

CHAPTER 5: EVIDENCE

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1.0 EVIDENCE

1.1 POLICY

Because the successful solution of any criminal case, including the exoneration of innocent persons, is dependent on the evidence collected in the course of a police investigation, it is the policy of the Buffalo Police Department to collect all available evidence and to handle and process these items in a manner that ensures their evidentiary value. To do so, all members will follow the procedures of this M.O.P. and the property units SOP (which can be found at the end of this document).

1.2 DEFINITIONS

A. Evidence

Evidence includes all the means possible for proving or disproving an alleged fact.

B. Physical Evidence

Physical evidence includes any article, substance, thing or tangible object which is a means for proving or disproving an alleged fact.

C. Testimonial Evidence

Testimonial evidence includes any statements, admissions, confessions, or witness accounts, whether given orally or in writing, which tend to prove or disprove an alleged fact.

D. Direct and Indirect Evidence

Direct evidence is any evidence that tends to prove or disprove an alleged fact. Indirect evidence (circumstantial evidence) is any evidence, that while not proving or disproving the alleged fact in question, does tend to prove a separate fact, that separate fact tending to prove or disprove the alleged fact in question.

1.3 EVIDENCE PROCESSING - GENERALLY

The processing of evidence begins when the police first suspect that a crime has been committed. In general, the processing of evidence goes through a number of sequential phases:

A. Preserving the scene of the crime to insure that evidence is not contaminated or that items not associated with the crime are not introduced into the crime scene.

B. Recognizing what items at a crime scene may have evidentiary value.

C. Photographing evidence before it is moved or handled.

D. Marking evidence so it can be accurately identified at a later date, but doing so in such a way that its evidentiary value is not impaired.

E. Packaging evidence so that if it requires testing and further analysis, the evidence is

not tainted in any way during the packaging process.

- F. Keeping accurate accounts and inventories of all items seized in the evidence collection process.
- G. Creating a memorandum of facts of the entire investigation and crime scene.
- H. Delivering evidence to the Property Office or CPS Lab for storage and/or testing.
- I. Transferring evidence from the Property Office or CPS Lab for further testing and analysis.
- J. Taking evidence to court.
- K. Returning the evidence after the court appearance or, in the alternative, delivering a receipt for the evidence to the unit from which it was taken.

1.4 SERVICES OF THE CRIME SCENE UNIT (formerly Evidence/Photography)

The Buffalo Police Department's Crime Scene Unit is the primary unit responsible for taking crime scene photographs. In the event that they are not available, any member of the Police Department that has a departmental issued device capable of taking a digital photograph, i.e.: cell phone, iPad, etc. may take photos at a crime scene. The exception to this is any crime where the Homicide Squad, Special Victims Unit or Accident Investigation Unit has been notified to respond, no one other than the CSU or personnel assigned to those units, may take any type of photographs. Only 1 person will be allowed to take photographs at a crime scene. The Detective assigned to the case will be the person responsible for taking the photographs. In the event a Detective is not available, then the district lieutenant will assign one person to take photographs. Additionally, no one may use a personally owned device to take crime scene photographs. Members are reminded that the departmental issued device they are using to take photos with may be subject to subpoena and members of the department are reminded to keep personal information to a minimum on these devices.

The Buffalo Police Department has created a new email repository for all digital evidence. The email address, digitalevidence@bpdny.org, will be used to send all digital evidence, including photographs, to the Crime Scene Unit. The CSU will be responsible for logging all digital evidence received through this email address and processing accordingly.

When a member of the department uses their Departmental issued device to take a photograph, the following procedures will be followed:

1. When a photograph is taken at a crime scene, the member taking the photograph will have it noted in the police report that photos were taken and the number of photos taken. If a Detective is taking the photograph, they shall notate the same information in case management.

2. Prior to the end of that tour of duty, the photographs will be emailed to digitalevidence@bpdny.org. In the subject of the email you will place the CD#. In the body of the email, the following information must be included:
 - a) CD#
 - b) Name of the officer who took the photograph
 - c) Date the photograph was taken
 - d) Time photograph was taken
 - e) Location the photograph was taken
 - f) Nature of the call where the photograph was taken
 - g) Contact info for the person who took the photograph
 - h) Whether you need the photograph printed and where you need it sent to or if it is strictly to be kept on file for future use

3. If while at a crime scene and the Photo Unit of the CSU is not available in a timely manner, any sworn member of the Department who has a departmental issued device capable of taking a digital photograph, may take photos with the exception of any crime scenes where the Homicide Squad, Special Victims Unit or Accident Investigation Unit have been notified to respond. There will be no overtime allotted to district personnel to come in and take photographs. If a district Detective is notified to come in and investigate a crime, as part of their investigation, they may take photographs.

1.5 CENTRAL POLICE SERVICES FORENSIC LABORATORY

The Central Police Services Forensic Laboratory is located at 45 Elm Street. Members of the Department may contact the CPS Lab for information concerning the correct handling and disposition of any evidence that needs scientific testing.

1.6 BPD EVIDENCE AND RECOVERED PROPERTY CONTROL PROCEDURES

The BPD Property Office has established guidelines governing the processing of recovered property and evidence. The Property Office may be contacted by members of the Department who have questions concerning the control of evidence.

2.0 PROCESSING EVIDENCE AT THE CRIME SCENE

2.1 POLICY

It is the policy of the Buffalo Police Department to handle all evidence so as to protect it from contamination; to preserve it for necessary testing and evaluation; and to safeguard evidence so that its evidentiary value is in no way diminished or its authenticity questioned.

1.2 PRESERVING THE CRIME SCENE

A. Establishing the Crime Scene

The first member of the Department arriving to investigate the report of a crime must identify the crime scene. The size of the crime scene will depend on the nature of the crime and the possible existence of items of evidentiary value. It may extend for entire city blocks (e.g. drive by shootings, bombings, etc.) or it may be confined to one small room of a building.

