

OGDEN CITY POLICE

Office of the Chief

Policy No: 15

Subject	Effective Date
Evidence	December 19, 2022
Department	Replaces Policy Dated
Police	December 5, 2022
Division	Review Date
All Police Personnel	September 2024
Authorized Signature <i>Eric R Young</i>	

NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this policy is to establish guidelines for maintaining the integrity of the evidentiary chain of custody and for prosecution.

II. POLICY

It is the policy of the Ogden Police Department to ensure that evidence in the custody of this department is properly categorized and stored in accordance with laws of evidence and best practices. All legally obtained evidence will be stored, secured, available, returned and disposed of when applicable and as directed by law and policies. All changes of disposition of evidence will be properly documented in accordance with law, policy, and the governing rules of the Ogden Police Department and the City of Ogden.

III. DEFINITIONS

- A. Evidence: Property, materials, records, documents, or items related to a crime.
- B. Found Property: Non-evidentiary property determined to be lost or abandoned and believed unconnected to any crime.

- C. Property for Safekeeping: Non-evidentiary property received into the custody of the Department for temporary protection on behalf of the owner.
- D. Property for Disposal: Non-evidentiary property in the custody of the Department that cannot be legally possessed by any person, property or evidence which has been adjudicated for destruction by the Court or the Department in accordance with law and policy, or property released to the Department by a citizen who requests its destruction.
- E. Chain of Evidence: The unbroken continuity of the custody of physical evidence, from time of original collection to final disposition, and which may be introduced in a judicial proceeding.
- F. Seizing Officer: The member of this Department who initially takes custody of or directs the property be collected, and who, thereby, initiates the chain of custody.
- G. Evidence/Property Custodian: The member of this Department accountable for control and maintenance of all evidence and/or property accepted by or stored in the Department's evidence facility.
- H. Evidence/Property Room: Facilities utilized by this Department to store evidence/property.

IV. STORAGE OF EVIDENCE

- A. Access to the evidence room will be limited to those members of this Department authorized by order of the Chief of Police.

V. PROCEDURE

- A. Only items believed to actually constitute evidence will be entered into the evidence system. Large and easily identifiable items may be photographed and released to the owner upon permission from a supervisor or the appropriate attorney's office. Found property will be processed into the evidence room as "found property" and in accordance with provisions of Ogden City Code Title 4 Section 3C and Utah Code Annotated (UCA) Title 77 Chapter 24a.
- B. Items placed into evidence will be packaged in an outer paper or plastic container. The outer paper or plastic container will be clearly marked with black permanent marker with the case number, officer's name, date, and item number. The opening to the paper/plastic container will be sealed with 2" wide clear tape. The officer submitting the evidence will apply

their initials and date on the edge of the sealing device so that the writing covers the device and the container. A seal is not a seal unless it is initialed and dated on the seal and the package. At no time will the paper or plastic container be fastened with staples. Items too large for a paper or plastic container will be tagged with the appropriate evidence tag. Do not cut or scratch your name, ID number, etc. into the property. When marking the outer evidence packaging or container be sure to put the date and time it was submitted to evidence, not the time it was initially collected.

- C. Evidence to be processed by CSI or the State Crime Lab will be packaged in a separate paper container appropriately marked with the item number as it corresponds to the evidence/property report. Evidence submitted for forensic analysis or processing should not be comingled with other evidence. Separate items will be packaged in separate containers.
- D. All sharp, pointed, or edged items will be secured and packaged in such a way that those who handle them will not be injured when removing or processing the items. The exterior of the package will be marked with a clear warning that the package contains "SHARPS" and what the item is, i.e. "NEEDLES", "KNIFE", "RAZOR", etc. If the evidence contains any type of bodily fluid, the outside of the package will also be marked with a clear warning that the package contains a "BIOHAZARD" and what the hazard is, i.e., "BLOOD", "SEMEN", etc.
- E. The contents of a syringe will be emptied into a small glass vial and packaged separately so the contents can be analyzed. Syringes will be packaged in available biohazard containers. The State Lab will no longer process or test syringes.
- F. The state lab will only analyze paraphernalia items where these items are the only evidence in a drug possession case, are important for probable cause situations or may be used to prove specific elements of a more serious crime (i.e., drug scales in a distribution case). Moldy marijuana will not be accepted by the lab as it cannot be properly analyzed.
- G. If the evidence is being tested for DNA, all possible DNA standards of involved persons must be submitted along with the evidence. The lack of DNA standards severely hampers the Crime Lab in the analysis of the submitted evidence. If the item is being tested for touch DNA, a letter from the prosecutor, giving permission to consume the sample, must accompany the submitted item. No testing for touch DNA will be done without this letter.

