

TRANSYLVANIA COUNTY SHERIFF'S OFFICE

Policy #: **6.11**

Policy Title: **EVIDENCE AND PROPERTY**

Date: **July 2007**

PURPOSE: This order is to provide guidelines for the proper handling, care, custody and control of evidence and property. This will ensure the legal integrity of evidence and property through maintenance of an unbroken chain of custody and physical custody.

POLICY:

I. Application

A. Officer Responsibility

It shall be the responsibility of the officer processing or overseeing the processing of the scene to ensure all evidence is properly processed.

Processing the scene may include protecting the scene, documenting all entries or persons allowed into the scene, photographing, diagramming and sketching the scene and the collection and preservation of evidence. It shall be the responsibility of the processing officer to personally submit all evidence into property before ending his/her tour of duty.

All property and/or evidence collected by Transylvania County Sheriff's Office Deputies shall be processed properly through their chain of custody until such time as it is returned to the Office of The Sheriff. This also applies to the Transylvania County Sheriff's Office Criminal Investigations Division and/or Crime Scene Personnel of the Office of The Sheriff.

Property not properly packaged and labeled will remain in the temporary evidence locker. The property officer will contact the submitting officer and have him/her properly package and label the

evidence/property before being accepted and placed into permanent storage room.

B. Property Officer Responsibility

The property officer is responsible for all property/evidence in his/her control, and only he or his alternate has access to areas used to store the property/evidence. He shall maintain records accurately reflecting the exact location, status, date and time the property was received or released, character, type and amount of property on hand, and the chain of custody from the time property is stored until its final disposition.

II. Submission of Evidence/Property

A. Property Record

A property record shall be completed and attached to all property/evidence coming into custody of this agency. The property shall be then submitted to the property officer or placed in temporary storage after hours or when the property officer is not available.

B. Packaging Property

All property/evidence shall be packaged, sealed and properly identified with the submitting officer's name, date, time, OCA number, description of the item including make, model number, serial number and any other special information available prior to its packaging. The property record shall be securely attached to the outside of the package.

Note: Evidence tape and evidence envelopes, bags and containers are stored in a file cabinet in the Patrol Work Area.

Property belonging to a victim and a suspect shall never be packaged together.

When property, because of its size, cannot be packaged, the completed property record must be securely attached to the property itself.

Items such as clothes stained with blood, body fluid, or other wet liquids shall be dried prior to placing them in an evidence bag. Brown paper bags should be used rather than plastic or air tight plastic bags which will cause condensation and mold. Drying items shall be kept secure and attended if not in the custody of the property officer.

C. Money and/or Extraordinarily Valuable Evidence/Property

Valuable property is defined by monetary value of the property being more than \$2,500.00, or the uniqueness of the property or other indicators which designate value or worth.

All monies shall be counted by the submitting officer in the presence of at least one other officer/witness. The monies will then be packaged, sealed and signed by the officer and witness. Money shall be packaged separately from all other evidence/property. The money shall then be placed in the property vault or in a temporary evidence/property locker. If an officer recovers money in excess of \$2,500.00, the property officer will be called in, regardless if he is on-duty or off-duty, to verify the amount of currency and place it in the safe.

The property officer and a witness will verify the cash the next business day and arrange to deposit the case into the Sheriff's Office Evidence Account.

Valuable evidence/property shall be packaged, sealed, and signed by the officer and a witness and stored in a proper manner in the evidence vault.

D. Firearm

Prior to submitting any firearm, it shall be unloaded.

Firearms shall be packaged in either boxes designed for the purpose of storing handguns and long guns or in heavy grade brown sleeve paper.

Firearms shall not be packaged or stored with any other property.

Officers shall check all firearms through NCIC prior to submission to the property officer.

E. Oversized and Heavy Evidence/Property

Any item that cannot be placed in the temporary storage lockers shall be maintained by the seizing officer until the property officer can be contacted to come in and receive the item(s).

F. Hazardous Evidence/Property

When hazardous property such as highly flammable materials, explosives, fireworks etc., is collected, the item(s) shall be maintained

by the seizing officer until the property officer can be contacted to come in and receive the item(s).

