

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page 1

Revised by SRS 08/2012 Henderson County Sheriff's Office

1.

To establish guidelines and procedures for the management and disposition of evidence and property.

PURPOSE

2.

A. General

PROCEDURES

1. All property and evidence seized or collected by Sheriff's Office personnel will be stored in the Evidence Management Section or a designated Temporary Evidence Storage Locker **before the end of the Deputy's tour of duty on the work day the property or evidence is seized or collected.**

2. Evidence seized by other agencies or seized by Sheriff's Office personnel for cases assigned to other agencies such as FBI, SBI, ATF, etc. **will not** be stored in the Evidence Management Section, but will be released at the scene to the investigating agency.

3. When deputies release evidence to other agencies at the scene, the custody transfer will be documented on a Property Receipt.

4. Per authority of the District Attorney, evidence may be released directly to the owner/victim by Deputies in the field by use of an Evidence Stipulation Form. This form may be used when the ownership of the property is not in dispute and the owner/victim agrees to the required stipulations under the following circumstances:

a. The offense is a misdemeanor and the evidence is not a weapon;
or

b. The evidence is a recovered stolen vehicle; or

c. Long-term storage will create a hardship for the owner/victim.

d. Deputies may release found property directly to the owner in the field by using a Property Receipt.

e. When either form is used to release property in the field, that form along with an incident or supplemental report will be forwarded to the Records Section.

f. All property and evidence will be inventoried, separated by class codes and properly packaged by the storing Deputy before submission to the Evidence Management Section.

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page 2

Revised by SRS 08/2012 Henderson County Sheriff's Office

g. Officers storing any item of property or evidence will complete a Property Receipt and an Evidence Disposition Form (see Attachments A and B).

h. The case officer is responsible for identifying and documenting owner information on the Property Receipt. Property owners will **not** be determined by Evidence Management Section Personnel.

i. Deputies having any type of property stored in the Evidence

Management Section will promptly respond to all inquiries from the Evidence Management Section regarding the status of their cases and/or property.

j. Property will only be released to the public from the Evidence Management Section Monday – Friday, 0900 – 1500 hours, excluding holidays.

5. After Hours Storage/Air Dry Lockers

a. When the Evidence Management Section is closed, property or evidence will be stored in the Temporary Evidence Storage Lockers.

b. The storing Deputy will complete a Property Receipt, retain the second copy as a receipt, and leave the original in the storage locker with the property or evidence.

c. Property too large to go into a Temporary Evidence Storage Locker will be stored in the Evidence facility and surrounded by crime scene tape. The Property Receipt will be placed and locked in a Temporary Evidence Storage Locker.

B. Storage of Drugs and Money

1. Two Deputies must verify all separate monies stored in the Evidence Management Section, prior to packaging.

2. Drugs and money will be placed in clear plastic bags and sealed. The plastic bag will then be placed in a manila envelope; all seams will be sealed by evidence tape, and initialized by both Deputies.

3. All money will be deposited into a County bank account by Evidence Management Personnel, with the exception of the following:

a. Foreign currency;

b. Money in which the market value exceeds the face value (example: coin collections, silver dollars, etc);

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page 3

Revised by SRS 08/2012 Henderson County Sheriff's Office

c. **Identifiable** money needed as evidence (example: buy money, bank money with dye markings, etc.);

d. Suspected counterfeit or altered currency or mutilated money;

e. Money containing residue from cocaine, etc;

f. Money that may need to be analyzed for blood, fingerprints, etc.

4. **Deputies will note on the Property Receipt when money is not to be deposited.**

5. When drugs are seized that are too large to be stored in a Temporary Evidence Storage Locker, a member of Drug Enforcement Unit will be contacted to assist in storage.

C. Storage of Perishables

1. Perishables **will not** be stored in the Evidence Management Section. These items should be photographed, if needed as evidence, prior to release or disposal.

