



POLICY & PROCEDURE

ELKHART LAKE POLICE DEPARTMENT

SUBJECT: **MAINTENANCE OF EVIDENCE/
PROPERTY**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: 968.20, 968.205;
Chapter 968

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INDEX AS: Authorized Personnel (Property)
Evidence and Property Controls
Inspections
Transfer of Custody
Transmittal of Evidence to Lab

PURPOSE: The purpose of this Policy & Procedure is to identify the responsibilities involved in the proper handling, safekeeping, and disposition of property and evidence that is found, recovered, seized, or stored as a result of action by a member of the Elkhart Lake Police Department, and to establish guidelines for managing this inventory.

For general property, the objective shall be safe and orderly retention. The Department shall store all property in a manner that strives to:

- A. Maintain its original condition at the time of acquisition.
- B. Keep it in such a manner as to promote the Department's reputation as an honest and reputable police department worthy of the public's confidence and trust.
- C. The objective of evidence control is to:
 1. Support ongoing investigations through the secure retention of property that has evidentiary value in a court of law.

2. Help facilitate successful prosecution in criminal matters.
3. Safeguard the chain of evidence, and
4. Inspire the public's confidence and trust in the Department's ability to maintain legal safeguards for the receipt, handling, security, and eventual disposition of evidence.

D. Established guidelines shall promote an environment in which evidence can:

1. Be retained without deterioration.
2. Remain free from substantiated accusations of tampering.
3. Meet the requirements designated by current law and OSHA (Occupational Safety and Health Administration) standards.
4. Be of restricted access to minimize the number of people held accountable for such property.
5. Enhance the credibility of the Department to safely and legally manage evidence.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. GENERAL PROCEDURES
- IV. INVENTORY PROCEDURES
- V. SECURE FACILITIES
- VI. PROPERTY AND EVIDENCE STORAGE
- VII. AUTHORIZED PERSONNEL
- VIII. DISPOSITION OF PROPERTY
- IX. PROPERTY OFFICER RESPONSIBILITIES
- X. INSPECTIONS

I. POLICY

- A. Members of the Elkhart Lake Police Department shall seize and inventory property when probable cause exists to believe that the property is stolen, contraband, abandoned, in need of safekeeping, or when it is required as evidence.

Inventoried property shall be documented on a property inventory report and secured in an evidence locker or other authorized secure area. All inventoried property shall be handled and stored in such a manner which preserves its integrity and evidentiary value and which protects it from loss, theft, damage, or other adverse effects.

II. DEFINITIONS

- A. INVENTORY: To make an itemized report or record of.
- B. PROPERTY: Something owned; any tangible possession that is owned by someone.
- C. EVIDENCE: Property having significance as a potential means of determining the truth of an alleged matter of fact under investigation.
- D. SEIZED: Property acquired by the police by means of warrant or warrant less search. An involuntary relinquishment of possession and control.
- E. RECOVERED: To get back something previously lost or taken away.
- F. CONTRABAND: Property that is by federal or state law or local ordinance inherently illegal and prohibited from private ownership, use or possession.
 - 1. Property not inherently illegal but put to an illegal use
- G. SAFEKEEPING: Entrusted to another for care, protection, etc.
- H. FOUND/ABANDONED: To have come upon or discovered, often by accident. / The intentional act of relinquishing permanently all rights, title, claim and possession of property without reference to a specific person.
- I. STOLEN: That which has been taken from another without right or permission.
- J. LOST: Owner has involuntarily parted possession of property and has no knowledge of its location.

III. GENERAL PROCEDURES

- A. Recovery of Property

1. Upon taking possession of evidence or property from a person, officers will document the person's identity and the circumstances surrounding the recovery of the property. A receipt will be issued upon request to the person from whom non-contraband items are taken.
2. Officers will research for ownership any evidence or property that is recovered when the ownership is unknown or uncertain at the time of their recovery.

B. Property Intake Procedures

All items taken into the Elkhart Lake Police Department's possession shall be documented on a property inventory report providing a brief description of each property item, as well as an incident report detailing the circumstances by which this property came into the agency's possession.