G. Drugs and Paraphernalia

All drugs must be packaged separately from paraphernalia in a clear plastic evidence bag unless otherwise dictated.

Syringes and needles, if seized, must be in a secure puncture resistant container.

During hours when the property officer is not on-duty and the quantities of drugs are too large for the temporary storage lockers, the property officers shall be called back to receive the property and secure the property in the evidence/property vault.

H. Evidence/Property Requiring Refrigeration

Rape kits, blood or any other item(s) that may need to be refrigerated shall be stored in the refrigerator designated for evidence/property.

I. Computer Equipment

Computer equipment may contain fragile, valuable information. Care must be taken so as not to damage the equipment or lose information contained in the system. Circumstances of search/seizure request must be considered and proper collection procedures followed.

1. Photographs should be taken to document the condition of the equipment and show how the system was configured.
2. A wiring diagram will be prepared to illustrate all connections. Cables should be tagged before disconnecting. Vacant ports should be labeled as "Vacant" to avoid confusion later.
3. Personnel shall not attempt to retrieve any information from the computer or touch any keyboard keys or other controls.
4. If at time of search/seizure the computer has been turned off, unplug the computer from the power source and follow above procedures to collect and turn in as evidence.
5. If at time of search/seizure the computer is on, the best course of action depending on the circumstances is to call out to the scene or consult with a computer expert. If a computer expert is called to the scene, no one should be allowed to handle any part of the computer system.

6. If the computer is on at the time of search/seizure and it is determined that no computer expert will be called to the scene, photograph the current monitor screen, then unplug the computer from the power source and follow the above procedures to collect and turn in.
7. When collecting computer equipment or other electronic media, care must be taken to avoid static electricity and/or magnetic fields, as important data could be lost or destroyed.

J. Audio/Video Recordings and Digital Media

Video recordings, audio recordings, audio/video recordings, digital media, floppy disc, compact disc and any other type of electronically stored data shall be maintained in the property vault in a separate file dedicated specifically for this type of property.

K. Digital Crime Scene Photography

The use of digital cameras and photography along with standard film cameras shall be an appropriate and acceptable method of documenting a crime scene, evidence, or other activity through photographic methods.

Film processing shall be performed at a retail establishment approved by the Transylvania County Sheriff's Office or at the State Bureau of Investigation Crime Laboratory when deemed appropriate.

Photographs made by the use of a digital camera shall be treated just as any other items of evidence shall be treated. The digital photographs made shall be downloaded on a specified computer in the following manner:

1. The officer responsible for taking digital photographs shall download the photographs to the specified computer as soon as possible after obtaining photographs and before ending his/her tour of duty for the day.
2. The officer shall create a folder in the appropriate photograph file on the specified computer and title the folder with the appropriate name or case file number associated with the photographs.
3. The officer shall download the digital photographs to the appropriate folder and verify the transfer of the photographs to the appropriate folder by opening the folder and viewing the contents for accuracy.

4. The officer shall not delete any photographs from the camera memory until the transfer of photographs has been verified.
5. The officer shall not edit or manipulate the photographs any way other than viewing the photograph(s) downloaded and/or printing copies of the photograph(s) for his/her official report(s).
6. The officer shall make a notation in the case report associated with the downloaded photographs to alert the records division, the property officer or the Sheriff's designee of downloaded digital crime scene photographs.
7. It shall be the responsibility of the property officer or the Sheriff's designee to preserve the downloaded digital crime scene photographs by saving the photographs to a compact computer disc(s) through appropriate computer software. The computer disc shall be treated as any other item of evidence and stored in the property vault in the appropriate media storage cabinet.
8. The compact disc(s) containing the digital photographs shall be marked with the case file number, victim or offenders names, date photographs were recorded to the compact disc and any other data to ensure identification and authenticity of the data contained on the compact disc(s).
9. The property officer shall make an appropriate number of duplicate copies of the compact disc containing the downloaded digital photographs for appropriate distribution to agencies such as the District Attorney's Office, State Bureau of Investigation, Attorney's Office(s) and extra agency copies.
10. Any editing of digital crime scene photographs shall be conducted by using a copy of the original digital crime scene photographs only. The editing shall be conducted using computer software approved by the Transylvania County Sheriff's Office and an official investigative report shall be generated by the officer conducting the editing process explaining what action(s) were taken and/or applied to the photographs during the edit process. This investigative report shall be maintained in the appropriate case file associated with the digital photographs being edited.
11. The edited photograph shall be saved in its edited format to a separate compact disc as outlined under sections 7, 8 and 9 of this section titled Digital Crime Scene Photography.

