

Haywood County Sheriff's Office

Policy #:

**Policy Title: EVIDENCE: COLLECTION, HANDLING,
PROCESSING, STORAGE AND DISPOSITION**

Date:

PURPOSE:

The purpose of this policy is to provide guidelines for the proper collection, handling, processing, storage and disposition of evidence and property by members of the Haywood County Sheriff's Office.

DEFINITIONS:

- I. Primary Property Officers: The Primary Property Officer shall be appointed by the Sheriff and shall be responsible for the internal handling of all property and evidence until its disposal.
- II. Secondary Property Officers: The Secondary Property Officer shall be appointed by the Sheriff and shall be responsible for the internal handling of all property and evidence in the absence of the Primary Property Officer.
- III. Property Room: The property room is a secure location in which all property, evidence and associated records are stored. Multiple locations may be utilized for various evidence storage needs.
- IV. Chain of Custody: The chain of custody is detailed record of all persons who have had physical custody or control of property or evidence, and of all locations in which such property or evidence has been stored or otherwise maintained, while under the control of the Haywood County Sheriff's Office.
- V. Evidence: Any item seized or otherwise acquired by a law enforcement officer for use in connection with any criminal case, action or proceeding.
- VI. Found property: Non-evidentiary property coming into the custody of a law enforcement agency, has been determined

FINAL DRAFT 8-25-10

to be lost or abandoned, and is not known or suspected to be connected with any criminal offense.

- VII. **Property Held for Safekeeping:** Non-evidentiary property placed into temporary custody and generally held between 30 and 90 days. These items are held to provide an opportunity to determine the legal owner but are not evidence of a crime.
- VIII. **Property and Evidence Manual:** A comprehensive manual that explains in detail the procedures involved in managing the Property Room and its associated functions.

PROCESSING AND DOCUMENTATION:

- I. When collected, property and evidence shall be tagged with the collector's name, date, time, and case number before it is transported for storage.
- II. All evidence shall be separated and placed in its own container, whenever possible. All items that are placed into a container shall be sealed. The collecting member shall then write their initials and the date of seizure across the seal.
- III. All monies collected shall be counted with a second member, Sergeant or higher in rank, verifying the amount counted. The money shall be sealed in a secure container specifically designed and marked for currency storage. The name of the second person counting the money shall be marked on the container.
- IV. All evidence shall be transported from the crime scene to storage or impoundment as soon as possible.
- V. If any member recovers an item of stolen or found property, he shall ensure that the appropriate serial numbers are checked in the NCIC/DCI database. If this is not done, documentation shall be forwarded to records advising them of this and a reason why this was not done.
- VI. Members are responsible for any necessary processing of evidence that they seize for items such as latent fingerprints, serological evidence, etc. A member may request that additional processing be completed by an investigator (via a written request) or by certified lab personnel (via an SBI Lab Request).

- V. All documentation shall be maintained via the PERCS Index Members submitting items into evidence shall enter the items into the computer system and submit the item to the Property Officer for approval.

FIREARMS REQUIREMENTS:

- I. All firearms and ammunition shall be stored separately. In the event a firearm is turned in with live ammunition still in the weapon (the weapons jams or the member is unable to unload it for any reason) conspicuous special notation shall be made on all documents and packaging to alert the Property Officer of the loaded weapon.
- II. If a firearm is seized in any criminal or civil case, the member in charge shall cause an ATF Trace Request to be generated with all required information. This ATF Trace Request shall be turned over with the firearm to the Property Officer for processing.
- III. If a firearm is to be sent for examination by the SBI lab, the packaging shall be filled out but not sealed until the Property Officer checks it for safety.

FOUND PROPERTY:

A member who obtains an item designated as found property (as defined above) shall make a reasonable effort to identify the owner of said property, contact the owner, and make arrangements to return the property promptly. If the owner cannot be determined or contacted in a timely manner, then the item shall be turned into the property room. All found property items shall be processed in the same manner as items of evidence.

PROPERTY HELD FOR SAFEKEEPING:

A member that obtains an item for safekeeping (as defined above) shall document the reason for holding the item and the conditions for release of the item.

SUBMISSION:

FINAL DRAFT 8-25-10

- I. The member in charge of the case shall be responsible for all documentation being correctly completed and ensuring the information is accurately recorded on the property label prior to submission. If any item is too large to be secured in evidence lockers until the Property Officer can arrive, it shall be placed in the possession of the on-duty supervisor until the Property Officer can take possession.
- II. If the Property Officer is unable to accept the property or evidence immediately, the items shall be kept in the secured evidence lockers until the Property Officer can accept the evidence. The items shall remain secure at all times. This storage shall be noted in the chain of custody.

STORAGE:

- I. The Property Officer shall be responsible for receiving, storing, maintaining, releasing, and accounting for all property and evidence in accordance with guidelines set forth by the NC Attorney General in the "Disposition of Property by Law Enforcement" manual and with all applicable NC State Statutes. Access to the property room shall be restricted and all personnel entering and exiting the room shall be required to sign an access log.
- II. When property or evidence is forwarded to the Property Officer, he shall verify the information via the PERCS Index. Computer documentation shall include all information necessary to both identify the items and ensure the integrity of the chain of custody. The Property Officer shall inspect each item and all associated documentation to ensure that they conform to this Policy and the guidelines detailed in the Property and Evidence Manual. If any item or documentation is out of compliance, the Property Officer retains the RIGHT TO REFUSAL and shall alert the submitting member to correct any deficiencies prior to accepting the items.

SENDING EVIDENCE TO OUTSIDE LABORATORIES:

- I. All evidence sent to any laboratory must be packaged to the specifications on the front of the examination request form and the SBI Evidence Field Guide. The Property Officer shall be responsible for ensuring all evidence sent to the SBI Laboratory or other outside laboratory is properly packaged. A Request for

FINAL DRAFT 8-25-10

Examination of Physical Evidence (SBI-5) form shall be completed by the requesting/investigating member and enclosed with the evidence.

- II. The Property Officer shall be responsible for maintaining all evidence submitted to the property room until the transportation of all evidence to the laboratory by the designated person.
- III. Receipts for evidence sent to a laboratory shall be turned over to the investigating member. A file copy shall be retained by the Property Officer.
- IV. At the completion of the analysis, all returned evidence shall be date-time stamped and initialed by the receiving member and placed in a secure evidence locker.

REMOVING EVIDENCE FROM STORAGE:

- I. Members may remove evidence from storage for use in court or for investigative purposes.
- II. Members removing evidence for any purpose shall sign for the evidence and indicate the purpose of the removal. All appropriate forms shall be signed to maintain "chain of custody." All evidence removed from storage shall be returned by the member removing the evidence once the purpose for removing the evidence is complete.
- III. Should it be necessary to leave any evidence with the court, the member removing the evidence shall secure a signed receipt from an official of the court and return it to the Property Officer as soon as possible.
- IV. If the Property Officer is unable to accept the evidence immediately, the evidence shall be kept with the on-duty supervisor until the Property Officer can accept the evidence. The evidence shall remain secure at all times.