1. All items shall be described in detail so as to be readily identifiable upon inspection.
2. If property is to be stored, it shall be assigned a property inventory number by the Property Officer, who will then record this information in the property log.
3. The property inventory report shall be completed in full by the recovering officer.
4. If property can be released to the owner, the recovering officer shall clearly note this in the incident report
5. If evidence requires processing by the State Crime Lab or other laboratory, the recovering officer shall clearly note this information in the incident report.
6. All transfers of custody for evidence or property shall be documented in the incident report and as 'Chain of Custody' on the packaging material.

C. Packaging & Storage

1. All items shall be packaged and secured in a sealed paper or plastic bag if possible, with multiple items packaged separately from one another whenever possible. In general, all items shall be packaged in accordance with the guidelines set forth in the most current Wisconsin Department of Justice State Crime Laboratories' Physical Evidence Handbook. Certain items require specific packaging instructions, which are outlined in this policy.
2. All packages shall be labeled using indelible ink. Information shall be written directly on the outside of the package. Some packaging containers have a label pre-printed on them. If this is the case, all areas of requested information shall be completed. If this is not the case, information included shall be as detailed as is practical, paying specific attention to the case number and the potential owner of the property.

3. Large items, such as vehicles, bicycles and other similar items that cannot be packaged shall have a completed property tag affixed to the property in such a manner that does not permit it to become easily detached, allows a view of the property tag information, and minimizes any damage or disfigurement to the property itself.
4. All items not immediately released shall be placed in a secure locker in the property room, along with the original copy of the property inventory report, before the end of the officer's shift.

The Chief of Police may authorize an exception if the property is required for investigative purposes. The remaining copies of the property inventory report shall be turned in to the administrative assistant, along with the incident report.

5. Vehicles, bicycles, and other large items not stored in the property room will be transferred to their designated storage areas and properly secured, and that location shall be mentioned in the incident report. The original copy of the property inventory report shall be placed in the Property Officer's tray.

The remaining copies of the property inventory report shall be turned in to the dispatcher with the incident report.

6. Evidence that requires processing by the State Crime Lab should be transferred by the Property Officer or a person designated by the Chief of Police to allow for the proper maintenance of the chain of custody.
7. It shall also be the responsibility of any officer or member of this Department taking property into his/her possession to either render the property safe from any known or perceivable hazards or to notify the Property Officer that an item or object poses a potential danger for injury and/or blood borne pathogens. Special care shall be taken when handling firearms and no weapons shall be stored possessing active ammunition.
8. The Property Officer shall determine when certain property, due to its size, odor, volatility, or dangerous condition, shall be re-located to a remote location under the control of this Department in order to maximize citizen and employee safety.
9. All items inventoried shall be stored in a secured evidence locker or other authorized secure area.
10. The Property Officer maintains the right to refuse to accept any property which is not properly marked, packaged or documented.

D. Transmittal of Evidence to the Crime Lab

1. All transfers of evidence to and from the Crime Lab will be coordinated through the Property Officer or designee, who will ensure that evidence destined for the Crime Lab is delivered in a timely and appropriate manner.

2. All perishable physical evidence which may include, but is not limited to, fresh whole/liquid blood, blood-stained objects, other physiological stains and tissue, and biological materials, should be sent to the Crime Lab as expeditiously as possible.
3. All transfers of evidence to and from the Crime Lab will be documented on the original copy of the property inventory report, which will include the date and time of transfer, as well as the name and signature of the person at the laboratory receiving or releasing the evidence. Transfers shall also be documented in a supplement to the incident report.
4. Evidence shall be prepared and packaged in accordance with Crime Lab procedures, and all evidence submitted to the Crime Lab shall be accompanied by a "Transmittal of Evidence" form, which has been completed by the investigating officer.
5. A copy of the Crime Lab Receipt of Physical Evidence shall be attached to the original copy of the property inventory report and returned to the Property Officer. The original receipt is to be placed with the incident report.
6. The Crime Lab will mail the written results of their findings, which will be forwarded to the investigating officer. This officer will then insure that the results are documented in a supplement to the incident report and placed with the incident report.
7. When retrieving evidence from the Crime Lab, the property will either be returned to the Property Officer in person, or secured in an evidence locker, along with the appropriate documentation.

