



POLICY & PROCEDURE

HOLMEN POLICE DEPARTMENT

SUBJECT:	COLLECTION AND PRESERVATION OF EVIDENCE/PROPERTY	NUMBER:	5.1
		ISSUED:	11/10/2013
SCOPE:	All Department Personnel	REVIEWED:	09/03/2019
DISTRIBUTION:	Policy & Procedure Manual		
REFERENCE:	WI State Crime Lab's Physical Evidence Handbook WI Association for Identification's (WAI) Property and Evidence Manager's Guide; & WI §968.18	WILEAG 4th EDITION STANDARDS:	11.1.1, 11.1.2, 11.1.3, 11.1.4, 11.1.5, 11.1.6, 11.1.7

POLICY

In order to assure a chain of evidence in the handling of any items which come under the control of the Holmen Department personnel, and in order to preserve said items in the condition in which they were received. Officers are to be completely familiar with the mechanics involved with evidence handling. All department personnel are responsible for collected items from the time they take control of them until it is placed in evidence system. Evidence system shall consist of lockers provided by department personnel to use for placing seized items within which are to be held for any length of time.

1. The department further will provide the materials needed to mark, tag, package, and record items taken in by department personnel.
2. Any item seized by department personnel as evidence and expected to be used in court must be marked on each piece with officer's initials, date, and case incident number.

PROCEDURES

(11.1.6.1) The officer assigned to an investigation has the primary responsibility for maintaining the chain of custody, the documentation, collection and preservation of physical evidence, as well as packaging and labeling physical evidence found at a scene.

1. Evidence Technician

- a. Sole one in charge of evidence
 - i. His/her responsibility is to secure items brought into permanent storage. Also to maintain permanent records, transport items to other points, and maintain chain of custody.
 - ii. He/she is to assess that department personnel have correctly marked, tagged, packaged evidence, and made out properly the property custody document.
 1. In the event there are errors on part of the officer, technician will notify officer(s) to have corrections rectified.

2. Assistant Evidence Technician

- a. Will only function when the Evidence Technician is unavailable. He/she will then take over duties and responsibilities of Evidence Technician and document all his/her actions as such.

3. Keys

- a) Four sets of keys will be dispersed. The first set of keys will be under the control of the Evidence Technician, the second set of keys will be with the assistant evidence technician the third set of keys will be with the Lieutenant and fourth set with the Chief. The keys will include the evidence lockers and evidence room.

4. Evidence Documentation (11.1.6.1)

- a) Department personnel, at the time they place items into evidence lockers, will ensure that the item is marked with an evidence tag, Evidence Forms are properly filled using Vision RMS Record Management System
 - 1) All items left will have an incident number.
 - 2) No item will be left without an incident report filed and the incident report will have the corresponding incident number to the item.
- b. The Evidence Technician will obtain item from locker along with the Evidence Form and transfer both to the main evidence room for permanent storage.
 - 1) The Evidence Technician will maintain Evidence Form in a binder within main evidence room. This binder will have all active evidence forms and when evidence is released or case is closed the evidence form will be transferred to a binder for closed cases. From this point on, the Evidence Technician is responsible for filling out the evidence form as to chain of evidence and obtaining proper signatures or other things needed to maintain records of items being held in Police Department property rooms.
 - 2) A log book will be maintained by Evidence Technician in the main evidence room. This log will consist of evidence number assigned, original incident number, and description of item, final disposition, and section number within main evidence room where item is stored.
 - 3) In the event the evidence/property section is computerized, the Evidence Technician will maintain computer program, the same as documents used prior to that time.
 - 4) The main Evidence/Property Room will not be used to store any item other than evidence/property brought in by department personnel, and any item within the room will be accompanied by an evidence form.
 - 5) The Main Evidence/Property Room will be secured.
 - 6) Packaging Evidence – Department Personnel.
 - i. Multiple items can be placed in an evidence bag.
 - ii. If an officer has beer, cigarettes or tobacco a photo should be taken and these items be destroyed by officer.
 - iii. On evidence form place suspects name and what court the incident will proceed.
 - iv. If clothing articles are wet, hang them in locker to dry. Leave the Evidence Technician a written memo and he/she can package and put away with other items when dry. Include all on Custody Document, however.
 - v. If an officer accidentally closes the locker before all items are placed within it, he/she should use a second locker and lave the Evidence Technician a memo.
 - vi. The officer is responsible for completely filling out all of the evidence form.
 - 7) The Evidence Technician will be responsible, unless otherwise ordered, to package any items of evidence for shipment to crime lab, or other location. Said items to be sent registered mail, or if deemed necessary, to personally transport item to its destination. Evidence Technician is also responsible for proper documentation of said item movement.