DISPOSAL OF PROPERTY AND EVIDENCE:

- I. The Property Officer shall be responsible for purging stored items within the property room on a periodic basis.

FINAL DRAFT 8-25-10

- II. To do so, the Property Officer shall submit a Property Disposal Request form to the member that submitted the items. Members are responsible for requesting court disposition information as to any such evidence. If it is determined that the property or evidence is to be held, the Property Disposal Request form shall be completed, indicating that such retention is necessary, and returned to the Property Officer within three weeks of receipt. If the property is no longer needed, the seizing member shall submit the proper paperwork to the District Attorney for evidence disposition or to authorize disposition of items retaining no evidentiary value.
- III. With a court order, or under the direction of the District Attorney, items of evidence that can be returned to the rightful owner shall be delivered to them, and it is the responsibility of the member who collected the evidence, or the investigator assigned to the case, to do this.
- IV. In cases that do not reach judicial disposition, the District Attorney may authorize disposition of the evidence in accordance with applicable State law.
- V. Items that do not retain any evidentiary value (property held for safekeeping, found property, etc.) shall be disposed of in accordance with guidelines set forth by the NC Attorney General in the "Disposition of Property by Law Enforcement" manual and the applicable provisions of North Carolina law.
- VI. All items released back to the owner must be documented and signed for by the responsible party. A copy of the signed release must be delivered to the Property Officer, who will retain the same on file.
- VII. The Property Officer has the ultimate responsibility for disposal of evidence. Designated employee may assist the Property Officer by advising him of the disposition of any case involving evidence in storage. Property or evidence shall only be disposed of in accordance with the applicable statute, specific court order, or other means allowed by this Policy. In accordance with these authorities, items of no monetary value or unlawful items shall be destroyed. Items of value shall be returned to the rightful owner, if ownership can be established. Items of value for which rightful ownership cannot be established shall be disposed of under the procedures set forth in the applicable State law.

FINAL DRAFT 8-25-10

- VIII. The disposition of all property or evidence shall be recorded in the master file maintained by the Property Officer.

EVIDENCE FIELD GUIDE:

- I. The SBI Evidence Field Guide (the "Field Guide") and this Policy shall serve as a detailed guide to assist members in procedures of collecting, storing, and disposing of property and evidence. The Field Guide and this Policy are not all-inclusive, as special circumstances may arise during the course of conducting regular Sheriff's Office business which are outside of the scope of the Field Guide or this Policy.
- II. Copies of the Field Guide shall be kept readily available within the Sheriff's Office to be used as a reference.
- III. All new Deputies or other members hired by the Sheriff who may be involved in collecting, processing or storing property or evidence hired by the Office shall receive formal training on property and evidence procedures during their field training phase. This training shall be based upon the procedures set forth in the Field Guide and in this Policy.

To: Haywood County Sheriff's Office Chief Deputy Larry E. Bryson

**From: Retired North Carolina State Bureau of Investigation
Special Agent in Charge R. C. "Toby" Hayes**

RCH

Subject: Evidence Room Inspection

Date: July 28, 2011

On Thursday, July 7, 2011, NCSBI Retired SAC R. C. "Toby" Hayes conducted an unannounced evidence inspection which was limited in scope. The inspection included a general review of evidence handling procedures utilized by personnel of the Haywood County Sheriff's Department and a spot check of evidence within the evidence storage facility of the Sheriff's Office. The inspection also included physical examination of the Criminal Investigations Division office space along with a random sampling of on duty Patrol personnel vehicles.

After announcement of the evidence inspection by Chief Deputy Bryson, Retired SAC Hayes asked Investigators if anyone was in possession of evidence at their work area. Detectives Ed New and James Marsh indicated they had evidence stored at their respective work stations. Detective Mark Mease reported he had syringes in his office which were not evidentiary in nature.

UNSECURED EVIDENCE

Retired SAC Hayes determined Detective Marsh was in possession of a Samsung cellular telephone which he had seized on May 23, 2011 in case number 2011-01492. An arrest had been made in the case and he identified the cell phone as item of evidence number 8. The phone was not packaged or marked in any fashion which identified it as an item of evidence. The cell phone was lying on top of Detective Marsh's desk and was accessible to anyone with access to CID. The remainder of evidence in this case was reported to be in the evidence storage facility. Detective Marsh explained he intended to apply for a search warrant for the purpose of searching contents of the cell phone.

Retired SAC Hayes determined Detective New was in possession of an HP Pavilion laptop computer and computer case at his desk. The computer was unsecured and accessible to anyone with access to the CID office. The Child Abuse Task Force (CATF) case number related to this item was reported as 2011-112. The owner of the computer had voluntarily surrendered it to Detective New during an interview requested by Wyoming authorities, who were conducting a criminal investigation in Wyoming. Detective New received the computer on June 24, 2011 and it had never been placed into the evidence storage facility as evidence. Detective New explained he intended to send the computer to Wyoming for analysis in their investigation and he would have been required to complete a long form report in order to assign it an item number and place it in the evidence vault.

SAFETY CONCERN

Retired SAC Hayes entered the drug investigations office and immediately noticed a brown paper bag containing used syringes located on a chair beside Detective Mease's desk. Detective Mease explained these syringes were found or recovered property which were not evidentiary in nature. Many of these syringes were found and recovered by Patrol Officers who

brought them to Detective Mease for disposal. Detective Mease understood protocol required Patrol Officers to dispose of used syringes in a sharps container at the hospital. Detective Mease did not know why officers bypassed the hospital to bring syringes to him. His only method for disposal was to take the syringes to a sharps container located within the jail area of the Sheriff's Office. Retired SAC Hayes did not determine if the bag was placed on the chair for easy inspection or if the bag was found in its normal position. Regardless of where these syringes are normally stored, there is a safety concern of used syringes being stored in a paper bag instead of an appropriate container. If there is not one in place, Retired SAC Hayes recommends development of a policy/procedure related to collection, storage and disposal of new or used syringes. A distinction should also be made between treatment of syringes for disposal and those seized as evidence.

GENERAL EVIDENCE HANDLING PROCEDURES

Retired SAC Hayes met at length with assigned evidence technicians and discussed general evidence handling procedures. Detective Bruce Warren was the senior investigator and has been tasked with oversight of the evidence storage facility. He is assisted by three other evidence technicians consisting of Detectives Tony Cope, Ed New and Mark Mease. Each evidence technician has solo access to the evidence storage facility. Evidence technicians are also responsible for removing items from the temporary storage bins and logging them as evidence. This process includes documentation of the evidence both by computer and written receipts along with assigning a storage bin/area to each item of evidence. No policy time line exists which requires removal and permanent storage of evidence within a certain time frame. Each evidence technician worked on this aspect during their assigned week. These duties are completed in addition to their normal duties as investigators.

