

PROPERTY & EVIDENCE CONTROL

WILLIAMSTOWN POLICE DEPARTMENT POLICY & PROCEDURE NO. 6.02	EFFECTIVE DATE: 03/31/2022
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I. GENERAL CONSIDERATIONS AND GUIDELINES

As part of their routine responsibilities, police officers come into possession of types of property and evidence that vary widely in nature, value and condition. These items may include anything from priceless jewelry to the bloodstained clothing of a murder victim and could be as worthless as yesterday's newspaper or as valuable as an art treasure. Items of property and evidence are normally held by departments subject to strict legal constraints and under control of the department's property and evidence function.

Storing, safekeeping, and managing of property and evidence are major responsibilities, not only for the evidence custodian, but for all officers in the department. Failure of departments to establish effective and efficient systems to gather, manage and secure evidence can lead to civil and criminal charges against officers and to the inability of the criminal justice system to successfully prosecute criminal offenders.

The purpose of this policy is to provide guidance for the submission, custody, and disposition of property which is not the property of the police department.

II. POLICY

It is the policy of this department to:

1. Effectively and efficiently manage and control all found, recovered, abandoned, impounded, and evidentiary property and any other property coming into the custody of this department;

2. Properly and lawfully preserve, package, record, accounted for, handle and store all property and evidence recovered or turned in to the department;
3. Take the initiative to return property to its rightful owner or owners in the most expedient manner;
4. Dispose of property and evidence that are no longer useful or are potentially dangerous, as provided by law; and,
5. Maintain strict accountability for all property and/or evidence.

III. DEFINITIONS

- A. *Audit*: An inspection of the documentation and accountability of a random sampling of in-custody property sufficient to evaluate the integrity of the property and evidence function.
- B. *Inspection*: An examination of the agency's property storage areas to determine that they are being maintained in a clean and orderly fashion, that the agency directives concerning the property management system are being followed (property handling, documentation, etc.), and that the property is being protected from damage and deterioration.
- C. *Inventory*: An accounting of every item of property.
- D. *Property Record*: Electronic records contained in the property and evidence management program of IMC that document and describe an evidence item and reflect its status within the custody of the property and evidence function.
- E. *Property Room*: A designated storage room for property and evidence under the control of the property and evidence function.

IV. PROCEDURES

A. Property Function Administration and Management

1. Property Custodian: The chief of police shall be responsible for managing the property and evidence function.
2. Property Technician: An employee normally assigned to work in the secure property and evidence storage areas.
3. Evidence Officer: Irrespective of any non-sworn members assigned to the property and evidence function, the chief of police shall designate a police officer(s) to act as the custodian of all drugs and narcotics seized in the course of any arrest and investigation. The Evidence Officer shall be a Property Technician.¹

B. Security and Access to Property Storage Areas

1. AUTHORITY TO ACCESS PROPERTY ROOM

- a. The department shall maintain areas for the secure storage of items of property and evidence in the custody of the police department. A secure property room and other secured areas such as the garage and evidence lockers shall be designated for property storage.
- b. Unescorted access to such areas shall be limited to employees who are assigned to work regularly in such areas by the chief of police.
- c. Other persons may access property and evidence storage area provided that:
 - 1) They are escorted at all times by a property technician;
 - 2) They are accessing the area for a legitimate work function such as:
 - a) Conducting an inventory;
 - b) Conducting an inspection; or
 - c) Conducting maintenance of the facility or equipment; and
 - 3) The visit is recorded in the Property Room Visitors Log.
- d. Visitors shall not enter the property room for the purpose of station tours.

2. PROPERTY ROOM SECURITY

- a. Keys, pass-codes, or other means of entry to property storage areas shall not be possessed by any person who is not specifically authorized unescorted access by the chief of police.
- b. Key issue and control shall be the responsibility of chief of police.
 - 1) All property room keys shall be accounted for in a key log which shall list:
 - a) An individual key (by key number, etc.);
 - b) The person to whom the key was issued;
 - c) The date that the key was issued; and
 - d) The person who issued the key.

3. LIMITED SECURITY STORAGE

- a. Bulky items such as vehicles, boats, and watercraft, which remain in police custody and have already been or will not be subjected to processing for evidence, may be stored in a limited security storage area. Such areas include:

- 1) A designated location within the police department parking lot;
 - 2) A designated off-site approved tow-facility that has the ability to secure the vehicle in a locked area;
 - 3) The police department garage.
- b. Vehicles and trailers shall be locked and/or immobilized if possible.
 - c. Keys shall be submitted to the property and evidence function.

C. Packaging Property and Evidence for Submission

1. GENERAL PRECAUTIONS

- a. It is necessary that property and evidence in the department custody be carefully accounted for to minimize the possibility of adverse claims against the department and to maintain the department's credibility in the courts.
- b. To this end, all personnel shall be aware of and practice the following:
 - 1) No property, evidence, or contraband shall be stored in any office, desk or locker, vehicle, or other unauthorized location. (Evidence may be temporarily stored in a vehicle for security purposes in the field.)
 - 2) Property or evidence shall not be left unattended or unsecured at any time.
 - 3) Property and evidence shall be handled with care so as to protect any evidentiary value of the item.
 - 4) The chain of custody shall be carefully maintained with as few persons as possible taking custody of the property.
 - 5) Upon taking custody of property or evidence, the employee shall promptly return to the station and document, package, and submit item(s) to the property and evidence function pursuant to this policy.
 - 6) No member of the department shall take, use, or possess any item that has been recovered or confiscated by the department, for other than those purposes sanctioned by the department.

The above procedures apply also to lost and found items turned into the department.

2. TYPES OF PROPERTY: DEFINITIONS

- a. Destruction: Contraband, unwanted firearms, ammunition, or other items confiscated by police officers or turned in by citizens

for disposal. Citizens submitting property for destruction relinquish all rights of ownership to such property.