5. General Evidence Handling

- a. Department personnel will be responsible for counting, weighing, testing, and recording results of items brought in to be maintained in evidence/property system.

- The Department will provide drug testing ampoules for use by department personnel in determining what the drug seized may be. It is department personnel's responsibility to dispose of used ampoules properly in disposal site. No test ampoule should be placed into evidence as they consist of acids, tending to leak, and can destroy evidence value of the item.
- All marijuana, or other drug oriented vegetable matter, will be weighed at the time it is placed into evidence/property and weight recorded in department incident report to be filed in matter.
- All pills will be counted and field tested, if possible. The officer will document the count, amount of item used for field test, and result of field test.
- Evidence Technician will secure items of narcotics for shipment to crime lab. Results when received to be sent to District Attorney.
- Department personnel will not maintain any drug paraphernalia as collectors. The department maintains rights to all paraphernalia taken as course of department personnel's duties.

b. Computer Evidence. (11.1.6.2)

- Photograph the computer area prior to and after collection of evidence.
- Disconnect/ disable the modem if there is one from the wall.
- Unplug computer from the back of the CPU (DO NOT use the on/off power switch)
- Disconnect power to the printer and other peripherals.
- Mark/label all cables both input/output at the connections. Photograph all marked connections prior to disassembly of the system.
- Photograph and record the serial numbers of the system components if they are available.
- Complete a search of the area for floppy diskettes, manuals, and notation which might include passwords for locked files, etc.

(11.1.6.3)The Holmen Police Department will remove certain evidence from computers, tablets and phones for investigative purposes and evidence. Only specially trained officers using electronic equipment (such as Encase, Cellebrite and black bag technologies for example) will remove forensic evidence and handle said evidence. If our trained officer(s) are not able to remove evidence from an electronic device, the item(s) will be packaged and sent to DCI Computer Forensics Unit. Items must be driven to the DOJ building. Directions are located on WILENET.

(11.1.6.4) Computer Evidence Training

Officers shall periodically receive training in the collection, packaging and transportation of digital evidence.

c. Liquid Evidence

- Liquids such as beer should be photographed and destroyed by officer. Liquids from drug paraphernalia "bong" should be emptied before placing in storage locker. Any liquids not listed above that may have evidentiary value shall be placed in evidence locker with a memo to evidence technician.
- Beer barrels brought in will have the taper removed from the barrel and appropriately marked by personnel who seized equipment. Officer will document his/her actions.
- Combustible liquids will be secured in a safe manner by personnel who seized the item. A proper container, no leakage and possible buildup of fumes, are all to be considered and addressed by department personnel placing any hazardous materials into evidence/property lockers. Special attention will prevail on department personnel who seize such items to leave written information of potential hazard for the Evidence Technician.

d. Bio-hazard material.

- Department personnel handling bio-hazard type evidence or material, will use all safety devices available to them in securing and handling said material. Department personnel who place said type items into evidence/property will leave written notice of such items' existence for Evidence Technician.
- Evidence Technician upon learning of such bio-hazardous material will, as soon as possible, check item to guarantee item is safely packaged. Evidence Technician will then remove item to safe permanent storage and will destroy same as soon as possible, and/or as soon as case/courts will allow.

e. Perishable Items.

- All perishable items seized will be stored in the refrigerator. Department personnel placing item into evidence will fill out evidence form, and will also notify Evidence Technician that item is in freezer.
- Blood and tissue samples for testing will be stored in refrigerator. Notice forms will be filled out notifying Evidence Technician.

f. Weapons.

- All guns brought into evidence/property system will be individually tagged. Each gun will be individually listed on the evidence form including, if at all possible, the serial number of each gun.
- Department personnel placing gun into system will be responsible for unloading said weapon and packaging shells found within gun separately. Officer should also make written notice in his reports as to how weapon was found, if loaded and explain what he found when he unloaded weapon.
- Weapons jammed with live ammo should be attempted to by officer to clear ammo from gun. If weapon cannot be cleared, it should be placed in locker by itself, and written notice left for Evidence Technician. Reports should reflect actions taken.
- Evidence Technician, upon notice, should then examine and appraise situation. If possible, he/she will unjam weapon, or call upon technical assistance to clear weapon. Evidence Technician will have written notice of any actions taken on weapon under his/her control. Evidence Technician will package and tag any items removed from firearm by him/her and leave report.
- The Evidence Technician will not alter a gun's condition in any manner. This then means no gun will be cleaned or protected while in department possession, unless for safekeeping purposes, then only protected for conditioning such as rust.

g. Evidence to be Finger printed.

