

**The Bill Blackwood
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**Assessing The Need
For Property And Evidence Handling Procedures
For The Palestine Police Department**

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**An Administrative Research Paper
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ABSTRACT

Property and Evidence management and control plays a vital role in the criminal justice process. The management of property and evidence must be maintained by the highest standards of honesty and integrity. Good policies on the management of property and evidence, and the willingness of the agency to enforce the policy will assist in the process.

The Palestine Police Department has a Property and Evidence policy that is outdated and very inadequate. This policy is short in length and does not cover areas that should be covered in a proper policy. This policy also gives total control to the evidence custodian and has no system for checks and balances to insure its honesty and integrity.

This policy research proposal was conducted through research. The research was conducted using books, the internet, newspaper articles, and policies from other police departments. The research shows a wide range of policies and samples of policies. The newspaper articles show the problems that can occur when adequate policies are not in place and when policies are not followed properly.

The recommendations for the Palestine Police Department are to rewrite the policies and procedures for the handling and management of property and evidence. This will include changing the staffing to include a system for checks and balances. The policy will also include a system for periodic or random inspections. This should insure that the Palestine Police Department have proper policy in place to help prevent potential problems in the future.

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INTRODUCTION

Law enforcement has come under scrutiny over the past five years, due to Rodney King, O.J. Simpson, and many other incidents. Whenever the prosecution takes a criminal case to trial they have to depend on the expertise and competence of the law enforcement agency that investigated the case. There are many ways law enforcement can damage itself, one of which is the failure to adequately manage the control of property and evidence (Barbour and Huestis, 1990). Property and evidence control is not a glamorous area of police work and often goes unnoticed by the media until a mistake is made (Barbour and Huestis, 1990). Law enforcement agencies are responsible for many items of property that are evidentiary and non-evidentiary. The number of items stored can be intimidating, even in small agencies (Barbour and Huestis, 1990).

The purpose of this research is to identify different policies and research articles that will assist in the formulation of a good property/evidence storage and disposal policy. The main focus of this research project is to establish a policy that sets guidelines for the property/evidence custodian on the proper storage and disposition of property, not the collection of it. The policy will be updated as new laws and new technology are established.

The research is being conducted for the benefit of the Palestine Police Department and any other law enforcement agency which chooses to borrow the research. This research will seek to identify information needed in the formulation of an evidence/property handling procedures, as well as information needed in upgrading the current policy.

There will be three primary sources of information for this research. First, there are certain laws and regulations that govern the storage and disposition of all evidence and property. This information will be researched carefully to help develop a good policy which will hold up in a court of law, should it be tested. The second source of information will come from different writings on the subject. These writings will come from school books, police journal articles, and some magazine articles. With technology and information changing every year, these articles will be a good source for establishing new policies and upgrading existing policies. The third source of information will come from policies of other departments. Every department has a different way to store, maintain, and release property and evidence. Using these different policies, applicable laws, and articles, information will be gathered to formulate an effective evidence/property storage and disposition procedures for the Palestine Police Department.

HISTORICAL, LEGAL, OR THEORETICAL CONTEXT

The Palestine Police Department has always had storage and disposal procedures for property and evidence. The storage procedure states “Evidence stored and removed from the Palestine Police Department storage facility (money, DWI blood samples, general evidence, and narcotics/drugs) will be accomplished in accordance with guidelines established by the Evidence Custodian as approved by the Chief of Police” (Palestine Police Department General Orders Manual, 1995).

The property/evidence disposal procedures states “The CID Commander/Evidence Custodian is authorized to cause ongoing disposal

(destruction, auctions, etc.) of all items stored in the evidence facility over two (2) years, except those items listed in General Order 310.01F (weapons, narcotics/drugs, instruments used in a crime of violence, items requiring a forensic report, forged or counterfeit instruments, and stolen credit cards)” (Palestine Police Department General Orders Manual, 1995).