- b. Evidence: Property which potentially may be presented as an exhibit in court, or before a board or other body.
- c. Found Property: Items lost by and not in the custody of the owner.
- d. Safe Keeping: An item temporarily in the custody of the police for the purpose of its safe retention.
- e. NIBRS (National Incident Based Reporting System): Items or property entered into the department's records management system for the purpose of NIBRS reporting only. Such items are not physically in police custody.
- f. Impounded Property: Property lawfully seized and held in the custody of the department.
- g. Abandoned Property: Property that the owner voluntarily surrenders, relinquishes, or disclaims.
- h. Seized
- i. Recovered

3. DOCUMENTATION OF PROPERTY AND EVIDENCE

- a. All property (evidentiary, seized, recovered, impounded, abandoned or found) shall be logged in to the property and evidence management program of the department's records management software prior to the end of the officer's tour of duty. The entry must include as much of the following information as is known:
 - 1) Association with the incident number;
 - 2) A description of the property;
 - 3) Quantification of the item (number, weight, size, etc.);
 - 4) Type of property (evidence, found, destruction, etc.);
 - 5) Name of owner, finder or custodian; and
 - 6) What is to be done with the property, such as:
 - a) Hold for evidence;
 - b) Forward to a laboratory for specific testing;
 - c) Destruction or disposition; or
 - d) Return to owner.
 - e) Turned over to another agency
- b. All property and evidence (evidentiary, seized, recovered, impounded, abandoned or found) in the custody of this

department shall be associated with an incident number and accompanied by a log entry or report explaining the circumstances by which the property came into the agency's possession and describing each item of property obtained. All property and evidence will be securely stored in the property room or other secure area of the department.

- c. All property and evidence (evidentiary, seized, recovered, impounded, abandoned or found) will be placed under the control function by securing the property and evidence in a designated secure area prior to the end of the officer's tour of duty.
4. PACKAGING OF PROPERTY AND EVIDENCE
- a. All property and evidence (evidentiary, seized, recovered, impounded, abandoned or found) will have a property label generated by the IMC software that indicates who processed the property, a description of the property, when the property was processed, and what type of container it is secured in. The label will be affixed to the property container or property tag. Employees should not stick labels directly on any item that could be damaged by the label adhesive.
 - b. The evidence items shall be packaged and labeled prior to being submitted to the property and evidence function. To some degree, packaging and documentation should be guided by the needs of the case.
 - 1) Items which need to be individually identified should be individually packaged (i.e., narcotics found in a suspect's pocket, narcotics found in the glove compartment, a narcotic found in an ash tray).
 - 2) Items which are similar and may be identified collectively may be packaged collectively (i.e., five bags of narcotics found in a vehicle's console).
 - 3) For further information on packaging of evidence items, see the department policy **6.01- Collection and Preservation of Evidence**.
 - c. Bulk items such as bicycles, safes, and vehicles which will not fit into an evidence bag shall be tagged. A tag shall be affixed to the item listing the incident number, date and submitting officer's name, or a property tag generated by the property and evidence program may be attached.
 - d. Bicycles will be stored in the rear of the building. They will be secured by means of a locked chain through the frame and attached to an immovable object, such as a fence post.

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- e. Items requiring further processing shall be:
 - 1) Clearly marked to identify what type of examination or method of examination is requested;
 - 2) Packaged so as to avoid destroying or contaminating the evidence;
 - 3) Marked to warn property technicians that the item must be handled with care (fingerprints, DNA, etc.). Property technicians shall not be responsible for the destruction or contamination of evidence not properly packaged or marked.
 - f. Items (with the exception of drugs) requiring further processing by the Massachusetts State Police Laboratory shall be submitted with a completed CL-1 form and a copy of the report. See department policy **6.01 - Collection & Preservation of Evidence**.
 - g. Accuracy and completeness are important. Items not properly submitted will be returned to the officer for reprocessing and resubmission.
5. DNA TESTING ITEMS
- a. Items submitted for processing for DNA shall be packaged in such a manner as to avoid contamination prior to submission.
 - b. Such items shall be clearly marked to warn property technicians. The property and evidence function shall not be responsible for the inadvertent destruction or contamination of DNA evidence when the submitted item is not properly packaged and clearly marked.
 - c. For further information, see the department policy **6.01 - Collection and Preservation of Evidence**.
6. HANDLING VALUABLE OR SENSITIVE ITEMS
- a. Employees must use a higher level of caution when dealing with valuable or sensitive items, such as cash, jewelry, precious metals, and drugs.
 - b. At least two employees shall package and document such items. In the case where circumstances do not allow for two officers, a supervisor may authorize a single officer to package and document such property. Shift supervisors should use such discretion judiciously.
 - c. Whenever possible, particularly when an officer is working alone, such items should be processed in view of the booking room video camera, another fixed surveillance camera, or in certain cases, processing should be video-recorded.
 - 1) DRUGS:

- a) Drugs must be quantified by type, size, or other classification (2 blue pills, 4 red and white tablets, 3 rocks, 10 bindles, 3 baggies, etc.).
- b) Unsealed bags of powder or vegetable matter should be weighed.

2) CASH:

- a) Cash shall be counted by at least two employees. Any cash over \$1,000 shall be counted by the officers and the shift supervisor.
- b) The results of the count shall be entered on the cash accountability sheet by the number of each denomination accounted for.
- c) Each employee shall print his or her name, sign and date the form.
- d) The form and cash shall be placed in a sealed envelope to be submitted to the property and evidence function.

3) JEWELRY:

- a) Jewelry which could contain precious metals or stones.
- b) This might include expensive watches or other such items.

4) PRECIOUS METALS: Precious metal in a solid form may be quantified. Metal in flakes, dust, etc. shall be weighed.

5) OTHER VALUABLE ITEMS: Other items of value may, in the discretion of the employee or shift supervisor, require such handling.

7. DELAYED ENTRY AND PACKAGING

- 1) Large volumes of evidence, such as from a search warrant, which cannot be processed prior to the end of the shift may be stored in a sealed container or locked in a secure room.
- 2) Property items seized in an after-hours incident or search warrant may be secured to be processed after employees have rested.
- 3) Such actions must be authorized by a shift supervisor.
- 4) The storage area must be secure and the integrity of the evidence not compromised.