- H. FIREARMS MUST BE UNLOADED PRIOR TO TRANSPORTING THEM FROM THE CRIME SCENE. WHEN PLACING FIREARMS INTO EVIDENCE, THE ACTION OR CYLINDER MUST BE LEFT OPEN. FIREARMS SHOULD BE SECURED AND PACKAGED IN AN APPROPRIATELY SIZED CARDBOARD BOX. DO NOT PLACE ANYTHING DOWN THE BARREL OF THE FIREARM. NOTE ON THE EXTERIOR OF THE CARDBOARD BOX "FIREARM HAS BEEN CLEARED". ANY AMMUNITION MUST BE PACKAGED SEPERATELY.
- I. Explosive or flammable material will be rendered inert before being submitted, if submitted at all.
- J. Cellphones will be packaged separately from other evidentiary items. The International Mobile Equipment Identity (IMEI) and/or serial number will be noted if available. The IMEI number is **a unique identification** assigned to all mobile devices (phones & tablets). The IMEI is normally a 15-digit number located under the battery, on the box, or in the phone's settings. The make, model, and color of the cellphone will also be provided, including the owner information, if known, and where the phone was located (e.g. northeast bedroom, back passenger seat, backpack). Cellphones must be submitted into evidence and assigned a property number prior to going to the ATAC or Detective follow-up, unless an exigent circumstance exists.

If a Cellphone is retained by an Officer after a property number is assigned, the status of the phone will be documented as "retained by officer" and where the Cellphone is stored.

- K. Intimate images, as defined by UCA 76-5b-203, distributed to or obtained by an officer as part of a criminal investigation or prosecution shall be categorized as evidence. Only department authorized applications or accounts shall be used for the collection, distribution, or storage of intimate image evidence.

State law prohibits any individual who obtains access to an intimate image during a criminal action from displaying, duplicating, copying, or sharing the intimate image unless it is done solely for a purpose listed in Utah Code Section 76-5b-203 including:

1. Investigation or other lawful practice of the department;
2. Prosecutorial functions;
3. Reporting of a criminal offense;
4. Court proceedings or any other judicial proceeding.

- L. If all evidence lockers are filled and a need exists to have the lockers emptied prior to the next business day, the Watch Commander will call in an evidence custodian to empty the lockers.

VI. COLLECTION OF EVIDENCE

- A. When the investigating officer determines there is evidence to be collected in the field, the officer will be responsible for accomplishing this or will delegate the responsibility. If it is determined that processing is required by Weber County Crime Scene Investigators (CSI), the investigating officer will personally coordinate with CSI what items are to be processed and what is to be collected for submission to the evidence room. It is not the role of CSI to determine what is to be collected for evidence. CSI may offer suggestions or advice; however, the ultimate responsibility is left with the investigating officer who will be held accountable. For instance, broken pieces of glass may need to be processed for latent prints and can be photographed while not being submitted to the evidence room. A baseball bat used in a criminal mischief can normally be photographed and the photo submitted into evidence whereas a bat used in an aggravated assault, etc. should be submitted into evidence.
- B. The seizing officer will be responsible to properly package the evidence and complete the evidence/property report. The evidence will be secured in an evidence wall locker at the evidence facility. Evidence lockers will always be accessible for property submission, including after regular business hours, on weekends and on holidays. Large items such as found property bikes or safe keep bags can be placed in the bike room or transient bay storage area.
- C. Special attention will be given to the seizing of money. The seizing officer will count the money while on scene and clearly indicate the quantity of each denomination on an itemized receipt. The receipt will be signed by the person from whom the money is being seized in accordance with UC 24-2-103. The signed receipt will be attached to the report. The denominations seized, and the quantity of each denomination will be reflected on the evidence/property report with a total. The money will then be deposited into the cash safe (See section X of this policy).
- D. The evidence custodians are responsible for receiving, storing, maintaining, releasing, and accounting for all evidence. The evidence custodians are responsible for developing and maintaining a master file of all evidence/property reports and ensuring that the reporting and packaging are appropriately completed. If the reports or packaging are inadequate, the evidence custodian will notify the seizing officer to have the problem corrected.

- E. Drugs will be packaged in separate packages from other evidence. Paraphernalia will not be packaged with drugs. Separate all drug evidence and submit only weighable quantities of drugs for further analyzing. A description of the drugs and packaging material must be listed on the evidence record. The state lab no longer analyzes marijuana, so marijuana must be packaged separate from other drugs, as it is processed at a different lab.
- F. Evidence custodians are responsible for receiving, storing, maintaining, destroying, and accounting for all medication evidence placed into the prescription take-back drop box. The drop box will be checked weekly with an evidence custodian and certified police officer. The Health Department will be notified of the weights of prescription drugs collected by an evidence custodian. Notification will be made during scheduled Drug Take Back events.

