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The Handling and Security  
of Evidence by a Small  
Police Department

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## TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical and Legal Context	2
Review of Literature or Practice	5
Discussion of Relevant Issues	7
Conclusion/Recommendations	10
Bibliography	11

## **ABSTRACT**

Today's law enforcement organizations are under a great deal of scrutiny, from both society and the courts, on the way they handle and secure evidence. This paper discusses the importance of having a set of written policies and procedures on how evidence is handled and secured. As tax paid employees, our credo is "to Serve and Protect". It is imperative that officers use the highest degree of caution when obtaining, securing and seizing evidence. Upon completion of research and information acquired, formal written policies and procedures will be provided for the City of Converse Police Department. The reasons for research are obvious, first from a legal obligation to defend or protect the rights of individuals and provide proper evidence to possibly convict the guilty. No matter what is determined by the courts, it is the Police Departments responsibility to provide the evidence untampered with or such as it was before seized.

## Introduction

The purpose of this research paper is to furnish guidance, suggest policy and outline standardized practices for the benefit of officers who are responsible for the handling and security of physical evidence. In this research paper "handling" is defined as one or more of these actions: collection, identification, storage, presentation, and eventual disposition or destruction. "Security" refers to the measures taken to maintain evidence integrity.

Presently the Converse Police Department does not have a formal standardized written policy on the handling and security of physical evidence. Officers follow a set of unwritten guidelines. In the law enforcement profession, the collection and preservation of evidence is considered by most to be an unglamorous job (Pilant 39). Next to eyewitness testimony, physical evidence is perhaps the most dramatic and convincing evidence used in criminal trials. Evidence must be legally obtained, legally sufficient, logically and legally relevant, and competent. Therefore investigators, either plainclothes or uniformed, must eliminate the possibility of tainted evidence or the lack of evidence by insuring the crime scene is thoroughly examined and all physical evidence collected, preserved and properly maintained (Holtz 336). For the small police department, the evidence procedures need not be elaborate or complicated (Killiam 8). The handling and security of physical evidence can be broken down into three categories: collection, storage, and disposal.

This research is directed to the command staff of the Converse Police Department so a formal policy can be established on the handling and security of evidence. Upon completion of this paper, policy can be implemented so officers can collect, store and dispose of physical evidence in a uniformed manner. Information that provided the foundation for this paper came from various law enforcement agencies and academic journals, long recognized in the field of criminal justice as reliable sources. The purpose of this paper is to show the importance of having in place a standardized policy on the handling and security of evidence by a police department. In today's criminal justice system, it is mandatory that written policies be established for the handling and security of physical evidence.

#### **Historical and Legal or Context**

Evidence is a legal term meaning the information that a jury is permitted to consider in resolving disputed questions of fact (Paschal 316). It must be competent, relevant, and material to be held admissible (Gilbert 57). Physical evidence cannot lie nor can it be impeached (Peirson 113). The effective management of evidence by any law enforcement agency is a legal and fiscal necessity (Sturner et al., eds. 407). The central legal issue in the admissibility of any evidence into a court is the collecting officer's ability to recognize that evidence as the same as that obtained from the crime scene or a defendant (Anno 6) .

There is a basic need to improve the knowledge of all police personnel in regard to physical evidence, and especially those who

may be required to search crime scene(s) or suspects for physical evidence. These personnel should be skilled not only in the recognition of physical evidence but also in the legal significance of the evidence, and should have the capability of preserving the evidence for processing by a laboratory (Bozza 19). The laws of evidence are the basic rules that govern its admissibility. Evidence may come in many forms such as testimony, records, documents, objects, or anything else of evidentiary value. It must be legally presented at a trial for the purpose of inducing a belief into the minds of the court and or jury as to the truth or untruth of an issue presented.

Our system of justice presumes the defendant to be innocent and requires the prosecution to prove it's case against the defendant beyond a reasonable doubt-to a moral certainty. The basic concept of our system of justice has a simple reality factor-accusations of a crime must be presented in a court of law and supported by legally significant evidence.

For evidence to be legal and admissible in a court of law it must have been obtained in a lawful manner. If any part of the evidence has been tainted in any way, it is considered "fruit of the poisonous tree." This doctrine first emerged in *Silverthorne Lumber Co. v. U.S.* (1920).

Evidence is the only means of satisfying the triers-of-fact, of the truth or untruth, of allegations and accusations made by the parties in their pleading (Weston and Wells 2). If the criminal

justice system is to be truly just, then all of its various components must adhere to the formal rules of conduct, known as law. If the overall reputation of a police agency is that of being just, efficient, and professional, it is probable that the criminal investigator have as much knowledge of legal matters as of police techniques. All criminal investigators need to be guided by the various legal decisions that have greatly affected the manner in which an investigation must be conducted (Gilbert 55). Past court decisions have made physical evidence even more important in today's society. The United States Supreme Court in a number of decisions, such as in the Miranda case, has limited the authority of the police to rely on statements and confessions made by defendants. These landmark cases have, in effect, shifted attention to physical evidence as proof in court cases (Fisher and Block 13, Paschal 317-318).