B. Protecting the Crime Scene

Once the extent of the crime scene has been established and clearly marked with crime scene tape, no unauthorized personnel shall be allowed entrance. The only Police personnel allowed to enter the crime scene shall be members of the Department who are directly involved in the investigation of the crime, or those involved with collecting evidence or photographing the scene (refer to the Crime Scene Integrity Report Sign-in Sheet Form P-296). * **NO UNNECESSARY POLICE OFFICERS SHOULD ENTER THE SCENE.**

2.3 RECOGNIZING EVIDENCE

The evidence that is available will usually depend on the nature of the crime. The more information that an investigating Officer can obtain from witnesses and complainants the better able (s)he will be to determine the evidentiary value of items found at a crime scene. All items of evidence must be collected and preserved regardless of whether they tend to exonerate or implicate a particular suspect.

2.4 PHOTOGRAPHING EVIDENCE AND CRIME SCENES

If evidence or a crime scene is to be photographed, the Crime Scene Unit shall be called.

A. The Crime Scene Photographer shall record the following at the time evidentiary photographs are taken via a written log and visual digital metadata so he/she is able to testify in court that;

1. Location
2. Date and time of photo taken
3. Equipment used (camera/lighting)
4. Camera settings

B. He/she is able to testify that the photo represents a true and accurate representation of the evidence at the time the photo was taken;

C. He/she is able to testify that the digital image is free of change from the time of its exposure to the time of its presentation in court.

D. able to establish the continuity of the film/digital image from the time of its exposure to the time of its presentation in court;

2.5 COLLECTING EVIDENCE

A. Investigating Officer Responsibility

Generally, the investigating Officer will determine the method of collecting evidence. In instances of less serious crimes, the investigating Officer shall collect the evidence himself/herself but only if (s)he has sufficient experience to ensure that the integrity of that evidence is not imperiled.

B. Careful Handling of Evidence

Evidence must be carefully handled so that its value is in no way jeopardized. If there is any question as to the proper handling of evidence, the Crime Scene Unit (851-4493) or the CPS Lab (858-7408) should be called. In the event that personnel of neither of these units are readily available, the inquiry should be directed to the Duty Officer.

C. Preserving Evidence for Examination and Evaluation

Evidence must be handled with care so that it can be properly evaluated and examined.

1. The nature and source of the evidence must be precisely identified. In particular cases (e.g. hairs, fibers, fabrics, paint, glass, wood, soil, tool marks, etc.) like materials and substances shall be collected from a known source, when available. The materials and substances from the known source can then be compared by the CPS Lab with the physical evidence that was collected.
2. Where possible, sufficient evidence shall be collected so that the CPS Lab has a large enough sample to conduct a proper examination.
3. The chain of custody must be maintained. At every step of the evidence processing phase, it is imperative that the evidence be under the control of as few people as possible and it should not be outside the control of an authorized member of the Department or CPS Lab. To maintain the chain of custody of evidence the Evidence Control Report (Form P-127) shall be prepared in all those instances described in M.O.P. Chapter 5.

D. Protecting Fragile Items

Evidence that is fragile or that is easily susceptible to destruction, particularly glass, paper, china and other similar items, must be protected from physical damage. It must be handled and packaged so that fingerprints, palm prints, tool marks or other traces of evidence are not damaged.

E. Preventing Chemical Change and Contamination

Perishable evidence, particularly blood and other substances of human origin must be protected against chemical change and contamination. Under no circumstances shall blood or other perishable evidence be subjected to unnecessary heat (i.e. exposed to direct sunlight or placed near an artificial heat source). The Crime Scene Unit shall be

notified to preserve these types of items of evidence.

F. Calling the Crime Scene Unit

Refer to M.O.P. Chapter 5 for when the Crime Scene Unit is required.

G. Equipment

The Crime Scene Unit will have equipment available to process scenes. The equipment will be used for, but not limited to the following:

1. Recovery of latent fingerprints
2. Photography
3. Sketch of the scene
4. Collection and preservation of physical evidence

A list of all related equipment will be kept by the Commander of the Crime Scene unit.

2.6 PACKAGING EVIDENCE FOR EXAMINATION

A. Evidence Containers

Size and circumstances permitting, evidence shall be placed into a Departmental evidence bag. Evidence that is too large to be placed in an evidence bag or whose evidentiary value would be diminished by being placed in an evidence bag, shall be placed in a clean container, or in clean wrapping paper. Each item of evidence shall be packaged in a separate container. Refer to M.O.P. Chapter 5 for investigating Officer's responsibility for collecting evidence.

B. Liquids, Fragile Items and Unusual Items of Evidence

Some items of evidence need special packaging.

1. Liquids shall be sent in glass or plastic containers and the containers shall be carefully wrapped.
2. Items of evidence that may lose some of its properties through exposure to air shall be sealed in its container with tape or sealing wax.

2.7 MAKING A RECORD OF EVIDENTIARY ITEMS

A. Recovered Property Report

Whenever items of evidence are seized, except for drugs and DWI kits, the member of the Department collecting the evidence shall prepare a Recovered Property Report (Form P-10) or a Property Report (Firearms) (Form P-10A) if the evidence is a firearm.. The recovered Property Report shall include a complete description of the item including the make, model and serial number, if any. It shall also include the exact location from where the item was collected or the name of the person from whom the item was obtained. A separate P-10 must be completed for each different event number.

B. Evidence Control Report

In the event that the custody of evidence is to be transferred from one Department employee to another, other than when being directly submitted to the Property Office or the CPS Lab, the employee originally having custody shall prepare an Evidence Control Report (Form P-127) for each item of evidence to be transferred. The appropriate entries shall be recorded on the form for each subsequent transfer of custody. The Evidence Control Report shall be attached to the P-10.

2.8 MEMORANDA OF OBSERVATIONS

A. It is of utmost importance that investigating Officers make complete and detailed notes of everything observed at a crime scene. Mental impressions are often forgotten and details confused. A memorandum may serve to refresh the recollection of the Officer. In the event that the notes do not refresh the Officer's recollection, the notes themselves might be introduced as evidence. Minimally, the memorandum should contain:

- date and time of arrival at the scene;
- location of the crime;
- name of the victim, if known;
- name of the suspect, if known;
- action taken at the scene;
- whether other units of the Department were called to assist in the investigation (e.g. Homicide Squad, SVU, Crime Scene Unit, etc.) and the name of the member who responded;
- whether the member personally seized any item of evidence.

