

# ***POLICIES, PROCEDURES, AND RULES***

<b>Subject:</b> 84.1.1 Property Management; Acquired & In-Custody	<b>Effective Date:</b> January 5, 2021
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## **I. PURPOSE**

The purpose of this directive is to establish a property management system for property acquired by and in the custody of the Fayetteville Police Department (FPD).

## **II. DEFINITIONS**

- A. Found Property is defined as all recovered items without a known owner, or recovered property where an owner has been identified, but has not been contacted. If found property is not claimed within a period of six months, it will be disposed of through a court order. [CALEA 84.1.7 NT]
- B. Safekeeping is defined as all recovered property with a known owner, and the owner is aware the property is located at the Fayetteville Police Department. If safekeeping property is not claimed within a period of six months, it will be disposed of through a court order.
- C. Evidentiary Property is defined as all property seized in connection or related to a crime or investigation.

## **III. POLICY**

The FPD will establish and maintain a property management system that will ensure continuity and consistency in the control and accountability of all evidence, lost and found property, and seized property, as well as all items retained for safekeeping or investigations in its custody.

This policy sets forth strict measures for the handling, security, and disposition of all such property in department custody.

### **A. Accessibility to Secured Evidence Storage Facilities [CALEA 84.1.1. h.]**

- 1. Access to secured evidence storage facilities shall be limited to Property and Evidence Division personnel.

- a. The Chief of Police and Deputy Chief of Police have joint access to the secured evidence storage facilities. One shall have possession of the alarm code, and the other shall have possession of the key/fob. Both the Chief of Police and the Deputy Chief of Police must be present to gain access to the secured facilities.
  - b. Employees can gain access to the secured evidence storage facilities when accompanied by Property and Evidence Division personnel, and the employee must sign the Property Room Access Log.
2. When accessing any off-site storage facilities, authorized personnel shall be accompanied by at least one (1) additional FPD employee, and all persons entering the off-site storage facility shall sign the facility access log.
  3. The destruction item storage area shall be secured by a dual locking system and will only be accessed when two (2) authorized personnel are present and in possession of their issued key.

## **B. Control of Property**

1. Control: The Property and Evidence Division shall maintain exclusive control and accountability of all found, recovered, and seized property, items kept for safekeeping, and evidentiary property.
  - a. In no event will employees store found, safekeeping or evidentiary property in their personal lockers or desks.
  - b. All employees coming in possession of found, recovered, and or seized property, items for safekeeping, or evidentiary property shall record such property by completing a Property and Evidence Submission Form or receipt form before going off duty [CALEA 84.1.1 a., c.]. In addition, if the property is not returned to the owner, all employees shall deliver the property to Property and Evidence Division personnel as defined within this policy before going off duty [CALEA 84.1.1 b.]. When taking property other than contraband from a person, employees must complete a receipt. When collecting evidentiary property, employees are required to complete an incident report in all cases.
    - (1) An exception to this policy is when evidence is being processed prior to submission to the evidence room. The evidence shall be documented by a Property and Evidence Submission Form and routed to the Property and Evidence Division. With supervisor approval, evidence can be processed for investigative purposes in the secured lab in the Criminal Investigation Division (CID).
  - c. The department recognizes exceptional circumstances may be present during which property might not be submitted to the Property and Evidence Division before an employee goes off duty. In such circumstances, in order to preserve the proper chain of custody, the employee shall notify their supervisor, who will ensure another employee maintains the property in question until such time it can be presented to Property and Evidence Division [CALEA 84.1.1 b.].
  - d. Mailing evidence: On rare occasions, it becomes necessary for an employee to mail property and/or evidence directly to a forensic laboratory and/or to

another source. When that occurs, the employee shall adhere to the following procedure:

- (1) A supervisor must authorize the direct mailing of property/evidence.
- (2) The employee shall complete a Property and Evidence Submission Form and submit it to Property and Evidence Division personnel.
- (3) The employee shall properly package and seal the property/evidence before taking the property/evidence to a postal facility.
- (4) The employee shall mail the property/evidence by certified mail, with a return receipt requested. The employee shall complete a US Postal Service PS Form 3811 (green Domestic Return Receipt card) and ensure the Article Number from the associated PS Form 3800 (white and green Certified Mail Receipt) is recorded on the card. The employee shall write his/her name and badge/employee number, as well as the corresponding case number, on the card.
- (5) The employee shall complete the Certified Mail Receipt and ensure the postal employee date stamps the receipt for the associated case file.
- (6) When the signed Domestic Return Receipt card is returned to the police department, the employee shall secure the card with the associated case file or evidence submission sheet. [CALEA 83.3.2]

