



BRAINTREE POLICE DEPARTMENT

Policy and Procedure

Property and Evidence

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GENERAL CONSIDERATIONS

Storing, safekeeping, and managing of property and evidence are major responsibilities, not only for the evidence personnel, but for all personnel 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 personnel 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.

DEFINITIONS

Property and Evidence Function: The process defining how the Braintree Police Department collects, maintains, and documents the chain of custody of property and evidence.

Evidence Personnel: Personnel assigned by the Braintree Police Department who are responsible for fulfilling the duties set forth in the Property and Evidence Function.

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 room.

Destruction: Contraband, unwanted firearms, ammunition, or other items confiscated by police personnel or turned in by citizens for disposal. Citizens submitting property for destruction relinquish all rights of ownership to such property.

Evidence: Property which potentially may be presented as an exhibit in court, or before a board or other body.

Found Property: Items lost by and not in the custody of the owner.

Inspection: An examination of the agency's property and evidence storage areas to determine that they are being maintained in a clean and orderly fashion, that the agency directives concerning the property and evidence management systems are being followed (property and evidence handling, documentation, etc.), and that the property and evidence is being protected from damage and deterioration.

Inventory: An accounting of every item of property and evidence.

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.

Property and Evidence Record: Electronic records contained in the property and evidence management program that document and describe an evidence item and reflect its status within the custody of the property and evidence function. **[84.1.5]**

Evidence Room: A designated storage room for property and evidence under the control of the property and evidence function.

Safe Keeping: An item temporarily in the custody of the police for the purpose of its safe retention on a limited basis for official business.

POLICY

It is the policy of this department to:

- 1) Effectively and efficiently manage, treat (as necessary), and control all found, recovered and evidentiary property and any other property coming into the custody of this department;
- 2) Properly and lawfully preserve, package, record, account for, handle and store all property and evidence recovered or turned in to the department;
- 3) Dispose of property and evidence that are no longer useful or are potentially dangerous, as provided by law; and
- 4) Maintain strict accountability for all property and/or evidence.

PROCEDURES

- 1) Property and Evidence Function Administration and Management
 - a) Property Custodian: The Evidence personnel shall be responsible for managing the property and evidence function.
- 2) Security and Access to Property Storage Areas **[84.1.2]**
 - a) Authority to Access the Primary Storage Room

- i) The department shall maintain areas for the secure storage of items of property and evidence in the custody of the police department.
 - ii) Unescorted access to such areas shall be limited to employees who are assigned to work regularly in such areas by the Chief of Police, or his/her designee.
 - iii) Other persons may access property and evidence storage area provided that:
 - (1) They are escorted at all times by evidence personnel or the Deputy Chief of Administration.
 - (2) They are accessing the area for a legitimate work function such as:
 - (a) Conducting an inventory;
 - (b) Conducting an inspection;
 - (c) Conducting maintenance of the facility or equipment; and
 - (d) Visitors shall not enter the property room for the purpose of station tours.
- b) Property Room Security
- i) 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, or his/her designee.
 - ii) Key issue and control shall be the responsibility of the Deputy Chief of Administration.
- c) Limited Security Storage **[84.1.1 e]**
- i) 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; and
 - (2) Vehicles and trailers shall be locked and/or immobilized if possible.
 - ii) Keys shall be submitted to the property and control function.
- 3) Handling of Property and Evidence
- 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:
 - i) 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.)

- ii) Property or evidence shall not be left unattended or unsecured at any time.
- iii) Property and evidence shall be handled with care so as to protect any evidentiary value of the item.
- iv) The chain of custody shall be carefully maintained with as few persons as possible taking custody of the property or evidence.
- v) 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.
- vi) Personnel shall log into the department computer system lost and found property and property turned in for safekeeping or destruction.
- vii) 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.

