 

|  |  |  |
| --- | --- | --- |
| Property & Evidence Management | Related Policies: | |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.* | | |
| Applicable State Statutes: K.R.S. 67.592; K.R.S. 500.090; K.R.S. 500.093; K.R.S.16.200 | | |
| KACP Accreditation Standard: **27.1, 27.2, 27.3, 27.4, 27.5** | | |
| Date Implemented: | | Review Date: |

1. **Purpose:** The purpose of this policy is to outline the procedure of this department with respect to property, contraband or evidence that is seized. All property, with the exception of vehicles, will be dealt with under this policy.
2. **Policy:** The policy of this department is to provide for the safekeeping of all property that comes into the possession of this agency. With respect to evidentiary items, this agency shall maintain a proper chain of custody and secure such items in a manner that will ensure that the evidence is available to be admitted at trial.
3. **General Provisions Applicable To All Evidentiary Items:**
   1. Access to property room limited to assigned personnel only.
      1. Access by other individuals must be documented by name, date, purpose, time-in, time-out and the initials of the assigned personnel accompanying the individual.
   2. Members of this department shall only seize items under the following conditions:
      1. Officer has probable cause to believe that an item is contraband. (Contraband is an item(s) that by their very nature are illegal to possess. E.g. illegal narcotics.)
      2. Officer has probable cause, at the moment of seizure, that the item to be seized is stolen.
      3. Officer has probable cause, at the moment of seizure, to believe that the item is evidence of a crime.
   3. When seizing items of value (money/jewelry/precious metals/electronics) officers shall make a handwritten inventory of the items at the scene of the seizure. Two officers shall conduct this inventory of the property. Both officers shall then sign the handwritten inventory.
   4. In cases where professional expertise is required to make a proper accounting of the property, the commanding officer of the unit shall be notified so that the services of an expert may be obtained.
   5. Once an item is seized it shall be transported to police headquarters by the end of the officer’s tour of duty.
   6. The officer who has seized the property shall fill out a \_\_\_\_\_ Police Department property form.
   7. In cases where the items relate to a criminal investigation all forms necessary for criminal processing shall be compiled.
   8. Evidence shall be properly marked or tagged with the report number, the date of seizure, the arresting officer’s name and identification number as well as the suspect’s name where applicable. A full description of the item including make, model and serial number etc. should be included where available.
   9. If items of evidence are being transferred to another agency all necessary chain of custody records shall be completed.
   10. The item shall then be stored in a secure area within the seizing officer’s assigned area which has been previously designated by the commanding officer of that assigned area. The only exception to this provision shall be cases where the case will be charged by a different unit within the agency or cases where the forensic unit (where applicable) has seized the evidence. (WHERE AGENCY PROPERTY/EVIDENCE ROOM IS MANNED WITH PERSONNEL OR WHERE AGENCY HAS PASS-THRU LOCKER SYSTEM-THE EVIDENCE SHALL BE IMMEDIATELY TRANSFERRED TO THE EVIDENCE/PROPERTY ROOM)
   11. In cases where the seizing officer’s assigned unit will turn a suspect over to a different unit for charging, the evidence shall be turned over to the charging officer along with the suspect.
   12. Once the evidence has been secured, it shall remain in the secure area until such time as the property/evidence room(s) is open so that the evidence can be secured in the property/evidence room(s).
   13. Commanding officers shall designate officers who shall be responsible for delivering evidence to the property/evidence room.
   14. Designated officers shall deliver evidence to the property room where the evidence/property officer will conduct an inventory. This inventory shall be conducted in the presence of the officer making the delivery. Each officer shall initial each item on the property form and sign the bottom of the form indicating that all items on the form are accounted for. (IN AGENCIES WITH PASS-THRU LOCKERS-THIS ACCOUNTING WILL OCCUR ONCE THE EVIDENCE/PROPERTY CLERK REMOVES THE ITEMS-IN CASES WHERE THE PASS-THRU LOCKER SYSTEM IS AVAILABLE, A SUPERVISOR OR SECOND OFFICER SHOULD WITNESS THE PLACEMENT OF THE ITEM IN THE LOCKER)
   15. If any discrepancies are discovered between items listed on the property form and the items being delivered to the property room, the designated officer shall report this discrepancy, in writing, to his or her commanding officer. The evidence officer shall report the discrepancy, in writing, to his or her direct supervisor.
   16. In cases where a discrepancy has been reported, the commanding officer of the unit that held the evidence shall cause an immediate investigation within his or her unit to resolve the discrepancy at issue. If the discrepancy cannot be explained or resolved, the matter shall be turned over to the Internal Affairs Division for further investigation. In all cases the Chief shall be notified of the discrepancy and be kept abreast of the investigation.
   17. Evidence security: The property system of the agency incorporates special security and control measures to safeguard all money, firearms, controlled substances, and high value items within the protective custody of the agency.
   18. Evidence Processing Station/Property Room: The department shall maintain an evidence processing station and property room that complies with all OSHA standards.
   19. Bio-Hazard Section: The department property room shall maintain a specific area for Bio-Hazard property/evidence.
   20. Smoke alarm system is in place, at a minimum an audible stand alone smoke alarm.
4. **Evidentiary Narcotics:**