D. Submitting Evidence to the Property and Evidence Function

- 1. Barring extraordinary circumstances, as authorized by a shift supervisor or as excepted by this directive, property and evidence

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- shall be submitted to the property and evidence function prior to the end of an officer's tour of duty.
2. DIRECT SUBMISSION: Submitting property and evidence directly into the custody of the property and evidence function is the preferred method.
 3. TEMPORARY EVIDENCE AND PROPERTY STORAGE:
 - a. Designated temporary evidence storages areas are available for property which has not yet come under the control of the property and evidence function.
 - b. Evidentiary items recovered which will be processed by department employees may be entered into the property and evidence program and stored in another authorized evidence storage location. These will remain the responsibility of the person or entity having custody of the items until such time as the items are delivered to the property and evidence function.

E. Receiving and Storing Property and Evidence

1. RECEIVING PROPERTY
 - a. A property technician may receive property or evidence directly from an employee.
 - b. For property and evidence removed from temporary storage, the property technician shall:
 - 1) Take custody of the property;
 - 2) Check the items for proper packaging and documentation. Items not properly prepared need not be accepted and may be returned to the first custody officer for proper processing and submission.
2. PROCESSING PROPERTY
 - a. Check each property entry in the property and evidence program, and update the property activity to reflect the present status.
 - b. Store or prepare property and evidence for transportation to the appropriate lab.
 - c. Make a diligent effort to identify and notify owners of found or stolen property, and return the property to the rightful owner as soon as it is no longer needed.
 - d. Prepare property for legal disposition, such as auction or destruction.

3. DRUGS

- a. Evidence Officer: Drugs in the custody of the property and evidence function are the responsibility of the evidence officer.
 - 1) Drugs shall be received, processed and stored under the supervision of the evidence officer.
 - 2) Only the evidence officer will transport drugs to and from the appropriate state drug laboratory.
- b. Civil marijuana: Any marijuana or THC that has been seized for a civil violation should be processed and secured as any other property and submitted to the property function noted "to be destroyed". The evidence officer will then track the item(s) in IMC and document the destruction of item(s)
- c. Transfer of Custody: When drugs are being issued from or returned to the custody of the property and evidence function, the property technician shall inspect the drug packaging and contents for any evidence of damage or tampering.
 - 1) If the package appears to have been tampered with in any way, the evidence officer shall inspect the evidence. If the evidence officer believes that the evidence has been compromised:
 - a) The officer shall count and/or weigh the contents, and verify the listed count/weight against any such count or weight recorded by the testing laboratory or existing evidence record.
 - b) The sample shall be resubmitted to the lab for testing to determine if the contents is the substance noted on the laboratory certificate of analysis.
 - c) The packaging shall be preserved as evidence.
 - d) The chief of police shall be advised, and the evidence officer and/or property technician shall submit a report to the chief of police regarding the incident.
 - 2) The chief will initiate an immediate investigation.
 - 3) Additionally, as part of that investigation a full inventory and audit of all drugs and drug records will be conducted.
- d. Drug Destruction Program:

Pursuant to Massachusetts General Law 94C, Section 47A, controlled substances or narcotics seized and/or utilized as evidence by police departments are to be delivered to the Department of State Police for destruction, upon proper authorization.

- a) All drug cases and reports shall be reviewed by the District Attorney's Office.
- b) Drug destructions must be authorized by the chief of police.
- c) Drug destructions shall be conducted by the evidence officer and at least one other employee.
- d) Upon completion of drug destruction, the activity for each item shall be updated to reflect the destruction of the item and the closed status of the case.

4. HYPODERMIC NEEDLES
A. NO SHARPS ACCEPTED

5. FINGERPRINT ITEMS

- a. Items submitted for processing for latent fingerprints shall be clearly marked to warn property technicians. The property and evidence function shall not be responsible for the inadvertent destruction of fingerprints when the submitted item is not clearly marked.
- b. Property technicians shall wear gloves when handling such items.
- c. Such items shall be handled with care so as to preserve any existing fingerprints.

6. DNA TESTING ITEMS

- a. Items submitted for processing for DNA shall not be accepted unless they have been packaged in such a manner as to avoid contamination prior to submission.
- b. Such items shall be clearly marked to warn property technicians. The property and evidence function shall not be responsible for the inadvertent destruction or contamination of DNA evidence when the submitted item is not properly packaged and clearly marked.
- c. Such items shall be handled with care so as not to contaminate the item.

7. HIGH VALUE ITEMS

- a. High value items such as jewelry, precious metals and cash shall be stored within a secured room or container within the property room.
 - 1) Cash will be accepted only if it has been accounted for by the submitting employee and placed in an evidence baggie. See **Handling Sensitive Items** in this policy. Sealed containers of cash will not be opened by property technicians unless such cash is to be returned to the owner or custodian.

- a) The chief of police at his/her discretion may in extraordinary circumstances forward an extremely large sum of money to the treasurer for deposit in the police holding account. Return of the money will be made by check. Such cash will be secured in a sealed container and this activity updated in IMC.
8. PERISHABLE ITEMS: Perishable property or evidence, such as blood or a Sexual Assault Kit, shall be refrigerated in the refrigerator in evidence. When such perishable property or evidence is in the refrigerator, it shall be locked.
 9. FIREARMS
 - a. Firearms shall be received only after having been unloaded and rendered safe. No loaded firearm shall be accepted or stored by the property and evidence function. For further information, see the department policy **6.01 - Collection and Preservation of Evidence**.
 - 1) Firearms shall not be placed in any evidence box or container until the firearm has been checked to ensure that it is unloaded and safe. Upon placing the firearm into the box or bag, the container shall be sealed and the seal initialed by the person who sealed the container.
 - 2) Any firearm removed from an evidence box or container shall be checked to ensure that it is unloaded and safe.
 - 3) No firearm shall be stored with a magazine inserted into the magazine well.
 - b. Firearms shall be stored in the locked gun container/baskets or in another suitable secure manor approved by the chief, within the property room, which will remain secured and locked when not in use.
 10. COMBUSTIBLE LIQUIDS:
 - a. Combustible evidence such as gasoline, toluene, paint thinner, etc., shall not be stored in the building.
 - b. Officers should use caution when transporting flammables.
 - c. Whenever possible, small samples of the flammable shall be retained as evidence.
 - d. For further information, see the department policy **6.01 - Collection and Preservation of Evidence**.
 11. EXPLOSIVE DEVICES
 - a. No live explosive devices shall be accepted or stored by the property and evidence function.