4) Documentation of Property and Evidence

- a) All property (Evidentiary, Seized, Recovered, Impounded, Abandon, and Found) shall be logged in to the property section of the department's records management software prior to the end of personnel's tour of duty. The entry must include as much of the following information as is known: **[84.1.1 a]**
 - i) Association with the incident number;
 - ii) A description of the property;
 - iii) Quantification of the item (number, weight, size, etc.);
 - iv) Type of property (evidence, found, destruction, etc.);
 - v) Name of owner or custodian, if known; and
 - vi) All Property (Evidentiary, Seized, Recovered, Impounded, Abandon and Found) in the custody of this police 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, describing each item of property obtained and what is to be done with the property, such as: **[84.1.1c]**
 - (1) Hold for evidence;
 - (2) Forward to a laboratory for specific testing;
 - (3) Destruction or disposition; or
 - (4) Return to owner.
- b) A computer entry shall be made for any custody change, status change or change in other pertinent information about the evidence, which is not clearly described by virtue of the proper completion of all required fields within Records Property Module.

- 5) Packaging and Labeling of Property (Evidentiary, Seized, Recovered, Impounded, Abandon, and Found) **[84.1.1 d]**
- a) A property label generated by a property and evidence program should be affixed to the property container, bag, box or hang tag. Employees should not stick labels directly on any metal item or any item that could be damaged by the label adhesive.
 - b) The property or evidence items shall be packaged and labeled prior to being submitted to the property and evidence control function. To some degree, packaging and documentation should be guided by the needs of the case.
 - i) Items which need to be individually identified should be individually packaged (i.e., a bag of marijuana found in a suspect's pocket, a bag of marijuana found in the glove compartment, a marijuana roach found in an ash tray).
 - ii) Items which are similar and may be identified collectively may be packaged collectively (i.e., five bags of marijuana found in a vehicle's console).
 - iii) Refer to the Braintree Police Department Packaging Manual for guidance.
 - c) Large/Bulky/Oversized items such as bicycles and safes, which will not fit into an evidence bag, shall be tagged. A hang tag with a property tag generated by the property and evidence program attached. **[84.1.1 e]**
 - i) Personnel shall place this evidence into the evidence prep room for further processing.
 - d) Items requiring further processing shall be:
 - i) Clearly marked, using the labels provided, to identify what type of examination or method of examination is requested;
 - ii) Packaged so as to avoid destroying or contaminating the evidence; and
 - iii) Marked to warn evidence personnel that the item must be handled with care (fingerprints, DNA, etc.). Evidence personnel shall not be responsible for the destruction or contamination of evidence not properly packaged or marked.
 - e) Items (with the exception of drugs) requiring further processing by the Massachusetts State Police Laboratory shall be submitted with a copy of the incident report.
 - f) Accuracy and completeness are important. Items not properly submitted will be returned to the personnel or his/her supervisor for reprocessing and resubmission.
- 6) 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 evidence personnel. 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.

7) Handling Valuable or Sensitive Items **[84.1.1 e] [84.1.2]**

- a) Employees must use a higher level of caution when dealing with valuable or sensitive items, such as cash, jewelry, precious metals, and drugs.
 - i) Drugs
 - (1) 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.).
 - (2) Unsealed bags of powder or vegetable matter should be weighed.
 - ii) Cash
 - (1) Cash shall be counted by at least two employees.
 - (a) The PADtrax Money Counter should be used whenever possible.
 - (i) The money counter scans for counterfeit money.
 - (ii) The money counter scans bills to log serial numbers.
 - (iii) If used a receipt should be printed and submitted in the evidence bag with the money.
 - (2) The results of the count shall be entered in the property section of the records management system.
 - (3) The cash shall be placed in a sealed bag to be submitted to the property and evidence function.
 - iii) Jewelry
 - (1) Jewelry which could contain precious metals or stones.
 - (2) This might include expensive watches or other such items.
 - iv) Precious Metals: Precious metal in a solid form may be quantified. Metal in flakes, dust, etc. shall be weighed.
 - v) Other Valuable Items: Other items of value may, in the discretion of the employee or supervisor, require such handling.
- b) All items shall be placed into the temporary evidence storage lockers.