Retired SAC Hayes also learned several types of evidence were stored separately from other evidence. An area within the evidence storage facility referred to as the domestic gun locker was used to store firearms seized for safe keeping as well as those involved with ex parte orders involving domestic issues. Another area within the evidence storage facility contained two individually locking lockers. One was used to store drug evidence from major seizures and the other was used to store US Currency which had been seized. It was noted not all drug evidence was stored in this drug locker. Smaller seizures and those normally related to Patrol functions may be assigned other storage areas within the storage facility. A separate area existed for the purpose of storing all firearms seized in criminal cases.

It was reported that most evidence seized by CID Investigators was marked with handwritten notations as well as required bar code labeling. Evidence technicians explained most evidence seized by Patrol personnel only contained bar code labeling. Patrol personnel were encouraged to make handwritten notations on evidence they seized in addition to use of required bar code labels. Transfers of evidence were documented on a standardized evidence receipt which was signed by the individual releasing the evidence and the individual receiving the evidence. Evidence technicians were also responsible for mailing evidence for laboratory examination. This was done in a way which resulted in returned evidence being directed to the case investigator/officer.

Evidence checked out of storage by Patrol Officers for court purposes was described by evidence technicians as problematic. Technicians noted removal of evidence for court purposes on internal forms, however, were often not informed of the disposition of these items resulting from the court process. Technicians seldom received receipts documenting items entered in court proceedings as evidence and remaining in the custody of the clerk of court.

All evidence technicians described a disconnect involving Patrol evidence seized and what technicians required for disposition of these items. Retired SAC Hayes recommends enforcement of the existing policy requiring a receipt in these circumstances. Additionally, a copy of the receipt should be provided to evidence technicians to facilitate reconciliation of internal evidence records.

Technicians also noted evidence seized by patrol was often treated differently than policy requirements. They described this as a Patrol supervision issue which needed attention/correction.

Bulk evidence storage is accomplished by use of individually locking containers within the fenced and locked impound lot. This area is reported to be monitored from central control via security camera.

Detective Warren produced a list of department personnel with electronic card access to the evidence storage facility. **It was noted custodian Gerald Conner's name appeared on this access list. Under no circumstances should a custodian have solo access to the evidence storage facility. This issue should be examined and corrected immediately.**

PATROL EVIDENCE INSPECTED

During the late morning hours, Retired SAC Hayes conducted a limited inspection of two randomly selected patrol vehicles. One of these vehicles was assigned to and maintained by Deputy Nathan L. Sutton (D-4). The interior of Deputy Sutton's vehicle was clean, orderly and contained no items which appeared to be evidentiary in nature. The trunk of Deputy Sutton's vehicle contained his issued equipment and no items which appeared to be evidence.

Deputy Sutton stated he recently seized two shotguns, one rifle and one bowie knife in a case involving criminal charges against James Patterson. All of these items had been placed in evidence as required. Deputy Sutton stated he understood court dispositions were sent to the Sheriff's Office; however, he was unsure how evidence disposition was accomplished. He understood Detectives took care of these matters and he had experienced no issues related to evidence procedures.

During a subsequent inspection of the main evidence vault, Retired SAC Hayes located evidence seized in the case described by Deputy Sutton during his vehicle inspection. A computer property report was printed (see attachment # 1) and reflected 4 items of evidence seized by Deputy Sutton in file number 2011002048. All 4 items of evidence were located where indicated on the property report. Items 1-3 were tagged, signed and a bar code was attached. Item 4 was packaged in paper bags containing a bar code, but no handwritten notes appeared on exterior packaging.

Retired SAC Hayes then conducted a limited inspection of the vehicle assigned to Deputy Dan Sherrill (D-3). No items which appeared to be evidence were located within the passenger compartment or trunk area of the vehicle. Deputy Sherrill had evidence collection materials in his vehicle along with routine equipment. Deputy Sherrill utilized an empty, plastic twenty ounce soft drink bottle for temporary storage of syringes seized which had no evidentiary value. He stored syringes in this manner until he had time to dispose of them at the hospital. This soft drink bottle was secured in the trunk of his assigned vehicle. Deputy Sherrill reported having used this procedure for the past year.

Deputy Sherrill reported having cases pending which involved evidence. Most notably, he recalled a recent dismissal of a possession of a firearm by a felon case involving Gary Warren. Deputy Sherrill did not appear to have an understanding of departmental evidence disposition procedures and responsibilities of involved personnel.

Based on very limited contact with personnel assigned to the Patrol division, Retired SAC Hayes believes most Patrol personnel believe once they place seized evidence in the evidence lockers, they no longer have any responsibilities or accountability regarding the evidence. This certainly should not be the case and particularly in matters in which Patrol personnel file charges and seize evidence without any participation from Investigators.

EVIDENCE LOCKER AND VAULT INSPECTION

Retired SAC Hayes was accompanied by Detective Bruce Warren for the purpose of conducting a limited inspection of temporary storage evidence lockers and the main evidence vault within the Sheriff's Office. Detective Warren also explained the computerized bar coding system located within the evidence locker area. Detective Warren pointed out this area contained a secure receptacle to enable submission of DNA samples obtained by department personnel. Detective Warren further explained personnel collected required DNA samples, obtained an OCA number, placed a bar code on the sample and secured the sample in the drop box. Detective Warren later retrieved these samples and submitted them to the data base by U.S. mail. Detective Warren did not receive DNA samples collected by jail personnel and he was not familiar with any processes utilized by jail personnel.

Retired SAC Hayes discovered 18 lockers respectively numbered in the evidence processing area located outside the main evidence vault and near the Criminal Investigations Division. All lockers had an individual padlock assigned which was attached to the appropriate locker by a chain. All were unlocked and determined to be empty with the exception of locker number 9, which was secured with a padlock. It was also determined that Detective Cope had emptied the temporary storage lockers on Wednesday, 7-6-11.

Retired SAC Hayes and Detective Warren then entered the main evidence vault and immediately checked Locker number 9, described above. This locker contained evidence in OCA # 201102055. This evidence contained a bar code dated 7-5-11 and the locker also contained the yellow copy of the evidence receipt dated the same date. Detective Jim Schick's name appeared on the evidence which was ready to be mailed to the SBI laboratory for examination. The evidence was described as 10 yellow tablets imprinted with the numbers 36/01 and the letter "A".

Evidence in OCA # 201100184 was located in the internal processing area within the main vault. This item was identified as hair and fiber evidence returned from the SBI lab. This OCA number was not entered into the evidence computer. Detective Warren surmised Detective Cope must have submitted the evidence to the SBI lab instead of placing it into an evidence locker for routine processing. Detective Warren also determined the FBI and NCSHP also possessed evidence related to this case, which was a vehicular death. Detective Warren indicated he would produce an evidence bar code and place it on the evidence.