IV. INVENTORY PROCEDURES

A. Stolen Property

1. Any item found to be stolen shall be recovered and inventoried.
2. If property is listed as stolen through NCIC/CIB, then the reporting agency shall be contacted regarding the recovery.
3. If the property is of evidentiary value, then it shall be retained until the criminal case is closed and all appeals are exhausted. Items may be photographed and returned to the owner where feasible and with prior approval from the prosecutor.
4. If property is not of evidentiary value, then a determined effort shall be made to return the property to its owner.

B. Contraband

1. Any item found to be contraband (that which cannot be legally possessed) shall be recovered and inventoried.
2. Contraband items not of evidentiary value shall be inventoried and disposed of by the Property Officer in the appropriate manner.

Fireworks, alcohol, tobacco products, and perishable items confiscated under a municipal ordinance violation may be destroyed by the investigating officer, but must be photographed first. The destruction of this evidence must also be witnessed by another officer and documented in the incident report. Polaroid Photograph(s) of the evidence are to be filed with the original incident report. The original property inventory report must be forwarded to the Property Officer with the notation, 'Photographed and Destroyed by (OFFICER'S NAME)'.

C. Weapons

1. All firearms shall be checked through NCIC/CIB.
2. All firearms shall be carefully inspected and made safe.
3. All firearms shall be described in detail, including make, serial number, and any identifying marks.
4. Special care should be taken to document the location of ammunition found in a weapon and to preserve any trace evidence that may be recovered from the weapon. All firearms are to be packaged separately from other items listed on the property inventory report. Ammunition should not be packaged in the same evidence container as the weapon. All firearms should be packaged in cardboard gun boxes.
5. All non-folding edged weapons shall be packaged in a cardboard box, and secured in a stationary position within the box, to prevent accidental injury. Folding edged weapons shall be stored in a folded position, and packaged in a sealed, clear evidence bag. Edged weapons containing blood or other evidentiary material should be air-dried prior to packaging, and should not be packaged in plastic.
6. All weapons shall be packaged in such a manner as to protect others from accidental injury.

D. Controlled Substances

1. All controlled substances shall be identified, tested, weighed, and/or counted. Field testing shall be performed unless the entire amount of the substance would be consumed by the field test, in which case testing shall be performed by the crime lab.
2. All controlled substances shall be packaged separately from other items listed

on the property inventory report.

3. Marijuana and other plant material should be dried prior to packaging, and shall be packaged in a sturdy paper container.
4. Syringes and needles shall be packaged in a clear plastic tube and be presented for transport to the State Crime Lab for testing.

E. Body Fluids

1. All evidence suspected of containing hairs, fibers, semen, blood, or other body fluids should be recovered, processed and inventoried following the procedures contained in the most current State Crime Lab's Physical Evidence Handbook.
2. Officers inventorying biological evidence containing DNA shall clearly note this information on the property inventory report.
3. All biological evidence shall be temporarily placed in the evidence lab room for drying or refrigeration/freezing. A temporary freezer is located in the evidence lab room for this purpose. When evidence is placed in this freezer, it shall be secured with the provided padlock. The original property inventory report must accompany the evidence.
4. A photocopy of the original property inventory report shall be forwarded by the inventorying officer to the Property Officer. This will serve as notification of its location.
5. If the biological evidence requires refrigeration or freezing, the Property Officer, upon receipt of the property inventory copy, will be responsible for promptly transferring the evidence to the refrigerator/freezer located in the property room
6. If the biological evidence requires drying, it is the responsibility of the investigating officer to check on its progress. When the drying process is complete, it is the investigating officer's responsibility to properly package and transfer the evidence and original property record to a secure evidence locker for transfer to the property room.

F. Sexual Offenses

1. If the possibility exists to collect physical evidence from the victim, the victim should be taken to the Sexual Assault Treatment Center, located at (Sheboygan Memorial Medical Center 2629 N 7th Street, Sheboygan, WI)
2. The investigating officer should accompany the victim to the treatment center to photograph possible injuries and to receive items of evidence recovered from the attending physician.
3. Officers should contact the Wisconsin Crime Lab at (414) 382-7500 if there are any questions concerning the proper handling and inventory of evidence.

