



PAWNEE COUNTY SHERIFF'S OFFICE
SHERIFF DARRIN VARNELL

Policy # Property & Evidence	Related Policies:
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Oklahoma Statutes	
CALEA Standard:	
Date Implemented:	Review Date:

PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

DEFINITIONS

Property: Includes all items of evidence, items taken for safekeeping and found property.

Evidence: Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes but is not limited to photographs, video, digital media, and latent fingerprints.

Chain of Custody: The chain of custody is the documented sequential record of all individuals who maintained control of any physical evidence. A complete and accurate record of the chain of custody is essential in establishing the validity and integrity of evidence in court.

Safekeeping: Includes the following types of property:

1. Property obtained by the Department for safekeeping such as a firearm,
2. Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons)),
3. Personal property of an arrestee not taken as evidence.

Found property: Includes property found by a Member or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

O.D.I.S.- Evidence: Oklahoma Data Information System - Evidence.

Destruction: Items collected and booked with the Property/Evidence Detail for the sole purpose of having the item(s) destroyed. Examples: Contraband items seized by a deputy with no suspect,

Court exhibits returned along with a court order for destruction, bulk found property stored in excess of 90 days with no owner identified, etc.

PROPERTY HANDLING

Any Member who first comes into possession of any property shall retain such property in his/her physical possession until it is properly tagged and placed in the designated and department approved property locker or storage room. Care shall be taken to maintain the chain of custody for all evidence.

If a Member collecting evidence is unable to book the evidence, they may assign another Member to book the evidence, maintaining the chain of custody. The transfer of evidence shall be documented in the collecting Member's report and the booking Member's supplemental report.

PROPERTY BOOKING PROCEDURE

All property must be booked and properly stored prior to the Member going off-duty. Members booking property shall observe the following guidelines:

4. Using O.D.I.S the Member shall log onto the system, book all items into the computer separately, listing all serial numbers, owner's name, finder's name, and all other applicable fields. When finished, the Member shall log off the automated property system.
5. Package each item using the proper packaging materials. An evidence seal (clear tape), must be applied to the opening of the package. The seal should have the booking deputy's initials and date, half on the tape and half on the packaging to create a tamper proof seal. On the lower left-hand corner of the evidence tag, place the initials of the deputy booking the item. Securely attach evidence tag and bar code label after entering required case information into O.D.I.S
6. The original property form shall be submitted with the case report.
7. When the property is too large to be placed in a locker, the item may be retained in the evidence room, or another area approved by the Sheriff or Undersheriff for evidence storage.
8. Supervisors shall check that all property or evidence has been booked prior to approving any related reports.
9. If temporary property/evidence lockers are full, the Member shall notify their immediate supervisor. During normal hours of operations, the supervisor will notify the Property and Evidence Bureau and direct the Member to book the items at another temporary property/evidence locker location.
10. Under extenuating circumstances, a supervisor may authorize temporary storage in an authorized secure area (e.g. a locked office safe or cabinet) if the area is only accessible by the Member or the supervisor.

NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using separate property packaging. Paraphernalia shall also be booked separately. The Member seizing the narcotics and/or dangerous drugs shall place them in the designated locker.

EXPLOSIVES

Members who encounter a suspected explosive device shall promptly notify their immediate supervisor and he or she shall notify the Undersheriff who will notify the Sheriff. The Undersheriff shall notify the Oklahoma Highway Patrol bomb squad. Jurisdiction shall be yielded to the Oklahoma Highway Patrol or Oklahoma State Bureau of Investigation, or any other state or federal agency with the authority to oversee explosive investigations. Members shall not seize evidence or property during an encounter with suspected explosives.

EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

11. Bodily fluids, such as blood or semen stains, shall be air dried and placed in paper packaging prior to booking. In the event of a OSBI response, the evidence shall be processed by OSBI.
12. Soaked or saturated items, shall be air dried and placed in paper packaging prior to booking. If the items will not dry to an acceptable level for booking, the OSBI contacted for assistance.
13. All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the property deputy, or placed in the bicycle storage area until a property deputy can log the property.
14. All cash over \$2,500 shall be counted in the presence of a supervisor and the envelope initialed by the booking deputy and the supervisor and placed into a locker.
15. Vehicles may be seized for evidentiary purposes. Vehicles that are evidence to a serious offense that need to be worked for forensic evidence should be followed to an improved impound yard and secured. A evidence tag should be filled out, and placed under the wiper blade of the vehicle. OSBI should then be contacted to process the vehicle.
16. Flammable substances including paints, propane canisters, and other liquid flammable substances may be stored in a temporary locker only if the containers are tightly secured, and are free from liquid or chemical discharge. Property/Evidence deputy will then transport these items to an appropriate area for secured storage.
17. The Property/ Evidence Deputy shall no longer accept any hazardous waste items. Chemicals seized at methamphetamine labs are considered hazardous waste. The Crime Lab will take samples of the chemicals for evidence. The remainder of the chemical shall be processed/destroyed by a state licensed disposal company.
18. If there is a need to make an "advance working" copy of digital media for investigative purposes, a copy can be made of the original media prior to booking it into Evidence. The department member will document in his/her report that the original digital media was booked as evidence and a copy was given to Investigations. When Investigations no longer needs the "advance working" copy of the digital media, it shall be destroyed. Investigators must document at the conclusion of the investigation and the purging of any copies. An "advance working" copy is not evidence and shall not be used in court.

