

**TOPEKA POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL**  
**4.18 PROPERTY AND EVIDENCE**

SUBJECT: Property and Evidence		
4.18	EFFECTIVE: 8-20-2024	<i>Jamey Haltom</i> Jamey Haltom, Chief of Police
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**4.18.1 PURPOSE AND DISCUSSION**

This policy outlines the proper methods for the collection, preservation and storage of evidence and property.

For the purpose of these procedures, property is defined and categorized as follows:

- A. **Abandoned Property:** Items that appear to have been intentionally discarded. These items will not be stored.
- B. **Evidence:** any property that comes into the custody of an employee as part of an official criminal investigation, where such property tends to prove or disprove the commission of a crime or the identity of a suspect. Examples of evidence include physical, biological or chemical evidence left at the scene of a crime by a victim or suspect, recovered/stolen property, or property that is suspected to have been used in, or be the result of, the commission of a crime.
- C. **Found Property:** any property, that has no evidentiary value, which comes into the custody of an employee, and whose rightful owner may, or may not, be known to the Department. A reasonable effort shall be made to discover the rightful owner. Shall such efforts fail to locate the rightful owner the Department may dispose of the property, consistent with City ordinance.
- D. **Property for destruction or sale:** any property; including contraband or firearms and ammunition, which is released, forfeited or unclaimed by a citizen to the TPD for disposal according to state law or City ordinance and so ordered by the court having jurisdiction over the property. It also includes found property and evidence that no longer has evidentiary value and whose rightful owner cannot be located by reasonable effort.
- E. **Value:** the employee receiving the found property can determine if the item has potential value for the average person, using a donation valuation guide (Salvation Army or Goodwill). Items that are determined worthless will not be stored.

**4.18.2 POLICY**

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The requirements of criminal proceedings as well as modern professional standards demand that all evidence received and released is properly handled. Employees shall adhere to strict guidelines concerning the collection, processing and ultimate disposition of evidence and other property entrusted to their care.

#### **4.18.3 WRITTEN GUIDELINES**

- A. The Property and Evidence Unit operates on a package in, package out system. The Property and Evidence Unit will not accept any items that do not conform to the packaging guidelines contained herein. The Unit personnel shall not open packages to confirm the contents unless a supervisor is present.
- B. No employee is allowed access to Property Room storage facilities or secured lockers without the approval of Property Unit authorized personnel and/or the Bureau Commander.
- C. To ensure maximum control of property, only the Property Unit supervisor or authorized personnel shall have keys to Property Room evidence storage areas.
- D. At no time shall an officer remove any evidence, found property or other contraband from any evidence storage area except for official duty purposes and with proper documentation.
- E. The seizing employee shall be responsible for packaging, marking and placing property under the control of the Property Unit, regardless of the type of property received or its classification.
- F. It is the responsibility of all employees to ensure that property in the custody of the Department is accounted for and protected from damage. Property and evidence must be properly recorded, marked, packaged and chain of custody maintained to ensure its accountability and/or acceptance in court. Employees shall properly package all evidence and property as detailed in this General Order.
- G. The Property and Evidence supervisor will review all operations manuals as needed to ensure accuracy, at least once a year. All Bureau Commander approved changes to the operations manual will be forwarded to the Planning and Accreditation Unit to ensure the changes meet CALEA standards and do not conflict with other General Orders.
- H. The Physical Evidence Custody Receipt (ECR) will be filled out on all property and evidence collected.

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- I. Employees will complete a report that details the circumstances by which the property came into their possession.
- J. All employees must place evidence and property under the control of the Property and Evidence Unit before the employee completes his/her tour of duty.
- K. The Property Room maintains supplies needed to tag and collect evidence (i.e. paper sacks, string, evidence tape, labels, etc.).
- L. Any time an officer seizes or takes custody of property, a copy of the ECR shall be given to the person the property was taken from. This shall be done as soon as the ECR is completed. If the suspect is booked into jail prior to completion of the ECR, the receipt may be left with their personal effects at the jail.
- M. Whenever the classification of property changes (i.e. from “hold for evidence” to “release to owner”) the reporting or investigating employee will immediately notify the Property and Evidence Unit through submission of the Property Disposition Request form or e-mail.
- N. The Property and Evidence Unit shall not accept the following items for safety reasons:
  - 1. Explosives (contact Bomb Squad);
  - 2. Corrosive material (contact Bomb Squad);
  - 3. Flammable material (contact Bomb Squad);
  - 4. Large quantities of materials that are strong oxidizers (contact Narcotics or Bomb Squad);
  - 5. Leaking containers of liquid or solids (photograph and dispose);
  - 6. Any food items (photograph and return to owner, if possible);
  - 7. Any property with a noxious odor; or
  - 8. Property that constitutes a health or safety hazard.