VII. STORAGE OF EVIDENCE

- A. The evidence custodian will assign a storage location to each item of evidence and record this information on the evidence/property report and in the computer records keeping system.
- B. Evidence requiring added security, to include money, precious metals, jewelry, gemstones, weapons, narcotics, and dangerous drugs, will be stored in a separate secured area.
- C. Perishable items such as food and alcohol will not normally be stored in the evidence room. Perishable items such as blood and Code R kits will be stored in a refrigerator or other suitable container until processed. If a perishable food item needs to be analyzed, the shift supervisor will determine appropriate storage and handling protocol prior to storage.

Evidence Custodians shall ensure submitted biological evidence is retained in compliance with UCA 53-20-102, Preservation of evidence.

- D. Access to the evidence room will be limited to those members of this department authorized by the Chief of Police. All other visitors requiring entry into the evidentiary storage area must complete the Access Log. Additionally, an evidence custodian must personally escort visitors at all times while in the storage area.
- E. Inspections of the evidence room will be conducted monthly by the supervisor of the evidence custodian(s). The supervisor will inspect the

facilities and ensure compliance with all relevant policies and procedures. An inspection of the evidence room will be conducted annually by the Organizational Inspection Program Manager. Unannounced inspections will be conducted as directed by the Chief of Police. An annual inventory of evidence, set at random, will be conducted by a ranking officer appointed by the Chief of Police. The assigned ranking officer cannot be directly connected with evidence control.

- F. Evidence will only be released under the following circumstances:
1. Having the evidence admitted to court; in which case the officer removing the evidence for court will obtain a receipt from the court clerk indicating that the court has possession of the evidence and will be responsible for it.
 2. When the peace officer or the officer's employing agency becomes aware that the property is not needed as evidence in a criminal procedure, the officer or the agency shall advise the prosecuting attorney that the property is not needed and shall provide a description and details of ownership. When the prosecuting attorney is advised or otherwise becomes aware that the property is not needed as evidence, the prosecutor shall authorize release of the property to the owner. Upon proof of ownership and of lawfulness of possession satisfactory to the evidence custodian, the custodian shall release the property to the owner. All attempts will be made to notify the rightful owner that the property is to be returned. After notification, the owner will have 30 days to claim said property. If the owner does not claim the property within the 30 days, the property will be disposed of according to UCA Sections 24-3-103, 77-24a-5 and Ogden City Municipal Code 4-3c-1 including posting to appropriate state and agency websites.
 3. When received into evidence, it will be retained by the clerk of the court last receiving it or will be returned by the clerk of the court to the custody of the seizing officer until all direct appeal and retrials are final, at which time the property will be returned in accordance with Ogden City Code Title 4 Section 3C and UCA Title 24 Chapter 3 or Title 77 Chapter 24a. In the event that the prosecuting attorney considers it necessary to retain control over the evidence in anticipation of possible collateral attacks upon the judgement or of use in some potential prosecution, the prosecuting attorney may decline to authorize return.
 4. In cases that are closed with no criminal procedures initiated, the seizing officer or follow-up detective will authorize the release of

evidence. If the seizing officer is no longer available, the detective sergeant will determine if the property is no longer required for evidence. The evidence custodian will then provide a description and details of ownership to the Ogden City prosecuting attorney. In all cases UCA Title 24 Chapter 3 and Ogden City Municipal Code Title 4 Chapter 3C require that the prosecuting attorney determine if the property is to be retained or released.

5. Safekeeping items will be held for 90 days.
- G. Tracking of all property is recorded on or attached to the white copy of the Evidence/Property Report. This report provides all aspects of property movement.
- H. If items are checked out for court or investigative purposes and returned to the evidence room, Officers will not fill out a new evidence sheet or place items in a new package. If a package must be opened, a new opening should be made without breaking the original seal. The package must be resealed with new tape and labeled with the Officer's initials and date. If repackaging is necessary, the original packaging must be kept with the evidence in the new container.
- I. Firearm Safe Harbor Act see Ogden Police Policy 60.

VIII. EVIDENCE ROOM SECURITY

The evidence custodian on duty will visually inspect the outer perimeter of the facilities on a daily basis. Discrepancies or problems will be brought to the attention of the supervisor as soon as possible. The evidence room alarm system is automated; it is activated during non-business and weekends hours. Each evidence custodian will be assigned a different access code to the alarm system. Unannounced alarm tests will be conducted periodically by the evidence custodian with problems noted and corrected.