L. Vehicles

Officers who seize and store vehicles pursuant to a criminal act, civil action, or driving offense shall complete a property record for each vehicle. The property record shall include the description of vehicle,

license number and state, vehicle identification number (VIN) and location stored.

The keys to the vehicle shall be collected and packaged as any other evidence and submitted along with the completed property record to the property officer or temporary storage lockers.

III. Storage of Evidence/Property

All property in the control of this agency shall be maintained in designated secure areas. Currency shall be maintained in a safe until it can be deposited in the bank. Oversized and heavy evidence/property may be stored and maintained at a secure off-site location if necessary.

Evidence/Property is not to be stored or kept in offices, halls or any other unsecured location.

IV. Storage of Evidence/Property After Hours

When the property office is closed and/or the property officer is not available, all evidence/property shall be placed into temporary storage utilizing the following procedure:

1. Properly package item(s) according to the type of evidence/property;
2. Attach completed property record to the item(s);
3. Place the completed property record and the evidence/property into the temporary storage lockers; and
4. After securing item(s) in the lockers, place the locker key in the temporary key drop box.

V. Evidence Needing Laboratory Testing

Any evidence needing to be submitted to the State Bureau of Investigation (SBI) for analysis must be accompanied by the proper completed property record and unless otherwise dictated, the property officer may submit evidence to the SBI via United States Mail, UPS or hand delivered to the SBI Evidence Control Unit.

Laboratory analysis and all documents pertaining to examined evidence/property received from the SBI Laboratory shall be forwarded to the property officer who will forward the results to the agency records division and the District Attorney's Office.

VI. Taking Evidence/Property to Court

When evidence is removed from the property office for presentation as evidence in court, the chain of custody shall be maintained by signing the evidence out through the property officer. Where feasible, the property officer should be notified twenty-four hours in advance of the court date in order to accommodate these requests. Property may not be passed from one officer to another for the purpose of returning it to the property office. The officer checking out the evidence/property is responsible for returning same.

Property introduced as evidence may be maintained by the Clerk of Superior Court during the trial. Upon completion of the trial, the evidence shall either be returned to the property officer for final disposition or left in the custody of the Clerk of Superior Court. The officer shall obtain a written receipt and forward to the property officer.

VII. Disposition of Evidence/Property

It shall be the responsibility of the submitting officer to stay informed of the status of any property submitted. Once a case has been disposed of, it shall be the responsibility of the submitting officer to notify the property officer.

Any evidence/property no longer required by the courts or the submitting officer shall be disposed of in one of the following manners:

1. Return to the proper owner, heir or estate.
2. Dispose of in accordance with state law and agency policy

All property must be finally disposed of within six months after final disposition or any other legal requirements are satisfied.

Homicide evidence shall be maintained for at least two years after an appeals process is exhausted.

VIII. Inspections/Quality Control

The property officer shall conduct a semi-annual quality control inspection to ascertain that procedures are being followed.

Unannounced inspections may be conducted as directed by the Sheriff or his designee.

An annual audit shall be conducted by a supervisor who is not routinely or directly in control of the property.

Preceding any change in assignment for the property officer, an entire inventory of all property shall be conducted by the existing property officer, the new property officer, and one other person designated by the Sheriff or his designee. This inventory shall be used to determine if records are properly annotated and property is present.

on duty supervisor of the officer's employing agency before the service of the order.

MANDATORY REPORTING:

If any employee of this agency has knowledge of an on-going domestic violence situation involving another employee, they should notify their immediate supervisor, who will notify his/her chain of command. The supervisor of the involved employee will inform the Sheriff or Chief Deputy who will initiate a formal investigation.