B. If the Crime Scene Unit responded to the scene, the member of that unit shall prepare a report that includes: the time the request was initially received, the name of the investigating Officer, and the disposition of the evidence.

C. To comply with "Rosario" requirements, Officers must preserve all their original notes. This includes preserving handwritten notes even if the handwritten notes are later transcribed and the Officer checks the transcription for accuracy. Sanctions for "Rosario" violations can be as severe as dismissal of the case.

3.0 SUBMITTING EVIDENCE FOR TESTING AND/OR STORAGE

3.1 POLICY

It is the policy of the Buffalo Police Department to sustain a strict chain of custody for all evidence collected and to safeguard and preserve evidence so that its evidentiary value and integrity is stringently maintained.

3.2 CHAIN OF CUSTODY

In order for an item to have any evidentiary value, there must be a strict accounting of the item's location and by whom it was possessed, beginning from the time it was initially

collected as evidence until the time it is presented at a proceeding. This chain of custody must be clearly documented. Whenever custody of evidence is transferred from one person to another, other than when being directly submitted to the Property Office or the CPS Lab, the proper entries must be made on the Evidence Control Report (P-127).

3.3 STORING EVIDENCE IN THE PROPERTY OFFICE

- A. All property seized as evidence by a member of this Department that is not to be submitted to either the CPS Lab or the Crime Scene Unit for further processing, shall be submitted to the Property/Evidence Depository Room (Room 101). All such evidence shall be submitted to the Property/Evidence Depository Room prior to the expiration of the tour of duty of the Officer who seized the evidence.
- B. The member of the Department submitting the evidence will be required to comply with the directions of Property Office personnel and to sign all required logs. The submitting Officer will receive in the business, a copy of the P-10 that has the stamped property number affixed or that has been signed and dated by a member of the Property Office.
- C. When evidence is submitted directly to the Crime Scene Unit or the CPS Lab, the member submitting the evidence shall also deliver a copy of the P-10 to the Property Office, except that no P-10 must be submitted when the evidence constitutes drugs or DWI kits. During hours when the CPS Lab is open, the P-10 shall contain the Lab number assigned by the CPS Lab.
- D. Evidence other than evidence submitted to the CPS Lab for testing, shall be stored in the in Room 101. The member of the Department that collected the evidence shall deposit the evidence following the posted procedures in Room 101. All evidence must be submitted prior to the expiration of the Officer's tour of duty. Room 101 will be under constant video surveillance.
- E. Each locker shall contain evidence from only one case. Items of evidence that are too large for the lockers shall be stored on the floor. Each item of evidence stored on the floor must have the proper forms attached. All reports must be typed or they must be printed legibly. The Officer submitting the evidence shall make a notation in the Property Custody Log in Room 101, indicating the exact location of the evidence (e.g. Locker #4 or shelf A-4). The submitting Officer will retain one copy of the P-10 as his/her receipt for the evidence.

3.4 DELIVERING EVIDENCE TO THE CPS LAB DURING BUSINESS HOURS

Drugs, DWI kits, blood, body fluids and other evidence that need scientific testing shall be submitted directly to the CPS Lab located at 45 Elm Street.

A. Request for Forensic Laboratory Examination (Form DCPS-L-1)

In every case in which evidence is submitted to the CPS Lab for examination, except for drugs and DWI kits, the Officer submitting the evidence, must prepare a

Recovered Property Report (Form P-10) as well as a Request for Forensic Laboratory Examination (Form DCPS-L-1). An Evidence Control Report (P-127) shall also be prepared in those instances outlined in M.O.P. Chapter 5. The original DCPS-L-1 shall be submitted with the evidence to the Lab and a copy shall be retained for the Command file. The DCPS-L-1 must contain the following information:

1. A description of the evidence and where it was obtained;
2. The time and date of the occurrence and/or arrest;
3. Any identification marks on the evidence;
4. The type of examination requested.
5. Incident number

B. Submitting the Evidence to the Lab

During the hours that the CPS Lab is open, the member of the Department that collected the evidence shall deliver the evidence directly to the Lab along with form DCPS-L-1 completed in duplicate.

C. Recovered Property Report (P-10) to Property Office

Whenever evidence is delivered directly to the CPS Lab, except for drugs and DWI kits, a copy of the corresponding P-10 shall be immediately delivered to the Property Office and the P-10 shall include the corresponding control number assigned by the CPS Lab. The submitting Officer shall retain a copy of the P-10 for his/her command files.

3.5 DELIVERING EVIDENCE TO THE CPS LAB DURING NON-BUSINESS HOURS

Evidence that is delivered to the CPS Lab (i.e. drugs, DWI kits, blood, body fluids) during non-business hour shall be handled in the following manner.

- A. The evidence and the original DCPS-L-1 shall be placed in a Central Police Services Property Envelope (DCPS-L-3) together with the P-10 and, if required, the P-127. The submitting Officer shall sign his/her name on the CPS Property Envelope that has been sealed with evidence tape.
- B. The submitting Officer shall personally place the evidence into the evidence lockers. Only evidence that is to be examined by the CPS Lab shall be placed in the lockers (i.e. no fingerprints or other property).
- C. Do not place evidence from more than one (1) case in any one envelope. Use separate envelopes for each case. If one envelope does not hold all the evidence, use as many envelopes as needed and mark them in numerical sequence next to the submitting Officer's signature.
- D. Under no circumstances shall, bombs, explosives or large bulky items be placed in the evidence lockers. Refer to M.O.P. Chapter 11.

- E. The evidence lockers shall not be used to return evidence that was signed out for presentation in court. During non-business hours refer to M.O.P. Chapter 5. This type evidence must be returned to the BPD Property Office in person.
- F. The evidence lockers are available for use by all Criminal Justice agencies served by the CPS Lab. The CPS Lab is not open to private agencies.

3.6 REPORTING RESULTS OF TESTING

In each instance in which evidence is submitted for testing (e.g. drugs, fingerprints, firearms, etc.) the unit performing the requested examination shall forward a copy of the results of the test to the member of the Department who submitted the evidence.

4.0 TRANSFERRING EVIDENCE

4.1 POLICY

It is the policy of the Buffalo Police Department to maintain stringent controls whenever evidence is transferred from one location to another or from one person to another. The chain of custody must be preserved and meticulously documented.

