

**LITTLETON POLICE DEPARTMENT**

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(603) 444-7711

**PROCEDURE #: O-103**

**SUBJECT: Evidence**

**CALEA STANDARDS: 84.1.1, 84.1.2, 84.1.3, 84.1.4, 84.1.5, 84.1.6, 84.1.7**

NOTE: This written directive is for the internal governance of the Littleton Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

**Purpose**

The purpose of the standard operating procedure is to establish a clear policy which details the methods and procedures which all members of the Littleton Police Department shall follow in dealing with all types of property they may encounter during the course of their duties.

**24 Hour Coverage**

1. The Littleton Police Department provides police services 24 hours each day. Detectives, when not on-duty, can be reached 24 hours each day by pager or telephone.
2. Felony crimes that are being investigated with the assistance of the New Hampshire Attorney General's Office shall include the technical assistance of the New Hampshire State Police Major Crimes Unit whenever they are requested or required by the Grafton County Attorney or the NH Attorney General. When used, the NHSP Major Crimes Unit shall be responsible for the identification, collection, and preservation of evidence. The NHSP Major Crimes Unit is available 24 hours each day by calling NHSP Headquarters in Concord or by requesting the unit through NHSP Troop F barracks in Twin Mountain.

**Evidence Storage Policy**

1. It shall be the policy of the Littleton Police Department to effectively and efficiently manage and control all found, recovered and evidentiary property, and property owned by and in the custody of this agency. Handling, security, and disposition of property shall be addressed.
2. Evidence and property will be collected from a known source, whenever possible for submission to a laboratory for comparison with physical evidence collected.

3. Evidence and property will be stored in numerous locations throughout the Evidence Room depending on the size and type. It is very important that all officers adhere to the following policy to maintain the proper Chain of Custody of the evidence and to prevent damage to the evidence.

### **Definitions (84.1.2)**

1. **Evidence Room** – A room utilized by the Littleton Police Department to maintain and securely store evidence for investigations and court purposes. The Evidence Room will only be accessed by the designated Evidence Officers. Any attempted access of the Evidence Room by a person that is not approved for the evidence room shall be subject to disciplinary procedures. (84.1.4)
2. **Evidence Area** – This is to include, but not be limited to, the area identified as the Littleton Police Department Jail. This includes the Bullpen, Cells 2 and 3, the Evidence Room, and temporary evidence lockers located in the Bullpen.
3. **Temporary Evidence Storage Lockers** – The lockers consist of two long lockers and twenty smaller ones. These lockers are located in the bullpen area of the Evidence Area and have individual locks on them. The lockers are to be used to store the evidence after they are taken into custody until it can be moved to the Evidence Room by the designated Evidence Officer. Once a piece of evidence is placed in the locker it is secure until it is moved to the Evidence Room or cell 2. (84.1.3)
4. **Evidence Holding Cells** – The Evidence Holding Cells are located in the jail section of the Littleton Police Department. There are 2 cells. The cells are numbered 2 or 3. All officers have access to the Evidence Holding Cells. Cell 2 is for storage of larger items that would not fit in the Evidence Room. Cell 3 is designated for secure firearms storage.
5. **Bullpen** – The Bullpen is the large area located in the jail area of the Littleton Police Department outside of the Evidence Room and Evidence Holding Cells. This area is used to process evidence and also holds the Evidence Room refrigerator. All officers have access to the Bullpen.
6. **Weapons Lockers** – The Weapons Lockers are located in Cell 3. The lockers are utilized to store weapons and firearms that are currently in the custody of the Littleton Police Department. Each locker is numbered. Only the designated Evidence Officers have access to these lockers.
7. **Evidence Room Key Box** – This box is located in the Littleton Police Department. It contains the key that allows the officer to access the Bullpen.
8. **Case Manager** – The officer that is responsible for the evidence secured in the Evidence Room. The case manager can also be the crime scene or accident processor, or the officer that collects evidence or property at the scene. A

Littleton Police Department officer is available 24 hours a day. Due to the size of the Littleton Police Department, there may be times where skilled personnel from another agency may be called to assist. (83.1.1)