- If department personnel bring in items that need to be fingerprinted by department personnel, they need to secure item so it can't be easily touched. They must notify Evidence Technician in writing of fact there are items to process for prints.
- Evidence Technician will then place item into main evidence room and process as time allows. In event print is developed, item from which print obtained will continue to be held for evidentiary value. However, any items from which no prints can be developed, will be given back to officer to return, or if item is valueless, will be disposed of from system. Evidence Technician will note results on custody documents, and any prints found will be included on custody document and placed into evidence.

h. Fireworks.

- All pyrotechnics brought into evidence/property will be secured within a container which will be clearly marked as to contents. These items, if possible, should be placed into separate locker.
- Evidence Technician will remove these to main storage room and store in such a manner as to keep a distance form any flammable liquids.

- Evidence Technician at the time pyrotechnics are to be disposed of, will do so by soaking them in fuel oil, then burning same in safe location.

i. Explosives

- In the event explosives have to be brought into the evidence/property system of the Police Department, the department personnel involved will notify the Chief or Lieutenant.
- If at all possible, any fusing device, detonator, blasting caps, or other igniter will be stored separately. Any electrical source is also to be packaged totally apart from explosive device and detonators.
- All items handled by department personnel must first be secured by persons trained in neutralizing explosive devices. No item will come in the evidence/property system without being neutralized by experts.
- Once item is into Police Department system, Evidence Technician will check with command personnel to determine where and how said items are to be stored.

6. Procedure for Release of Evidence

- A. All evidence or property held will only be released through the Evidence Technician. Department personnel are to advise requesting parties of the release of evidence procedures at time of request.
 - Evidence will only be released by Evidence Technician and arrangements will have to be made with Evidence Technician.
 - Evidence Technician has right to alter release, dates, or times as needed.
 - If property is not picked up at the appointed time, another appointment will need to be made.
 - If there is a plea of guilty, or find of guilty by the court, then the items of evidence can't be released until appeal time has elapsed, or a copy of determination not to file appeal is given to Evidence Technician and is attached to custody document.
- B. Information needed at time of release.
 - Name, date of birth, telephone number, incident number, type of incident and property to be released. Evidence release form will need to be filled out by evidence technician and signed by property owner.
 - Locate incident report to be reviewed by Chief, Lieutenant, or Evidence Technician to determine if evidence can be released and what paperwork is required.
 - Written authorization from District Attorney's Office.
 - Signed release must be received in the Holmen Police Department Office before item will be released.
 - Make one (1) copy of release; give original to Evidence Technician, copy to go with incident report.
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- C. Chapter 51 reports.
 - Weapons taken in Chapter 51 incidents cannot be released without a written letter from the physician indicating mental stability or a court order signed by Judge.
- D. Photographing Prior to Release.
 - District Attorney may include as part of release, a condition that items be photographed before release. Evidence Technician will perform this, and attach photos to evidence form.
- E. Unclaimed currency.
 - If the value of the money or goods is \$20.00 and less than \$100.00, the department shall post a notice of the found money or goods in two public places.
 - If the value of money or goods is more than \$100.00, the department shall cause a "class 2" notice as required by chapter §985. The department shall post the notice in two public places and in the local paper.

- If the property goes unclaimed or the owner of the property cannot be determined or located, the money will be turned over to the County Treasurer office after one year. A report will be filled and kept on file. Also refer to §59.66
- F. Disposal of items out of evidence/property system
- Forfeitures are covered under §.973.075 through §973.77.
 - Seized but not forfeited items are covered under §.973.075(5) and basically says items seized but not forfeited will be returned to rightful owner. Owners must prove ownership to claim item from department.
 - Disputes regarding claims of ownership will be handled according to §.973.075(5).
 - All property not held for evidence in a pending criminal investigation or proceeding, and held for 30 days or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal §66.0139(2). The evidence technician shall request a disposition or status on all property which has been held in excess of 30 days and for which no disposition has been received from a supervisor or investigator. Upon any release or sale of any property, the proper notation shall be made on a report. Proceeds from the sale of unclaimed property shall be deposited into the County Treasury, minus reimbursement for office expenses.
 - Clothing, bedding, and items of this nature which are unclaimed may be disposed of per Evidence Technician's discretion.
 - Evidence Technician will note disposal on custody document and/or log book.
 - Beer barrels and tappers will be sold and proceeds placed into appropriate account by Evidence Technician via department Account Clerk.
 - Personal documents, drugs, and unclaimed papers will be disposed of in an incinerator.
 - Evidence Technician will attach to evidence form a copy of disposition of case, if one is available. Also, all release orders received will be attached to evidence form.
 - When weapons are turned over to crime lab, a list of said guns will remain in evidence file in main evidence room.
 - Items of evidence received through mail will be turned over to Evidence Technician. He/she in turn will note receipt, and if need be, do report and custody document on item.
 - No department personnel will maintain in their own possession, in any manner, any item which was taken in by them as a course of their employment, which is of evidentiary nature or found property.
 - Any firearms released by Evidence Technician will have evidence tags removed. Person picking up weapons will have to pull car into garage area and load them up.
 - Evidence Technician releasing evidence will have person receiving evidence present identification and will note said identification number on custody document form at time party signs for item.
 - Effective December 25, 1993, the Statutes 66.28(4) and 968.20(3)(b) were amended to allow individual agencies to maintain firearms under certain guidelines.
 - Weapons and ammunition seized and placed into evidence will be disposed of in one of the following procedures in accordance to state statute 66.28(4) and 968.20(3)(b3):
 - Order of the Court
 - Returned to authorized person(s)
 - Retained by authorized Law Enforcement Agency
 - Property turned over to the Wisconsin Crime Laboratory for proper disposal.