Detective Warren explained organization of the interior work station located within the main evidence vault. Three separate files are maintained, one for items which were in custody of a lab for testing, another for items for which disposition should be determined and the last for items checked out for court. He was considering adding a fourth category for items ready for

destruction. Detective Warren explained all evidence entering the main evidence vault was entered into the computer at the internal work station. Items were then assigned a storage area within the evidence vault and this location was noted on the property report. Disposition of items was also recorded on the property report and a paper copy was maintained as a back up to electronic tracking conducted by computer.

Detective Warren explained when he received a copy of a court disposition; he updated the property report and attached the court order. He also required photo identification for all items of evidence being returned. If the item being returned was a firearm, he checked the record of the individual receiving the firearm as well as NCIC records for the firearm. Return of firearms is governed by NC General Statutes reflected in attachment # 7.

Detective Warren explained all DWI blood evidence was consumed during laboratory testing. A lab report was provided to the law enforcement officer and the District Attorney's office. Evidence technicians at the Sheriff's Office were not in the distribution chain, but were required to account for this evidence in the system. Detective Warren routinely changed the status of these cases in the computer to reflect a final disposition, in order to clear evidence no longer in their possession.

Detective Warren explained he commonly encountered issues related to paperwork and evidence submitted by Patrol personnel. He provided OCA # 201101991, involving Deputies Jenkins and Blagg, as an example. Detective Warren had two evidence receipts one submitted on 6-30-11 which listed items 1 and 2. On 7-2-11, a second deputy submitted an evidence receipt in the same case which listed item 1. In reality, there are 3 items of evidence in this case; however, no coordination of item numbers occurred between officers involved in the case. Although a minor issue, Detective Warren pointed out this could cause these officers embarrassment in court. In addition, he spends a considerable amount of time attempting to correct issues such as these.

Detective Warren stated all internal records related to evidence were maintained for 10 years.

Gun Locker A was identified as storage for firearms seized in criminal incidents. This locker was entered and evidence previously seized by Deputy Sutton in OCA# 2011002048 was located. Firearms were located within in the gun locker as indicated, but the volume of firearms made these items difficult to locate. Retired SAC Hayes recommends labeling each firearm slot within gun locker A with a number. If each slot were numbered beginning with the number A-1 and the slot number indicated on the property report, much less time would be required to locate firearms randomly positioned in gun locker A.

Gun locker C was identified as storage for firearms seized pursuant to civil issues or for safe keeping. Retired SAC Hayes recommends the firearms slots in this locker be labeled in the same manner described for locker A but utilizing the prefix C, and beginning with C-1.

Gun locker B was originally intended to house items for destruction/disposition. This area was expanded into drug storage and contained two locked containers within the locked locker. One container was designated for significant amounts of drug evidence and the other locker was designated for storage of currency and valuables.

A limited check of drug evidence contained in the drug cabinet revealed 3 items seized by Deputy D. W. Carver in OCA# 200602045. These items were identified as totaling 1349.4 grams of marijuana, and were discovered in a sealed condition. All identifying information on

this container matched other information recorded in property records (see Attachment 5). Not all items from this case were located in the drug locker. All remaining items of evidence were located where indicated on the property receipt form included in attachment # 5. No other evidence in the drug locker was checked at this time.

Detective Warren printed a list of all currency listed as stored in the currency locker (see Attachment 2). Retired SAC Hayes utilized this list to reconcile every item of evidence located within the currency locker. Two non currency items appeared on the list and they were marked with an x. Both were subsequently located on the floor area of Gun locker B and were marked for destruction.

One item identified as \$1,600.00 with OCA # 201000992 appeared on the currency list as stored in the currency locker. A sealed paper bag reflecting the above OCA number was located in the currency locker; however, it was labeled as containing item numbers 1,2,3,5 and 8 of the same case. It did not appear item numbers other than item number 8 appeared on the currency locker list provided by Detective Warren.

Attachment # 3 is a property report for OCA # 2009000243 and it lists item number 3 as \$455.00 in US currency. This item was located in the currency locker and all information on this item and property report is consistent with the master currency locker list reflected in Attachment # 2.

An item containing \$923.44 in US currency with OCA# 2009000789 appeared on the master currency locker list (Attachment # 2), but was not present within the locker. Detective Warren produced a signed disposition receipt indicating the money was seized by Marsha Diaz of the NC Department of Revenue. Disposition of this item should be updated in the computer evidence records.

A series of items of evidence seized in OCA# 2010002198 were reflected as being located in the currency locker. None of these items were present. A property receipt was printed which indicated other items had been seized as well. None of these items of evidence were present in the evidence vault. Detective Warren called Detective Mark Mease, who reported all items of evidence in this case had been removed for court and had been entered as evidence during trial. It was also determined no receipt had been signed transferring the evidence for court purposes and no receipt was obtained indicating the items were admitted as evidence at trial. All items related to this case are reflected in the property report included as attachment # 4.

One unsealed paper envelope containing two \$100.00 bills was located in the currency locker. The OCA # on this item is 2010001993 with the name Matthew Trantham. It is possible these bills were counterfeit; however, no evidence or currency should ever be left in an unsealed condition.

With the exceptions of minor inconsistencies in paperwork or computer record updates, all evidence within the currency locker was accounted for. All randomly inspected drug evidence was also accounted for.

Retired SAC Hayes requested and was provided with a copy of the current evidence policy utilized by the Sheriff's Office (see attachment # 6). The policy was reviewed and was found to contain one section regarding special requirements related to firearms. Another section of the policy refers to the SBI Evidence Field Guide which provides policy and procedure in conjunction with Sheriff's Office Policy and Procedure. The SBI Field Guide was developed by

the SBI laboratory in 1998 and distributed to local agencies in order to provide technical advice regarding the collection and packaging of evidence. The intent was to promote optimal conditions favorable to laboratory testing. **Caution should be used to ensure this guide meets specific policy and procedure needs of the Sheriff's Office and supplements, but does not replace policy and procedure.**

CONCLUSIONS AND RECOMMENDATIONS

Recommendations are contained throughout this report and are generally noted in the appropriate section. The following information is a summary of those recommendations and also includes additional recommendations not contained elsewhere within this report.

All evidence sought by Retired SAC Hayes was located or accounted for. Instances of minor non-compliance with existing policy were discovered throughout the limited inspection. Unsecured evidence discovered in the CID office is unacceptable. Retired SAC Hayes understands the necessity of examining and working with existing evidence in cases, however, evidence should be properly secured at the conclusion of the work day. Improperly stored syringes pose an officer safety health hazard. Specific policy and procedure should be developed governing the seizure, storage and disposition of syringes, both evidentiary and non-evidentiary in nature including used and unused syringes.

It appears policies and procedures outlined in the section entitled "Processing and Documentation" are not being followed by all personnel. Based on this cursory inspection, it appears Patrol personnel are more likely to label evidence with only a bar code instead of the required handwritten notations. It also appears policy and procedure requiring tracking of evidence signed out for court and items entered as evidence at trial are not adhered to consistently.