2. Perishable items **will immediately be returned to the owner**, when the owner is known. Such releases will be documented on a Property Receipt.

D. Storage of Flammable/Explosives

1. Flammable substances (fuel, etc.) will be removed from the container (e.g. lawn mowers, leaf blowers, etc.) prior to the container being

stored in the Evidence Management Section. Such substances shall be disposed of at the County Garage.

2. Explosive and pyrotechnic materials **WILL NOT** be stored in the Evidence Management Section. This includes all types of fireworks.

a. Deputies receiving pyrotechnics should photograph the property if needed as evidence.

b. The Deputy will contact bomb disposal personnel to dispose of all explosives and pyrotechnics.

E. Chain of Custody

1. A unique identification number (Bar Code) will be assigned to each item of property or evidence for tracking purposes.

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page 4

Revised by SRS 08/2012 Henderson County Sheriff's Office

2. A Property Receipt will be attached to each item of evidence stored in the Evidence Management Section to record a history of possession at the time the evidence is checked in or out.

3. No evidence will be viewed, opened, checked out, etc., unless in the presence of or with written authorization from the case officer or his immediate supervisor.

4. When evidence is viewed, opened, etc., the requestor will document the reason for their action(s) on a Property Receipt.

F. Submission of Evidence to the Laboratory

1. Evidence Management Section personnel are normally responsible for submitting and transporting evidence to and from the SBI Lab in Asheville, North Carolina.

2. The SBI "Request for Examination of Physical Evidence" (SBI-5) form will be used when requesting forensic analysis by the SBI Lab. This form will be prepared by the case Deputy or his immediate supervisor and will accompany the evidence to the lab.

3. All evidence will be properly packaged in accordance with this General Order prior to submission to the SBI Lab.

4. Efforts to determine the need for drug analysis should be coordinated with personnel from the District Attorney's Office soon after arrest so as to ensure analysis results are available prior to the court date.

5. Drugs will automatically be sent for analysis in the following situations:

a. All cases involving drug trafficking;

b. Drugs of undetermined substance;

c. For any case involving the seizure of illegal drugs, when the case goes to the grand jury;

d. In any case involving a defendant who qualifies as a habitual felon;

6. Blood Alcohol Test Kits will automatically be submitted to the SBI Lab for analysis by the Evidence Management Section. The SBI-5 form will be completed by the case officer.

7. When evidence is returned from the SBI Lab, Evidence Management Section will notify the case officer and distribute the written "Laboratory Results Report" as required.

EVIDENCE and PROPERTY MANAGEMENT 7-04

8. **NO** evidence that has been submitted to the laboratory for analysis will be opened upon its return unless directed to do so by court personnel. This will ensure that the integrity of the Chain of Custody remains intact.

9. No hypodermic syringes, with or without needles will be accepted at the SBI Lab unless crucial to the investigation. The analysis must be requested in writing by the District Attorney before the evidence is submitted. Therefore, no hypodermic syringes will be accepted by the Evidence Management Section without an appropriate letter from the District Attorney. All hypodermic syringes, with or without needles, must be properly packaged in Sharps Containers.

G. Disposition of Evidence - Disposition of evidence is mandated by statute or specific court order. Unless otherwise directed by the courts, items unlawful to be possessed will be destroyed; items of value will be returned to their rightful owner pursuant to procedures established by NCGS Chapter 15, regardless of value; and items of value in which rightful owner cannot be established will be sold at an auction in accordance with Chapter 15 of the North Carolina General Statutes.

