

Waltham Police Department
PROPERTY MANAGEMENT & EVIDENCE CONTROL
CHAPTER 84

General Order Number: GO-01 2009

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Accreditation Standard #'s: 84.1.1, 84.1.4, 84.1.6

POLICY:

It is the policy of the Waltham Police Department to ensure that evidence and property in its custody can be properly secured, stored, readily retrieved, and that any changes in its custody have been properly and fully documented.

The purpose of this policy is to establish guidelines for maintaining the integrity of the evidentiary chain of custody.

DEFINITIONS: For the purpose of this directive, the following definitions apply:

- 1 CHAIN OF CUSTODY:** The continuity of possession of material and items collected as physical evidence. The connotation, under the law, is that the item or material introduced into evidence must be proven to be the same as that obtained initially and delivered to the laboratory for examination, or for presentation in court.
- 2 CONFISCATED PROPERTY:** Any item of property seized in compliance with law by an officer that does not meet the criteria above for evidence or found property.
- 3 EVIDENCE LOCKER:** Any secured designated repository used to temporarily store evidence, including a one-way drop box and a refrigerator, which is pad locked.
- 4 PROPERTY/EVIDENCE OFFICER:** A Waltham Police Officer accountable for control and maintenance of all evidence/property accepted by or stored in the department's evidence room.
- 5 EVIDENCE ROOM:** Secured facilities or storage containers utilized by the Waltham Police Department to store evidence or found property.
- 6 FOUND PROPERTY:** Any lawful item of property, the control of which is taken into custody for safekeeping for the purpose of returning the property to its rightful owner.

7. **IMPOUNDING OFFICER:** Any law enforcement officer who initially receives the evidence/property and initiates the chain of custody.
8. **PHYSICAL EVIDENCE:** Any substance or material found or recovered in connection with a criminal investigation.

PROCEDURES:

1. **COMMAND:** The Chief of Police shall assign one or more officers as Property/Evidence Officers. These officers shall be assigned to and work under the direction of the Commanding Officer - Administration Division. Their duties and responsibilities are specified in the Waltham Police Department Regulations.
2. **SECURITY GENERAL:**
 - a. Only members of the Waltham Police Department authorized by the Chief of Police or his designee may enter the evidence room.
 - b. A log shall be kept by the evidence officer, which identifies each authorized member entering the evidence room. The log will indicate the date, name, time in, and time out.
 - c. No other person may enter or remain in the evidence room unless the evidence officer is present. The purpose of entering the evidence area shall be specifically related to the evidence function or building maintenance.
 - d. The evidence room shall be kept locked at all times during the absence of the evidence officer.
 - e. In case of emergency, the Deputy Chief or his designee will have a code to the lockbox which enable him access to the key to one of two locks on the Evidence Room door and the Property Room Supervisor or his designee will hold a key to the other lock on the Evidence Room door, however, they will not have the alarm code and the alarm will sound upon entry.
3. **PACKAGING/LABELING:** In cases where physical evidence is to be turned over to the property/evidence officer for processing and safekeeping, the following procedures will be followed: [84.1.1-4]
 - a. **SUPERVISION:** The Commanding Officer-Platoon on Duty, the Operations Supervisor, or a detective of the rank of Sergeant or greater shall oversee that all procedures for packaging and labeling of all evidence/property have been adhered to. Packaging bags, boxes, containers and labels are provided by the Evidence Officer and are located in the

Guard Room with Massachusetts State Police Lab Packaging Guidelines posted on the wall. [84.1.1-5]

b. CONTROLLED SUBSTANCES:

1. All controlled substances shall be placed in tamper-resistant bags of appropriate size. A supply of bags is kept in the guard room supply area and in the Investigations Division supply area. All controlled substances will be placed in the evidence lockers or turned over directly to the evidence officer.
2. Capsules, pills, marijuana joints, small packets, and all countable items shall be counted before being placed in the tamper-proof bags.
3. Paraphernalia related to the controlled substance seizure shall be placed in a different evidence bag than the drugs themselves unless the drugs are contained within or adhering to such paraphernalia. Hypodermic needles will be placed in needle tube containers and such containers shall be labeled.
4. Different substances shall be placed in separate bags.
5. Controlled substances seized from different people or from different locations shall be packaged separately.
6. All controlled substances and related evidence shall be tagged or labeled. The officer submitting drugs for lab analysis will complete the drug submission form.