8) Delayed Entry and Packaging **[84.1.1 b]**

- a) 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.
- b) Property or evidence items seized in an after-hours incident or search warrant may be secured to be processed after employees have rested.
- c) Such actions must be authorized by a supervisor.
- d) The storage area must be secure and the integrity of the evidence not compromised.

9) Submitting Evidence:

- a) Barring extraordinary circumstances, as authorized by a supervisor or as accepted by this directive, all property shall be submitted to the property and evidence function prior to the end of personnel's tour of duty. **[84.1.1 b]**
- b) Direct Submission: Property and evidence shall be directly submitted into the custody of the property and evidence room.
- c) After Hours Storage: **[84.1.3]**
 - i) Property and evidence to be placed in the custody of the property and evidence function when such personnel are not on duty shall be temporarily stored in the submission lockers located in the evidence prep room.
 - ii) Bulk items such as bicycles, safes, and vehicles which will not fit into an evidence locker shall be tagged and left in the evidence prep room or the garage, with permission of a supervisor. **[84.1.1 e]**
 - (1) The item must be placed in full view of the surveillance camera.
 - (2) Vehicles or items to be processed for evidence shall be protected with crime scene tape.
 - (3) Uninvolved employees shall not handle items left in the garage or the evidence prep room.
 - (4) No cars may be washed in the garage when a vehicle or property items to be processed are present.
 - iii) Temporary Evidence/Property Storage:
 - (1) Designated temporary evidence storages areas are available for property which has not yet come under the control of the property and evidence function. The primary temporary evidence/property storage area shall be the evidentiary prep room adjacent to the evidence room.
 - (2) 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.
 - iv) Receiving and Storing Property and Evidence
 - (1) Receiving Property
 - (a) The evidence personnel may receive property or evidence directly from an employee.
 - (b) For property and evidence removed from temporary storage, the evidence personnel shall:
 - (i) Take custody of the property and follow processing procedures outlined below.

(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) Check the items for proper packaging and documentation. Items not properly prepared need not be accepted and may be returned.
- (c) Store or prepare property and evidence for transportation to the appropriate lab.
- (d) The reporting personnel or the property and evidence function shall 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. **[84.1.1 f]**
- (e) Prepare property for legal disposition, such as auction or destruction.

(3) Drugs

- (a) Drugs in the custody of the property and evidence function are the responsibility of the evidence personnel.
 - (i) Drugs shall be received, processed and stored under the supervision of the evidence personnel.
 - (ii) Only the evidence personnel will transport drugs to and from the appropriate state drug laboratory.
 - 1. In the absence of one of the evidence personnel, other police personnel may accompany the evidence personnel to the state drug laboratory.
- (b) Drug Storage: Drugs shall be stored in the primary storage room or the evidence trailer in the case of bulk drug evidence. **[84.1.1e]**
- (c) Transfer of Custody: When drugs are being issued from or returned to the custody of the property and evidence function, the evidence personnel shall inspect the drug packaging and contents for any evidence of damage or tampering.
 - (i) The evidence personnel shall inspect the evidence. If the evidence personnel believes that the evidence has been compromised:
 - 1. The evidence personnel 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.
 - 2. 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.
 - 3. The packaging shall be preserved as evidence.