2. Submission of Evidence: FPD personnel, with regard to all evidence, lost and found property, seized property, and items retained for safekeeping or investigations will follow these guidelines [CALEA 84.1.1 d.]:
  - a. Properly package each item;
  - b. Each item of evidence should be placed in its own appropriate container;
    - (1) When it becomes necessary for Property and Evidence Division personnel to repackage, or consolidate multiple items of evidence into one package, a new seal shall be applied and initialed.
  - c. Items with blood and/or other bodily fluids shall be air dried to prevent cross contamination before being properly packaged;
  - d. Certain types of items require additional security measures while stored in evidence. For that reason, the following items shall be packaged separately [CALEA 84.1.1 e.]:
    - (1) Narcotics/drugs;
    - (2) Firearms;
    - (3) Money; and
    - (4) Jewelry.
  - e. Narcotic and dangerous drug evidence (capsules, pills, etc.) shall be counted or weighed by the submitting employee. The substance will then be sealed in a tamper-proof protective packaging and initialed by the employee on the seal. All drug evidence handled by the Fourth Judicial District Drug Task Force and FPD employees that needs a drug analysis shall have a Property and Evidence Submission Form completed prior to submission to the forensics laboratory. This form must be submitted to Property and Evidence Division personnel for entry into the record management system.
  - f. Money: Any time money is inventoried or seized, it should be counted in front of the person(s) from whom it is being taken, and the "two person" rule shall apply. In other words, a minimum of two employees will count the money and sign both the receipt and the tally sheet. The money shall be

- packaged separately from other evidence items. The amount and denomination of the currency shall be recorded on a tally sheet. The tally sheet shall be completed prior to removing it from the point of seizure unless there are articulable circumstances which make it practical to complete the tally sheet at another location. The tally sheet shall then be attached to a Property/Evidence Submission Form.
- g. Non-evidentiary perishable items, such as dairy products, fresh produce, meat, etc. shall not be submitted to the Property and Evidence Division. Officers shall consult with the property owner for alternative arrangements for the property, but if that is not possible, officers shall photograph and dispose of the property. Officers shall document any disposed of non-evidentiary perishable items in a police report.
  - h. Properly label/identify each item on a Fayetteville Police Department Property and Evidence Submission Form;
  - i. If submission occurs at a time when Property and Evidence Division personnel are not present, employees will secure the evidence in an evidence locker [CALEA 84.1.3]:
    - (1) Over-sized property shall be secured in the department's large property/evidence lockers.
    - (2) If submission of biological and deoxyribonucleic acid (DNA) related evidence requires refrigeration, employees will secure the evidence in the refrigerated evidence locker [CALEA 84.1.3].
  - j. In the event that Property and Evidence Division personnel are not present, and all of the above listed secure areas are in use, or items are too large for the secure areas, personnel are required to contact the on-call Property and Evidence Division employee. Personnel must wait for authorized Property and Evidence Division personnel to respond and secure the property. An exception to this is in arranging for another employee to take chain of custody by notification of a supervisor as previously stated in this policy.
3. Accountability: The utilization of property logs, property and evidence submission forms, inventories and other documents, shall ensure all records provide an up-to-date and correct accountability of found, recovered, items held for investigation, safekeeping and evidentiary property. The following information shall be either placed on a Fayetteville Police Department Property and Evidence Submission Form or recorded in the system by way of a receipt form or incident report for each item of evidence [CALEA 84.1.5]:
- a. Location of property within the department;
  - b. Date and time property was received and subsequently released;
  - c. Description, type and amount of property on hand;
  - d. Chain of custody from the time property was received until final disposition shall be maintained by a Property and Evidence Submission Form, receipt form or incident report. There may be circumstances in which an item of property is not turned over to Property and Evidence Division personnel. These circumstances shall be documented in the incident report and the proper receipt form, for example:
    - (1) Items returned immediately at the scene of collection;
    - (2) Items sent to the forensics laboratory before it was entered as evidence (Property and Evidence Submission Form required); and

- (3) Items going to the Criminal Investigation Division and returned to owner.
- e. The date and results of all inspections, inventories, and audits of record.
- f. On certain occasions, it may be necessary for someone other than Property and Evidence Division personnel to transport items back from the Arkansas State Crime Lab. On these occasions, the following protocols shall be followed:
  - (1) The items along with the Arkansas State Crime Lab Evidence Return Transaction Receipt, should be delivered to Property and Evidence Division personnel.
  - (2) Property and Evidence Division personnel will verify all items are present and will update the records management system.
  - (3) In the event it is not possible to deliver those items directly to Property and Evidence Division personnel (items going directly to court etc.), the person transporting shall:
    - a. Make the Property and Evidence Division personnel aware of the items being picked up, and their current location; and
    - b. Provide Property and Evidence Division personnel with a copy of the Arkansas State Crime Lab Evidence Return Transaction Receipt; and
    - c. Provide Property and Evidence Division personnel with receipt or documentation for any items not returned.
  - (4) Property and Evidence Division personnel will update the chain of custody and storage location information in the records management system.

