- F. In cases where the items relate to a criminal investigation all forms necessary for criminal processing shall be compiled.
- G. Evidence shall be properly marked or tagged with the report number, the date of seizure, the arresting officer's name and identification number as well as the suspect's name where applicable.
- H. The item shall then be stored in a secure area within the seizing officer's assigned area which has been previously designated by the Chief of Police. The only exception to this provision shall be cases where the case will be charged by a different unit within the agency or cases where the forensic unit (where applicable) has seized the evidence. (WHERE AGENCY PROPERTY/EVIDENCE ROOM IS MANNED WITH PERSONNEL OR WHERE AGENCY HAS PASS-THRU LOCKER SYSTEM-THE EVIDENCE SHALL BE IMMEDIATELY TRANSFERRED TO THE EVIDENCE/PROPERTY ROOM Through this System)
- I. In cases where the seizing officer will turn a suspect over to a different officer for charging, the evidence shall be turned over to the charging officer along with the suspect.
- J. Once the evidence has been secured, it shall remain in the secure area until such time as the property/evidence room(s) is open so that the evidence can be secured in the property/evidence room(s).
- K. Supervisors shall designate officers who shall be responsible for delivering evidence to the property/evidence room.
- L. Designated officers shall deliver evidence to the property room where the evidence/property officer will conduct an inventory. This inventory shall be conducted in the presence of the officer making the delivery. Each officer shall initial each item on the property form and sign the bottom of the form indicating that all items on the form are accounted for. (IN AGENCIES WITH PASS-THRU LOCKERS-THIS ACCOUNTING WILL OCCUR ONCE THE EVIDENCE/PROPERTY CLERK REMOVES THE ITEMS-IN CASES WHERE THE PASS-THRU LOCKER SYSTEM IS AVAILABLE, A SUPERVISOR OR SECOND OFFICER SHOULD WITNESS THE PLACEMENT OF THE ITEM IN THE LOCKER)
- M. If any discrepancies are discovered between items listed on the property form and the items being delivered to the property room, the designated officer shall report this discrepancy, in writing, to his or her supervisor. The evidence officer shall report the discrepancy, in writing, to his or her direct supervisor.
- N. In cases where a discrepancy has been reported, the supervisor of the area that held the evidence shall cause an immediate investigation within his or her area to resolve the discrepancy at issue. If the discrepancy cannot be explained or resolved, the Chief of Police shall be notified. The Chief will determine if an Internal investigation is warranted.
- O. When evidence is needed for court, the investigating officer assigned to the case shall notify the designated evidence officer in writing at least forty eight (48) hours prior.

IV. Evidentiary Narcotics:

- A.** Officers who seize drugs shall complete all paperwork that accompanies these arrests. The suspected narcotics should be field tested, where applicable, properly packaged and tagged. The tag should include the report number, defendant's name, date of seizure, and the seizing officer's name. The tagged narcotics along with the property form shall then be placed into the pass-thru locker or other designated secure area. Copies of all associated paperwork should be included with the evidence.

B. Evidentiary Narcotics:

- a.** Drugs should be removed from unnecessary exterior packaging and a net weight taken and recorded.
- b.** Evidence should be properly bagged and tagged and a gross weight should be taken and recorded.
- c.** Evidence examination reports shall be typed.
- d.** Any drugs as well as money which have been seized shall be logged in a "drug evidence log." The gross weight of the narcotics; the amount of cash, if any, and any vehicle seized must be recorded.
- e.** The tagged and bagged narcotics and any cash seized should then be placed in the designated secure area/locker.
- f.** The designated evidence officer will check the designated secure area/locker or pass-thru locker system for evidence on each of his or her workdays. Upon retrieving the evidence, the evidence officer shall initial the "drug evidence log" indicating that he has received the evidence listed in the log. If the evidence officer finds any discrepancy between the "drug evidence log" and the items in the secure area/locker, he shall immediately notify, in writing, his or her supervisor.
- g.** The evidence officer shall then submit the narcotics evidence to the appropriate agency for toxicological examination. A member of that agency will sign a receipt for the evidence.
- h.** The evidence officer shall maintain the receipt to ensure that the chain of custody for the evidence is maintained.
- i.** Once a toxicology report is received, the evidence/property clerk shall file the report for use in a subsequent criminal prosecution.
- j.** The evidence/property clerk shall be responsible for ensuring that any narcotics sent for toxicological testing is returned and properly documented as well as stored in the designated area of the evidence room.
- k.** The agency drug locker shall be maintained as a dual-key entry requiring two persons at all times that the locker will be entered. The evidence unit shall maintain one key and a supervising officer designated by the chief of police shall maintain one key. At no time shall one person be able to unilaterally enter this drug locker.
- l.** When the evidence is needed for court, the officer assigned to the case shall notify the evidence officer. The evidence officer, accompanied by the officer who has been designated by the chief of police as the keeper of the drug locker key shall enter the drug locker and retrieve the evidence. The officer handling the case