There was only one section within policy and procedure governing the handling of a specific type of evidence, firearms. It would be prudent to add sections specific to drug evidence as well as currency, jewelry and other items of value. In light of current public scrutiny related to evidence, Retired SAC Hayes recommends re-examination of these policies and procedures. It is also recommended these policies contain specific time lines governing storage of evidence and submission to outside laboratories.

All personnel should be very familiar with all departmental policies and especially those related to evidence handling procedures. Supervisory personnel should ensure all personnel are adhering to policy uniformly.

Evidence technicians appear to be doing a good job of handling and tracking evidence, along with updating records. This is especially true considering the volume of evidence handled in addition to their primary duties. There appears to be a lack of accountability between Patrol personnel and Evidence Technicians. Patrol personnel should be held accountable for tracking their cases through the court process and obtaining disposition regarding items held as evidence. Additionally, they should act as the second officer or witness needed to effect disposition of these items and ultimately be responsible for evidence they seize. This responsibility should not fall to the Evidence Technicians, who have no involvement in most of these cases.

Having several Evidence Technicians sharing evidence handling and tracking duties has the potential to impede continuity within this process. Evidence seems to be accumulating faster than it is being disposed of. The minor issues discovered, in addition to the volume of incoming evidence is indicative the Sheriff's Office is at a critical juncture regarding maintenance of the evidence vault. It is my recommendation the Sheriff's Office should consider assigning a full time Evidence Custodian to facilitate the uniform handling, tracking and timely disposition of evidence.

Finally, I recommend the Sheriff's Office conduct at least one unannounced evidence inspection each year. This inspection should include the evidence vault, temporary storage lockers, CID office and personnel and a random sample of Patrol vehicles and officers. Additionally, a more involved inspection should be conducted once each year. The Sheriff's Office may want to consider a cooperative agreement with other agencies within the county to inspect each other's evidence in this fashion. This arrangement would provide one limited internal evidence audit and a separate, impartial and more thorough evidence inspection annually.

Attachments 1, 2, 3, 4, 5, 6

To: Haywood County Sheriff's Office Chief Deputy Larry E. Bryson

**From: Retired North Carolina State Bureau of Investigation
Special Agent in Charge R. C. "Toby" Hayes**

Subject: Evidence Inspection

Date: April 18, 2012

On Tuesday, April 17, 2012, NCSBI Retired SAC (RSAC) R. C. "Toby" Hayes conducted an unannounced evidence inspection which was limited in scope. The primary focus of this evidence inspection was the main evidence storage vault of the Sheriff's Office. The inspection also included physical examination of the Criminal Investigation Division (CID) office space along with a random sampling of CID cases from Investigators present on this date. RSAC Hayes also conducted physical examination of a random sampling of on duty patrol vehicles and personnel. Evidence in several randomly selected cases was also inspected. In addition, all evidence contained in the US currency storage locker and drug seizure locker was inventoried.

GENERAL EVIDENCE HANDLING PROCEDURES

Detective Bruce Warren was identified as the senior investigator who has been tasked with oversight of the evidence storage facility. He is assisted by two evidence technicians identified as Detective Tony Cope and Detective Mark Mease. Each evidence technician has solo access to the evidence storage facility. Each is also responsible for removing items of evidence from the temporary storage lockers and logging them as evidence. This process included documentation of the evidence both by computer and written receipts along with assigning a storage bin/area to each item of evidence. No policy time line exists which requires removal and permanent storage of evidence within a certain time frame. Each evidence technician works on this task during their assigned week and these duties are completed in addition to their normal duties.

Detective Warren explained evidence was generally being handled in the same fashion as identified in the inspection report dated July 28, 2011. He also reported no changes to written department policy had occurred since the previous evidence inspection was completed. The previous inspection identified an issue regarding the custodian for the Sheriff's Office having solo access to the evidence storage room. This issue has been corrected and only three evidence technicians have solo access to the evidence storage room. These individuals were identified as Detective Bruce Warren, Detective Tony Cope and Detective Mark Mease.

PROCEDURAL CHANGES

Since the 2011 evidence inspection, three metal storage buildings had been placed in the vehicle impound lot. These are used to store items such as lawn mowers, weed eaters and other items containing volatile materials such as gasoline. In addition, these buildings were used to store bulky items. Each building had a keyed lock on the door and Detective Warren possessed a set of keys for each building. An extra set of keys for these buildings was stored in the key lock box located in the CID office. The impound lot is also fenced and the entry gate is secured with a padlock.

Three locked Conex containers are also present in the impound lot. Two of these are used to store old property and the third is used by the Civil Process Division. Lieutenant Jason Smiley is the only deputy with a key for the container used by Civil Process and Detective Warren has keys for the remaining two containers. Detective Warren reported some of the evidence stored in these containers was over eighteen years old.

Another change to previous evidence handling procedure involves storage of vehicles seized in speeding or fleeing to elude arrest cases as designated by NC General Statute 20-141.5. This statute requires the Sheriff to hold applicable vehicles seized by all departments within the county. As a result, the Sheriff's Office implemented the following procedure for these vehicles. The seizing agency has the vehicle transported to the Sheriff's Impound lot. A Haywood County Sheriff's Office OCA number is generated and the seizure is entered into the Sheriff's Office evidence processing computer, which generates a bar code sticker. A packet of information is completed by the seizing officer and the vehicle keys and wrecker bill are surrendered to the Sheriff's Office like any other evidence. These items are identified by the evidence bar code label. The seizing officer then writes the assigned OCA number on the windshield of the seized vehicle.

If necessary, the Sheriff determines the value of the vehicle so the owner can post a bond through the Clerk of Court, and retrieve the vehicle pending court disposition. Vehicle owners are also responsible for paying a \$5.00 per day storage fee imposed by the Sheriff.

PATROL EVIDENCE INSPECTED

Lieutenant Mike Price of Adam Squad was one of the patrol deputies randomly selected for inspection. RSAC Hayes accompanied Lt. Price to his issued vehicle, which is identified as a 2011 Ford Expedition. This vehicle is marked and is equipped with a dash mounted blue light instead of a roof mounted blue light. The vehicle also has rear safety lights mounted inside the rear cargo area glass. The odometer reading at the time of this inspection was 16,595 miles. This vehicle received an oil change at 14,633 miles. A total of 1,962 miles had been driven since the last oil change.

Lt. Price identified the following departmental issued equipment in his vehicle: a two way radio, siren, blue light and two flash lights. In addition, Lt. Price was issued a Benelli Super 90, 12 gauge shotgun which displayed serial number M407058. He was also in possession of his issued Sig Sauer model P226, .40 caliber handgun displaying serial number UU633054.

Lt. Price had no evidence stored in his issued vehicle. He did have crime scene processing equipment consisting of a box of latex gloves, clear plastic bags and a latent fingerprint processing kit. He did not have an issued camera but reported other deputies on his squad had two departmental issued cameras. Lt. Price did not have a tyvek suit or protective booties, but had a gas mask. He did not have a sharps container or any means to safely store a syringe or other sharp item. All the above listed items were the personal property of Lt. Price.