### **General (84.1.1)**

1. It is the goal of the Littleton Police Department that any evidence obtained by an officer and secured at the Littleton Police Department is properly documented, maintained and the Chain of Custody is not compromised. It is every officer's duty to follow the guidelines of this policy to ensure proper property and evidence maintenance and control. Any deviation from this policy will result in disciplinary action.
2. When an officer obtains evidence, it should be secured as soon as possible to ensure the Chain of Custody is not threatened. The officer should secure his/her evidence immediately, protecting all property and evidence from contamination, alteration, destruction and damage. If an officer takes into custody any property they do not know how to preserve, that officer shall contact a Supervisor or the designated Evidence Officer for assistance.
3. Any property that is being submitted to a facility for forensic testing or other reasons, shall comply with the standard operating procedures of the receiving facility. Officers submitting property at any facility should contact a supervisor or the designated Evidence Officer should questions regarding submission arise.
4. Property and evidence should be secured in a Temporary Evidence Locker located in the Bullpen before the end of the officer's shift. The officer should locate an empty locker. When the officer finds an empty locker he/she will secure the evidence in the locker with the lock provided. He/She will then take the key from that lock and drop it in the locker he/she had just secured. The officer should then record that location on the Chain of Custody section of the Possessed Property Report. The officer will then notify the Evidence Officer via Case Activity on IMC Records. If the evidence is too large to fit in an Evidence Storage Locker, secure the evidence in the Bullpen and notify one of the Evidence Officers in order for it to be properly secured.
5. When evidence is obtained by an officer, proper documentation must be executed to ensure proper Chain of Custody and disposal. The Littleton Police Department Possessed Property Report will be completed when evidence is obtained by an officer. The *white* copy of the report will be left in the property book located in the Evidence Room. The *yellow* copy will be placed in the case file. The *pink* copy will be packaged with the evidence. (84.1.5)
6. All property obtained shall be assigned an IMC property number utilizing IMC Records. A case label shall be printed and placed on all property or the packaging that the property is located in.

## **Evidence Officer**

1. It is the duty of the Evidence Officer to maintain items placed into evidence at the Littleton Police Department. It is also the duty and responsibility of the Evidence Officer to provide security and Chain of Custody of the evidence once it had been left in his/her custody. The Evidence Officer will provide all materials needed to maintain evidence.
2. When the Evidence Officer is notified that evidence has been secured in a Temporary Evidence Storage Locker, the Evidence Officer will move the evidence from that location and secure it in the Evidence Room. If there is a problem with the documentation of the evidence, or the way the evidence has been prepared for storage, the Evidence Officer will notify the Case Manager as soon as possible. The Case Manager will fix the problem prior to the evidence being moved to the Evidence Room
3. If the Temporary Evidence Lockers are full, the on-duty supervisor shall notify the Evidence Officer who will be responsible for moving the evidence to the Evidence Room as soon as possible. No evidence or property may be stored in any place other than the temporary lockers or the Evidence Room.
4. If a breach of evidence security has been identified or suspected, the Evidence Officer will immediately secure the entire evidence area including the bullpen area and contact the Chief of Police for appropriate action.

## **General Submission Procedures**

1. All property shall be marked and identified on the Littleton Police Department Possessed Property Report. It shall be marked with appropriate tags, or placed in evidence bags and marked and sealed. Officers shall use the appropriate packaging slips on all property. Officers should not use staples, rubber bands, scotch tape, or paperclips to affix tags to property. Collected sharps will be stored in provided sharps containers to prevent injury. Officers shall not substitute one property item for another, e.g., submitting one piece of currency for another of face value. (84.1.1)

## **Special Circumstances/Refrigeration**

1. If evidence is too large to be secured in the evidence area, a Supervisor or the Evidence Officer should be notified and arrangements will be made to properly secure the evidence.
2. If a piece of evidence has to be refrigerated to avoid destruction, the evidence shall be placed in the refrigerator located in the Bullpen area of the Evidence Room. That refrigerator will be secured using the provided lock and key. The designated Evidence Officer shall be notified via Case Activity that evidence has been placed in the refrigerator.