shall sign and date the "drug locker log" indicating that he or she has accepted the evidence.

- m. **Note:** When large amounts of substances are seized and storage is impractical, a law enforcement officer, only with the prior written approval and consent of the prosecuting attorney, may substitute photographs or videotapes of the substances at trial so long as a representative sample is analyzed for proof of the matter that the substances actually are present. When substitutions are used, the chief law enforcement official or his designee may authorize the destruction of the substances ten days following seizure with authorization from the prosecuting attorney.
- n. When evidence is returned from court it shall be returned to the custody of the evidence officer who shall initial the "drug locker log" indicating the return of the drugs. The evidence officer shall then return the narcotics to the drug locker accompanied by the key-holder designated by the chief of police. If the evidence officer is unavailable, the officer returning from court shall place the narcotics in the designated secure area/locker for overnight storage. A supervisor or second officer should witness this placement. In such cases the evidence officer shall retrieve the narcotics from the designated secure area/locker the next day he or she is working and complete its return to the drug locker as outlined above.
- o. In cases where items of evidence are needed for court on several occasions but are not held by the court, officers must follow the above outlined procedure and sign the evidence out each day. In no case, will drugs be stored in any other manner than outlined in this policy when held in the custody of this department and its members.
- p. When a case is completed through a trial or plea, the officer handling the case shall notify the evidence unit of the disposition of the case. The evidence unit shall verify this disposition with the court so that a determination can be made regarding the continued custody or disposal of the narcotics.

V. Non-evidentiary narcotics: Narcotics that are abandoned and narcotics turned over to police as articles found: In these cases the narcotics are not used as evidence in criminal trials thus it is not necessary to have a toxicology exam performed on the drugs.

- A. Article found-drugs turned over to the police-with no suspect. The officer who initially takes custody of the item must complete a report and a property form as well as tagging (officer's name, date of recovery, and report number) and bagging the item. The item shall be weighed for a gross weight prior to placement in the secure area. The tagged item and its property form should then be placed in the designated secure area/locker/pass-thru locker system.
- B. The evidence clerk shall retrieve the item from the secure area, verify the gross weight and then secure the item in the narcotics storage area until such time as the item is to be disposed under the provisions of this policy.
- C. Narcotics or other items held for purposes of training, demonstrations, or other non-prosecution purposes shall be held in a secured area of the property-evidence and shall be signed out by officers with the express authorization of the chief or his/her designee.
- D. Narcotics that are seized as the result of controlled buys.

- a. A toxicologist need not examine these narcotics since they will not be used as evidence in a trial.
- b. Investigating officers shall conduct a field test of narcotics seized as the result of a controlled buy.
- c. In conducting a controlled buy, the investigating officer draws a check from an agency checking account, set up for this purpose, which is made out to the investigating officer. The officer cashes the check and uses the cash for the purchase.
- d. In cases where an informant is used the officer who cashed the check will turn the cash over to the informant who is going to make the controlled buy. A search of the informant will be conducted prior to the control buy to verify the absence of any narcotics. The investigating officer will then conduct a close surveillance of the informant while he or she makes the controlled buy. The informant will be searched immediately following the controlled buy and the purchased narcotics are recovered and the absence of the "buy money" is noted. (NOTE: all informants who are paid must have complete file within the agency. This file shall be a restricted access file as designated by the chief of police.)
- e. The officer who is handling the controlled buy shall compile a "controlled buy form." indicating the name of the officer, the date, the location, the check number, and a description of the article purchased, the signature of the supervisor working at the time of the buy and the gross weight of the item purchased. The controlled buy form is then heat sealed to the bag and the bag shall be placed in the secure area/locker/pass-thru locker system.
- f. A supervisor, designated by the chief of police shall be responsible for reconciling the amount of drugs purchased with the amounts of money drawn by officers for these purchases. The supervisor conducting this reconciliation shall sign the controlled buy form as "Evidence Supervisor" indicating that this reconciliation has taken place.