- b. Under no circumstances are explosive devices such as dynamite, hand grenades, blasting caps, etc., to be brought into the station.
- c. When an explosive device or suspected explosive device is located, the officer locating the device shall inform a supervisor, who shall notify the M.S.P. Bomb Disposal Unit.
- d. Upon being rendered safe, non-explosive components may be properly received.

F. Temporary Release of Evidence Property

1. PRIMARY RELEASE OF PROPERTY

- a. The temporary release of property or evidence from the custody of the property and evidence function shall be conducted or coordinated by the evidence officer(s).
- b. Property may be released for the purposes of:
 - 1) Use as evidence in court or another hearing;
 - 2) Laboratory examination;
 - 3) Identification of property by the owner, custodian, victim, or witness;
 - 4) Investigation;
 - 5) Examination by prosecutors or defense counsel; and
 - 6) Other law enforcement purposes.
- c. When officers receive notice that certain items of evidence will be needed for court, officers are to immediately email the evidence officer(s) with the court date and items that will be needed.
- d. Whenever property or evidence is removed from the custody of the property and evidence function, the chain of custody shall be maintained.
 - 1) A notation shall be made in the Property and Evidence Log, containing the following information:
 - a) Date and time;
 - b) Property number(s);
 - c) Name of person taking custody;
 - d) Reason for removing the item (court, laboratory processing, investigation, etc.); and
 - 2) The property technician will then initial the Log to indicate the change in custody.

- 3) A property technician shall update the status of the property in the property and evidence program to reflect the release from custody and to whom the item was released.
- 4) The person receiving temporary custody of property must return the property promptly.

2. SECONDARY TEMPORARY RELEASE OF PROPERTY

- 1) Property temporarily released to an employee may be further released to the custody of another, if necessary to fulfill a law enforcement purpose. Among the reasons for such release are:
 - a) Transfer of evidentiary items to the court or District Attorney's Office;
 - b) Release to another investigative agency; or
 - c) Release to another agency for a specialist to examine.
- 2) Upon such secondary release, the releasing employee shall obtain a written receipt for the property which shall include:
 - a) Date and time;
 - b) Property number(s);
 - c) Name of person taking custody;
 - d) Reason for removing the item (court, laboratory processing, investigation, etc.);
- 3) The receipt shall be forwarded to the property and evidence function for purposes of maintaining the chain of custody, and for personnel to update the property activity in the property and evidence management program.
- 4) In no instance will the drug evidence be left in court overnight unless it is held as evidence by the presiding judge and/or the clerk magistrate assisting the presiding judge. In the event that the court holds the drug evidence, it shall be the responsibility of the testifying officer to document such in a written report addressed to the evidence officer and submit such report along with the above reference receipt to the evidence officer. Under no circumstances is drug evidence to be left in the custody of any other person, including any prosecuting attorneys.

3. PROPERTY RELEASED FOR INVESTIGATIVE OR TRAINING PURPOSES

- a. Weapons and controlled substances may be used for investigative or training purpose with the express permission of the chief of police.

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- b. Firearms and weapons shall be transferred to the custody of the department as follows:
 - 1) The property activity for such weapon shall be annotated to indicate such transfer and shall reflect a “closed” status.
 - 2) The weapon shall be listed on the department’s Weapons Control Roster.
 - 3) The weapon shall be secured with a gun lock when not under the immediate control of the authorized person.
 - c. Drugs may be issued for training or investigations.
 - 1) Only drugs associated with closed cases or submitted for destruction may be used for such purposes.
 - a) The evidence officer shall obtain an incident number which will be associated with each drug item to be used for such training or investigation.
 - b) The evidence officer shall submit an incident report identifying each property item by description, property number and state lab number (if applicable).
 - c) For drugs processed and packaged by a state lab, if the drugs must be removed from the packaging, the original packaging shall be maintained by the evidence officer.
 - 2) The drugs shall be issued as temporary release of property.
 - 3) Drugs not under the immediate control of an authorized person shall be locked in a secure container approved for such purposes by the chief of police.
 - 4) In the event that any drugs are lost or damaged during such investigation or training, in addition to any other incident reports, the employee having custody of such drugs shall submit a report explaining the circumstances of such loss or damage.
 - 5) Upon return to the custody of the property and evidence function, the evidence officer shall:
 - a) Inspect the drugs for loss or damage;
 - b) Submit an addendum to the initial report; and
 - c) Re-submit same to the state lab along with the original packaging and certificate.²
4. RETURNED PROPERTY OR EVIDENCE
- a. When property or evidence is being returned to the custody of the property and evidence function, the returning party may return the

item in person, or when no property technician is on duty, the item may be placed in the temporary storage lockers.

- b. The property technician will examine the item to ensure that it is the same item that was released and that it is in the same condition.
 - 1) If all is in order, the item will be received and the activity updated in the property and evidence program.
 - 2) Any unexpected or unexplained change or alteration of the item shall be immediately reported to the property custodian for further action.

G. Final Disposition of Property – General

1. RELEASING PROPERTY

- a. All property permanently released from the custody of the property and evidence function shall be documented and accounted for.
- b. A receipt shall be obtained for each item. The receipt shall contain:
 - 1) The date and time of release;
 - 2) The property number of each item released;
 - 3) A brief description of the property item;
 - 4) Name, address, and date of birth of person to whom the property is released -- if multiple property sheets are used, this information need only be captured on one sheet;
 - 5) Signature of the person to whom the property is released; and
 - 6) Name and signature of employee releasing the property.
- c. The property record for each released property item shall be updated to reflect the return of the property and the change of the status of the property item to “closed.”