c. FIREARMS: Firearms shall be labeled and placed in an evidence locker. All firearms shall be unloaded and cleared prior to being placed in a locker. If submitting officer is unfamiliar with the weapon, a firearms instructor shall clear the weapon. If, for evidentiary purposes or other reason, a firearm cannot be unloaded, a warning label shall be affixed to the outside of the locker and to the firearm. [84.1.1]

d. BICYCLES: Bicycles being submitted as found property or evidence will be tagged with a copy of the incident report affixed to the bicycle. Bicycles will be temporarily secured by means of a lock and chain in the rear garage. [84.1.1-9F] A key to the bicycle chain lock will be kept with the Building and Maintenance Officer, in the booking drawer, and with the Evidence Officer. [84.1.1-10F]. Bicycles are moved from the temporary storage in the rear garage to the Conex Box/trailer directly adjacent to the rear garage, also secured by lock and key. Bicycles not claimed after a period of one year will be donated to "Bikes Not Bombs", a registered 501(c) non-profit charity.

4. SUBMISSION:

- a** All property/evidence shall be submitted as soon as possible before the officer ends his tour of duty. **[84.1.1-1]**
- b** **[84.1.1-2, 3A, B] [84.1.1-6]** All evidence seized shall be submitted to the evidence officer in hand if he is available and shall be accompanied by a report. The report shall contain the circumstances by which the property came into the officer's possession and shall describe each item of property/evidence submitted. Also noted in the report will be the evidence locker number utilized, if applicable. If evidence cannot be secured or placed in a secured location, due to size or other reasons, the evidence officer shall be called to secure the property. Exceptions to this would include bicycles, wheel chairs, or other large items which are to be tagged and stored in the Sally Port with a report submitted to evidence. **[84.1.1-9F, G]** All evidence will be submitted in accordance with Chap. 84 of the Waltham Police Department Manual. Semi- permanent storage of bicycles is to be housed in the trailer behind the WPD behind the Sally Port. **[84.1.1-10F, G]**
- c** The department maintains evidence lockers in the basement outside the entrance to the evidence room. If the evidence officer is not available, officers shall place all evidence and the appropriate documentation in an open evidence locker. The officer shall then secure the locker by closing and making sure it is locked. In the area of the evidence room there is also a refrigerated evidence locker, provided for perishable items blood, other bodily fluid and sexual assault kits. The refrigerator is pad locked after placing an item in the refrigerator. If another item needs to be placed in the refrigerator, the Evidence Officer or his back up would be called in to move the perishable items from the refrigerator to the second refrigerator inside Evidence. **[84.1.1-6, 9A-D]**
- d** Officers shall take reasonable precautions in the handling of physiological specimens, items contaminated with physiological fluids, chemicals, contaminants, and hazardous materials to avoid contaminating themselves or others with infectious or harmful agents. The use of protective gloves, laboratory coats or jumpsuits, filtering masks, and safety goggles should be used when appropriate. Hands should be washed frequently. Work surfaces shall be cleaned after each case. The provisions of Chapter 94, Infectious Diseases, should be observed.

5. IMPOUNDING EVIDENCE:

- a** The evidence officer shall be responsible for receiving, storing, maintaining, releasing, and accounting for all evidence in compliance with established departmental policy and all laws.