4.2 RELEASE OF EVIDENCE TO POLICE PERSONNEL - GENERALLY

A. Investigating Officer

Items of evidence may be signed out of the Property Office by Police personnel for court, victim/witness identification, or evidence processing. The Officer listed in box 8 or 9 on the Recovered Property Report (P-10) or P-10a shall be the only Officer to whom the evidence shall be transferred.

B. Final Release of Evidence

Only the Property Lt., or his/her designee, shall have the authority to approve final release of evidence. Before authorizing final release, the Property Lt., or his/her designee, shall consult with the investigating Officer and the District Attorney's Office. No other members of the Department shall authorize the final release of evidence.

4.3 RELEASE OF EVIDENCE - EXCEPTIONAL CIRCUMSTANCES

In each instance in which the custody of evidence is transferred the proper entries must be recorded on the Evidence Control Report (Form P-127).

A. Crime Scene Unit

The Crime Scene Unit Commanding Officer or his/her designee may sign out evidence for identification, testing or drying purposes.

B. Detectives Division Personnel

Detective Division Personnel may sign out fraudulent checks, counterfeit bills, suspected stolen credit cards, suspected stolen money orders, and fraudulent identification used in the commission of a crime.

C. Chief of Detectives

The Chief of Detectives may sign out evidence for investigations, analysis, and/or the gathering of criminal intelligence.

D. Internal Affairs Division

The Commanding Officer of the Internal Affairs Division or his designate may sign out evidence for the purpose of conducting internal investigations.

E. Accident Investigation Unit

The member of the Accident Investigation Unit that is investigating an accident may sign out evidence, except cash, that is directly related to his/her specific AIU investigation.

F. District Supervisor

The Chief of the District or Unit that originally submitted the evidence may sign out evidence but only if the original Officer is unavailable.

G. CPS Lab Personnel

Technicians of the CPS Lab may sign out evidence for testing, analysis or storage.

H. District Attorney Staff

Whenever an employee of the District Attorney's Office requests the transfer of evidence, the evidence will only be released to the following persons, and then, only after they have displayed proper identification:

1. Assistant District Attorneys
2. Investigators from the District Attorney's Office
3. District Attorney Property Clerk's Office personnel.

4.4 PROCEDURE FOR OBTAINING EVIDENCE FROM THE PROPERTY OFFICE

- A. Whenever evidence is signed out of the Property Office, the person taking custody of the property must complete and sign in the Property Transfer Book or CHARMS. The Property Office personnel will affix his/her signature and identification number on the line provided.
- B. Whenever evidence in the form of cash is removed from the Property Office the employee removing the money, along with the Property Office personnel shall count the money before it is signed out and then again after it has been signed back in. In the event that there appears to be a discrepancy, the Property Lt. and his/her Commanding Officer must be notified and an investigation commenced.
- C. When sealed evidence is to be signed out of the Property Office and the evidence must be examined prior to removal, the seal may be broken but only if it is done in the presence of the employee removing the evidence and only while (s)he's in the company of the Property Office personnel. They will both examine the evidence and

if there are any signs of tampering the Property Lt. and his/her commanding officer must be notified and an investigation commenced.

4.5 TRANSFERRING EVIDENCE TO COURT

When the Officer who seized the evidence is summoned to court the Officer will:

- A. Immediately contact the Assistant District Attorney (ADA) to determine the need for presenting the evidence at the court proceeding;
- B. If the ADA requests the presentation of evidence in court, the Officer will obtain the evidence from the Property Office and without delay, transfer it to the ADA. If the evidence is still at the CPS Lab the Officer shall sign the evidence out of the CPS Lab;
- C. Whenever an Officer leaves evidence in the custody of an ADA, the Officer shall obtain a completed Property Transfer Receipt (P-10-Supp.1) signed by the ADA. This must be delivered to the Property Office as soon as possible as proof of transfer.
- D. Drug Evidence. Refer to M.O.P. Chapter 5.
- E. Cash Evidence. Refer to M.O.P Chapter 5.

4.6 RETURNING EVIDENCE FROM COURT

A. During Regular Business Hours

During regular business hours, evidence that is being returned from court, shall be delivered to the unit from which it was obtained (i.e. Property Office or CPS Lab). Personal assigned to the unit to which the evidence is being returned will:

1. receive and process the evidence and inspect each envelope, bag, or package to ensure that all the evidence in its entirety has been returned and that it is properly identified, before it is re-admitted; and
2. items being returned shall be signed back in to the Property Transfer Book or CHARMS
3. under no circumstances shall evidenced be returned by using the evidence lockers at the CPS Lab.

B. During Non-Business Hours

During non-business hours, all Officers will have access to the Evidence/Property Room via their BPD employee identification card. This room will be utilized on a 24/7 basis, even during weekdays when the Property Office is open. (The Property Office will ensure that all items are processed and removed before the end of their shift each day). Do not bring the following items to Room 101:

1. drugs
2. drug facilitation kits (blood samples from DUI's, etc.)
3. mini bikes / ATV'S
4. any firearm used in a crime must go to the CPS Lab located at 45 Elm Street.

- Complete all necessary paperwork:
 - a. P-10A – for all firearms not used in a crime
 - b. P-10 – for all other items
 - c. Various lab request forms for further analysis
 - d. CCB2 Form for prisoner property
- Put completed paperwork and property inside a suitable locker (oversized items may be left on the floor).
- Enter transaction in log book on table.
- Place key in drop safe.

C. In the event that such evidence must be stored in the CPS Lab, Property Office personnel shall arrange to transfer the evidence to the CPS Lab on the next business day.

5.0 DOCUMENTARY EVIDENCE

5.1 POLICY

It is the policy of the Buffalo Police Department to process all available documentary evidence in a manner that best preserves its evidentiary value.