4. Property and Evidence Division Manager for Found, Recovered and Evidentiary Property: The Property and Evidence Division manager shall be designated as the property custodian, and he/she shall be held accountable for all property accepted by and stored in the department's property storage areas.
5. Receipt of Package Deliveries: Property and Evidence Division personnel are responsible for receiving all deliveries from forensic laboratories. An entry shall be made in the evidence tracking system indicating the receipt of the number of received packages.
6. Inspection and Right of Refusal: Property and Evidence Division personnel will inspect submissions to ensure items are properly packaged and submitted and have the right to refuse acceptance of any item submitted improperly. Property and Evidence Division personnel will notify the appropriate supervisor and make arrangements for the submitting officer to make the necessary corrections.

**C. Appointment of New Property and Evidence Division Manager** - In the event a new Property and Evidence Division manager is appointed, a joint inventory with the new manager, a designee of the Chief of Police and the outgoing property manager, when possible and appropriate, shall be held to ensure proper documentation and accountability [CALEA 84.1.6 b.].

1. The purpose of such an inventory shall be to guarantee the continuity of custody and ensure the system's integrity and property accountability.

2. The incoming Property and Evidence Division manager shall ensure all records are up-to-date and properly annotated.
3. All discrepancies shall be documented prior to the transfer of property accountability to the incoming Property and Evidence Division manager.

**D. Inspection and Inventory –**

1. The Chief of Police shall require the Property and Evidence Division manager to conduct a semi-annual inspection of recovered and evidentiary property to ensure adherence to procedure [CALEA 84.1.6 a.]. This inspection shall verify the following:
  - a. Department orders and directives concerning property management are being followed;
  - b. Property is stored in such a manner as to protect it from damage and deterioration;
  - c. Proper accountability procedures are being maintained; and
  - d. Property having no further evidentiary value is being disposed of promptly.
2. The Chief of Police shall require an annual inventory of all property and evidence held by the police department. This inventory will be conducted by the Chief of Police or a designee not routinely or directly connected with control of the Property and Evidence Division [CALEA 84.1.6 c.]. This inventory may be conducted with the assistance of Property and Evidence Division personnel.
3. The Criminal Investigation Division Captain shall complete a monthly review of access to the off-site evidence storage facility by comparing the alarm system activity log to the facility access logbook.
4. Unannounced inspections of the property storage areas are conducted when the Chief of Police so directs, at least once a year [CALEA 84.1.6 d.]:
  - a. The Chief of Police shall appoint an individual and a time period to conduct spot inspections.
  - b. Property accountability and security procedures shall receive primary attention during spot inspections.
  - c. The majority of the spot inspection shall consist of a random comparison of records with actual property items, and shall include at least one item from the following categories:
    - 1) Items considered “high risk” (firearms, jewelry, cash, and narcotics);
    - 2) Items stored in off-site locations;
    - 3) Items destroyed or marked for destruction;
    - 4) Documentation of items currently located at the Arkansas State Crime Lab;
    - 5) Documentation of items sold at public auction; and,
    - 6) Documentation of items released to owner.
5. The Property and Evidence Division manager shall conduct an inventory whenever a change in Property and Evidence Division personnel occurs.

6. All personnel assigned to the Property and Evidence Division will be subject to quarterly random drug screening, as well as voice stress testing, polygraph testing, and/or drug screening for cause.