- b.** All monies shall be counted by the impounding officer and verified by a second officer. Monies will then be placed in a tamper-resistant bag and placed in the evidence room or locker.
- c.** The evidence officer shall remove all evidence from the evidence lockers at the beginning of his tour of duty. All items shall be inspected to ensure that the items are properly packaged and that no tampering has occurred. The accompanying documentation shall be examined to ensure accuracy, completeness, and the proper chain of custody.
- d.** The Property Officer shall immediately report any indication of evidence tampering. He shall report any improper documentation or packaging to a supervisor. The Property Officer may also refuse any improperly packaged property and report it to a supervisor.
- e.** All evidence and property received by the evidence officer will be entered into the computerized evidence record system as soon as possible. These records will reflect the status of all property held. The status will be reflected as follows:

 - 1. CASE STATUS:** This reflects the status of the entire case, regardless of the number of defendants and/or number of pieces of evidence or property:

 - a. ACTIVE:** All cases will be identified as **ACTIVE**, as long as **any** pieces of evidence or property related to the case are still physically being maintained in the custody of the Waltham Police Department Property/Evidence Room.
 - b. INACTIVE:** All cases will be classified as **INACTIVE**, as soon as all pieces of evidence or property related to the case are no longer being maintained in the custody of the Waltham Police Department Property/Evidence Room. When a case is termed Inactive, the individual item/piece disposition field will reflect the FINAL DISPOSITION of the item.
 - 2. EVIDENCE/PROPERTY - INDIVIDUAL ITEM STATUS:** Each individual piece of evidence or property that is other than **ACTIVE** will be identified as one of the following status indicators:

 - a. AUCTION WEBSITE:** Propertyroom.com is used to sell items lawfully deemed available for auction.

- b. DESTROYED:** Items that have been destroyed by other agencies (i.e., State Police - Firearms, Knives, Ammunition, etc.; Food and Drug Administration - Drugs and Paraphernalia; State Fire Marshall - Fireworks and other Hazardous Material; and others). These items will be termed as **DESTROYED**, and date and method of destruction indicated.
- c. DISPOSED:** Items that have been disposed of, such as paper, books, clothes turned over to Social Service Agencies, items that are usable (tools) to the City. These items will be termed as **DISPOSED**, and date and method of disposition indicated.
- d. HOLD:** Items that are in custody and are being held for a designated length of time. These items will be identified as **HOLD**, with the expiration date indicated. (Example: Driving under influence video, case is over, tape is held for sixty days for appeal.)
- e. PENDING:** Items that are still physically being held but are pending the next phase of their disposition (Drug Destruct, State Police Destruction, Auction, etc.). These items will be termed as **PENDAUCT**, **PENDDEST**, **PENDSTATE**, **PENDOTHER**, and date of expected disposition indicated.
- f. RETURNED TO:** Items that have been returned, such as found or recovered property, or evidence, that can be returned to an identifiable person or agency (i.e., RMV documents, plates, licenses, etc., that are returned to the custody of the Returned to Registry of Motor Vehicles (RMV) and not to be returned to our custody). These items will be termed a **RET-RMV**; other items returned will be termed as **RET-OWNER** (owner), **Ret-FNDR** (finder), etc., and date of return indicated.
- g. TURNED OVER TO:** Items that will be turned over to another agency, court, or departmental unit, and will not be returned to the Waltham Police Department custody, these items will be termed as **TOT** (indicating whom they were turned over to) and date of transfer. (Example: If State Police or a Federal Agency takes over an investigation and they will be prosecuting the case at that level, item will be noted as **TOT-FBI / 1/13/97.**)[84.1.1]

- f** The submitting officer shall complete a drug receipt for all controlled substances that are to be analyzed. Controlled substances to be analyzed will be transported to the State Laboratory Institute by the Evidence Officer or his authorized relief. Such submissions shall be made not less than every two weeks and processed in accordance with the procedures of the Institute. The evidence officer shall obtain a copy of the drug receipt for the department's records.
- g** The Evidence Officer is required to make an effort to identify and notify the owner or custodian of property in the evidence room custody, and should document these efforts. **[84.1.1-11]**
- h** Evidence will be photographed and returned to the owner whenever possible, with permission from Judge, A.D.A, Supervisor, or case Officer. **[84.1.7-3]**