It was thought that Supreme Court rulings such as Escobedo v. Illinois (1963) and Miranda v. Arizona (1966), which imposed additional restrictions on the police and limited the police practice of interrogation, would encourage investigators to rely more heavily on the scientific analysis of physical evidence and less on confessions and other forms of evidence obtained which may be judged later as an infraction of the accused lawful rights. In 1967 the Presidents Crime Commission pointed out that physical evidence and other forensic science mechanisms were not being used in the investigations of criminal offenses (Greenwood 144). Modern police departments have learned from past experiences and have made

great strides in the collection, preserving and presenting of evidence in our judicial system.

#### **Review of Literature or Practice**

A survey of police departments accredited by the end of 1987 found that before accreditation, 28 percent of these departments had no policy governing the responsibility of the person(s) who process crime scenes, and 33 percent had no policy addressing evidence collection in the field. In fact, the level of written directives for the collection and preservation of physical evidence was lower than that of directives in most other policy areas. Developing written policies for this area and for all parts of the investigative process should be a high priority in any modern police department (Eck and Williams 144). Study's have shown that regardless of the manner in which property comes into the possession and custody of a police department, a record of that property should be maintained until it is disposed of (Hanna and Kleberg 44).

In surveying other departments, large or small, one can see a wide variety of ways to handle evidence. Whether you are a large metropolitan agency with hundreds of officers or a small agency with just a few officers, it is clear that the most important item is to insure that the evidence collected is properly tagged. Today's modern law enforcement agency must have an effective quality control system which will monitor and detect deception, negligence, and human error in place (Sullivan and O'Brien 37). A survey was conducted reviewing the policies of numerous police



departments, both large and small. Each department surveyed had a unified, coordinated, department-wide property security (numbering) system in place so they could account for the status of the property seized. It was determined the smaller police departments had more general policies and practices with regards to maintaining evidence while the larger departments had more detailed policies. In reviewing a small department such as the City of Windcrest Police Department, policies regarding property, it is the usually responsibility of each officer to ensure that the property is tagged and a report made and turned into the property room without delay. All property which is recovered or seized for evidentiary purposes will have the officers full name, badge number, date and the report will give a complete description of that property (Property - Found, Recovered, Seized, 1991). In reviewing a large metropolitan law enforcement agency, such as the City of Houston Police Department, one can see the similarities but described in more detail. The City of Houston policy defines property definitions, along with responsibilities of officers, required reports, evidence collection, lab analysis, known comparison samples, purchased property used as evidence, temporary release of property, disposition of seized property, disposal of property, bicycles, credit cards, firearms and ballistic evidence, narcotics, private property seized, property seized from pawn shops, recovered street signs, serology samples, and vehicles (Property/Evidence Control Regulations, 1995). In reviewing the Texas A&M University Police Department policies, again they are similar to both the small and larger police departments. The A&M Police Department

policy covers processing of evidence, impounding evidence, storage of evidence, access to evidence room, inspection of evidence room, recording transfer of custody, and disposal of evidence (General Property Control Regulations, 1991). In reviewing Harris County Sheriff's Departments policies, their procedures remained consistent with other police departments. Harris County policy covers policy, restrictions, conditions, procedures and disposition (Procedures for seizure and disposition of stolen property and motor vehicle, date unknown).

In comparing the different departments procedures, several were very explicit from the capture of evidence, differentiating in detail in the exact procedures to handle each different type of evidence.(ie. automobiles, guns, money, drugs, stolen property). Other departments outlined the procedures in general to all evidence. The more detailed departments maintained continuous records to ensure the property room inventory was maintained at all times and to record the disposal of the seized evidence. In comparison, the more detailed departments had strict governing procedures in place that could eliminate possible negligence with the evidence. The more detailed departments had secured property rooms with limited access. Other departments did not elaborate on the accessibility of the property room. Each department was consistent with the "tagging" of evidence to include vital information relating to the seizure.

#### Discussion of Relevant Issues

As stated previously, evidence of any kind is one of the most

important parts of any criminal case. The integrity of the evidence must be safeguarded until produced in a courtroom. The evidence must of course be physically preserved, and it must also be properly maintained in order to meet legal requirements for admissibility at trial (Dowling 62). In essence, the term "chain of custody" is used. It can be defined as the documentation of every article of evidence, from the initial point of discovery at the crime scene, to its collection, and transport to the point of examination (O'Brien and Sullivan 17). Whether you are a 2 employee police department or you belong to a 1000 employee department, the method that evidence is handled and stored should be the same. Well handled and cared for evidence that was correctly collected and labeled and has an uninterrupted chain of evidence, represents better than half the work of the criminal investigator, whether in plainclothes or in uniform (Steindler 97).

In a smaller department you are tasked as being the first responder, the evidence technician, the property custodian and then insuring it is presented in court showing that the chain of custody has been maintained and proper policy has been followed. In most large departments, the first officer on the scene secures the area and then has a detective come to collect and preserve the evidence. Once back at the department the evidence is turned over to the property custodian for safe keeping until the court date. Again, the property must be presented in a court of law and must show that the proper chain of custody has been followed. This one is the one area most challenged in the court room. The court will

require proof that the evidence collected at the crime scene is the same evidence presented in court (Fisher and Block 19).