G. Motor Vehicles

1. Vehicles may be processed at the scene if removal of the vehicle to another location might compromise the integrity of the evidence. Otherwise, all vehicles seized as evidence shall be towed to the Elkhart Lake Police Department for processing and stored in the impound lot.
2. Vehicles will be inventoried on a vehicle information report.

The tow bill shall be attached to this report.

3. All vehicles are subject to an inventory search. An inventory search is an administrative measure designed to protect motor vehicles and their contents while in police custody; to protect the Department against claims of lost, stolen or damaged property.
4. An inventory search also protects Department personnel and the public against injury or damaged property due to hazardous materials or substances that may be in the vehicle. Officers are to document in the incident report that an inventory search was completed.

Scope of Inventory Searches

- a) An inventory search may extend to all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including but not limited to the passenger compartments, trunk and glove box.
 - b) The contents and all containers found within the vehicle are subject to an inventory search, including but not limited to all open, closed or locked containers. Care should be taken not to unnecessarily damage items found during the inventory. Any damage to items or the vehicle resulting from an inventory search shall be noted in the incident report.
 - c) Property seized from a vehicle during an inventory search for safekeeping purposes shall be documented on a property inventory report.
 - d) Items of evidence or contraband found during an inventory search may be seized and retained for use in connection with a subsequent criminal investigation.
5. Vehicles seized as evidence should not be released unless charges are dismissed or upon approval of the District Attorney's Office or other relevant prosecuting authority.
 6. No vehicle shall be released until payment of the tow bill and related storage fees, if any have been satisfied.
 - a) Once the vehicle has been released from custody the owner shall be notified to pick up the vehicle and is responsible for payment of the tow bill

and related storage fees, if any.

- b) If the owner is not located, or the vehicle is not claimed within two (2) days of release, then the vehicle shall be presumed abandoned under Village Ordinance 11.02 and shall be treated as such.

- 7. Asset forfeiture proceedings for a motor vehicle must be approved by the Chief.

H. Abandoned Property/Safekeeping

- 1. Any property that has been found, abandoned, or seized for safekeeping shall be inventoried.
- 2. The reporting officer shall make a determined effort to notify the property owner and shall document those efforts in the incident report.

I. Currency/Precious Stones & Metals

- 1. All currency, precious stones and precious metals will be packaged separately from other items listed on the property inventory report.
- 2. Currency shall be counted twice in the presence of another officer. Denominations shall be noted on the property inventory report.
- 3. Precious stones and metals shall be described in detail on the property inventory report but officers should refrain from exacting descriptions unless verified by a gemologist.

J. Hazardous Materials

- 1. All explosives, flammable liquids, flammable solids, gases which are flammable, poisonous, or corrosive, and any other hazardous material will not be inventoried unless made safe by a qualified person. A property inventory report will be completed and the items properly disposed of. If such materials are made safe, they may be stored in the designated Flammable Storage Cabinet located in the garage at DPW and a property inventory report shall be completed.
- 2. Hazardous materials required as evidence, whereas if made safe would damage a criminal case, shall be packaged and inventoried under the direction of the State Crime Lab.

K. Alcohol & Other Perishable Items

- 1. Opened containers of alcohol shall not normally be kept in inventory. If needed as evidence, items should be inventoried, photographed and disposed of. For Circuit Court cases the empty containers should be inventoried.
- 2. Perishable items may be inventoried, photographed and turned over to the

owner. If the owner cannot be determined or located, the officer may dispose of these items.

L. Bicycles, Mopeds & Other Large Items

1. All bicycles, mopeds, and other large items seized by the Department shall be inventoried and secured in the Quonset hut storage building. Property tags shall be attached to all items. Items shall be secured using the cable and lock(s) provided to prevent unauthorized removal.

M. License Plates

1. License plates listed as stolen will be inventoried and the reporting agency notified. Stolen license plates may be destroyed if there is no prosecution and/or the reporting agency does not want the plates retained.
2. License plates needed as evidence will be inventoried.

N. Departmental Property

1. The Chief of Police shall assume the responsibility and accountability for all Department owned property. Department personnel are responsible for Department owned property assigned or under their control.
2. Department personnel are not to intentionally misuse, damage or destroy any Department owned property. Lockers, mail slots and filing cabinets assigned to Department personnel are considered Department owned property.