FIREARMS RELINQUISHED BASED ON CONVICTION

Individuals who relinquish firearms shall be issued a receipt that describes the firearm, the serial number, or other identification of the firearm at the time of relinquishment.

Firearms relinquished shall be retained for 30 days, after which time the firearm is subject to destruction, retention, transfer, or sale except when:

19. The firearm will be retained if the Court or the District Attorney determines that the retention of the firearm is necessary or proper to the ends of justice or if the defendant provides written notice of an intent to appeal a conviction for an offense that rendered the defendant unable to possess or own the firearm.
20. The National Crime Information Computer indicates that the firearm was reported lost or stolen.
 - (a) In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership.

The Member booking the firearm shall ensure dispatch is notified of the relinquished firearm for purposes of updating NCIC and the disposition of the firearm for purposes of notifying the Oklahoma Law Enforcement Telecommunications System.

PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

1. Narcotics and dangerous drugs,
2. Paraphernalia,
3. Property with more than one known owner,
4. Firearms (ensure they are unloaded and booked separately from ammunition),
5. Fireworks (Will be stored at OCSD Hazardous Devices Section),
6. Contraband,
7. Currency (US or Foreign).

PACKAGING CONTAINER

Members shall package all property in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles. Heat sealing is the preferred method of packaging items suspected of being or containing Fentanyl.

A property tag shall be securely attached to the outside of each item.

PACKAGING NARCOTICS

The Member seizing the narcotics and/or dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated evidence lockers. Do not conduct presumptive testing.

Narcotics and/or dangerous drugs shall be packaged in an envelope of appropriate size available in the booking room. The booking Member shall initial, date, and time the sealed envelope and cover the initials with packaging tape. Narcotics and/or dangerous drugs shall not be packaged with other property.

All narcotics evidence, with the exception of plant material, shall be packaged in a ziplock or heat-sealed plastic bag of appropriate size. All primary packaging (baggie, bindle, paper, ziplock) shall be contained in at least one additional (sealed) plastic bag. The evidence is then sealed in an envelope. If fentanyl or a similar toxic substance is suspected, it SHALL be labeled as such.

All large items of 400 grams or more, including kilos, must be in plastic ziplock or heat-sealed bags prior to placement in boxes or bags.

Never package fresh marijuana, plant material, or perishable items in plastic. These items will mold in plastic.

A completed, printed property tag shall be attached to the outside of the container. The booking Member will initial and in the appropriate boxes.

CRIMELAB WORK REQUEST AND DNA EVIDENCE SUBMISSION - OSBI

All items to be sent to OSBI must have a work request completed. This is accomplished by entering a narrative into the case file in ODIS and completing whatever paperwork is required by OSBI. All evidence submitted to OSBI should have a property receipt provided by OSBI, that receipt shall be uploaded to the case file in ODIS.

RECORDING OF PROPERTY

The property deputy receiving custody of evidence or property shall record electronically ODIS and new custody location of the item.

PROPERTY CONTROL

Each time the property deputy receives property or releases property to another person, he/she shall record electronically via O.D.I.S, the movement of the item. Members desiring property for court shall contact the property deputy as soon as feasibly possible to allow the deputy to retrieve and stage the item(s) for pick up.

RESPONSIBILITY OF OTHER MEMBERS

Every time property is released or received, an appropriate entry into O.D.I.S shall be completed to maintain the chain of evidence. No property or evidence is to be released outside PCSO custody without first receiving written authorization via a court order or release from the District Attorney.

A request for forensic analysis of items shall be completed via the OSBI process.

TRANSFER OF EVIDENCE TO CRIME LABORATORY

The Property and Evidence Deputy will check the evidence out of property.

The property deputy releasing property must complete the required lab transfer documents and update the electronic chain of custody to reflect released location.

STATUS OF PROPERTY

All Property and Evidence deputies releasing property to other Members of the Department will complete the appropriate information on the Chain of Custody Receipt, thus continuing the chain of custody. Temporary release of property to Members for investigative purposes, or for court, shall be noted by Property and Evidence Bureau personnel in the automated audit trail which captures the date, time, who received the property and the reason for checking out the property.

The property deputy shall obtain the signature of the person to whom the property is released, and the reason for release. Any Member receiving property shall be responsible for such property until it is returned to the Property and Evidence deputy or properly released to another authorized person or entity.

The return of the property is tracked by the Property and Evidence deputy and should be less than seven calendar days. Department Members may contact the Property and Evidence Bureau if an extension is needed.