4. The Chief of Police shall be advised, and the evidence personnel shall submit a report to the Chief of Police regarding the incident.
 - (ii) The Chief will notify the Deputy Chief of Administration and Lieutenant of Professional Standards to initiate an immediate investigation.
 - (iii) Additionally, as part of that investigation, the Deputy Chief of Administration and Lieutenant of Professional Standards shall ensure a full inventory and audit of all drugs and drug records is conducted.
- (d) Destruction:
 - (i) Drugs may be destroyed upon receipt of an order of destruction issued by the court, after adjudication of a case, or when submitted to the property and evidence function for that purpose.
 - (ii) When drugs are to be destroyed, the evidence personnel will ensure that the drugs are prepared for destruction in accordance with guidelines set forth by the Department of Public Health or the Massachusetts State Police Narcotics Inspection Unit (MSP NIU).
 1. All drug cases and reports shall be reviewed by the District Attorney's Office.
 2. Drug destructions must be authorized by the Chief of Police.
 3. 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.
- v) Hypodermic Needles
 - (1) Hypodermic needles and syringes shall be accepted only when properly packaged to prevent an accidental needle stick. Needles not in factory packaging should be placed into a syringe container prior to being submitted.
 - (2) Laboratory policy prohibits analysis of syringes unless requested by the District Attorney's Office.
 - (3) Needles and syringes which are not to be held as evidence shall be placed in a "sharps container" for collection and disposal by the collecting personnel.
- vi) Fingerprint Items
 - (1) Items submitted for processing for latent fingerprints shall be clearly marked to warn evidence personnel. The property and evidence function shall not be responsible for the inadvertent destruction of fingerprints when the submitted item is not clearly marked.
 - (2) Evidence personnel shall wear gloves when handling such items.

- (3) Such items shall be handled with care so as to preserve any existing fingerprints.
- vii) DNA TESTING Items
 - (1) 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.
 - (2) Such items shall be clearly marked to warn evidence personnel. 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.
 - (3) Such items shall be handled with care so as not to contaminate the item.
- viii) High Value Items **[84.1.1e] [84.1.2]**
 - (1) High value items shall be stored within a secured room such as the temporary evidence storage lockers or the main evidence room.
 - (2) Cash: The property and evidence function will provide storage of cash in the property safe which is located in the secure evidence room.
 - (a) Cash received by the property and evidence function shall be stored in the currency safe until deposited in the bank.
 - (i) Cash will be accepted only if it has been accounted for by the submitting employee and placed in a sealed bag.
 - (ii) All cash will be deposited at the bank in the town account and documentation will be forwarded to the BPD Staff Executive (Finance and Administration Manager) and the Financial Supervisor. The activity will be updated in the property and evidence program along with a scanned receipt.
 - (iii) Cash to be immediately returned to the owner or custodian shall be counted in the presence of the owner or custodian and properly returned. A property receipt shall be obtained.
- ix) Perishable Items: Perishable property or evidence, such as blood or a Sexual Assault Kit, shall be refrigerated in a secure area until such time that it is transported for analysis. A locked submission refrigerator is located in the evidence prep room when the evidence personnel are not on duty. **[84.1.1 e] [84.1.2][84.1.3]**
- x) Firearms
 - (1) 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.
 - (2) 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 using evidence tape.

- (a) Prior to determining whether the firearm is loaded, the recovering personnel should determine whether the weapon needs forensic examination. Weapons needing examination should not be unloaded and must be collected by Massachusetts State Police Crime Scene Services. All firearms not requiring further examination will be checked for ammunition as soon as practicable in a safe area to minimize risk in the case of an accidental discharge.
- (b) Any firearm submitted to the property and evidence function will be checked by the evidence personnel to ensure the weapon is unloaded and safe.
- (c) Any firearm removed from an evidence box or container shall be checked to ensure that it is unloaded and safe.
- (d) No firearm shall be stored with a magazine inserted into the magazine well.
- (e) All firearms will be checked through the CJIS/NCIC computer system before being turned in to the evidence personnel.
- (f) If the firearm(s) is seized as evidence of a crime it shall be entered in CJIS as a "Crime Gun" using the Crime Gun (131Q) Record tab located under CJIS Web Manage State Files.
- (g) Each firearm shall be individually boxed.