3. Items that are to be refrigerated include;
  - Blood Tube Kits
  - All Sexual Assault Investigation Kits
  - DNA and blood and body fluid samples to be submitted for testing.
  - Other perishable items, although it is preferred that perishable property be photographed and returned to the appropriate owner.

### **Motor Vehicles**

1. If a motor vehicle is impounded into evidence, a vehicle inventory sheet must be filled out in accordance with the Littleton Police Department Automobile Inventory Policy. A possessed property report must also be filled out.
2. The Littleton Police Department currently uses the sally port area of the Police Department for vehicle storage. When secure storage is needed the sally port is completely secured and access is strictly limited. Each vehicle should be stored according to the needs of the evidence obtained from that vehicle. Contact a Supervisor or the Evidence Officer if special arrangements need to be made.

### **Storage of Blood Specimens, Biohazards and Hazardous Materials**

1. Blood Tube Kits from DWI arrests and other Blood specimens are to be stored in the Evidence Refrigerator located in the Bullpen. Sexual Assault Kits and other Biohazard evidence are to be marked as biohazard and stored in the Evidence Refrigerator. Other Biohazard evidence items that do not require refrigeration are to be marked as a biohazard and appropriately stored.
2. Biohazards that require special handling and that pose an immediate threat to persons if it is handled, will not be stored in the Littleton Police Department Evidence area. Biohazards (evidence containing blood or body fluids) are to be stored in containers clearly marked Biohazard.
3. Any time that hazardous materials are seized as evidence or property, such as fuels of any type, all chemicals, and all explosive and chemical compositions of any type, the Littleton Fire Department shall be notified of the location where materials are stored.

### **Packaging and Handling of Property**

**1. Marking Evidence**

- A. When property is marked, the mark shall be
  - As small as practical
  - Distinctive
  - Placed in a location that will least reduce the item's value
- B. Evidence shall not be marked when,
  - It bears the manufacturer's identification or serial number.
  - The marking would alter its evidential value.
  - It can be identified through intrinsic distinctive markings.

**2. Littleton Police Department Possessed Property Reports. (83.3.1)**

- A. The Property Report shall be used to record all items taken into custody.
- B. Shall describe all items in sufficient detail to identify them.
- C. Where any item bears the following, all information shall be recorded
  - Manufacturer name, model, and/or number
  - Any unique identification number used to document the person and/or location from which evidential items are recovered.
- D. Shall be used to record proper chain of custody.

**3. Chain of Custody (83.3.2)**

- A. Document the name of the person who collected each item on a chain of custody.
- B. Chain of Custody will be maintained for all evidence items.
- C. Officers receiving the evidence are responsible for all documentation.
- D. Chain of Custody information shall be documented when evidence is delivered to outside agencies.

**4. Controlled and/or Dangerous Substances/Narcotics/Drugs**

- A. Officers seizing controlled and/or dangerous substances/narcotics/drugs should maintain strict control and supervision over such property until submission.
- B. Other officers should be brought into the chain of custody only as necessary, and every transfer should be documented on the chain of custody log.
- C. Officers should submit controlled and/or dangerous substances/narcotics/drugs before the end of their tour of duty unless they transfer control of the property to another officer.
- D. If the property is transferred, the accepting officer should submit it before the end of his tour of duty.
- E. Off duty officers recovering controlled and/or dangerous substances/narcotics/drugs should submit the property before ending their continuous involvement in the off duty incident.
- F. Off duty officers should never delay the submission of controlled and/or dangerous substances/narcotics/drugs until their regular hours.