Lt. Price indicated he had pending cases in which there was evidence. He identified case number 2011-03562 as a possession of methamphetamine case in which there was drug evidence. He produced a copy of the Incident/Offense report for this case, but did not have an evidence report or SBI-5 lab submission. Lt. Price reported he had also been with Deputy Ned Gregory during the seizure of 111 firearms, US Currency and pills. Lt. Price could not identify any major problems related to evidence handling procedures and felt this function was operating smoothly.

Sergeant Craig Campbell was the other patrol deputy randomly selected for inspection. Sergeant Campbell was operating an issued 2012 Dodge Charger, which is marked and has a roof mounted bar light. The vehicle is not equipped with rear deck mounted lights. Sergeant Campbell received this new vehicle during the beginning of March 2012.

Sergeant Campbell identified the following departmental issued equipment in his vehicle: a two way radio, laptop computer/MDT, radar and alco sensor. Sergeant Campbell had also been issued a Benelli Super 90, 12 gauge shotgun which displayed serial number SNM407342. His shotgun was in a case in the trunk of the vehicle and he was scheduled to have a vertical gun mount installed in his vehicle today. Sergeant Campbell was carrying his issued Sig Sauer; model P226, .40 caliber handgun which displayed serial number U749629. Sergeant Campbell had also been issued an M-16 rifle, but was not carrying the rifle in his vehicle since he had not qualified with it.

Sergeant Campbell did not have any evidence in his issued vehicle. He did have latex gloves, but had no evidence packaging materials. He stated he normally carried paper bags, a latent print kit and his personal digital camera, which he only used for crime scene work. He explained he had not completely moved into his new issued vehicle and did not have everything situated in it. Sergeant Campbell did not have a sharps container or anything to safely store syringes or other sharp items in. He did not have a tyvek suit or protective booties for protection at bloody crime scenes.

Sergeant Campbell stated he would like to have some plastic bags for evidence collection and commented he would buy some. RSAC Hayes directed him to obtain some plastic evidence bags from CID. He also expressed an interest in a better latent print kit and would also like to see one or two officers per squad better trained to process fingerprints.

Sergeant Campbell has cases in which evidence has been seized, but he did not recall the case numbers or case names. He understood all evidence seized by patrol should be placed in a temporary storage locker before the end of the shift. He routinely called CID regarding collection of large items or for complex crime scenes. He knew evidence collection required completion of an evidence report, computer entry and bar code labels for each item of evidence. Sergeant Campbell understood if he needed to check an item out for court purposes, he contacted Detective Warren and completed a chain of custody report. He was unsure how to account for items entered as evidence in a court proceeding. After the case was disposed of, he was normally contacted by CID regarding disposition of the evidence.

Sergeant Campbell did not know of a better way for patrol deputies to track disposition of evidence. RSAC Hayes suggested each deputy could check disposition of their own cases at the clerk of court's office when working the day shift. He agreed this was not unreasonable.

CID OFFICE/DETECTIVE INSPECTION

Detectives Bruce Warren, James Marsh and Matthew Beck were the only investigators present during this inspection. None of these Detectives possessed any evidence at their work stations. Detectives Beck and Marsh are partners who routinely work child sex abuse cases together. Case number 2012-00113 was identified as a Burglary case primarily investigated by Detective Marsh. Detective Marsh provided RSAC Hayes with a copy of the Incident/Investigation Report for this case, which included a seized property/evidence report. This report was signed by Detective Marsh and listed four items of evidence seized and was dated 4-15-12.

A property report generated by evidence technicians at the time these items were submitted was dated 4-16-12. This incident was determined to have occurred on Sunday, 4-15-12. Detective Marsh responded to the scene, seized the evidence listed and stored the items in the passenger area of his locked vehicle overnight. He submitted these items to the evidence storage facility on Monday, April 16, 2012. A distinction was made between storing fingerprint and document evidence overnight in a vehicle opposed to storing valuables, drug evidence or other volatile evidence. When asked, Detective Marsh did not know department policy as it related to this situation. A copy of this incident report and supporting documents is included in this report as attachment # 1.

Detective Beck identified case number 201200718 as a damage to property case he responded to while on call. He provided RSAC Hayes with a copy of the Incident/Investigation Report which indicated an initial reporting date of 3-10-12. Detective Beck responded to this location on 3-13-12, but did not collect any evidence. He returned on 3-14-12 with Detective Marsh and collected some bullets as evidence. These items were not packaged at the scene or labeled with item numbers. Detectives Beck and Marsh returned to the scene on 3-15-12 and seized additional items of evidence subsequent to execution of a search warrant. **After returning to the Sheriff's Office, all items of evidence seized were labeled, but were labeled out of sequence in comparison to their seizure.** All items seized on 3-14-12 were listed on a property/evidence report completed and signed by Detective Marsh which displayed no date. Although these items were the first seized, they were listed as items 6, 7, 8, 9 and 10. Detective Marsh completed another property/evidence report for items seized on 3-15-12. This report was not dated and listed items seized during the second visit to the scene as 1, 2, 3, 4, 5 and 11. Some of these items were submitted to the SBI lab on 3-22-12. A copy of this incident report and supporting documents is included in this report as attachment # 2.

Both Detectives reported CID personnel were tracking disposition of their own court cases and trying to dispose of evidence in a timely manner. **Both felt a full time evidence room technician was needed.**

TEMPORARY STORAGE LOCKERS

RSAC Hayes then inspected the temporary storage lockers where evidence was placed awaiting transfer to the main evidence storage facility. Each locker was numbered and had an attached lock. Locker numbers 1-4 were unlocked and empty. Locker number 5 contained items from case number 201200113 and were placed in the locker by Detective James Marsh. The locker contained item numbers 1-4 and a bar code label dated 4-16-12 was attached.

Locker number 6 was also unlocked and empty. Locker number 7 contained evidence from case number 201201142. This item was labeled as vehicle keys from a fleeing to elude case originated by NC State Highway Patrol Sergeant Hugh Feinburg. The date of this incident was 4-15-12 and the bar code label was dated 4-16-12.

Locker number 8 contained items of evidence 1-7 labeled case number 201201126. All 7 items were packaged in one small paper bag and were submitted by Deputy Dustin Siske. The date of the incident was 4-13-12 and the bar code label date was 4-13-12.

Locker number 9 contained items 1-3 from case number 201201088 which had been submitted by Sergeant Jamie McIntyre. Item 1 was an unloaded handgun which was not packaged, but was properly tagged and had the slide locked open. Item 2 was the unloaded magazine from the handgun which was also tagged but not packaged.

Item number 3 consisted of the ammunition removed from the gun/magazine. This ammunition was packaged in a bag and the date of seizure indicated was 4-11-12 and the bar code labels were also dated 4-11-12.