1. Evidence Disposition Verification Process

a. Evidence items will be disposed of at periodic intervals, depending on the type of case. To facilitate this process, items of evidence will be listed on an Evidence Management Section generated form. The listings will be forwarded to the Deputy having the authority to indicate dispositions. Upon receipt of this listing, Deputies will review their cases and determine if there is a need for continued retention. Once completed, the original form(s) will be routed to and retained by the Evidence Management Section.

b. If there is a need to retain the evidence, the Deputy must be able to justify the added retention time. If there is no need for further retention, Deputies must sign the form approving disposal. If case Deputies do not know the court status of their cases, such information can be obtained from the Office of the Clerk of Superior Court.

c. **Deputies are responsible for authorizing disposal of the evidence gathered by them. In arrest cases, Deputies are responsible for requesting court dispositions of evidence items that are involved in their court proceedings.** Property that is seized can only be released to the rightful owner by receipt of a lawful court order or after the case Deputy authorizes the release of said property.

EVIDENCE and PROPERTY MANAGEMENT 7-04

d. Property originally seized as potential evidence in cases that do not reach judicial proceedings, such as cases closed as "Exceptionally Cleared", "Unfounded", etc, can be released by the case Deputy.

e. Storage space is critical and property should be released as soon as possible. In cases which do not reach judicial authority, the Deputy will authorize disposition.

f. Final disposition of found, confiscated or evidentiary property will be accomplished within six months after all legal requirements have been met.

2. Evidence Retention for Unsolved Violent Crimes

a. Evidence seized from unsolved homicide cases will be retained indefinitely in the Evidence Management Section.

b. Evidence seized from **unsolved** or **inactive** rapes and other major/violent crimes will be retained five years from the date of offense in the Evidence Management Section. Disposition of this evidence will then be determined by the case Deputy, his supervisor and the District Attorney's Office.

H. Court Evidence Procedures

1. It is the Deputy's responsibility to inform the District Attorney's Office of all evidence, including exculpatory statements and all reports, known to that Deputy.

2. The Deputy will submit to the District Attorney, the Court Evidence Supplement form, on which the release, transfer or destruction of evidence will be recorded. These documents must be delivered to the Evidence Management Section on the same day of the court proceeding.

3. Superior Court Clerks are responsible for maintaining **all** evidence admitted at the Superior Court level. The Evidence Management Section **will not** accept evidence back from Superior Court unless the evidence was **not admitted** or a **mistrial** occurs.

4. Deputies will return evidence not released or retained by the court to the Evidence Management Section on the same day of the court proceeding.

5. When evidence is admitted, retained or released by the court, the Deputy will bring the signed Court Evidence Supplement Form to the Evidence Management Section on the same day of the court proceeding.

***EVIDENCE and PROPERTY
MANAGEMENT 7-04***

Page 7

Revised by SRS 08/2012 Henderson County Sheriff's Office

6. An exception may be made when a trial is moved/held in a different jurisdiction making same day returns impractical or impossible.

I. Evidence Viewing Process

1. In order to efficiently and professionally execute the viewing of evidence, a mutual effort by the case officer, Evidence Management and court personnel is necessary.

2. In major cases, the case Deputy will coordinate, with court personnel, as to when the viewing of evidence is scheduled.

J. Found and Safekeeping Property: Storage, Retention, Disposition

1. Found Property

a. Found property with no monetary or evidentiary value, and for which the owner cannot be identified, **will not** be stored in the Evidence Management Section **excluding contraband**. The finding Deputy will confer with his/her supervisor and dispose of the property in a trash collection container. The Deputy will document his/her actions in an incident report.

- b. Deputies finding or receiving lost property with a monetary value will first attempt to locate the owner before storing it in the Evidence Management Section.
- c. Whenever possible, Deputies will release found property directly to the owner, using a Property Receipt and obtaining the owner's signature on the supplement at the time of release.
- d. After storing found property, Deputies will continue their efforts to locate the owner and will promptly notify Evidence Management Section personnel when the rightful owner had been identified.
- e. The recovering Deputy must comply with the following before found property can be released to the owner:
 - (1) Identify and record the owner's name, address, race, sex on the original Property Receipt;
 - (2) Complete the "Release To" section of the Property Receipt;
 - (3) Sign his/her name, date and time authorizing the release in the "Authority" section of the Property Receipt.
- f. Where the owner has been identified for property classified as "found" the Evidence Management Section will notify the owner by certified letter or by telephone, so the property may be claimed.