(3) Firearms shall be stored in a locked room within the property room, which will remain secured and locked when not in use. **[84.1.1 e]**

xi) Combustible Liquids **[84.1.1e]**

- (1) Combustible evidence such as gasoline, toluene, paint thinner, etc., shall be stored in a secure area designated by the evidence personnel.
- (2) Personnel should not transport flammables.

xii) Explosive Devices **[84.1.1 e]**

- (1) No live explosive devices shall be accepted or stored by the property and evidence function.
- (2) Under no circumstances are explosive devices such as dynamite, hand grenades, blasting caps, etc., to be brought into the station.
- (3) When an explosive device or suspected explosive device is located, the personnel locating the device shall inform a supervisor, who shall notify the appropriate Bomb Disposal Unit.
- (4) Upon being rendered safe, non-explosive components may be properly received.

d) Temporary Release of Property **[84.1.1 g]**

i) Primary Release of Property

- (1) The temporary release of property or evidence from the custody of the property and evidence function shall be conducted or coordinated by the evidence personnel.
- (2) Property may be released for the purposes of:
 - (a) Use as evidence in court or another hearing;
 - (b) Laboratory examination;
 - (c) Identification of property by the owner, custodian, victim, or witness;
 - (d) Investigation; and
 - (e) Other law enforcement purposes.
- (3) Whenever property or evidence is removed from the custody of the property and evidence function, the chain of custody shall be maintained.
 - (a) A notation shall be made in the property section of the records management system, containing the following information:
 - (i) Date and time;
 - (ii) Property number(s);
 - (iii) Reason for removing the item (court, laboratory processing, investigation, etc.);
 - (iv) The evidence personnel 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; and
 - (v) The person receiving temporary custody of property must return the property promptly.

ii) Secondary Temporary Release of Property **[84.1.1 g]**

- (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.); and
 - (e) Signature of the person taking custody.
- (3) **Note:** Money is to be released only with an order from the court.
- (4) 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.
- iii) The department does not store any controlled substances, weapons or explosives under the control of the “Property and Evidence Function” for training or investigative purposes. **[84.1.4]**
- iv) Final Disposition of Property
- (1) Procedure for determining evidence or property to be auctioned, disposed of, returned or destroyed:
- (a) Evidentiary value of items must first be considered:
 - (i) Items from open court cases or active investigations shall not be destroyed without authorization from the DA’s Office.
 - (ii) Items related to major felony cases (murder, home invasion, armed robbery) will be held for an extended period of time.
 - 1. The Chief of Police or the DA’s office should be consulted prior to destruction of evidence related to these cases.
 - (iii) Items related to minor felonies or misdemeanors may be considered for destruction after completion of incarceration, parole or probation or other court finding resulting in the case being closed.
 - (iv) Items related to unsolved investigation may be considered for destruction after consultation with the investigating personnel or expiration of the statute of limitations.
 - (b) Once determined that final disposition is warranted the item will be returned, auctioned or destroyed.
 - (i) Items being destroyed should be rendered inoperable.
 - (ii) Paper documents will be shredded.
 - (iii) Clothing, fabric items and pliable plastics shall be cut or shredded to a point they are no longer usable.
 - (iv) Items that have been rendered unusable can then be placed in the dumpster.
 - (v) Large metal objects and all knives, clubs and various weapons will be transported to the DPW or a scrap yard, to be cut and/or melted.

- (vi) Biohazardous materials will be placed in the proper containers to be destroyed in an appropriate manner.
 - (vii) All labels regarding case information, victim, and/or suspect identity will be removed from the packaging.
 - (c) Documentation: The evidence records will be updated to show the final disposition with the date and name of the Evidence personnel who destroyed the items.
- (2) Releasing Property **[84.1.1 g]**
- (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:
 - (i) The date and time of release;
 - (ii) The property number of each item released;
 - (iii) A brief description of the property item;
 - (iv) Name of person to whom the property is released -- if multiple property sheets are used, this information need only be captured on one sheet; and
 - (v) Signature of the person to whom the property is released.
 - (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."
- (3) Disposed 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 or destroyed."
- (4) Property Submitted for Destruction
- (a) When receipt is received of property submitted for destruction, such property shall be processed and held for destruction.
 - (b) Drugs submitted for destruction shall be processed in accordance with the guidelines set forth by the Department of Public Health or MSP NIU.
 - (i) Original copies of all drug destruction records shall be maintained by the evidence personnel.