2. DISCARDED OR DESTROYED PROPERTY

- a. All property in the custody of the property and evidence function which is discarded or destroyed shall be documented and accounted for.
- b. Upon the property’s being discarded or destroyed, the property record for each discarded or destroyed property item shall be updated to reflect the return of the property and the change of the status of the property item to “closed.”

3. PROPERTY SUBMITTED FOR DESTRUCTION

- a. When receipt is received of property submitted for destruction, such property shall be processed and held for destruction or destroyed.
- b. Drugs submitted for destruction shall be processed in accordance with the guidelines set forth by the State Police.

4. EVIDENCE/PROPERTY NO LONGER NEEDED

- a. It is the responsibility of the case officer to notify the property and evidence function when evidence is no longer needed.
 - 1) Such evidence will be promptly returned to the owner whenever possible.
 - 2) The property and evidence function shall make a diligent effort to notify the owner. Such notification may be made by telephone, e-mail or registered mail.
- b. If the owner or custodian cannot be located, such item may be disposed of or auctioned.

5. PHOTOGRAPH OF EVIDENCE, RETURN OF PROPERTY TO OWNER

- a. Evidence may be returned to the owner or custodian, at the discretion of the District Attorney's Office, after having been photographed. The photograph may be admitted in judicial proceedings as competent evidence.
 - 1) The property may then be released to the victim prior to trial, provided that the return does not compromise prosecution of the case.
 - 2) In determining whether or not to return the property to the victim, the case officer and the District Attorney's Office must weigh the hardship created for the victim against the value of the evidence in future court proceedings.
- b. Before impounded property is returned, it will be photographed in a manner that clearly identifies the property and may be admissible in court as competent evidence.
 - 1) When applicable, a readily identifiable object should be used for size comparison.
 - 2) The person to whom the property is to be returned shall be asked if the property in the photograph is the same property as that being returned. The person shall then sign and date the photograph.
- c. The item(s) shall be returned and the return documented in accordance with this policy.

- d. The signed property return receipt and photograph(s) shall be turned in to the property and evidence function.
 - e. Property released from the custody of the property and evidence function shall be annotated to reflect the return of such property and the entry of a photograph into custody, in place of the true item.
 - f. A copy of the applicable sections of M.G.L. c.134 and c.135 shall be kept in the Property Room.
6. FOUND PROPERTY: RIGHT OF CLAIM BY FINDER: The finder of money or property may request that such property be turned over to him/her after one year has passed since the property or money was found. ³
- a. If the owner becomes known and makes a claim to such property within one year, the property shall be returned to the owner. ⁴ In addition, the owner is responsible to pay all reasonable expenses incurred by the finder in keeping such property, before the release of such property.
 - b. If the owner remains unknown or does not make arrangement to obtain the property within one year of the date of finding, the property shall be returned to the finder. ⁵
 - c. If the finder does not claim the property, such property may be disposed of at auction.⁶
7. OTHER LOST, STOLEN, ABANDONED, OR UNCLAIMED PROPERTY
- a. Lost, stolen, abandoned property, or property taken from a person under arrest (excepting arrestee property to be returned upon release), shall be forwarded to the property and evidence function. Such property shall also include:⁷
 - 1) Property left behind by arrested persons; and
 - 2) Safe keeping property not reclaimed by the owner after notice or attempt of notice.
 - 3) To comply with M.G.L c.135, s.7 and M.G.L c.134, s.1 the evidence officer will fill out and post the form "Notice to Public of Finding of Lost Property" in the following two public places: the police station lobby and on the Town Hall public bulletin board.
 - b. All such property shall be retained for a period of at least one month. (M.G.L. c.135, s.8)
 - c. The property may be sold at auction, provided that:⁸
 - 1) The owner or owner's abode or place of business is unknown;

- 2) If the owner, owner's place of abode or business is known, the owner shall be sent a written notice by registered U.S. mail.
 - 3) If the owner refuses or fails to take possession of the property within ten days of receiving notice, the property may be sold at auction.
- d. Owner's Claim to Property: (M.G.L. c.135, s.11)
- 1) The owner may make claim to the property:
 - a) Within two years and two months after the property came into the possession of the police department; or
 - b) Within two years of the sale of such items.
 - 2) If the owner can prove ownership of the property, the owner may receive proceeds of the sale of the property, less any incurred expenses.
 - 3) If property is not clearly identifiable, and an individual claims ownership, the property shall be released only when that individual establishes ownership rights to such property.
 - 4) Any property that becomes the subject of controversy as to the rightful owner shall not be released to any person, except by written order of the chief of police or by a court order.

e. Any property from lost and found or any items that are placed into property' must be entered via IMC. After you create a property number, include the property number in the log entry so any officer can find/locate property more easily.

FOUND PROPERTY/ RETURNING PROPERTY

When people turn "Found Property" into the department, desk officers will ascertain if they can identify the property owner, and if feasible, make arrangements prior to the end of shift to return the property. This includes mailing found items to the owner if necessary. The most common items will be credit cards, wallets, purses, keys, etc.

If items are to be mailed out, prepare and package items and leave them in the office of the Chief who will mail them out.

If the owner of a credit card cannot be found, call the credit card company and request that they contact the owner of the card. The telephone number to report is located on the rear of the card. The credit card company may notify the owner that we have the card. Owners can make arrangements either to pick up the card or we can mail it to them. If the owner cannot be located and/or arrangements made to have the item returned, the card will be held for a 30-day period before it is destroyed.

Packaging for all of these items are in the Communication Center counter top drawers.