5.2 THREATENING AND ANNOYING LETTERS

A. Members of the Department shall safeguard fingerprints and other evidence which are on papers and letters involved in kidnapping and extortion cases, or that are on documents which contain libelous, obscene or otherwise criminal matter. Such items shall not be handled unnecessarily. The member of the Department assigned to investigate the case shall place the item in an envelope and personally deliver it to the Crime Scene Unit. During non-business hours the property shall be secured in a locker within the Property/Evidence Room (room 101). Accompanying the item shall be a fully completed Recovered Property Report (P-10), an Evidence Control Report (P-127) and a Request for Fingerprint Examination (P-77C). The Crime Scene Unit shall conduct the requested examination and then deliver the original to the Property Office along with the P-10. The Crime Scene Unit shall provide the investigating Officer with copies of the document.

B. When a series of letters is received, the complainant will be requested to not open the letters but to supply them to the investigating Officer unopened. The investigating Officer will open the letter in the complainant's presence, being especially careful to

preserve any potential evidence. It is possible to make a fingerprint analysis and handwriting or typewriter comparisons from properly preserved documentary evidence.

5.3 SUICIDE LETTERS

Suicide letters shall be kept confidential and shall not be divulged for publication. Letters coming into the possession of Police personnel shall be delivered to the Medical Examiner and the Homicide Squad shall be provided with a copy.

5.4 FRAUDULENT INSTRUMENTS (CHECKS, MONEY ORDERS, ETC.)

All cases involving fraudulent checks, money orders, or similar items shall be reported without delay to the appropriate District Detectives by the investigating Officer. The complainant shall retain possession of the fraudulent instrument until (s)he hands it over to a member of the appropriate District Detectives.

5.5 COUNTERFEIT MONEY

A. Delivery to Property Office

the Officer shall prepare a P-10 listing the serial number of each individual counterfeit bill. The counterfeit money along with the P-10 and the Intra-Departmental Memorandum shall be delivered to the Property Office before the expiration of the investigating Officer's tour of duty. During non-business hours the counterfeit money shall be deposited in the evidence lockers at Police Headquarters.

B. Transfer to the Secret Service

A member of the Property Office shall contact the Secret Service and request them to retrieve the counterfeit money. The Secret Service Agent will sign the original P-10 before the counterfeit money and the Intra-Departmental Memorandum are relinquished to him/her.

6.0 FIREARMS, WEAPONS AND AMMUNITION

6.1 POLICY

It is the policy of the Buffalo Police Department to process all weapons, firearms, and ammunition that represent evidence of a crime, in a manner that renders the weapons safe and that preserves the integrity of the evidence.

6.2 SAFEGUARDING WEAPONS

The member of the Department who comes into possession of a firearm/weapon shall first ensure that the weapon is unloaded and that it does not pose a threat to the safety of any person. If the Officer is not familiar with the safe handling and clearing of a particular weapon, (s)he will allow someone to clear it who is familiar with that type weapon.

6.3 DELIVERING FIREARMS/WEAPONS AND AMMUNITION TO THE CPS LAB

A. Delivery to the CPS Lab

All firearms, where there is an arrest, will be submitted directly to Erie County Central Police Services Laboratory located in the Public Safety Campus, 45 Elm Street. The weapons will be submitted utilizing the 1st floor evidence receiving lockers. Lockers A-G, hold long guns and lockers 1-50 will hold handguns. Multiple guns can be placed in one locker providing it is from the same case.

Officers will ensure all firearms submitted to CPS are unloaded prior to submission. If there is any question about the loaded/unloaded status of a firearm, Officers will abide by posted instructions that will serve to identify a possible “loaded firearm” in a very obvious manner.

The Officer submitting the firearm must prepare a request for forensic laboratory examination (DCPS-L-1) and a Property Report Firearms (P-10-A).

Distribution of the Property Report Firearms P-10-A is:

- Original to Property Office
- Copy to CPS Laboratory
- Copy to Command File

The original DCPS-L-1 shall be submitted with the firearm to CPS and a copy retained for the Command File.

Pellet guns, BB guns, and/or large quantities of ammunition will continue to be submitted to the Property Office.

B. Delivery to BPD Property Office

All firearms being held for safe keeping will be submitted to the Property Office, Room 104 during regular business hours. When the Property Office is closed, all firearms being held for safe keeping will be delivered to Headquarters and placed in a Property Locker.

C. Packaging Firearms/Weapons and Ammunition

All firearms must be unloaded and rendered safe before delivery. Ammunition shall be kept separate.

D. Reports

For firearms, rifles and shotguns, a P-10A shall be prepared in lieu of a P-10 for each weapon. If more than one weapon is on the same Incident number, fill out only entries that differ from the first P-10A (Incident number must appear on each form). An Evidence Control Report (P-127) must also be prepared in circumstances specified in M.O.P. Chapter 5. In an incident in which a firearm, rifle, or shotgun is seized, the Officer making the seizure shall prepare a Premise Hazard File Entry Request (Form P-295).

E. Follow-up

Prior to submission personnel shall endeavor to ascertain the owner of the weapon. The Property Office shall be notified by the submitting Officer when the property may be released, to whom it may be released and under what circumstances.

F. When Examining Firearms is Prohibited

Whenever firearms, rifles, or shotguns are secured in the CPS Lab or Headquarters, no members, other than members of the Property Office, the General Investigation Unit or CPS Lab, shall be allowed to examine that item without the express written consent of the Chief of Detectives, or his/her designee, and the Commissioner of Police.

6.5 TESTING AND CHECKING WEAPONS AND AMMUNITION

A. Ballistics Testing

Weapons and ammunition that have been seized as evidence and that require ballistics testing shall be submitted to the CPS Lab by the Property Office. The employee submitting the evidence to the Property Office is responsible for preparing the P-10A, the DCPS-L-1, and the Evidence Control Report (Form P-127) when such form is required (refer to M.O.P. Chapter 5).

B. The CPS Lab

1. The CPS Lab shall make a thorough examination of each weapon and all ammunition submitted for testing. They shall conduct tests necessary to accurately identify the item of evidence submitted.
2. While the weapon or ammunition is in the CPS Lab, the Lab will be responsible for the custody of that evidence and shall maintain accurate records of its location and disposition.
3. The CPS Lab shall provide the Property Office with all information concerning the final disposition of the weapon.

C. Computer Checks

The Erie County Crime Analysis Center (ECCAC) will send electronic transmittals via the New York State eJustice Integrated Justice Portal, using the Criminal Gun Clearinghouse submission form. This submittal will be performed for all crime guns recovered. All printouts will be attached to the P10A and filed in the ECCAC office. A pistol permit search will be performed for all hand guns recovered.