VI. Narcotics Disposal:

A. Applies to all narcotics

- a. Controlled substances seized pursuant to this article must be inventoried, reported, audited, handled, tested, stored, preserved, or destroyed pursuant to procedures promulgated by the State of Vermont.
- b. The chief law enforcement official of the seizing agency, his designee, or the clerk of court, after one year following the conviction, guilty plea, plea by nolo contendere, or other disposition of the criminal case, may order the destruction or other lawful disposition of the substances unnecessary for evidentiary purposes in accordance with procedures promulgated by this agency..
- c. The chief law enforcement official of the seizing agency or his designee, after a reasonable period of time following the seizure, may order the destruction or other lawful disposition of substances that do not come within the jurisdiction of court.
- d. When large amounts of substances are seized and storage is impractical, a law enforcement officer, only with the prior written approval and consent of the prosecuting attorney, may substitute photographs or videotapes of the substances at trial so long as a representative sample is analyzed for proof of the matter that

the substances actually are present. When substitutions are used, the chief law enforcement official or his designee may authorize the destruction of the substances ten days following seizure with authorization from the prosecuting attorney

- e. It shall be the responsibility of the evidence officer to perform a monthly reconciliation between the drugs within the custody of this department and the disposition of cases. The purpose of this reconciliation is to determine those cases where the drugs will no longer be needed as evidence. In cases where the drugs are no longer needed, the drugs will be destroyed in accordance with the procedure set by the State of Vermont.
- f. A drug destruction sheet indicating which narcotics are ready for destruction shall be prepared by the evidence officer on a monthly basis. This destruction sheet shall include the following information: report number, toxicology number, name of defendant, disposition of the case, gross weight of the narcotics and two open categories for the initials of the officer who ultimately destroys the drugs as well as the outside witnesses and a second open category where the date of destruction will be filled in following destruction.
- g. The drug destruction sheet shall be forwarded to a supervisor designated by the chief of police who will verify the dispositions of the case.
- h. A command level officer designated by the chief of police shall review the drug destruction sheet and determine the compliance with the above listed procedure. Once it has been determined that there is compliance the designated officer shall approve the destruction of the narcotics in writing.
- i. If it is determined that the destruction sheet does not meet the criteria set forth in this policy, the designated officer shall direct the individuals responsible for compliance on what is necessary to correct the deficiencies. No drugs will be destroyed before there is complete compliance with the above listed procedure.
- j. Once the designated command level officer has approved the destruction of drugs, a copy of the destruction sheet shall be forwarded to evidence clerk.
- k. Narcotics will then be destroyed in accordance with the procedure set forth by the State of Vermont and the procedures outlined above.

VII. Stolen Property: In addition to the general provisions of this policy the following particular provisions also must be complied with when dealing with stolen property or property for which there is probable cause to believe is stolen. It should be noted that state legislatures set diverse requirements for types of stolen property and for property that has been recovered as stolen from varying crimes. It is the intent of this policy to be broad enough to cover all stolen property irrespective of the crime or type of property that will meet all the requirements of law.

- A. When dealing with any type of stolen property officers responsible for that property shall comply with the provisions of the Vermont law.
- B. Officer shall secure the property believed to be stolen and create an inventory detailing the property taken into custody in accordance with the general provisions of this policy.
- C. The evidence officer shall maintain a log of every item brought into the custody of this department and verify that the property is assigned a report number.