6. STORAGE OF EVIDENCE:

- a** All in-custody property/evidence shall be stored in the evidence room. The Evidence Officer shall assign a storage location to each item of evidence and record this information on the evidence tag or label and the computerized evidence records system. **[84.1.1-7]**
- b** Evidence requiring added security, including money, precious metals, jewelry, gemstones, firearms, and controlled substances, shall be stored in separate secured areas/containers. These areas include but are not limited to: gun lockers, drug lockers, and money lockers, all of which are located within the evidence/property room with additional locking mechanisms. Controlled substances pending destruction will be secured in separate location from open case-controlled substances. Hazardous material shall be stored in a locked container located in the main garage area of the department. **[84.1.1-8, 10A-D]**
- c** A Drug Kit containing narcotics is maintained by the Department (Evidence) for the purposes of presentations for school classes, citizen academies or groups, or any other demonstrations. This kit shall be kept in the same location as all other narcotic evidence, locked in the rolling drug file in the back room of the evidence room, and shall be signed out for in the same manner as any other evidence. An inventory of all items in the drug kit shall be logged into the notations box in the QED Evidence system. It shall also be printed out on the receipt form that the officer signs for. Upon return of the drug kit, the Evidence Officer shall ensure all items are accounted for before logging the kit back into evidence. **[84.1.4-1A, 3A]**
- d** Perishable items shall be stored in a locking refrigerator, located in an area

of the evidence room (blood, bodily fluid) **[84.1.1-8,10D]**

- e** Unopened containers of alcoholic beverages will not usually be analyzed for alcoholic content. The label will act as sufficient proof of contents. Opened containers of alcohol may be submitted for analysis when such analysis becomes necessary to the case. They should be packaged in such a manner as to prevent spillage and evaporation. Alcohol submitted for some minor offences, as approved by an Administration Division Supervisor, shall be photographed by the Evidence Officer who will attach the picture to the report. Alcohol shall then be disposed of.
- f** Under no circumstances will evidence be stored in personal lockers, desks, or other areas, unless such is designated as an evidence locker.
- g** Vehicles that are impounded are usually kept in the garage bays until processed or brought to the tow yard for safekeeping. They are not stored on Department property. **[84.1.1-9E,10E]**

7. INSPECTION, INVENTORY, AND AUDIT OF THE EVIDENCE ROOM:
[84.1.6]

- a** Whenever a new Evidence Officer is designated, an inventory and audit of evidence shall be conducted. The newly designated evidence officer and the outgoing Evidence Officer under the supervision of the Commanding Officer - Administration Division, shall conduct this inventory jointly. All records shall be reviewed relative to proper documentation and accountability. Any discrepancies shall be reduced to writing and submitted to the Chief of Police for review. An additional independent audit shall be done by an agency outside this department. **[84.1.6-7]**
- b** The supervisor of Evidence shall inspect the evidence storage facilities unannounced and at least quarterly to ensure adherence to appropriate policies and procedures. **[84.1.6-16]** A full yearly audit shall be conducted by property room personnel to account for all items. **[84.1.6-10]**
- c** An annual audit and inventory of property held by the department shall be conducted by a superior officer not routinely or directly connected with the control of evidence. The Chief of Police shall select this officer.
- d** The Chief of Police shall assign a superior officer **[84.1.6-2]**, not routinely or directly connected with the control of evidence, to conduct unannounced semi-annual staff inspections of the evidence area. These inspections shall verify that property accountability and security procedures are being followed. This inspection shall consist primarily of random/spot checks matching evidence and records. **[84.1.6-1]** Inspection Form #84.1.6 will be

used for all inspections and can be located in WPD Forms.

- e Completed Inspection Forms are turned into and kept with the Accreditation Manager's records. A copy is kept with the Evidence Officer. [84.1.6-3]