V. SECURE FACILITIES

- A. The Property Officer shall maintain an area of evidence storage lockers within the garage.

Though such lockers are intended for the temporary secure storage of items that have evidentiary value, such lockers may also be used to secure property of a sensitive, delicate, or valuable nature, until the Property Officer can re-locate such items. The Property Officer or designee shall periodically examine the contents of all lockers and attempt to maintain the majority of the lockers in an open and available condition, in order to make this resource available to members of the Department during hours of his/her absence.

VI. PROPERTY AND EVIDENCE STORAGE

- A. All property and evidence either acquired or seized by this Department, shall be stored in a secure and designated area. If material is determined to be evidence and the authorized personnel necessary to gain entry to the property room are not available, the item(s) should be secured in an evidence storage locker within the Evidence Lab.
- B. In the absence of the Property Officer or designee, the door to the property room and the door to the Evidence Lab shall be closed and locked upon the departure

of any officer or employee.

- C. Certain items of property including high value, sensitive, and/or high-risk property require enhanced security, such as money, jewelry, firearms, and drugs. Long weapons shall be stored within the property room so as to stabilize their position and prevent damage. Jewelry and money are to be secured within a safe located within the property room, while drugs are to be secured within metal drawers of a lockable cabinet located within the property room, and these items are accessible only by authorized personnel.

VII. AUTHORIZED PERSONNEL

- A. In order to maintain accountable security for the property and evidence in possession of the Elkhart Lake Police Department, the following individuals have been entrusted with access to all areas of both property and evidence:

1. Chief of Police
2. Property Officer

Upon any personnel changes to these positions, the locks to the property room door and the temporary storage lockers shall be changed or re-keyed.

- B. Access to areas of property storage only, such as the bicycle storage and impound facilities, shall be enjoyed by all sworn members of the Department through the use of keys provided on the key rings of marked patrol units.

VIII. DISPOSITION OF PROPERTY

In general, all items not of evidentiary value or considered as contraband shall be held for a minimum of thirty (30) days prior to disposal, unless the items can be returned to the lawful owner.

Items that cannot be returned to the lawful owner within that time period may be disposed of by the Property Officer through auction or other methods determined by the Chief of Police.

- A. Items of evidence may be disposed of after completion of all relevant court proceedings, including the appeals process, or upon a court order.
 1. In a case involving evidence, the officer who took custody of and inventoried the evidence shall be responsible for notifying, in writing, the Property Officer when evidence is no longer needed for court proceedings.
 2. The Property Officer shall make a reasonable effort to return the property to its lawful owner if such property can be legally possessed.
 3. Items of evidence which are returnable, but for which no lawful owner can be determined or located, shall be held for thirty (30) days at which time it may be disposed of by the Property Officer through auction or other methods determined by the Chief of Police.

B. There are special requirements for preserving and destroying biological evidence containing DNA.

1. Any biological material, or physical evidence that contains biological material, collected in connection with a criminal investigation that leads to a conviction, delinquency adjudication, commitment, or a finding of not guilty by reason of insanity, pursuant to WI Statute 968.205, requires preservation of this evidence until the discharge date of every person convicted.
 - a) This includes ALL biological material and physical evidence containing biological material collected, not just that evidence relied upon for charging or used at trial for conviction. This includes elimination samples and unidentified samples.
 - b) The discharge date on a conviction is the date in which the person or persons convicted have reached not only the end of incarceration, but also any probation or parole commitments, extended supervision, or juvenile dispositional orders, even if there was no institutional placement.
 - c) The requirements set forth under WI Statute 968 are not just prospective.

The duty to preserve evidence collected within the scope of the statute extends to evidence collected before the statute was enacted, if it was in the possession of the custodial agency on or before the effective date of September 1, 2001.

C. Illegal or contraband property shall be destroyed by the Property Officer, with the exception of fireworks, alcohol, and tobacco products confiscated under a municipal ordinance violation. These items may be destroyed by the investigating officer.