The evidence custodian has a vast amount of responsibility, but no guidelines have ever been established by the evidence custodian, as authorized by the Palestine Police Department procedures.

All unclaimed or abandoned property of every kind seized by any peace officer in the State of Texas, which shall remain unclaimed for a period of thirty (30) days shall be delivered for disposition to a person designated by a municipality or the purchasing agent of the county in which the property was seized, with the following exceptions:

1. it is not contraband subject to forfeiture under Chapter 59 of this code.
2. it is not alcohol (whiskey, wine, or beer).
3. it is not to be used as evidence in any pending case.
4. a magistrate has not ordered the property be destroyed or returned to the person entitled.

(Texas Code of Criminal Procedure, 2001)

Money seized by a law enforcement agency in connection with a violation of Texas Penal Code Chapter 47 (Gambling) may be deposited into and interest-bearing account, by the state or political subdivision of the state that employs the law enforcement agency. The bank account shall be in the jurisdiction of the

agency that made the seizure and remain there until final judgement is rendered concerning the violation. (Texas Code of Criminal Procedure, 1989).

Weapons seized in connection with the use of a weapon or an offense under Texas Penal Code Chapter 46 (Weapons), shall be held by the laws enforcement agency making the seizure, unless it is a prohibited weapon, or the weapon is alleged to have been stolen property. If the weapon is a prohibited weapon then Texas Code of Criminal Procedures, Article 18.18 applies to the disposition. If the weapon is alleged to have been stolen then Texas Code of Criminal Procedures, Chapter 47 applies to the disposition. (Texas Code of Criminal Procedures, 1993).

An officer who comes into custody of property alleged to have been stolen shall hold it subject to the order of the proper court, only if the ownership of the property is contested or disputed. (Texas Code of Criminal Procedures, 1995). An officer who comes into custody of property governed by Texas Finance Code Chapter 371, that is alleged to have been stolen shall hold the property subject to the order of the proper court regardless of whether the ownership of the property is contested or disputed. (Texas Code of Criminal Procedures, 1995).

It is absolutely critical that we know what is expected of us: right from wrong, as it were. As positive leaders we hope that all of our employees want to do what is “right” or “good.” All of the management books say leaders should “establish the vision,” and that employees will then work toward it. Without the knowledge of what behavior is valued as “good,” we can’t consistently do it, no matter how much we want to or how hard we try to do so. (Evidence Log, 1996, Editorial).

As property and evidence professionals, we all want to do the job right. Therein lies the problem, because there is no definitive authority saying what is right, and what is wrong. Many of us do have at least our own policy manual, general orders, standard operating procedures or similar department guidelines, however, there is no “Bible” of the property room, even though it would be nice if there was a source on which we could rely for property guidance. (Evidence Log, 1996, Editorial).

REVIEW OF LITERATURE OR PRACTICE

The International Association For Property and Evidence established Property Room Standards and have updated them as laws and technology requirements. The following is a brief outline of the Property Room Standards, revised in 2002.

- I. **Organizational Placement** - refers to authority lines and reporting relationships affecting the property unit. It recognizes the fact that managers hold some elements of formal and informal control over the supervisors reporting to them. The supervisors, in turn, have the same influence over their subordinates. The property unit’s organizational placement can greatly impact its independence and credibility.
- II. **Staffing, Scheduling, and Responsibilities.**
 - A. **Staffing**- refers to the selection of employees to work in the property function of the agency. It includes such things as hiring standards, background investigations, assignments, and employee turnover.

B. Scheduling - refers to the accessibility by the public. Whenever plausible, the property/evidence facility be open during regular business hours.

C. Property Officer's Responsibilities - The major responsibilities of a Property Officer (also referred to as a Property Clerk, Property Controller, Property Technician, et.) are to receive all incoming property, to store it properly, to preserve its condition, to maintain it securely, to prevent tampering, to lawfully release or dispose of it, and to maintain documentation of the entire process that is sufficiently accurate and complete to satisfy any court which has reason to examine the process.