8. TRANSFERS OF CUSTODY: [84.1.1 -12,13]

- a The Evidence Officer shall document all changes in custody of physical evidence. The documentation shall identify the individuals or organizations maintaining custody of all evidence transferred to them.
- b A receipt shall be prepared for all transferred evidence.
- c Officers are responsible for the security, storage, maintenance, and accessibility of evidence in their custody.
- d Officers will obtain their evidence (evidentiary, seized, recovered, and impounded) on the day it is to be presented in court. Form 84-8, an "Evidence Status Form," will accompany the evidence. This form is to be utilized in cases where destruction or forfeiture of evidence is directed by the court. When applicable, it is to be signed by the judge and returned to the evidence officer by the custodial officer.
- e Sealed bags of evidence are not to be opened unless ordered by the court. If a sealed evidence bag is opened, the custodial officer shall submit a report explaining the circumstances. Bags will be then be resealed by the custodial officer and initialed.
- f Upon completion of the case, the officer will return the evidence and all pertinent forms to the evidence officer.
- g All evidence is to be returned on the same day that it is picked up unless the court has assumed custody of it. The officer shall submit a report to the Evidence Officer indicating the status and location of evidence in court custody. A report shall accompany returned evidence advising the evidence officer of the disposition.
- h Found property, abandoned property, seized property, impounded property, or evidentiary property is all handled in the same manner. For example, found property returned to its owner or finder (according to Massachusetts Law guidelines) shall be documented in the computer system. [84.1.1]

9. DISPOSAL OF EVIDENCE: [84.1.1-13]

- a Final disposition of found, recovered, and evidentiary property shall be

accomplished within six months after legal requirements have been satisfied. When no longer needed, evidence shall be returned to its lawful owner or disposed of according to law by the evidence officer. If property is returned to the owner, the evidence officer will obtain a property receipt. Anytime cash or other valuable property is returned, a second Waltham Police Department employee shall witness the transaction and sign the property receipt. [84.1.7-1,2]

- b. Authorizes the destruction of drugs with the Massachusetts State Police or the DEA.
- c. Any destruction of controlled substances shall be in accordance with the applicable laws and the procedures of the State Laboratory Institute. Such destruction shall occur approximately every two years. [84.1.1-13]
- d. All drug destruction will be witnessed by the Evidence Officer and one other officer.
- e. After the completion of any destruction process, the evidence officer shall submit a report to the Commanding Officer - Administration Division. The report will include the date, time, and location of the destruction. It will also include an inventory of the items destroyed and a list of those present at the destruction. [84.1.1-13]
- f. Firearms and weapons that are to be destroyed shall be transported to the appropriate State Police Facility for destruction.

10. **FOUND PROPERTY:** [84.1.1-9, 10H] Collection, packaging, preservation, and storage of found property will follow the same procedures as enumerated in the procedures for evidence, with the following exceptions:

- a. **PRELIMINARY INVESTIGATIONS:** In incidents of found property, the reporting officer will make every attempt to identify the owner and return the property. If the property is returned, the officer shall obtain a receipt and submit a report regarding his actions. The receipt and a copy of the report shall be submitted to the evidence officer.
- b. **FOLLOW-UP INVESTIGATIONS:** If the preliminary investigation fails to determine the owner, the Evidence Officer will conduct a follow-up investigation to ascertain the identity of the owner. If property is returned to the owner, the Evidence Officer will obtain a property receipt. Anytime cash or other valuable property is returned, a second Waltham Police Department employee shall witness the transaction and sign the property receipt.

- c. **PACKAGING:** Found property shall be labeled but not be sealed.
 - d. **DISPOSAL:** If an item cannot be returned to the rightful owner, it will be disposed of in compliance with Mass. Gen. Law, Chap. 135, Sec. 8, 9, and 10 as follows:
 - 1. Hold for one year with finder. With no owner or finder items may be disposed of after 30 days in accordance with MGLMGL Chapter 135.
 - 2. Return to the finder after one year.
 - 3. If currency, deposit with the City Treasurer into an account set up for this purpose.
 - 4. Sell at auction.
 - e. **PROPERTY/BICYCLES:** Property, including bicycles, will be stored in accordance with Mass. Gen. Law, Chap. 134 and Chap. 135. [84.1.1-9, 10F]
 - f. **DETAINEE PROPERTY:** not accepted by the court system will be held in the secured locker in the booking area. The property will be held for 30 days, in accordance with MGL Chapter 135. After the 30-day holding
11. **RETURN OF PROPERTY** will be disposed of as posted at the booking counter.

Property which is seized, taken for safe keeping, or found, shall be returned to the owner by appointment with the Property Room Officer only. Department personnel shall advise any individual making a request of this.