(5) Evidence No Longer Needed **[84.1.1 f]**

- (a) It is the responsibility of the reporting personnel to notify the property and evidence function when evidence is no longer needed.
- (b) The evidence personnel shall release or dispose of evidence that is no longer needed in accordance with department policy and Massachusetts law.
 - (i) MA 515 CMR 7.03 “(1) Any governmental entity that is in possession of evidence or biological material that is collected for its potential evidentiary value during the investigation of a crime, the prosecution of which results in a conviction, shall retain evidence or biological material for the period of time that a person remains in the custody of the Commonwealth, or under parole or probation supervision in connection with the crime, without regard to whether the evidence or biological material was introduced at trial.”
 - (ii) Such evidence will be promptly returned to the owner whenever possible.
 - (iii) The property and evidence function shall make a diligent effort to notify the owner. **[84.1.1 e]**
- (c) If the owner or custodian cannot be located or is not known, such item may be disposed of after being held for no less than thirty (30) days.

(6) Photograph of Evidence, Return of Property to Owner **[84.1.1 g]**

- (a) Evidence may be returned to the owner or custodian, at the discretion of the case personnel or District Attorney’s Office, after having been photographed. The photograph may be admitted in judicial proceedings as competent evidence.
 - (i) The property may then be released to the victim prior to trial, provided that the return does not compromise prosecution of the case.
 - (ii) In determining whether or not to return the property to the victim, the case personnel must weigh the hardship created for the victim against the value of the evidence in future court proceedings.
 - (iii) Return of property in superior court cases must be approved by the District Attorney’s Office.
- (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.
 - (i) When applicable, a readily identifiable object should be used for size comparison.

- (ii) 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 into 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.
- (7) 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.
- (a) If the owner becomes known and makes a claim to such property within one year, the property shall be returned to the owner. ⁱ
 - (b) If the owner remains unknown or does not make arrangements to obtain the property within one year of the date of finding, the property may be returned to the finder. ⁱⁱ
 - (c) If the finder does not claim the property, such property may be disposed of at auction or destroyed. ⁱⁱⁱ
- (8) Other lost, stolen, Abandoned, or unclaimed Property **[84.1.1 e]**
- (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:^{iv}
 - (i) Property left behind by arrested persons; and
 - (ii) Safe keeping property not reclaimed by the owner after notice or attempt of notice.
 - (b) The Shift Commander or his/her designee shall document the property which was left behind by the arrestee.
 - (c) All such property shall be retained for a period of at least one month.
 - (d) The property may be sold at auction, provided that:^v
 - (i) The owner or owner's abode or place of business is unknown;
 - (ii) If the owner, owner's place of abode or business is known, the owner shall be notified by registered mail; and
 - (iii) 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 or destroyed.

- (9) 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.^{vi}
 - (b) All other property seized in execution of a search warrant shall be disposed of as the court or justice orders.
 - (c) Rifles, handguns or shotguns 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.
- v) Disposition of Firearms
 - (1) Firearms turned in for Disposition: Unwanted firearms turned in to the police department for disposition shall be delivered to the State Police for destruction.
 - (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.
 - (b) Firearms held in excess of thirty days may be transferred to a bonded warehouse for storage.
 - (3) License suspension or revocation; Transfer of Firearms by owner: Firearms surrendered Pursuant to Suspension or Revocation of License ^{vii}
 - (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.^{viii}
 - (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.^{ix}
 - (5) Firearms, Violations
 - (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.
 - (b) Otherwise, unless directed by the court, firearms shall be forwarded to the State Police for disposition.

- (c) Firearms, Serial Number Removed or Mutilated: Such firearms shall be delivered to the State Police for destruction.
- (d) Unlawfully possessed silencers shall be delivered to the State Police.
- vi) Asset Forfeiture **[84.1.8]**
 - (1) Documentation
 - (a) 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.
 - (b) A report shall be filed documenting:^x
 - (i) The exact kinds, quantities and forms of property;
 - (ii) From whom the property was received;
 - (iii) Under what authority it was held, received, or disposed of;
 - (iv) To whom it was delivered; and
 - (v) The manner of destruction or disposition.
 - (2) Asset Storage
 - (a) Such item shall be stored pending the outcome of such action.
 - (b) Vehicles shall be locked, and stored in a secure area.
 - (c) Cash shall be stored in the evidence safe in the property room until submitted to the bank.
 - (d) 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 by the responding personnel.
 - (b) The following documents shall be forwarded to the District Attorney's Office Seizure Unit:
 - (i) Request for Asset Forfeiture Form; and
 - (ii) An affidavit, which 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.