Lockers 10-12 were unlocked and empty.

Locker number 13 contained one dealer license plate from case number 201201135 which was seized by Deputy Nathan Deweese. The date of this incident was 4-15-12 and the bar code label date was also 4-15-12.

Locker number 14 was unlocked and empty.

Locker number 15 contained items from case number 201201035 submitted by Detective Jim Schick. An evidence report listed items 1-5 and contained a notation indicating items 1-3 were located in the garage. A sealed paper bag was marked as containing items 4 and 5. Items 1-4 appeared to be materials related to a clandestine laboratory. This incident occurred on 4-7-12 and the bar code label was dated 4-7-12.

Locker number 16 contained two un-packaged items in an unsealed bag. The items were identified as items 1 and 2 in case number 201201125. Item 1 was a medicine bottle containing a small amount of marijuana. Item 2 was a glass pipe. These items were seized by Lt. Mike Price on 4-13-12 at 2359 hours and the evidence bar code label was dated 4-14-12.

Lockers 17 and 18 were unlocked and empty. This concluded inspection of the temporary storage lockers.

MAIN EVIDENCE VAULT

Detective Warren explained there had been no physical changes to the main evidence vault/storage area. Upon entering the area, he immediately picked up a gun and other packaged items which were accompanied by a court order for destruction. These items originated from a State Highway Patrol case; however, the destruction order did not include the gun itself. Detective Warren explained the court often ordered the Sheriff to destroy guns and contraband for other agencies; however, this order would need amending to include destruction of the gun.

A computer search was conducted for case number 201103562, previously provided by Lt. Price as one of his cases in which evidence was seized. This case was determined to be Sergeant Craig Campbell's case, not Lt. Price's. Items of evidence numbered 1-4 from this case were located in their designated place within the evidence vault. All items were properly sealed and initialed and dates on the bar code labels were consistent with documentation related to this case. Item 3 was identified as a women's wallet containing an unknown amount of currency and cards. **Best accountability practices include identifying and listing the amount of currency and the type of cards seized, while in the presence of another law enforcement witness.** This information should appear on evidence packaging as well as in the report.

RSAC Hayes then randomly selected several cases in which to spot check evidence. One of Sergeant Brian Sizemore's cases was selected for inspection. An evidence report for case number 2011003959 was dated 12-23-11 with a time notation of 1655 hours. This evidence was logged in on 12-24-12.

It appeared the evidence was originally seized by an officer from another agency and Sergeant Sizemore noted the date of seizure as 12-23-11. It appears Sergeant Sizemore took custody of the evidence on 12-24-11, which accounts for its submission as evidence on that date. This evidence was located where indicated on evidence storage records and it was properly sealed and marked. Copies of documents related to this evidence are included in this report as attachment # 3.

One of Sergeant Chris Shell's cases was also selected at random. Evidence in case number 2011003638 was located where indicated on evidence records. The evidence was properly sealed and an evidence report dated 11-21-11 was attached. An evidence report regarding this evidence is included in this report as attachment # 4.

One of Deputy Keith Beasley's cases was randomly selected for inspection. Evidence in case number 2012000517 was reflected on an evidence report dated 2-16-12. Records indicated this evidence was submitted on 2-17-12 and this date was also reflected on the bar code label. These items were located where indicated in evidence records. A property report for this evidence is included in this report as attachment # 5. **It should be noted this evidence was packaged and labeled in an exceptional manner.**

Firearms contained in gun locker A were not individually examined, however, RSAC Hayes noted this area exceeded maximum rack storage capacity and overflow firearms were stored on the floor against the fenced area. **RSAC Hayes recommends an additional storage rack be added to the rear wall of this facility, enabling safer storage of additional firearms.**

Detective Warren printed a computer generated list entitled drugs for destruction. He explained the majority of these items were prescription medications seized at unattended death scenes where no criminal actions occurred. An OCA number was obtained for each incident when medications were seized and placed in the evidence vault by deputies. These items were pending proper destruction. RSAC Hayes noted these items were piled in the floor of the fenced area identified as Gun Locker B. These items made entry and movement in this area difficult. **RSAC Hayes recommends adding another locking metal cabinet in the main evidence vault for storage of these medications and other drug evidence awaiting destruction.** This would effectively separate and secure drug evidence in active cases from drug evidence awaiting destruction. It would also make Gun Locker B more useable. **Many of these packages containing seized medications contained vague or generic descriptions of the contents. Best practice would involve an accurate inventory of these items which should be reflected on the packaging and evidence report.**

In addition to medications seized during the above described incidents, medications removed from the pill drop box located near the lobby of the Sheriff's Office are also placed in this category. These should be inventoried and documented in similar fashion.

The list of drugs for destruction is included in this report as attachment # 6. Cases randomly checked are indicated with an asterisk. One case on this list was noted as containing a general description of seized items.

Detective Warren also prepared a list of items whose location was indicated as the cash locker housed within Gun Locker B. Several items of evidence were discovered in the cash locker, which were not reflected in evidence records. These items were seized during a domestic violence case (201200955) which is pending adoption by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE).

The cash locker contained the following items being held in case number 201200955: \$9,960.00 in US Currency was located in an unsealed and unmarked paper bag. \$4,014.00 in US Currency was located in a sealed clear plastic bag. There were also an unspecified number of gold coins located with this evidence. **Although awaiting transfer to BATFE, these items should be properly packaged, sealed and labeled.**

Evidence in cases 20093635, 20112871 and 20093672 were also located in the cash locker. All these items were labeled as counterfeit bills; however, none appeared on the list of items housed in the cash locker. Evidence records indicated these items had originally been stored elsewhere in the evidence vault. Detective Warren noted these items and intends to return them to their respective storage locations.

An item labeled \$936.00 in case number 20091045 was located in the cash locker. This item appeared to have been opened and resealed and one \$10.00 bill remained. Documentation was located indicating \$926.00 of this money was seized by Marcia Diaz of the NC Department of Revenue Controlled Substance Tax Division. **Disposition of the remaining \$10.00 should be sought through the appropriate court.**

A sealed bag contained in the cash locker was labeled with the case number 201000992 and the notation items 1,2,3,5 and 8. There is no indication on the exterior of the bag what these items consist of.

Several discrepancies were noted regarding evidence related to the cash locker. Evidence identified as two \$100.00 bills and labeled with case number 201001993 was discovered in an unsealed condition.

Several items of evidence in case number 2010002198 (Detective Mark Mease's case) were not located in the evidence vault. The 2011 inspection identified these items as having been entered into evidence in a court proceeding. **No documentation of their removal from evidence or entry into evidence was discovered last year. This issue remains unresolved during this inspection.**

Three items of evidence reflected in case number 2012001042 (Deputy Eddie New's case) were not located in the evidence vault. Two of these items consisted of small amounts of US Currency and one item consisted of one white colored round pill. Another item of evidence in this case was submitted to the SBI lab for DNA analysis; however, no documentation exists regarding the missing items. **The missing items require immediate attention.**

The list of items identified as being stored in the cash locker is included in this report as attachment # 7.