D. Firearms and ammunition.

1. Firearms and ammunition seized pursuant to a warrant or civil or criminal action shall only be released upon a court order. (Reference WI Statute 968.20)
2. In all other cases involving firearms and ammunition the Property Officer shall make a reasonable effort to notify the lawful owner that he/she may apply for the return of the property by contacting the Elkhart Lake Police Department within thirty (30) days of notice and providing sufficient proof of ownership.
3. Firearms and ammunition not released pursuant to a court order or returned to the lawful owner within thirty (30) days of notification shall be transferred to the State Crime Lab for disposal.

E. Lost, abandoned, or recovered property.

1. The recovering officer shall make a determined effort to locate and notify the owner of any lost, found, or recovered property. The recovering officer shall notify the Property Officer whether or not the owner has been contacted and the current status of the property.
2. Any property not claimed within thirty (30) days of notification may be disposed of by the Property Officer through auction or other methods determined by the Chief of Police.
3. The Property Officer or designee shall be alert for any property surrendered to this Department by a citizen that has expressed a desire to retain this property if unclaimed.
4. Property requested by the finder if ownership cannot be established, shall be conspicuously marked as such and retained for a period of 1 year, after which the original complainant shall be contacted.

If the original complainant cannot be located or relinquishes interest in this property, the Property Officer shall dispose of it in the best interests of the Village of Elkhart Lake.

- F. No Department employee shall keep for his or her own use property found in the course of duty or take possession of property during off-duty hours when the discovery was made while on duty. Employees are prohibited from storing property in their personal desks, lockers, vehicles, homes, or other places that are not secure or would interrupt the chain of custody.
- G. The Property Officer shall prepare and maintain a list of all property that may be disposed of by auction or other methods and submit said list to the Chief of Police upon request.
- H. Release of property to the public shall be performed primarily by the Property Officer or an individual with full access to all areas of property and evidence. Other officers and/or employees should refrain from releasing property to the public, unless such arrangements are made ahead of time with the Property Officer.
- I. When property is released, the transfer shall be documented on the original property inventory form. This shall include the date of release, signature of the releasing officer and the signature of the person receiving the property.

IX. PROPERTY OFFICER RESPONSIBILITIES

The Property Officer shall be an officer designated by the Chief of Police. The Property Officer shall be responsible for the property management function, which includes the official inventorying, custody, security, storage, record keeping and disposition of evidence and property.

- A. Duties of the Property Officer include:

1. The management and security of the property room(s).
 2. To ensure the safekeeping, accurate recording and proper disposition of evidence and all lost, abandoned, recovered and unclaimed property.
 3. The maintenance of property control logs, reports, and files in a complete and efficient manner of all property/evidence and their status under the control of the Department.
 4. To return, or caused to be returned property that may be released to its owner.
 5. The disposal or destruction of property upon direction of the Chief of Police, criminal courts, or as prescribed by ordinance or statute.
 6. The processing and routing of evidence for appropriate testing and analysis as required.
 7. Any other duties related to the property control function as designated by the Chief of Police.
- B. The Property Officer maintains the right to refuse to accept any property which is not properly marked, packaged or documented, and the right to refuse to release any property for which release has not been properly authorized.
- C. Access to the property room is restricted to the Property Officer and other personnel authorized by the Chief of Police.

X. INSPECTIONS

- A. On a semi-annual basis, the Property Officer shall conduct an inspection to determine if officers are following property control procedures.
- B. Whenever there is a change in personnel for the Property Officer position, the new Property Officer and a designee of the Chief of Police shall conduct an inventory audit. The audit should be sufficient to ensure the integrity of the system and the accountability of the property.
- C. An annual audit of the property room shall be conducted by a supervisor not directly associated with property room management. The annual audit should be a random sampling of property to satisfy the supervisor that policy and procedures are being followed.
- D. Unannounced inspections of property storage areas will be conducted as directed by the Chief of Police.
- E. Written results of all inspections and audits are to be forwarded to the Chief of Police.

- F. The Property Officer shall make every effort to insure that property stored by this Department is packaged, labeled, and retained in a uniform manner and that any changes or improvements in the management of property and evidence control shall be communicated throughout this Department to all sworn and applicable civilian personnel.

Michael Meeusen
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 06/01/2015