#### **4.18.4 SEIZING PROPERTY**

- A. Department employees may seize property under the following circumstances:
  - 1. When the property is evidence of a crime;
    - a. For any misdemeanor crimes that will be submitted to the City of Topeka Municipal Court for prosecution, evidence shall not be seized. Instead, evidence will be captured by video and photographs to assist in any prosecution. Exceptions to this include:
      - i. Firearms or other harmful weapons;
      - ii. Narcotics and paraphernalia,
  - 2. When the property constitutes contraband;

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3. When the property is turned over to an employee as found property or is found by the employee in the course of his or her duties. The officer will determine if the item is possibly related to a crime or a danger to the safety of the public. If it is not, the item will not be seized.
  4. When the seizure is for safekeeping (Property seized in the interest of public safety or to provide safe storage until the property can be claimed by the owner will be classified as "Hold for Owner");
  5. With the property owner's approval, a firearm may be held for safekeeping when a situation warrants its removal from the scene until the dispute is resolved; and
  6. Vehicles may be impounded (ordered towed) when the vehicle is a hazard as it is situated, needed as evidence, is on a public road and cannot be lawfully operated or left there, or is subject to forfeiture under federal or state law.
  7. Vehicles may be impounded from private property under certain conditions outlined under department policy, 5.4 Vehicle Seizures, Towing and Inventory.
- B. Any property coming into the possession of an employee shall be delivered to the proper custodian and a report made of the transaction.

#### **4.18.5 EVIDENCE COLLECTION AND PACKAGING**

- A. Training in crime scene processing, evidence collection and handling shall be provided to all officers. Select officers will be trained in specialized techniques and skills required in processing major incidents.
- B. The Department will procure and maintain the equipment, tools and supplies necessary to photograph, mark, collect and preserve physical evidence found at the scene of a crime.
- C. Officers shall take appropriate safety precautions while handling physical evidence. Precautions such as using latex or nitrile gloves which are made available to employees. These items should also be properly disposed of by utilizing disposable bags available to employees in the same area as the latex or nitrile gloves.
- D. The primary responsibility for ensuring that a crime scene is properly processed lies with the investigating officer. Functions to be performed may include photographing and/or sketching the scene and identifying, protecting, documenting, collecting and preserving evidence.
- E. Evidence must be properly collected, packaged, sealed, and marked while maintaining the continuity of custody.

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F. Officers will make every effort to appropriately preserve the condition of evidence during the process of collection. These efforts will be directed toward preventing the introduction of foreign materials or contaminants into the evidence and ensuring a sample that is as complete as is practical.

G. Money

1. All money placed into Property is transferred to Accounting once a month, unless:
  - a. The money is of evidentiary value and the officer makes a note requesting to keep the money in Property;
  - b. If the amount is over \$1,000 the money is transferred to Accounting immediately.
2. The ECR must clearly indicate if the money is to be retained by the Property Room.
3. Any time money is seized, the Property Currency Additional Information Request form must be completed and returned to Accounting.

H. Firearms

All firearms shall be unloaded and made safe prior to being packaged and turned into the Property and Evidence Room.

1. Firearms processing
  - a. CSI will be responsible for test firing all firearms submitted to the Topeka Police Property Room
  - b. Exceptions
    - i. 10 gauge, 16 gauge, 20 gauge, and 28 gauge and .410 shotguns need not be test fired unless requested by the officer or investigator for articulable reasons;
    - ii. Weapons that cannot be safely be test fired.
  - c. Within 30 days of seizing a firearm, the TPD shall verify the firearm has not been stolen.

