

Evidence and Property Section

1001.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and identifies those persons authorized to remove and/or destroy property.

1001.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the Property and Evidence Section, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be relevant to a criminal allegation, including but not limited to photographs and latent fingerprints.
- Found property - Items found by deputies of the Office or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Office for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence and items taken for safekeeping under authority of law.

1001.2 POLICY

It is the policy of the Montgomery County Sheriff's Office to process, document and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

1001.3 PROPERTY AND EVIDENCE SECTION SECURITY

The Criminal Investigation Division shall maintain secure storage and control of all property in the custody of this office. An evidence custodian shall be appointed by and will be directly responsible to the Criminal Investigations Division Director. The evidence technician is responsible for the security of the Property and Evidence Section.

1001.3.1 REFUSAL OF PROPERTY

The evidence technician has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the evidence technician refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting Deputy's supervisor of the reason for refusal and the action required for acceptance into the Property and Evidence Section.

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1001.3.2 KEY CONTROL

Property and Evidence Section keys will be maintained by the evidence technicians assigned to the Property and Evidence Section. Property and Evidence Section keys shall not be loaned to anyone and shall be maintained in a secure manner. If a Property and Evidence Section key is lost, all access points shall be re-keyed and new keys issued as necessary.

1001.3.3 ACCESS

Only authorized members assigned to the Property and Evidence Section shall have access to property storage areas. Any individual who needs to enter a property storage area (e.g., maintenance or repair contractors) must be accompanied by an evidence technician.

1001.4 PROPERTY HANDLING

The deputy who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the evidence technician and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property is taken from an individual, a property receipt form will be completed and retained. The receipt shall describe the property and contain all pertinent information about the property. A copy of the property receipt form shall be given to the individual from whom the property was taken.

1001.4.1 PROCESSING AND PACKAGING

All property must be processed by the responsible deputy prior to the deputy going off-duty, unless otherwise approved by a supervisor. Deputies shall process and package property as follows:

- (a) A property form shall be completed describing each item. List all known information, including the following:
 1. Make, model and serial number
 2. Owner's name
 3. Finder's name
 4. Other identifying information or marking
- (b) Each item shall be marked using a method that will not damage, deface, degrade or devalue the item. Items too small or too delicate to mark should be individually packaged and labeled and the package will be marked with the deputy's initials and date.
- (c) Property shall be packaged in a container suitable for its size.

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- (d) The evidence/property form used in RMS, shall be completed in conjunction with the Incident Report.
- (e) Items too large to fit in temporary property lockers may be placed in a predetermined secured evidence location.

1001.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

Bicycles - Bicycles and bicycle frames shall have a property tag securely attached and should be placed inside the predetermined evidence location. A RMS evidence/property form shall be completed.

Biological and related items - Evidence that may contain biological samples shall be indicated as such on the RMS evidence/property form.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated on the RMS evidence/property form.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

Cash - Cash shall be counted in the presence of another deputy. The cash shall be placed in a property envelope and initialed by the investigating deputy, and the person from whom the cash was seized from if feasible. A receipt shall be completed by the seizing deputy and provided to the person from whom it had been seized. The supervisor should witness the count if possible, and specify any additional security procedures that may be necessary.

Explosives and fireworks - Explosives will not be retained in the sheriff's facility. See contact information for EOD under the section referring to Response to a Bomb call.

Firearms and other weapons - Firearms shall be unloaded and packaged separately from ammunition. Sharps containers should be used to package knives and/or other blades.

Government property - License plates that have not been reported stolen or are of no evidentiary value will be placed in the designated container in the patrol office for their return to the North Carolina Division of Motor Vehicles. The license plates are usually accompanied by the DMV receipt form issued to drivers who have had their license plates seized pursuant to DCI information requiring seizure. For all other reasons, a release form is not required.

County property that is of no evidentiary value should be released directly to the appropriate county department. A release form is required. If no responsible county personnel can be located, the property should be held for safekeeping.

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Sharps - Sharps tubes will be used to package syringes, needles and any other objects that may penetrate the skin.

1001.4.3 CONTROLLED SUBSTANCES

- (a) Controlled substances shall not be packaged with other property, but shall be processed separately.
- (b) The deputy processing controlled substances shall retain such property in his/her possession until, packaged, tagged and placed in the temporary evidence locker, accompanied by the RMS evidence/property form.
- (c) Prior to packaging:
 - 1. The deputy shall package controlled substances as follows:
 - (a) Maintain the property in the container in which it was seized and place it in a property envelope or bag of appropriate size.
 - (b) Seal and initial the property envelope, or bag, after it has been sealed with the designated red evidence tape or any other approved tape.
 - (c) Unless other physical evidence may remain on the packaging, should it be repackaged.
- (d) When the quantity of controlled substances exceeds the available safe storage capacity as determined by the evidence technician, the quantity shall be photographed and weighed.
 - (a) A representative sample of sufficient quantity to allow scientific analysis of the controlled substances should be taken as allowed by state law and placed in a separate package or container.
 - (b) Excess quantities should be stored or disposed of as required by law or directed by court order.
- (e) Marijuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The evidence technician shall monitor stored marijuana for growth of mold.

1001.5 RECORDING OF PROPERTY

The evidence technician receiving custody of property shall ensure that an RMS evidence/property control form is created for each item or group of items. The RMS evidence/property control form will be the permanent record of the property in the Property and Evidence Section. The evidence technician will record on the RMS evidence/property control form his/her signature, the date and time the property was received and where the property will be stored.