IX. DISPOSAL OF EVIDENCE

- A. When no longer needed for evidentiary purposes, all evidence with the exception of firearms and contraband that may not be legally possessed, will be returned to its lawful owner unless title to the evidence is transferred to the jurisdiction by court order or the lawful owner fails to claim the evidence. In such cases, the department will dispose of the evidence in accordance with UCA Title 24 Chapter 3 OR Title 77 Chapter 24a and Ogden City Code Title 4 Section 3C.

- B. Firearms will be disposed of in accordance with Sections 24-3-103, 77-24a-5 or 53-5c part 2. Before releasing a firearm, the evidence personnel will check for restricted person status through BCI.
- C. When evidence is to be destroyed, the Chief of Police will appoint a member of the department to personally monitor the entire destruction process. This person will not be one who is involved in the evidence facility on a regular basis. The Chief of Police will have the prerogative to have random samples obtained of items designated for destruction and have these samples quantitatively and qualitatively tested, comparing these results with prior testing. If there are no discrepancies, the sample will be returned to the evidence room. If any discrepancies are found, the Chief of Police will be immediately notified for further investigation. On the date of destruction, the destruction monitor will observe the loading of the evidence to be destroyed, accompany the evidence to the destruction site, and observe the destruction process. The Chief of Police may direct the monitor to randomly select a sample of an item for quantitative and qualitative analysis for comparison with prior testing results. Any discrepancies will be immediately reported to the Chief of Police for further investigation. If no discrepancies are found, the sample will be returned to the evidence room for inclusion in the next destruction cycle.
- D. Upon completion of the destruction of the evidence, the monitor will prepare a report that is submitted to the Chief of Police, which will include:
 - 1. The date, time, and location of the destruction;
 - 2. An inventory of the items destroyed;
 - 3. A list of those present at the destruction; and
 - 4. The results of any random sample tests made before and during the destruction process.
- E. If property in the custody of the Ogden Police Department is not claimed by the owner before the expiration of three months from the receipt of notice to the owner, or if the owner is unknown and no claim of ownership has been made, the department will either 1) appropriate the property for public interest use as provided in Ogden City Code Title 4 Section 3C, and Utah Code Title 24 Chapter 3, and Utah Code Title 77 chapter 24a or 2) sell the property at public auction as provided by law and Ogden City Policy.

X. Cash Safe

A. All cash monies seized as evidence, for safe keep, or found property will be deposited in the cash safe located in the report writing room.

1. Exceptions to this rule include cash monies with other evidentiary value (e.g., a rolled dollar bill with white powder residue). Officers should note in their report why cash money was not entered in the safe.

B. Entry of Cash:

1. The officer will enter the money into the property section of their report as "cash" and put the exact amount in the comments section. The officer will ensure they put the property status of "Safe Keep, Found, or Evidence." Officers should note in their report that the money was placed in the safe.
2. The officer will enter the money into the safe and print a receipt.
3. The officer will seal the receipt in a standard 4 1/8" x 9 1/2" envelope, mark it with the required information for submission, and place it in the envelope wall box.
4. Bills rejected by the safe and assorted change will be sealed in an envelope with their own property number and secured in an evidence locker. Officers should note in their report if bills were rejected, or if change was submitted.
5. The evidence custodian will collect the envelopes, enter the property number into Spillman, and file the envelope in a specific location designated for the receipts.
6. The evidence custodian will print an evidence sheet, which will then be filed.

C. Closeout Process:

1. A yearly case number will be issued for the safe closeout process.
2. When the evidence custodian determines the safe needs to be closed out, they will do it on a day coinciding with the armored car pickup service. The evidence custodian and a witness will complete the

closeout and take the money to the Records Bureau for collection by the armored car service.

3. The evidence custodian will complete a supplemental report for each closeout which will include the date, time, exact amount, and who was present for the closeout.
4. The evidence custodian will complete a deposit ticket for the closeout and scan a copy into the report along with a copy of the closeout receipt.

D. Money Return Process:

1. The evidence custodian will determine when money is cleared to be released.
2. If the money is cleared to be released, the evidence custodian will complete the Money Release Authorization form and submit it to the Chief's Office.
3. The Chief's Office will arrange for a check to be issued to the owner for the provided amount, and it will then be sent to the owner's given address by mail.

E. Audit

1. Inspections of money seized will be conducted in accordance with the guidelines outlined previously in this policy (See Section VII of this policy).