   1. Officer who seizes drugs shall complete all paperwork that accompanies these arrests. The suspected narcotics should be field tested, where applicable, properly packaged and tagged. The tag should include the report number, defendant’s name, date of seizure, and the seizing officer’s name. The tagged narcotics along with the property form shall then be placed into the pass-thru locker or other designated secure area. Copies of all associated paperwork should be included with the evidence.
   2. **Evidentiary Narcotics:** 
      1. Drugs should be removed from unnecessary exterior packaging and a net weight taken and recorded.
      2. Evidence should be properly bagged and tagged and a gross weight should be taken and recorded.
      3. Evidence examination report shall be typed.
      4. Any drugs as well as money which has been seized shall be logged in a “drug evidence log.” The gross weight of the narcotics; the amount of cash, if any, and any vehicle seized must be recorded.
      5. The tagged and bagged narcotics and any cash seized should then be placed in the designated secure area/locker.
      6. Each morning the evidence officer will check the designated secure area/locker or pass-thru locker system for evidence. Upon retrieving the evidence, the evidence officer shall initial the “drug evidence log” indicating that he has received the evidence listed in the log. If the evidence officer finds any discrepancy between the “drug evidence log” and the items in the secure area/locker, he shall immediately notify, in writing, his or her supervising.
      7. The evidence officer shall then submit the narcotics evidence to the appropriate agency for toxicological examination. A member of that agency will sign a receipt for the evidence.
      8. The evidence officer shall maintain the receipt to insure that the chain of custody for the evidence is maintained.
      9. Once a toxicology report is received, the evidence/property clerk shall file the report for use in a subsequent criminal prosecution.
      10. The evidence/property clerk shall be responsible for ensuring that narcotics sent for toxicological testing is returned and properly documented as well as stored in the designated area of the evidence room.
      11. When the evidence is needed for court, the officer assigned to the case shall notify the evidence officer. The evidence officer shall enter the drug locker and retrieve the evidence. The officer handling the case shall sign and date the “drug locker log” indicating that he or she has accepted the evidence.
      12. The evidence custodian will maintain data base that documents the “out to court transactions” and notifies the evidence custodian that the evidence which was removed for court has not been returned in accordance with the policy. Immediate notifications shall be made to the officer and his supervisor until such items are properly retuned.
      13. When evidence is returned from court it shall be returned to the custody of the evidence officer who shall initial the “drug locker log” indicating the return of the drugs. The evidence officer shall then return the narcotics to the drug locker. If the evidence officer is unavailable, the officer returning from court shall place the narcotics in the designated secure area/locker for overnight storage. A supervisor or second officer should witness this placement. In such cases the evidence officer shall retrieve the narcotics from the designated secure area/locker the next day and complete its return to the drug locker as outlined above.
      14. In cases where items of evidence are needed for court on several occasions but are not held by the court, officers must follow the above outlined procedure and sign the evidence out each day. In no case, will drugs be stored in any other manner than outlined in this policy when held in the custody of this department and its members.
      15. When there is a final disposition in the case, the officer handling the case shall notify the evidence unit of the disposition of the case. The evidence unit shall verify this disposition with the court so that a determination can be made regarding the continued custody or disposal of the narcotics.
5. **Non-evidentiary narcotics:** Narcotics that are abandoned and narcotics turned over to police as articles found: In these cases the narcotics are not used as evidence in criminal trials thus it is not necessary to have a toxicology exam performed on the drugs.
   1. Article found-drugs turned over to the police-with no suspect. The officer who initially takes custody of the item must complete a report and a property form as well as tagging (officer’s name, date of recovery, and report number) and bagging the item. The item shall be weighed for a gross weight prior to placement in the secure area. The tagged item and its property form should then be placed in the designated secure area/locker/pass-thru locker system.
   2. The evidence clerk shall retrieve the item from the secure area, verify the gross weight and then secure the item in the narcotics storage area until such time as the items is to be disposed under the provisions of this policy.
   3. Narcotics that are seized as the result of controlled buys.
      1. A toxicologist need not examine these narcotics since they will not be used as evidence in a trial.
      2. In conducting a controlled buy, the investigating officer draws a check from an agency checking account, set up for this purpose, which is made out to the investigating officer. The officer cashes the check and uses the cash for the purchase.
      3. In cases where an informant is used the officer who cashed the check will turn the cash over to the informant who is going to make the controlled buy. A search of the informant will be conducted prior to the control buy to verify the absence of any narcotics. The investigating officer will then conduct a close surveillance of the informant while he or she makes the controlled buy. The informant will be searched immediately following the controlled buy and the purchased narcotics are recovered and the absence of the “buy money” is noted. (NOTE: all informants who are paid must have complete file within the agency. This file shall be a restricted access file as designated by the chief of police/sheriff.)
      4. In buy/bust operations a record of the serial numbers of cash used for the buys shall be maintained.