III. Written Policies and Procedures.

IV. Temporary Storage of Evidence - refers to the gap between the time the employee who seized the evidence leaves it at the station, and the time it is actually received by a property room employee.

V. Long Term Storage of Evidence - refers to firearms, currency, narcotics, homicide evidence, found property and safekeeping, audiotapes and videotapes, hazardous materials and flammables.

VI. Property Room Construction.

VII. Layout issues.

VIII. Security and Alarms - refers to temporary lockers - security, gun, narcotic, and currency storage areas - security/alarms, intrusion alarms, duress alarms, and video surveillance.

IX. Documentation.

- X. **Packaging, Handling, and Storage** - Includes handling of currency, firearms, narcotics, other special evidence, found property, and property for safekeeping.
- XI. **Disposition and Purging** - Includes auction, property diversion, and destruction.
- XII. **Training.**
- XIII. **Audits.**
- XIV. **Inventories.**
- XV. **Automation.**

(International Association For Property and Evidence, 2002).

In reviewing policies from other departments, there are some differences, and several similarities, however there are probably very few, if any, law enforcement agencies in Texas and the United States that have the same policy. For example, the Deer Park Police Department policy on property and evidence has a Statement of Purpose and Goals and Objectives. The Palestine Police Department property and evidence policy does not have either one of these items, nor does the College Station or Longview Police Departments.

Comparing the Deer Park, College Station, Longview, and Palestine Police Department's policies, there are several similarities, however some policies are more inclusive than others. The College Station, Longview, and Deer Park Police Departments list the responsibilities of the property custodian or unit, which includes measures to insure the integrity of the evidence handling procedures. The Palestine Police department does not have these responsibilities listed in its policy. These three department policies have specific instructions for the actual

storing of evidence, with College Station's being more in-depth than Longview, and Deer Park's is more in-depth than College Station. The Palestine Police Department has no policy regarding the actual storage of property and evidence. All four departments have policy on release or destruction of the property and evidence, College Station, Longview, and Deer Park have policies to complete a periodic inventory of the property and evidence, which is not in the Palestine policy.

DISCUSSION OF RELEVANT ISSUES

The control and management of property and evidence is one of the most important areas in law enforcement. The Cary, North Carolina Police Department property and evidence section starts out with this sentence: The Cary Police Department considers the care and control of property and evidence to be a high priority in policing. In all articles you read about property and evidence control, the main theme is ensuring the integrity of the property and evidence, thus ensuring the integrity and honesty of the police departments to the communities they serve.

To show the importance of the integrity of property and evidence, here are portions of articles from different law enforcement agencies. A former US Customs Service supervisor in Buffalo, NY who was responsible for making sure criminal investigations were conducted with honesty and integrity was charged with stealing \$95,290 from an evidence vault. (The Associated Press State and Local Wire, 2002). A former Roanoke, VA Police Department employee pleaded guilty to stealing money from the department's property room. (Roanoke Times and World News, 2002). A Denver, CO police captain with a nearly flawless 30-

year record and a police sergeant were both suspended for ineptly running the department's property room. About \$100,000 and several guns came up missing, as well as 16 stashes of confiscated drugs. (The Denver Post, 2002). The police chief of Cowan, TN about 80 miles south of Nashville was indicted on 16 criminal counts, including theft, evidence tampering, and official misconduct. Among the allegations are that the chief used methamphetamine and other drugs taken from his department's evidence room, and that \$1,200 was misappropriated from the police department's drug fund. (The Tennessean, 2001). This is just a small sample of these crimes that occur in the United States.

Separation of duties is paramount to maintaining organizational independence and integrity of the property unit. Centralizing the control and storage of property, and staffing the property unit with personnel, who are not involved in the collection or disposition of property and evidence, are precautions that will simplify control procedures and enhance the integrity of the property room. (International Association For Property and Evidence, 2002).