I. Narcotics

1. A field test will be conducted on suspected narcotics. After field testing the narcotic item(s), weigh the item(s) individually on the provided, standard, non-scientific scale.
  - a. Denote in the related reports whether or not the item(s) was weighed in the packaging or out of the packaging;
  - b. Write the approximate weight that is provided by the standard, non-scientific scale in the related reports;
  - c. Officer will photograph all drugs and paraphernalia seized, in its original container and original condition, prior to packaging;
  - d. A photograph will be taken while the evidence is on the digital scale to record both appearance and approximate weight;
  - e. Officers can request a quantitative analysis and gross/net weight on the physical evidence custody receipt accompanying the drug

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- evidence. Analysis and weighing will be performed by the KBI following proper authorization; and,
- f. Officers should document, in their reports, the appearance of the suspected drug, how it was packaged, that photographs were taken, and any examination of the evidence that were requested.
2. All narcotics, potential narcotics evidence and drug paraphernalia evidence will be properly sealed and packaged.
    - a. The narcotics substance is placed first into a clear plastic "Ziploc" style of baggie with at least 4 mil thickness (primary container);
    - b. The primary container will then be carefully sealed using the "zipper" seal as designed, folded over, and sealed with evidence tape.
      1. Seizing officer must initial and date the seal. The initials and date shall be written as to cross over both evidence tape and the primary plastic bag.
    - c. The primary container will then be placed into a secondary, clear plastic evidence envelope and sealed using the self-seal portion of the envelope allowing the initials/date to be clearly visible through the rear of the bag.
      1. A properly sealed package will require obvious damage/alteration to the container or its seals to access the contents.
      2. The primary and secondary packages each shall be sealed in such a way that the contents of either container cannot escape.
  3. Narcotics will then be packaged into evidence envelopes, as described above, with the following additions:
    - a. All narcotics with different item numbers will be packaged in separate envelopes. For example, if there is a bag of cocaine and methamphetamine, package the cocaine separate from the methamphetamine; and
  4. Package narcotics separately from other items that are seized e.g., if cocaine, money, and a stereo are recovered, package the items separately in different envelopes/paper or bags.
- J. Digital disks (CD, DVD, Blu-ray)
1. Complete an ECR.
  2. Write case number and incident date on the disk.
  3. Place disk in provided disk sleeves.
    - a. Do not seal with evidence tape.
    - b. Do not put the disk in an evidence envelope. The disk(s) will be kept separately from other property in order to save space.
  4. Place the disk and custody receipt into the property slot by the lockers in order to save the larger lockers for other property.
  5. Disks containing Child Sexual Abuse Material (CSAM) will be packaged and sealed in an evidence envelope and sealed with evidence tape.
- K. Bicycles

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1. Bicycles shall only be seized if they are confirmed stolen, are evidentiary in nature, or are being held for safekeeping to be returned to the arrestee. Bicycles shall not be collected by TPD personnel for any other reason, including lost and found.
- L. Sexual Assault Kits
  1. After the item is received from medical personnel, place the item in the refrigerated evidence locker. The original ECR will remain with the item when placed into the refrigerator.
- M. Knives
  1. After the item is made safe, it shall be treated like general property already described.
- N. Hypodermic Needles
  1. New, still in box- Tape and package as general property.
  2. New, still in safety container.
    - a. Use Scotch tape to secure the cap.
    - b. Follow instructions for used needles below.
  3. Used Needles
    - a. There are containers specifically designed for this type of packaging. (Note: Any material in the hypodermic needle requiring testing must be placed into a sample vial and packaged separately for transport to the KBI lab).
- O. Open Containers
  1. When seizing open containers do not seize the cooler.
  2. The officer may want to secure an alcohol sample taken from the container or should at least photograph or record video of the container and its contents to assist in later prosecution.
- P. Vehicle License Plates
  1. Metal license plates will be returned to the State of Kansas.

#### **4.18.6 DNA**

- A. Department employees shall have a good understanding of where DNA (deoxyribonucleic acid) can be found, how to avoid contamination and preserve fragile DNA evidence.
- B. Training that outlines responsibilities and precautions will be provided to all Department employees to include any officers collecting evidence.
- C. Procedures for collecting DNA evidence will include, but not be limited to, proper collection with swabs, collection of entire items that may contain DNA and photographing of the item prior to collection.

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- D. Correct safety precautions and procedures, to include latex or nitrile gloves and other personal protective equipment, shall be followed to avoid contamination or contraction of pathogens.

