



# POLICY AND PROCEDURE

# NO.410

## Handling Evidence and Property

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This regulation is issued to establish departmental policy and procedure for the safeguarding, collection, preservation, analysis, presentation, and ultimate disposal of evidence and other property that comes into Worcester Police custody.

### POLICY:

Evidence, in its many forms, represents a critical element that is necessary to the judicial proceedings that our officers and department participate in. As properly collected, assessed, preserved and presented evidence plays an enormous role in the court's finding of guilt or innocence, the importance of police adherence to proper handling regulations cannot be overemphasized. All police personnel of every rank and whether sworn or civilian, are bound by these rules and regulations.

### PARALLEL REGULATIONS:

The following policies, procedures, rules and regulations remain in force.

- WPD Policy & Procedure # 417, Drug Related Evidence
- WPD Policy & Procedure # 405.3, Handling & Disposal of Seized & Recovered Firearms & Ammunition
- WPD Policy & Procedure # 522, Seized Money & Investigative Funds
- WPD Rule # 1519.1, Prohibited Conduct, Mishandling of Evidence

### DEFINITIONS:

- **Chain of Evidence:** The continuity of the custody of physical evidence from the time of original collection to final disposal.
- **Impounding Officer:** A member of the Worcester Police Department who initially receives the evidence and initiates the chain of custody.
- **Evidence Handling:** For the purposes of this policy and procedure statement, the term, "Handling of Evidence" or "Evidence Handling" is to entail every aspect of the use, control and management of evidence in connection with an arrest or investigation from the initial search for, up to and including, the ultimate disposal of this evidence.
- **Detective Bureau Evidence Custodian:** A detective assigned to the Worcester Police Department's Detective Bureau who is accountable for handling, controlling and maintaining evidence seized in the course of an arrest or investigation.
- **Physical Evidence:** Any tangible substance or material found or recovered in connection with an arrest or investigation. For the purposes of this policy and procedure statement, this definition is to exclude drug-related evidence which is governed by WPD Policy & Procedure # 417.

In generalized terms, evidence is divided into the following forms:

- **Fruits of a Crime:** the proceeds gained by execution of a crime; i.e. money, goods or other valuables, etc.
- **Instrumentalities of a Crime:** tools or implements used to commit a crime; *i.e.* burglarious tools, vehicles, gloves, masks, etc.
- **Contraband:** illegally held drugs, liquor, explosives, master keys, etc.
- **Generalized Physical Evidence:** this category includes any physical evidence that tends to connect a person to a crime, another person, or a place.
- **Testimonial Evidence:** statement or the spoken word from the suspect, victim or witnesses. This evidence form includes, but is not limited to, statements or the spoken words relating to identification procedures.
- **Digital or Electronic Evidence:** is any probative information stored or transmitted in digital form that may be considered for use at trial. This type of evidence includes, but is not limited to, cellular phone data, e-mails, digital photographs, videos, ATM transaction logs, word processing documents, instant message histories, files saved from accounting programs, spreadsheets, internet browser histories, databases, the contents of computer memory, computer backups, computer printouts, Global Positioning System tracks, logs from a hotel's electronic door locks, and digital video or audio files.
- **Crime Scene Unit:** The Crime Scene Unit is the division of the Worcester Police Department whose primary function is the search for, locating, documentation of, retrieval, preservation, analysis, storage and court presentation of evidence of crime. This unit operates according to rapidly evolving methodologies that dictate how evidence, in its many forms, is to be handled. For major crimes, personnel of the CSU are the primary evidence handlers.

## **PROCEDURE:**

While no procedure statement can effectively account for and dictate the handling of all evidence forms in all circumstances, these generalized procedures are to be followed to the extent possible as dictated by crime scene and other substantive considerations. The training, experience, good judgment and decision-making of investigating police officials and officers are to be relied upon to operate prudently and in good faith in instances not specifically mentioned in these regulations.

## **INVESTIGATIVE UNIT EVIDENCE-HANDLING PROCEDURES:**

Personnel assigned to specialized investigative units including the Detective Bureau, the Alcohol Enforcement Unit, and Crash Reconstruction Unit, *et al*, in the course of their follow-up investigations, work in close cooperation with the Crime Scene Unit (CSU). Accordingly, it is the responsibility of the CSU to manage most aspects of evidence handling in these major investigations in accordance with the CSU's internal procedures. During investigations where the CSU is not on-scene or unavailable, any evidence handling by personnel of these specialized units is to comport with the procedures outlined below for line officers. While not precluding the assistance of the CSU in Vice Squad investigations, Vice Squad operations which yield drugs and associated evidence are to be handled according to WPD Policy and Procedure # 417. The seizure of monies in connection with arrests or criminal investigations is to comport with WPD Policy and Procedure # 522, Seized Money and Investigative Funds.

## **LINE OFFICER EVIDENCE HANDLING PROCEDURES:**

In the course of their daily duties, uniformed officers come into many situations where they must seize and preserve evidence in connection with a criminal investigation and/or court action. Given the diverse and dynamic nature of these preliminary investigations and/or arrests, it is often not necessary or is simply impractical to obtain the timely services of the Crime Scene Unit, especially during those hours the CSU is not on duty. In these cases the investigating officer shall take the evidence into his possession and preserve it until such time he can enter it into evidence at WPD Headquarters. This provision notwithstanding, there are incident types and evidence types that are of such importance that an after-hour response may be indicated by CSU. Examples of these instances would be the recovery of firearm and ammunition evidence where the retrieval of prints and/or DNA would aid the investigation, where it may be necessary that the evidence be photographed prior to collection or where the evidence type is such that specialized collection methods must be undertaken contemporaneously.

Responsibility to serve as the department's non-drug evidence custodian lies with the Detective Bureau's Evidence Custodian(s). Once a line officer takes custody of evidence, that officer shall safely preserve the evidence until such time that he can convey it to the Detective Bureau's Evidence Custodian directly or via the secured drop off system detailed below. If the Impounding Officer is unable to submit the evidence to the Evidence Custodian or into secure drop-off personally, another officer or official may do so on his behalf provided the chain of evidence is documented in the incident report. However, as a general caveat, the shorter and the fewer the elements in the chain of evidence, the better.

**Prohibited Items:** Any evidence that is considered hazardous, volatile, explosive, or otherwise potentially represents a hazard in transit or storage is not to be transported or to be brought to police HQ and instead shall be dealt with in the field by the appropriate emergency service.

### **SUBMISSION PROCEDURES:**

**DB Evidence Custodian On-Duty:** When the DB's Evidence staff is on duty; typically Monday through Friday 0800-1600 hours, evidence may be dropped off in person directly at the Detective Bureau offices. Upon submission, this evidence is to be accompanied by the *Evidence Submission Form*; a copy of which is attached to this policy and procedure statement. Once received, the DB Evidence Custodian is to log and manage the evidence in accordance with the internal processes of that unit.

**DB Evidence Custodian Off-Duty:** During periods when the DB Evidence Custodian is not on duty or is unavailable, officers who seize evidence shall secure the evidence in one of the lockers situated in the first floor hallway lobby immediate outside the single elevator. Proper packaging methods are to be utilized so as to prevent cross-contamination. Along with the evidence, officers shall complete an *Evidence Submission Form* and leave it with the evidence in the locker. A copy of the incident report detailing the evidence chain-of-custody should be left in the locker as well. After deposit of these items, the seizing officer shall secure the locker with the lock provided. Record of the locker number the evidence was placed into shall be identified on the officer's incident report.

### **Evidence Locker Management:**

- Keys to these lockers will be held only by the DB's Evidence Custodian(s), their supervisor, and by the Commander of the Service Division.
- Packaging supplies and the appropriate forms are to be maintained in the locker identified by the "Supplies" indication.
- It shall be the responsibility of the DB Evidence Custodian(s) to check for the presence of submitted evidence each weekday morning and enter into evidence those items submitted.
- It shall be the responsibility of the DB Evidence Custodian to inspect each evidence submission locker each workday so as to prevent possible cases of cross-contamination.

**Documentation Reporting:** When any evidence is collected by any member of this department, it is necessary that the chain-of-evidence is documented detailing the time and specific place of collection up to and including the conveyance of the evidence to a DB Evidence Custodian, CSU staff, or where the evidence was placed and secured in a drop-off locker. If other officers or police personnel participated in the chain-of-evidence, their identities and actions relative to that evidence are to be detailed in the report. Lastly, impounding officers must identify and document why they believe that a piece of evidence is probative so that its impounding is justified and to further inform CSU and other lab staff why the evidence is pertinent and what testing may be necessary. A copy of the report containing the aforementioned information is to be submitted with the evidentiary item.

**Evidence Requiring Forensic Processing:** Any evidence that requires some type of forensic analysis; *i.e.* fingerprinting, DNA retrieval, etc., should preferably be entered into evidence via personnel assigned to the CSU. If that is not possible, such evidence may be entered by either of the aforementioned processes (in-person to the DB Evidence Custodian, or to the drop-off locker) provided that every reasonable measure to preserve the forensic evidence and prevent cross-contamination was taken.

In cases where forensic processing is required, it is the impounding officer's responsibility to communicate with the staff of the CSU to discuss what processing is requested and whether that processing is feasible.

**Digital or Electronic Evidence:** Often times, evidence of this nature require the use of specialized devices to extract and preserve the evidence from field locations. In cases where video or voice recordings are necessary to access in the course of an investigation, personnel of the Detective Bureau shall be notified to respond directly or at a later time to procure that evidence. Once obtained, that Detective shall handle the electronic evidence in accordance with unit procedures. Secondary copies of that evidence should be made as a backup of this original digital or electronic evidence.

If a line officer comes into possession of electronic or digital evidence that is on a readily-transported medium; *i.e.* jump drive, portable hard-drive, thumb drive, DVD, CD, etc., he may take custody of that evidence and enter it into police evidence via the aforementioned processes (in-person to the DB Evidence Custodian, or to the drop-off locker). All reasonable efforts shall be taken to preserve this evidence from the magnets, motors or electrical fields than may damage these digital mediums.

- Digital records that are preserved in the Police Server system and other City computer systems; including but not limited to all reports, statements, photographs, photographic line-ups, photo arrays and other documents are well-preserved in that system and need not be placed into this evidence system.
- Video evidence of police interviews or interrogations are to be preserved in accordance with the internal procedures of the Detective Bureau.

- Crime Scene electronic or digital data, including but not limited to drawings, photographs, videos, sketches and “Total Station” or similar renderings, are to be preserved in accordance with the internal procedures of the CSU.
- Crash Reconstruction electronic or digital data including but not limited to drawings, photographs, video, sketches and “Total Station” or similar renderings, so-called “Black-Box” data, are to be preserved in accordance with the internal procedures of the Crash Reconstruction Unit. Fragment evidence collected in relation to crash scenes may be preserved in the Crash Reconstruction Unit for ready evaluation and comparison.

**Evidence Requiring Special Handling/Refrigeration/Rape Kits/Drawn Blood Evidence:** The following evidence forms require specialized handling according to the following guidelines:

- Rape Kits: Once retrieved from a medical facility, sealed Rape Kits are to be transported to police HQ directly and submitted into evidence. During day time hours when DB Evidence Custodians are on duty, they are to be personally submitted to these DB Evidence custodians. If after hours, these kits are to be placed in refrigeration in the Operations Division and a journal entry is to be completed notifying the DB Evidence Custodian of same.
- Drawn Blood Sample Evidence: Properly obtained evidence from a medical facility is to be kept refrigerated pending analysis at the State Crime Lab. Once obtained, the blood evidence is to be transported to police HQ directly and submitted into evidence. During day time hours when DB Evidence Custodians are on duty, they are to be personally submitted to these DB Evidence custodians. If after hours, these kits are to be placed in refrigeration in the Operations Division and a journal entry is to be completed notifying the DB Evidence Custodian of same. Investigators assigned to the Crash Reconstruction Unit are to handle Blood Sample Evidence in accordance with the internal procedures established in that unit.
- DNA Swab Evidence lawfully taken from individuals will be handled according to CSU internal procedures.
- Other evidence forms that required special handling are to be dealt with by personnel of the CSU or at minimum, only after close consultation with and under the guidance of CSU personnel.

**Motor Vehicles or Other Heavy Equipment:** Motor vehicles, heavy equipment, or other mechanized equipment are often the subject of police seizure in the course of a police investigation. Should it become necessary that such a vehicle or equipment be seized as evidence, said vehicles/items may be brought to the WPD HQ garage where they are to be isolated pending analysis. The services of our area tow contractors and other city departments may be called upon where necessary.

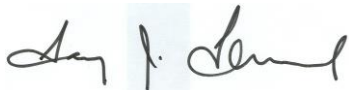
**Emergency Scene Conditions/Unstable Scene Conditions/Preservation of Evidence From Loss, Destruction, Theft, Misuse:** Crime scenes are frequently unstable, potentially violent, and can represent very real dangers to police officers and citizens alike. For these reasons it is fully understood that officers on scene may be encountered with situations where they have to rapidly and under less than optimal methods, take into their custody evidence that may be destroyed/stolen/altered or used against police or others by confederates, onlookers, witnesses, or even other first responder personnel. Likewise, dynamic scene conditions such as weather that threaten the preservation of evidence may also be subject to rapid retrieval by police. While this is not a best case scenario, it is a perfectly legitimate one provided that the retrieving officer document (in his incident report) why the evidence was seized, how he went about doing it, and how the chain of evidence was preserved once the evidence came into his possession.

**Evidence Needed for Court:** Should an officer require evidence for a court proceeding or for examination by the prosecutor, the officer shall sign out that evidence from the DB Evidence Custodian and maintain control of that evidence until such time that it is signed back into the DB Evidence Custodian. The only exception to this provision is when the evidence has been entered as an exhibit at trial and is being held at the courthouse. In these cases, record of the evidence's whereabouts is to be entered into the custody record at the DB.

If the officer's return to WPD HQ is after the DB Evidence Custodian's departure or if he is unavailable, the evidence may be secured in an evidence submission locker for retrieval by the DB Evidence Officer the following day.

**Disposal:** No evidence may be disposed of or subjected to some other disposition unless released by the District Attorney's office. Upon disposal, written record of that disposal and the authorizing DA must be identified.

Per:

A handwritten signature in black ink, appearing to read "Gary J. Gemme". The signature is written in a cursive style and is positioned above the printed name and title.

*Gary J. Gemme*  
Chief of Police