RELEASE OF PROPERTY

All reasonable attempts shall be made to identify and provide notice to the rightful owner of found property or evidence not needed, or no longer needed, for an investigation or criminal proceeding.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or investigator and must conform to the items listed on

the property form or must specify the specific item(s) to be released. The Property and Evidence deputy shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or investigator. Release of all property shall be documented on the property form. If property was seized pursuant to a search warrant, a court order is required to release the property or destroy the property if it is contraband.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such a period, the Property and Evidence deputy may attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. If a mailing address is available, the Property and Evidence deputy will mail a notice to the owner, notifying the owner that he/she must claim the property, or it will be scheduled for disposal. Property not held for any other purpose and not claimed within 90 days after notification may be auctioned to the highest bidder at a properly published public auction. All property to be auctioned shall be advertised by the best means as determined by the Pawnee County Clerk's Office prior to being sent to a properly published auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed. The final disposition of all such property shall be fully documented in the O.D.I.S

If the Department was unable to make notification to the owner of the property, or if the owner provides written notification that they are in custody and unable to pick up the property or have an authorized person retrieve the property, the property will be retained no longer than 3 months. It will then be scheduled for disposal, destruction, or sale.

A property deputy shall release the property upon proper identification being presented by the owner for which an authorized release has been received. The signature of the person receiving the property shall be recorded on the public release document. After release of each item, the corresponding documents will be scanned and retained pursuant to the Department's records retention and disposition schedule.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification.

The Department is not required to retain any firearm or other deadly weapon longer than required by the courts or the district attorney or any longer than 30 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal, destruction, or sale in accordance with applicable law.

CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Property & Evidence deputy will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this Department, including paraphernalia.

RELEASE OF FIREARMS IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a protective order issued in a domestic violence matter that required the relinquishment of a firearm, the property deputy shall return the weapon to the owner upon proof of the dismissal of the protective order and upon presenting the Sheriff's Office with an order from the District Attorney. If, however, the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm, it shall not be returned.

If there is legal cause to not return the firearm(s) to the person and the person is the lawful owner of the firearm(s), the person is entitled to sell or transfer the firearm to a licensed dealer as defined by federal law. If the Department determines the firearm(s) are stolen, the firearm(s) should be restored to the lawful owner upon proof of ownership and proof of release from the district attorney.

The 30-day limit on retaining firearms does not apply to firearms and ammunition relinquished as a result of a Domestic Violence restraining order unless the firearm/ammunition goes unclaimed for 60 days after the order expires.

RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence protective order shall be returned to the defendant upon the expiration of the order and in accordance with the requirements of the district court and the district attorney. Upon receiving the surrender of a firearm, ammunition, and/or ammunition feeding device pursuant to a gun violence restraining order, the Department shall issue a receipt to the person as proof of the surrender.

If the restrained person who owns the firearm(s), ammunition, and/or ammunition feeding device does not wish to have the firearm(s), ammunition, and/or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition.

If a person other than the restrained person claims title to the firearms or ammunition surrendered and the person is determined to be the lawful owner by the Department, the firearm(s), ammunition, and/or ammunition feeding device shall be returned to the lawful owner. Release of the firearm to the rightful owner does not require expiration of the restraining order.

UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after one year, the Department shall send a letter to the district attorney and the district court detailing the situation and making them aware of the unclaimed funds. If an address for the owner of unclaimed funds is available, the property deputy shall send notice by mail to the owner requesting pick up within 30 days of mailing. If after 30 days the money remains unclaimed, an announcement shall be made in a circulated publication giving the owner of the unclaimed money 30 days from publication to claim the funds. If after 30 days, the money still remains unclaimed directions shall be taken from the State auditor on the best way to proceed with the unclaimed money. A detailed report of the advice given to the Department shall be sent to the district attorney for his or her review and the advice of the district attorney and the state auditor shall be followed.

RETENTION OF BIOLOGICAL EVIDENCE

The Property deputy shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, prior to the end of the statute of limitations or upon court order when applicable:

21. The defendant,
22. The defendant's attorney,
23. The appropriate prosecutor and or Attorney General,
24. Any sexual assault victim,
25. The Investigating deputy.

Biological evidence shall be retained for either a minimum period based upon the statute of limitations or has been recommended by the district attorney, or until the expiration of any imposed sentence that is related to the evidence; whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the district attorney and the records division of the Sheriff's Office.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the district attorney or by order of a judge.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required by Oklahoma law. Even after expiration of an applicable statute of limitations, the district attorney should be consulted, and the sexual assault victim shall be notified at least 60 days prior to the disposal. Reasons for not analyzing biological evidence shall be documented in writing.

INSPECTIONS OF EVIDENCE ROOM

1. On a monthly basis, the Sheriff, Undersheriff, or their designee make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
2. When a change is made in personnel who had access to the evidence room, and misconduct or theft is suspected, an inventory of evidence/property shall be made by an individual not associated with the property room or function to ensure that records are correct, and all evidence/property is accounted for.
3. Unannounced inspections of evidence storage areas shall be conducted upon the Sheriff's discretion.
4. Any inspection or audit of the Property and Evidence room will consist of a minimum of 5 items of property/evidence and will be observed by no less than 2 employees.