- (c) All funds shall be disbursed as directed by the forfeiture judgment. Such funds may be used for the following purposes:^{xi}
 - (i) To defray the cost of protracted investigations;
 - (ii) To provide additional technical equipment or expertise;
 - (iii) To provide matching funds to obtain federal grants; or
 - (iv) 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:
 - (i) Official use by the department or other public agency; or
 - (ii) 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.
- vii) **Federal Asset Forfeiture [84.1.8]**
- (1) Federal asset forfeitures will be conducted in conjunction with the federal agency involved with the asset seizure.
 - (2) Funds received shall be deposited in a police holding account for federal asset forfeiture funds only.
 - (3) Such funds shall be used only for purposes lawfully allowed by the federal asset forfeiture program.
 - (4) The keeper of the records shall maintain records of all asset forfeiture funds received and disbursed and shall comply with annual reporting requirements.
- viii) **Annual Accountability Responsibilities [84.1.6 c]**
- (1) **Inventory:** Each year the Deputy Chief of Administration will oversee an accounting of every item of property and evidence.
 - (2) **Audit:** Each year the Deputy Chief of Administration will oversee an inspection of the documentation and accountability of a random sampling of in custody property and evidence sufficient to evaluate the integrity of the property and evidence room.

(3) The audit shall include all high risk items:

- (a) Cash;
- (b) Jewelry;
- (c) Firearms; and
- (d) Drugs.

ix) Property Room Integrity Inspections

(1) The department should conduct scheduled and unscheduled inspections, inventories, and audits of the property and evidence room to maintain a high degree of evidentiary integrity over agency controlled property and evidence.

Inspections: Shall be conducted by the Deputy Chief of Administration on a semi- annual basis.

. The inspection are conducted to determine if:

- (i) Evidence room records are being maintained in full compliance with the procedures outlined in this directive, and proper accountability procedures are being maintained;
- (ii) Property is properly stored and protected from damage and/or deterioration;
- (iii) Property having no further evidentiary value is being disposed of promptly; and
- (iv) The evidence/property rooms are being maintained in a clean and orderly condition.

Unannounced Inspections: [84.1.6 d]

(1) Unannounced inspections of the property storage areas shall be conducted as directed by the Chief of Police, at least once a year.

(2) Accountability and security procedures will be the primary focus of this inspection.

(3) The inspection report shall be filed by the Deputy Chief of Administration.

(4) All inventory, audit, and inspection reports will be completed by the Deputy Chief of Administration. A digital copy of the report will be filed electronically in the Police Share Drive, as well as a paper copy filed in the locked evidence file cabinet located in Administration.

x) Reassignment of any evidence personnel:

Should any of the evidence personnel be reassigned, there shall be an inventory and inspection of the records of all evidence/ property or drugs in custody by: **[84.1.6 b]**

- (a) The former personnel.
- (b) The new Evidence personnel, and
- (c) Their supervisor.

All discrepancies should be recorded prior to the assumption of property accountability by the new custodian.

ⁱ M.G.L. c. 134, 3.

ⁱⁱ M.G.L. c. 134, 4.

ⁱⁱⁱ M.G.L. c. 135, 8.

^{iv} M.G.L. c. 135, 7.

^v M.G.L. c. 135, 7.

^{vi} M.G.L. c. 276, 3.

^{vii} M.G.L. c. 140, 129D.

^{viii} M.G.L. c. 140, 129D.

^{ix} M.G.L. c. 140, 129D.

^x M.G.L. c. 94C, 47(e).

^{xi} M.G.L. c. 94C, 47.