8. PROPERTY FROM SEARCH WARRANTS

- a. Property or articles stolen, embezzled or obtained by false pretenses, or otherwise obtained in the commission of a crime shall be returned to the rightful owners.⁹
- b. All other property seized in execution of a search warrant shall be disposed of as the court or justice orders.
- c. Rifles, shotguns, knives, or other dangerous weapons which have been found to have been kept, concealed or used unlawfully or for an unlawful purpose shall be delivered to the State Police for destruction.
- d. When any property, including firearms, may be released to the owner: If the owner is known but cannot be contacted or located, a form letter will be sent by registered mail, return receipt requested, to such owner informing them to pick up their property. If no response is received after ten days, said property may be disposed of according to this policy.

H. Final Disposition of Property – Narcotics

Pursuant to Massachusetts General Law 94C, Section 47A, controlled substances or narcotics seized and/or utilized as evidence by police departments are to be delivered to the Department of State Police for destruction, upon proper authorization.

The Colonel of the Department of State Police has designated the Massachusetts State Police Forensic Services Group (MSPFSG) to provide this service. In order to accomplish the mission, there shall be a Narcotics Destruction Unit within the MSPFSG.

The “Drug Destruction Policy for Municipal Police Departments” as promulgated by the MSPFSG will be strictly adhered to by evidence officers in disposing of narcotics. A copy of this policy will be kept in the Evidence Room.

The ensuing policy and procedures have been promulgated and shall be used as a guideline. The policy described therein is intended to effectively and efficiently facilitate the destructions, and to ensure the integrity and security of the process.

Berkshire County drug submissions are made to the MSP Crime laboratory in Springfield.

I. Prescription Drug Disposal Box

The Chief of Police will oversee the program. The police departments’ evidence officer(s) will be responsible for securing the medications and destruction of all collected medication. Only the EO(s) will have access to the medication drop

box. The drop box will be located in the front lobby of the police department where the general public will have access.

The following procedure will be followed when emptying the drop box:

The drop box will be checked weekly to help prevent the drop box from overflowing. When the drop box is emptied the EO will remove the contents of the drop box. The contents will be gathered in a secure manner to be stored in the evidence room. The secured package will then have a label placed onto it noting the date, time, and EO who secured the medication. The Evidence Officer will note on the IMC daily log when the pill drop box has been emptied and secured within the evidence room. When the medication has been destroyed, the EO will generate an IMC log entry with the date of destruction, the location the medication was destroyed, and the EO(s) that handled and witnessed the destruction. The medication should be destroyed within 180 days from the time it was secured.

The following procedure should be followed when destroying the medication:

The EO will make arrangements with Covanta Pittsfield, LLC located at 500 Hubbard Ave, Pittsfield MA 01201 (413) 443-7373. Once arrangements are made and a date for destruction has been set, the EO will begin the destruction process. The EO will verify that the label is secured and intact on the package and that the package of medication has not been tampered with. The EO, along with another authorized police officer, will transport the medication to Covanta. Once at the destruction location, the officers and vehicle will pull onto the scales to be weighed. Once weighed, the vehicle will proceed to the destruction area of Covanta. When advised by the equipment operator, the medication packages will be loaded into the loader. The EO and witness will watch as the medication packages are transported to the incinerator and loaded into it. The EO and witness will remain with the packages until they are no longer visible. Under no circumstances will any packages be left out of the control of the EO or the witnessing officer. Once the destruction is complete, the vehicle will be weighed and the EO will obtain a slip with the amount (weight) of medication that was destroyed. This destruction slip will be maintained by the EO in the medication log in the evidence room.

J. Property Room

Auctions will be held as necessary to keep the property room and garage area clean and from using up storage space with items no longer needed.

Unsold items will be destroyed by the evidence officer and chief of police and documented in the journal. M.G.L. c.135, s.10, requires that unclaimed money be placed in the town treasury and cannot be auctioned off.

K. Procedures for Handling Firearms Evidence

This rule is to establish the department policy and procedure for safeguarding, disposal of, and/or destruction of firearms and ammunition that come into Department custody.

1. GENERAL CONSIDERATIONS:

Department personnel shall be especially vigilant in their attention to the details of the procedures established by this rule for handling of firearms. The purpose of this rule is to:

- a. Ensure the continuity of evidence for the prosecution of cases in which firearms or ballistic evidence is involved.
- b. Ensure proper control of all firearms coming into the possession of Department personnel for any reason.

2. DEFINITIONS:

For the purposes of this rule, the word “firearm” shall mean “firearm” as defined in G.L. c. 140, s.121 (including pistols, firearms, certain shotguns, air pistols and machine guns), as well as any instrument capable of discharging a bullet or shot or toy-guns, replicas or starter’s pistols.

For the purpose of this rule, “ammunition” shall include cartridges or cartridge cases, primers, bullets or propellant powder designed for use in any firearms, rifle or shotgun. Ammunition shall not include chemical mace, pepper spray or other such aerosol propellant designed to temporarily disable.

3. FIREARMS COMING INTO THE POSSESSION OF POLICE OFFICERS:

- a. Whenever a firearm comes into possession of a police officer, the officer shall complete an Incident Report. A description of the firearm (including serial number) and any ammunition recovered, as well as notice of whether the person found in possession of the firearm is licensed to carry a firearm under G.L. c. 140, s.131 or possesses a Firearms Identification Card under G.L. c.140, s.129B, shall be included in the Incident Report.
- b. Officers shall handle all firearms and ammunition in a safe manner, being mindful that all recovered firearms, magazines and ammunition may be processed for fingerprint evidence. Under no circumstances shall a firearm or other ballistic evidence be released to an outside agency unless authorized by the Chief of Police.
- c. The Chief of Police shall review the circumstances regarding the firearm incident and take necessary action available under the law regarding the status of the license. If the license is issued outside the Town of Williamstown, the Chief of Police shall forward the license and supporting documentation to the appropriate licensing authority.

4. RECEIPT OF FIREARMS DISCHARGED BY DEPARTMENT PERSONNEL

- a. Upon receipt of a department issued firearm, or personal firearm that has been discharged by a police officer, the department shall retain the firearm as long as necessary to complete the investigation(s). All firearms shall be retained until such time as the Chief of Police authorizes, in writing that the firearm may be returned to the officer. After completion of the investigation(s) the firearm shall be returned as soon as possible to the officer involved in the discharge.