The ECCAC will check all recovered firearms for stolen in the New York State eJustice Integrated Justice Portal, using the Stolen Gun submission form. If not stolen, all firearms are to be entered as a "Recovered Gun". If stolen a "Hit Confirmation" is to be sent to the agency that reported the firearm stolen. Follow up to insure the stolen firearm is confirmed and cleared from NCIC. The stolen firearm is to be entered as a "Recovered Gun". A copy of the stolen gun information will be forwarded to the Property Office and to the command of the Officer who submitted the firearm. Any firearm returned by the Property Office to the firearms owner is to

be cleared in NCIC. Any firearm reported stolen to the Buffalo Police Department will be entered into NCIC as stolen by ECCAC and kept on file in that office. Any report of a stolen gun taken by any command will be posted on the Administrative Bulletin Board of the e-mail system and sent to the ECCAC office for processing.

D. Property Office

The Property Office will forward copies of P-10a's to ATF. ATF will check the make, model, and serial number to determine whether or not the firearm has been reported stolen. A hard copy of all NCIC checks will be sent to the Property Room and attached to the corresponding P-10a.

6.6 BULLETS REMOVED FROM A SHOOTING VICTIM

A member of the Department assigned to the investigation of a shooting shall obtain bullets that are removed from the victim. The member seizing the evidence shall deliver it to the CPS Lab with forms P-10, P-127 and a DCPS-L-1. A copy of the P-10 must be delivered to the Property Office without delay.

6.7 BOMBS, GRENADES, ETC.

Members of the Department learning of the presence of a bomb, grenade, unexploded shell, or other explosive or explosive device, shall not attempt to remove or handle it, but will immediately notify the 911 Communications Lieutenant through his/her Commanding Officer. The 911 Communications Lieutenant will take steps necessary to notify the Erie County Sheriff's Department and request the activation of their Bomb Disposal Unit. No such items shall be stored in the Property Office.

7.0 DRUGS AND DRUG PARAPHERNALIA

7.1 POLICY

It is the policy of the Buffalo Police Department to process all drug and drug paraphernalia evidence in a manner that ensures the integrity of the evidence and that insulates members of the Department from accusations of tampering or other misconduct.

7.2 FIELD DRUG TESTS

A. Substances suspected of being illicit drugs and that have evidentiary value, shall only be field tested by qualified field drug test operators. Field drug test operators must use only those methods of testing approved by the Department.

7.3 PACKAGING DRUG AND DRUG PARAPHERNALIA

A. Drugs in pill, tablet or capsule form must be counted by the submitting member of the Department unless the drugs are in an original sealed manufacturer's container. When preparing form P-10, the member submitting the drugs shall indicate the number of each pill, tablet or capsule, in the quantity column.

B. Syringes needed as evidence must be sealed in a tube provided for this purpose by

the Department.

- C. All substances suspected of being illicit drugs and which are evidence, shall remain in the package in which they were discovered and placed in a numbered, self-sealing, clear plastic tamper evident evidence bag. Drug evidence shall be submitted separate from other evidence. The submitting Officer must place his/her initials, badge number, and the date across the evidence seal on the bag. Drugs submitted as evidence must be packaged and submitted separately from drugs that are for destruction only.

7.4 SUBMITTING DRUG EVIDENCE TO THE CPS LAB

A. In all cases

The submitting Officer shall write the number of the bag on the Request For Laboratory Examination (Form DCPS-1-L). In circumstances described in M.O.P. Chapter 5, the submitting Officer will prepare an Evidence Control Report (P-127) which must be submitted to the CPS Lab with the evidence.

B. When the CPS Lab is Open

Refer to M.O.P. Chapter 5.

C. When the CPS Lab is Closed

Refer to M.O.P. Chapter 5.

7.5 TAKING DRUG EVIDENCE TO COURT

A. Subpoena Required

A member of the Department needing to present drugs as evidence in court must present a subpoena to the CPS Lab and the subpoena must specifically order that the drugs be made available.

B. No Subpoena

In those instances when a member has been given short notice concerning an impending court case and a subpoena for drug evidence has not been obtained, the CPS Lab must contact the District Attorney's Office to verify that the drugs are necessary for presentation in court.

C. Signing Drugs Out of the CPS Lab

Once the CPS Lab is satisfied that the drug evidence is needed in court, the evidence shall be signed out to court by the officers taking the drug evidence.

D. Returning Drug Evidence from Court

A member of the Department returning drug evidence after its presentation in court will deliver it to the CPS Lab and sign it back in. During non-business hours the members shall follow the guidelines outlined in M.O.P. Chapter 5.

E. Drug Evidence Retained by the Court or the District Attorney's Office

As with all other evidence left in the custody of the District Attorney's Office, the member must obtain a completed Property Transfer Receipt (P-10-Supp.-1) signed by the Assistant District Attorney prosecuting the case. This must be immediately delivered to the CPS Lab as proof of transfer.

8.0 CASH

8.1 POLICY

It is the policy of the Buffalo Police Department to process all money seized as evidence and to do so in a manner that preserves the integrity of the evidence and ensures that members of the Department are insulated from accusations of tampering or other misconduct.

8.2 SEIZING CASH AS EVIDENCE

All money seized as evidence shall be counted in the presence of the owner and another witnessing Officer. The second Officer will recount the money in the presence of the owner to verify the amount. Both Officers will sign the P-10 and the owner will be requested to do so. If the owner refuses, the P-10 shall include a notation to that effect.

8.3 PACKAGING AND DELIVERY OF CASH TO THE PROPERTY OFFICE

A. During normal business hours (Mon-Fri 0800-1200 hrs. and 1300-1600 hrs., closed on holidays) all cash seized as evidence must be delivered to the Property Office Room 104, prior to the expiration of the submitting Officer's tour of duty along with the proper paperwork. Cash must be recorded on a Recovered Property Report (P-10). The quantity of each denomination must be listed along with the total for that denomination. The total amount for all denominations combined, must also be reflected on the P-10. Under "Remarks" the P-10 must also reflect the reason why the cash is being held as evidence. An Evidence Control Report (P-127) must be prepared in those instances specified in M.O.P. Chapter 5.