If any employee is a suspect in an incident of domestic violence that is reported to another law enforcement agency, the employee must immediately notify his/her Captain or Division Chief to begin the internal review process and notify the Sheriff.

A deputy will make a written report of any alleged crime of domestic violence by a law enforcement officer towards his/her intimate partner, just as any other domestic violence incident.

INTERNAL INVESTIGATION:

An Internal Affairs investigation may be conducted in addition to any criminal investigation by order of the Sheriff or Chief Deputy. Any complaints involving Sheriff's Office employees, regardless of whether a law enforcement officer responded and probable cause existed, will be handled with high priority in the investigation process, and will be resolved as quickly as possible within the Sheriff's Office. Discipline for sustained cases of domestic abuse may range from mandatory counseling to suspensions or termination based on the severity of the offense.

The provisions of this policy are intended to further the credibility of the Transylvania County Sheriff's Office, and should not be construed as policy which assumes guilt, penalizes or exonerates employees of this office.

WEAPON SEIZURES-DOMESTIC VIOLENCE:

Weapon Seizures directed by a Domestic Violence Protective Order

In certain cases an Ex Parte Domestic Violence Protection Order may be issued by a District Court Judge or Magistrate directing the seizure of weapons which are owned, possessed, or in control of the defendant.

- (A) The deputy serving the Ex Parte Domestic Violence Protection Order shall make every reasonable effort to comply with the seizure of the

weapons as directed by the order. If the defendant informs the deputy serving the order that they do not own, possess, or have in their control any weapons, the deputy shall direct the defendant to complete the *Denial of Firearm Ownership/Possession* form. If there is specific information in the order which would lead the deputy to believe that the defendant does in fact own, possess or have in their control any firearms, the deputy should request consent to search the residence and/or vehicle for any weapons. If no weapons are found or the defendant denies the deputy's request for a consent search of the residence and/or vehicle, the deputy shall direct the defendant to complete the *Denial of Firearm Ownership Possession* form.

- (B) If no firearms were or are seized as directed by the Ex Parte Domestic Violence Protective Order, the deputy serving the order should make contact with the plaintiff in the case without unnecessary delay directly or by requesting the Victims Advocate to contact the plaintiff directly in the case. The deputy or victim's advocate who contacts the plaintiff shall inform the plaintiff that no firearms were seized pursuant to the Ex Parte Domestic Violence Order. If the victim believes that the defendant in the case does in fact own, possess or have in their control any firearms, the victim should be informed of their right to speak with a Magistrate about obtaining a warrant as directed by N.C.G.S. 50B-4.1.
- (C) If the defendant fails to comply with the weapon seizure as directed by the Ex Parte Domestic Violence Order, and the deputy serving the order has probable cause to believe that the defendant does in fact own, possess or have in their control any firearms, the deputy shall follow the policy of the Transylvania County Sheriff's Office as directed in the Preliminary Investigations by Responding Deputies.
- (D) If the defendant is incarcerated in the Transylvania County Detention center at the time of the service of the Ex Parte Domestic Violence Protective Order, the deputy serving the order shall follow the steps as directed in sub-sections (A) through (C) of this policy.
- (E) Once weapons are seized by the deputy serving the Ex Parte Domestic Violence Protective Order, the deputy shall obtain a case number (OCA#) from the communications center for a *Weapons Seizure-Domestic* report. The deputy should then complete at the scene of seizure a *Recovered/Found Property* report utilizing the same (OCA#) as the *Weapons Seizure-Domestic* report. The deputy shall provide a copy of that report to the person from whom the weapons are seized prior to leaving the scene. After the weapons seizure is completed the deputy will affix an evidence tag with the case number and information and, without unnecessary delay, transport the seized firearms to the Evidence Room at the Investigations Division so those firearms can be properly inventoried and stored.

**WEAPONS SEIZURES AS DIRECTED BY THE TRANSYLVANIA
COUNTY SHERIFF'S OFFICE POLICY:**

In certain cases deputies may seize weapons that are owned, possessed, or in the control of the defendant during the performance of their duties.