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A unique property number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form, property tag and the RMS evidence/property control form. The property log shall document the following:

- (a) Property number
- (b) Case number
- (c) Property tag number
- (d) Item description
- (e) Item storage location
- (f) Receipt, release and disposal date

Any change in the location of property held by the Montgomery County Sheriff's Office shall be noted in the property log.

1001.6 PROPERTY CONTROL

The evidence technician temporarily relinquishing custody of property to another person he or she shall electronically record the event in the RMS evidence/property module, including the date and time the property was released, the name of the person accepting custody of the property and the reason for release.

Any deputy receiving property shall be responsible for such property until it is returned to the Property and Evidence Section or released to another authorized person or entity.

The return of the property to the Property and Evidence Section should be electronically recorded in the RMS evidence/property control module, indicating the date, time, and the name of the person who returned the property, and to whom the property is returned.

1001.6.1 EVIDENCE

Every time evidence is released or received, an appropriate entry on the RMS evidence/property control form shall be completed to maintain the chain of custody.

The temporary release of evidence to Deputies for investigative purposes or for court proceedings shall be noted on the RMS evidence/property control form, stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the evidence technician at least one day prior to the court date.

Requests for laboratory analysis shall be completed on the appropriate lab form and submitted to the evidence technician or lab. This request may be submitted any time after the property has been processed.

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1001.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The person releasing items of evidence for laboratory analysis must complete the required information on the RMS evidence/ property control form. The transporting Deputy will acknowledge receipt of the evidence by indicating the date and time on the RMS evidence/ property control form. The lab form will be transported with the evidence to the examining laboratory. Upon delivering the item, the Deputy will record the delivery time on the lab form and the RMS evidence/property control form, and obtain the signature of the person accepting responsibility for the evidence. The original copy of the lab form will remain with the evidence and a copy of the form will be returned to the charging Deputy for filing with the case.

1001.6.3 CONTROLLED SUBSTANCES

The evidence technician will be responsible for the storage, control and authorized destruction of all controlled substances coming into the custody of this office.

1001.6.4 UNCLAIMED MONEY

The evidence technician shall notify the Investigations Division Director, regarding money that is unclaimed to the attention of the Sheriff. The evidence technician may deposit such money in compliance with existing laws upon receipt of proper authorization from the Sheriff.

1001.7 RELEASE OF PROPERTY

The Property and Evidence Section technician shall authorize the release of all property coming into the care and custody of the Office. All reasonable attempts shall be made to identify the rightful owner of property held for safekeeping, found property or items of evidence not needed for an investigation.

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

The release of all property shall be in compliance with State law.

Firearms or ammunition should only be released upon presentation of valid identification and authorized documents showing that the individual may legally possess the item. All release of found, evidentiary or received firearms shall be in compliance with State law.

Found property and property held for safekeeping shall be retained for the period of time required by law. During such period, Property and Evidence Section technician shall attempt to contact the rightful owner by mail, telephone, email or postings. The final disposition of all such property shall be fully documented on the RMS evidence/ property control form.

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An evidence technician shall release such property when the owner presents proper identification and an authorized property receipt form has been received. The signature of the person receiving the property shall be recorded on the RMS evidence/ property control form.

If any item listed on a RMS evidence/ property control form has not been released, the RMS evidence/ property control form will remain with the Property and Evidence Section.

1001.7.1 DISCREPANCIES

The Sheriff shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. They will interview the person claiming the shortage. An investigation shall ensure that a search for the alleged missing items is completed and shall attempt to prove or disprove the claim.

1001.7.2 DISPUTED CLAIMS TO PROPERTY

Occasionally, more than one party may claim an interest in property being held by this office, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or establishes an undisputed right to the property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for this office should be contacted.

1001.8 DESTRUCTION OR DISPOSAL OF PROPERTY

The evidence technician shall initiate the destruction or disposal of all property held by this office only by authority of a court order or under appropriate statutory authority.

1001.8.1 BIOLOGICAL EVIDENCE

An evidence technician shall ensure that any physical evidence, regardless of the date of collection, that is reasonably likely to contain any biological evidence collected in the course of a criminal investigation or prosecution is preserved in a manner reasonably calculated to prevent contamination or degradation of any biological evidence that might be present, subject to a continuous chain of custody, and securely retained with sufficient official documentation to locate the evidence.

Biological evidence includes the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in a criminal investigation, whether that material is cataloged separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, or cigarettes or any other item of evidence.

Biological evidence held by the Office shall not be destroyed without complying with laws relating to the destruction.

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Biological evidence shall be retained and preserved as required by State Crime Laboratory guidelines. The retention periods for items of physical evidence designated by the court as reasonably likely to contain any biological evidence are set forth in current law and will be adhered to.

1001.8.2 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth. As soon as practicable, the evidence technician shall make efforts, including obtaining an order for destruction, to lawfully destroy the contaminated marijuana in compliance with this policy. The evidence technician should consult with the deputy assigned to the case investigation for authorization to destroy the remaining marijuana, after taking representative samples, and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

1001.9 INSPECTION OF THE EVIDENCE/PROPERTY SECTION

The Sheriff or his designee shall ensure that periodic, unannounced inspections of the Property and Evidence Section operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Sheriff or his designee also shall ensure that an audit is conducted as directed by the Sheriff. Inspections and audits shall be conducted by a member of this office who may or may not be routinely or directly connected with the Property and Evidence Section operations or outside law enforcement agencies or contracted companies.

Whenever there is a change of assignment for any deputy with authorized access to the Property and Evidence Section, a review of all property shall be conducted by a person who is not associated with the Property and Evidence Section or its function. This is to ensure that all property is accounted for and the records are correct.