**E. Disposition of Found, Recovered, Seized, Safekeeping and Evidentiary Property [CALEA 84.1.1 g.]**

1. Employees should attempt to identify the owners of found property and attempts shall be made to return found and recovered stolen property to its rightful owner(s) [CALEA 84.1.1 f.]. Attempts to contact the owners of found and safekeeping property prior to destruction will be documented by Property and Evidence Division personnel.
2. Evidentiary property may be returned to the owner prior to the court case with written permission from the prosecutor, lead investigator, or judge.
3. Recovered or evidentiary property returned should be photographed when possible. This photograph should include the person receiving the item, or the item with a valid driver's license or government issued identification of the person receiving the item.
4. If the property in question cannot be returned to the owner, the Property and Evidence Division manager will obtain a court order to have property converted to departmental use, sold at auction or destroyed. [CALEA 84.1.7 NT]
5. The disposition of all property acquired through civil action or asset forfeiture shall be managed pursuant to legal authority [CALEA 84.1.8 NT].
6. Evidentiary property may be checked out to employees for court purposes. A record of chain of custody will be maintained by the Property and Evidence Division manager. Employees are required to maintain the proper chain of custody with the evidence, return it to the Property and Evidence Division after court, and provide the Property and Evidence Division manager with written correspondence to account for any items taken by the court as exhibits [CALEA 84.1.1 g.].
7. Evidentiary property may be checked out to employees for purposes of examination. A record of chain of custody will be maintained by the Property and Evidence Division manager. Employees are required to maintain the proper chain of custody with the evidence and return it to the Property and Evidence Division after examination. Employees may temporarily lock property in approved lockers/cabinets within the secured lab in the Criminal Investigation Division but must maintain sole control of the respective key [CALEA 84.1.1 g.].

**F. Property / Evidence Disposition Forms**

1. Employees will receive an Evidence Review Notification email on items seized for evidentiary purposes and for found and safekeeping property.
2. Employees are required to research and update the disposition of the property and evidence within twenty-one (21) days.
3. Employees will utilize the Washington County Circuit Clerk and Probate Court's website to check the disposition of the case if the item is seized in connection with a case assigned to the Washington County Circuit Courts.
4. Employees will utilize Virtual Justice software to gain access to the Fayetteville District Court's computer system to check the disposition of the case if the item is seized in connection with a case assigned to the Fayetteville District Court.

#### **G. Incineration Disposal Procedures**

1. Items scheduled for final disposal by incineration will be stored in the destruction items storage area.
2. The Property and Evidence Division Manager will obtain a court order for disposal of those items.
3. Items will remain active in the records management system until final disposal scan.
4. Upon final disposal scan, the items for incineration will be consolidated into large containers, sealed, and initialed.
5. If the sealed and initialed containers cannot be immediately transported to the incineration facility, the Property and Evidence Division Manager shall secure the containers inside of the destruction items storage area until transportation to the incineration facility.
6. Final disposition scan shall be conducted no more than one (1) day prior to transport.
7. Items for incineration shall be transported by at least two (2) FPD employees authorized by the Chief of Police or his/her designee.

#### **H. Evidence Not to Be Destroyed:**

1. Felony evidence listed below shall not be disposed of:
  - a. Homicide (solved or unsolved), unless there is an order from the court that is signed by the judge authorizing the disposal of evidence;
  - b. When a suspect is incarcerated, and an appeal is possible;
  - c. When there is no suspect, and the statute of limitations has not yet run;
  - d. When the evidence is part of a suspected serial crime; or
  - e. When directed to retain the evidence by a department supervisor, prosecutor, or court order.
2. Misdemeanor evidence listed below shall not be disposed of:
  - a. Property that has not yet been held past the 30-day appeal period after the final disposition has been entered; or
  - b. The statute of limitations has not yet run.



- I. **Training Aids [CALEA 84.1.4]** - Narcotic detection training for police canines is vital to ensure the success of the canine program. The following procedures will be adhered to in order to ensure strict and correct accountability of narcotic training aids.
1. Each canine handler or trainer will check out narcotic training aids from the Property and Evidence Division as needed. The Property and Evidence Division manager will maintain records of these transactions as detailed below:
  2. Training aids shall be packaged and prepared by Property and Evidence Division personnel in the following manner:
    - a. The substance will be weighed and contained in a double heat-sealed plastic package;
    - b. The package will contain a clearly visible label identifying the substance, its weight, the date and time of packaging and the signature of the Property and Evidence manager and witness; and
    - c. The label will have a specific training aid number unique to each training aid package.
  3. Property and Evidence Division personnel will issue narcotics for use as canine training aids.
    - a. Property and Evidence Division personnel will use seized narcotics that have been adjudicated by the court and will obtain a court order for the conversion of the seized narcotics for the department use as a canine training aid; or
    - b. The narcotics will be obtained through the Drug Enforcement Administration.
  4. The narcotic training aids should be removed from use in training and replaced as needed.
  5. A logbook will be created by the Property and Evidence Division manager and will be utilized to maintain a record of the training aid packages:
    - a. It shall be the canine handler or trainer's responsibility to provide narcotic training aids for inspection to Property and Evidence Division personnel at least once every 30 days. Each package will be detailed in the logbook indicating the substance, training aid number and handler to whom the item is checked out.
    - b. Each package logged out to the canine handler or trainer will be checked against the logbook entry and for any apparent tampering or damage.
    - c. Property and Evidence Division personnel will sign and note the date and time of the inspection for each entry in the logbook.
    - d. Property and Evidence Division personnel will fully inspect the training aid packages to ensure their integrity. If any questions arise in reference to this inspection, the training aids will be logged into evidence and the canine supervisor will be notified.
    - e. If Property and Evidence Division personnel suspect the training aids to have been tampered with or if they are missing, the patrol captain will be notified immediately and will cause a complaint to be filed with the Office of Professional Standards.