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page 8

Revised by SRS 08/2012 Henderson County Sheriff's Office

Thirty days after notification, the property will be reclassified as "unclaimed" and disposition will be according to NCGS Chapter 15.

g. Where the owner of "found" property is unknown, the Deputy will write "unknown" in the "Owner" section of the Property Receipt.

Evidence Management Section personnel will not, under any circumstances, investigate to determine ownership.

h. Where the owner of "found" property is identified at a later date, the original case Deputy must document the owner's name and address on the original Property Receipt as soon as possible. The Deputy who determines ownership, but who is not the original case Deputy, must notify the case Deputy, of ownership information, via a Supplemental Report. A copy of that report will be forwarded to the Evidence Management Section, the case Deputy, and Records Section.

i. Deputies receiving found money from a citizen will record, in the "Description" section of the Property Receipt, the finder's name, address and telephone number.

(1) Found money that is not claimed by the rightful owner within sixty (60) days may be released to its finder, if the finder makes an official request to the case Deputy.

(2) No found property will be released to the finder except for found cash, and firearms.

(3) If monies remain unclaimed by the rightful owner after five (5) years from the date of release eligibility, the monies will be released to the North Carolina Escheat Fund by the Evidence Management Section per North Carolina General Statute.

j. Evidence Management Section will automatically release found property to the owner indicated on the Property Receipt upon

presentation of photo identification.

k. Prior to release of firearms by the Evidence Management Section, the following is required:

(1) Owner must present photo identification and the case Deputy must authorize release of the firearm unless an appropriate Court Order has been issued.

(2) A computer criminal history will be run by the case Deputy to ensure the owner is eligible to possess a firearm (e.g. Not a convicted felon or subject to a domestic violence protective order).

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page 9

Revised by SRS 08/2012 Henderson County Sheriff's Office

(3) A local warrant check will be conducted by the case Deputy.

l. "Unclaimed" property, after 180 days, will be disposed of by the Evidence Management Section in accordance with North Carolina General Statutes.

2. Safekeeping Property

a. Property seized in the interest of public safety or to provide safe storage until the property can be claimed by the owner will be classified as "Safekeeping" on the Property Receipt.

b. If a Deputy deems the seizure of a weapon necessary as an emergency measure for public safety, the storing officer will indicate the period of time the property should be held, not to exceed 10 days.

(1) If in the Deputy's opinion, the weapon(s) seized should never be returned to the owner, i.e. mental subject, etc, the Deputy will immediately contact the County Attorney to have an affidavit prepared requesting the court to order the forfeiture.

(2) In such cases the Deputy will document on the Stored Property Supplement or Firearms Property Supplement that an affidavit is pending.

c. The owner of any "Safekeeping" property must be identified on the Property Receipt. If the owner is unknown, the property will be classified as "found" property.

d. Prior to release of firearms by the Evidence Management Section, the following is required:

(1) Owner must present photo identification, and the case Deputy must authorize release of the firearm.

(2) A computer criminal history will be run by the case Deputy to ensure the owner is eligible to possess a firearm (e.g. Not a convicted felon or subject to a domestic violence protective order).

(3) A local warrant check will be conducted by the case Deputy.

(4) There must be no pending affidavit for forfeiture.

K. Probate Property - Deputies will refrain from seizing property belonging to a deceased person unless it is seized as evidence or as a last resort for safekeeping. Deputies will be responsible for determining and notifying the Evidence Management Section of the name and address of the individual to

EVIDENCE and PROPERTY

MANAGEMENT 7-04

Page

10

Revised by SRS 08/2012 Henderson County Sheriff's Office

whom the property is to be released. Listing the owner as "next of kin" will not be acceptable.