      5. The officer who is handling the controlled buy shall compile a “controlled buy form.” indicating the name of the officer, the date, the location, the check number, and a description of the article purchased, the signature of the supervisor working at the time of the buy and the gross weight of the item purchased. The controlled buy form is then heat sealed to the bag and the bag shall be placed in the secure area/locker/pass-thru locker system.
      6. A supervisor, designated by the chief of police/sheriff shall be responsible for reconciling the amount of drugs purchased with the amounts of money drawn by officers for these purchases. The supervisor conducting this reconciliation shall sign the controlled buy form as “Evidence Supervisor” indicating that this reconciliation has taken place.
6. **Narcotics Disposal**
   1. It shall be the responsibility of the evidence officer to perform a monthly reconciliation between the drugs within the custody of this department and the disposition of cases. The purpose of this reconciliation is to determine those cases where the drugs will no longer be needed as evidence. In cases where the drugs are no longer needed, the drugs will be destroyed in accordance with the procedures set by State Statute and Administrative Regulations.
   2. A drug destruction sheet indicating which narcotics are ready for destruction shall be prepared by the evidence officer on a monthly basis. This destruction sheet shall include the following information: report number, toxicology number, name of defendant, disposition of the case, gross weight of the narcotics and two open categories for the initials of the officer who ultimately destroys the drugs as well as the outside witnesses and a second open category where the date of destruction will be filled in following destruction.
   3. The drug destruction sheet shall be forwarded to a supervisor designated by the Chief of Police who will verify the dispositions of the case.
   4. A command level officer designated by the Chief of Police shall review the drug destruction sheet and determine the compliance with the above listed procedure. Once it has been determined that there is compliance the designated officer shall approve the destruction of the narcotics in writing.
   5. If it is determined that the destruction sheet does not meet the criteria set forth in this policy, the designated officer shall direct the individuals responsible for compliance on what is necessary to correct the deficiencies. No drugs will be destroyed before there is complete compliance with the above listed procedure.
   6. Once the designated command level officer has approved the destruction of drugs, a copy of the destruction sheet shall be forwarded to evidence clerk.
   7. Narcotics will then be destroyed in accordance with the procedures set by State Statute and Administrative Regulations.
7. **Stolen Property:** In addition to the general provisions of this policy the following particular provisions also must be complied with when dealing with stolen property or property for which there is probable cause to believe is stolen. It should be noted that state legislatures set diverse requirements for types of stolen property and for property that has been recovered as stolen from varying crimes. It is the intent of this policy to be broad enough to cover all stolen property irrespective of the crime or type of property that will meet all the requirements of law.
   1. When dealing with any type of stolen property officers responsible for that property shall comply with the provisions of the Kentucky state law.
   2. Officer shall secure the property believed to be stolen and create an inventory detailing the property taken into custody in accordance with the general provisions of this policy.
   3. The evidence officer shall maintain a log of every item brought into the custody of this department and verify that the property is assigned a report number.
   4. The evidence officer may deliver the stolen property to its rightful owner upon satisfactory proof of ownership after meeting the provisions of Kentucky state law.
   5. Anytime a firearm is returned to a person a criminal history check must be done to determine if the person receiving the firearm has been disqualified by some conviction from possessing a firearm.
   6. Prior to the return of a firearm, a check of available databases concerning domestic violence protective, restraining or non-contact orders shall be conducted to determine if the person receiving the firearm is prohibited by law from possessing a firearm.
8. **Other seized property:** In the course of investigating crime it is often necessary to seize what courts refer to as “mere evidence” to establish a connection between a suspect and a crime. This would include items such as wallets with identification, clothing, photographs and any other item that belongs to a suspect, victim or witness to a crime. While some of these items may have no monetary value they may in fact be valuable to the rightful possessor of the property. In addition to the general provisions of this policy which must be followed for all items coming into the custody of this department, the following particular provisions shall also be followed:
   1. Prior to returning any property to a claimant the following criteria shall be met:
      1. A complete photographic record of the items shall be made including at least one photo depicting the claimant and the items shall be made. This photograph shall be tagged by the evidence officer and maintained in the files of the evidence/property unit.
      2. The person claiming the property shall complete a signed declaration of ownership of the items under penalty of perjury.
      3. No items in the custody of this department shall be disposed except in accordance with the provisions of this policy.
   2. Firearms: All firearms that are no longer necessary for evidentiary purposes and have not been returned to a rightful owner following a criminal history check, shall be turned over the Kentucky State Police in accordance with law.