- f. If the packaging appears to have minor damage but the integrity is intact, Property and Evidence Division personnel will repackage the training aid and notify the patrol captain.

**J. Issuance of Controlled Substances for Investigative Purposes [CALEA 84.1.4] –**

There exists occasions where the Fayetteville Police Department Property and Evidence Division is called upon to issue controlled substances to officers for investigative purposes. The following procedures will be adhered to in order to ensure strict and correct accountability.

1. Prior to the request of issuance of controlled substances, the requesting parties are to have reviewed and processed adjudicated cases in order to locate suitable controlled substances:
  - a. A court order shall be obtained authorizing the conversion for investigative purposes.
  - b. The court order must be presented to Property and Evidence Division personnel.
2. Property and Evidence Division personnel will abide by the following upon issuance of controlled substances:
  - a. Property and Evidence Division personnel must review and accept the governing court order.
  - b. Property and Evidence Division personnel will release controlled substances to requesting officers by way of a receipt and must detail types of substances, number of packages, and their weights and/or quantity and specific pill count.
  - c. Property and Evidence Division personnel will oversee and govern any required repackaging of the original evidence.
  - d. Property and Evidence Division personnel must complete a chain of possession in the department's computer operating system under the original entry and make notation in documents detailing the information on the receipt.
  - e. Property and Evidence Division personnel will place a copy of the respective court order and receipt with the original submission form.
3. Property and Evidence Division personnel will abide by the following upon return of controlled substances when investigative purposes are completed:
  - a. Property and Evidence Division personnel will inspect the returned controlled substances by sight, weight, and count and conduct a comparison to issuance records.
  - b. Property and Evidence Division personnel will report any discrepancies involving issuance and returned items to their supervising captain.
  - c. Property and Evidence Division personnel will make notation of returned items under the original entry documenting case information.
  - d. Property and Evidence Division personnel will enter controlled substances into corresponding new case numbers created by the investigations for future tracking purposes.

**K. Storage of Property, Found, Recovered, Seized, Safekeeping, Investigations and Evidentiary Property [CALEA 84.1.1 e.]**

1. Storage: All property stored by the department shall be held in designated secure areas [CALEA 84.1.2]. Items of in-custody property that, by their very nature, require extra security shall be stored in separate and locked locations within the evidence room, i.e. narcotic and dangerous drugs, firearms, money and distinguishably expensive jewelry [CALEA 84.1.1 e.].
2. Currency for Deposit: The Property and Evidence Division manager or his/her designee has the authority to deposit currency. The original package of currency must be opened and the amount verified with a tally sheet initialed by two members of Property and Evidence. A member of the Property and Evidence Division shall take the tally sheet and currency to the City of Fayetteville Business Office for deposit and receipt. The receipt and ledger must be maintained by Property and Evidence Division personnel [CALEA 84.1.1 e.].
3. Access: Access to all recovered and evidentiary property storage areas will be strictly limited to authorized personnel to prevent the alteration, unauthorized removal, theft, or other compromise of property stored by the department [CALEA 84.1.2].
4. Perishable Items: All perishable items of evidence, such as blood or urine specimens, shall be stored in a secure refrigerator in the evidence room whenever possible so their properties will be as unchanged as possible before they are examined in a laboratory or presented in court.
5. Vehicles or Other Large Items: All vehicles or other large items seized as evidence in drug investigations or other felony crimes shall have a Property and Evidence Submission Form completed and turned in to Property and Evidence Division personnel. Property and Evidence Division personnel will arrange to have the vehicle or other large items secured in the department authorized off-site facility.
6. The lieutenant in the Criminal Investigation Division is required to conduct an annual audit of all untested sexual assault collection kits and any associated evidence stored at the police department. The lieutenant shall report the information to the Arkansas State Crime Laboratory before December 31 of each year.
7. The FPD will not store explosives or incendiary devices in the Property and Evidence Division. Officers must contact their supervisor in incidents where explosive material or incendiary device(s) are located. Refer to FPD 47.1.13 (Bomb Threats and Explosive Devices [CALEA 84.1.2]).