G. Procedure for Outside Persons in the Main Evidence Room.

- Any maintenance personnel, cable workers, or other personnel shall not be in the main evidence room unless accompanied by Evidence Technician.
 - If at all possible, when attorneys or others wish to view items held as evidence, the item should be brought up to a room, rather than allowing parties into main evidence room. No parties are to handle evidence unless Evidence Technician has been directed to allow it by the District Attorney or the court. No item will leave with them unless so ordered by court, and order is received in writing.
- H. Procedures for Evidence to Court
- To court for trial.
 - Officers needing evidence held in main evidence room for an upcoming trial, will notify Evidence Technician at least one day in advance, if possible.
 - The Evidence Technician will have the officer sign out for evidence on evidence form and indicate that item went to court. The original of the custody document will remain in the main evidence room, and if necessary, a copy will go with officer to court.
 - Evidence held by court.
 - Items of evidence taken by department personnel to court may find items entered into evidence by court. These items then become the custody of the court, and will be turned over to Clerk of Court who will maintain item from that point on. The exception to this will be if the court orders the Holmen Police Department to maintain custody of the item. The officer will then return items to Evidence Technician, or if he/she is unavailable, put items into evidence locker and secure locker, leaving written memo for Evidence Technician.
 - Evidence Technician will re-secure item into main evidence room, and note receiving on custody document.
- I. Evidence/Property from Outside Jurisdiction.
- Evidence Technician can determine what items, from outside agencies or sources that he/she wants to take responsibility for.
 - Evidence from outside agency will be held if it involves our jurisdiction in any way.
 - This type evidence when available for release should go back to the owner if within our jurisdiction, or be returned to the agency that placed it into our evidence system.
 - Custody documents will accompany any transactions.
 - Property turned over.
 - Items such as weapons turned over to the Evidence Technician by Clerk of Courts for transmittal to state crime lab, can be accepted by Evidence Technician. Said items will be accompanied by transmittal form, and receipts obtained from crime lab or other destination sources, will in turn be filed in main evidence room, and copy given to whoever gave item to use for disposition.
 - On occasion, items are brought to the Evidence Technician from outside sources for disposal. An example would be controlled substances which are outdated and may be brought in by a pharmacist to be destroyed. He/she will have documentation from D.E.A. stating he needs a law enforcement witness. Evidence Technician can sign documents and destroy items as long as person bringing item in is a witness. Also copies of all paperwork will remain with the custody document filled out by Evidence Technician. Also the person bringing item in should sign custody document, if possible.
 - Search warrants obtained by other agency.
 - Any item seized as a result of a search warrant issued to any outside police agency, will be maintained by the agency issuing warrant.

- The department issuing warrant can remove items to their evidence system.
- Search warrants obtained by our department personnel.
 - If our department personnel execute a search warrant outside our jurisdiction, we will be responsible for all the documentation including custody document. All items seized as a result will be transported back and placed in our evidence/property system.
 - In the event items seized may be evidence also of a crime in another jurisdiction, our Evidence Technician can transfer said item to needed jurisdiction. Evidence Technician will have custody document reflect where item goes.
 - In the event numerous items seized may be items from another jurisdiction, Evidence Technician may video tape items and forward video tape to other jurisdictions. A log should be maintained with reports of fact video was made, and to what jurisdiction copies of video were sent.

Shane Collins
Police Chief

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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