In both small and large departments, the objective and expectations should be clear and concise and set fourth in the policy and procedures manual. The policies should include a step by step procedure beginning with securing of the evidence in a lawful manner. The next procedure should include the proper collection and securing techniques. The next objective is to insure proper tagging of each piece of evidence that was obtained to include photographs. The final step of the procedure is insuring the evidence obtained is placed in a safe and secure property room until a final disposition is rendered by the courts.

A internal, random monitoring system should be in place for specific and frequent monitoring of evidence. This supervision should be maintained on all evidence at all times to ensure security prior to the immediate destruction or any other disposal procedures. If proper procedures are outlined and enforced, the probability of evidence being dismissed is unlikely.

Several issues and concerns arise pertaining to cost and benefit for each department. Needless to say, the benefits of proper handling of evidence will clearly outweigh the cost. The systems to secure evidence need not be elaborate or high tech but should be monitored and strongly enforced. What is needed is a reaffirmation of the principals of honesty, integrity, and police professionalism. The acceptance of these security measures should be looked upon as being visceral to modern law enforcement and not

peculiar to academia or other intellectual pursuits. Those who do not benefit from the past are condemned to repeat it (Sullivan and O'Brien 34). In one case the New York City Police Department lost over 300 pounds of hard narcotics in 1971-72 from a supposedly "secure property system" (Sullivan and O'Brien).

#### **Conclusion/Recommendations**

The purpose of this research project is to establish policy guidelines so officers of the Converse Police Department will have a formal procedure on the handling and security of physical evidence obtained during their tour of duty. Evidence of any kind is one of the most important parts of any criminal case. Procedures on how to handle and secure evidence need not to be elaborate, but they must be spelled out to insure the integrity of the case and of that of the department. Currently the Converse Police Department does not have a standardized policy on the handling, collection and security of evidence that is obtained. Based on the results of this research, one can see the need for a formalized set of policies on the way evidence is handled. Upon completion of this research project, command staff will be able to establish a set of formal procedures for officers to follow in the collection and monitoring of evidence. Research has shown how important it is to have a set of written procedures for the handling and securing of evidence. These written procedures will insure the department and the evidence can be presented to any court with very little problem.

## BIBLIOGRAPHY

- Anno, B.J. Handling and Processing Narcotics Evidence. International Association of Chief of Police Bureau of Operations and Research. 1991: 6.
- Bozza, Charles M. Criminal Investigation. Chicago: Nelson-Hall Inc., 1978.
- Dowling, Jerry L. Criminal Investigation. New York: Harcourt Brace Jovanovich Inc., 1979.
- Eck, John E. and Gerald L. Williams, Criminal Investigations, Local Government Police Management, ICMA. 1991.
- Fisher, Barry A.J. and Sherman Block. Techniques of Crime Scene Investigation. Boca Raton: CRC Press, 1993.
- General Property Control Regulations. Texas A&M University, 1996.
- Gilbert, James N. Criminal Investigation. Columbus: Bell & Howell Company, 1986.
- Greenwood, Peter W., et., eds. The Criminal Investigation Process. Lexington: Rand Corporation, 1977.
- Hanna, Donald G. and John R. Kleberg. A Police Records System for the Small Department. Springfield: Charles C. Thomas, 1974.
- Holtz, L.E. Criminal Evidence for Law Enforcement Officers. New York: Gould Publications, 1994.
- Killiam, E.W. "Evidence Procedures for the Small Department." Law and Order July 1977: 8, 10, 31-32.
- O'Brien, Kevin P. and Robert C. Sullivan. Criminalistic Theory and Practice. Boston: Allyn and Bacon, Inc. 1980.
- Paschal, J. Francis "Evidence" Lexicon Universal Encyclopedia, 1983.
- Peirson, Gwynne. Police Operations. Chicago: Nelson-Hall, 1976.
- Pilant, Lois. "Property and Evidence Management." Police Chief November 1992: 39, 42, 44-50.

Procedures for Seizure and Disposition of Stolen Property and Motor Vehicle. Harris County,  
Property/Evidence Control Regulations. City of Houston, 1995.  
Property - Found, Recovered, Seized. City of Windcrest, 1991.  
Reidinger, P. "Good Faith, Bad Evidence." American Bar Association Journal February 1989: 48, 50, 52, 54.  
Steindler, R.A. "How to Handle Evidence." Law and Order December 1971: 90-92, 94, 96-97.  
Sturner, John et al., eds., Property, Local Government Police Management. ICMA, 1991.  
Sullivan, R.C. and K.P. O'Brien. "Evidence Handling Procedures." Law and Order May 1979: 34, 36-38.  
Weston, Paul B. and Kenneth M. Wells. Criminal Investigation, Basic Perspectives. Englewood Cliffs:Prentice-Hall, Inc., 1980.