- G. Officers shall not possess recovered controlled and dangerous substances/narcotics/drugs while off duty.
- H. Controlled and dangerous substances/narcotics/drugs should be submitted in separate packaging and on a separate Littleton Police Department Possessed Property Report from non-CDS property recovered under the same case number (84.1.1)
- I. **Packaging Controlled and Dangerous Substances/Narcotics/Drugs**
  - Should only be submitted in approved evidence bags with all information completely filled in.
  - Other types of packaging devices, e.g., glass vials, film canisters, and separate envelopes may be placed within the sealable evidence bag, but in all cases the evidence bag will be the outer container.
  - Glass and other breakable containers should be wrapped with sufficient padding to prevent breakage and containers shall be securely taped to prevent leakage or spillage.
  - Sharp edges that might appear on pipes or broken items should be wrapped or boxed to prevent injury.
  - Syringes should be packaged in provided sharps containers.
  - After packaging, the officer should affix a packaging slip which shall contain the pink copy of the Littleton Police Department Possessed Property Report on the rear of the evidence bag.
  - Officers should not overfill the evidence bags.
  - Different types of controlled and/or dangerous substances/narcotics/drugs property should be submitted in separate evidence bags.
  - After packaging, officers should submit the evidence, the white copy of the Littleton Police Department Possessed Property Report, and a filled out Evidence Examination request form to temporary evidence prior to the end of the submitting officers tour of duty.

#### **5. Packaging procedures for unusual or dangerous items**

- A. Syringes should be placed in a Biohazard Sharp Object Disposable Container.
- B. Officers should ensure that appropriate warnings appear on the outside of these containers.
- C. Whole plants greater than one foot in length should not be submitted for analysis.
- D. In such instances, officers should weigh and photograph the plant in its natural form, cut it off, break it apart and then submit the leaves, flowering tops, stems, and seeds for analysis, using normal procedures.
- E. The remainder of the plant including mature stalks and roots, can be submitted separately and marked for destruction.

#### **6. Firearms – General**

- A. Proper handling and submission of firearms allows for reliable control and examination of the firearm. Officers having questions regarding the proper handling of a firearm should request assistance from a Supervisor or the Evidence Officer.
- B. The officer shall render all firearms safe before transporting or placing firearms in the property room. Unload firearms and leave action of the firearm open if possible.
- C. The officer shall not disassemble a firearm for submittal.
- D. Clips or Magazines shall not be stored in the firearm; they shall be stored in marked bags or containers and marked in a manner consistent with this policy.
- E. The officer shall record the serial number, make, model and caliber of each firearm on the Littleton Police Department Possessed Property Report. Each firearm is to be individually tagged using the provided tags.
- F. Firearms should be checked through NCIC as soon as possible after receiving them.
- G. In all cases where a firearm is taken into custody an IMC incident number shall be assigned to the case.
- H. All firearms received shall be sprayed with a rust inhibitor, except for firearms being submitted for forensic testing.
- I. After processing, the firearms will be placed in an appropriate Temporary Evidence Locker(s) located in the Bullpen.
- J. Firearms seized as a result of a court order shall have a copy of the court order attached to the Littleton Police Department Possessed Property Report. An incident number pertaining to the seizure shall be assigned with all firearms documented in IMC.
- K. Firearms should be separately packaged and recorded on a separate Littleton Police Department Possessed Property Report from non-firearm property recovered under the same case number. (84.1.1)
- L. At no time will the value of the firearm be estimated. The value shall be recorded as unknown or \$1.00.

## **7. Firearms – Evidence**

- A. Proper handling and submission of firearms allow for reliable control and examination of the firearm. Officers having questions regarding the proper handling of a firearm should request assistance from a Supervisor or the Evidence Officer.
- B. Make notes as to the positions of safeties and determined if the firearm is cocked, photograph the firearm and, if appropriate, in relation to other pieces of evidence.
- C. Never clean the barrel, chamber or cylinder of a firearm prior to submitting it for analysis.
- D. Never attempt to test fire the firearm before submitting to the testing agency.



- E. All firearms and ammunition are to be packaged separately to avoid cross contamination.
- F. At no time will the value of the firearm be estimated. The value shall be recorded as unknown or \$1.00. Precious metals shall be referred to as “silver colored” or “gold/yellow colored” metal.

#### **8. Currency and Precious Metals**

- A. Currency shall be photocopied and copies placed in case file.
- B. Currency shall be counted and witnessed by at least one other officer.
- C. Counted currency and all precious metals shall be sealed in an evidence bag immediately after being recorded.
- D. At no time will the value of a precious metal be estimated. The value shall be recorded as unknown or \$1.00.