- D. The evidence officer may deliver the stolen property to its rightful owner upon satisfactory proof of ownership after meeting the provisions of state law.
- E. Anytime a firearm is returned to a person a criminal history check must be done to determine if the person receiving the firearm has been disqualified by some conviction from possessing a firearm.
- F. Prior to the return of a firearm, a check of available databases concerning domestic violence protective, restraining or non-contact orders shall be conducted to determine if the person receiving the firearm is prohibited by law from possessing a firearm.

VIII. Other seized property: In the course of investigating crime it is often necessary to seize what courts refer to as “mere evidence” to establish a connection between a suspect and a crime. This would include items such as wallets with identification, clothing, photographs and any other item that belongs to a suspect, victim or witness to a crime. While some of these items may have no monetary value they may in fact be valuable to the rightful possessor of the property. In addition to the general provisions of this policy which must be followed for all items coming into the custody of this department, the following particular provisions shall also be followed:

- A. Prior to returning any property to a claimant the following criteria shall be met:
 - a. A complete photographic record of the items shall be made including at least one photo depicting the claimant and the items shall be made. This photograph shall be tagged by the evidence officer and maintained in the files of the evidence/property unit.
 - b. The person claiming the property shall complete a signed declaration of ownership of the items under penalty of perjury.
 - c. No items in the custody of this department shall be disposed except in accordance with the provisions of this policy.
- B. Firearms: All firearms that are no longer necessary for evidentiary purposes and have not been returned to a rightful owner following a criminal history check, shall be disposed of in accordance with Vermont law.

IX. Disposition of seized and other property held: Seized property, abandoned property and articles found which come into the custody of this department shall be initially handled in accordance with the general provisions of this policy. In addition to the general provisions, the following specific procedures required by Vermont law shall be followed:

- A. Unless other disposition is specifically provided by law, when property seized or held is no longer required as evidence, it shall be disposed of by the law enforcement agency on such a showing as the law enforcement agency may deem adequate as follows:
 - a. Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;
 - b. Money shall be restored to the owner unless it was used in unlawful gambling or lotteries or it was used or intended to be used to facilitate a violation of the narcotics laws in which case the money shall be forfeited and disposed in compliance with law.

- c. Contraband shall be destroyed unless they may reasonably be returned to a condition or state in which such goods may be lawfully used, possessed, or distributed by the public. In such a case the item(s) must be disposed of by court order.
- d. Firearms, explosives, ammunition, bombs, and like devices shall be destroyed. Firearms which may have a lawful use may be held without destruction and disposed of by way of a court order.
- e. Under 20 VSA § 2303 (a): Any unlawful firearm in the possession of an agency which is not needed as evidence for or in a criminal prosecution or other judicial or administrative proceeding shall, within 30 days of its receipt by the agency, be delivered to such place and in such manner as the commissioner of public safety designates for ultimate disposition in accordance with the provisions of this chapter.
- f. Under 20 VSA § 203 (b): Any unlawful firearm in the possession of an agency needed as evidence for or in a criminal prosecution or other judicial or administrative proceeding may be retained by the agency for such purposes and until the conclusion of such prosecution or proceeding. Upon notice to the agency from a state's attorney, other prosecuting official, or other state or federal official having jurisdiction over the subject matter that the unlawful firearm may be released, the agency shall, within 30 days of such notification, deliver the unlawful firearm to such place and in such manner as the commissioner of public safety designates for ultimate disposition.
- g. Animals which are seized and are no longer required as evidence, the animal will be disposed of pursuant to a court order.
- h. Any other property shall be disposed of in accord with a court order.

X. Inspections/Audits:

- A. At least quarterly, the person responsible for the property and evidence control function, or his or her designee, conducts an inspection of adherence to procedures used for the control of property;
- B. Whenever the primary property manager is assigned and/or transferred from the property and evidence control function, an audit of property/evidence, to ensure that records are correct and properly annotated, is conducted jointly by the newly designated property manager and a designee of the Chief of Police, this audit shall meet the sampling rate percentages utilized by the Commission on Accreditation of Law Enforcement Agencies (CALEA)
- C. An sampling audit of high risk property/evidence (firearms, money, drugs, and precious metals) held by the agency is conducted by an employee not routinely or directly connected with property control monthly; and
- D. Unannounced inspections of property storage areas are conducted at least twice per year as directed by the Chief of Police.