- (A) When a deputy has knowledge that a person is in possession of a firearm and/or ammunition, while subject to a valid Domestic Violence Protective Order, or has been convicted of certain crimes making the possession of a firearm unlawful, that deputy shall take appropriate action pursuant to the laws of search and seizure to confiscate such firearms.
- (B) The deputy who seizes the firearm(s) shall make a determination of whether the violation is of state or federal law.
- (C) If the investigating deputy determines there is a violation of a North Carolina General Statute where the person is prohibited from possessing a firearm, that deputy shall conduct a warrantless arrest if the suspect is on the scene.
- (D) If the investigating deputy determines the suspect is in violation of a North Carolina General Statute prohibiting the possession of a firearm and the suspect has left the scene, the investigating deputy shall obtain a warrant from the Magistrate.
- (E) If the investigating deputy determines there is a violation of a United States Code that prohibits the suspect from possessing a firearm and/or ammunition, that deputy shall, after seizing the firearm(s) and/or ammunition, complete a Weapon Seizure-All Other report. This report shall be forwarded to the Bureau of Alcohol, Tobacco, and Firearms, (BATF), as directed by the policy of the Transylvania County Sheriff's Office.
- (F) If a deputy seizes any firearms pursuant to the Transylvania County Sheriff's Office policy in Weapons Seizures-Domestic Violence, a Weapon Seizure report and Recovered/Found Property report utilizing the same OCA#, shall be completed. The Weapon Seizure and Recovered/Found Property report shall include the type of firearm(s), and include the serial number, caliber, brand name, condition and approximate value of the firearm(s) which have been seized.
- (G) The investigating deputy shall provide a copy of the Recovered/Found Property report to the person from whom the weapons are seized or by leaving a copy at the location where seized, prior to leaving the scene.
- (H) When the investigating deputy determines that there is a violation of any United States Code which prohibits a person from possessing a firearm or ammunition, the report shall be forwarded to the Bureau of

Alcohol, Tobacco, and Firearms, (BATF), as directed by the policy of the Transylvania County Sheriff's Office.

- (I) After the weapon seizure is complete the deputy will affix an evidence tag with case number and information and, without unnecessary delay, transport the seized firearms to the Evidence Room at the Investigations Division so those firearms can be properly inventoried and stored as directed in this policy.

WEAPON STORAGE PROCEDURES:

When weapons are seized for safekeeping or as evidence, the deputy seizing the weapon(s) is required to turn the weapon(s) into the Investigations Unit for storage.

- (A) The deputy seizing the weapon(s) is required to tag the weapon with the date and time and owner information. The deputy shall include the case and or court file number and the make and serial number of the weapon. The deputy will place the weapon into an evidence locker with a completed evidence property form.
- (B) The property and evidence custodian will enter the evidence voucher for the weapon(s) seized. The property and evidence custodian will perform a query through NCIC to determine if the firearm is stolen. If a weapon is stolen, the property and evidence custodian will notify the deputy that seized the weapon and the Domestic Violence Prevention Unit. The property and evidence custodian will confirm that the NCIC record is valid.
- (C) The property and evidence custodian will query AOC, DCI, and NCIC for possible violations, which prohibit that person from possessing firearms. A copy of the records will be placed in the master file at the Investigations Unit.
- (D) If the criminal records contains a possible state and/or federal violation of the law, the property and evidence custodian will notify the Domestic Violence Prevention Unit for further investigation.
- (E) The property and evidence custodian will maintain a weapons log for all weapons seized. A separate log will be maintained for each weapon seizure. A copy of the custody release form will placed in the master file for each weapon released.

RELEASE OF WEAPONS:

Weapons, which are seized pursuant to a DVPO, or weapons, which have been seized as evidence, can be released through the following procedures:

- (A) When a District Court Judge issues a court order releasing the weapon(s) seized to the owner or the person named in the order, provided that person has no violations which prohibit the possession of firearms.
- (B) When the domestic violence order has expired. (the defendant must petition the court as in section (A)).
- (C) The person receiving the weapon will furnish to the property and evidence custodian a form of photographic identification, which includes that person's name, date of birth, and address.
- (D) The person receiving the weapon must meet all state and federal requirements to possess a firearm. When firearms are released to a third party, the party must petition the court for release of a firearm as in section (A).