#### **9. Other Property**

- A. When property is taken into custody it shall be clearly described on the Littleton Police Department Possessed Property Report.
- B. It shall be packaged in appropriate containers provided by the Littleton Police Department. These containers, or bags, are located in the Bullpen area of the Littleton Police Department Evidence Area.
- C. Property shall be packaged and marked according to the General Submission Procedures.

### **Evidence Needed For Trial**

- 1. The prosecutor shall notify the Evidence Officer one week prior to a scheduled trial of any evidence needed. Evidence shall be placed in a temporary evidence locker or Cell 2 to be available to the officer that will testify about the evidence. All transfers of evidence shall be noted on the possessed property reports.

### **Disposition**

- 1. All drug related evidence, and firearms that require destruction, will only be destroyed by the evidence officer per State law.
- 2. When the Evidence Officer is notified by the department prosecutor, or case manager, that evidence is to be returned, the Evidence Officer will deposit the evidence in Cell 2. The Evidence Officer will notify the case manager that the evidence is ready for return or destruction. It is the case manager’s responsibility to dispose of the evidence. The case manager has 30 days to dispose of the evidence after date of the notification. The case manager will then fill in the appropriate parts of the disposition section of the evidence report and place the original copy and pink copy in the case file.
- 3. It is the department prosecutor’s responsibility to notify the Evidence Officer when evidence from a case is no longer needed. The prosecutor will complete the

Court Action section of the evidence report located in the case file and leave a copy with the Evidence Officer. The Evidence Officer will then notify the case manager when the evidence has been deposited in Cell 2.

4. It is not the duty of the Evidence Officer to return evidence to the owner.
5. Found, recovered and evidentiary property shall be returned, auctioned, or destroyed within six months after the legal requirements have been satisfied. This shall be accomplished according to the guidelines provided by the Grafton County Attorney's Office as set forth below:
  - A. Cleaning out abandoned or lost property (non-evidence and non-contraband property) from your property room:
    - If you know the property owner, just return the property to the owner.
    - If you do not know the property owner and you have held onto the property for at least 180 days with the property being claimed, you may give the property to the finder. A finder is NOT a police officer who discovered the abandoned or lost property during the course of his or her police duties. A finder includes anyone who is not an on-duty police officer who found the property.
    - If you are unable to give the property to the finder because you do not know how the finder is or because the finder was a police officer acting in an official capacity, then the property must be sold at a public auction. The proceeds then go to the Town or City Treasurer.

Source: RSA 471-C:13

- B. Release of non-contraband evidence in pending cases:
  - Always presume that your evidence in a pending case will be kept until the case is resolved. Never release evidence – no matter how insignificant the evidence may seem – until you check with your prosecutor.
  - Only three parties may request the release of evidence in a pending case; the prosecutor, the defendant and civil claimants.
  - Upon application by one of these parties, the court may order the return of property in a pending case. If the court grants this request, photographs of the property is admissible as evidence in lieu of the original property.
  - A prosecutor filing a motion to release property in a pending case should include the following items:
    - a. The case name
    - b. The docket number
    - c. The dates of forthcoming hearings
    - d. An itemized list of the property

- e. The authority under which the property was acquired (e.g. search warrant, plain view inventory search, etc.)
- f. The chain of custody of the property
- g. An explanation of why the property should be returned
- h. An explanation describing why the return of the property and the substitution of photographs would not cause any undue prejudice to the defendant.
- i. The names and addresses of anyone who might have a legal claim to the property.
- j. A request that the court appoint a guardian ad litem to represent the interests of any unknown or absent defendant.
- k. A request, with supporting reasons, that the court either (a) return the property to an owner, (b) forfeit the property to the police for public auction, or (c) forfeit the property to the police for destruction or police department use, as the court orders.