L. Firearm Examination

- a. The M.S.P. Ballistics Unit shall be responsible for examining all firearms and ammunition that come into the custody of the Williamstown Police Department when an examination is necessary. All firearms shall be entered into the National Crime Information Center (NCIC), for record purposes and query by the evidence officer.
- b. When a case is concluded, firearm(s) and ammunition involved shall be returned to the department with a record of the court disposition. The disposition shall include the date, name of the court, name of the judge, sentence or other disposition and the disposition of the firearm(s) and/or ammunition.
- c. If the firearm(s) and/or ammunition are ordered confiscated or destroyed by the court, documentation of the court's order shall be returned with the evidence, to the evidence officer for disposal.

M. Return of Firearms in Department Custody

The following procedures shall be followed for any member of the public requesting the return of a firearm through general request or in circumstances not addressed in Section 5A. All requests shall be made in writing to the chief of police. The evidence officer shall submit a report and supporting documentation (including but not limited to all incident reports, court orders, a board of probation check, firearm license inquiry and civil restraining order inquiry) to the chief of police. The report shall include a recommendation regarding the return of the weapon and concerns, if any, regarding the petitioner's suitability to possess a License to Carry Firearms or Firearm Identification Card. No weapon that has come into the custody of the department shall be released prior to the approval of the police chief.

- a. All requests for return of firearms or ammunition shall be completely processed by the department within thirty (30) days from the date of the receipt of the request. The evidence officer shall maintain a file of all requests for return of firearms and supporting documentation with their case files.

N. Reports of Wounds Caused by Firearms and Air Rifles

Whenever a physician or hospital, in accordance with G.L. c. 112, § 12-A, reports the treatment of a wound caused by the discharge of a gun, pistol, BB gun, other air rifle, or other firearm, an appropriate unit shall be dispatched to initiate an investigation. Whenever a physician or hospital reports that a bullet or fragment of a bullet is removed from the person being treated, an officer shall be dispatched to receive the bullet, or fragment. This evidence shall be stored in an envelope properly identifying it with the case to which it is related.

O. Proper Handling of Ballistic Evidence at Crime Scenes

Whenever possible spent bullets, cartridge cases, etc., should be left where found until the arrival of the M.S.P. Crime Scene Services Unit.

- a. Whenever there is any doubt as to the proper handling of firearms, spent bullets etc., the M.S.P. Crime Scene Services Unit should be contacted by telephone to ascertain, according to explained circumstances, the proper handling and delivering of such evidence.

P. Final Disposition of Property – Firearms

1. FIREARMS TURNED IN FOR DISPOSITION: Unwanted or unclaimed firearms or ammunition turned in to the police department for disposition shall be forwarded to the State Police to be disposed of according to law.

In those cases wherein weapons are seized and for which there is no court prosecution, such weapons shall be held for one year from the date of seizure at which time a letter shall be sent by certified mail, return receipt requested, to the owner of record. The letter shall advise the owner to contact the evidence officer. If the owner fails to contact the Unit within 30 days, the evidence officer shall destroy such weapons in the prescribed manner.

2. Firearms may only be released to persons with a valid firearms license. A copy of the license should be made and kept in the department files.
3. NICS background check:
Along with the above provision, an NICS query shall be performed on any person seeking release of a firearm.

Procedure

The NICS background check is only available in CJIS messenger at this time.

1. In the CJIS Messenger forms tree, double click “NCIC” then “NCIS”;
2. Double click “Initial Query”, enter all the required information as marked with a red asterisk (*), and click “Submit”.

The only purpose codes that should be utilized are:

- 14 – Gun permit of any type

- 22 – Return of Handgun
- 23 – Return of Long gun
- 24 – Return of Other

3. If a hit is returned on the transferee or firearms license applicant, click, “Follow-up Query” and enter the “NTN #” from the initial response, as well as either the “FBI #”, “NCIC #”, or “NRI #”, and click submit.

Questions regarding these queries can be directed to the CJIS Support Services Unit at 617.660.4710 or the Firearms Records Bureau at 617.660.4782.

2. FIREARMS HELD FOR SAFE KEEPING

- a. Firearms in possession of the police department for the purpose of safe keeping shall be held for a period of not less than thirty days (30) days.

3. LICENSE SUSPENSION OR REVOCATION; TRANSFER OF FIREARMS BY OWNER: Firearms surrendered Pursuant to Suspension or Revocation of License ¹⁰

- a. The owner or his or her legal representative may transfer firearms, rifles, shotguns, machine guns, and ammunition to anyone lawfully permitted to take possession.
- b. The purchaser or transferee and the former owner shall notify the licensing authority in writing of the intended transfer.
- c. Within ten days of the receipt of such notice, the firearms shall be transferred.

4. BONDED WAREHOUSE

- a. Firearms held in police custody may be transferred to a bonded warehouse for storage.¹¹
- b. This shall apply to all firearms with the exception of firearms being held as evidence in any pending case dealing with a firearms violation.¹²

5. FIREARMS, VIOLATION OF M.G.L. 265, §10

- a. A firearm shall be returned to the person from whom it was lost or stolen if that person was lawfully in possession of it.¹³
- b. Otherwise, unless directed by the court, firearms shall be forwarded to the State Police for disposition.¹⁴

6. FIREARMS, SERIAL NUMBER REMOVED OR MUTILATED: Such firearms shall be delivered to the State Police for destruction.¹⁵

7. SILENCERS: Unlawfully possessed silencers shall be delivered to the State Police.¹⁶

Q. Asset Forfeiture

1. DOCUMENTATION

- a. A separate incident number shall be assigned to each asset forfeiture application.
- b. Items seized for possible asset forfeiture shall be documented and turned into the property and evidence function as would an evidence item of a similar type.
- c. A report shall be filed documenting:¹⁷
 - 1) The exact kinds, quantities and forms of property;
 - 2) From whom the property was received;
 - 3) Under what authority it was held, received, or disposed of;
 - 4) To whom it was delivered;
 - 5) The date and manner of destruction or disposition;
 - 6) The exact kinds, quantities and forms of said property.