**4.18.7 DIGITAL MEDIA EVIDENCE**

- A. Digital evidence downloaded onto Department owned media storage drives should be provided to the Technology Unit for processing into an agency computer drive.
  - 1. During business hours, the officer may bring the flash drive to the Technology Unit to be downloaded onto an agency secured computer drive.
  - 2. After business hours the officer will:
    - a. Complete an evidence envelope with the minimum information of officer name and case number of incident
    - b. Place envelope in a drop box outside the Technology Units office door.
    - c. Email the Technology Unit to ensure their awareness.
  - 3. Once downloaded the flash drive will be returned to the officer
- B. Devices capable of storing data are extremely sensitive to electrostatic discharge. Improper handling may cause damage to the device rendering it useless.
  - 1. Collection and transportation of all types of storage media shall be performed by persons that have received training in the specific handling of electronic storage.
  - 2. Static-free bags shall be used to seal evidence of this type.
- C. All extraction and analysis of data stored on a device seized as evidence will be performed by persons that have received training in data forensics and are familiar with the proper legal precedent for seizure of evidence.
- D. When seizing a computer for analysis, if the computer is off, leave it off.
- E. Computers have the ability to store data using encryption technology.
  - 1. If the computer is turned off prior to disabling encryption it is possible that a later search will not be possible.
  - 2. If it is believed that a computer system is running encryption, officers shall seek the assistance of a computer specialist before turning off the system.
- F. If it is reasonably believed that the computer is destroying evidence, immediately shut down the computer by pulling the power cord from the back of the computer and removing the battery if necessary.

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- G. If a camera is available, and the computer is on, take pictures of the computer screen. If the computer is off, take pictures of the computer, the location of the computer, the connections and any electronic media attached.
- H. When supported by a legal basis for the seizure (warrant, consent, plain view, etc.) all printouts (officers shall be observant for user names and passwords), components and peripherals including cables, power cords, keyboards, mice, manuals and storage media shall be collected with the computer.
- I. Stand-Alone Home Personal Computers
  - 1. Photograph computer front and back as well as cords and connected devices, as found. Photograph surrounding area prior to moving any evidence.
  - 2. If computer is on and something is displayed on the monitor, photograph the screen.
  - 3. If computer is on and the screen is blank, move mouse or press space bar (this will display the active image on the screen). After image appears, photograph the screen.
  - 4. Photograph all wiring and cables prior to disconnecting.
  - 5. Unplug power cord from back of computer.
    - a. For laptops, if the laptop does not shutdown when the power cord is removed, locate and remove the battery.
    - b. The battery is commonly placed on the bottom, and there is usually a button or switch that allows for the removal of the battery.
    - c. Once the battery is removed, do not return it to or store it in the laptop. Removing the battery will prevent accidental start-up of the laptop.
  - 6. Disconnect all cords and devices from the computer.
  - 7. Seize additional storage media.
  - 8. Keep computer and all media away from magnets, radio transmitters and other potentially damaging elements.
  - 9. Collect instruction manuals, documentation and notes.
- J. Networked Home Personal Computer:
  - 1. Photograph all wiring and cables prior to disconnecting;
  - 2. Unplug power to router and/or modem;
  - 3. Photograph computer front and back as well as cords and connected devices, as found. Photograph surrounding area prior to moving any evidence;
  - 4. If computer is on and something is displayed on the monitor, photograph the screen;
  - 5. If computer is on and the screen is blank, move mouse or press space bar (this will display the active image on the screen). After image appears, photograph the screen;
  - 6. Unplug power cord from back of computer;
  - 7. Disconnect all cords and devices from computer;
  - 8. Seize additional storage media;