B. During non-business hours all cash seized as evidence shall be packaged in a self-sealing, tamper evident, numbered clear plastic bag separate from all other property. The number of the bag must be entered on the P-10. The Officer submitting the cash shall place his/her initials, badge number, and the date across the seal of the evidence bag. Foreign currency, U.S. currency, and counterfeit money must all be submitted in separate evidence bags and listed on separate P-10 forms. When the Property Office is closed, the submitting Officer shall contact the City Court Booking Lieutenant. The City Court Booking Lieutenant, while in the presence of the submitting Officer, will secure the cash and the accompanying P-10 in the safe located in the City Court Booking facility.

The deposit of cash will be noted on the PROPERTY DROP SAFE DEPOSIT/REMOVAL LOG by the submitting Officer and initialed by the City Court

Booking Lieutenant. The secured cash and the accompanying documentation will be picked up by the Property Office staff on the next regular business day.

8.4 TRANSFERRING CASH

Refer M.O.P. Chapter 5.

8.5 TRANSFERRING CASH EVIDENCE TO COURT

A. Subpoena

Officers needing to present cash as evidence in court must present a subpoena to the Property Office specifically requesting that the cash evidence be made available. The Property Office will retain a copy of the subpoena until such time as the cash is returned.

B. No Subpoena

If the Officer has been given a short notice concerning an impending court case and a subpoena for cash evidence has not been obtained, the Property Office Supervisor or the Police Officer assigned to the Property Office must contact the District Attorney's Office to verify that the cash is necessary for presentation in court.

C. All other procedures for transferring cash evidence to and from court shall be the same as any other evidence except that cash must be counted by the withdrawing officer and the Property Office personnel turning over the cash, both before the cash is released for court and then again when it is returned from court.

8.6 CASH SEIZED AS FORFEITURE ASSETS

A. Seizing Cash

When a member of the Department reasonably suspects that money is related to illicit drug activity, the member may seize the money for potential forfeiture purposes.

B. Reports

When money is seized from a suspect for forfeiture purposes, the submitting Officer must complete a Record/Receipt of Seized Asset form; in addition to preparing a P-10 (refer M.O.P. Chapter 5). A copy of the Record/Receipt of Seized Asset shall be forwarded to the Narcotics Section.

C. Delivery of the Cash to the Property Office During Non-Business Hours

Refer M.O.P. Chapter 5.

9.0 SPECIAL PROCEDURES FOR PARTICULAR ITEMS OF EVIDENCE

9.1 POLICY

It is the policy of the Buffalo Police Department to process evidence so that the integrity of the evidence is assured and that members of the Department are insulated from accusations of tampering and misconduct.

9.2 BLOOD, SEMEN AND OTHER BODY FLUIDS

- A. Whenever there is blood, semen, or other body fluids present that may have some evidentiary value, the Crime Scene Unit shall be called to collect that evidence. Improper removal may destroy the evidence and could prove perilous to the member.
- B. When blood samples are taken from a person at a medical facility the member shall follow the procedures outlined in M.O.P. Chapter 3.
- C. Any property or evidence which may contain body fluids must be properly packaged, secured, and labeled with a BIOHAZARD LABEL.
- D. Preserving blood stains. Refer M.O.P. Chapter 5.
- E. Semen stains are readily subject to degradation. This can be minimized by properly drying the stained evidence in any normal ventilated room. Sunlight or heat should never be used to hasten drying because they may alter the item's chemical composition.

9.3 RAPE KITS

- A. When taking a rape kit into custody from a hospital or other medical facility, the officer receiving the rape kit shall sign the Chain of Custody section on the face of the rape kit box.
- B. Upon arrival at CPS Lab, the officers must complete an Erie County Central Police Services Forensic Laboratory: Request For Laboratory Examination - Form DCPS-L-1, and a BPD Property Report - Form P-10. Both reports must be completed in their entirety and all pertinent information shall be included.
- C. In cases in which additional evidence is turned over to the officers along with the rape kit, the officers must include that additional evidence on the DCPS-L-1 and the P-10.
- D. The rape kit, the completed forms, and any other additional evidence shall be submitted to the Property Office. Refer to M.O.P. Chapter 5.
- E. The Property Office will forward a copy of the DCPS-L-1 and the P-10, with the assigned property number attached, to the Special Victims Unit.
- F. After the CPS Lab has completed its analysis, it shall return the rape kit to the Property Office and shall forward a copy of the results to SVU.

9.4 ALCOHOLIC BEVERAGES

A. Opened Containers

When an opened container suspected of holding an alcoholic beverage represents evidence and the contents of the container need to be confirmed by the CPS Lab, the

member shall seal the top of the container, label and mark the evidence, and deliver it to the CPS Lab. The member must prepare a P-10 and a DCPS-L-1. A P-127 must also be prepared in circumstances specified in M.O.P. Chapter 5. During hours when the CPS Lab is open, the member shall obtain a lab number for the evidence and enter it in box 14 of the P-10 and then deliver the P-10 to the Property Office. When the CPS Lab is closed, the evidence shall be placed in the CPS Lab Lockers and a copy of the P-10 left in the Property Office's secure mail slot.

B. Unopened Containers

Unopened containers that do not need laboratory examination shall be delivered to the Property Office along with a completed P-10.

9.5 CONTAMINATED FOOD - ACCIDENTAL FOOD POISONING

When there is a suspicion of accidental food poisoning or food infection, the member of the Department investigating the incident shall notify the Erie County Department of Health and request that an inspector be sent to the scene. The member shall ensure that the suspected food remains at the scene and shall be refrigerated if necessary. A receipt for any food taken by the Health Department inspector shall be obtained by the member.

9.6 CRIMES INVOLVING POISON AND OTHER DEADLY SUBSTANCES

A. Request for Assistance

The Homicide Squad shall be called in each instance in which a person's injuries are suspected of being the result of ingesting poison or other deadly substance, and the ingestion was other than accidental.