2. ASSET STORAGE

- a. Such item shall be stored pending the outcome of such action.
- b. Vehicles shall be immobilized, locked, and stored in a secure area.
- c. Other items shall be stored in the custody of the property and evidence function.

3. APPLICATION FOR ASSET FORFEITURE

- a. Asset forfeiture actions should be initiated promptly.
- b. The following documents shall be forwarded to the District Attorney's Office Seizure Unit:
 - 7) Request for Asset Forfeiture Form; and
 - 8) A copy of the police report. The report must contain necessary probable cause for seizure.

4. FINAL DISPOSITION

- a. The District Attorney's Office will notify the police department of the award.
- b. Funds awarded to this department shall be deposited in a police holding account specifically designated for drug asset forfeiture funds only. Such a fund has been established with the Town Treasurer and is known as the "Narcotics Trust Fund."

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- c. All funds shall be disbursed as directed by the forfeiture judgment. Such funds may be used for the following purposes:¹⁸
 - 9) To defray the cost of protracted investigations;
 - 10) To provide additional technical equipment or expertise;
 - 11) To provide matching funds to obtain federal grants; or
 - 12) To accomplish such other law enforcement purposes as the chief of police deems appropriate.
 - d. Such funds shall not be considered a source of revenue to meet the operating needs of the department.
 - e. The disposition of all vehicles, real property, and items of value shall be in accordance with the final order of forfeiture. Such disposition may include:
 - 1) Official use by the department or other public agency; or
 - 2) Sale at public auction or competitive bidding.
 - f. Funds from the sale of vehicles or property shall be disbursed in accordance with M.G.L. c. 94C, §47.
5. FEDERAL ASSET FORFEITURE
- a. Federal asset forfeitures will be conducted in conjunction with the federal agency involved with the asset seizure.
 - b. Funds received shall be deposited in a police holding account for federal asset forfeiture funds only.
 - c. Such funds shall be used only for purposes lawfully allowed by the federal asset forfeiture program.
 - d. The chief of police shall maintain records of all asset forfeiture funds received and disbursed and shall comply with annual reporting requirements

R. Property Room Integrity Inspections

- 1. The department shall conduct scheduled and unscheduled inspections, inventories, and audits of the property and evidence function to maintain a high degree of evidentiary integrity over agency-controlled property and evidence.
- 2. INSPECTION
 - a. Inspections to determine adherence to the procedures used for the control of property and evidence shall be conducted by the chief of police or an employee designate by the chief of police to conduct such an inspection. The inspection shall determine if:

- 1) Property and evidence, and drugs in custody, and the records relating thereto, are being maintained in full compliance with the procedures outlined in this directive, and proper accountability procedures are being maintained;
 - 2) Property is properly stored and protected from damage and/or deterioration;
 - 3) Property having no further evidentiary value is being disposed of promptly; and
 - 4) The evidence/property rooms are being maintained in a clean and orderly condition.
- b. Inspections shall be conducted semi-annually.
 - c. The inspection report shall be filed with the chief of police.
3. INVENTORY
- a. An inventory of all property under the control of the property and evidence function shall be conducted as follows:
 - 1) Whenever the property custodian is assigned to or transferred from the position, an inventory shall be conducted by the newly assigned property custodian, jointly, with an employee designated by the chief of police. The inventory shall ensure that records are correct and properly annotated.
 - 2) An inventory shall also be conducted when directed by the chief of police.
 - b. The purpose of the inventory is to ensure the continuity of custody of evidence.
 - 1) The inventory shall be sufficient to ensure the integrity of the system.
 - 2) The inventory shall include all high-risk items:
 - a) Cash;
 - b) Precious metals;
 - c) Jewelry;
 - d) Firearms; and
 - e) Drugs.
 - 3) A sufficient sample of property records relative to the volume of property under the care of the property and evidence function shall be reviewed carefully with respect to proper documentation and accountability.

- c. All discrepancies should be recorded prior to the assumption of property accountability by the new custodian.
- d. The inventory report shall be filed with the chief of police.

4. AUDIT

- a. An audit of property and evidence in the custody of the property and evidence function shall be conducted:
 - 1) At least annually; or
 - 2) At other times (in addition to the annual audit) as directed by the chief of police.
- b. Such audit shall be conducted by a supervisor assigned to that task by the chief of police. The supervisor assigned shall not be routinely or directly connected with the control of property and evidence. Under no circumstances should the inspector designated by supervisory or command officers have the property function under his or her control.
- c. The audit report shall be filed with the chief of police.

5. UNANNOUNCED INSPECTIONS

- a. Unannounced inspections of the property storage areas shall be conducted as directed by the chief of police, but at least annually.
- b. Accountability and security procedures will be the primary focus of this inspection.
- c. The inspection report shall be filed with the chief of police.

¹ M.G.L. c. 94C, §47A.

² Department of Public Health, Drug Destruction Protocol, III.c.

³ M.G.L. c. 134, §4.

⁴ M.G.L. c. 134, §3.

⁵ M.G.L. c. 134, §4.

⁶ M.G.L. c. 135, §8.

⁷ M.G.L. c. 135, §7.

⁸ M.G.L. c. 135, §7.

⁹ M.G.L. c. 276, §3.

¹⁰ M.G.L. c. 140, §129D.

¹¹ M.G.L. c. 140, §129D.

¹² M.G.L. c. 140, §129D.

¹³ M.G.L. c. 265, §10(f).

¹⁴ M.G.L. c. 265, §10(e).

¹⁵ M.G.L. c. 265, §1B; M.G.L. c. 265, §11C.

¹⁶ M.G.L. c. 265, §10A.

¹⁷ M.G.L. c. 94C, §47(e).

¹⁸ M.G.L. c. 94C, §47.