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9. Keep computer and all media away from magnets, radio transmitters and other potentially damaging elements; and
  10. Collect instruction manuals, documentation and notes.
- K. Network Server/Business Network:
1. Consult a computer specialist for further assistance.
  2. Secure the scene and do not let anyone touch any computer component except personnel trained to handle network systems.
  3. Removing the plug could:
    - a. Severely damage the system;
    - b. Disrupt legitimate business; and/or
    - c. Create officer and department liability.
- L. Cell Phone and Digital Camera
1. Apple smart phones and tablets must remain powered on and charged to protect the integrity of the data stored within the device. The following details the proper seizure and preservation of these devices and associated removable data.
    - a. If the device is powered on, place it in an available storage locker located immediately outside the Technology Unit office.
    - b. Plug the device into one of the charging cords within the storage locker.
    - c. If the Apple device cannot be kept charged for any reason, analysis specialist must be completed prior to battery discharge or data may be lost.
    - d. Place the device inside the protective static bag contained within the storage locker. Do not seal or write on the bags as they are intended to be reused.
    - e. Complete a separate ECR with the appropriate item number noted.
    - f. The Apple devices stored within the storage locker should be examined by a member of the Technology Unit as soon as practical.
  2. All other cell phones, smart phones, tablets and digital cameras may store data directly to internal memory or may contain removable media. The following details the proper seizure and preservation of these devices and associated removable media.
    - a. If the device is on, power down device prior to packaging it for evidence. These items may be placed in property using normal procedures.
- M. If the officer should encounter a computer system that he or she is unable to identify or is uncertain how to properly seize, he or she should contact someone who is qualified to provide technical assistance.

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1. Topeka Police Department Technology Unit detectives trained in cell phone and computer forensics;
2. US Dept. of Justice, Computer Crime and Intellectual Property Section (CCIPS) (202-514-1026) or go to their website at <http://www.usdoj.gov/criminal/cybercrime>;
3. KBI High Technology Crime Investigation Unit;
4. Shawnee County Sheriff Computer Forensics Unit (368-2313).

#### **4.18.8 FINGERPRINT CARD EVIDENCE**

- A. Officers shall place latent print cards in property with an ECR. Print cards shall not be stapled to the ECR.

#### **4.18.9 PROPERTY CHECKOUT FOR LABORATORY ANALYSIS OR COURT**

- A. Temporary release of evidentiary items for laboratory analysis or court purposes is permitted under the following conditions:
  1. The receiving employee must sign for receipt of the property and evidence; and
  2. The receiving employee is fully accountable for the return of the described property and evidence or if transferred to someone, the officer will have the subject sign for it on the ECR.
- B. Employees shall return items to the Property Room the same day unless a more extended release is warranted.
- C. A representative of the court shall be required to sign the ECR when it holds or confiscates property. The Property Room will retain the original ECR and the court may have a copy.
- D. Employees shall sign the ECR when returning property or evidence.

#### **4.18.10 FOUND PROPERTY**

- A. Lost property found by an on-duty employee shall be placed in the Property Room in accordance with procedures outlined in this directive and:
  1. No employee shall have the right of ownership should the owner not be located or should the owner fail to claim the property; and
  2. The property will be sold at public auction or disposed of in a manner prescribed by law.
- B. If the property is found by an employee not engaged in a police related activity, the employee will be able to claim the property if the rightful owner:
  1. Cannot be identified or notified, or
  2. Fails to claim the property within 90 days.

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- C. Property found by a citizen:
  - 1. If a person turns found property over to TPD, the property shall be placed in the Property Room in accordance with this directive;
  - 2. The citizen may contact the Property Room after 30 days to claim property if property has not been claimed by owner; and
  - 3. If the reporting citizen does not claim the property in 90 days it will be sold at auction or otherwise disposed of in accordance with current law. This does not include motorized vehicles.
- D. When an officer identifies the owner of found property, he or she may contact the owner and ask him or her to describe the property. The owner should be able to describe the property in detail and match identifying numbers on the property with numbers on a bill of sale, receipt or other documentation.
- E. Any found property that has not been claimed by its owner after 30 days shall be destroyed, returned to the finder, auctioned or converted for law enforcement use with approval from the courts and Chief of Police.

#### **4.18.11 RELEASING/DISPOSITION**

- A. Returned Property
  - 1. The Property and Evidence Unit staff shall check all property submitted to determine if the property was correctly packaged and the ECR has been correctly filled out, to include the names of the suspect, owner, and who the property was received from, if known.
  - 2. If either has been done incorrectly Property Unit staff will contact the officer for corrections.
- B. Disposition Requests
  - 1. Completed dispositions shall be forwarded to the Property and Evidence Unit.
  - 2. Disposition requests that employees do not return within seven days will be issued again as a second request. The officer's supervisor shall determine the appropriate action.
- C. Disposition of Property and Evidence
  - 1. Final disposition of all property should be accomplished within six months after legal requirements have been satisfied.
- D. Weapons Release
  - 1. Officers shall complete a property disposition request and submit it to the Property Unit.
  - 2. The Property Unit shall return all incomplete forms to the submitting officer.
  - 3. Property personnel shall not release a firearm until it has been authorized by the releasing officer via a property disposition request or court order.