The organizational placement of the property unit can be part of the overall checks and balances of the agency in two ways. First, the unit should be provided with limited authority. The unit is for property custody and documentation only. Ideally it should not be involved in decisions about what to seize, or in decisions related to property disposition. Second, the unit should be organizationally separate from the patrol and investigative functions. Patrol personnel seize and book most property, and detectives most often check out property and arrange for its final disposition. Using the property unit as a buffer between those two functions enhances accountability. In small and medium size departments, the

property unit should be organizationally placed in an Administrative or Support Services Division. In very small departments without an Administrative or Support Services Division, placement in the Investigative Division by default might be required. (International Association For Property and Evidence, 2002).

The Palestine Police Department has received from 900 to 1,100 pieces of evidence per year for the past several years. The property custodian has always been the Criminal Investigation Supervisor and then in 1997 became the responsibility of the Administrative Captain. With the main duties of the evidence custodian, it will be easy to see that not enough time has been spent on purging items that need to be disposed of, thus causing a major problem with space in the evidence room. The Palestine Police Department has an excellent opportunity in the fact that it is in the process of building a new evidence and property room. This will allow a new starting point for how evidence should be stored and maintained. All of the evidence from active cases and other evidence that cannot be disposed of will be moved to the new evidence facility. This will leave items that need to be destroyed, returned, or set for auction to be separated from the evidence to be kept. This will allow the Palestine Police Department the opportunity to basically start over and set good thorough policies for the control and management of the property and evidence function.

The City of Palestine has started the construction for a new evidence facility. With the proper handling of the new property and evidence room, especially staffing and purging procedures, the Palestine Police Department property and evidence division will be very effective, as well as very cost effective.

Improper handling of property and evidence can be very costly to law enforcement agencies, as well as to the governmental entities that they represent. Most of the articles above mentioned stolen monies, which could have possibly been awarded to that agency. Then there are the inevitable lawsuits that will follow these cases of theft and deception, and be very costly to the government entity represented by those departments.

There will always be problems in any organization, however a major step to reduce those problems is with good policies and procedures and a system of checks and balances for those polices. Law enforcement agencies are held to a higher standard than most organizations, and as such need to establish the best set of rules and regulations possible.

CONCLUSIONS/RECOMMENDATIONS

The purpose of this research is to identify different policies and research articles that will assist in the formulation of a good property/evidence storage and disposal policy. The main focus of this research project is to establish a policy that sets guidelines for the property/evidence custodian on the proper storage and disposition of property, not the collection of it. The policy will be updated as new laws and new technology are established.

The research is being conducted for the benefit of the Palestine Police Department and any other law enforcement agency which chooses to borrow the research. This research will seek to identify information needed in the formulation of an evidence/property handling procedures, as well as information needed in upgrading the current policy.

The information in this research paper has shown the need for proper management and control of property and evidence. The first step in this process is to develop policies and procedures to address the furtherance of a property and evidence system that is above reproach. The second step will be to implement the policies and procedures that will be established.

The proper procedures for property and evidence handling, is one of the most important aspect of law enforcement. The law enforcement agency must insure they have the best policies and procedures in place for their department, in regards to the management of property and evidence. They must also make sure the property and evidence section is adequately staffed with personnel who have a high standard of integrity, and that the staffing allows for a system of checks and balances to ensure the integrity of the division.

The recommendations for the Palestine Police Department are to rewrite the policies and procedures for the handling and management of the property and evidence. This will include changing the staffing to include a system of checks and balances. The Palestine Police Department currently has one person in charge of the property and evidence section. The system of checks and balances will not only include additional personnel to assist in the handling and management, but will also include a system for periodic inspections. These recommendations should solve the problems of the property and evidence section of the Palestine Police Department and prevent potential problems in the future.

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