B. Custody of Evidence

Drugs, poisons, prescriptions, labels, and containers shall be seized as evidence and delivered to the CPS Lab along with a P-10, DCPS-L-1. A P-127 shall also be prepared in circumstances specified in M.O.P. Chapter 5. When the CPS Lab is open, the member shall obtain a lab number and enter it in box 14 of the P-10. When the CPS Lab is closed the evidence shall be placed in the CPS Lab Lockers.

C. Information to Medical Personnel

Pertinent information, samples of materials, and the right to inspect labels, prescriptions, or containers, shall be afforded the attending physician and other medical personnel, or the Poison Control Center of the Department of Health. Proper receipts must be obtained in all such cases.

9.7 FINGERPRINTS

A. Avoid Contaminating Fingerprint Evidence

Members of the Department must take precautions to avoid introducing misleading physical traces on a surface that is to be examined for fingerprints. This includes fingerprints of the member himself/herself or other members of the Department.

B. Request for Fingerprint Examination

Whenever there is evidence to be examined by the Crime Scene Unit for the presence of fingerprints, the member of the Department in charge of the case shall prepare a Request for Fingerprint Examination (Form P-77C) in duplicate (original to Crime Scene Unit, copy to Command files). The P-77C shall contain the following information:

1. Description of the evidence and where it was obtained;
2. the time and date of the occurrence and/or the arrest;
3. identification marks on the evidence;
4. type of examination requested;
5. any known suspects.

C. Additional Reports

In addition to preparing the P-77C, the member in charge of the case must also prepare a P-10. A P-127 shall also be prepared in those circumstances specified in M.O.P. Chapter 5. A copy of the P-10 must be delivered to the Property Office.

D. Automobiles Held For Fingerprinting/DNA

Refer M.O.P. Chapter 2. Form P-77C shall be forwarded or faxed to the Evidence Collection Unit.

E. Results of Fingerprint Examinations

After the fingerprint examination has been completed, the Crime Scene Unit shall prepare Identification Bureau Latent Fingerprint Report (form P-77-B) and forward a copy to the member who submitted the evidence.

F. Evidence to Property Office After Fingerprint Examination

After the fingerprint examination has been completed the item shall be delivered to the Property Office. If fingerprints were found, or the item has evidentiary value other than fingerprints, the Property Office shall retain the item until disposal has been approved by the District Attorney's Office. If no fingerprints were found and the item has no independent evidentiary value, the Property Office shall arrange to return the property to its owner.

9.8 PROCESSING LATENT FINGERPRINTS - CRIME SCENE UNIT RESPONSIBILITY

The Commanding Officer of the Crime Scene Unit shall be responsible for developing written procedures for the proper handling, identification, labeling and storage of latent fingerprints.

9.9 HIGH VALUE ITEMS SECURED BY SECONDARY STORAGE

All money, firearms and high value items will be adequately secured by or within secondary secure storage (e.g. safes, caged areas, locked cabinets, wall mounted racks with security cable/wire rope) inside of designated property storage areas.

9.10 RIGHT OF REFUSAL

Improperly packaged evidence or evidence that is submitted without completed supporting documentation will be held in a locker and shall not be logged in to the evidence room until properly packaged and documented. If the property office staff encounters any such occurrences he/she shall make contact with the submitting Officer and instruct the Officer what necessary measures are needed to address the problems. The submitting Officer will make the correction and document the procedure required to resubmit the corrected items.

10.0 VIDEO SURVEILLANCE CAMERA ROOM

10.1 POLICY

Video security surveillance systems are a resource used by the City of Buffalo Police Department at selected sites within the City of Buffalo. The Buffalo Police Department recognizes that video surveillance technology can greatly enhance law enforcement efforts and has a high potential to deter crime and assist in apprehension and prosecution of offenders. The Buffalo Police Department believes video surveillance will achieve several valid law enforcement goals such as: enhancing public safety, reducing the fear of crime, and identifying criminal activity and suspects. In the event of a reported or observed incident, the review of recorded information may be used to assist in the investigation of the incident.

10.2 REGULATION/USE OF SURVEILLANCE CAMERAS, SURVEILLANCE MONITORING AND RECORDING

1. The Administration and Communications Unit will be responsible for the overall control and security of video surveillance systems and maintain a record of the camera locations.
2. The Communications Unit will be responsible for remaining up to date on laws or policies that may affect the monitoring protocol for the cameras. The department will also follow the video surveillance industry to stay abreast of technology changes and best practices in the industry.
3. Monitoring personnel will be trained and supervised in the appropriate use of the system. Monitoring personnel shall use the system for legitimate police purposes only. Personnel will receive ongoing training as needed.
4. The cameras will be clearly mounted and marked. Additionally, signs will be posted to inform persons they are entering areas that may be subject to video surveillance.
5. Monitoring is prohibited where persons have a reasonable expectation of privacy. Cameras will use masking technology to avoid shooting into private places, windows, and other areas where privacy is expected and should not be concerned with camera surveillance.
6. The cameras will be monitored from a restricted access location to be designated by the Commissioner of Police. Access to the camera images at remote locations, such as desktop computers and mobile computer terminals, will be restricted and password protected. Only the Commissioner of Police may authorize personnel that will have access to cameras from remote locations.

7. Data obtained and stored will be used exclusively for legitimate law enforcement purposes.
8. The storage of images will be in a secured area with restricted access. Only authorized personnel will have access and be able to retrieve images from the video system.
9. Images obtained through surveillance monitoring or recording will be retained by the department for a length of time deemed appropriate for the purpose of monitoring, but not to exceed 28 days, unless such images are being used for a criminal investigation. Images will self purge from the system if not needed for investigative purposes.
10. Any images retrieved and stored for investigative purposes will follow standard evidentiary procedures and retention requirements in place for the department.
11. The release of images will be governed by all applicable open records laws. Some images may be exempt from release under the open records laws if they deal with detection, investigation, or prosecution of crime.
12. Retrieval of stored images will be viewed by authorized personnel only. Copies (DVD) of stored images must be requested on form P-1378 (Camera Request), which must be filled out in its entirety and signed by the requesting officer. A log will be maintained of all copies made. The camera Administrator is responsible for dissemination and retrieval of images.
13. Employees may be subject to discipline if the system is used inappropriately and/or if information is inappropriately obtained, duplicated, or distributed in violation of policy.