Reference: RSA 595-A:6

6. Release of non-contraband evidence in resolved cases:

- A. Non-contraband evidence may be disposed of in a criminal case when the case is completely resolved. A case is resolved when the trial, sentencing and appeals process has been completed. Some cases are resolved in short order, others take years. There is no definite timetable. Check with the prosecuting agency to learn whether a case has been resolved before you attempt to dispose of evidence.
- B. When a case has been resolved, you may dispose of non-contraband evidence by filing a motion with the court of jurisdiction. The motion should include:
  - The case number
  - The docket number
  - The disposition and dates of the case in all courts
  - An itemized list of the property
  - The authority under which the property was acquired (e.g. search warrant, plain view, inventory search, etc.)
  - The chain of custody of the property
  - An explanation of why the property no longer has any evidentiary value.
  - The names and addresses of anyone who might have a legal claim to the property.
  - A request to the court to either (a) return the property to an owner, (b) forfeit the property to the police for public auction, or (c) forfeit the property to the police for destruction or police department use, as the court orders.

Reference: RSA 595-A:6

7. Destruction of Drugs

- A. Contraband should never be disposed of until a valid court order says it can be destroyed. In addition, an application for the destruction of contraband should not be filed until a case has been resolved.
- B. Once a case has been resolved, a petition for Destruction of Controlled Drugs plus the accompanying inventory list shall be filed in accordance with RSA 318-B:17 to court of jurisdiction. The copies of orders to destroy drugs accompanied by appropriate returns shall be monitored by the Evidence Officer.

Reference: RSA 318-B:17

8. Release of Weapons and ammo required under the Domestic Violence Law (RSA 173-B:9)

- A. The violation of protective orders statute, RSA 173-B:9, orders police to seize deadly weapons, firearms, and ammunition. Any items seized pursuant to RSA 173-B:9 may not be released until a court of jurisdiction issues an order direction that the firearms, ammunition, or deadly weapons be relinquished.
- B. A prosecutor should not ask a court to release deadly weapons, firearms, or ammunition until the criminal case(s) has been completely resolved. Therefore, the procedures outlined in Part 6 (Release of non-contraband evidence in resolved cases) should be followed when seeking the release of these items from your evidence locker.

### **Key Control**

1. Only the Evidence Officer will maintain keys to the evidence room, evidence refrigerator, evidence key box and weapons locker.
2. If any keys are lost or stolen, the incident will be reported immediately to the Chief for appropriate action. A notation will be made in the Evidence Room Logs reporting the incident. In the event that this occurs the Bullpen will be secured immediately utilizing a new padlock.

### **Lost and Found Property**

1. Pursuant to RSA 471-C:13, all non-contraband, abandoned or lost and found personal property which has been held by the police department for a period of at least 180 days shall be disposed of by the police department by returning it to the finder, if known, if the finder was other than a police officer who discovered the property during the course of his/her usual police duties. If the property can not be returned to the finder, or is refused, the property shall be sold at public auction with the proceeds to be turned over to the Town treasurer.

2. Any bicycle which has been held by the police department for a period of 180 days or more shall be sold at public auction with the proceeds to be used for the support of local bicycle safety programs.
3. All non-contraband, abandoned or lost and found personal property shall be marked utilizing the blue property tags provided. A call for service number shall be generated.

### **Inspections and Reports**

1. The Evidence Officers shall conduct an inspection of all property and evidence each quarter to ensure the applicable policies and procedures are being followed.
2. If the property and evidence function is transferred from one officer to another, or an officer is newly assigned to the evidence function, an inventory shall be conducted jointly by the newly assigned person and the Chief of Police or his designee to ensure that the records are correct and properly annotated.
3. Each year, the Deputy Chief or Sergeant and the Evidence Officer shall conduct an audit of property held by the department. The officer conducting the audit shall submit a report to the Chief of Police.
4. The Deputy Chief of Police shall periodically direct that unannounced inspections of property storage areas be conducted. Results of the unannounced inspections shall be reported in a letter to the Chief of Police.

### **Submission of Evidence to the New Hampshire State Police Forensics Lab**

1. Whenever evidence shall be submitted to the NHSP Laboratory at the Department of Safety Building in Concord, the Deputy Chief, Sergeant, or Evidence Officer may assign any officer to transport the evidence.
2. When evidence is transported, a NHSP Evidence Transmittal Form shall be completed and signed, with Chain of Custody clearly defined.
3. Officers assigned to transport evidence to the NHSP lab shall have the evidence under their immediate control at all times, until the evidence has been properly submitted to NHSP lab personnel.