L. Storing Vehicles at Impound Lot

1. All impounded and seized vehicles will be parked in designated areas, beginning at the power pole at the back fence line working your way forward toward 4th Avenue. The vehicles will be parked with the front end facing toward the gate in a staggered fashion so that a tow truck can get to the back row. The back row of vehicles shall be left at least 3 feet off the fence line, with approximately 10 feet between vehicles. The second row of vehicles will be parked with the rear end even with the back row of vehicles' front end. Parking stored vehicles in this manner should allow us to park approximately 16 vehicles in an orderly fashion. In the event a third row is needed you will need to start the row on the 4th Avenue side of the lot and leave at least 15 feet between second row and third row, parking third row directly in line with back row vehicles. Civil Process will park their seized vehicles in the corner of the impound lot next to the gate with the rear end of the vehicle facing 4th

2. All Deputies when storing a vehicle at Impound will accompany the towing service and show them where to park the stored vehicle.

Avenue. (See attached diagram). Keep a copy of the diagram in your patrol cars so you will know how to park vehicles. There will also be a copy posted at the evidence table.

3. All Deputies storing a vehicle at Impound will complete a Property Receipt with the following information: description of vehicle, tag number, VIN, owner information, reason for storage, whether it can be released and to whom. A Vehicle Inventory Form will also be completed. The original of both forms, along with the vehicle keys (if any) will be placed in an evidence locker or turned in to Evidence Tech during office hours. Also a copy of both forms will be left inside the vehicle. Civil Process is exempt from paperwork on vehicles seized by them for auction.

4. All Henderson County Sheriff's Office vehicles stored at Impound will also have a designated parking area. When there is a need to use these vehicles, they will be returned to the space from which they were taken.

5. The following procedures will determine when a vehicle can or cannot be stored at the Henderson County Sheriff's Office Impound Lot:

a. A vehicle may be stored if it is determined that it is needed as evidence in any court proceedings (Example, a judge, jury or prosecutor may need to view this vehicle during a trial).

EVIDENCE and PROPERTY

MANAGEMENT 7-04

Page

11

Revised by SRS 08/2012 Henderson County Sheriff's Office

b. A vehicle may be stored for processing. Once the processing officer

determines the vehicle is no longer needed, it shall be released immediately to the lawful owner. If the owner is unknown or cannot be located, the vehicle will be released to a commercial towing service facility and so noted on the Property Receipt.

c. Any drug seizure vehicle may be stored indefinitely if the officer seizing the vehicle has reasonable grounds to believe that the seized vehicle will be sold at auction, turned over to the Henderson County Sheriff's Office, or will be needed as evidence in court. If it is determined that these reasons do not apply, the seizing officers will have the vehicle removed immediately to a commercial towing service facility or returned to the legal owner. Property Receipt, Inventory Form and keys need to be turned in to Evidence.

d. Only stolen vehicles which need to be processed for evidence may be stored at Impound. Once the processing officer determines the vehicle is no longer needed, it will be released to the legal owner or transferred to a commercial towing service facility.

e. Vehicles seized by Civil Process for the purpose of public auction may be stored indefinitely until the date of auction.

f. No vehicles seized under the DWI Seized Vehicle Statute will be stored at the Impound Lot. Officers seizing vehicles under this statute should use a commercial towing service and store according to the statute.

g. No personally owned vehicles will be stored at the Impound Lot unless authorized by the Sheriff in writing.

h. Violations of the procedures set forth above may result in disciplinary action.

M. Inspections/Audits/Inventories

1. A quarterly inspection to determine adherence to procedures used for the control of property will be conducted and documented by the Evidence Management Section.

2. An annual inventory of property will be conducted and documented by the Evidence Management Section, with additional assistance as assigned by the Professional Standards Captain.

3. An inventory of property will be conducted whenever a new Evidence Management Section person is designated. The inventory will be conducted by the existing Evidence Management person and the new Evidence Management person to ensure records are accurate and properly annotated.

EVIDENCE and PROPERTY MANAGEMENT 7-04

Page

12

Revised by