9. **Abandoned Property/Articles Found or turned over to police:** Abandoned property and articles found which come into the custody of this department shall be initially handled in accordance with the general provisions of this policy. In addition to the general provisions, the following specific procedures shall be followed:
   1. If the item contains any identifying feature of ownership, an attempt will be made to contact the owner. If an owner is found then the procedures above for the returning of “mere evidence” shall apply for the return of these items.
   2. While the provisions of state law allow for the quick disposal of property, this department shall make an attempt to contact the claimant of any property before disposing of the property in accordance with the laws of this state.
   3. If no owner can be located then these items will be disposed of in accordance with this policy and the provisions of state law outlined below:
      1. Any peace officer, except for the Kentucky State Police, or court having custody of the property shall, as soon as practicable, deliver it into the custody of the property clerk.
      2. The sheriff or chief of county police designated as custodian of property shall appoint from persons on his staff, or may employ, a person to serve as property clerk and other persons necessary as deputy property clerks.
      3. All the property shall be particularly described and registered by the property clerk, or his deputy, in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants to the property, and any final disposition of the property. The property clerk shall advertise the property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.
      4. The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his deputies, and require security for the faithful performance of the duties imposed by this section.
      5. All animals stolen, strayed, lost, or confiscated that come into the possession of the property clerk shall be sent to an animal shelter located within the county, if there is one, or if there is none to an animal shelter in another county.
      6. No property shall be delivered to the property clerk or his deputy except as provided in this section.
      7. No property shall be disposed of by the property clerk or his deputy except in the manner prescribed by law.
      8. The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to [KRS 95.845](http://www.lexis.com/research/buttonTFLink?_m=29f930f1ef38cd1b5149f985f58feb82&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5bKRS%20%a7%2067.592%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=2&_butInline=1&_butinfo=KYCODE%2095.845&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAt&_md5=4edc745548030917c234bc82a54ecbed).
      9. KRS 67.594.  Use of property as evidence - Disposition.
      10. If any property in the custody of the property custodian is desired as evidence in any court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained by the court, but shall be returned to the property clerk.
      11. All property which has been seized and is forfeited pursuant to law shall be disposed of as provided in the court order of forfeiture.
      12. All property that remains in the custody of the property clerk without any lawful claimant thereto, and which is contraband or which is subject to forfeiture and on which there will be no court action shall be ordered forfeited by the Circuit Court of the county not less than ninety (90) days after it comes into the possession of the property clerk. The order of forfeiture shall specify the manner of disposition of the property and shall be consistent with applicable provisions of the Kentucky Revised Statutes and federal law. If the property is ordered and sold the proceeds shall go to:
          1. The state if the property was seized by an agency of the state or peace officer thereof;
          2. The county, if the property was seized by the sheriff or an agency or peace officer of the county.
10. **Firearms:**
    * 1. All firearms are considered high value items and enhanced security measures should be considered. Firearms should be segregated and not co-mingled with other property and evidence.
      2. All firearms seized for evidentiary purpose pursuant to a criminal offense should be submitted to the appropriate crime laboratory for forensic testing of the weapon and entry in the National Integrated Ballistic Information Network (NIBIN). Once the testing has been completed the firearm will be returned to the submitting officer. The chain of custody shall be properly documented and the weapon logged in and out of the evidence storage area.
      3. All firearms should be stored with some type of protective covering (i.e. a gun box designed and manufactured for this purpose or some type of brown paper wrapping). Gun boxes are preferred over the wrapping. With DNA always an issue in criminal cases and the likelihood it could exist on a firearm, protection of that evidence should always be a consideration. Long guns, rifles and shotguns pose a storage problem due to their size. Long gun boxes are the recommended method of storage.
      4. Safety procedures should be in place and require that any weapon seized by an officer is made “safe” and “inoperable” by physically inspecting the weapon to ensure that the weapon is unloaded and placing some type of device on the weapon to keep it from functioning as designed (i.e. This may be accomplished using a wire-wrap tie down secured through the breach of a firearm to prevent operation/discharge). These weapons should be placed in an individual gun storage box and sealed. Some means of visibly identifying the weapon as inoperable – “SAFE” would increase safety and ensure policy compliance.
      5. No firearm held by the Department will be returned to the rightful owner with or without a court order until a criminal history check and other appropriate database checks have been completed to determine if the owner would be in violation of law to possess a firearm. No firearm should ever be returned to the owner who is prohibited from lawful possession. A note that appropriate checks were completed prior to return should be documented in the evidence management system.
11. **Inspections/Audits**
    1. Inspections of the Evidence/Property Storage Areas will be conducted to ensure:

Storage areas are clean and orderly

Integrity of property is maintained

Provisions of agency orders and directives are followed

Property is protected from damage and deterioration

Accountability procedures are maintained

Property having no further evidentiary value is disposed of promptly.

* 1. Inventories, audits and Inspections will be conducted as follows:
     + 1. Semi-annually, the primary property/evidence manager shall conduct an inspection to determine adherence to procedures used for the control of property. This inspection shall be documented via memorandum directed to the Chief of Police.
     1. Whenever the primary property manager is assigned and/or transferred from the property and evidence control function, an inventory of all property/evidence will be conducted, to ensure that records are correct and properly annotated. This inventory will be conducted jointly by the newly designated property manager and the outgoing primary property manager or other person as designated by the Chief of Police. This inventory shall be documented via memorandum directed to the Chief of Police.
     2. An annual inventory of property will be conducted by a Supervisor not routinely or directly connected with property control. The Supervisor will be accompanied by an evidence custodian. It is highly recommended that this inventory be inclusive of all property held by the Department however it may include only a random sample of a sufficient number of property records to ensure proper accountability. This inventory shall be documented via memorandum directed to the Chief of Police.

Annual unannounced inspections and random sample inventories of property storage areas are conducted as directed by the department’s Chief of Police or their designee. Unannounced inspections shall be documented via memorandum directed to the Chief of Police.