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4. Upon receiving proper authorization to release the firearm, Property Unit personnel shall contact the proper owner of the firearm to whom it is to be released and advise the owner of the process to claim the firearm
  - a. If the firearm was stolen or was seized from an individual whom the Department knows is not the owner of the weapon, property personnel shall notify the owner of the firearm that it may be retrieved.
  - b. If firearm was seized from a juvenile, Property personnel shall notify the parent or legal guardian that he or she may retrieve the firearm.
  - c. If neither of the above apply, property personnel shall notify the person from whom the weapon was seized that such weapon may be retrieved. (22-2510(d)(1)).
5. If the firearm can be released, the owner must produce photographic identification and complete all required forms.
  - a. Owner's identification will be checked for federal or state firearms disqualifiers through a search of the QNP message key in NCIC, which is a search of the NCIC, III and NICS (National Instant Criminal Background Check System) Index;
  - b. Positive search results returning from the NICS Index will include pre-determined firearms disqualification factors which may be grounds to deny the firearm transfer;
  - c. Owners who wish to appeal the denial (if denial is based primarily on a NICS Index disqualifier) will be given the NICS Transaction Number (NTN) and advised to make their appeal with the NICS Section of the FBI.
6. The firearm shall be checked again for stolen prior to its release.
7. If it is determined that the person whom the firearm is supposed to be returned to under #4 above is prohibited by state or federal law from possession the firearm the TPD shall:
  - a. Notify the individual that the weapon will not be returned due to the disqualifying law,
  - b. Not dispose of the firearm for 60 days after the notice was given to provide the person receiving notice an opportunity to challenge the restriction or transfer the firearm to a properly licensed federal firearms dealer designated by the owner,
  - c. Once the 60 days has passed, and there is no pending litigation, TPD may dispose of the firearm unless otherwise directed by law enforcement. (22-2510(d)(2)).
  - d. An owner of a weapon who is prohibited by law from possessing the weapon may either:
    - 1) Request TPD to transfer the weapon to a property licensed federal firearms dealer designated by the owner, or,
    - 2) Bring an action in an appropriate court to request a court order to transfer the weapon as allowed by law (22-2512(d)(2)).

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8. Recovered local stolen firearms will be released to the owner in accordance with the TPD's release procedure.

**4.18.12 TEMPORARY STORAGE LOCKERS**

A number of raids and the seizure of evidence and property occur late at night and cause overtime to process and properly package evidence. This policy is designed to reduce overtime and still bring the evidence and/or property under the control of the Property Room before the end of the officer's shift.

**A. Security**

1. The supervisor of the Property and Evidence Unit will designate lockers in the Property and Evidence locker bank on the first floor as temporary storage lockers.
2. These lockers shall automatically lock when they are shut and only property personnel shall have access to these keys.

**4.18.13 INSPECTIONS AND AUDITS**

Inspections, inventories and audits of the Property and Evidence Room are addressed in Departmental policy 2.3, 'Inspections and Audits.'

**Property Currency Additional Information Request Form**

Please return request form to Accounting

Case Number:	
Officer Name on Property Receipt:	
Item Number:	
Currency Amount:	

Please complete below information regarding the currency placed in property under this case.

Currency Owner:	
Owner DOB:	
Owner Address:	
Reason currency placed in Property:	

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Requested Action	Hold	
	Evidence	
	Potential Forfeiture	
	Return to Owner	
	Lost & Found	
	Other	
Other (Please Explain):		

Hold/Evidence: Accounting will request semi-annual status updates from officer

Potential Forfeiture: Accounting will review pending forfeitures annually

Return to Owner: Letter will be sent to owner, if they don't respond in a timely manner currency will be sent to Kansas Unclaimed under owner's name.

Lost & Found (No Owner): Currency will be held for six months

Status Update #1:

Status Update #4:

Status Update #2:

Status Update #5:

Status Update #3:

Status Update #6: