

CHAPTER 12 Handling of Evidence, Contraband and Found Property

ARTICLE 1

1.0 PURPOSE: To ensure that property coming into the possession of members of the Department is properly secured and records are maintained to account for the location and disposition of such property.

2.0 POLICY: It is the policy of the Essex Police Department to provide for the proper care, storage and dissemination of all property retained as evidence, contraband, or that was found and held for safekeeping. The Chief of Police or his/her designee is responsible for the property management system, which controls evidence, contraband, and found property in the custody of the agency.

3.0 RECEIVING EVIDENCE, CONTRABAND OR FOUND PROPERTY

3.1 Definitions:

Evidence - Items gathered, seized or collected during investigations, which are of importance for court use.

Contraband - Items gathered, seized or collected which are not lawfully possessed.

Found Property - Items of value, which have been gathered or turned into the department in an attempt to return them to the rightful owner.

Evidence/property receipt/log form: This form is multi-functional and serves as log for temporary evidence, search warrants, officer's report in cases of found property, receipt for return of property and tracking for chain of custody purposes. The distribution and purpose of this form is as follows:

- (1) White original- Evidence room/dispatch. Will be filed in temporary evidence or in dispatch depending on where the property is stored.
- (2) Yellow copy- Officer's case file.
- (3) Pink copy- Receipt. To be filled out and signed by the owner indicating that the property has been received. The signed receipt will be filed with the officer's case file. If the property owner is not immediately known or cannot be contacted than the pink receipt copy will be filed with the white copy.
- (4) Blue copy- Notification. This is to provide the property owner with notification of property that our agency is seizing or taking for safe keeping (i.e. search warrants, incarceration, detox, etc.).

3.2 An officer taking possession of evidence, contraband, or found property shall transport same to the department's temporary evidence bay, tag and log the item(s) into the department system according to the following procedure as soon as possible, but no later than the end of his/her shift. The officer shall be mindful of the necessity of maintaining the chain of custody for all items. The following are specific exceptions to storing property at the temporary storage bay:

- (1) Glasses, keys, purses, wallets (with \$25.00 or less) and items typically contained within a purse or wallet, will be maintained in dispatch, as well as the white copy of the evidence/property log/receipt form.
- (2) Beer/alcohol, marijuana paraphernalia and insignificant items that comes into the possession of an officer that has **no evidentiary value** (i.e. eggs and toilet paper from Halloween night, etc.) will be destroyed at headquarters in the presence of another officer. The officer destroying the items and the officer witnessing the destruction shall affix their signatures on the evidence/property/ log/receipt form. A copy will be filed in dispatch and a copy with the officer's case file.

Note: Except for storage location and property disposal all other relevant provisions of this policy shall apply to these specific exceptions.

3.3 The appropriate evidence/property tag will be filled out completely including identifying characteristics of the item, and owner's name, if known. The officer's report shall detail the circumstances by which the item(s) came into his/her possession. If the item is currency or has high monetary value, steps will be taken to itemize the dollar value or exact count and description of the items. In cases of currency, this process should be witnessed if possible.

- (1) The officer shall be responsible for attempting to contact the owner, if known. The officer shall indicate on the Evidence/ Property Log/Receipt Form whether the owner has been contacted. In the narrative field of the police report the officer shall describe the circumstances of the contact or the unsuccessful attempts to contact.
- (2) If an item is taken from an individual for safe keeping purposes (i.e. incarceration, detox, etc.) the officer will fill out the evidence/property log/receipt form and check the 90 day requirement to claim the property or the item will be disposed of. The officer will provide the owner with the blue notification copy of this form.
- (3) The evidence/property tag shall be attached to the item or to its container.

3.4 When appropriate, the evidence, contraband or found property shall be placed in a suitable container to protect the items from damage and contamination (i.e. box, paper bag, etc.).

(1) All items that may be considered a hazard to human health will be labeled as "BIOHAZARD". Items such as blood, body fluids, or materials that may present a risk to health, will be labeled as such and additional precautionary measures will be taken in the handling, transportation and storage of such items.

(2) All biohazard items will be placed in the temporary evidence locker identified as biohazard. The evidence technicians will store all biohazard items in the yellow biohazard container located on the west side of the police garage.

ITEMS SUCH AS HYPODERMIC NEEDLES WILL BE PLACED IN A NEEDLE/SYRINGE SAFETY STORAGE CONTAINER.

4.0 HANDLING OF EVIDENCE, CONTRABAND OR FOUND PROPERTY BY OFFICERS

4.1 Once the item is properly tagged, (except for items listed in 3.2) the officer shall place and lock the item in a temporary evidence locker located in the temporary evidence bay. The first line in the chain of custody section of the evidence form will be filled in by the officer indicating date/time/officer placing the item into temporary evidence.

(1) If the item requires refrigeration, it shall be placed in the refrigerator located in the temporary evidence bay.

(2) The officer shall record all necessary information on the Evidence/Property Log/Receipt Form to include:

a. The initials and badge number to document the chain of custody for evidence being placed or removed from the evidence room. Each time the item is removed from the evidence room, a new entry will be made.

b. If an item is too large to be placed in any of the temporary evidence lockers or the evidence cage cart than the officer will place it in the locked bay next to said lockers.

c. The sections denoted as Evidence Location and Evidence Inventory Number are filled out by evidence custodians (not seizing officer).

(3) All vehicles impounded for evidence gathering purposes pursuant to a criminal investigation or traffic accident should be processed and

after consulting with a supervisor released to the owner as soon as possible. The investigating officer is responsible for contacting the vehicle owner to ensure the release. The investigating officer must obtain a signature on the evidence/property log/receipt form and note, on the law incident, the date and time of the release, as well as the name of the individual to whom the vehicle was released.

- (4) Evidence, contraband or found property shall not be left unsecured or untagged.
- (5) Under no circumstances will property turned in or seized become the property of any employee of the department.

4.2 All items that are found property will be tagged with an evidence/property tag. The process outlined in Sections 3.2 through 4.0 will apply to all found property.

4.3. If the identity of the owner of found property is known, the officer taking possession of the property shall ensure that the property is returned as soon as is reasonable. If the owner is not immediately known, all reasonable efforts shall be made to locate the owner of the property and arrangements made for its return. In the case of found property, the officer notifying the owner should make the owner aware of the ninety (90) day limit for claiming and retrieving the property, and what steps must be taken to ensure the return of the property. All attempts made to return the property should be documented in the officer's report.

4.4 When property is returned to its' owner the pink receipt shall be filled out in all cases. The owner of the property shall sign the evidence/ property log/receipt form indicating that the property has been received. This receipt will be attached to the officer's report.

4.5 When an officer wishes to have evidence processed, he/she shall complete a "Request for Laboratory Examination of Evidence" form DPS 305 and attach it to the evidence/property log/receipt form.

5.0 PROCESSING AND STORAGE OF EVIDENCE, CONTRABAND OR FOUND PROPERTY

- 5.1 The evidence technicians shall retrieve all items of evidence, contraband, or found property from the temporary evidence lockers in a timely manner. Only the evidence technicians, the supervisor of the Bureau of Criminal Investigation and the Chief of Police shall have access to the permanent evidence storage areas.
- 5.2 Once retrieved by the detective technician, the items shall be entered and logged into the identification database. They shall then be processed and stored according to their designations.
 - (1) Each item shall be entered in the database to track the location of the item. This evidence/property log/receipt will also be used to document the movement of the item to and from other secure locations such as the Vermont State Crime Laboratory or Court.
 - (2) The database will also record the current location and status of the item, (i.e., in custody on shelf 2, destroyed, sent to crime laboratory, etc.)
- 5.3 Items of evidence, contraband or found property which may be considered a "Biohazard" will be properly labeled and the officer will place the item in the temporary evidence locker labeled "Biohazard" in the police garage.

6.0 DISPOSITION

- 6.1 The Chief of Police or his/her designee shall ensure that property is disposed of in accordance with the procedure outlined below.
 - (1) Evidence, contraband or found property shall not be removed from the Department by any employee unless it is in the performance of official duties (i.e., transporting evidence to court, returning an item to the owner, etc.).
 - (2) All items, which have been placed into the system, will be removed and disposed of in accordance in the following manner:
 - A. **Found Property**
 1. If the owner of the found property can be identified, the owner will be notified and informed how he/she can claim the property.

2. Any found property will be held for 90 days at which time it will be declared unclaimed and will be disposed of by:
 - a. A notice will be placed in the Essex Reporter and on the Essex Police Website with a general description of the property. The notification will include a notice that if the property is still unclaimed within 15 days of the notice, it will be properly disposed of.
 - b. If the property is not claimed in the appropriate time period, it may be disposed as follows:
 1. Return to finder
 2. Donate to a non-profit community organization.
 3. Designate for department use
 4. Turn over to the Town Finance Director (i.e., currency)
 5. Destruction

B. Evidence

1. For most cases evidence can be disposed of within a 6 month period after all criminal and/or civil evidentiary obligations have been met. For serious felony cases (i.e., homicide, aggravated sexual assaults, etc.) where the defendant will be incarcerated for many years, the disposal of evidence shall be contingent on the approval of the State's Attorneys Office.
2. The return of evidence in a pending court case shall be contingent on the approval of the State's Attorneys Office, and subject to their requirements for photographing the evidence prior to its release.
3. Unless the item is contraband or it is contrary to this policy all evidence will be returned to its rightful owner. In the event the owner cannot be contacted a certified letter will be sent to the owner's last known address and a notice placed in the Essex Reporter and on the department website, describing the property. The notification will include a notice that if the property is still unclaimed within 15 days of the notice, it will be properly disposed of.

4. Unlawful firearms shall be disposed of in accordance with 20 V.S.A. Section 2302-2306.
5. Evidence and property that is seized in conjunction with a drug investigation that is a violation of 18 V.S.A. Chapter 84, with a value less than \$1000. will be disposed of in accordance of 18 V.S.A. Section 4241-4248.
6. Evidence and property that is seized in conjunction with drug investigation that is a violation of 18V.S.A. Chapter 84, with a value of \$1000. or more will be disposed of in accordance with federal procedures.
7. Property and evidence seized in conjunction with a gambling investigation for a violation of 13 V.S.A. Section 2134,2135 shall be destroyed in accordance with 13 V.S. A, Section 2138.
8. Evidence that remains unclaimed after all reasonable attempts to notify the owner, may be disposed of as follows:
 - a. Donated to a non-profit community organization.
 - b. Designate for department use.
 - c. Turn over to the Town Finance Director (i.e.,currency)
 - d. Destruction.

7.0 INSPECTIONS

7.1 The Chief of Police shall ensure that the following occurs:

- (1) Unannounced inspections of the above procedures.
- (2) Quarterly inspections are performed by the detective technician to ensure that the policies outlined in this directive are adhered to. A report shall be generated detailing:
 - a. The number of items processed during this period;
 - b. The number of items disposed of this period;
 - c. The number of items currently in custody;
 - d. A status check of at least three items held in custody to ensure that agency records properly account for the status and location of each;
 - e. Any problems during the period, or instances where this policy was not adhered to by agency personnel;

- f. Remedies used to correct any problem noted above.
-
- (3) An annual inspection is conducted by a supervisor not involved with the property/evidence function. This inspection and subsequent report shall include all of the details contained in the quarterly inspection report except that the annual inspection shall include a status check of no less than 20 items. This inspection shall monitor the organization and cleanliness of the property/evidence control function.
 - (4) Whenever there is a change in the detective technician position, an inspection shall occur that is conducted jointly by the newly appointed technician and the BCI Bureau Commander. This inspection shall follow the annual inspection format.