A locking cabinet located within Gun Locker B has been designated as the new drug locker. This cabinet is used to store large amounts of drug evidence. Detective Warren prepared a computer generated list of items stored in the drug locker. This list also included several items described as bags of medication, all of which were being stored in the floor of gun locker B. A copy of this list is included in this report as attachment # 8.

RSAC Hayes noted the drug cabinet contained significant amounts of drug evidence in cases where court disposition has been completed. The oldest of these cases displayed case number 200300808 and was assigned to Deputy Eddie New. A significant number of these cases originated during 2006.

A great deal of evidence was located in case number 200600400 for defendant Kelly Rogers. Evidence was also located in several other cases related to defendant Kelly Rogers. These cases were assigned to Chief Deputy Bryson during his tenure as a drug investigator for the department. Evidence was located for case number 2008004047, identified as assigned to Detective Mark Mease. **Evidence from these older cases should be destroyed as soon as possible.**

RSAC Hayes and Detective Warren were unable to locate all items of evidence listed in attachment # 8. Two items associated with case number 2008001033 were not located. Item # 4 was described as a white Coleman brand cooler containing a total of 25 packages of marijuana. Item # 13 of this case was described as a small bag of marijuana. A number of clear plastic bags were labeled as originally containing marijuana. These had been opened and the bags had been retained. A large sealed black plastic garbage bag marked as containing marijuana was located. This bag displayed no other markings. This bag could contain items removed from the empty bags observed. It has been common practice to consolidate trafficking weights of marijuana for testing by the SBI laboratory. **The deputy/detective originally assigned case number 2008001033 should examine and compare these items for identification of the missing items listed on attachment # 8.**

Two items listed on attachment # 8 for case number 2008001174 were also unaccounted for. Item # 2 was described as a map and directions to Waynesville. Item # 4 was described as miscellaneous paper documents. Detective Warren believed this case had been resolved in court and other items of evidence had been disposed of. He also believed this case was maintained by Detective Mark Mease. **This issue should be reconciled as soon as possible.**

One item described as a large bag of medication from case number 2011001661 was unaccounted for. RSAC Hayes and Detective Warren looked through many of the bags of medications stored in the floor of Gun locker B. Some of these were clearly marked and many were not. Several other similar items from other cases listed were located. **RSAC Hayes suggests having Deputy Micah Phillips identify the bag for reconciliation of this issue.** Otherwise, a closer check of these items should be conducted. This would easiest be accomplished as they are being moved for destruction.

Gun locker C is used to house firearms seized pursuant to domestic violence or other non-criminal situations. One hundred and eleven firearms recently seized were stored in trash cans located within this locker. These firearms are being held in case number 201200955 which is pending adoption by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE). Gun locker C was noted to be at maximum capacity.

A refrigerator is also located within the main evidence vault. This refrigerator was originally used to store victim rape test kits and other fragile evidence requiring refrigeration. It contained a large number of items dating from 2001 through 2006. New collection and storage procedures do not require refrigeration of similar items and Detective Warren did not believe any items had been placed in the refrigerator since 2006.

Several years ago, the NC Department of Justice began implementation of a program which allowed agencies to submit old rape test kits for laboratory analysis. After testing was completed, the state of NC provided indefinite storage of these items. **RSAC Hayes recommends the Sheriff's Office identify the status of all items stored in the refrigerator. Appropriate items should be submitted for analysis and storage. Other items should be destroyed as appropriate.**

CONCLUSIONS AND RECOMMENDATIONS

Evidence is generally being handled and marked in a consistent manner; however, some inconsistencies were noted. Recommendations are contained throughout this report and are located in their respective sections. The following is a summary of the evidence inspection results and critical issues are noted again.

Not all evidence sought was accounted for or located; however, this is not to imply criminal activity has occurred. Most issues arose during inventory of the new drug locker contained within gun locker B. A lot of evidence was discovered for cases in which court disposition has been completed. RSAC Hayes believes an immediate review of all cases with evidence in this locker will reconcile these discrepancies. Once resolved, all old evidence should be destroyed.

Case number 2010002198 was identified during the 2011 evidence inspection. Items of evidence were removed for court and entered as evidence. No documentation exists regarding their removal for court or their final disposition. This issue remains unresolved during the 2012 inspection and should be addressed immediately.

The refrigerator previously used to store perishable evidence should be inventoried and a review of respective cases and their disposition conducted. Recommendations have previously been made regarding disposition of these items.

An additional gun rack should be added to the rear wall of gun locker A to increase storage capacity. Storage capacity for gun locker C should also be assessed and appropriate storage racks added if necessary. Storage slots for racks in each locker should be numbered beginning with the letter prefix for the particular locker, such as A-1 and C-1. This notation should appear in the computer location for seized firearms. This system would make locating firearms much easier than having to examine every firearm present until the one sought is located.

Disposition of items currently stored in the Conex containers should be sought. Many of these items are reported to have been kept for 18 years or more. These items cannot be stored indefinitely.

RSAC Hayes noted many items of evidence were routinely packaged in one bag or container. Although convenient for the deputy or detective packaging the items, it is not conducive to evidence accountability or use in court. **With rare exception, best practice requires each item of evidence to be packaged separately and individually labeled.**

RSAC Hayes recommends issuing **all department personnel** a storage device for storage of syringes or other sharp objects until these items can be transferred to an appropriate storage/disposal container. This could be accomplished by equipping each vehicle with a plastic or cardboard tube which can be sealed. A clear plastic tube is preferable as it allows the contents of the tube to easily be viewed. Likewise, all patrol personnel should be issued protective booties to wear at crime scenes heavily contaminated with blood or other body fluids. At least one tyvek suit should be available for use by each squad and preferably, each patrol deputy should be issued a tyvek suit for their own use.

RSAC Hayes recommends development of a written directive requiring patrol personnel to check court dispositions in their cases at least monthly. Patrol personnel should then work with evidence technicians to ensure timely disposal of items of evidence.

It is apparent evidence is accumulating at a much faster rate than it is being disposed of. A concentrated effort should be made to identify and dispose of evidence in old cases. Computer records regarding the status of evidence and its location should be updated. This process will be very labor intensive, but must be completed before serious problems with evidence accountability result. The volume of evidence observed during the past two inspections indicates a full time evidence technician is needed to ensure uniform handling, tracking and timely disposition of evidence.

RSAC Hayes also recommends a full inventory/inspection of every item of evidence maintained by the Sheriff's Office. This will enable old evidence to be identified and disposal of these items accomplished. A cooperative evidence inspection agreement with other law enforcement agencies should be considered in order to accomplish a more thorough annual evidence inspection, in addition to inspections such as the one reported in this document.

Attachments: 1,2,3,4,5,6,7,8